


Intergovernmental Agreement (IGA)	
Agreement No.: DI20-002267	
Description: Child Find and Transition Services	

Agreement between the Arizona Department of Economic Security ("ADES") and the Arizona Department of Education ("ADE" or "Contractor").

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

The Contractor is duly authorized to execute and administer contracts under A.R.S. § 15-203(B)(1) and,

ADES and the Contractor are authorized by A.R.S. § 11-952 et seq. and A.R.S. § 41-2022 to enter into agreements for joint or cooperative action to contract for the services specified in this Agreement.

The term of this Agreement shall begin on July 1, 2020 and shall end on June 30, 2025, unless otherwise amended.

THEREFORE, ADES and Contractor (the "Parties") agree to abide by all the terms and conditions set forth in this Agreement.

BY SIGNING THIS FORM ON BEHALF OF A PARTY, THE SIGNATORY CERTIFIES POSSESSING THE AUTHORITY TO BIND THE PARTY TO THIS AGREEMENT.

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

FOR AND ON BEHALF OF THE ARIZONA DEPARTMENT OF EDUCATION:

<i>Mark Darmer</i>	<i>[Signature]</i>
Procurement Officer Signature	Signature
<i>Mark Darmer</i>	<i>Steven Paulson</i>
Printed Name	Printed Name
<i>Acting Interim Chief Procurement Officer</i>	<i>CPO</i>
Title	Title
<i>6-25-2020</i>	<i>5/18/20</i>
Date	Date
DI20-002267	
ADES Contract Number	Contract Number

IN ACCORDANCE WITH A.R.S. § 11-952, THIS AGREEMENT IS IN APPROPRIATE FORM AND WITHIN THE POWERS AND AUTHORITY GRANTED TO EACH RESPECTIVE PUBLIC BODY.

ARIZONA ATTORNEY GENERAL'S OFFICE

By: *[Signature]*
Assistant Attorney General

By: *Kim R. Smith* Asst. Attorney General
Public Agency Legal Counsel For ADES

Date: *5-1-2020*

Date: *6-8-2020*

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



1.0 ADES VISION AND MISSION STATEMENTS

- 1.1. ADES Vision: All Arizonans who qualify receive timely ADES services and achieve their potential.
- 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 PURPOSE OF AGREEMENT

- 2.1 The purpose of this agreement is to define and clarify responsibilities of the ADES/AzEIP and ADE in establishing and operating a statewide comprehensive, coordinated system between ADES/AzEIP and ADE, including but not limited to, Child Find Activities and Transition Services for eligible children with disabilities and their families in accordance with IDEA, Part C and section 619 of IDEA, Part B and A.R.S. § 41-2022

3.0 DEFINITIONS

- 3.1. Arizona Department of Economic Security (ADES): Is the state agency designated in A.R.S. § 41-2022 as the lead agency for implementing IDEA, Part C of 20 U.S.C. §1435 (A)(10).
- 3.2. Arizona Department of Education (ADE): Arizona's State Education Agency (SEA) that is responsible for the State supervision of public education of children, birth to three (3) years of age, with disabilities or significant developmental delays, and their families. AzEIP is governed by IDEA Part C and administered through the ADES as the lead agency.
- 3.3. Arizona Early Intervention Program (AzEIP or ADES/AzEIP): Arizona's statewide interagency system of Early Intervention Services and supports for infants and toddlers, birth through three (3) years of age, with disabilities or significant developmental delays, and their families. AzEIP is governed by 34 C.F.R Section 303.13 (b) and administered through the ADES as the lead agency.
- 3.4. Arizona State School for the Deaf and the Blind (ASDB): Arizona's state agency that serves children from birth to age twenty-two (22) who are deaf, hard of hearing, blind, visually impaired, multisensory disabled or deafblind. ASDB is also an AzEIP service providing agency, providing vision and/or hearing specialists for children eligible for early intervention.
- 3.5. AzEIP Eligibility Process: Includes formal and informal procedures for screening, assessment and evaluation of a child, birth through two (2) years and ten and a half (10.5) months of age, to document and support an eligibility determination within forty-five (45) calendar days of referral to AzEIP. A child is determined eligible based on documentation of an established condition by a qualified professional or an evaluation that indicates the child meets AzEIP eligibility criteria for developmental delays.
- 3.6. AzEIP Service Providing Agencies: The participating state agencies that provide early intervention services to children and their families including:
 - 3.6.1. Arizona State Schools for the Deaf and the Blind (ASDB);
 - 3.6.2. Arizona Department of Economic Security/Division of Developmental Disabilities (ADES/DDD); and
 - 3.6.3. Arizona Department of Economic Security/Arizona Early Intervention Program (ADES/AzEIP)
- 3.7. AzEIP Team-Based Early Intervention Contractors (TBEIC): The contracted agency who is designated by ADES/AzEIP to accept referrals from ADES/AzEIP's Central Referral Agency, implement TBEIS including the provision of early intervention services in each GSR of the state.
- 3.8. Child Find Part C: A comprehensive child find system, consistent with IDEA, Part B including policies and procedures for making referrals to service providers that includes timelines and provision for participation by primary referral sources; ensures rigorous standards for appropriately identifying infants and toddlers with disabilities for services under this part that will reduce the need for future services 20 U.S.C § 1435(a)(5).

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



The system will be coordinated with other major efforts to locate and identify children conducted by other state agencies responsible for administering the various education, health, and social services program relevant to this part, tribes and tribal organizations, and other federal efforts 34 C.F.R §§§ 303.301, .302, .303.

- 3.9. Child Find IDEA, Part B: In accordance with 34 C.F.R. § 300.111, (a)(i) the state must have in effect policies and procedures to ensure that - (i) all children with disabilities residing in the state, including children with disabilities who are homeless children or are wards of the state, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and (ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services; and (c)(1) children are suspected of being a child with a disability under § 300.8 and in need of special education, even though they are advancing from grade to grade; and (2) highly mobile children including migrant children. In accordance with A.A.C. R7-401 (c)(1), each public agency shall inform the general public and all parents within the public agency's boundaries of responsibility, of the availability of special education services for students aged three (3) through twenty-one (21) years, and how to access those services. This includes information regarding early intervention services for children aged birth through two (2) years.
- 3.10. Comprehensive Developmental Assessment (CDA): A full and individual evaluation of the child in all developmental areas: cognitive, physical (including vision and hearing screening), communication, social/emotional and self-help adaptive development. A CDA may be accomplished through a review of existing data, criterion referenced assessments, norm-referenced assessments, observation, and parent input; however, for the purpose of determining eligibility, at least one norm-referenced assessment to obtain standard deviation information must be used to determine if eligibility criteria is met. A CDA is required to determine eligibility for Preschool Severe Delay (PSD), Developmental Delay (DD) and Speech Language Impaired (SLI). The final responsibility for the CDA and eligibility lies with the PEA.
- 3.11. District of Residence: Is the elementary district (K-8th grades) or unified district (K-12th grades) in which the parent of the child resides.
- 3.12. Division of Developmental Disabilities (DDD or ADES/DDD): The ADES division that provides supports and services that help enable eligible individuals with opportunities to exercise their rights and responsibilities of independent decision-making and engagement in the community.
- 3.13. Early Intervention Program (EIP): The early intervention professionals working within one (1) ADES/AzEIP GSR including one (1) ADES/AzEIP TBEIS Contractor, as well as the associated DDD Early Intervention Unit Support Coordinators, and associated ASDB Regional Professionals working as collectively as a part of the team.
- 3.14. Evaluation: Part B: Means procedures used in accordance with the IDEA to determine whether a child has a disability and the nature and extend of the special education and related services that the child needs. This evaluation includes: (a) a review of existing information about the child; (b) A decision regarding the need for additional information; (c) If necessary, the collection of additional information, and (d) a review of all information about the child and a determination eligibility for special education services and needs of the child. Refer to A.A.C.R7-2-401 (B)(8).
- 3.15. Evaluation: Part C: Evaluation for children ages birth through two (2) years means the procedure, in accordance with 34 C.F.R. § 303.321, which will be used by appropriate and qualified personnel to determine a child's initial and continuing eligibility for AzEIP including determining the functioning level of the child in each of the five (5) developmental domains.

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



- 3.16. Free Appropriate Public Education (FAPE): In accordance with 34 C.F.R. § 300.101 means special education and related services that meet state standards and are provided based upon an IEP. These services are provided at public expense under public supervision and direction, without charge to the parents and must be provided in the least restrictive environment (LRE) in accordance with 34 C.F.R. § 300.114.
- 3.17. Geographic Service Region (GSR): The geographic unit that defines the service provision boundary for an early intervention program.
- 3.18. Individuals with Disabilities Education Act (IDEA): Public Law, Public Law 108-446, Title 20, Education, Chapter 33, Education of Individuals with Disabilities, Subchapter III, Infants and Toddlers with Disabilities, Section 1431-1444 and its implementing regulations at CRF Part 303, any future amendments to or reauthorization of the Federal statute or its regulations, and any clarification from the U.S. Department of Education regarding the provision of Federal statute.
- 3.18.1. Part C: A federal grant program that assists states in operating a comprehensive statewide program of early intervention services for infants and toddlers with disabilities, ages birth through two (2) years, and their families.
- 3.18.2. Part B: Federal funding to states and local educational agencies (LEAs) for the provision of special education and related services to children with disabilities.
- 3.19. Individualized Family Service Plan (IFSP): A written plan for providing early intervention services to an AzEIP eligible infant or toddler and the child's family that:
- 3.19.1. Is based on the evaluation of the child and the assessment of the child and family;
- 3.19.2. Is based on priorities, concerns and resources of the family and the interests of the child;
- 3.19.3. Includes parental consent;
- 3.19.4. Is developed in accordance with IDEA, Part C and its implementing regulations at 34 C.F.R §§ 303.342, 343, 345.
- 3.20. Individual Family Service Plan Transition Planning Meeting: Meets the requirements of 34 C.F.R. § 303.209 (d) is a meeting held before the child is two (2) years, nine (9) months (and at the discretion of all parties, not earlier than 2 years, 3 months) to develop a document the transition plan on the IFSP with the family. This meeting must meet specific requirements for an IFSP meeting, including conducting the meeting in a place and time that is convenient for the family and holding the meeting in the native language of the family. This meeting must meet specific requirements for an IFSP meeting, including conducting the meeting in a place and time that is convenient for the family and holding the meeting in the native language of the family or other mode of communication, unless it is clearly not feasible to do so. This meeting may be combined with the Transition Conference according to 34 C.F.R. § 303.209 (e).
- 3.21. Interagency Coordinating Council (ICC): Appointed by the Governor of the State of Arizona and has specific responsibilities including advising and assisting the state's lead agency in carrying out its duties under IDEA, Part C.
- 3.22. Initial Referral: The first time a child is referred to AzEIP for the purpose of determining eligibility under IDEA, Part C or to a PEA for the purpose of determining eligibility under IDEA, Part B.
- 3.23. Notification to the Public Education Agency (PEA Notification): AzEIP's responsibility is to ensure notification to the PEA where the parents of child with a disability live that the child will shortly reach the age of eligibility for IDEA, Part B services and the ADE. The PEA Notification must include (a) the child's name; (b) date of birth, and (c) parent contact information, (including names, addresses and telephone numbers). The PEA Notification may also include the Service Coordinator's name and contact information, and the language(s) spoken by the child and family.

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



- 3.23.1. PEA Notification does not require parental consent; however, parents have the opportunity to "Opt- Out" of a PEA Notification. If the parent has not opted out of the PEA Notification in writing by the end of the Transition Planning Meeting (or for children made eligible after two years, six months, by the end of the meeting in which eligibility is determined), the Service Coordinator will send a PEA Notification.
- 3.23.2. PEA Notification must be treated as an initial referral to the PEA for consideration of eligibility for preschool special education services. It initiates the PEA's requirement to provide Procedural Safeguards and Prior Written Notice under 34 C.F.R. § 300.504(a)(1) and § 300.503. The PEA Notification must be provided to the PEA designated as district of residence.
- 3.24. Opt-Out: A parent, after being informed of AzEIP's intent to disclose Notification to the Public Education Agency (also known as PEA Notification), may object to the disclosure in writing by the end of the Transition Planning Meeting for children eligible for AzEIP prior to two (2) years, six (6) month of age. If the parents opt-out in writing, AzEIP will not notify the PEA or ADE. The Service Coordinator is responsible to inform the parent that the following information will be provided in the notification: (a) child's name (b) child's date of birth (c) parent contact information (including parents' names, addresses, and telephone numbers). The parent must object in writing. PEA Notification will occur in the absence of parent objection. Refer to 34 C.F.R. § 303.209(b)(2).
- 3.25. Potentially Eligible Child Under IDEA, Part B: A child with an IFSP is potentially eligible for IDEA, Part B.
- 3.26. Public Education Agency (PEA): A school district (elementary, unified, or union high school district), charter school, accommodation school, state supported institution or other political subdivision of the state that is responsible for providing education to children with disabilities.
- 3.27. Screening: Means the informal or formal process of determining the status of a child with respect to appropriate developmental and academic norms that may indicate the need for an evaluation to determine eligibility for IDEA, Part C or Part B services. Screening may include observations, family interviews, review of medical, developmental or education records, or administration of specific screening instruments identified by the test publisher as appropriate for use as screening tools. Screening does not include an assessment or evaluation to determine eligibility.
- 3.28. Service Coordinator (SC): The early intervention professional who coordinates all supports and services across agency lines and serves as a single point of contact for the family. SC's ensure services occur as written on the IFSP and support families with procedural safeguards. Every child is assigned an SC, either from an AzEIP TBEIS Contractor or from DDD.
- 3.29. Special Education Advisory Panel (SEAP): The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the state.
- 3.30. Team-Based Early Intervention Services (TBEIS): Services provided by a transdisciplinary team where a Team Lead (TL) is selected as a primary support for a family. The TL receives support from other team members and focuses services on building parent/caregiver for the child in their natural learning environment, through coaching and teaming practices.
- 3.31. Team Lead (TL): The primary core team member who acts as the liaison between the family and the IFSP team for the provision of TBEIS. The team lead selected must be the best possible long-term match to support in achieving the child and family's costumes.
- 3.32. Transition Conference: A Part C meeting arranged and facilitated by the Service Coordinator and includes a representative of early childhood programs in which the family has an interest, such as the PEA, Head Start, and/or private preschool. In accordance with 34 C.F.R. §303.209(c), the Transition Conference will occur

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



between the time the child is two (2) years, six (6) months and two (2) years, nine (9) months (or as early as two years, three months, if all-parties agree). The purpose of the Transition Conference is to ensure the following steps are taken:

- 3.32.1. Review the potential program options/continuum of services available after the child's third birthday;
 - 3.32.2. Establish tentative timelines and activities for the child's transition into the PEA, if eligible;
 - 3.32.3. Establish a plan for parental visitation to the educational program available (if interested and if not already Completed); and
 - 3.32.4. Depending on the child's age at eligibility, the Transition Conference may occur, as part of the IFSP Transition Planning Meeting, during which the transition plan is developed. The Transition Conference must meet the requirements for an IFSP meeting and include PEA or other early childhood representative(s), as requested by the parent.
- 3.33. Unorganized Territories: Are geographical areas outside the boundaries of any Local Educational Agency (LEA). A Certificate of Education Convenience (CEC) from the county school superintendent's office (sometimes referred to as the county education service agency (ESA) is assigned allowing a child to attend a school district adjacent to the unorganized territory and is suspected of having a disability will need to be found eligible to receive special education services before a CEC can be assigned and before the child can receive services.

4.0 SERVICE DESCRIPTION

- 4.1. Establish a coordinated system to support children and families, including but not limited to, a streamlined and seamless process for Child Find Activities and Transition Services under IDEA, Part C and section 619 of IDEA, Part B, for eligible children with developmental delays and disabilities in Arizona.

5.0 RESPONSIBILITIES

ADES and the Contractor agree as follows:

- 5.1. Provide direction and coordination across agencies to create practices and inclusive systems that effectively provide supports and services for children with disabilities to infants and toddlers and their families.
- 5.1.1. Establish ongoing collaboration and consultation between both state agencies regarding any revisions needed within internal policies and procedures, data analysis and compliance monitoring as it applies to changes in IDEA, Part C and section 619 of IDEA, Part B.
- 5.1.2. Identify and coordinate resources for section 619 of IDEA, Part B and IDEA, Part C including federal, state, public and private sources.
- 5.1.3. Establish ongoing collaboration and participation in the Comprehensive System of Personnel Development (CSPD) multi-year plan, including but not limited, to participation on the leadership team and collaboration and agency efforts related to; in service professional development, personnel standards and qualifications, recruitment and retention, and collaboration with preservice professionals.
- 5.1.4. Establish regular coordination meetings to ensure the components of this agreement are fulfilled.
- 5.1.5. Establish and build upon a partnership to develop data system linking and effectively monitor and analyze data from both agencies to assist in reporting timely and accurate data to meet the requirements of IDEA, Part C and section 619 of IDEA, Part B.
- 5.1.6. Collaborate across state agencies to collect and use data for program management and continuous program improvement and examine the effectiveness of services and supports to improve the child and family outcomes.
- 5.1.7. Ensure local EIPs and PEAs collaborate regarding analysis of local data to make system improvements.
- 5.1.8. Ensure a representative from each agency participates on the Special Education Advisory Panel (SEAP) and Interagency Coordination Council (ICC).

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



5.2. CHILD FIND RESPONSIBILITIES

ADES/AzEIP and its service providing agencies shall:

- 5.2.1. Ensure all EIP's adhere to the Child Find Referral requirements of 34 §§ 303.301, 302 and are consistent with IDEA, Part B 34 C.F.R. §§ 300.111, 302 and AzEIP Policy Manual, Chapter 1.
- 5.2.2. Ensure EIP's comply with Unorganized Territories guidance and child find referral procedures upon learning of a concern from a parent who lives in a region outside the boundaries of any public education agency.
- 5.2.3. Develop and distribute public awareness materials to ensure primary referral sources and service providing agencies are disseminating information as described in IDEA, Part C 34 C.F.R. § 303.301, and AzEIP Policy Manual, Chapter 1.
- 5.2.4. Comply with the requirements for referral procedures and Child Find activities for children identified between the ages of 2.10.5 and 5 years old, which includes, submittal of a referral to a PEA using the child find procedures outlined at <https://www.azed.gov/specialeducation/az-find/>.
 - a.) Referral for children ages two (2) years and ten and one-half (10.5) months to five (5) years who live in Unorganized Territories, and
 - b.) Within two (2) business days of the date of the parental referral, the EIP will submit the Unorganized Territory Referral Form to the ADE/ESS Child Find Coordinator. The EIP will maintain a copy of the form in the child's record.

5.3. ADE CHILD FIND RESPONSIBILITIES

ADE shall:

- 5.3.1. Ensure PEA's address Public Awareness, Screening, and Referrals for children within their geographic boundaries of responsibility, following Child Find guidelines.
- 5.3.2. Ensure PEA's will comply with the requirements to make initial referrals of children from Local Education Agency (LEA's) to AzEIP referrals for children ages birth to (2 years 10.5 months):
- 5.3.3. Immediately and no later than two (2) business days after the date of the referral, submit an online initial referral at (<http://des.az.gov>) to and retain a copy for verification purposes. Additionally, the PEA may refer the child to AzEIP by fax or phone call to the identified AzEIP Central Referral Agency.

5.4. TRANSITION REQUIREMENTS

ADES/AzEIP and its service providing agencies shall:

- 5.4.1. Establish and maintain a statewide infrastructure that will provide a coordinated and seamless transition for eligible children.
- 5.4.2. Ensure children who are potentially eligible for services under section 619 of IDEA, Part B will experience a smooth and effective transition to preschool services, as authorized in 34 C.F.R. § 303.209 and in the AzEIP Policy and Procedure Manuals, Chapter 4.
- 5.4.3. Oversee EIP's and their performance as it applies to IDEA, Part C requirements, this includes but is not limited to, compliance to all transition activities under IDEA, Part C as described in C.F.R. 34 § 303.209 and AzEIP Policy and Procedure Manuals, Chapter 4.
- 5.4.4. Submit a PEA Notification to the PEA, for children receiving IDEA, Part C services who are potentially eligible for services under section 619 of IDEA, Part B in accordance to AzEIP Policy and Procedure Manuals, Chapter 4.
- 5.4.5. Establish, monitor and enforce guidelines for children receiving IDEA, Part C services including a Transition Planning Meeting and Transition Conference Meeting, to determine if the family prefers to opt-out of Public Education Agency Notification (PEA) and choose not to pursue preschool eligibility or pursue educational services through the State Education Agency (SEA) and the LEA where the child resides. Refer to AzEIP Policy and Procedure Manuals, Chapter 4 for a timeline that specifies coordination of all transition steps and activities and to C.F.R. 34 §§§ 303.148, .209, .40.

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



5.4.6. Comply with the regulations which provide guidance on the combination of the Transition Planning Meeting and the Transition Conference Meeting, ensuring adherence to the requirements in 34 C.F.R. §§§ 303.342(d), 303.343, 303.209(e).

5.5. TRANSITION REQUIREMENTS

ADE shall:

- 5.5.1. Ensure a smooth transition for children with disabilities who receive IDEA, Part C services and are eligible for IDEA, Part B preschool services, including development of policies and procedures to ensure that an IEP is being implemented by the child's third (3rd) birthday. Refer to IDEA section 612(a)(9) and 34 C.F.R. §§ 300.101(b) and 300.124(b).
- 5.5.2. Maintain oversight for all PEAs' compliance with IDEA, Part B and the terms of this agreement.
- 5.5.3. Ensure PEA's participate in all appropriate Transition Conferences arranged by the Service Coordinator for eligible children who may be eligible for preschool services under section 619 of IDEA, Part B. Refer to IDEA section 612(a)(9) and 34 C.F.R. §300.124.
- 5.5.4. Ensure PEA's consider all appropriate documentation from the EIP, including the current IFSP, during the Transition Conference and to inform appropriate next steps.

6.0 EXTENSION

- 6.1. This agreement may be extended through a mutual written amendment.

7.0 TERMINATION

- 7.1. This agreement may be terminated by mutual agreement of the parties at any time during the term of this agreement.
- 7.2. Each Party shall have the right to terminate this agreement by personal delivery or by certified mail, return receipt requested, to the other party written notice of termination at least thirty (30) days prior to the effective date of said termination.

8.0 AMENDMENTS

- 8.1. This agreement may be amended only by mutual written amendment. No agent, employee or other representative of either Party is empowered to alter any of the terms of the agreement, unless amended in writing and signed by the authorized representative of the respective Parties.
- 8.2. Either party shall give written notice to the other party 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:
 - 8.2.1. Change of telephone number;
 - 8.2.2. Change in authorized signatory; and/or
 - 8.2.3. Change in the name and/or address of the person to whom notices are to be sent.

9.0 MANNER OF FINANCING

- 9.1. The agency or entity assigned responsibility for activities herein shall be responsible for paying for or coordinating access to the resources to ensure the completion of the activity. This Agreement does not require the transfer of funds between ADE and ADES, nor between the LEA's and the local Early Intervention Programs.
- 9.2. Every obligation of ADE and ADES under this Agreement is conditioned upon the availability of funds appropriated or allocated for the performance of such obligation. If funds are not allocated, nor available for continuance of this Agreement, ADE or ADES may terminate this Agreement at the end of the period for which funds are available. No liability shall accrue to ADE or ADES in the event this provision is exercised, however both agencies shall continue to comply with federal and state law.

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



10.0 REPORTING REQUIREMENTS

- 10.1. Reports shall be sent to:
Arizona Department of Economic Security
Arizona Early Intervention Program (AzEIP)
Data Manager
1789 W. Jefferson Street – MD 2HP1
Phoenix, AZ 85007
Email: AzEIPQualityimprovement@azdes.gov

11.0 PAYMENT REQUIREMENTS

- 11.1. None

12.0 NOTICES

- 12.1. All notices to the Contractor regarding this agreement shall be sent to the following address:

Arizona Department of Education
Deputy Associate Superintendent
Exceptional Student Services
1535 West Jefferson Street, Bin #24
Phoenix, AZ 85007

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

Arizona Department of Economic Security
Arizona Early Intervention Program (AzEIP)
Contract Manager
1789 W. Jefferson Street - MD 2HP1
Phoenix, AZ 85007
Email: AzEIPContracts@azdes.gov

13.0 DISPOSITION OF PROPERTY

- 13.1. None

14.0 OTHER MATTERS

- 14.1. None

15.0 APPLICABLE LAW

- 15.1. This agreement shall be governed and interpreted by the laws of the State of Arizona. The materials and services supplied under this agreement 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 agreement agree to resolve all disputes arising out of or relating to this agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. §§ 12-1518(B) and 12-133, except as may be required by other applicable statutes.

17.0 AUDIT

- 17.1. In accordance with A.R.S. § 35-214, the Contractor 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 except if subject to Health Insurance Portability & Accountability Act which is six (6) years from the date of final payment. All records shall be subject to

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



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 terminate the agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of either party, 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 E-VERIFY

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

20.0 FEDERAL IMMIGRATION AND NATIONALITY ACT

20.1. 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 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.

20.2. The State may request verification of compliance for any Contractor 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.

21.0 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

21.1. The Contractor warrants that it is familiar with the requirements of HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH Act) of 2009, and accompanying regulations and will comply with all applicable HIPAA requirements in the course of this Contract. Contractor warrants that it will cooperate with the State in the course of performance of the Contract so that both the State and Contractor will be in compliance with HIPAA, including cooperation and coordination with the offices of the Department's Chief Information Security Officer and Chief Privacy Officer, and other compliance officials required by HIPAA and its regulations. Contractor will sign the Department's Business Associate Agreement.

21.2. The Contractor agrees to sign the Department's Business Associates Agreement and to abide by the statements addressing the creation, use and disclosure of confidential information, including information designated as protected health information and all other confidential or sensitive information as defined in policy. In addition, if requested, Contractor agrees to either:

21.3. Complete the Department's HIPAA training that is intended to make the Contractor proficient in HIPAA for purposes of performing the services required, or

21.4. Provide the Department with materials that will be utilized for its own training. The Department reserves the right to review the independent training materials and either approve or reject. If the training materials are rejected, the Contractor shall complete the Department's HIPAA training.

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



22.0 INDEMNIFICATION:

Each party (as "Indemnitor") agrees to defend, indemnify, 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. The State of Arizona, Department of Economic Security is self-insured per A.R.S. 41-621.

In addition, should (Arizona Department of Education) utilize a contractor(s) and subcontractor(s) the indemnification clause between (Arizona Department of Education) and its contractor(s) and subcontractor(s) shall include the following:

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the (Arizona Department of Education and the State of Arizona, and any jurisdiction or agency issuing any permits for any work arising out of this agreement, and its departments, agencies, boards, commissions, universities, , 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 the 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. Additionally on all applicable insurance policies, contractor and its subcontractors shall name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as an additional insured and also include a waiver of subrogation in favor of the State.

22.1. INSURANCE REQUIREMENTS FOR GOVERNMENTAL PARTIES TO AN IGA

- None

22.2. 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 *insurance requirements* herein are minimum requirements and in no way limit the indemnity covenants contained in the Intergovernmental agreement. 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 Contract by the Contractor, his agents, representatives, employees or subcontractors, and Contractor and the governmental entity are free to purchase additional insurance.

22.3. MINIMUM SCOPE AND LIMITS OF INSURANCE

Contractor shall provide coverage with limits of liability not less than those stated below.

22.3.1. Commercial General Liability – Occurrence Form

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

- General Aggregate \$2,000,000

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Damage to Rented Premises \$ 50,000
- Each Occurrence \$1,000,000

- a.) The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.
- b.) Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, 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.)

22.3.2. Business Automobile Liability

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

- Combined Single Limit (CSL) \$1,000,000
- a.) Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving automobiles owned, hired and/or non-owned by the Contractor.
 - b.) Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, 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.)

22.3.3. Workers' Compensation and Employers' Liability

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

- a.) Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, 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 each Contractor or subcontractor that is exempt under A.R.S. § 23-901, and when such Contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



22.4. ADDITIONAL INSURANCE REQUIREMENTS

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

- 22.4.1. The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).
- 22.4.2. Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

22.5. NOTICE OF CANCELLATION

- 22.5.1. Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to the Arizona Department of Economic Security, Arizona Early Intervention Program (AZEIP), Attn: Jenee Sisroy – AZEIP Program Administrator/Part C Coordinator, 1789 W. Jefferson Street, Mail Drop 2HP1, Phoenix, AZ 85007 or via email: JSisroy@azdes.gov.

22.6. ACCEPTABILITY OF INSURERS


- 22.6.1. Contractor's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have 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.

22.7. VERIFICATION OF COVERAGE

- 22.7.1. Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.
 - a.) All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.
 - b.) Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.
 - c.) All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

22.8. SUBCONTRACTORS

- 22.8.1. Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of the Contract, proof from the Contractor that its subcontractors have the required coverage.

Intergovernmental Agreement (IGA)	 DEPARTMENT OF ECONOMIC SECURITY <i>Your Partner for A Stronger Arizona</i>
Agreement No.: DI20-002267	
Description: Child Find and Transition Services	

22.9. APPROVAL AND MODIFICATIONS

22.9.1. The Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

22.10. EXCEPTIONS

22.10.1. In the event the Contractor or subcontractor(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 subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

23.0 IT 508 COMPLIANCE

23.1. 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. §§ 18-131 and §§ 18-132 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.

24.0 NON-AVAILABILITY OF FUNDS

24.1. 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.

25.0 NON-DISCRIMINATION

25.1. 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.

26.0 OFFSHORE PERFORMANCE OF WORK PROHIBITED

26.1. Due to security and identity protection concerns, direct services under this agreement 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 Agreement. This provision applies to work performed by subcontractors at all tiers.

27.0 PARTICIPATION IN BOYCOTT OF ISRAEL

27.1. Contractor warrants it is not engaged in a boycott of Israel as defined by A.R.S. § 35-393.01.

28.0 RIGHT OF OFFSET

28.1. ADES shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by ADES, or damages assessed by ADES concerning the Contractor's non-conforming performance or failure to perform the agreement. The right to offset may include, but is not limited to, a deduction from an unpaid balance and a collection against the bid and/or performance bonds. Any offset taken for damages assessed by the ADES shall represent a fair and reasonable amount for the actual damages and shall not be a penalty for non-performance."

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



29.0 THIRD- PARTY ANTITRUST VIOLATIONS

29.1. The Contractor assigns to 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 ATTACHMENTS

30.1. Attachment 1 – Business Associates Agreement

31.0 EXHIBITS

- None

32.0 CONFIDENTIALITY

32.1. 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 ADES and to the Attorney General's Office as required by the terms of this agreement, by law or upon their request.

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

33.0 FINGERPRINTING

33.1. 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.


33.2. 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 Agreement. 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.

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

33.3.1. 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.

33.3.2. Except as provided in A.R.S. § 46-141, this Agreement 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.

33.4. Federally recognized Indian tribes may submit and ADES will accept certifications that state that no personnel who are employed or who will be employed during the term of this Agreement have been convicted of, have admitted committing or are awaiting trial on any offense as described in A.R.S. § 41-1758.03 (as may be amended).

Intergovernmental Agreement (IGA)	
Agreement No.: DI20-002267	
Description: Child Find and Transition Services	

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

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

34.2. 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:

34.2.1. Any person who applies for a contract with this State and that person's employees;

34.2.2. All employees of a contractor;

34.2.3. A subcontractor of a contractor and the subcontractor's employees; and

34.2.4. Prospective employees of the contractor or subcontractor at the request of the prospective employer.

34.3. 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.

34.4. 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.

34.5. 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 ADES whether an allegation of abuse or neglect was made against them and was substantiated. The completed forms are to be maintained as confidential.

34.6. 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:

34.6.1. The person is not currently the subject of an investigation of child abuse or neglect in Arizona or another state or jurisdiction; and


34.6.2. 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.

34.7. 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.

34.8. 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 Agreement.

35.0 DATA SHARING AGREEMENT

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

Intergovernmental Agreement (IGA)	
Agreement No.: DI20-002267	
Description: Child Find and Transition Services	

Attachment 1

**ARIZONA DEPARTMENT OF ECONOMIC
SECURITY
Division of Business and Finance**

**HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT OF 1996 – HIPAA AND
HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT
OF 2009 - HITECH
BUSINESS ASSOCIATE AGREEMENT**

The Arizona Department of Economic Security (DES) or on behalf of a DES Division or Program (“DES Covered Component”), and undersigned Business Associate hereby enter into this Business Associate Agreement (“BAA” or “Agreement”).

This BAA has the same effective date as the Contract, Intergovernmental Agreement, Memorandum of Understanding or Interagency Service Agreement to which it is appended (“Related Contract” or “Contract”), or the date of the last signature, whichever is later. If there is no Related Contract, the effective date of this BAA is the date of the last signature to this Agreement. This Agreement supplements any Contract between a DES Covered Component and the Business Associate which involves the disclosure of Protected Health Information (“PHI”) as defined in HIPAA. In the event of conflicting terms or conditions, this Agreement’s terms shall supersede the provisions of the Related Contract to which it is appended.

The DES Covered Component and the Business Associate agree to comply with applicable Privacy and Security Standards of HIPAA and HITECH, and with other applicable federal and state laws, in order to protect the privacy of PHI in any form and to safeguard the confidentiality, integrity, and availability of any Electronic PHI (“ePHI”) related to this Agreement.

- 1.0 DEFINITIONS.** Capitalized terms not otherwise defined in this Agreement shall have the same meanings as those terms in the Privacy Rule and HITECH.
- 1.1. **Breach** shall have the meaning given to such term under the HITECH Act (42 U.S.C. § 17921).
 - 1.2. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act (45 C.F.R. § 160.103 and 42 U.S.C. § 17938).
 - 1.3. **Covered Component** shall have the meaning given to such term under the Privacy Rule and the Security Rule (45 C.F.R §160.103).
 - 1.4. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule (45 C.F.R. §164.501).
 - 1.5. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule (45 C.F.R. §164.501).
 - 1.6. **Electronic Health Record** shall have the meaning given to such term in the HITECH Act (42 C.F.R. § 17921).
 - 1.7. **Electronic Protected Health Information** shall have the meaning given to such term under the Privacy Rule (45 CFR §164.501 and §106.103)
 - 1.8. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule (45 C.F.R.

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



§164.501).

- 1.9. **Individual** shall have the meaning given to such term under the Privacy Rule (45 C.F.R. §160.103) and shall include a person who qualifies as a personal representative (45 C.F.R. §164.502(g)).
- 1.10. **Privacy Rule** shall mean the Standards for Privacy of Individually Identifiable Health Information codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
- 1.11. **Protected Health Information** shall have the meaning given to such term under the Privacy Rule (45 C.F.R. §164.501). Protected Health Information includes Electronic Protected Health Information (C.F.R. §160.103 and §164.501).
- 1.12. **Protected Information** shall have the meaning given to such term under the Privacy Rule (45 C.F.R. §164.501). Protected Information includes Electronic Protected Information (C.F.R. §160.103 and §164.501).
- 1.13. **Required By Law** shall have the meaning given to such term under the Privacy Rule (45 C.F.R. §164.512).
- 1.14. **Secretary** shall mean the Secretary of the U.S. Department of Health and Human Services or his designee.
- 1.15. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
- 1.16. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act (42 U.S.C. §17932(h)).
- 2.0. **PERMITTED USES AND DISCLOSURES OF PHI.** The Business Associate will use and disclose PHI only for those purposes necessary to perform functions, activities, or services for, or on behalf of, the DES Covered Component as specified in the underlying Contract, this BAA, or as Required By Law. Any use or disclosure by the Business Associate shall not violate applicable Privacy Rule provisions, the terms of this BAA, or the DES Covered Component policies and procedures for using or disclosing only the Minimum Necessary PHI.
- 2.1. **Prohibited Use and Disclosures.** The Business Associate shall not use or disclose Protected Information for fundraising or marketing purposes. The Business Associate shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested a restriction and has paid out of pocket in full for health care items or services to which the PHI solely related as described in 42 U.S.C. §17935(a). The Business Associate shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of the Covered Component and as permitted by the HITECH Act, 42 U.S.C. §17935(d) (2); however, this prohibition shall not affect payment by the Covered Component to the Business Associate for services provided pursuant to the Contract. Disclosure for research is prohibited without the Covered Component's permission prior to such disclosure.
- 2.2. **Business Activities of Business Associate.** The Business Associate may use PHI for the necessary management and administration of the Business Associate, or to carry out the legal responsibilities of the Business Associate if:
 1. The disclosure is Required By Law; or
 2. The Business Associate obtains reasonable written assurances from a third party receiving the PHI that the third party will:
 - i. Maintain the confidentiality of the PHI;

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



- ii. Use or disclose the PHI only as Required By Law or for the purpose for which the PHI was disclosed to the person;
- iii. Notify the Business Associate within 1 business day of any discovered breach of confidentiality of the Protected Information (*42 U.S.C. §17932; 45 C.F.R. §164.504(e)(2)(ii)(D)*) and comply in writing with paragraphs 3.1, 3.2, 3.3, 3.4, 3.5 and 3.6; and
- iv. Ensure that any third party to whom it provides Protected Information receives from, or created or received by the Business Associate on behalf of the Covered Component, agrees to the same restrictions and conditions that apply to the Business Associate with respect to such information (*45 C.F.R. §164.504 (e)(2)(ii)(D)*).

2.3. **Aggregation of PHI.** The Business Associate shall provide data aggregation services with regard to PHI created or received from or on behalf of the DES Covered Component, if requested to do so by the DES Covered Component. (*45 C.F.R. §164.504(e)(2)(i)(B)*).

2.4. **De-Identification of PHI.** Under 45 C.F.R. §164.502(d) (2), de-identified information does not constitute PHI and is not subject to the terms of this Agreement. The Business Associate may de-identify any and all PHI, provided

1. The de-identification conforms to the requirements of 45 C.F.R. §164.514(b),
2. The Business Associate maintains the documentation required by 45 C.F.R. §164.514(b), and
3. The Business Associate gives written assurance to the DES Covered Component that the Business Associate appropriately maintains the documentation required by 45 C.F.R. §164.514(b).

3.0 OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE.

3.1. **Safeguards.** The Business Associate shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected information otherwise that as permitted by the Contract and the Business Associate Agreement, including, but not limited to, administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Information, in accordance with 45 C.F.R §164.308, §164.310, and §164.312. The Business Associate shall comply with the policies, procedures, and documentation requirements of the HIPAA Security Rule, including but not limited to 42 U.S.C. §17931 and 45 C.F.R. §164.316.

3.2. **Reporting Impermissible Use or Disclosure and Security Incidents.** The Business Associate agrees to report to the DES Covered Component in writing of any access, use or disclosure of Protected Information not permitted by the contract or the Business Associate Agreement, and any breach of Unsecured PHI of which it becomes aware of as described in 42 U.S.C. §17921 and 45 C.F.R. §164.308(b) and §164.504(e)(2)(ii)(C), within 1 business day after discovery. The Business Associate shall:

1. Promptly take corrective action to secure any such deficiencies; and
2. Grant prompt and immediate access to DES Covered Component and other individuals from DES or the State of Arizona authorized by DES to participate in the incident investigation, mitigation, resolution, or breach notification; and
3. Contact the DES Chief Privacy Officer if DES Covered Component cannot be notified within 1 business day after discovery of incident; and
4. Secure and preserve all records pertinent to the incident; and
5. Promptly require within 1 business day of incident discovery applicable subcontractors and agents to secure and preserve all records pertinent to the incident; and
6. Any action pertaining to such unauthorized disclosure required by applicable federal and state statutes and regulations.

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



- 3.3. **Mitigation.** The Business Associate agrees to mitigate, to the extent practicable, any harmful effects that are known to the Business Associate of a use or disclosure of PHI by the Business Associate or its agents or subcontractors in violation of the requirements of this Agreement (*45 C.F.R. §164.530(f)*).
- 3.4. **Agents and Subcontractors.** The Business Associate agrees to the following:
1. Ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by the Business Associate on behalf of the DES Covered Component, agrees in writing to the same restrictions and conditions that apply to the Business Associate through this Agreement with respect to such PHI and implementing the safeguards required by paragraph 2.1 above with respect to Protected Information (*45 C.F.R. §164.308(b) and §164.504(e)(2)(ii)(D)*).
 2. It shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violations as described in *45 C.F.R. §164.530(e)(l) and 164.530(f)*.
- 3.5. **Personnel.** The Business Associate shall appropriately inform all of its employees, agents, representatives, and members of its workforce ("Personnel"), whose services may be used to satisfy the Business Associate's obligations under this Agreement and the Related Contract, of the terms of this Agreement. The Business Associate represents and warrants that the Personnel are under sufficient legal obligations to the Business Associate for the Business Associate to fully comply with the provisions of this Agreement. The Business Associate agrees to train its workforce on the HIPAA Rule and keep appropriate records of the training as prescribed in *45 C.F.R. §164.530(b)(1)(2)*.
- 3.6. **Access to Protected Information.** The Business Associate shall make Protected Information maintained by the Business Associate or its agents or subcontractors in Designated Record Sets available to the DES Covered Component for inspection and copying within 10 business days of a request by the DES Covered Component to enable the DES Covered Component to fulfill its obligations under the Privacy Rule, including, but not limited to, *45 C.F.R. §164.524*. If the Business Associate maintains an Electronic Health Record, the Business Associate shall provide such information in electronic format to enable the DES Covered Component to fulfill its obligations under the HITECH Act, including, but not limited to, *42 U.S.C. §17935(e)*.
- 3.7. **Individual Access to PHI.** If an Individual requests direct access to PHI in possession of the Business Associate which is maintained under its contract with DES, prior to disclosure of any PHI the Business Associate shall first consult in writing with the DES Covered Component's Privacy Officer or the DES Chief Privacy Officer. The Business Associate shall grant or deny access pursuant to written instructions from the DES Covered Component which are consistent with *45 C.F.R. §164.524* or other applicable law. Within 5 business days, the Business Associate shall notify the DES Covered Component's Privacy Officer or the DES Chief Privacy Officer in writing of the actions it has taken pursuant to the request for access and DES Covered Component's authorization.
- 3.8. **Amendment of PHI.** The Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set within 5 business days after the Business Associate receives from the DES Covered Component instructions to amend PHI. Such instructions generally follow an Individual's request to the DES Covered Component to amend the Individual's PHI held by the DES Covered Component or its Business Associates in a Designated Record Set. If the DES Covered Component declines an Individual's request to amend that Individual's PHI, the DES Covered Component shall provide to its Business Associate, who shall promptly incorporate into the Individual's Designated Record Set, any statements of disagreement and/or rebuttals supplied by the Individual, as required by *45 C.F.R. § 164.526*.
- 3.9. **Individual Amendment of PHI.** If an individual requests an amendment of PHI directly from the Business

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



Associate or its agents or subcontractors on behalf of the DES Covered Component, the Business Associate must notify the DES Covered Component in writing within 5 business days of the request. Any approval or denial of amendment to Protected Information maintained by the Business Associate or its agents or subcontractors shall be the responsibility of the DES Covered Component, which shall notify the Business Associate of its decision in writing.

- 3.10. **Documentation of Disclosure.** The Business Associate agrees to document all disclosures of PHI made by the Business Associate and information related to such disclosures as would be required by the DES Covered Component to respond to a request by an Individual for an accounting of disclosures of PHI according to 45 C.F.R. §164.528. At a minimum, the documentation related to the Business Associate's disclosure of PHI shall include:
1. The date of disclosure;
 2. The name of the PHI recipient and, if known, the address of the PHI recipient;
 3. A brief description of the PHI disclosed; and
 4. A brief statement of the purpose of the disclosure that reasonably informs the Individual of the basis for the disclosure, or instead of such statement, a copy of the written request for disclosure by the Secretary or under 45 C.F.R. §164.512.
- 3.11. **Accounting of Disclosures.** Within 10 business days after receipt of notice from the DES Covered Component to the Business Associate that the DES Covered Component has received a request for an accounting of disclosures of an Individual's PHI, the Business Associate agrees to provide the DES Covered Component with the disclosure information requested by the Individual and as required in paragraph 3.10 above. If an individual requests an accounting of disclosures directly from the Business Associate, the Business Associate shall, within sixty (60) business days, provide or deny an accounting according to 45 C.F.R §164.528. Unless otherwise directed by the DES Covered Component, the Business Associate shall notify the DES Covered Component of the action it has taken and shall do so in writing within five (5) business days after the action. The accounting of disclosure shall include all PHI disclosures for the time period the Individual requested, but not for a date earlier than six years prior to the date of creation or last entry, which ever occurred last. If the Business Associate is unable to provide the accounting of disclosure within the allowed time frame, the Business Associate shall provide the DES Covered Component with a written statement of the reason for delay and the date the Business Associate will provide the accounting.
- 3.12. **Government Access to Records.** For the purpose of determining the DES Covered Component compliance with the Privacy Rule, as well as the Business Associate's compliance with this BAA, the Business Associate agrees to make available to the DES Covered Component or its authorized agent, or to the Secretary, in the time and manner designated:
1. The Business Associate's internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of the DES Covered Component; and
 2. All PHI received by the Business Associate from the DES Covered Component or created or received by the Business Associate on behalf of the DES Covered Component.
- 3.13. **Minimum Necessary.** The Business Associate and its agents and subcontractors shall request, use, and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use or disclosure as described in 42 U.S.C. § 17935(b); 45 C. F. R. § 164.502(b)(1) and 164.514(d).
- 3.14. **Data Ownership.** The Business Associate acknowledges that the Business Associate has no ownership rights with respect to the Protected Information.

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



3.15. **Transaction Standards Regulation.** If the Business Associate conducts in whole or part Standard Transactions for or on behalf of the DES Covered Component, the Business Associate agrees to comply with the Electronic Data Transaction Standards and Code Sets, 45 C.F.R. Part 162 (I – R). The Business Associate agrees to require any subcontractor or agent involved in conducting Standard Transactions for or on behalf of the DES Covered Component, to comply with the Transaction Standards and Code Sets. The Business Associate and its subcontractors or agents shall not engage in any practice or enter into any agreement related to conducting in whole or in part Standard Transactions for or on behalf of the DES Covered Component that:

1. Changes the definition, Data Condition, or use of a Data Element or Segment in a Standard Transaction;
2. Adds a Data Element or Segments to the maximum defined Data Set;
3. Uses any code or Data Element that is marked “not used” in the Standard Transaction’s implementation specification or that is not in the Standard Transaction’s implementation specification; or
4. Changes the meaning or intent of the Standard transaction implementation specification.

3.16. **Retention of Records.** All records containing PHI created or received by the Business Associate from or on behalf of the DES Covered Component will be retained for six years from the date of creation (*e.g., PHI*) or the date when it last was in effect (*e.g., a policy or form*), whichever is later.

3.17. **Violations of Law.** The Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. §164.502(j).

3.18. **Audits, Inspection and Enforcement.**

1. Within 10 business days of a written request by the DES Covered Component, the Business Associate and its agents or subcontractors shall allow the DES Covered Component to conduct a reasonable inspection of the facilities, systems, books, records, agreements, and policies and procedures relating to the use, acquisition, or disclosure of Protected Information pursuant to this Agreement for the purpose of determining whether the Business Associate has complied with this Agreement; provided, however that:
 - i. The Business Associate and the DES Covered Component shall mutually agree in advance upon the scope, timing and location of such inspection. If an agreement can not be concluded, then DES will decide; and
 - ii. To the extent allowed by law, the DES Covered Component shall safeguard all trade secret information of the Business Associate to which the DES Covered Component has access during the course of such inspection; and
2. The fact that the DES Covered Component inspects, fails to inspect, or has the right to inspect the Business Associate’s facilities, systems, books, records, agreements, and policies and procedures does not relieve the Business Associate of its responsibilities to comply with this Agreement. The following acts by the DES Covered Component do not constitute acceptance of such practices or waive the DES Covered Entity’s enforcement rights under the contract or Agreement.
 - i. Failure to detect; or
 - ii. Detection, but failure to notify the Business Associate; or
 - iii. Requiring the Business Associate to correct any unsatisfactory practices.
3. The Business Associate shall notify the DES Covered Component in writing within 1 business day of learning that the Business Associate has become the subject of an audit, compliance review, or complaint investigation by the Office for Civil Rights.
4. Notwithstanding paragraph 3.18.1, pursuant to paragraphs 3.1 through 3.4 and in compliance with 42

Intergovernmental Agreement (IGA)

Agreement No.: DI20-002267

Description: Child Find and Transition Services



U.S.C. §17921 and 45 C.F.R. §164.308(b) and §164.504(e)(2)(ii)(C), Business Associate, its subcontractors and agents shall permit prompt and immediate access to the Covered Component to all physical locations and business records, including electronic records and all relevant data files, under the control or maintained by the Business Associate, its subcontractors and agents on behalf of Covered Component, for the purpose of mitigating a data breach, conducting a risk analysis and obtaining information which will identify individuals affected.

4.0 OBLIGATIONS OF DES COVERED COMPONENT


- 4.1. **Notice of Privacy Practices.** The DES Covered Component shall notify the Business Associate of any changes or limitation(s) in the DES Covered Component's Notice of Privacy Practices according to 45 C.F.R. §164.520, to the extent that such changes or limitation(s) may effect the Business Associate's use or disclosure of PHI.
- 4.2. **Changes in Permission by Individual.** The DES Covered Component shall notify the Business Associate of any changes in, or revocation of, an Individual's permission to use or disclose PHI, to the extent that such changes may affect the Business Associate's use or disclosure of PHI.
- 4.3. **Restriction on PHI.** The DES Covered Component shall notify the Business Associate of any restriction on PHI uses and disclosures that the DES Covered Component has agreed to in accordance with 45 C.F.R. §164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of PHI.
- 4.4. **Permissible Requests by DES Covered Component.** The DES Covered Component shall not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the DES Covered Component.

5.0 TERM AND TERMINATION

- 5.1. **Term.** The term of this Agreement is specified on page one (1) of this Agreement or in the Contract to which it is appended and shall terminate when all PHI provided by the DES Covered Component to the Business Associate, or created or received by the Business Associate on behalf of the DES Covered Component, is destroyed or returned to the DES Covered Component. If it is not feasible for the Business Associate to return to the DES Covered Component or destroy all PHI when this Agreement terminates under the Contract or is terminated early, protections agreed to by the Business Associate are extended to such information, whether PHI is held or controlled by the Business Associate or its agents or subcontractors.

5.2. **Effect of Termination.**

1. Except as provided in subparagraph 3 of this paragraph, upon termination of this Agreement for any reason, the Business Associate shall return or destroy all PHI received from the DES Covered Component, or created or received by the Business Associate on behalf of the DES Covered Component. No copies or data repositories can be retained as to this information.
2. This provision shall apply to PHI in the possession or under the control of subcontractors or agents of the Business Associate. The Business Associate and its subcontractors and agents shall retain no copies or data repositories of any type of returned or destroyed PHI unless ordered to do so by a court of law.
3. If the Business Associate determines that returning or destroying PHI is not feasible, the Business Associate shall provide to the DES Covered Component notification of the conditions making the return or destruction not feasible. The Business Associate shall extend the protections of this Agreement to the PHI and shall limit further uses and disclosures of the PHI to the purpose that make the return or destruction not feasible, for so long as the Business Associate maintains the PHI. If it is not feasible for the Business Associate to recover from a subcontractor or agent any PHI, the Business Associate shall provide a written

Intergovernmental Agreement (IGA)	 <p data-bbox="1047 262 1404 304">DEPARTMENT OF ECONOMIC SECURITY</p> <p data-bbox="1104 315 1347 336"><i>Your Partner for A Stronger Arizona</i></p>
Agreement No.: DI20-002267	
Description: Child Find and Transition Services	


explanation to the DES Covered Component. The Business Associate shall require the subcontractor or agent to agree:

- i. To extend the protections of this Agreement to the PHI in subcontractor or agent; and
- ii. To limit further uses or disclosures of the PHI to the purpose that makes the return or destruction not feasible, for so long as the subcontractor or agent maintains the PHI.

5.3. Termination for Cause.


1. Breach. Upon the DES Covered Component's knowledge of a material breach by the Business Associate of the terms of this Agreement, the DES Covered Component shall take one or more of the following actions:
 - i. Provide an opportunity for the Business Associate to cure the breach within a specified timeframe;
 - ii. Terminate this Agreement and the underlying Contract if the Business Associate does not cure the breach or end the violation within the time specified by the DES Covered Component, or if a cure of the breach is not possible;
 - iii. Immediately terminate this Agreement and the underlying contract; or
 - iv. Report the violation to the Secretary, if neither termination nor cure is feasible.


2. Judicial or Administrative Proceedings. The DES Covered Component may terminate the Agreement if;
 - i. The Business Associate is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws; or
 - ii. There is a governmental agency or tribunal finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA regulations or other security or privacy laws.

Intergovernmental Agreement (IGA)	
Agreement No.: DI20-002267	
Description: Child Find and Transition Services	

6.0 MISCELLANEOUS

- 6.1. HIPAA Reference. A reference in this Agreement to HIPAA or the Privacy Rule means the regulation including the HITECH Act of 2009, as in effect on the effective date or as subsequently amended, and for which compliance is required. (45 C.F.R. § 160, §162, and §164 and 42 U.S.C. §17938).
- 6.2. Amendment. The parties agree to take the action necessary to amend this Agreement from time to time so that the DES Covered Component may comply with the requirements of HIPAA, HITECH, court decisions and any regulatory changes.
- 6.3. Interpretation. Any ambiguity in this Agreement shall be resolved to permit the DES Covered Component to comply with the HIPAA and HITECH Rules.

Contractor hereby acknowledges receipt and acceptance of this HIPAA Business Associate Agreement and that a signed copy must be filed with the DES Procurement Office.	
	7/23/20
Signature	Date
Steven Paulson	
Print Name	
Chief Procurement Officer	
Title	
Arizona Department of Education	
Contractor	

The above referenced HIPAA Business Associate Agreement is hereby executed this			
19th	day of	August	2020, by the
Arizona Department of Economic Security.			
			
ADES Chief Privacy Officer Signature			
Jared Spurgeon			
Print Name			

Equal Opportunity Employer/Program • Under Titles VI and VII of the Civil Rights Act of 1964 (Title VI & VII), and the Americans with Disabilities Act of 1990 (ADA), Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Title II of the Genetic Information Nondiscrimination Act (GINA) of 2008; the Department prohibits discrimination in admissions, programs, services, activities, or employment based on race, color, religion, sex, national origin, age, disability, genetics and retaliation. To request this document in alternative format or for further information about this policy, contact your local office; TTY/TDD Services: 7-1-1. • Free language assistance for DES services is available upon request.