



DEPARTMENT OF ECONOMIC SECURITY

Your Partner For A Stronger Arizona

INTERGOVERNMENTAL AGREEMENT (IGA)

Contract between the Arizona Department of Economic Security ("ADES") and the Arizona Department of Education (ADE), the Arizona Department of Health Services (ADHS), the Arizona Health Care Cost Containment System (AHCCCS), and the Arizona State Schools for the Deaf and the Blind (ASDB), all state agencies of the State of Arizona.

WHEREAS the ADES is duly authorized to execute and administer contracts under A.R.S. § 41-1954; and

WHEREAS the ADE is duly authorized to execute and administer contracts under A.R.S. § 41-2022; and

WHEREAS the ADES and ADE, ADHS, AHCCCS, and ASDB are authorized by A.R.S. §11-952 et seq. to enter into agreements for joint or cooperative action to contract for the services specified in this contract.

THEREFORE, the ADES and ADE, ADHS, AHCCCS, and ASDB agree to abide by all the terms and conditions set forth in this Contract.

BY SIGNING THIS FORM ON BEHALF OF THE CONTRACTOR, THE SIGNATORY CERTIFIES HE/SHE HAS THE AUTHORITY TO BIND THE CONTRACTOR TO THIS CONTRACT.

FOR AND ON BEHALF OF THE ARIZONA DEPARTMENT OF ECONOMIC SECURITY:

FOR AND ON BEHALF OF THE ARIZONA DEPARTMENT OF EDUCATION:

Table with 2 columns and 6 rows for signature and name information.

IN ACCORDANCE WITH A.R.S. § 11-952, THIS CONTRACT HAS BEEN REVIEWED BY THE UNDERSIGNED WHO HAVE DETERMINED THAT THIS CONTRACT IS IN APPROPRIATE FORM AND WITHIN THE POWERS AND AUTHORITY GRANTED TO EACH RESPECTIVE PUBLIC BODY.

ARIZONA ATTORNEY GENERAL'S OFFICE

By: Assistant Attorney General

By: Public Agency Legal Counsel

Date:

Date:



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Contract between the Arizona Department of Economic Security ("ADES") and the Arizona Department of Education (ADE), the Arizona Department of Health Services (ADHS), the Arizona Health Care Cost Containment System (AHCCCS), and the Arizona State Schools for the Deaf and the Blind (ASDB), all state agencies of the State of Arizona.

WHEREAS the ADES is duly authorized to execute and administer contracts under A.R.S. §41-1954 and,

WHEREAS the ADHS is duly authorized to execute and administer contracts under A.R.S. § 41-2022 and,

WHEREAS the ADES and ADE, ADHS, AHCCCS and ASDB are authorized by A.R.S. §11-952 et seq. to enter into agreements for joint or cooperative action to contract for the services specified in this contract.

THEREFORE, the ADES and ADE, ADHS, AHCCCS and ASDB agree to abide by all the terms and conditions set forth in this Contract.

BY SIGNING THIS FORM ON BEHALF OF THE CONTRACTOR, THE SIGNATORY CERTIFIES HE/SHE HAS THE AUTHORITY TO BIND THE CONTRACTOR TO THIS CONTRACT.

FOR AND ON BEHALF OF THE ARIZONA DEPARTMENT OF ECONOMIC SECURITY:

FOR AND ON BEHALF OF THE ARIZONA DEPARTMENT OF HEALTH SERVICES:

Table with 2 columns and 6 rows for signature and name information.

IN ACCORDANCE WITH A.R.S. §11-952 THIS CONTRACT HAS BEEN REVIEWED BY THE UNDERSIGNED WHO HAVE DETERMINED THAT THIS CONTRACT IS IN APPROPRIATE FORM AND WITHIN THE POWERS AND AUTHORITY GRANTED TO EACH RESPECTIVE PUBLIC BODY.

ARIZONA ATTORNEY GENERAL'S OFFICE

By: Assistant Attorney General

By: Public Agency Legal Counsel

Date:

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WHEREAS the ADES is duly authorized to execute and administer contracts under A.R.S. §41-1954 and,

WHEREAS the AHCCCS is duly authorized to execute and administer contracts under A.R.S. § 41-2022and,

WHEREAS the ADES and ADE, ADHS, AHCCCS and ASDB are authorized by A.R.S. §11-952 et seq. to enter into agreements for joint or cooperative action to contract for the services specified in this contract.

THEREFORE, the ADES and ADE, ADHS, AHCCCS and ASDB agree to abide by all the terms and conditions set forth in this Contract.

BY SIGNING THIS FORM ON BEHALF OF THE CONTRACTOR, THE SIGNATORY CERTIFIES HE/SHE HAS THE AUTHORITY TO BIND THE CONTRACTOR TO THIS CONTRACT.

FOR AND ON BEHALF OF THE ARIZONA DEPARTMENT OF ECONOMIC SECURITY:

FOR AND ON BEHALF OF THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM:

Table with 2 columns and 6 rows for signature and name information.

IN ACCORDANCE WITH A.R.S. §11-952 THIS CONTRACT HAS BEEN REVIEWED BY THE UNDERSIGNED WHO HAVE DETERMINED THAT THIS CONTRACT IS IN APPROPRIATE FORM AND WITHIN THE POWERS AND AUTHORITY GRANTED TO EACH RESPECTIVE PUBLIC BODY.

ARIZONA ATTORNEY GENERAL'S OFFICE

By: Assistant Attorney General

By: Public Agency Legal Counsel

Date:

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Contract between the Arizona Department of Economic Security ("ADES") and the Arizona Department of Education (ADE), the Arizona Department of Health Services (ADHS), the Arizona Health Care Cost Containment System (AHCCCS), and the Arizona State Schools for the Deaf and the Blind (ASDB), all state agencies of the State of Arizona.

WHEREAS the ADES is duly authorized to execute and administer contracts under A.R.S. §41-1954 and,

WHEREAS the ASDB is duly authorized to execute and administer contracts under A.R.S. § 41-2022 and,

WHEREAS the ADES and ADE, ADHS, AHCCCS and ASDB are authorized by A.R.S. §11-952 et seq. to enter into agreements for joint or cooperative action to contract for the services specified in this contract.

THEREFORE, the ADES and ADE, ADHS, AHCCCS and ASDB agree to abide by all the terms and conditions set forth in this Contract.

BY SIGNING THIS FORM ON BEHALF OF THE CONTRACTOR, THE SIGNATORY CERTIFIES HE/SHE HAS THE AUTHORITY TO BIND THE CONTRACTOR TO THIS CONTRACT.

FOR AND ON BEHALF OF THE ARIZONA DEPARTMENT OF ECONOMIC SECURITY:

FOR AND ON BEHALF OF THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND:

Table with 2 columns and 6 rows for signature and name information.

IN ACCORDANCE WITH A.R.S. §11-952 THIS CONTRACT HAS BEEN REVIEWED BY THE UNDERSIGNED WHO HAVE DETERMINED THAT THIS CONTRACT IS IN APPROPRIATE FORM AND WITHIN THE POWERS AND AUTHORITY GRANTED TO EACH RESPECTIVE PUBLIC BODY.

ARIZONA ATTORNEY GENERAL'S OFFICE

By: Assistant Attorney General

By: Public Agency Legal Counsel

Date:

Date:

## **1.0 ADES VISION AND MISSION STATEMENTS**

1.1 ADES Vision: Opportunity, assistance and care for Arizonans in need.

1.2 ADES Mission: The Arizona Department of Economic Security makes Arizona stronger by helping Arizonans reach their potential through temporary assistance for those in need, and care for the vulnerable.

## **2.0 PARTIES**

2.1 This Intergovernmental Agreement (IGA) is between the ADES, and ADE, ADHS, AHCCCS, and ASDB. The parties are referred to as the AzEIP Participating State Agencies (APSA).

## **3.0 TERM OF AGREEMENT**

### **3.1 TERM**

The term of this Agreement shall have an effective date of July 1, 2015 and shall end on June 30, 2020, unless otherwise agreed upon by all parties in writing. As required by law, ADES is to oversee the execution of this IGA by APSA. In the event that a party fails to meet the obligations set forth in this IGA, the parties shall resolve issues as set forth in Section 9.3.2 of this IGA.

### **3.2. EXTENSION**

This agreement may be extended through a written amendment by mutual agreement of the parties.

### **3.3. TERMINATION**

3.3.1 This agreement may be terminated by mutual agreement of the parties at any time during the term of this agreement.

3.3.2 Each party shall have the right to terminate this agreement by hand-delivering to the other party written notice of termination at least thirty (30) days prior to the effective date of said termination.

## **4.0 AMENDMENTS OR MODIFICATIONS**

4.1 This Agreement may be amended or modified at any time by mutual agreement. No agent, employee or other representative of any Party is empowered to alter any of the terms of the Agreement, unless done in writing and signed by the authorized representative of the respective Parties.

4.2 Any party shall give written notice to ADES of any non-material alteration that affects the provisions of this Agreement. Non-material alterations that do not require a written amendment are as follows:

- 1 Change of telephone number;
- 2 Change in authorized signatory; and/or
- 3 Change in the name and/or address of the person to whom notices are to be sent.

## **5.0 DEFINITIONS**

5.1.1 AzEIP Policies and Procedures, Definitions, as amended:

[https://www.azdes.gov/uploadedFiles/Arizona\\_Early\\_Intervention\\_Program/azeip\\_definitions\\_07\\_2012.pdf](https://www.azdes.gov/uploadedFiles/Arizona_Early_Intervention_Program/azeip_definitions_07_2012.pdf)

## **6.0 PURPOSE OF AGREEMENT**

6.1 Purpose of this Intergovernmental Agreement:

6.1.1 The purpose of this Intergovernmental Agreement is to ensure interagency cooperation with the implementation and maintenance of a statewide comprehensive, coordinated, multidisciplinary and interagency system of early intervention services for eligible infants and toddlers, ages birth to three years, and their families.

6.1.2 This Intergovernmental Agreement among the APSA documents the understandings and commitments of the APSA to meet the statutory and regulatory requirements and the intent of the Individuals with Disabilities Education Act (IDEA), Part C, Early Intervention Services for Infants and Toddlers.

6.2 Authority for this Intergovernmental Agreement

6.2.1 The APSA are authorized to enter into this Intergovernmental Agreement (IGA or Agreement) by Arizona Revised Statute (A.R.S.) § 41-2022. ADES is further complying with 34 C.F.R. § 303.523, which requires ADES, as Lead Agency, to enter into formal interagency agreements with other State-level agencies involved in the State's early intervention program. A.R.S. § 41-2022 requires the Arizona Department of Health Services, the Arizona State Schools for the Deaf and the Blind, the Arizona Health Care Cost Containment System, the Arizona Department of Education, and the Arizona Department of Economic Security to enter into agreements for the purpose of implementing and maintaining a comprehensive and coordinated system of early intervention programs and services for infants and toddlers and their families.

6.2.2 The Arizona Department of Economic Security is designated as the Lead Agency under A.R.S. § 41-2022. As Lead Agency, the Arizona Department of Economic Security is responsible for the coordination of a system of early intervention programs and services to infants and toddlers with disabilities or developmental delays.

6.2.3 This Agreement may be signed in counterparts, and the parties may execute facsimile or email copies of their respective signature pages, all of which taken together shall constitute one and the same Agreement.

## **7.0 MANNER OF FINANCING**

7.1 No exchange of Funds.

## **8.0 SERVICE DESCRIPTION**

8.1 Mutual Objectives:

8.1.1 The APSA shall support attainment of the following mutual objectives at the State and local levels through contracts, grants, policies and procedures:

- A collaborative, community-based, interagency child identification process to locate, evaluate, assess and identify all infants and toddlers who may be eligible for early intervention services;
- Comprehensive service coordination to ensure that families of referred and/or eligible infants and toddlers and their families receive the appropriate services and supports to be competent and confident of their ability to support their child's participation in natural environments and. are provided procedural safeguards;
- An Individualized Family Service Plan (IFSP) for families of eligible infants and toddlers that that builds upon existing informal and formal resources available to the family;
- Appropriate and necessary team-based services in the context of the family's routines, activities and relationships as identified on the IFSP utilizing available public and private funding sources;
- An effective and efficient transition from early intervention services to preschool special education or other appropriate programs and services to support school readiness;
- Effective and consistent recruitment and retention strategies to identify and increase the number of qualified professionals statewide;
- Adequate state capacity to foster professional development of the early childhood education workforce to ensure the inclusion of children with developmental disabilities in all everyday routines and activities, within the home, community, and formal and informal child care programs;
- Effective and accurate utilization of the AzEIP data system for data informed decision-making to support the promotion of a statewide interagency system.
- Effective General Supervision, including AzEIP's State Performance Plan/Annual Performance Report, AzEIP Policies and Procedures and effective implementation, dispute resolution, data processes and results, integrated monitoring activities, technical assistance and professional development, improvement, correction, incentives, sanctions, and fiscal management; and
- Assurance that a comprehensive, coordinated, interagency system of early intervention services for Arizona's families and children with disabilities or delays is consistently implemented by the APSA through coordinated system and policy development, implementation and evaluation that ensures compliance with IDEA, Part C.

8.2 Intended Outcomes:

8.2.1 The establishment and implementation of this Intergovernmental Agreement is intended to promote the following outcomes for eligible infants and toddlers and their families:

- Families and their eligible children attain functional outcomes that reflect their priorities, routines, relationships, resources, and concerns to assist their children to engage and participate in everyday routines and activities;
- Families access comprehensive, coordinated, culturally-appropriate early intervention services as determined by the IFSP team;
- Families are actively involved in all aspects of AzEIP implementation; and
- Families are knowledgeable about and exercise, as appropriate, their procedural rights and safeguards.

8.2.2 The establishment and implementation of this Intergovernmental Agreement is intended to promote the following outcomes for AzEIP:

- The interagency system of early intervention services is coordinated, comprehensive and complies with IDEA, Part C;
- AzEIP maximizes available public and private funding sources for the provision of early intervention services;
- Early intervention professionals are supported to provide team-based, functional early intervention services; and,
- The statewide system of early intervention services for infants and toddlers with delays or disabilities recognizes the significance that cultural diversity plays in families' lives and reflects sensitivity to the

cultures of all participants. The cultural responsiveness of the early intervention system is enhanced through ongoing review and capacity building of all aspects of this system.

## **9.0 RESPONSIBILITIES**

### **9.1 Lead Agency Responsibilities (34 C.F.R. § 303.120)**

The Arizona Department of Economic Security (ADES), with the advice and assistance of the Interagency Coordinating Council (ICC), is the Lead Agency responsible for Arizona's Part C system of early intervention services for eligible infants and toddlers and their families. The Arizona Department of Economic Security, Arizona Early Intervention Program (ADES/AZEIP) is the office within ADES designated to fulfill Lead Agency responsibilities, including acting as the single line of responsibility to carry out:

9.1.1 The general administration and supervision of programs and activities administered by agencies, institutions, organizations or early intervention service providers receiving assistance under Part C, and

9.1.2 Monitoring of programs and activities used by the State to carry out this Part, whether or not the program or activities are administered by agencies, institutions, organizations or early intervention service providers that are receiving assistance under Part C, to ensure compliance with IDEA, Part C, including:

- 1) Identifying and coordinating all available resources for early intervention services within the State, including those from Federal, State, local, and private sources including:
  - o Title V of the Social Security Act (relating to Maternal and Child Health);
  - o Title XIX of the Social Security Act (relating to the general Medicaid Program and EPSDT);
  - o The Head Start Act;
  - o IDEA, Part C;
  - o The Developmental Disabilities Assistance and Bill of Rights Act; and
  - o Other Federal programs.
- 2) Enforcing the obligations imposed on those agencies under IDEA, Part C, and its regulations, State statutes and regulations, AZEIP policies and procedures and this IGA;
- 3) Ensuring correction of noncompliance and low performance that are identified through General Supervision activities within one year of identification, or sooner if required by ADES/AZEIP;
- 4) Defining corrective measures and remedies to be used by ADES with the AZEIP Service Providing Agencies and by the AZEIP Service Providing Agencies with contractors, enforce them as to AZEIP Service Providing Agencies, and ensure that they are enforced as to contractors of service providing agencies.
- 5) Establishing or adopt procedural safeguards that meet the requirements of IDEA, Part C;
- 6) Ensuring effective implementation of procedural safeguards under IDEA, Part C by each public agency in the State that is involved in the provision of early intervention services;
- 7) Defining data collection and reporting requirements;
- 8) Providing technical assistance and clarification of requirements for implementation of Part C;
- 9) Developing AZEIP policies and procedures in coordination with APSA and oversee implementation;
- 10) Assigning financial responsibilities in accordance with 34 C.F.R. § 303.500, et seq. and AZEIP's policies and procedures for its systems of payments;
- 11) Developing procedures in accordance with 34 C.F.R. § 303.500, et seq. and AZEIP's policies and procedures for its systems of payments to ensure that early intervention services are provided to infants and toddlers with disabilities as defined by AZEIP in a timely manner, pending the resolution of any disputes among public agencies or early intervention service providers; and
- 12) Resolving intra- and interagency disputes between the APSA.

### **9.2 AZEIP Participating State Agency Responsibilities**

In order to attain the mutual objectives and intended outcomes, the APSA commit to the following actions.

#### **9.2.1 Family Leadership**

The APSA shall promote family members as active participants at all levels in the development, implementation and evaluation of the statewide, comprehensive early intervention system.

#### **9.2.2 Interagency Coordination**

The APSA shall:

- a) Enter into one or more Intergovernmental Agreements with ADES, as the Lead Agency. The IGA(s) shall describe the agency's role in the provision of early intervention services in accordance with IDEA, Part C;
- b) Recommend for appointment by the Governor, at least one person with agency voting authority to serve on the Arizona Interagency Coordinating Council (ICC);
- c) Designate at least one person to serve on the AZEIP State Interagency Team who is knowledgeable and experienced in Part C requirements and authorized to participate in interagency decision-making related to the AZEIP;

- d) Participate in the ongoing development, implementation and evaluation of agreements, policies and strategies at the State and local levels, including the evaluation of this IGA document, at least annually, as needed;
- e) Ensure agency policies and procedures that impact AzEIP services are in compliance with IDEA, applicable federal and state law, the AzEIP Application for Federal Funds, and AzEIP policies and procedures;
- f) Within their respective agencies, ensure compliance with IDEA, Part C, the AzEIP Application for Federal Funds, applicable federal and state law, and AzEIP policies and procedures; and,
- g) Provide leadership, direction, and coordination, as appropriate, regarding the planning and provision of services to infants and toddlers and their families.

#### 9.2.3 Public Awareness and Child Find

- The APSA will participate in the implementation of public awareness activities outlined in the AzEIP Application for Federal Funds and AzEIP policies and procedures to ensure that a statewide public awareness system identifies children early who are eligible to receive early intervention services. The APSA will promote public awareness and understanding of AzEIP through (i) interagency planning and dissemination of public awareness materials; (ii) provision of training and technical assistance; and (i) the development of partnerships with the child care and education, health and human services systems and business communities.
- The APSA will participate in the development and/or revision of the Child Find Intergovernmental Agreement between the Arizona Department of Economic Security and the Arizona Department of Education. The AzEIP Service Providing Agencies that receive AzEIP referrals will adhere to the provisions of the Child Find IGA. The APSA will have the opportunity to review subsequent revisions of the Child Find IGA before changes are finalized. ADES/AzEIP and ADE will develop public awareness materials in accordance with the Child Find IGA.

#### 9.2.4 Financial Responsibilities

- a) The APSA shall assist ADES in the identification and coordination of resources, including Title V and Title XIX of the Social Security Act (SSA), including section 1903(a) of the SSA regarding medical assistance for services furnished to an AzEIP eligible child and his or her family when those services are included in the child's IFSP, the Head Start Act, Part B of IDEA, the Developmental Disabilities Assistance and Bill of Rights Act, and other Federal programs;
- b) The APSA will participate in the establishment of the State's system of payments as described in the AzEIP Application for Federal Funds, and once approved, enact procedures consistent with the State's system of payments for early intervention services. AzEIP's system of payments, as set out in its policies and procedures and incorporated herein, includes:
  - 1) Ensuring that IDEA, Part C funds are used as the payor of last resort in accordance with 34 C.F.R. §303.510;and
  - 2) Utilizing public insurance and benefits and private insurance in accordance with 34 C.F.R. §303.520; and
- c) ADES/AzEIP ensures that appropriate intra- and interagency agreements, or other written methods (such as contracts) are established to provide the following requirements:
  - 1) the financial responsibility for early intervention services under IDEA, Part C;
  - 2) for early intervention services to continue during the resolution of any dispute between State agencies regarding financial responsibility; and
  - 3) procedures for resolving disputes about payments for a given service or disputes about other matters related to AzEIP.

#### 9.3 ADES/AzEIP Oversight Responsibility

9.3.1 ADES/AzEIP oversees the implementation of AzEIP, the interagency system of early intervention services, to ensure adherence to the requirements of IDEA, Part C, and AzEIP policies and procedures, including the provisions in this Agreement.

#### 9.3.2 Dispute Resolution

If ADES, as the Lead Agency, or an AzEIP Participating State Agency believes that another party to this agreement has failed to meet the obligations set forth in this IGA, the aggrieved party shall engage the following process to resolve issues of noncompliance:

- a) The APSA may seek to resolve an internal dispute in a timely manner. If the AzEIP State Participating Agency is unable to resolve its own internal dispute within 15 days, then the aggrieved party shall submit a written complaint in the form of a letter to:

ADES/AzEIP Executive Director  
3839 N. 3<sup>rd</sup> Street, Suite 304



- b) The ADES/AzEIP Executive Director, or designee, the aggrieved state agency Director, or designee, and the agency Directors, or designees, from the agency (ies) against which the complaint is filed, shall investigate and attempt to resolve the alleged issue of non-compliance within 90 days of ADES/AzEIP's receipt of written notice of the issue, unless the matter must be resolved in an expedited manner. In the event a matter must be expedited, the written complaint shall state that the matter must be expedited, the rationale and the time in which the matter is requested to be resolved. The ADES/AzEIP Executive Director, or designee, and the directors of the agencies against which the complaint is filed and from whom the complaint is filed will agree to a mutually acceptable expedited schedule.
- c) If the matter remains unresolved 90 days following ADES/AzEIP's receipt of the complaint, or after the agreed upon expedited schedule, the complaining state agency, or designee shall prepare a written statement within 5 days and the designee from the agency against which the complaint is filed shall have the right to respond within 5 days. Both the written statement and response shall be submitted to the ADES Director, or the ADES Director's designee, and to the Directors, or designees, of the aggrieved agency and the agency against which the complaint is filed. The written statement will include: (1) a description of the issue of alleged noncompliance; (2) efforts made to resolve the issue; and (3) recommended strategies for resolving the issue.
- d) If the matter is not resolved by the Directors, or the Directors' designees, within 30 days of submission of the written statement and response, ADES, the aggrieved agency and/or the agency against which the complaint is filed shall seek the assistance of the Governor's Office in order to resolve the issue, which resolution is binding on the agencies involved.
- e) Pending the resolution of disputes, services will be provided to eligible children and their families in a timely manner as indicated in each family's IFSP.

9.3.3 Disputes between the parties arising under this Agreement that are not resolved according to the processes described in Section 9.2 shall be subject to arbitration to the extent required by A.R.S. §12-1518.

9.3.4 If there is a dispute about the assignment of program and/or financial responsibility, ADES/AzEIP shall:

- a) Reassign the responsibility to the appropriate AzEIP Service Providing Agency; and/or
- b) Make appropriate arrangements for reimbursement of any expenditures incurred by the agency originally assigned this responsibility.

If an AzEIP Service Providing Agency does not agree with this reassignment and/or arrangement for reimbursement, then the aggrieved agency shall file a written complaint with ADES/AzEIP at the address provided in paragraph 9.3.2 and the provisions of that section shall be followed.

#### **10.0 REPORTING REQUIREMENTS – NONE**

#### **11.0 PAYMENT REQUIREMENTS - NONE**

#### **12.0 NOTICES**

12.1 All notices to the APSA regarding this agreement shall be sent to the following address:

Arizona Department of Education  
ATTN:  
*Early Childhood Education Section*  
1535 W. Jefferson St. #15  
Phoenix, AZ 85007

Arizona Department of Health Services  
Attn:

Arizona Health Care Cost Containment System  
Attn:

Arizona Schools for the Deaf and the Blind  
Mary Lamar, Ed.D  
PO Box 88510  
Tucson, AZ 85754

12.2 All notices to the ADES regarding this agreement shall be sent to the following address:

ADES/AzEIP Contracts Manager  
3839 N. 3<sup>rd</sup> Street, Suite 304  
Phoenix, AZ 85012

**13.0 DISPOSITION OF PROPERTY - NONE**

**14.0 OTHER MATTERS – NONE**

**15.0 APPLICABLE LAW**

15.1 This Contract shall be governed and interpreted by the laws of the State of Arizona. The materials and services supplied under this Contract shall comply with all applicable Federal, State and local laws, and the Contractor shall maintain all applicable licenses and permit requirements.

**16.0 ARBITRATION**

16.1 The parties to this Contract agree to resolve all disputes arising out of or relating to this Contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518 except as may be required by other applicable statutes.

**17.0 AUDIT**

17.1 In accordance with A.R.S. §35-214, the APSA shall retain and shall contractually require each subcontractor to retain all data, books and other records ("records") relating to this Agreement for a period of five (5) years after the completion of the Agreement. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, Contractor shall produce the original of any or all such records.

**18.0 CONFLICT OF INTEREST**

18.1 In accordance with A.R.S. § 38-511, the State may within three years after execution cancel the Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the State, at any time while the Agreement is in effect, becomes an employee or agent of any other party to the Agreement in any capacity or a consultant to any other party to the Agreement with respect to the matter of the Agreement.

**19.0 DATA SHARING AGREEMENT**

19.1 If determined by the ADES that sharing of confidential data will occur with the Contractor, the Contractor shall complete the ADES Data Sharing Request Agreement and submit the completed Agreement to the ADES Program Designated Staff prior to any work commencing or data shared. A separate Data Sharing Request Agreement shall be required between Contractor and each ADES Program sharing confidential data.

**20.0 E-VERIFY**

20.1 In accordance with A.R.S. § 41-4401, Contractor warrant compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with A.R.S. § 23-214, Subsection A.

**21.0 FEDERAL IMMIGRATION AND NATIONALITY ACT**

21.1 By entering into the Agreement, the Contractor warrants compliance with the Federal Immigration and Nationality Act. (FINA) and all other Federal immigration laws and regulations related to the immigration status of its employees. The Contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Agreement. The Contractor parties and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act, for all employees performing work under the Agreement. I-9 forms are available for download at USCIS.GOV.

21.2 The State may request verification of compliance for any or subcontractor performing work under the Agreement. Should the State suspect or find that the Contractor or any of its subcontractors are not in compliance, the State may pursue any and all remedies allowed by law, including, but not limited to

suspension of work, termination of the Agreement for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

## **22.0 INDEMNIFICATION**

22.1 Indemnification for Contractor:

22.1.1 Each Party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

22.2 Indemnification for Subcontractor

22.2.1 In addition, (insert name of other governmental entity) shall cause its contractor(s) and subcontractors, if any, to indemnify, defend, save and hold harmless the State of Arizona, any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and their respective directors, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of (insert name of other governmental entity)'s contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable.

## **23.0 INSURANCE REQUIREMENTS**

23.1 **INSURANCE REQUIREMENTS FOR GOVERNMENTAL PARTIES TO AN IGA:**

23.1.1 None.

23.2 **INSURANCE REQUIREMENTS FOR ANY CONTRACTORS USED BY A PARTY TO THE INTERGOVERNMENTAL AGREEMENT:**

(Note: this applies only to Contractors used by a governmental entity, not to the governmental entity itself.) The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the governmental entity or Contractor from liabilities that might arise out of the performance of the work under this Agreement by the Contractor, his agents, representatives, employees or subcontractors, and Contractor and the governmental entity are free to purchase additional insurance.

1. **Minimum Scope and Limits of Insurance:** Contractor shall provide coverage with limits of liability not less than those stated below.

1. **Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Blanket Contractual Liability – Written and Oral \$1,000,000
- Fire Legal Liability \$ 50,000
- Each Occurrence \$1,000,000

a. The policy shall be endorsed to **include coverage for sexual abuse and molestation.**

b. The policy shall be endorsed to include the following additional insured language: **"The State of Arizona and the ADES shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor".**

(Note that the other governmental entity(ies) is/are also required to be additional insured(s) and they should supply the Contractor with their own list of persons to be insured.)

- c. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. **Automobile Liability**

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Agreement.

Combined Single Limit (CSL) \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: **“The State of Arizona and the ADES shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor”**.
- b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor

(Note that the other governmental entity(ies) is/are also required to be additional insured(s) and they should supply the Contractor with their own list of persons to be insured.)

3. **Worker's Compensation and Employers' Liability**

- Worker's Compensation Statutory
- Employers' Liability
  - Each Accident \$ 500,000
  - Disease – Each Employee \$ 500,000
  - Disease – Policy Limit \$1,000,000

- a. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

2. **Additional Insurance Requirements:** The policies shall contain, or be endorsed to contain, the following provisions:

1. The State of Arizona and the ADES, wherever additional insured status is required such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Agreement.
2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Agreement.

3. **Notice of Cancellation:** Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the State of Arizona. Such notice shall be sent directly to the **ADES, Office of Procurement, 1789 W. Jefferson St. Site Code 805Z, Phoenix, AZ 85007** and shall be sent by certified mail, return receipt requested.

4. **Acceptability of Insurers:** Insurance is to be placed with duly licensed or approved non-admitted insurers in the State of Arizona with an “A.M. Best” rating of not less than A-VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

5. **Verification of Coverage:** Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.  
All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Agreement, or to provide evidence of renewal, is a material breach of Agreement.  
  
All certificates required by this Agreement shall be sent directly to **ADES, Office of Procurement, 1789 W. Jefferson St. Site Code 805Z, Phoenix, AZ 85007 unless the Reporting Requirements specifies otherwise.** The State of Arizona **contract number and contract description shall be noted or referenced on the certificate of insurance.** The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT SECTION.**
6. **Subcontractors:** Contractors' certificate(s) shall include all subcontractors as insureds under its policies **or** Contractor shall furnish to the State of Arizona separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
7. **Approval:** Any modification or variation from the insurance requirements in this Agreement shall be made by the Department of Administration, Risk Management Section, whose decision shall be final. Such action will not require a formal amendment to the Agreement, but may be made by administrative action.
8. **Exceptions:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

**24.0 IT 508 COMPLIANCE**

24.1 Unless specifically authorized in the Agreement, any electronic or information technology offered to the State of Arizona under this agreement shall comply with A.R.S. §§ 41-3531 and 3532 and Section 508 of the Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and use of information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.

**25.0 NON-AVAILABILITY OF FUNDS**

25.1 In accordance with A.R.S. § 35-154, every payment obligation of the State under the Agreement is conditioned upon the availability of funds appropriated or allocated for payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

**26.0 NON-DISCRIMINATION**

26.1 The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

**27.0 OFFSHORE PERFORMANCE OF WORK PROHIBITED**

27.1 Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

**28.0 RIGHT OF OFFSET**

28.1 The ADES shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the ADES, or damages assessed by the ADES concerning the Contractor's non-conforming performance or failure to perform the Agreement, including expenses, costs and damages.

**29.0 THIRD- PARTY ANTITRUST VIOLATIONS**

29.1 The Contractor assigns to the ADES any claim for overcharges resulting from antitrust violations concerning materials or services supplied by third parties to the Contractor, toward fulfillment of this Agreement.

**30.0 CONFIDENTIALITY**

30.1 The Contractor shall observe and abide by all applicable State and federal statutes, rules and regulations regarding the use or disclosure of information including, but not limited to, information concerning applicants for and recipients of contract services. To the extent permitted by law, the Contractor shall release information to the ADES and to the Attorney General's Office as required by the terms of this contract, by law or upon their request.

30.2 The Contractor shall comply with the requirements of Arizona Address Confidentiality Program, A.R.S. §41-161 et. seq. The ADES will advise the Contractor as to applicable policies and procedures the ADES has adopted for such compliance.

**31.0 Fingerprinting.**

31.1 Contractor shall comply with, and shall ensure that all of Contractor's employees, independent contractors, subcontractors, volunteers and other agents comply with, all applicable (current and future) legal requirements relating to fingerprinting, fingerprint clearance cards, certifications regarding pending or past criminal matters, and criminal records checks that relate to contract performance.

31.2 Applicable legal requirements relating to fingerprinting, certification, and criminal background checks" may include, but are not limited, to the following: A.R.S. §§ 36-594.01, 36-3008, 41-1964, and 46-141. All applicable legal requirements relating to fingerprinting, fingerprint clearance cards, certifications regarding pending or past criminal matters, and criminal records checks are hereby incorporated in their entirety as provisions of this contract. The Contractor is responsible for knowing which legal requirements relating to fingerprinting, fingerprint clearance cards, certifications regarding pending or past criminal matters, and criminal records checks relate to contract performance.

31.3 To the extent A.R.S. § 46-141 is applicable to contract performance or the services provided under this contract, the following provisions apply:

31.3.1 Personnel who are employed by the Contractor, whether paid or not, and who are required or allowed to provide services directly to juveniles or vulnerable adults shall have a valid fingerprint clearance card or shall apply for a fingerprint clearance card within seven working days of employment.

31.3.2 Except as provided in A.R.S. § 46-141, this contract may be cancelled or terminated immediately if a person employed by the Contractor and who has contact with juveniles certifies pursuant to the provisions of A.R.S. § 46-141 (as may be amended) that the person is awaiting trial or has been convicted of any of the offenses listed therein in this State, or of acts committed in another state that would be offenses in this State, or if the person does not possess or is denied issuance of a valid fingerprint clearance card.

31.4 Federally recognized Indian tribes may submit and the ADES will accept certifications that state that no personnel who are employed or who will be employed during the contract term have been convicted of, have admitted committing or are awaiting trial on any offense as described in A.R.S. § 36-594.01 (as may be amended).

**32.0 BACKGROUND CHECKS FOR EMPLOYMENT THROUGH THE CENTRAL REGISTRY. If providing direct services to children or vulnerable adults, the following shall apply:**

32.1 The provisions of A.R.S. § 8-804 (as may be amended) are hereby incorporated in its entirety as provisions of this Contract.

32.2 The ADES will conduct Central Registry Background Checks and will use the information contained in the Central Registry as a factor to determine qualifications for positions that provide direct service to children or vulnerable adults for:

1. Any person who applies for a contract with this State and that person's employees;
2. All employees of a contractor;
3. A subcontractor of a contractor and the subcontractor's employees; and
4. Prospective employees of the contractor or subcontractor at the request of the prospective employer.

32.3 Volunteers who provide direct services to children or vulnerable adults shall have a Central Registry Background Check which is to be used as a factor to determine qualifications for volunteer positions.

- 32.4
1. A person who is disqualified because of a Central Registry Background Check may apply to the Board of Fingerprinting for a Central Registry exception pursuant to A.R.S. § 41-619.57. A person who is granted a Central Registry exception pursuant to A.R.S. § 41-619.57 is not entitled to a contract, employment, licensure, certification or other benefit because the person has been granted a Central Registry exception.
  2. Before being employed or volunteering in a position that provides direct services to children or vulnerable adults, persons shall certify on forms that are provided by the ADES whether an allegation of abuse or neglect was made against them and was substantiated. The completed forms are to be maintained as confidential.

32.5 A person awaiting receipt of the Central Registry Background Check may provide direct services to ADES clients after completion and submittal of the Direct Service Position certification form if the certification states:

1. The person is not currently the subject of an investigation of child abuse or neglect in Arizona or another state or jurisdiction; and
2. The person has not been the subject of an investigation of child abuse or neglect in Arizona, or another state or jurisdiction, which resulted in a substantiated finding.

The Certification for Direct Service Position is located at:

<https://www.azdes.gov/InternetFiles/InternetProgrammaticForms/doc/ACY-1287AFORFF.doc>

32.6 If the Central Registry Background Check specifies any disqualifying act and the person does not have a Central Registry exception, the person shall be prohibited from providing direct services to ADES clients.

32.7 The Contractor shall maintain the Central Registry Background Check results and any related forms or documents in a confidential file for five (5) years after termination of the Contract. The Request for Search of Central Registry for Background Check form is located at: <https://www.azdes.gov/opac>

**33.0 ATTACHMENTS - NONE**

**34.0 EXHIBITS - NONE**