



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: 1/23/198

Department: District Attorney Agenda Planning Date: 1/17/19 Time required: 5 min

Audio/Visual aids

Contact: Pami Guerra Phone: 503-588-7983

Department Head Signature: 

TITLE ODAA Liaison to the Oregon Child Support Program

Issue, Description & Background DA Liaison will act as a representative of the ODAA at the CSP executive management level to foster communication between ODAA and DOJ.

Financial Impacts: \$974,923

Impacts to Department & External Agencies Statute requirement

Options for Consideration: Approve/ Not Approve

Recommendation: Approve

List of attachments: Intergovernmental Agreement

Presenter: Paige Clarkson & Concetta Schwesinger

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to: Pami Guerra pjguerra@co.marion.or.us



Contract Review Sheet

Contract #: **DA-2678-19**

Person Sending: **Pami Guerra**

Department: **District Attorney**

Contact Phone #: **503-588-7983**

Date Sent: **Friday, January 11, 2019**

- Contract
 Amendment# ___
 Lease
 IGA
 MOU
 Grant (attach approved grant award transmittal form)

Title: **ODAA Liaison to the Oregon Child Support Program**

Contractor's Name: **Oregon Department of Justice**

Term - Date From: **Date of final signature** Expires: **June 30, 2023**

Contract Total: **\$974,923.00** Amendment Amount: _____ New Contract Total: _____

Source Selection Method: _____ # _____

Additional Considerations (check all that apply)

- | | |
|---|---|
| <input type="checkbox"/> Board Order# _____ | <input type="checkbox"/> Feasibility Determination (attach approved form) |
| <input type="checkbox"/> Incoming Funds | <input type="checkbox"/> Federal Funds (attach sub-recipient / contractor analysis) |
| <input type="checkbox"/> Independent Contractor (LECS) approval date: _____ | <input type="checkbox"/> Reinstatement (attach written justification) |
| <input type="checkbox"/> Insurance Waiver (attach) | <input type="checkbox"/> Retroactive (attach written justification) |
| <input type="checkbox"/> CIP# _____ (required for all goods /software greater than \$5,000) | |

Description of Services or Grant Award:

DA Liaison will act as a representative of the ODAA at the CSP executive management level. This will foster communication between the ODAA and DOJ within the CSP by assuring the ODAA and it's members meaningful representation in matters of rule making, policy, procedures and operations within the CSP, consistent with state and federal law.

FOR FINANCE USE

Date Finance Received: _____ BOC Planning Date: _____ Date Legal Received: _____

Comments: _____

REQUIRED APPROVALS:

Finance - Contracts _____ Date _____

Risk Manager _____ Date _____

Legal Counsel _____ Date _____

Chief Administrative Officer _____ Date _____

Date _____

- To be filed
 Added to master list

Returned to _____ Department for _____ signatures

Agreement #19212
Oregon District Attorneys Association Liaison to the
Oregon Child Support Program

Section 1: Parties

Parties to this Agreement are (1) the Oregon Department of Justice (“DOJ”) (2) the Oregon District Attorneys Association (“ODAA”), and the (3) Marion County, by and through its District Attorney office (“County”), all individually without distinction are referenced as “Party” and collectively as “Parties” within this Agreement. The Oregon Department of Justice Division of Child Support administers the Oregon Child Support Program (“CSP”), which includes some county district attorney offices (“DA”).

Section 2: Statement of Intent

Whereas:

- (a) DOJ contracts with the majority of individual District Attorneys for the provision of child support services as provided in ORS 25.080;
- (b) DAs are an integral part of the CSP and need to be represented in the creation and administration of rulemaking, policy, and procedures regarding the CSP;
- (c) DOJ and DAs would benefit from the maintenance of a central liaison or liaisons (“DA Liaison”) acting on behalf of the participating DAs to foster communication between the Parties;
- (d) The ODAA is a duly constituted body formulated to advance the interests of District Attorneys generally, is governed through its Executive Committee, and authorized by its bylaws to enter into contracts, and is in a position to direct and administer a liaison position to CSP;
- (e) DOJ is directed by ORS 25.080(8) to enter into an agreement to fund the DA Liaison positions;
- (f) The County is willing to serve as the employer for the personnel assigned to the DA Liaison position contingent upon the salary, benefits, and expenses of the DA Liaison position being funded by DOJ within the limits established by this Agreement;
- (g) The parties agree and acknowledge that, for purposes of this Agreement, their relationship is that of independent contracting parties and that the DA is not an officer, employee, or agent of the State of Oregon as those terms are defined in ORS 30.265, and

It is deemed in the public interest for the parties to enter into this Agreement.

Section 3: Purpose of the Agreement

The purpose of this Agreement is to foster communications between the ODAA and DOJ within the CSP by assuring the ODAA and its members meaningful representation in matters of rulemaking, policy, procedures, and operations within the CSP, consistent with state and federal law. Both DOJ and the ODAA recognize that, to effect meaningful representation, the DA

Liaison will act as a representative of the ODAA at the CSP executive management level. The DA Liaison shall have full and equal access to the IV-D Director with the same opportunity to provide advice and counsel as any other member of the CSP executive team. Both DOJ and the ODAA recognize the importance of their relationship within the CSP and agree that the Parties will engage in a good faith working relationship with the DA Liaison, and the DA Liaison will engage in a good faith working relationship with all CSP partners.

The DA Liaison shall serve as the point of contact between the parties and all CSP partners on broad matters of mutual concern, including but not limited to, CSP rulemaking, policy, procedures, and operations. The DA Liaison will serve as a focal person to receive and disseminate information both to and from CSP executive and senior management, and the participating DAs, and to provide a point of contact for the IV-D Director, his or her staff, and other Program partners on matters of mutual concern. The specific working responsibilities for the DA Liaison are attached as Exhibit A and incorporated herein by reference.

Section 4: Effective Date and Duration

This agreement is effective on the date of the last signature, and terminates on June 30, 2023, unless extended by amendment or terminated earlier in accordance with Section 13.

Section 5: ODAA Responsibilities

ODAA agrees to administer a DA Liaison position through its Executive Board or Committee or such other subcommittees as it may constitute and delegate. The personnel assigned to the DA Liaison position will consist of the DA Liaison, and any such additional staff as may hereafter be authorized by written amendment to this Agreement executed by all parties. ODAA will delegate the authority to the DA Liaison to advance the interests of ODAA, as appropriate, with respect to matters regarding CSP on such terms and conditions as it shall deem appropriate. This delegation by ODAA shall not be construed to be a limitation upon the rights otherwise inuring to any individual DA or to discourage participation by any DAs or their authorized staff in CSP activities, including committees, task forces, or advisory groups.

Section 6: DOJ Responsibilities

6.1 DOJ agrees to provide opportunities for the DA Liaison to participate in all matters of rulemaking, policy, procedure, and operations that affect DAs' participation in CSP and shall in good faith give due regard and consideration to the position of ODAA as expressed through its DA Liaison position.

6.2 DOJ will fund and pay for the position expenses and technical support for the DA Liaison position within the limits set forth below.

6.3 DOJ shall use state or federal funds not to exceed:
January 2019 – June 2019 NTE \$100,000.00
July 2019 – June 2020 NTE \$200,000.00
July 2020 – June 2021 NTE \$212,000.00
July 2021 – June 2022 NTE \$224,720.00
July 2022 – June 2023 NTE \$238,203.00

for the following costs associated with County's employment of the DA Liaison position:

6.3.1 Salary and benefits (if any), corresponding with the DA salary scale;

- 6.3.2 Travel expenses for meetings, conferences, and visits to DAs outside the Salem area;
- 6.3.3 Any other incidental and reasonable costs, as determined by DOJ, associated in furtherance of the purposes expressed in the Agreement and such other costs as are submitted and approved in advance.

The parties agree that the respective ceilings for expenditures described under Section 6.3 shall be as determined by ODAA and the County.

6.4 DOJ will make the following facilities, materials, and services available, in kind and at the State's expense, without cost to ODAA or County for the benefit of the DA Liaison:

- 6.4.1 Suitable DOJ office space and furniture, with telephone and computer work station;
- 6.4.2 Access to printer/copier/fax;
- 6.4.3 Postage, office supplies, copying, printing, and other related materials and services as necessary to foster communications with all parties.

6.5 Conditions Precedent to Disbursement. DOJ's obligation to disburse grant moneys to County or ODAA under this Agreement is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:

- 6.5.1 DOJ has received sufficient funding, appropriations, and other expenditure authorizations to allow DOJ, in the exercise of its reasonable administrative discretion, to make the disbursement.
- 6.5.2 DOJ has received sufficient Federal Financial Assistance to allow DOJ, in the exercise of its reasonable administrative discretion, to make the disbursement.
- 6.5.3 No County or ODAA default has occurred.
- 6.5.4 With respect to the disbursement of funds only, DOJ has received an invoice for the disbursement accompanied by satisfactory written documentation evidencing the Allowable Costs for which County is seeking reimbursement (to the extent provided for in Section 7).

Section 7: County Obligations

7.1 County shall, contingent upon provision of funding by DOJ, create and maintain the staff positions, employ the personnel and administer the compensation and benefits associated therewith for the DA Liaison position. County shall maintain records documenting all costs and expenses so incurred. The County District Attorney will recruit, direct, manage, supervise, and when appropriate, terminate the personnel assigned the functions of the DA Liaison position. The personnel for the DA Liaison position will report to, answer to, and serve at the pleasure of the County District Attorney. County shall ensure the

personnel assigned to the functions of the DA Liaison position shall, within 30 days of assignment and annually thereafter, and prior to accessing any CSP screens or files, pass all required exams and certifications.

- 7.2** County shall submit quarterly invoices for actual Allowable Costs incurred and paid by County during the quarter, as evidenced by satisfactory written documentation. Allowable Costs are actual costs incurred and paid by County to conduct the activities and provide services described in Exhibit A. Allowable Costs are those defined in 45 CFR Part 75 entitled “Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards.” Invoices shall be submitted on County letterhead or other identifiable document from County by email to the DOJ accounting representative listed below.

DOJ Accounting Representative: DOJ / DCS Fiscal Officer
Division of Child Support
Oregon Department of Justice
PO Box 14680
Salem OR 97309
CSPI invoicing@doj.state.or.us

Or to whomever DOJ designates in writing.

- 7.2.1 County shall submit invoice details to DOJ within 45 days of the end of each quarter, quarters 1-3 and a one (1) final invoice within 90 days of the end of each fiscal year.
- 7.2.2 The details shall be in a format acceptable to DOJ and shall include the following costs associated with the DA Liaison position (this information is required for federal matching dollars):
- (a) Wages;
 - (b) Overtime incurred;
 - (c) Benefits (such as Social Security, retirement accounts, medical, dental, and vision);
 - (d) Employer taxes;
 - (e) Differentials, including but not limited to, pay in addition to salary and compensatory time granted;
 - (f) Office supplies not provided by the DOJ office in which the DA Liaison position is housed;
 - (g) Travel and Per Diem in accordance with the County travel policy;
 - (h) County Administration costs;
 - (i) Registration and fees for meetings and conferences;

(j) Professional dues and memberships required to perform the duties of the DA Liaison position, including but not limited to Oregon State Bar dues, if liaison is an active member of the Bar;

(k) Other incidental and reasonable costs in furtherance of the purposes expressed in the Agreement; and

(l) Such other costs as are submitted and approved in writing by CSP Director in advance of expenditures.

7.2.3 If DOJ makes an overpayment to County, County shall return any overpaid amounts within 60 days of notice to County by DOJ. If DOJ payments result in an underpayment to County, DOJ will compensate County for the remaining actual costs incurred by County for the DA Liaison position. County may invoice for less than the actual costs.

Section 8: Compliance with Applicable Law

The Parties will comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the Agreement, including the relevant parts of 45 CFR 92, Title IV-D of the Social Security Act and its implementing federal regulations, the state and federal laws described in Exhibit B, which is attached hereto and incorporated herein by this reference.

Section 9: Records Maintenance, Access, and Confidentiality

9.1 Retention of Records. County and ODAA shall retain and keep accessible all such books, documents, papers, and records for a minimum of six (6) years, or such longer period as may be required by applicable law or administrative rule, following final payment and expiration or termination of this Agreement, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Agreement, whichever date is later.

9.2 Safeguarding of Client Information. County and ODAA shall maintain the confidentiality of client records in compliance with applicable state and federal law, including, without limitation, ORS 179.505 to 179.507, 45 CFR, Part 205 and 42 CFR Part 2, any written DOJ policies made available to County and ODAA by DOJ, administrative rule adopted by DOJ implementing the foregoing laws, or any other applicable federal or state law related to the confidentiality of client records. County and ODAA shall maintain written policies and procedures related to the disclosure of client information, and shall make such policies and procedures available to DOJ for review and inspection as reasonably requested by DOJ. For the purposes of this Agreement, a "Participant" is an individual that DOJ has statutory responsibility to serve, protect, oversee, or provide care, custody or services to, or an individual who is the recipient of public assistance from the Oregon Department of Human Services or Oregon Health Authority. County and ODAA shall cause its subcontractors to maintain the confidentiality of Participant information as set forth in this Section.

In its participation in the CSP, Parties shall comply with 42 USC § 654(26), ORS 25.260 and 412.094, OAR 137-055-1140, 26 USC § 6103, 45 CFR 303.21, and all other applicable laws relating to confidentiality.

9.3 Access to Records and Facilities. DOJ, the Secretary of State’s Office of the State of Oregon, the United States Department of Health and Human Services, federal Office of Child Support Enforcement “OCSE,” and their duly authorized representatives shall have access to the books, documents, papers, and records (whether in electronic or hard copy form) of the County or ODAA that are directly related to this Agreement or the Grant moneys provided hereunder, including but not limited to the books, documents, papers, and records described in 45 CFR 305.65, for the purpose of making audits and examinations, including but not limited to audits required by 45 CFR Part 75, Subpart F. In addition, DOJ, the Secretary of State’s Office of the State of Oregon, the United States Department of Health and Human Services, OCSE, and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. County and ODAA shall permit authorized representatives of DOJ, the Secretary of State’s Office of the State of Oregon, the United States Department of Health and Human Services, and OCSE to perform site reviews of all Title IV-D Case Services.

Section 10: Assignment of Agreement; Successors in Interest

10.1 Neither County nor ODAA shall assign or transfer its interest in this Agreement without prior written approval of DOJ. Any such assignment or transfer, if approved, is subject to such conditions and provisions as DOJ may deem necessary. No approval by DOJ of any assignment or transfer of interest shall be deemed to create any obligation of DOJ in addition to those set forth in the Agreement.

10.2 The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, and their respective successors and assigns.

Section 11: No Third Party Beneficiaries

DOJ, County, and ODAA are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. The Parties agree that County and ODAA performance under this Agreement is solely for the benefit of CSP to assist and enable CSP to accomplish its statutory mission. Nothing in this Agreement gives, is intended to give, or shall be constructed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

Section 12: Amendment

The terms of this Agreement may not be waived, altered, modified, supplemented, or otherwise amended, in any manner whatsoever, except by written mutual agreement of the Parties. Such waiver, alternation, modification, or supplementation, if made, shall be effective only in the specific instance and for the specific purpose given.

Section 13: Termination

Parties may terminate this Agreement upon 90 days prior written notification to the other Parties. If this Agreement is so terminated, the Parties shall be liable only for performance rendered or costs incurred in accordance with the terms of the Agreement prior to the effective date of termination.

Section 14: Superseding Agreement

All prior agreements between or among the Parties relating to the subject matter contained in this document are superseded by this Agreement.

Section 15: Integration and Waiver

This Agreement, including all Exhibits, constitutes the entire agreement between and among the Parties on the subject matter hereof. There are no understandings, agreements, or representations, either oral or written, not specified herein regarding this Agreement. The failure of the Parties to enforce any provision of this Agreement shall not constitute a waiver by the Parties of that or any other provision.

Section 16: Survival

All rights and obligations shall cease upon termination of this Agreement, except for the recovery of overpayments or underpayments as defined in Section 7, and the rights and obligations set forth in Section 9, and those provisions related to Parties continuing reporting obligations, the Parties rights and remedies upon termination of this Agreement, and any other terms that by their nature are applicable to the Parties relationship following termination of the Agreement.

Section 17: Contractor or Subrecipient Determination

In accordance with the State Controller's Oregon Accounting Manual, Policy 30.40.00.102, the Department's determination is that:

Recipient is a subrecipient; OR Recipient is a contractor.

Section 18: Notice

Except as otherwise expressly provided in this Agreement, any notices required under this Agreement shall be provided in writing by email, personal delivery, facsimile, or postage prepaid mail to a Party's Authorized Representative identified in this Section 18.

Authorized Representatives:

DOJ/CSP: Kate Cooper Richardson, Director
Oregon Child Support Program & Division of Child Support
Oregon Department of Justice
1162 Court St NE
Salem OR 97301
Phone: (503) 947-4388
Fax: (503) 947-2578

ODAA: Matt Shirtcliff, President, ODAA
Baker County District Attorney
c/o Oregon District Attorneys Association
2250 McGilchrist, Ste. 100

Salem OR 97302
Phone Number: (503) 378-6347
Fax Number: (503) 373-1936

COUNTY: Marion County
District Attorney
PO Box 14500
Salem OR 97309
Phone Number: (503) 588-5222
Fax Number: (503) 588-3564

A new Authorized Representative may be designated to this section upon written notice to the other Parties and without need to amend this Agreement.

Section 19. County Data and Certification

Name (exactly as filed with the IRS)
Marion County, Oregon
Address: PO Box 14500
Salem, OR 97309

Telephone: (503) 589-3290
Fax Number: (503) 373-4379

Federal Tax ID#: 93-6002307

Above payment information must be provided prior to contract payment. This information will be reported to the Internal Revenue Service ("IRS") under the name and taxpayer identification submitted.

Section 20. ODAA Data and Certification

Name (exactly as filed with the IRS)
Oregon District Attorneys Association
Address: 2250 McGilchrist, Ste. 100
Salem OR 97302

Telephone: (503) 378-6347
Fax Number: (503) 373-1936

U.S. Citizen: Yes No Nonresident Alien: Yes No

Business Designation (check one):

Corporation Professional Corporation Partnership Sole Proprietorship
 Limited Liability Company Limited Partnership Limited Liability
 Non-Profit Partnership

Tax ID#: 93-0799665

20.1 Above payment information must be provided prior to contract payment. This information will be reported to the IRS under the name and taxpayer identification submitted. (See IRS Publication 1099 for additional instructions regarding taxpayer ID number). Information not matching IRS records could subject ODAA to 31 percent backup withholding.

Certification: The individual signing on behalf of ODAA hereby certifies and swears under penalty of perjury:

20.1.1 The number shown on this form is ODAA’s correct taxpayer identification number;

20.1.2 ODAA is not subject to backup withholding because (i) ODAA is exempt from backup withholding, (ii) ODAA has not been notified by the IRS that ODAA is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified ODAA that ODAA is no longer subject to backup withholding;

20.1.3 The individual is authorized to act on behalf of ODAA , has authority and knowledge regarding ODAA’S payment of taxes, and to the best of their knowledge, ODAA is not in violation of any Oregon tax laws; for purposes of this certification, “Oregon Tax Laws” means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250, ORS chapters 118, 314, 316, 317, 318, 321 and 323; the elderly rental assistance program under ORS 310.630 to 310.706, and local taxes administered by the Department of Revenue under ORS 305.620.;

20.1.4 ODAA is an independent contractor as defined in ORS 670.600; and

20.1.5 The above ODAA information is true and accurate.

The Parties, by their signatures below, hereby acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and conditions.

AGREED

Oregon District Attorneys Association:

Beth Heckert, President

Date

Rod Underhill, 1st Vice President

Date

Marion County District Attorney:

Paige Clarkson

Date

Marion County Board of Commissioners:

Kevin Cameron - Chair Date

Sam Brentano Date

Colm Willis Date

Oregon Department of Justice

Kate Cooper Richardson, Oregon Child Support Program Director Date

Frederick M. Boss, Deputy Attorney General Date

Approved as to Legal Sufficiency

/s/ Janet Borth per email dated 11-28-18 _____
Assistant Attorney General Date

EXHIBIT A

Working Responsibilities for the DA Child Support Liaison Position

1. Advances the interests of the ODAA on CSP issues.
2. Regularly provides reports and receives direction regarding CSP issues from the ODAA Executive Committee or ODAA CSP Oversight Committee, or such other committee that the ODAA Executive Committee may delegate.
3. Is a liaison for the ODAA with DOJ and other program partners of the CSP, and in concert with the foregoing, with the Department of Human Services, Employment Department, Oregon Health Authority, Oregon Youth Authority, Oregon Judicial Department, Office of the State Court Administrator, and any other agencies as may be appropriate.
4. Receives and disseminates information regarding program policy, legislation, procedures, rulemaking and other program proposals to ODAA members. Solicits ODAA member comments and suggestions and communicates same to relevant state partners. Convenes or participates on committees on behalf of the ODAA when the DA Liaison, or the ODAA or its delegate(s), deems it necessary. Provides written reports, notices, and recommendations subject to the ODAA Executive Committee approval.
5. Advances the interests of the ODAA on CSP committees or workgroups. Participates directly in or delegates the responsibility to other DA staff to participate on any other CSP executive-level management groups that formulate policy or directs child support-related services. Both the Liaison and the Director shall keep each other fully and timely informed of issues impacting the CSP.
6. Facilitates cooperation and interaction among program partners to achieve a high degree of policy and operations coordination and cooperation, to the benefit of the ODAA, CSP, the partner agencies, and the public.
7. Does not render direct services on individual cases, but rather serves as a resource for technical, legal, and procedural questions for ODAA members. These services do not include computer, network, or automation support. May serve as a contact person for an individual DA or CSP representative on program-wide systematic issues.
8. Creates and maintains contact and other resources as necessary for use by all DA offices.
9. Develops or manages delivery of some of the basic training for DA offices, attorneys, and support staff, which may include the annual ODAA child support conference.
10. Performs any other child support related responsibilities and assignments as determined by the ODAA Executive Committee, or any other function as required by law.
11. Shall not serve as legal counsel to the County, ODAA, or its members.

EXHIBIT B

REQUIRED FEDERAL TERMS AND CONDITIONS

Without limiting the generality of Section 8 of the Agreement, Parties shall comply and, as indicated, cause all contractors and subcontractors to comply with the following federal requirements. For purposes of this Agreement, all references to federal laws are references to federal laws as they may be amended from time to time.

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

2. Clean Air Regulations. Parties shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)). The Act provides, in part:

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

2.2. The Administrator may extend this prohibition to other facilities owned or operated by the convicted person. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a).

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

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

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

3. Clean Water Regulations. Parties shall comply with all applicable standards, orders, or requirements issued under the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387).

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

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

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

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

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

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

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

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

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

4. EPA Regulations. Parties shall comply with all applicable standards, orders, or requirements under Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under nonexempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the Agency, HHS and the appropriate Regional Office of the Environmental Protection Agency. Parties shall include and cause all contractors and subcontractors to include in all contracts receiving more

than \$100,000 in Federal Funds, language requiring the subcontractor to comply with the federal laws identified in this section.

5. Energy Efficiency. Parties shall comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

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

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

6.2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Parties shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

6.3. The Parties shall require that the language of this certification be included in the award documents for all awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

7. HIPAA Compliance. If the work performed under this Agreement is covered by the Health Insurance Portability and Accountability Act or the federal regulations implementing the Act (collectively referred to as HIPAA), Parties agrees to perform the work in compliance with HIPAA. Without limiting the generality of the foregoing, work performed under this Agreement is covered by HIPAA. Parties shall comply and cause all contractors and subcontractors to comply with the following:

7.1. Privacy and Security Of Individually Identifiable Health Information. Individually Identifiable Health Information about specific individuals is confidential. Individually Identifiable Health Information relating to specific individuals may be exchanged between Parties for purposes directly related to the provision of services to clients which are funded in whole or in part under this Agreement. However, Parties shall not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate the Agency Privacy Rules, OAR 407-014-0000 et. seq., or the Agency Notice of Privacy Practices, if done by Agency. A copy of the most recent Agency Notice of Privacy Practices is posted on the Agency web site at <http://www.oregon.gov/OHA>, or may be obtained from Agency

7.2. Data Transactions Systems. If Parties intend to exchange electronic data transactions in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction, Parties shall execute an EDI Trading Partner Agreement with Agency and shall comply with the Agency EDI Rules.

7.3. Consultation and Testing. If Parties reasonably believe that the Parties data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, Parties shall promptly consult the Party's HIPAA officer. Parties may initiate a request for testing of HIPAA transaction requirements, subject to available resources and the Party's testing schedule.

7.4. If Parties are deemed to be a business associate under HIPAA's Privacy Rule, 45 CFR Parts 160 and 164, Parties hereby provide satisfactory assurances that if it receives from a Party or any trading partner any protected health information of any individual, it shall maintain the security and confidentiality of such information as required by the HIPAA's Privacy Rule, and other applicable laws and regulations. Without limiting the foregoing, Parties agrees that:

7.4.1. Parties will not use or further disclose Protected Health Information otherwise than as permitted or required by this Agreement or as required by law;

7.4.2. Parties will use appropriate safeguards to prevent use or disclosure of PHI otherwise than as provided for by this Agreement;

7.4.3. Parties agree to mitigate, to the extent practicable, any harmful effect that is known to Parties of a use or disclosure of PHI by Parties in violation of the requirements of the Agreement;

7.4.4. Parties will report any use or disclosure of PHI not provided for by this Agreement of which Parties become aware;

7.4.5. Parties agree to ensure that any agents, including contractors and subcontractors, to whom it provides PHI, agree to the same restrictions and conditions that apply to Parties with respect to such information;

7.4.6. Parties shall make such information available as they may require to fulfill their obligations to account for disclosures of such information;

7.4.7. Parties shall make its internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from the Party or trading partner (or created or received by Party on behalf of the Party or trading partner) available to the

Parties and to the Secretary of the United States Department of Health and Human Services, for purposes of determining Agency's or trading partners' compliance with HIPAA; and

7.4.8. If feasible, upon termination of this Agreement, Parties shall return or destroy all PHI received from the Party or trading partners (or created or received by the Party on behalf of the Party or trading partners) that the Parties still maintain in any form, and shall retain no copies of such information or, if return or destruction is not feasible, Parties shall continue to extend the protections of this Agreement to such information, and limit further use of the information to those purposes that make the return or destruction of the information infeasible.

Subject to the foregoing restrictions, Parties agree that the Parties may use such PHI in the process of providing transaction mapping, trading partner profiling and training and mentoring services for the Parties and trading partners under this Agreement.

8. Resource Conservation and Recovery. Parties shall comply and cause all contractors and subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 USC 6901 et. seq.). Section 6002 of that Act (codified at 42 USC 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Parts 247-253.

9. Substance Abuse Prevention and Treatment and Drug Free Workplace. Parties shall comply with federal rules and statutes pertaining to the Substance Abuse, Prevention, and Treatment Block Grant, including the reporting provisions of the Public Health Services Act (42 USC 300x through 300x-64). In addition, the Federal government implemented the Drug Free Workplace Act of 1988 in an attempt to address the problems of drug abuse on the job. It is a fact that employees who use drugs have less productivity, a lower quality of work, and a higher absenteeism, and are more likely to misappropriate funds or services. From this perspective, the drug abuser may endanger other employees, the public at large, or themselves. Damage to property, whether owned by this entity or not, could result from drug abuse on the job. All these actions might undermine public confidence in the services this entity provides. Therefore, in order to remain a responsible source for government contracts, Parties acknowledge the following:

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

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

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

9.4. Although alcohol is not a controlled substance, it is nonetheless a drug. It is the policy of the State of Oregon that abuse of this drug will also not be tolerated in the workplace.

Parties certify that they will provide drug-free workplaces for their employees.

10. Audits. Parties shall comply and, if applicable, cause a contractor or subcontractor to comply, with the applicable audit requirements and responsibilities set forth in the Office of Management and Budget CFR 45, part 75, subpart F entitled “Audits Requirements.”

11. Debarment and Suspension. Parties shall not permit any person or entity to be a contractor or subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration’s “List of Parties Excluded from Federal Procurement or Nonprocurement Programs” in accordance with Executive Orders No. 12,549 and No. 12,689, “Debarment and Suspension”. (See 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and parties declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award. Party certifies:

11.1. Parties are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

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

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

11.4. Parties have not within a three-year period preceding the Effective Date of this Agreement had one or more public transactions (federal, state, or local) terminated for cause or default.

12. Medicaid Compliance. To the extent Parties perform any work whose costs are paid in whole or in part by Medicaid, Parties shall comply with and cause its subcontractors to comply with the federal and State Medicaid statutes and regulations applicable to the work, including but not limited to:

12.1. Keeping such records as may be necessary to disclose the extent of services furnished to clients and, upon request, furnish such records or other information to Agency, the Medicaid Fraud Control Unit of the Oregon Agency of Justice and the Secretary of Health and Human Services;

12.2. Complying with all applicable disclosure requirements set forth in 42 CFR Part 455, Subpart B;

12.3. Complying with any applicable advance directive requirements specified in 42 CFR section 431.107(b)(4); and

12.4. Complying with the certification requirements of 42 CFR sections 455.18 and 455.19.

Parties shall include and cause all subcontractors to include in all contracts with subcontractors receiving Medicaid, language requiring the subcontractor to comply with the record keeping and reporting requirements set forth in this section and with the federal laws identified in this section.

13. Americans with Disabilities Act. Parties shall comply and cause all contractors and subcontractors to comply with Title II of the Americans with Disabilities Act of 1990 (codified at 42 USC 12131 et. seq.) in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the performance of work. This Act (28 CFR Part 35, Title II, Subtitle A) prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments, except public transportation services.

14. Pro-Children Act. Parties shall comply and cause all contractors and subcontractors to comply with the Pro-Children Act of 1995 (codified at 20 USC section 6081 et. seq.).

15. Federal Tax Information. Parties shall comply with the provisions of Section 6103(b) of the Internal Revenue Code, the requirements of IRS Publication 1075, and the Privacy Act of 1974, 5 U.S.C. §552a et. seq. related to federal tax information.

16. Educational Records. Parties shall comply with the provisions of the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99).

17. National Voter Registration Act. The Parties shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities to be offered to applicants for services.

18. Servicemembers Civil Relief Act. The Parties shall comply with the Servicemembers Civil Relief Act (codified at 50 USC App. 501 et. seq.).

19. Access to Federal Taxpayer Information. If the Parties enter into contracts or agreements to perform services for the review, maintenance, or storage of Agency information or as defined in IRS Publication 1075-Exhibit 6, "Contractor 45-Day Notification Procedures," the Parties shall notify the other Party of the intent to contract and provide the other Party with the information necessary to issue a "Contractor 45-Day Notification" letter to the IRS Office of Safeguards no later than 45 days prior to the initiation of the work, in accordance with the provisions of IRS Publication 1075.

20. Access to Locations Containing Federal Taxpayer Information. If the Parties enter into contracts or agreements to perform work in locations in which the Parties conducts Parties activities, provides Parties services, or stores Parties information, the Parties shall include IRS Publication 1075-Exhibit 7, "Contract Language for General Services" in its contract or agreement with such persons, subcontractors, or entities in accordance with the provisions of IRS Publication 1075.

21. Miscellaneous Federal Provisions. The Parties shall comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the provision of services. Without limiting the generality of the foregoing, the Parties expressly agrees to comply with the following laws, regulations, and executive orders to the extent they are applicable to the Agreement or services: (a) Titles VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (d) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (e) all regulations and administrative rules established pursuant to the foregoing laws, and (f) all other applicable requirements of federal civil rights and rehabilitation statutes, rules, and regulations. These laws, regulations, and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide services in violation of 42 USC 14402.