

## **DRS SAMPLE WORK ORDER 24-01**

### **Client/Server and Web Services, Software Testing, and Mainframe Services**

#### **Washington State Department of Retirement Systems**

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ITPS Work Order

**Contract Number:** DRS Contract 24-01

Effective Date: Date of Execution

**Purchaser:** Washington State Department of Retirement Systems

**Contractor:** <insert successful bidder's company name>

**Solicitation Coordinator:** Wendy Kancianich

**Title:** Contracts Manager

**Phone:** 360-664-7231

**Email:** wkancianich@drs.wa.gov

#### **ITPS Category:**

- ITPS\_08215\_01. IT Funding and Financial Analysis
- ITPS\_08215\_02. IT Business Analysis
- ITPS\_08215\_03. Continuity/Disaster Recovery
- ITPS\_08215\_04. IT Project Management
- ITPS\_08215\_05. Project Quality Assurance
- ITPS\_08215\_06. Software Testing
- ITPS\_08215\_07. Client/Server and Web Services
- ITPS\_08215\_08. Database Services
- ITPS\_08215\_09. GIS Services
- ITPS\_08215\_10. Infrastructure Services
- ITPS\_08215\_11. Mainframe Services
- ITPS\_08215\_12. Mobile Services

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## 1. PARTIES

This ITPS Work Order ("Contract") is made and entered into by and between the State of Washington acting by and through the Washington State Department of Retirement Systems a Washington state governmental entity ("Purchaser"), and <insert Contractor's name>, a <insert Contractor's legal status (e.g. corporation, partnership, sole proprietorship, etc.)> ("Contractor") and is effective as of the date of execution.

## 2. RECITALS

This Contract is part of the IT Professional Services Master Contract program (**Contract No. 08215**) administered by the Washington State Department of Enterprise Services ("DES"). Accordingly, Contractor, as a participant in the IT Professional Services Master Contract program is subject to the program requirements including, but not limited to, the registration, reporting, and evaluation obligations set forth therein.

Purchaser desires certain IT Professional Services which have been detailed in its Solicitation No. DRS 24-01 published (insert date).

Contractor is capable of providing the desired IT Professional Services.

Purchaser and Contractor desire to contract for the IT Professional Services.

## 3. AGREEMENT

NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions set forth herein, the Purchaser and Contractor (collectively, the "Parties") hereby agree as follows:

### 3.1 Term

The term of this Contract is from the date of execution through June 30, 2027. DRS reserves the right at its discretion to extend the Work Order for four additional years, in one-year increments.

### 3.2 IT Professional Services

Contractor shall perform and provide the IT professional services detailed in *Exhibit A – IT Professional Services*. To the extent that Contractor subcontracts any of its rights or obligations, such subcontractors shall be deemed to be agents of Contractor and Contractor shall include the pertinent requirements of this Contract in any such subcontract. In no event, however, shall any such subcontract operate to release or reduce Contractor from liability to the Purchaser for any breach in the performance of Contractor's duties.

### 3.3 Compensation, Records and Audit

#### 3.3.1 Compensation

Purchaser agrees to pay to Contractor, as total compensation for Contractor's complete performance of the IT professional services the compensation detailed in *Exhibit B – Compensation*. Such compensation, including the timing thereof, is subject to the performance metrics set forth in Exhibit B. Contractor shall invoice Purchaser in accordance with Exhibit B.

**3.3.2 Records**

Contractor shall maintain and retain records relating to this Contract for six (6) years after the expiration or termination of this Contract; Provided, however, that, in the event of litigation pertaining to this Contract, Contractor shall maintain and retain such records for one year following the termination of such litigation, including all appeals, or six years from the date of expiration or termination of this Contract, whichever is later.

**3.3.3 Audit**

All such records shall be subject to examination, inspection, copying, or audit at reasonable times and upon prior notice by personnel so authorized by the Purchaser, the Office of the State Auditor, or federal officials, at no additional cost to the Purchaser. If requested by Purchaser and located elsewhere, Contractor shall provide access to these items within Thurston County, Washington. Contractor shall be responsible for any audit exceptions or disallowed costs incurred by Contractor or its agents.

**3.4 Sales Reporting; Management Fee; Notices**

**3.4.1 Sales Reporting; Management Fee**

Contractor shall report all amounts invoiced pursuant to this Contract to DES as instructed in Master Contract 08215. In addition, Contractor shall remit the applicable management fee to DES. Contractor’s failure to report all amounts invoiced or remit the management fee when due shall constitute material breach of this Contract. Reference Master Contract 08215 for further detail.

**3.4.2 Notices**

Any notices required or desired shall be in writing and delivered (i) by email; (ii) by mail; or (iii) personally or by messenger, and shall be sent to the respective addressee at the respective email or address set forth below or to such other email or address as the Parties may specify in writing:

<b>Purchaser</b>	<b>Contractor</b>
Attn: <insert contact> <insert purchasing entity name> <insert address> <insert city, state zip> <insert email>	Attn: <insert contact> <insert Contractor’s name> <insert address> <insert city, state zip> <insert email>

Notices shall be deemed effective upon the earlier of (i) confirmation of sent email when sent to the email address provided herein; (ii) four (4) business days from the date mailed; or (iii) upon delivery if hand delivered or delivered by messenger. The notice address set forth herein may be changed by written notice given as provided herein.

**3.5 Representations and Warranties**

Contractor makes the following representations and warranties without which Purchaser would not enter into this Contract. Breach of any of these representations and warranties shall constitute material breach of this Contract.

**3.5.1 Compliance with Law**

Contractor represents and warrants that Contractor shall comply with all applicable laws, regulations, and licensing requirements pertaining to its activities and operations under this Contract. Contractor shall not commit any act or omission, nor shall it allow its personnel or agents to commit any act or omission, that affects Purchaser or is in violation of any law, regulation, or licensing requirement.

**3.5.2 Compliance with State Policies**

Contractor represents and warrants that Contractor shall comply with all applicable state policies pertaining to its activities under this Contract including, but not limited to, compliance with Washington State's IT, security, access, data protection, and privacy policies.

**3.5.3 Qualified to do business**

Contractor represents and warrants that Contractor is qualified to do business in the State of Washington and shall provide written confirmation upon request. Reference Master Contract 08215 for further detail.

**3.5.4 Registration**

Contractor represents and warrants that prior to commencement of work for Purchaser, Contractor shall register with the Statewide Payee Desk and shall provide written confirmation upon request. Reference Master Contract 08215 for further detail.

**3.5.5 Debarment**

Contractor represents and warrants that neither Contractor nor any of its personnel or agents are debarred or proposed for debarment from doing business with any state or local government in the United States or with the U.S. federal government.

**3.5.6 Insurance**

Contractor represents and warrants that, during the term of this Contract, Contractor shall maintain insurance, in full force and effect, to the levels and requirements detailed in *Exhibit C – Insurance Requirements*.

**3.5.7 Industrial Insurance**

Contractor represents and warrants that, prior to commencing any work under this Contract; Contractor shall have or obtain industrial insurance coverage for its employees and maintain the same throughout the term of this Contract. Contractor hereby waives its Industrial Insurance immunity to the extent required to indemnify, defend, and hold harmless Purchaser and its personnel and/or agents.

**3.5.8 Taxes**

Contractor represents and warrants that Contractor is registered with the Washington State Department of Revenue. Contractor further understands and agrees that any and all

taxes pertaining to its activities are Contractor's sole obligation and Contractor promptly shall pay all such applicable taxes.

**3.5.9 No Assignment**

Contractor represents and warrants that Contractor shall not assign its rights under this Contract without Purchaser's prior written consent and Purchaser may consider any attempted assignment without such consent to be void; provided, however, that, if Contractor provides written notice to Purchaser within thirty (30) days, Contractor may assign its rights under this Contract in full to any parent, subsidiary, or affiliate of Contractor that controls or is controlled by or under common control with Contractor, is merged or consolidated with Contractor, or purchases a majority or controlling interest in the ownership or assets of Contractor. Unless otherwise agreed, Contractor guarantees prompt performance of all obligations under this Contract notwithstanding any prior assignment of its rights.

**3.5.10 No Endorsement or Publicity**

The Parties understand and acknowledge that this Contract is not in any way an endorsement of Contractor or Contractor's IT Professional Services by Purchaser and shall not be so construed or communicated as such in any advertising, promotional, or other materials pertaining to Contractor. Unless prior written permission is granted by Purchaser, Contractor shall not reference Purchaser or this Contract in any advertising, promotional, or other materials distributed or made available beyond Contractor, regardless of form or medium.

**3.5.11 No Wage Violations**

Contractor warrants that as of the execution of this Agreement, Contractor has not been determined by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of RCW chapters 49.46, 49.48, or 49.52 within three (3) years prior to the date of the above-referenced procurement solicitation date. Contractor further warrants that it will remain in compliance with these requirements during the life of this contract. Contractor will immediately notify Purchaser of any finding of a willful violation entered by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction entered during the life of this Agreement.

**3.5.12 Nondiscrimination**

- a. **Nondiscrimination Requirement.** During the term of this Contract, Contractor, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, Contractor, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which Contractor, or subcontractor, has a collective bargaining or other agreement.
- b. **Obligation to Cooperate.** Contractor, including any subcontractor, shall cooperate and

comply with any Washington state agency investigation regarding any allegation that Contractor, including any subcontractor, has engaged in discrimination prohibited by this Contract pursuant to RCW 49.60.530(3).

### 3.5.13 **Subcontractor Payments Reporting Requirements**

This Contract is subject to compliance tracking using the State's business diversity management system, Access Equity (B2Gnow). Access Equity is web-based and can be accessed at the Office of Minority and Women's Business Enterprises at <https://omwbe.diversitycompliance.com/>. The Contractor and all Subcontractors shall report and confirm receipt of payments made to the Contractor and each Subcontractor through Access Equity. The Contractor may contact \_\_\_\_\_ at \_\_\_\_\_ for technical assistance in using the Access Equity system. User guides and documentation related to Contractor and Subcontractor access to and use of Access Equity are available online at <https://omwbe.wa.gov/access-equity-help-center>. The Public Owner reserves the right to withhold payments from the Contractor for non-compliance with this section. For purposes of this section, Subcontractor means any subcontractor working on the Contract, at any tier and regardless of status as certified WMBE or Non-WMBE.

The Contractor shall:

- a. Register and enter all required Subcontractor information into Access Equity no later than 15 days after the Public Owner creates the Contract Record.
- b. Complete the required user training (two (2) one-hour online sessions) no later than 20 days after the Public Owner creates the Contract Record.
- c. Report the amount and date of all payments (i) received from the Public Owner, and (ii) paid to Subcontractors, no later than \_\_\_\_\_, issuance of each payment made by the Public Owner to the Contractor, unless otherwise specified in writing by the Public Owner, except that the Contractor shall mark as "Final" and report the final Subcontractor payments) into Access Equity no later than thirty (30) days after the final payment is due the Subcontractor(s) under the Contract, with all payment information entered no later than sixty (60) days after end of fiscal year.
- d. Monitor contract payments and respond promptly to any requests or instructions from the Public Owner or system-generated messages to check or provide information in Access Equity.
- e. Coordinate with Subcontractors, or Public Owner, when necessary, to resolve promptly any discrepancies between reported and received payments.
- f. Require each Subcontractor to: (i) register in Access Equity and complete the required user training; (ii) verify the amount and date of receipt of each payment from the Contractor or a higher tier Subcontractor, if applicable, through Access Equity; (iii) report payments made to any lower tier Subcontractors, if any, in the same manner as specified



herein; (iv) respond promptly to any requests or instructions from the Contractor or system-generated messages to check or provide information in Access Equity; and (v) coordinate with Contractor, or Public Owner when necessary, to resolve promptly any discrepancies between reported and received payments.

### **3.6 Termination, and Dispute Resolution**

#### **3.6.1 Termination for Default**

This Contract may be terminated for default. If Contractor violates any material term or condition of this Contract or fails to fulfill in a timely and proper manner its obligations under this Contract, Purchaser shall give Contractor written notice of such failure or violation, and the failure or violation shall be corrected by Contractor within thirty (30) calendar days or as otherwise agreed. If such breach is not capable of cure within thirty (30) days, Contractor must commence cure within such thirty (30) day period and diligently pursue completion of such cure. If Contractor's failure or violation is not so corrected, Purchaser may terminate this Contract by written notice. In the event of termination, Purchaser shall have the right to procure replacement IT Professional Services and Contractor shall be liable for all damages, including, but not limited to, the cost difference between the Contract price for the IT Professional Services and the replacement costs of such IT Professional Services; and any other costs to Purchaser resulting from Contractor's breach. The Parties understand and agree that Purchaser shall have the right to deduct from any compensation due to Contractor an amount for damages that Contractor will owe Purchaser for Contractor's default.

#### **3.6.2 Termination for Convenience**

Purchaser, in its sole discretion, may terminate this Contract for convenience when such termination is in the best interest of the Purchaser.

#### **3.6.3 Termination for Lack of Funding or Authority**

In the event that Purchaser's funding or authority to perform any of its duties pertaining to this Contract is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, Purchaser may terminate this Contract.

#### **3.6.4 Termination for Conflict**

If, after reasonable investigation, Purchaser determines that either Contractor or Purchaser, including their respective personnel or agents, has violated the Ethics in Public Service law (RCW chapter 42.52), Purchaser shall terminate this Contract.

#### **3.6.5 Written Notice for Termination**

Any termination of this Contract shall be by written notice. With the exception of termination for default or for violation of the Ethics in Public Service law. In the event of termination, Purchaser shall be liable to Contractor for payment for IT Professional Services received and accepted by Purchaser prior to the effective date of such termination.

#### **3.6.6 Non-exclusive Remedies**

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under law.

### 3.6.7 **Dispute Resolution**

To the fullest extent practicable, the Parties shall attempt to resolve disputes arising out of the performance of this Contract without resort to litigation. Disputes shall be resolved in a timely manner at the lowest possible level with authority to resolve such dispute. If a dispute persists and cannot be resolved, it may be escalated within each organization. If, however, within thirty (30) days of notice of any dispute, the Parties are unable to resolve the dispute, either party may commence litigation without further delay. In any such litigation, the prevailing party shall be entitled to an award of reasonable attorneys' fees including any on appeal.

## **3.7 Claims**

### 3.7.1 **Claims Between the Parties**

Contractor hereby assumes sole responsibility and all risks of injury or property damage to itself and its employees, representatives, or agents in connection with Contractor's operations and activities under this Contract. Contractor shall pay for all damage to Purchaser's property resulting directly or indirectly from its acts or omissions under this Contract, even if not attributable to negligence by Contractor or its agents.

### 3.7.2 **Third-Party Claims; Indemnification**

Contractor shall defend, indemnify, and hold harmless Purchaser and its employees and agents from and against all claims, demands, judgments, assessments, damages, penalties, fines, costs, liabilities or losses including, without limitation, sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees (collectively "claims") arising from any act or omission of Contractor or its successors, agents, and contractors under this Contract, except claims caused solely by Purchaser's negligence. This includes, without limitation, any claims for injury to or death of persons; damage to property; nuisance; mechanics and materialmen's liens; workers' compensation and unemployment taxes; fines and penalties; and environmental damages, cleanups, and corrective actions. If Purchaser chooses to retain its own counsel, Contractor shall reimburse Purchaser for all costs reasonably incurred to defend against such claims through the attorneys of its choice. Contractor shall take all steps needed to keep Purchaser's property free of liens arising from Contractor's activities, and promptly obtain or bond the release of any such liens that may be filed. The foregoing indemnity and defense obligations shall survive the expiration or earlier termination of this Contract.

## **3.8 Other Provisions**

### 3.8.1 **Time Is of the Essence**

Time is of the essence for each and every provision of this Contract.

### 3.8.2 **Integrated Agreement**

This Contract constitutes the entire agreement and understanding of the Parties with respect to the subject matter and supersedes all prior negotiations, representations, and understandings between them. There are no representations or understandings of any

kind not set forth herein.

**3.8.3 Amendment / Modification**

This Contract may not be amended or modified except in writing and signed by a duly authorized representative of each party hereto.

**3.8.4 Authority**

Each party to this Contract, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Contract and that its execution, delivery, and performance of this Contract has been fully authorized and approved, and that no further approvals or consents are required to bind such party.

**3.8.5 No Agency**

The parties agree that no agency, partnership, or joint venture of any kind shall be or is intended to be created by or under this Contract. Neither party is an agent of the other party nor authorized to obligate it.

**3.8.6 Binding Effect; Successor and Assigns**

This Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

**3.8.7 Severability**

If any provision of this Contract is held to be invalid or unenforceable, such provision shall not affect or invalidate the remainder of this Contract, and to this end the provisions of this Contract are declared to be severable. If such invalidity becomes known or apparent to the Parties, the Parties agree to negotiate promptly in good faith in an attempt to amend such provision as nearly as possible to be consistent with the intent of this Contract.

**3.8.8 Waiver**

Failure of either party to insist upon the strict performance of any of the terms and conditions hereof, or failure to exercise any rights or remedies provided herein or by law, or to notify the other party in the event of breach, shall not release the other party of any of its obligations under this Contract, nor shall any purported oral modification or rescission of this Contract by either party operate as a waiver of any of the terms hereof. No waiver by either party of any breach, default, or violation of any term, warranty, representation, agreement, covenant, right, condition, or provision hereof shall constitute waiver of any subsequent breach, default, or violation of the same or other term, warranty, representation, agreement, covenant, right, condition, or provision.

**3.8.9 Survival**

All representations, warranties, covenants, agreements, and indemnities set forth in or otherwise made pursuant to this Contract shall survive and remain in effect following the expiration or termination of this Contract, *Provided*, however, that nothing herein is intended to extend the survival beyond any applicable statute of limitations periods.

**3.8.10 Governing Law**

The validity, construction, performance, and enforcement of this Contract shall be governed by and construed in accordance with the laws of the State of Washington, without regard to its choice of law rules.

**3.8.11 Jurisdiction and Venue**

In the event that any action is brought to enforce any provision of this Contract, the parties agree to submit to exclusive jurisdiction in Thurston County Superior Court for the State of Washington and agree that in any such action venue shall lie exclusively at Olympia, Washington.

**3.8.12 Fair Construction and Interpretation**

The provisions of this Contract shall be construed as a whole according to their common meaning and not strictly for or against any party and consistent with the provisions contained herein in order to achieve the objectives and purposes of this Contract. Each party hereto and its counsel has reviewed and revised this Contract and agrees that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be construed in the interpretation of this Contract. Each term and provision of this Contract to be performed by either party shall be construed to be both a covenant and a condition.

**3.8.13 Further Assurances**

In addition to the actions specifically mentioned in this Contract, the Parties shall each do whatever may reasonably be necessary to accomplish the transactions contemplated in this Contract including, without limitation, executing any additional documents reasonably necessary to effectuate the provisions and purposes of this Contract.

**3.8.14 Captions and Headings**

The captions and headings in this Contract are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Contract nor the meaning of any provisions hereof.

**3.8.15 Exhibits**

All exhibits referred to herein are deemed to be incorporated in this Contract in their entirety.

**3.9.16 Counterparts**

This Contract may be executed in one or more counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Contract at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Contract.

EXECUTED AND EFFECTIVE as of the day and date first above written.

**<insert name of Contractor>**

**<insert Purchaser's entity name>**

By: \_\_\_\_\_ By: \_\_\_\_\_  
Name: \_\_\_\_\_ Name: \_\_\_\_\_  
Title: \_\_\_\_\_ Title: \_\_\_\_\_  
Date \_\_\_\_\_ Date \_\_\_\_\_

## **Exhibit A: IT Professional Services**

This exhibit sets forth the IT Professional Services and manner in which they are to be provided by Contractor.

### **1. Statement of Work**

**Exhibit B: Compensation**

## Exhibit C: Insurance Requirements

### 1. Insurance Required

Prior to commencement of any activity under this Contract, Contractor, at Contractor's sole expense, shall obtain and maintain in full force and effect during the term of this Contract and during any other period during which Contractor is acting pursuant to this Contract, the insurance coverages set forth herein on Contractor's operations and activities. Failures to purchase, maintain, and provide evidence of the required insurance shall constitute material default.

- a. **Insurer.** Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in the State of Washington and having a rating of A-, Class VII or better, in the most recently published edition of Best's Reports.
- b. **Evidence of Coverage.** Contractor shall furnish to Purchaser copies of certificates and endorsements of all required insurance within thirty (30) calendar days of this Contract's effective date, and copies of renewal certificates and endorsements of all required insurance within thirty (30) calendar days after the renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this exhibit. Such policies also shall reference this Contract number.
- c. **Advance Notice of Revocation.** Such policies shall have a condition that they not be revoked by the insurer until forty-five (45) calendar days after notice of intended revocation thereof shall have been given to Purchaser by the insurer.
- d. **Cancellation.** In the event of cancellation, non-renewal, revocation, or other termination of any insurance coverage required by this Contract, Contractor shall provide written notice of such to Purchaser within one (1) business day of Contractor's receipt of such notice.
- e. **Additional Insured.** With the exception of the Professional Liability, Automobile Liability, and Workers Compensation coverages, the Purchaser shall be named as an Additional Insured and Contractor shall provide a copy of the policy endorsement(s) designating Purchaser as an additional named insured.
- f. **Primary Insurance.** All insurance provided by Contractor shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the Purchaser and shall include a severability of interests (cross-liability) provision.
- g. **Subcontractors.** Contractor shall include all subcontractors as insureds under all required insurance policies or shall furnish separate certificates of insurance and endorsements for each subcontractor. Subcontractor(s) shall comply fully with all insurance requirements stated herein. Failure of subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.
- h. **Contractor's Liability.** By requiring insurance herein, Purchaser does not represent that coverage and limits will be adequate to protect Contractor. Such coverage and limits shall not limit Contractor's liability under this Contract.

### 2. Insurance Coverage: Minimum Acceptable Insurance Policy Limits

The minimum acceptable limits shall be as stated below, with no deductible for each of the following categories:



- a. Commercial General Liability Insurance (including Employers Liability Coverage).** Coverage form shall be equivalent to form CG00001. GL limits of liability shall be least \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Employers Liability limits shall be Bodily Injury by Accident: \$1,000,000 each accident/Bodily Injury by Disease: \$1,000,000 policy limit/Bodily Injury by Disease: \$1,000,000 each employee.
- b. Property Insurance.** Contractor shall provide evidence of "All-Risk" property insurance including coverage for Earthquake and Flood for all locations where State of Washington data is held. This coverage shall include all Computer Property. This insurance shall also include coverage for Business Interruption and Extra Expense that extends to the loss of Computer Property. Limits shall be declared and subject to review and approval by the state of Washington.
- c. Umbrella Policy.** Providing excess limits over the primary policies in an amount not less than \$3 million.
- d. Workers' Compensation or Industrial Accident Insurance.** Statutory Workers Compensation insurance for all employees.
- e. Cyber Liability Insurance.** Limits of liability shall not be less than \$5,000,000 per claim for First- and Third-Party coverage. Contractors who offer a Software-as-a-Service type solution will be required to provide Cyber Liability Insurance sufficient to cover the costs of a potential data security breach involving all SaaS customer's data at any Contractor location or downstream Contractor location.
- f. Professional Liability (Errors and Omissions) Insurance.** Limits of liability shall not be less than \$5,000,000 per claim and \$10,000,000 annual aggregate.
- g. Crime Insurance.** To cover computer fraud and/or misuse of Purchaser's data by Contractor's personnel or agents. Limits of liability shall not be less than \$1,000,000 per claim.

## Exhibit D: Security and Data Protection Requirements

Contractor/Programmers require access to DRS networks and data for the purpose of fulfilling the requirements of Contract 24-01 – Client/Server and Web Services, Software Testing, and Mainframe Services Support. Access to the networks and data is hereby granted by DRS to Contractor/Programmers as authorized by Chapter 41.50 RCW, in accordance with all relevant statutes and in compliance with the data security standards promulgated by the Washington State Office of the Chief Information Officer (OCIO). (See OCIO Standard No. 141.10.)

### 1. Definitions

**“Confidential Information”** means information that is specifically protected from disclosure by law. It may include but is not limited to:

- a. Personal information about individuals, regardless of how that information is obtained.
- b. Information concerning employee personnel records.
- c. Information regarding IT infrastructure and security of computer and telecommunications systems.

**“Data Encryption”** refers to ciphers, algorithms or other encoding mechanisms that will encode data to protect its confidentiality. Data encryption can be required during data transmission or data storage depending on the level of protection required for this data.

**“Data Storage”** refers to the state data is in when at rest. Data shall be stored on secured environments.

**“Data Transmission”** refers to the methods and technologies to be used to move a copy of the data between systems, networks, and/or workstations.

**“Disclosure”** means to permit access to or release, transfer, or other communication of personally identifiable information by any means including oral, written, or electronic means, to any party except the party identified or the party that provided or created the record.

**“DRS Data”** means data provided by DRS, whether that data originated in DRS or in another entity.

**“Personally Identifiable Information” (PII)** means information that can be used to distinguish or trace an individual’s identity, such as their name, Social Security Number, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother’s maiden name, etc. Personally Identifiable Information also includes other information that, alone or in combination, would allow a reasonable person to identify the individual with reasonable certainty. In the case of employment data, this means information which reveals the name or any identifying particular about any individual or any past or present employer or employing unit, or which could foreseeably be combined with other publicly available information to reveal any such particulars.

### 2. Authorized Users of the Data

Access to DRS networks and data shall be restricted to only those individuals who have completed the DRS security orientation, submitted the Non-Disclosure Access Agreement, and have been granted access by DRS for the purpose of performing services under the terms of this Contract. All authorized users must complete DRS IT Cybersecurity Awareness training annually.

### **3. Description of Data to be Shared**

Contractor's/Programmer's access to DRS data will include full access to DRS networks and data. Such access is classified as OCIO Standard 141.10 Category 3 – Confidential Information.

### **4. Data Security**

Contractor is prohibited from storing any data on any devices or media other than those issued by DRS. DRS will provide a workstation and access to the DRS network as necessary to perform the tasks in this Work Order.

#### **Safeguards Against Unauthorized Access and Re-disclosure**

Contractor shall exercise due diligence and due care to protect all Confidential Information from unauthorized physical and electronic access. Both parties shall establish and implement the following minimum physical, electronic, and managerial safeguards for maintaining the confidentiality of information provided by either party pursuant to this Agreement:

a. Access to the information provided by DRS will be restricted to only those authorized staff, officials, and agents of the parties who need it to perform their official duties in the performance of the work requiring access to the information as detailed in the Purpose of this Agreement.

b. Contractor will store the information in an area that is safe from access by unauthorized persons during duty hours as well as non-duty hours or when not in use.

c. Contractor will not store any confidential or sensitive DRS data on portable electronic devices or media, including, but not limited to laptops, handhelds/PDAs, Ultra mobile PCs, flash memory devices, floppy discs, optical discs (CDs/DVDs), portable hard disks and smart phones.

d. Contractor will protect the information in a manner that prevents unauthorized persons from retrieving the information by means of computer, remote terminal, or other means.

e. Contractor shall take precautions to ensure that only authorized personnel and agents are given access to on-line files containing confidential or sensitive data.

f. Contractor shall instruct all individuals with access to the Personally Identifiable Information regarding the confidential nature of the information, the requirements of *Use of Data* and *Safeguards Against Unauthorized Access and Re-Disclosure* clauses of this Agreement, and the sanctions specified in federal and state laws against unauthorized disclosure of information covered by this Agreement.

g. Contractor shall take due care and reasonable precautions to protect DRS' data from unauthorized physical and electronic access. Both parties will strive to meet or exceed the requirements of the State of Washington's policies and standards for data security and access controls to ensure the confidentiality, availability, and integrity of all data accessed.

If Contractor or its agents detect a compromise or potential compromise in the IT security for this

data such that personal information may have been accessed or disclosed without proper authorization, Contractor shall give notice to DRS within one (1) hour of discovering the compromise or potential compromise.

Notice shall be provided to:

**Information Services Division Assistant Director:**

Jay Walsh, (360) 664-7266, Jay.Walsh@drs.wa.gov

Contractor shall take corrective action as soon as practicable to eliminate the cause of the breach and shall be responsible for ensuring DRS is notified and provided with the necessary information as to whose personal information may have been improperly accessed or disclosed.

**5. Data Confidentiality**

Contractor acknowledges the personal or confidential nature of the information and agrees that their staff and contractors with access shall comply with all laws, regulations, and policies that apply to protection of the confidentiality of the data. If data provided under this Agreement is to be shared with a subcontractor, the contract with the subcontractor must include all the data security provisions within this Agreement and within any amendments, attachments, or exhibits within this Agreement. If the Contractor cannot protect the data as articulated within this Contract, then the Contract with the subcontractor must be submitted to the DRS Contract Manager specified for this Contract for review and approval.

**6. Penalties for Unauthorized Disclosure of Information**

In the event Contractor fails to comply with any terms of this Agreement, DRS shall have the right to take such action as it deems appropriate. The exercise of remedies pursuant to this paragraph shall be in addition to all sanctions provided by law, and to legal remedies available to parties injured by unauthorized disclosure.

# NON-DISCLOSURE ACCESS AGREEMENT

## 1. DRS CONTRACT 24-01

## 2. CONTRACTOR'S EMPLOYEE ACCESS AGREEMENT

As an employee of \_\_\_\_\_ I may be granted access to information provided by the State of Washington, Department of Retirement Systems (DRS), solely for the purpose of performing work under the terms of Contract 24-01. A breach of this Agreement will represent a breach of the Contract between DRS and my employer and may be grounds for disciplinary action which may include termination of my employment and other legal action.

- I have read and understand the Contract, including all Attachments, Exhibits, Amendments and Addenda, and will comply with all of the terms contained therein.
- I will fully cooperate with DRS in the enforcement of provisions to protect DRS' facility, property, data, and employees.

### CONFIDENTIALITY AND NON-DISCLOSURE

- I understand that I may be exposed to confidential DRS data, including Personally Identifiable Information, and that I am responsible for maintaining this confidentiality.
- I will abide by all federal and state laws and regulations regarding confidentiality and disclosure of the information related to this Contract.
- I will not disclose, divulge, transfer, sell or otherwise make known to unauthorized persons any DRS data or information about DRS technology or systems.
- I will not store, access, process, share, remove, or distribute protected or personally identifiable DRS team member information or DRS customer information that violates established security or public disclosure release policies.

### AUTHORIZED USE

- I will access and use DRS data, accounts, and technology solely for the purposes of work performed under the terms of this Contract, and only to the extent necessary for the performance of my assigned duties related to this Contract.
- I will not use, or allow others to use, the DRS account or DRS resources for any non-DRS business operations.
- I will not use, or allow others to use, the DRS account or DRS resources for personal use or gain such as posting, editing, or maintaining personal or unofficial home pages, web-blogs, or blogging sites, advertising or solicitation of services or sale of personal property (e.g., eBay), stock trading, or online shopping.
- I will not use the DRS account or DRS systems, hardware or software to access, store, process, display, distribute, transmit or view material that is: pornographic, racist, defamatory, vulgar, hate-crime related, subversive in nature, or involves chain letters, spam, or similarly related criminal offenses such as encouragement of criminal activity, or violation of State, Federal, national, or international law.

- I will not obtain, install, copy, paste, modify, transfer, or use software or other materials obtained or accessed from systems owned by DRS in violation of any patent, copyright, trade-secret, or license agreements.

### **MAINTAINING SYSTEM SECURITY**

- I understand that I am responsible for all actions taken under my account or accessed using my credentials. I will protect any DRS account(s) and authenticator(s) I may be assigned or may access, unintentionally or otherwise, from unauthorized disclosure, and will not share any account(s) or authenticator(s).
- I will not attempt to “hack” the DRS network or connected information systems, subvert information protection schemes, gain, access, share, or elevate permissions to information or systems for which I am not authorized.
- I will protect and label all output generated under my account(s) to include printed materials, external media, system disks, and downloaded files according to the DRS Data Security Standard.
- I will not install, modify, or remove any hardware or software (including but not limited to freeware/shareware, security tools, etc.) on systems owned by DRS without DRS’ approval.
- I will not install unauthorized or malicious code, backdoors or introduce software or hardware onto systems owned by DRS that could negatively affect the confidentiality, integrity, or availability of DRS services.
- I will not create or elevate access rights of others, share permissions, nor allow others to gain access to systems or networks using my DRS account(s).
- I will not circumvent security controls without written approval and authorization from DRS.
- I understand that all information generated, transferred, or processed on DRS owned or managed systems is subject to monitoring and may be subject to public disclosure. This includes but is not limited to e-mail, web browsing and other activity including but not limited to possible abnormal activity such as uploading or downloading large amounts of data, unusually high network activity, etc.
- I will immediately, and in no event later than one hour after discovery, report any indication of computer network intrusion, unexplained degradation or interruption of system or network services, illegal or improper possession of content or files, or the actual or potential compromise of sensitive or higher: information, databases, files, access controls, or systems to:

### **Information Services Division Assistant Director:**

Jay Walsh, (360) 664-7266, [Jay.Walsh@drs.wa.gov](mailto:Jay.Walsh@drs.wa.gov)

### **ACKNOWLEDGEMENT AND CERTIFICATION**

- I understand that failure to comply with the terms of this Agreement may, at the discretion of DRS, result in any or all of the following actions:
  - a. Revocation of access to DRS systems
  - b. Removal from the work team

c. Personal liability

d. Breach/termination of the contract between DRS and my employer

	Employee	Supervisor
Printed Name		
Organization		
Job Title		
Email		
Phone		
Signature		
Date Signed		

## ATTACHMENT D.2 - CERTIFICATION OF DATA DISPOSITION

To be completed upon conclusion of an assignment and final disposition of data.

Date of Disposition <insert date>

**Data disposition methods used upon expiration or termination of this Contract: (check all that apply).**

- All copies of any data sets related to this Contract have been wiped from all data storage systems and media, in accordance with the terms of this Agreement.
- All on-line access accounts related to this Contract have been deleted
- All printed and hard copy materials and all non-wiped computer media containing any data related to this Contract have been destroyed.
- All copies of data sets related to this Contract that have not been disposed of in a manner described above, have been returned to the Agency.
- All copies of any data sets related to this Contract shall be retained for the purposes stated herein for a period of time not to exceed <insert time period>, after which all data shall be destroyed or returned to the Agency.

**I hereby certify, by signature below, that the data disposition requirements as provided in this Contract have been fulfilled as indicated above.**

<Contractor's Company Name>

\_\_\_\_\_

*Signature*

\_\_\_\_\_

*Print Name*

\_\_\_\_\_

*Title*

\_\_\_\_\_

*Date*