

**2016-2017 ECEAP Client Service Contract  
Exhibit A: Statement of Work**



DEL Contract Number: XX-XXXX  
Title: ECEAP

**1. INTRODUCTION**

- 1.1. The Early Childhood Education and Assistance Program (ECEAP) is Washington's pre-kindergarten program that prepares 3- and 4-year-old children from low-income families for success in school and in life. Since 1985, ECEAP has focused on the well-being of the whole child by providing comprehensive nutrition, health, education and family support services. ECEAP reaches the children most in need of these foundations for learning.
- 1.2. [RCW 43.215.410](#) charges the Department of Early Learning (DEL) with administration of ECEAP. DEL operates ECEAP through Contractors who design programs to fit their community needs, in compliance with the current ECEAP Performance Standards. ECEAP contracts are renewable for Contractors in good standing, based on available funding.

**2. DEFINITIONS**

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

- 2.1. "CLASS" means the Classroom Assessment Scoring System, an observation-based assessment tool that measures how teachers/providers interact with children to create supportive, nurturing relationships, enhance learning, and provide instruction.
- 2.2. "Contractor" means an organization that is a public or private organization, including, but not limited to school districts, educational service districts, community and technical colleges, private businesses, local governments, or nonprofit organizations (per [RCW 43.215.415](#)) providing ECEAP services under a signed contract with DEL.
- 2.3. "DEL" means the Department of Early Learning of the State of Washington; any division, section, office, unit or other entity of DEL; or any of the officers or other officials lawfully representing DEL.
- 2.4. "Early Achievers" means Washington's quality rating and improvement system (QRIS), to help early care and education programs offer high-quality care that supports each child's learning and development.
- 2.5. "ECEAP services" means administration, enrollment and eligibility, human resources, health coordination, education and family support and parent involvement services as defined by this Contract and in Exhibit E: ECEAP Performance Standards.
- 2.6. "ELMS" means the Early Learning Management System, the database where Contractors enter program and child information.
- 2.7. "ERS" means the Environment Rating Scales, an observation-based assessment that measures classroom/family home child care environment quality in the following categories: Space and Furnishings, Personal Care Routines, Language and Reasoning/Listening and Talking, Activities, Interactions, Program Structure, and Parents and Staff.
- 2.8. "Extended Day" means 10 or more hours per day, five days per week and year round.
- 2.9. "Full School Day" means an average of six hours per day (5.5-6.5), a minimum of 1,000 hours per year and at least four days per week.
- 2.10. "GOLD® by Teaching Strategies" means the proprietary child assessment system developed by Teaching Strategies, LLC and used to assess multiple developmental domains for all ECEAP children.
- 2.11. "Indirect costs" means the shared costs of an organization necessary to the operation and the performance of its programs. This may include fiscal, payroll, information technology, human resources and other costs associated with operating and maintaining staff and work space.
- 2.12. "MERIT" means the Managed Education and Registry Information Tool, Washington's online database for early care and education and school-age professionals to find training, information on career pathways, track their career progress, and request portable background checks. ECEAP lead teachers, assistant teachers, and family support staff enter their staff qualifications in MERIT
- 2.13. "Part-Day" means:
  - For slots funded prior to July 1, 2015, a minimum of two and a half (2.5) hours per class session, 320 hours per year, and 30 weeks per year.
  - For slots funded July 1, 2015 or later, a minimum of three (3) hours per class session, 360 hours per year, and 30 weeks per year.

- 2.14. "Slots" means the number of available state-funded spaces for enrolled ECEAP children at any one time. More than one child may occupy a slot in the course of a school year, as children leave the program and new children are enrolled.
- 2.15. "WELS" means a web-based early learning data system used by Early Achievers partners including DEL, UW and Child Care Aware/ regional lead agencies to track and maintain data including facility/sites participation, evaluation information, and quality improvement progress.
- 2.16. "QIP" means Quality Improvement Plan, a plan that includes goals, action steps to achieve goals, timelines and resources needed for Early Achievers. All Level 3-5 facilities will create a Quality Improvement Plan (QIP) in partnership with their coaches based on facility evaluation results, ERS and CLASS scores, components of the Quality Standards, and overall facility/sites rating.

### **3. CONTRACTOR COMMUNICATION WITH DEL**

- 3.1. The Contractor must participate in:
  - Regularly scheduled calls with DEL to support continuous quality improvement.
  - ECEAP Directors Meetings by sending a representative to each DEL ECEAP Directors' Meeting, including in-person and web-based meetings.
- 3.2. The Contractor must inform the DEL Contract Manager (Pre-K Specialist) immediately of:
  - Any serious issue that has potential for media coverage or impact to services for ECEAP children or families.
  - Any Child Protective Services (CPS) issue related to ECEAP children, families, staff, or facilities.
  - A charge or conviction against the director or a staff person for a disqualifying crime under WAC [170-06-0120](#).
  - A fire, major structural change, or damage to the premises.
  - Change of site address or phone number.
  - Change of ownership, chief executive, or director.

### **4. PRIOR APPROVALS**

The Contractor must obtain prior written approval from the DEL Contract Manager (DEL Pre-K Specialist) before:

- 4.1. Offering enrollment to families with income above 110 percent of federal poverty level (FPL) after the Contractor's over-income limit has been reached.
- 4.2. Changing class start dates.
- 4.3. Changing class end dates.
- 4.4. Adding a new site.
- 4.5. Beginning a major remodeling of the site, including planned use of space not previously approved by the fire marshal's office or DEL.
- 4.6. Adding or moving a class.
- 4.7. Changing the number of slots assigned to a site.
- 4.8. Changing a service area boundary.
- 4.9. Adding a Subcontractor who provides ECEAP services. See Exhibit A, Section 16.
- 4.10. Purchasing equipment with unit costs of \$5,000 or greater including ancillary costs, or procuring playground or facility improvements with a total cost of \$5,000 or greater including ancillary costs, paid fully or in part with ECEAP funds. Refer to Exhibit A, Section 22 (Purchase Approvals).
- 4.11. Selling or disposing of equipment purchased with ECEAP funds from the Contractor's Inventory List.
- 4.12. Changing Contractor's legal status, ECEAP Director or organizational structure related to ECEAP.
- 4.13. Implementing exceptions to Exhibit E: ECEAP Performance Standards.

### **5. EARLY LEARNING MANAGEMENT SYSTEM (ELMS)**

- 5.1. The Contractor must enter and maintain accurate data in ELMS. This includes ensuring all data is entered in ELMS according to Exhibit D: Deliverables Calendar and the ELMS ECEAP Data Entry-Minimum Requirements document which is linked from the ELMS news page.
- 5.2. The Contractor must obtain written permission from parents before requesting that DEL transfer ELMS records from another Contractor, keep a copy, and document this permission in ELMS.
- 5.3. DEL provides extracts of certain data from GOLD® by Teaching Strategies and ELMS to the P20W data warehouse managed by the Washington State Education Research and Data Center for the purpose of longitudinal analysis. This data includes fall and spring Teaching Strategies GOLD® Online check points, child names and birthdates, duration of ECEAP services, and demographic information including federal

poverty level. It does not include family risk factors, parent-teacher conference notes or family support notes. This data is matched with K-12 and workforce data and de-identified so researchers will not be able to identify individual children.

## **6. ECEAP ELIGIBILITY, ENROLLMENT, AND ATTENDANCE**

The Contractor must:

- 6.1. Verify children's eligibility for ECEAP in accordance with Exhibit E: ECEAP Performance Standards.
- 6.2. Prioritize eligible children for enrollment in available ECEAP slots.
- 6.3. Ensure additional eligibility criteria are met for children before enrolling in Extended Day classes.
- 6.4. Ensure staff verifying ECEAP eligibility and enrollment complete an Eligibility and Enrollment training, either in person or online, and maintain certificates of completion. Staff who determine eligibility must be trained on proper eligibility determination practices and the importance of protecting program integrity and the public trust. Fraudulent eligibility practices may lead to suspension or termination of ECEAP contracts, requiring the Contractor to discontinue subcontracts or terminate the involved employees, and referring cases for criminal prosecution.
- 6.5. Immediately inform DEL of any suspicion that an employee improperly recorded a family's eligibility criteria or a family provided false information in order to enroll in ECEAP.
- 6.6. Conduct ongoing recruitment throughout the year according to the ECEAP Performance Standards.
- 6.7. Maintain full enrollment according to the ECEAP Performance Standards. DEL reserves the right to reclaim slots and funds, or reallocate slots to other Contractors, if the Contractor cannot maintain full enrollment. Before reducing slots, DEL will discuss strategies for full enrollment and deadlines with the Contractor.
- 6.8. Ensure that children are available to attend each ECEAP class session with the exception of temporary absences due to illness or other reasons communicated by the family as they occur. Do not enroll children who have a regular conflict with scheduled ECEAP classes.

## **7. PORTABLE BACKGROUND CHECKS**

Contractors must ensure that DEL portable background checks are completed for all persons who have or may have unsupervised access to children during ECEAP programming. Contractors must disqualify persons from unsupervised access to children in accordance with WAC 170-06-0070.

## **8. USE OF GOLD® BY TEACHING STRATEGIES**

8.1. The Contractor must:

- Use GOLD® by Teaching Strategies for their child assessment tool in accordance with Exhibit E: ECEAP Performance Standards E-11.
- Participate in the ELMS to GOLD® data feed which loads ECEAP site, class, teacher and child data into GOLD® and archives exited ECEAP children automatically. This includes all ECEAP subcontractors.
- Analyze aggregate child assessment data to inform teaching practices, curricula, professional development, and program planning.

8.2. ECEAP lead teachers must:

- Enter objective observations notes for individual children throughout the school year.
- Rate all Social-Emotional, Physical, Language, Cognitive, Literacy and Mathematics objectives and finalize checkpoints by the checkpoint due dates in Exhibit D: Deliverables Calendar, for all children attending class for a minimum of two weeks prior to the checkpoint,
- By the same checkpoint due dates, complete the Home Language Survey for all ECEAP children and if indicated, assess their English language acquisition using GOLD® objectives 37-38.
- Complete in-person or online training to use GOLD® by Teaching Strategies within six months of hire.
- Obtain interrater reliability certification for GOLD® by Teaching Strategies within six months of hire and every three years thereafter.

## **9. CURRICULUM IMPLEMENTATION**

The Contractor must ensure ECEAP lead teachers:

- 9.1. Participate in the DEL sponsored in-person curriculum training, if DEL provided a free Creative Curriculum® or HighScope® curriculum kit.

- 9.2. Complete a DEL determined GOLDplus® training if DEL purchased this add-on feature in GOLD® by Teaching Strategies.

## 10. EARLY ACHIEVERS PARTICIPATION

The Contractor must:

- 10.1. Ensure that all sites actively participate in Early Achievers and comply with the Early Achievers Participant Operating Guidelines that is available on the DEL website at <http://www.del.wa.gov/care/gris/participants.aspx>, including:
- Complete the Early Achievers registration application in MERIT within 30 days of starting ECEAP class at the site.
    - If on the Licensed Pathway, submit the Early Achievers Registration Application.
    - If on the Head Start/ECEAP Pathway, submit the Early Achievers Level 3 application.
  - Participate in Early Achievers on-site evaluation through the University of Washington, upon request.
- 10.2. Attend at least one Early Achievers Orientation.
- 10.3. Assign a primary contact and facility/site designee for Early Achievers at each site.
- 10.4. Use the Classroom Assessment Scoring System (CLASS) and Environment Rating Scale (ERS) assessments to improve curriculum, learning environments and adult-child interactions.
- 10.5. Ensure each ECEAP site without a child care license rates a Level 4 or 5 in Early Achievers within 12 months of enrollment in Early Achievers.
- 10.6. Ensure each ECEAP site with a child care license rates a Level 4 or 5 within 18 months of starting ECEAP class for the first time at the site.
- 10.7. Ensure that sites rated Level 2 comply with the Early Achievers Remedial Activities Policy.
- 10.8. Ensure ECEAP classrooms within Licensed Pathway sites meet the minimum Early Achievers thresholds in CLASS and ERS.
- 10.9. Sites not rated Level 4 or 5 after completion of the remedial activity period will not be funded for ECEAP in the following state fiscal year with the exception of:
- Sites rated Level 3 where all ECEAP classrooms were certified in state fiscal year 2016.
  - Hybrid project participants.
- 10.10. Support sites with coaching and resources to attain or maintain a Level 4 or 5 rating.
- 10.11. Identify an ECEAP staff representative to participate in regional Relationship-Based Professional Development (RBPD) meetings convened by local CCA offices to build a seamless system and increase coordination of relationship-based professionals serving in the same region.

## 11. EARLY ACHIEVERS COACHES

- 11.1. The Contractor must provide, or have access to, a practice-based coach trained on the [Early Achievers Coach Framework](#), to:
- Support rating readiness and ongoing continuous quality improvement.
  - Assist the Contractor in identifying goals and making quality improvement plans to achieve goals.
  - Assist the Contractor in completing remedial activities within the identified timeline, when applicable.
- 11.2. All persons serving in the role of coach must meet the following qualifications:
- Bachelor's degree in Early Childhood Education or related field or a bachelor's degree with the equivalent of 30 college quarter credits in early childhood education. These 30 credits may be included in the degree or in addition to the degree.
  - A minimum of two years working with young children in a group setting and experience as an early learning coach, consultant, mentor or trainer.
- If the best candidate for the position is not fully qualified, the contractor must ensure the newly hired staff person has an Associate's degree in Early Childhood Education or related field, and is on a Professional Development Plan (PDP) to fully meet the qualifications of their role within five years from date of hire. The Contractor must monitor progress on all PDPs and ensure the staff make yearly progress to meet the required qualifications.
- 11.3. All contractors must:
- Ensure coaches are assigned in WELS.
  - Notify their assigned Pre-K Specialist when changes to coaching staff occur.
- 11.4. All coaches must:
- Complete the Coach Orientation Webinars, on the DEL ECEAP website, upon hire.

- Attend the Early Achievers Coach Framework training within six months of hire.
- Participate in ongoing Early Achievers coach webinars, trainings and meetings provided by ECEAP.
- Participate in coach consultation with CQEL and PKS staff as needed.
- Register in MERIT and request a WELS account.
- Enter the following Personal Professional Development data into the Activity Log in WELS:
  - Coach Orientation (date attended).
  - Monthly Coach webinar (Title and date attended).
  - ECEAP Coach Framework training (date attended).
  - CLASS and ERS reliability.
- Document support to ECEAP classrooms in WELS.
  - Enter use of Early Achievers Quality Improvement Award funds on the Funding tab.
  - Prior to finalized rating, enter pre-rating support provided on the Notes tab.
  - Once the rating is finalized, enter Quality Improvement Plan on the QIP tab.
  - Enter Goals and Action Plans on the QIP tab.

11.5. Coaches are strongly encouraged to attend reliability training in ERS and CLASS.

## **12. STAFF QUALIFICATIONS AND PROFESSIONAL DEVELOPMENT**

- 12.1. The Contractor must ensure that staff qualifications are entered in MERIT within 30 days of hire for each person in the role of ECEAP lead teacher, assistant teacher and family support staff.
- 12.2. The Contractor must support the professional development of classroom staff by providing regularly scheduled time for:
- Curriculum planning.
  - Reflective practice with coaches, supervisors and peers.

## **13. CHILD SAFETY**

- 13.1. Children’s health, safety and well-being must always be the primary concern of the Contractor in the delivery of services under this Contract. The Contractor must report child abuse and neglect in accordance with [RCW 26.44.030](#). If the Contractor, or any of the Contractor’s employees, has reasonable cause to believe that a child has suffered abuse or neglect from any person, the Contractor or employee must immediately report such incident to CPS Intake at 1-866-ENDHARM. This requirement includes suspected abuse or neglect that occurs when a child is in the care of the Contractor as well as outside of the Contractor’s care.
- 13.2. The Contractor must ensure that managers, board members, employees and volunteers of the ECEAP program who will or may have contact with ECEAP children complete training on child abuse and neglect, including reporting procedures, within two weeks of initial association with ECEAP and annually thereafter. Training may consist of viewing the DSHS PowerPoint: “Child Protective Services: Guidance for Mandated Reporters” that is available on the DSHS website at <https://www.dshs.wa.gov/sites/default/files/CA/csp/documents/MandatedReporterTraining.pdf>. The Contractor must retain a statement signed annually by each person participating in this training, acknowledging their completion of training and duty to report child abuse and neglect.

## **14. NUTRITION AND PHYSICAL ACTIVITY**

The Contractor must:

- 14.1. Create a policy on the promotion of physical activity and removal of potential barriers to physical activity participation.
- 14.2. Require staff to support children’s active play by participating in children’s active games when appropriate.
- 14.3. Plan curriculum that includes:
- Nutrition education activities including teaching healthy foods and portion sizes.
  - Use of media only for educational purposes or physical activity and never during meals.
- 14.4. Plan meal and snack menus that:
- Serve whole grain breads, cereals and pastas at least once a day.
  - Serve a variety of vegetables and whole fruit, rather than juice. When serving juice, ensure it is 100 percent juice without added sweeteners and only serve at meal times.
  - Ensure drinking water is available for self-service, indoors and outdoors.

- Limit highly processed foods such as fried and breaded meats, fried potatoes, and other foods with saturated fats or high fat content.
- Limit salty foods such as chips and pretzels.
- Limit carbohydrates high in sugar and fats such as muffins, cakes, pop tarts, and French toast sticks.
- Avoid sugar including, but not limited to sweets such as candy, sodas, sweetened drinks, fruit nectars and flavored milk.

## **15. FAMILY SUPPORT VISITS**

Contractors must provide three family support visits with each child's family per year, or a prorated number of visits based on the length of each child's enrollment. Each visit must be 30 minutes or more and otherwise comply with ECEAP Performance Standard F-1. Time spent on enrollment processes does not count as family support visits.

## **16. SUBCONTRACT REQUIREMENTS**

16.1. All subcontracts for ECEAP services must include:

- Number of slots for ECEAP children.
- Funds per slot.
- A list of deliverables the Subcontractor must submit to the Contractor, with due dates.
- A description of how the Contractor will monitor the Subcontractor for compliance with all the provisions of this Contract, including Exhibit E: ECEAP Performance Standards and fiscal components.

16.2. The Contractor must not subcontract ECEAP in an unlicensed child care center or a child care center that is not in good standing with DEL child care licensing.

## **17. SERVICE AREA AGREEMENTS**

17.1. Contractors must complete written and signed Service Area Agreements with each neighboring ECEAP contractor and Head Start grantee and submit the agreements to DEL ECEAP by the due date in Exhibit D: Deliverables Calendar.

17.2. The agreements must fully describe:

- Service area boundaries for each party to the agreement, including specific areas for recruitment and enrollment of families for each party.
- The process for referral of families between parties.
- Plans for ongoing communication.
- The process for problem resolution.
- Plans for collaborating with service area partners to ensure efficient use of state and community resources, when practical, for:
  - Developing community assessments.
  - Coordinating work with community partners, including the Health Advisory Committee.
  - Planning joint staff and parent training opportunities.

17.3. If collaboration is not practical for any of the above, service area agreements must state the reasons. If no agreement can be reached, the Contractors must send a description of their efforts and their understanding of service area boundaries to DEL.

17.4. Contractors who are also Head Start grantees may combine their Head Start Memorandum of Understanding (MOU) and ECEAP Service Area Agreements into one document, providing they meet the requirements for both.

17.5. DEL reserves the right to reclaim slots and funds, or reallocate slots to other Contractors, if the Contractor is recruiting within the service area of a neighboring ECEAP or Head Start program.

## **18. USE OF DEL LOGO**

The Contractor must include the DEL or 2012 DEL ECEAP logo, provided by DEL, on ECEAP publications intended for an audience outside of the Contractor's ECEAP program, such as marketing materials, recruitment flyers or annual reports. The full-color or black-and-white DEL or DEL ECEAP logo must appear in its entirety without modification.

## **19. DEL ECEAP FULL SCHOOL DAY AND EXTENDED DAY MODELS**

- 19.1. The Contractor must be authorized by DEL prior to providing Full School Day or Extended Day ECEAP and this must be described in the Purpose Statement of this Contract.
- 19.2. Extended Day sites must complete the full DEL child care licensing process as required by RCW [43.215 RCW](#) and [WAC 170](#).
- 19.3. Full School Day sites must complete the DEL expedited child care licensing process. Full School Day sites operated by a government agency and not required to be licensed by [RCW 43.215.010\(2\)\(j\)](#) or [RCW 43.215.010\(2\)\(k\)](#) may request an exemption. Send exemption requests to [eceap@del.wa.gov](mailto:eceap@del.wa.gov). The DEL expedited licensing process for Full School Day sites requires:
- A minimum of 35 square feet per person (not per child) in the indoor classroom, not including the bathroom, kitchen, or storage space, per the Fire Marshal occupancy load requirements.
  - Monthly fire drills per [WAC 212-12-044](#).
  - Quarterly disaster drills per [WAC 170-295-5030](#).
  - Notification of DEL if you experience a fire, flood, earthquake, septic/sewer problems or structural damage.
  - Fire marshal inspection prior to children attending, accordance with [Chapter 212-12 WAC](#).
    - Complete the DEL Approval of New Site form, alerting DEL to request the inspection.
    - If in a public school building which passed an inspection within the past six months, submit a copy of that inspection to DEL.
    - If a site fails the inspection, submit a correction action plan to DEL with 30 days of the inspection.
  - Posting the following so they are clearly visible to parents and staff, per WAC 170-295:
    - Child care center license per [WAC 170-295-7080](#).
    - Notice to parents that copies of recent licensing checklists, monitoring checklists and compliance agreements for any deficiencies are available for review per [WAC 170-295-7080](#).
    - Written notification to parents about any animals on the premises and the potential health risks associated with the animals per [WAC 170-295-5170](#). Contractors must have a signed statement from each parent stating that they understand the potential risks.
  - Compliance with the health and safety requirements contained in chapter 170-295 WAC, including:
    - Window blind cord safety per RCW 43.215.360(4).
    - Methods to monitor entrance and exit doors per [WAC 170-295-5020\(4\)](#).
    - Guard rails on stairs, ramps, and lofts per [WAC 170-295-5020\(2\)\(b\)](#).
    - Tamper resistant outlets or covers per [WAC 170-295-5020\(2\)\(c\)](#).
    - Shields on light bulbs and tubes to prevent shattering per [WAC 170-295-5020\(2\)\(d\)](#).
    - No use of portable heaters per [WAC 170-295-5020\(3\)](#).
    - No use of wading pools per [WAC 170-295-5050\(2\)](#).
- 19.4. Full School Day sites must offer Families Moving Forward, the DEL curriculum on executive function and family self-sufficiency, for parents and guardians of enrolled ECEAP children. Other ECEAP sites may offer this curriculum.
- 19.5. Both Extended Day and Full School Day sites must:
- Provide meals and snacks according to Exhibit E: ECEAP Performance Standards and WAC 170-295-3150.
    - Full School Day sites must provide one meal and two snacks or two meals and one snack.
    - Extended Day sites must serve at least two snacks and two meals, or three snacks and one meal.
  - Provide rest time that is flexible and meets the individual developmental needs of the children per [WAC 170-295-2050](#). This includes providing quiet learning activities for children who do not require a lengthy rest time.
  - Provide a minimum of 30 minutes a day of outdoor play unless conditions pose a health and safety risk to children.
  - For classes meeting more than six hours, schedule at least two blocks of free choice time that meet Exhibit E: ECEAP Performance Standards, with at least one opportunity in the morning and one in the afternoon at times the majority of children are present.
  - Participate in training on the proposed menu of differentiated family support and engagement service options, once available, for the purpose of future implementation.
- 19.6. Both Extended Day and Full School Day sites may modify instruction and classroom schedules during summer months, holiday/vacation periods, and for staff development activities.

- 19.7. Extended Day sites must reverify that family work and training hours meet the requirements for Extended Day eligibility for each child who may enroll in a second year of ECEAP. Changes may be entered in the ELMS Child/Family Updates.

## **20. COMPENSATION FOR FULL SCHOOL DAY OR EXTENDED DAY MODELS**

DEL will pay Contractors providing Full School Day or Extended Day models at a per slot rate based on their region and Early Achievers rating. Contractors will receive quarterly Contract amendments when they have a site with a new rating. Tiered payments will be retroactive to the first of the month that occurred immediately after the qualifying Early Achievers rating. See Exhibit B: Budget for per slot payment rates.

## **21. USE OF FUNDS**

- 21.1. A reference document with an itemized budget is attached to this contract for your information.
- For each slot, contractors bill a specific base rate monthly for operational costs.
  - For slots that had a child enrolled during the month, contractors bill a specific rate for direct services to children and families.
- 21.2. The Contractor must maintain a financial management system with written policies and procedures ensuring strong internal controls.
- 21.3. The Contractor must submit the following to DEL according to Exhibit D: Deliverables Calendar:
- ECEAP Operating Budget on the template provided by DEL.
  - [Staff Compensation Data](#) on the template provided by DEL.
  - ECEAP Contractor Financial Disclosure Certification.
- 21.4. When expending ECEAP funds for items, personnel or services used by other programs or individuals, ECEAP funds may only be spent for the share used solely for ECEAP services.
- 21.5. The Contractor must maintain a written cost allocation plan that describes how ECEAP and other funds are used. Cost allocation plans are subject to the records retention schedule identified in this Contract.
- 21.6. The Contractor may use ECEAP funds for the following costs:
- ECEAP administration including planning and coordination; accounting and auditing; purchasing, personnel and payroll functions; and equipment, training, travel and facility costs related to these purposes. Administrative costs must not exceed 15 percent of the amount of this Contract, including Subcontractors' administrative costs, if any.
  - ECEAP services including preschool education, health services coordination, nutrition, family supports and parent involvement. This includes salaries and benefits for direct service personnel, goods and services, equipment, facilities, child transportation, training, travel, and other costs related to direct ECEAP services.
  - Medical, dental, nutrition and mental health services for ECEAP children and families, as dollars of last resort if alternate sources of assistance are not available.
- 21.7. The Contractor may not use ECEAP funds for the following:
- Costs not directly related to ECEAP.
  - Costs that exceed the Contract amount.
  - Finance charges or late fees on purchases.
  - Work charged to or paid by any other contract or funding source.
  - Any sectarian purpose or activity, including sectarian worship or instruction.
- 21.8. Travel expenses allowed in this Section (Section 21.6) may include airfare (economy or coach class only), mileage, other transportation expenses, lodging and subsistence necessary during periods of required travel. The Contractor shall comply with Washington State Office of Financial Management travel policy as described at <http://www.ofm.wa.gov/policy/10.htm> including travel rates and exceptions to the maximum allowable rates.
- 21.9. If the Contractor provides Part Day or Full School Day ECEAP within a licensed child care, the Contractor may separately bill for child care subsidy for the same children for hours that they receive child care beyond the ECEAP hours.
- 21.10. The Contractor may engage in efforts to obtain additional funds and in-kind contributions to expand or enhance ECEAP service delivery. The Contractor must not solicit funds from families enrolled in ECEAP.
- 21.11. If the Contractor plans to use ECEAP funds as federal match for any federal funds, the contractor must document this in the September ELMS Monthly Report, including the amount of ECEAP funds the Contractor wants to use for the current state fiscal year (July 1 – June 30) and the title of the federal

program for which this match would apply to. The request must not exceed the amount of state funds received for ECEAP services.

## **22. PURCHASE APPROVALS**

- 22.1. The Contractor must obtain prior written approval from DEL, using the Purchase Request Form on the DEL website, before using or contributing any ECEAP funds to acquire:
- Equipment, defined as any article of tangible, nonexpendable, personal property having a useful life of more than one year with a unit costs of \$5,000 or greater, including ancillary costs. Ancillary costs include, but are not limited to, tax, shipping and installation.
  - Playground or facility improvements with a total cost of \$5,000 or greater including ancillary costs. For playgrounds, this includes, but is not limited to costs for equipment and site preparation.
- 23.2. The Contractor must complete the cost allocation section of the Purchase Request Form if the purchase is not solely for ECEAP use.

## **23. INVENTORY**

- 23.1. The Contractor must maintain inventory policies and procedures. These must include procedures for:
- Documenting and reporting lost or stolen equipment.
  - Completing an inventory audit at least every two years.
- 23.2. The Contractor must maintain an Inventory List and supporting records for equipment purchased in whole or in part with ECEAP funds, including:
- All assets with a unit cost (including ancillary costs) of \$5,000 or greater.
  - The following assets with unit costs of \$300 or more:
    - Computer systems, laptop and notebook computers.
    - Office equipment.
    - Communications and audio-visual equipment, including CD and record players, radios, TVs, VCRs, DVD players, cameras and photographic projection equipment.
    - Appliances.
  - Other assets identified by the Contractor as vulnerable to loss.
- 23.3. The Inventory List and supporting records must include the following, if applicable:
- Inventory Control Number (tag).
  - Description of the asset.
  - Manufacturer or trade name.
  - Serial number.
  - Contractor's acquisition date.
  - Order number – from purchasing document.
  - Total cost or value at time of acquisition (including all ancillary costs).
  - Ownership status, for example if shared by multiple funding sources.
  - Depreciation (for capital assets).
  - Location of item.
  - Useful life, in years.
  - Disposal date, method, and salvage value.

**Exhibit B: Budget**



DEL Contract Number: XX-XXXX  
Title: ECEAP

**State Fiscal Year 2016 (July 1 2015 – June 30 2016)**

<b>Payment Point</b>	<b>Qty Unit</b>	<b>Unit Cost</b>	<b>Budget</b>	<b>Limit</b>	<b>Note</b>
July 2015 – Admin, Enrollment, Staff Dev	1 Monthly	\$000.00	\$000,000.00	Yes	
August 2015 – Admin, Enrollment, Staff Dev	1 Monthly	\$000.00	\$000,000.00	Yes	
September 2015 – Comprehensive Preschool Services	1 Monthly	\$000.00	\$000,000.00	Yes	
October 2015 – Comprehensive Preschool Services	1 Monthly	\$000.00	\$000,000.00	Yes	
November 2015 – Comprehensive Preschool Services	1 Monthly	\$000.00	\$000,000.00	Yes	
December 2015 – Comprehensive Preschool Services	1 Monthly	\$000.00	\$000,000.00	Yes	
January 2016 – Comprehensive Preschool Services	1 Monthly	\$000.00	\$000,000.00	Yes	
March 2016 – Comprehensive Preschool Services	1 Monthly	\$000.00	\$000,000.00	Yes	
April 2016 – Comprehensive Preschool Services	1 Monthly	\$000.00	\$000,000.00	Yes	
May 2016 – Comprehensive Preschool Services	1 Monthly	\$000.00	\$000,000.00	Yes	
June 2016 – Admin, Enrollment, and Staff Dev	1 Monthly	\$000.00	\$000,000.00	Yes	
			<b>\$000,000.00</b>		
			<b>Total:</b>		
			<b>Contract Maximum:</b>	<b>\$000,000.00</b>	

## Exhibit C: General Terms and Conditions



DEL Contract Number: XX-XXXX  
Title: ECEAP

### 1. ADVANCE PAYMENTS PROHIBITED

No payments in advance or in anticipation of goods or services to be provided under this Contract shall be made by DEL.

### 2. AMENDMENT

This Contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

### 3. ASSIGNMENT

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

### 4. ATTORNEY'S FEES

In the event of litigation or other action brought to enforce this Contract, each party agrees to bear its own attorney fees and costs.

### 5. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND INELIGIBILITY

If federal funds are the basis for this Agreement, the Contractor certifies that neither it nor its principals are debarred, suspended, proposed for debarment, or voluntarily excluded from participation in transactions by any federal department or agency. The Contractor further certifies that they will ensure that potential subcontractors or subrecipients or any of their principals are not debarred, suspended, proposed for debarment, or voluntarily excluded from participation in "covered transactions" by any federal department or agency. "Covered transactions" include procurement contracts for goods or services awarded under a non-procurement transaction (e.g. grant or cooperative agreement) that are expected to equal or exceed \$25,000, and sub-awards to subrecipients for any amount. The Contractor may do so by obtaining a certification statement from the potential subcontractor or subrecipient or by checking the "List of Parties Excluded from Federal Procurement and Non-Procurement Programs" provided on-line by the General Services Administration.

### 6. CHOICE OF LAW AND VENUE

This Contract shall be governed by the laws of the State of Washington without regard to the conflict of law rules of any jurisdiction. Every dispute concerning the interpretation or effect of this Contract and/or the use of the goods or services described in this Contract must be resolved in the federal or state courts located in Washington. The Contractor agrees to the exclusive personal jurisdiction, and subject matter jurisdiction of these courts. Thurston County shall be the venue of any litigation arising out of this Contract.

### 7. COMPLIANCE WITH LAWS, RULES, AND REGULATIONS

#### 7.1. Assurances

The Contractor agrees that all activity pursuant to this Contract will be in accordance with all applicable current federal, state and local laws, rules, and regulations, including but not limited to the Public Records Act ([chapter 42.56 RCW](#)), the Freedom of Information Act (5 U.S.C. 522) and the Records Retention Act ([chapter 40.14 RCW](#)).

#### 7.2. Civil Rights Laws

7.2.1. During the performance of this Contract the parties shall comply with all federal and state nondiscrimination laws including, but not limited to [chapter 49.60 RCW](#), Washington's Law Against Discrimination, and 42 U.S.C. § 12101 et seq., the Americans with Disabilities Act (ADA).

7.2.2. In the event of the Contractor's or its subcontractors' noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with the DEL. The Contractor shall, however, be given a reasonable time in which to

remedy this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

**7.3. Conflict of Interest**

7.3.1. Notwithstanding any determination by the Executive Ethics Board or other tribunal, the DEL may, in its sole discretion, by written notice to the Contractor terminate this Contract if it is found after due notice and examination by the DEL that there is a violation of the Ethics in Public Service Act, [Chapter 42.52 RCW](#), or any similar statute involving the Contractor in the procurement of, or performance under, this Contract.

7.3.2. In the event this Contract is terminated as provided above, the DEL shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor. The rights and remedies of the DEL provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the DEL makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this Contract.

**7.4. Licensing, Accreditation and Registration**

The Contractor and its subcontractors shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements and standards necessary for the performance of this Contract.

**7.5. Noncompliance with Laws, Regulations, or Policies**

The Contractor shall be responsible for and shall pay any fines, penalties, or disallowances imposed on the State or Contractor arising from any noncompliance with the laws, regulations, policies, guidelines and Collective Bargaining Agreements that affect the Services or Deliverables that are to be provided or that have been provided by Contractor, its Subcontractors or agents.

**7.6. Registration with Department of Revenue and Payment of Taxes**

The Contractor must pay all taxes including, but not limited to, sales and use taxes, Business & Occupation taxes, other taxes based on the Contractor's income or gross receipts, or personal property taxes levied or assessed on the Contractor's personal property. The Contractor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract.

**8. CONTRACTOR STAFF**

8.1. During the term of the Contract, the DEL reserves the right to approve or disapprove Contractor's and any Subcontractor's staff assigned to this Contract, to approve or disapprove any proposed changes in staff, or to require the removal or reassignment of any Contractor or Subcontractor staff found unacceptable by DEL, subject to DEL's compliance with applicable laws and regulations.

8.2. Contractor assumes sole and full responsibility for its acts and the acts of its personnel. Contractor shall ensure that any transition to new staff will not affect the schedule or provision of services set forth in this Contract. Contractor understands and agrees that the DEL does not assume liability for the actions of Contractor's, its Subcontractors or agents. Contractor agrees that it has no right to indemnification or contribution from DEL for any judgments rendered against Contractor, its Subcontractors or agents.

**9. CONTINUED PERFORMANCE**

If the DEL, in good faith, has reason to believe that Contractor does not intend to, or is unable to perform or has refused to perform or continue performing all material obligations under this Contract, the DEL may demand in writing that Contractor give a written assurance of intent to perform. Failure by Contractor to provide written assurance within the number of days specified in the demand (in no event less than five business days) may, at the DEL's option, be the basis for terminating this Contract under the terms and conditions or other rights and remedies available by law or provided by this Contract.

**10. COPYRIGHT**

10.1. Unless otherwise provided, all Materials produced under this contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the DEL. The DEL shall be considered the author of such Materials. In the event the Materials are not considered "works for hire," under the U.S. Copyright Laws, Contractor hereby irrevocably assigns all right, title, and interest in Materials, including all intellectual property rights, to the DEL effective from the moment of creation of such Materials.

10.2. "Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes,

- and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.
- 10.3. For Materials that are delivered under the Contract, but that incorporate preexisting materials not produced under the Contract, Contractor hereby grants to the DEL a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the DEL.
  - 10.4. The Contractor shall exert all reasonable effort to advise the DEL, at the time of delivery of data furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Contract. The DEL shall receive prompt written notice of each notice or claim of infringement received by the Contractor with respect to any data delivered under this Contract. The DEL shall have the right to modify or remove any restrictive markings placed upon the data by the Contractor.

## **11. DATA SHARE AND PROTECTION OF CONFIDENTIAL INFORMATION**

### **11.1 Scope of Protection**

This Section (Section 11) applies to data, information, or materials related to the subject matter of this Contract which is received, created, developed, revised, modified, or amended by the DEL, the Contractor, or subcontractors. Such data, information, and materials shall include but is not limited to all confidential information.

### **11.2 Use of Confidential Information**

11.2.1 For data and confidential information collected, used, or acquired in connection with this Contract the parties shall comply with the following:

- 11.2.1.1 All federal and state laws and regulations, as currently enacted or revised, regarding data and confidential information protection, security, and electronic interchange; and
- 11.2.1.2 All federal and state laws and regulations, as currently enacted or revised, regarding the use, disclosure, modification or loss of data and confidential information.

11.2.2 The DEL does not warrant or guarantee the accuracy of the data or confidential information provided pursuant to this Contract. The Contractor understands all the risks and liabilities of the use and misuse of the information provided pursuant to this Contract.

### **11.3 Information Technology Security Standards**

11.3.1 The Contractor and its staff and the subcontractors and their staff shall comply with the following:

11.3.1.1 The Contractor shall assure that its security practices and safeguards for DEL data meet Washington State Office of the Chief Information Officer IT Standards provided and maintained in the following URL: <https://ocio.wa.gov/policies/141-securing-information-technology-assets/14110-securing-information-technology-assets>.

11.3.1.2 DEL shall provide in writing any DEL specific standards, practices, and safeguards that the Contractor must meet that are not covered in OCIO Policy 141.

11.3.2 The parties agree to implement physical, electronic, and managerial policies, procedures, and safeguards to prevent unauthorized access, use, or disclosure of data and confidential information. The Contractor shall make the data and confidential information available to amend as directed by DEL and incorporate any amendments into all the copies maintained by the Contractor or their Subcontractors.

### **11.4 Confidentiality Protection**

To safeguard the confidentiality of all confidential information and in addition to the requirements contained in this Section (Section 11) the Contractor must:

11.4.1 Ensure that the Contractor, the Contractor's staff, subcontractors, and the subcontractors' staff use confidential information solely for the purposes of accomplishing the services set forth in this Contract.

- 11.4.2 Limit access to confidential information to the Contractor's staff and subcontractors' staff requiring access for performance of their assigned duties.
- 11.4.3 Require that the Contractor's staff and subcontractors' staff having access to confidential information sign a Statement of Confidentiality and Non-Disclosure Agreement consistent with Attachment 2. Confidential information shall not be released to the Contractor's staff person(s) or subcontractors' staff person(s) until the following conditions have been met:
- 11.4.3.1 The DEL must receive the signed original Statement of Confidentiality and Non-Disclosure Agreement, signed by the Contractor staff person, from the Contractor; or
  - 11.4.3.2 The Contractor has received a signed Statement of Confidentiality from the subcontractor.
- 11.4.4 Notify its staff person(s) and ensure its subcontractors notify the subcontractors' staff person(s) of the requirements of Section 7.1 (Assurances), and this Section (Section 11).
- 11.4.5 Ensure that confidential information is not released, disclosed, published, modified, transferred, sold, or otherwise made known to unauthorized persons without the prior written consent of the individual named or as otherwise authorized by law.
- 11.4.6 Ensure that confidential information is protected from loss and from unauthorized physical or electronic access.
- 11.4.7 Destroy all confidential information so that it cannot be accessed by unauthorized individuals and cannot be recovered when the confidential information is no longer used for providing services under this Contract, and retention is no longer required by the Records Retention Act (chapter 40.14 RCW) or Section 31 (Records Maintenance), whichever is longer. Unless the Washington State Office of the Chief Information Officer IT Standards require a different method for the destruction of confidential information, confidential information required to be destroyed under this section must be destroyed as follows:
- 11.4.7.1 For paper documents containing data, but not confidential information, a contract with a paper shredding firm is acceptable, provided the contract ensures that the confidentiality of the data will be protected. Such documents may also be destroyed by on-site shredding, pulping, or incineration.
  - 11.4.7.2 For paper documents containing Confidential Information requiring special handling (e.g. Protected Client Information) the documents must be destroyed by on-site shredding, pulping, or incineration.
  - 11.4.7.3 If data or confidential information has been contained on optical discs (e.g. CDs or DVDs), the Contractor shall either destroy by incineration the disc(s), shredding the discs, or completely deface the readable surface with a coarse abrasive.
  - 11.4.7.4 If data or confidential information has been stored on magnetic tape(s), the Contractor shall destroy the data or confidential information by degaussing, incinerating or crosscut shredding.
  - 11.4.7.5 If data or confidential information has been stored on server or workstation data hard drives or similar media, the Contractor shall destroy the data or confidential information by using a "wipe" utility which will overwrite the data or confidential information at least three (3) times using either random or single character data, degaussing sufficiently to ensure that the data or confidential information cannot be reconstructed, or physically destroying disk(s).
  - 11.4.7.6 If data or confidential information has been stored on removable media such as USB flash drives, portable hard disks, or similar disks, the data recipient shall destroy the data or confidential information by using a "wipe" utility which will overwrite the data or confidential information at least three (3) times using either random or single character data, degaussing sufficiently to ensure that the data or confidential information cannot be reconstructed, or physically destroying disk(s).
- 11.4.8 Within fifteen calendar days after the completion of the requirements contained in Section 11.4.7) the Contractor shall complete and deliver to the DEL a signed Certification of Data Disposition (Attachment 3).

11.4.9 Paper records must be protected by storing the records in a secure area which is only accessible to authorized personnel. When not in use, such records must be stored in a locked container, such as a file cabinet, locking drawer, or safe, to which only authorized persons have access.

11.4.10 Shall immediately notify the DEL after becoming aware of any potential, suspected, attempted or actual breaches of security including, but not limited to, unauthorized access, use or disclosure. The Contractor shall take all necessary steps to mitigate the harmful effects of such breach of security. The Contractor agrees to defend, protect and hold harmless the DEL for any damages related to a breach of security by their officers, directors, employees, subcontractors or agents.

#### 11.5 Confidentiality Breach

In the event of a breach by the Contractor of this Section (Section 11) and in addition to all other rights and remedies available to the DEL, the DEL may elect to do any of the following:

11.5.1 Terminate the Contract;

11.5.2 Require that the Contractor return all confidential information to the DEL that was previously provided to the Contractor by the DEL;

11.5.3 Require that the Contractor destroy all confidential information so it cannot be accessed by unauthorized individuals and cannot be recovered; or

11.5.4 Suspend the Contractor's on-line access to accounts and other information.

#### 11.6 Method of Transfer

All data transfers to or from the Contractor shall only be made by using DEL approved secure transfer methods established for that specific data.

#### 11.7 Public Disclosure

11.7.1 Either party to this Contract may designate certain Confidential Information as "Confidential Information/Notice Requested." This designation shall be made by clearly stamping, watermarking, or otherwise marking each page of the Confidential Information. The party who owns the data is responsible for informing the other party what it considers confidential.

11.7.2 If a third party requestor seeks information that has been marked "Confidential Information/Notice Requested," notice shall be given to the marking party prior to release of the information. Such notice shall be provided to the program contact no less than five business days prior to the date of the disclosure, to allow the party objecting to disclosure to seek a protective order from the proper tribunal.

#### 11.8 Access to Data

In compliance with RCW 39.26.180, the Contractor shall provide access to data generated under this Contract to DEL, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This includes, but is not limited to, access to all information that supports the findings, conclusions and recommendations of the Contractor's reports, including computer models and methodology for those models.

#### 11.9 Definitions

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

11.9.1 "Confidential Information" means information that may be exempt from disclosure under either chapter 42.56 RCW or other state or federal statutes. Confidential Information includes, but is not limited to, personal information, agency source code or object code, and agency security data.

11.9.2 "Converted Data" means the data which has been successfully converted by the Contractor for processing by the DEL's computer system.

11.9.3 "Data" means the DEL's records, files, forms, data, information and other documents in electronic or hard copy form, including but not limited to Converted Data.

11.9.4 "Personal Information" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, e-mail addresses, credit card information, law enforcement records or other identifying numbers or Protected Health Information, any financial identifiers, and other information that may be exempt from disclosure under either chapter 42.56 RCW or other state and federal statutes.

## **12. DISALLOWED COSTS**

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

## **13. DISPUTES**

13.1. Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a Dispute Resolution Board ("DRB").

13.2. A request for a DRB must:

13.2.1. Be in writing;

13.2.2. State the disputed issues;

13.2.3. State the relative positions of the parties;

13.2.4. State the Contractor's name, address, and contact telephone number; and

13.2.5. Be mailed to the other party's (respondent's) Contract Manager after the parties agree that they cannot resolve the dispute.

13.3. The respondent shall mail a written answer to the requester's Contract Manager within 10 business days of the receipt of the request for a DRB.

13.4. Once a party requests a DRB, each party shall designate a representative. The representatives shall mutually select a third member. The DRB shall evaluate the facts, Contract terms and applicable statutes and rules and make a determination by majority vote. The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding concerning the Contract. The parties agree that the DRB shall precede any action in judicial or quasi-judicial tribunal.

## **14. DUPLICATE PAYMENT**

DEL shall not pay the Contractor if the Contractor has charged or will charge the State of Washington, or any other party under any other contract or agreement, for the same services or expenses.

## **15. ENTIRE CONTRACT**

This Contract, including all referenced exhibits and attachments, contains all the terms and conditions agreed upon by the parties. No other understanding, written, oral, or otherwise regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.

## **16. EXPENSES**

All expenses not provided for specifically in this Contract shall be the responsibility of the Contractor unless otherwise mutually agreed upon by the parties.

## **17. FEDERAL FUNDING REQUIREMENTS**

### **17.1. Covenant Against Contingent Fees**

The Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Contractor for securing business. DEL shall have the right, in the event of breach of this clause by the Contractor, to annul this Contract without liability or, in its discretion, to deduct from the Contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fees.

### **17.2. Single Audit Requirements**

If the Contractor is a subrecipient of federal awards as defined by Office of Management and Budget (OMB) 2 Code of Federal Regulations C.F.R. §200, the Contractor shall maintain records that identify all federal funds received and expended. Such funds shall be identified by the appropriate OMB Catalog of Federal Domestic Assistance (CFDA) Numbers. The Contractor shall make the Contractor's records available for review or audit by officials of the federal awarding agency, the General Accounting Office, DEL, and the Washington State Auditor's Office. The Contractor shall incorporate OMB 2 C.F.R. §200 audit requirements into all contracts between the Contractor and its Subcontractors who are subrecipients. The Contractor shall comply with any future amendments to OMB 2 C.F.R. §200 and any successor or replacement Circular or regulation.

- 17.3. If the Contractor expends \$750,000 or more in federal awards from any and/or all sources in any fiscal year ending after December 26, 2014, the Contractor shall procure and pay for a single or program-specific audit for that year. Upon completion of each audit, the Contractor shall submit to DEL's Contract Manager the data collection form and reporting package specified in OMB 2 C.F.R. §200, and any reports required by the program-specific audit guide (if applicable).
- 17.4. **Certification of cost allocation plan or indirect (F&A) cost rate proposal**

Each cost allocation plan or indirect (F&A) cost rate proposal must comply with the following:

  - 17.4.1. A proposal to establish a cost allocation plan or an indirect (F&A) cost rate, whether submitted to a Federal cognizant agency for indirect costs or maintained on file by the non-Federal entity, must be certified by the non-Federal entity using the Certificate of Cost Allocation Plan or Certificate of Indirect Costs as set forth in Appendices III through VII, and Appendix IX. The certificate must be signed on behalf of the non-Federal entity by an individual at a level no lower than vice president or chief financial officer of the non-Federal entity that submits the proposal.
  - 17.4.2. Unless the non-Federal entity has elected the option under OMB 2 C.F.R. §200.414 Indirect (F&A) costs, paragraph (f), the Federal Government may either disallow all indirect (F&A) costs or unilaterally establish such a plan or rate when the non-Federal entity fails to submit a certified proposal for establishing such a plan or rate in accordance with the requirements. Such a plan or rate may be based upon audited historical data or such other data that have been furnished to the cognizant agency for indirect costs and for which it can be demonstrated that all unallowable costs have been excluded. When a cost allocation plan or indirect cost rate is unilaterally established by the Federal Government because the non-Federal entity failed to submit a certified proposal, the plan or rate established will be set to ensure that potentially unallowable costs will not be reimbursed.
- 17.5. Certifications by non-profit organizations as appropriate that they did not meet the definition of a major nonprofit organization as defined in OMB 2 C.F.R. §200.414 Indirect (F&A) costs, paragraph (a).
- 17.6. See also OMB 2 C.F.R. §200.450 Lobbying for another required certification.

## 18. FUNDING CONTINGENCY

- 18.1. In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to completion of the work in this Contract, the DEL may:
  - 18.1.1. Terminate this Contract with ten (10) days advance notice. If this Contract is terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Contract prior to the effective date of termination;
  - 18.1.2. Renegotiate the terms of the Contract under the new funding limitations and conditions;
  - 18.1.3. After a review of project expenditures and deliverable status, extend the end date of this Contract and postpone deliverables or portions of deliverables; or
  - 18.1.4. Pursue such other alternatives as the parties mutually agree to in writing.

## 19. HEADINGS

The headings throughout this Contract are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Contract.

## 20. INDEMNIFICATION

- 20.1. To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless State, agencies of State and all officials, agents and employees of State, from and against all claims for injuries or death arising out of or resulting from the performance of the Contract. Contractor's obligation to

- indemnify, defend, and hold harmless includes any claim by Contractors' agents, employees, representatives, or any subcontractor or its employees.
- 20.2. The Contractor expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Contractor's or any subcontractor's performance or failure to perform under the Contract. The Contractor shall be required to indemnify, defend, and hold harmless the State only to the extent claim is caused in whole or in part by negligent acts or omissions of Contractor.
- 20.3. The Contractor waives its immunity under [Title 51 RCW](#) to the extent it is required to indemnify, defend and hold harmless State and its agencies, officials, agents or employees.

## 21. INDEPENDENT CAPACITY

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

## 22. INDUSTRIAL INSURANCE COVERAGE

The Contractor shall comply with the provisions of [Title 51 RCW](#) (Industrial Insurance). If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, DEL may collect from the Contractor the full amount payable to the Industrial Insurance accident fund. DEL may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by DEL under this Contract, and DEL may also transmit the deducted amount to the Department of Labor and Industries (L&I), Division of Insurance Services. This provision does not waive any of L&I's right to collect from the Contractor.

## 23. INSURANCE

23.1. The Contractor shall provide insurance coverage as set out in this Section (Section 23). The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages, or expenses arising from any negligent or intentional act or omission of the Contractor or Subcontractor, or agents of either, while performing under the terms of this Contract. The Contractor shall provide insurance coverage, which shall be maintained in full force and effect during the term of this Contract, as follows:

### 23.1.1. Commercial General Liability Insurance Policy

Provide a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence.

### 23.1.2. Professional Liability

Required if services delivered pursuant to this Contract, either directly or indirectly, involve or require providing professional services. Such coverage shall cover injury or loss resulting from Contractors' rendering or failing to render professional services.

23.1.2.1. Contractor shall maintain minimum limits no less than \$1,000,000 per incident, loss, or person, as applicable. If defense costs are paid within the limit of liability, Contractor shall maintain limits of \$2,000,000 per incident, loss, or person, as applicable. If the policy contains a general aggregate or policy limit, it shall be at least two times the incident, loss or person limit.

23.1.2.2. If professional liability insurance is written on a "claims made" basis, the policy shall provide full coverage for prior acts or include a retroactive date that precedes the effective date of this Contract.

23.1.2.3. Contractor is required to buy professional liability insurance for a period of 24 months after completion of this Contract. This requirement may be satisfied by the continuous purchase of commercial insurance or an extended reporting period.

### 23.1.3. Automobile Liability

In the event that services delivered pursuant to this Contract involve the use of vehicles, either owned or unowned by the Contractor, automobile liability insurance shall be required. The minimum limit for automobile liability is:

\$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

- 23.1.4. The insurance required shall be issued by an insurance company/ies authorized to do business within the State of Washington, and shall name the State of Washington, its officers, agents and employees as additional insureds under the insurance policy/ies. All policies shall be primary to any other valid and collectable insurance. The Contractor shall instruct the insurers to give DEL thirty (30) calendar days advance notice of any insurance cancellation.
- 23.1.5. The Contractor shall submit to DEL within fifteen (15) calendar days of the Contract "Start Date" listed on the Contract cover sheet, a certificate of insurance that outlines the coverage and limits defined in this Insurance Section (Section 23). The Contractor shall submit renewal certificates as appropriate during the term of the Contract.
- 23.1.6. Contractor agrees to disclose the existence and nature of any limiting endorsement that applies to any liability insurance policy purchased in accord with this Contract.
- 23.1.7. Additionally, the Contractor is responsible for ensuring that any Subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

#### **24. LIMITATION OF AUTHORITY**

Only the Contractor's agent or agent's delegate by writing (delegation to be made prior to action) and the DEL's agent or agent's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this Contract is not effective or binding unless made in writing and signed by the agents for both parties.

#### **25. MONITORING**

- 25.1. DEL has the right to monitor and evaluate performance, compliance, and quality assurance under this Contract. The Contractor shall provide a right of access to its facilities to DEL, personnel authorized by DEL, or to any other authorized agent or official of the State of Washington or the federal government at all reasonable times in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.
- 25.2. Monitoring activities may include, but are not limited to:
  - 25.2.1. Review of deliverables listed in Exhibit A and Exhibit D.
  - 25.2.2. Desktop monitoring.
  - 25.2.3. Intensive on-site program reviews to monitor Contract compliance.
  - 25.2.4. Site visits to review records, observe implementation of services or follow up on compliance issues. These visits may be unannounced.
  - 25.2.5. Review of the Contractor's compliance with Exhibit C, Section 11 (Data Share and Protection of Confidential Information).
  - 25.2.6. Review of all advertising and publicity matters relating to this Contract in which the State of Washington or the DEL's name, state seal or logo is mentioned or used or language is used from which a connection with the State of Washington or the DEL may, in the DEL's judgment, be inferred or implied.

#### **26. NEUTRAL AUTHORSHIP**

Each of the provisions of this Contract has been reviewed and negotiated, and represents the combined work product of both parties hereto. No presumption or other rules of construction which would interpret the provisions of this Contract in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Contract.

#### **27. ORDER OF PRECEDENCE**

In the event of an inconsistency in the terms of this Contract, or between the terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable Federal statutes, regulations, and policies;
2. Applicable State of Washington statutes, regulations, and policies;
3. The terms and conditions as contained in this basic Contract instrument but not contained in exhibit A, exhibit B, exhibit C, exhibit D, or exhibit E of this Contract;
4. Exhibit C General Terms and Conditions;
5. Exhibit B Budget;
6. Exhibit A Statement of Work;
7. Exhibit D ECEAP Deliverables Calendar;
8. Exhibit E ECEAP Performance Standards; and

9. Any other exhibit or attachment, provision, term or material incorporated herein by reference or otherwise.

## **28. OVERPAYMENT**

- 28.1. Contractor shall promptly, but in all cases within 30 Days, pay to the DEL the full amount of any erroneous payment or overpayment (a) upon Notice of an erroneous payment or overpayment to which Contractor is not entitled with supporting documentation to substantiate such erroneous payment or overpayment and the grounds for the DEL's determination of such erroneous payment or overpayment or (b) when any such erroneous payment or overpayment is otherwise discovered by Contractor.
- 28.2. In addition to the requirements contained in this Section (Section 28), the Contractor agrees that the DEL may also recover overpayments made to the Contractor by deducting amounts owed to the Contractor. The DEL must provide written notice to the Contractor if it elects to recover overpayments by deducting amounts owed to the Contractor.

## **29. PUBLICITY**

- 29.1. The award of this Contract to Contractor is not in any way an endorsement of Contractor or Contractor's Services by DEL and shall not be so construed by Contractor in any advertising or publicity materials.
- 29.2. All publications funded, in whole or in part, under this Contract will use the DEL logo and will acknowledge credit as either providing "funding in partnership with" or "funded by" the DEL. Refer to Exhibit A, Section 12 (Use of DEL Logo).

## **30. RECAPTURE**

- 30.1. In the event that the Contractor fails to expend funds under this contract in accordance with state laws and/or the provisions of this contract, the DEL reserves the right to recapture state funds in an amount equivalent to the extent of the noncompliance in addition to any other remedies available at law or in equity.
- 30.2. Such right of recapture shall exist for a period not to exceed six years following contract termination. Repayment by the Contractor of funds under this recapture provision shall occur within 30 days of demand. In the event that the DEL is required to institute legal proceedings to enforce the recapture provision, the DEL shall be entitled to its costs thereof.

## **31. RECORDS MAINTENANCE**

- 31.1. The Contractor shall maintain all books, records, documents, data and other evidence relating to this Contract and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by the DEL, personnel duly authorized by the DEL, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.
- 31.2. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

## **32. REMEDIES**

Except for remedies designated specifically as exclusive, no remedy conferred by any of the specific provisions of this Contract is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies by either party shall not constitute a waiver of the right to pursue other available remedies.

## **33. SEVERABILITY**

If any provision of this Contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Contract which can be given effect without the invalid provision, and to this end the provisions of this Contract are declared to be severable.

## **34. SITE SECURITY**

While on the DEL's premises, the Contractor, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

### **35. SUBCONTRACTING**

- 35.1. As used throughout this Contract, the following terms shall have the meanings set forth below:
- 35.1.1. "Staff" or "staff person" means the Contractor's subcontractors, directors, officers, employees, and agents who provide goods or services on behalf of the Contractor. The term "staff" or "staff person" also means the subcontractors' directors, officers, employees, and agents who provide goods or services on behalf of the subcontractor and Contractor.
- 35.1.2. "Subcontractor" means one not in the employment of a party to this Contract, who is performing all or part of those services under this Contract under a separate contract with a party to this Contract. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier, and the subcontractors' directors, officers, employees, and agents.
- 35.2 Neither the Contractor nor any Subcontractor shall enter into subcontracts for any of the work contemplated under this Contract without obtaining prior written approval of DEL. The Contractor is responsible to ensure that all terms, conditions, assurances and certifications set forth in this Contract are included in any and all Subcontracts. Any failure of the Contractor or its Subcontractors to perform the obligations of this Contract shall not discharge the Contractor from its obligations under this Contract. In no event shall the existence of the subcontract operate to release or reduce the liability of the Contractor to the DEL for any breach in the performance of the Contractor's duties.

### **36. TERMINATION FOR CAUSE**

- 36.1. In the event DEL determines the Contractor has failed to comply with the conditions of this Contract in a timely manner, DEL has the right to immediately suspend or terminate this Contract. The DEL shall notify the Contractor in writing of the need to take corrective action. If appropriate corrective action is not taken within 30 days, the Contract may be terminated.
- 36.2. Exhibit C, Section 36.1 shall not apply to conduct, in the performance of this Contract, by the Contractor or sub-contractor(s) that involves child abuse or neglect. In the event the DEL has reason to believe that in the performance of this Contract, the Contractor or its sub-contractors cause a child to be abused or neglected as defined in [chapter 26.44 RCW](#), the DEL may immediately suspend or terminate this Contract. The DEL may elect to notify the Contractor in writing of the need to take corrective action before the Contract is suspended or terminated by the DEL.
- 36.3. The DEL reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by the DEL to terminate the Contract.
- 36.4. In the event of termination, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time. The termination shall be deemed to be a "Termination for Convenience" if it is determined that: (1) the Contractor was not in default; or (2) failure to perform was outside of Contractor's control, fault or negligence. The rights and remedies of the DEL provided in this Section (Section 36) shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- 36.5. A filing for bankruptcy by Contractor will be deemed a material breach and may result in immediate termination of this Contract.

### **37. TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this Contract DEL may, by ten (10) calendar days written notice beginning on the second day after the mailing, terminate this Contract in whole or in part. If this Contract is so terminated, DEL shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

### **38. TERMINATION PROCEDURE**

- 38.1. Upon termination of this Contract, DEL, in addition to any other rights provided in this Contract, may require the Contractor to deliver to DEL any property specifically produced or acquired for the performance of such part of this Contract as has been terminated. The provisions of Exhibit C, Section 39, the "Treatment of Assets" clause, shall apply in such property transfer.
- 38.2. DEL shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by DEL, and the amount agreed upon by the Contractor and DEL for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii)

other property or services that are accepted by DEL, and (iv) the protection and preservation of property, unless the termination is for default, in which case DEL and contractor may agree to the extent of the liability of DEL. Failure to agree to the extent of the liability shall be a dispute within the meaning of Exhibit C, Section 13 (Disputes) of this contract. The DEL may withhold from any amounts due the Contractor such sum as the DEL determines to be necessary to protect the DEL against potential loss or liability.

- 38.3. The rights and remedies of DEL provided in this Section (Section 38) shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- 38.4. After receipt of a notice of termination, and except as otherwise directed by DEL, the Contractor shall:
- 38.4.1. Stop work under the Contract on the date, and to the extent specified, in the notice;
  - 38.4.2. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Contract that is not terminated;
  - 38.4.3. Assign to DEL, in the manner, at the times, and to the extent directed by DEL, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case DEL has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
  - 38.4.4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of DEL to the extent DEL may require, which approval or ratification shall be final for all the purposes of this clause;
  - 38.4.5. Transfer title to DEL and deliver in the manner, at the times, and to the extent directed by DEL any property which, if the Contract had been completed, would have been required to be furnished to DEL;
  - 38.4.6. Complete performance of such part of the work as shall not have been terminated by DEL; and
  - 38.4.7. Take such action as may be necessary, or as DEL may direct, for the protection and preservation of the property related to this Contract, which is in the possession of the Contractor and in which DEL has or may acquire an interest.

### **39. TREATMENT OF ASSETS**

- 39.1. Any equipment funded by this Contract shall be used only for the performance of this Contract, unless otherwise approved by DEL. If an item requires a title of ownership, such as a vehicle, and is purchased with ECEAP funds, the title shall reside with DEL. If a playground equipment purchase is approved, and the equipment is installed, permanent playground structures are considered to be part of the real estate at which they are located and the property of the site owner.
- 39.2. The Contractor shall obtain approval from DEL before selling or disposing of equipment from the Contractor's Inventory List. Instead of allowing the Contractor to sell or dispose of the equipment, DEL may require that the Contractor return the equipment to DEL. The ECEAP Equipment Disposal/Transfer Form is available at [www.del.wa.gov/eceap](http://www.del.wa.gov/eceap). If DEL approves the Contractor's proposal to sell ECEAP equipment, the Contractor shall only use the sale proceeds for DEL approved ECEAP services.
- 39.2.1. If DEL allows the Contractor to dispose of the equipment, the Contractor may donate the equipment to an appropriate donation center approved by DEL. If the equipment is donated, an itemized receipt from the donation center must be kept and maintained by the Contractor.
  - 39.2.2. If the Contractor receives any type or kind of payment for equipment the Contractor has donated or disposed of, the Contractor must maintain a copy of the sales receipt and all other documentation related to the transaction. The Contractor must also record the proceeds from the disposal of equipment on an income statement.
- 39.3. Except as otherwise provided in Exhibit C, Section 39.4, title to all property furnished by DEL shall remain in DEL. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this Contract, shall pass to and vest in DEL upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this Contract, shall pass to and vest in DEL upon (i) issuance for use of such property in the performance of this Contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by DEL in whole or in part, whichever first occurs.
- 39.4. Property or equipment purchased all or in part with ECEAP funds, shall remain in DEL and the Contractor shall not be entitled to any reimbursement under Exhibit C, Section 39.3. Upon the completion, termination, or cancellation of this Contract property or equipment purchased all or in part with ECEAP funds shall be disposed of as determined by DEL.
- 39.5. Any property of DEL furnished to the Contractor shall, unless otherwise provided herein or approved by DEL, be used only for the performance of this Contract.

- 39.6. The Contractor shall be responsible for any loss or damage to property of DEL that results from the negligence of the Contractor or that results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.
- 39.7. If any DEL property is lost, destroyed, or damaged, the Contractor shall immediately notify DEL and shall take all reasonable steps to protect the property from further damage.
- 39.8. The Contractor shall surrender to DEL all property of DEL prior to settlement upon completion, termination, or cancellation of this Contract.
- 39.9. All reference to the Contractor under this clause shall also include the Contractor's employees, agents, or Subcontractors.

#### **40. WAIVER**

A failure by either party to exercise its rights under this Contract shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement. Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing signed by personnel authorized to bind each of the parties.

#### **41. WARRANTY**

- 41.1. The Contractor warrants that all services performed pursuant to this Contract shall be generally suitable for the use to which the DEL intends to use said services and deliveries as expressed in Exhibit A.
- 41.2. In the performance of services under this Contract, the Contractor and its employees agree to exercise the degree of skill and care required by customarily accepted good practices and procedures followed by professionals/consultants rendering the same or similar type of service. All obligations and services of the Contractor hereunder shall be performed diligently and completely according to such professional standards.
- 41.3. If the Contractor intends to rely on information or data supplied by the DEL, other DEL contractors or other generally reputable sources without independent verification, such intent shall be brought to the attention of the DEL.

#### **42. WITHHOLDING PAYMENTS**

The DEL may withhold payment to the Contractor for any services/deliverables not performed as required hereunder until such time as the Contractor modifies or delivers services/deliverables to the satisfaction of the DEL.