Washington State Department of Social & Health Services *Transforming lives*	**DSHS and COUNTY AGREEMENT ON GENERAL TERMS AND CONDITIONS**	DSHS Contract Number 1783-86229
These General Terms and Conditions are between the state of Washington Department of Social and Health Services (DSHS) and the County identified below. These General Terms and Conditions govern work to be performed under any Program Agreement between the parties. These General Terms and Conditions supersede and replace any previously executed General Terms and Conditions as of the start date below.		County Contract Number C-2017-08

TERM OF AGREEMENT: The term of this Agreement on General Terms and Conditions shall start and end on the following dates, unless terminated sooner as provided herein.

START DATE: July 1, 2017 **END DATE:** June 30, 2023

COUNTY NAME	DSHS INDEX NUMBER
Pend Oreille County	1233
COUNTY ADDRESS 105 S Garden Avenue PO Box 5025 Newport, WA 99156-5055	
COUNTY TELEPHONE (509) 447-4119	COUNTY FAX (509) 447-0595
DSHS CENTRAL CONTRACT SERVICES ADDRESS Central Contracts and Legal Services P.O. Box 45811 Olympia, WA 98504-5811	DSHS CENTRAL CONTRACT SERVICES TELEPHONE (360) 664-6055

By their signatures below, the parties agree to this Agreement on General Terms and Conditions.

COUNTY SIGNATURE(S)	DATE(S)	PRINTED NAME(S) AND TITLE(S)	TELEPHONE NUMBER (INCLUDE AREA CODE)
	4-10-17	Karen Skoog Chair – Pend Oreille Board of County Commissioners	(509) 447-4119
DSHS SIGNATURE	**DATE**	**PRINTED NAME AND TITLE**	**TELEPHONE NUMBER (INCLUDE AREA CODE)**
		Monika Vasil Chief of Contracts	(360) 664-6071

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Monika Vasil	4/13/17	Monika Vasil Chief of Contracts	(360) 664-6071

1. **Definitions.** The words and phrases listed below, as used in the Agreement, shall each have the following definitions:

a. "Agreement" means this Department of Social and Health Services and County Agreement on General Terms and Conditions and any exhibits and other documents attached or incorporated by reference. Unless plainly inconsistent with context, the term "Agreement" includes and refers to all such agreements collectively.

b. "CCLS Chief" means the individual in Central Contracts and Legal Services with oversight authority for Department of Social and Health Services statewide agency contracting procedures.

c. "Central Contracts and Legal Services (CCLS)" means the Department of Social and Health Services statewide agency headquarters contracting office, or successor section or office.

d. "CFR" means the Code of Federal Regulations. All references in this Agreement and any Program Agreement to CFR chapters or sections shall include any successor, amended, or replacement regulation.

e. "Confidential Information" means information that is exempt from disclosure to the public or other unauthorized persons under Chapter 42.56 RCW or other federal or state laws. Confidential Information includes, but is not limited to, Personal Information.

f. "County" means the political subdivision of the state of Washington named above performing services pursuant to this Agreement and any Program Agreement.

g. "County Representative" means an individual in the position of County Manager, County Administrator, County Executive, or other similar position which reports to the highest governing body responsible for the subject matter of the Agreement or applicable Program Agreement(s).

h. "Debarment" means an action taken by a federal official to exclude a person or business entity from participating in transactions involving certain federal funds.

i. "DSHS" or "the department" or "the Department" means the Department of Social and Health Services of the state of Washington.

j. "DSHS Representative" means any DSHS employee who has been delegated contract-signing authority by the DSHS Secretary or his/her designee.

k. "General Terms and Conditions" means the contractual provisions contained within this Agreement, which govern the contractual relationship between DSHS and the County, under the Program Agreements subsidiary to and incorporating therein by reference this Agreement.

l. "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, other identifying numbers, or any financial identifiers.

m. "Program Agreement" or "County Program Agreement" means a written agreement between DSHS and the County containing special terms and conditions, including a statement of work to be performed by the County and payment to be made by DSHS.

n. "RCW" means the Revised Code of Washington. All references in this Agreement and any Program Agreement to RCW chapters or sections shall include any successor, amended, or replacement statute.

o. "Secretary" means the individual appointed by the Governor, State of Washington, as the head of DSHS, or his/her designee.

p. "Subcontract" means a separate contract between the County and an individual or entity ("Subcontractor") to perform all or a portion of the duties and obligations that the County shall perform pursuant to any Program Agreement.

q. "USC" means the United States Code. All references in this Agreement and any Program Agreement to USC chapters or sections shall include any successor, amended, or replacement statute.

r. "WAC" means the Washington Administrative Code. All references in this Agreement and any Program Agreement to WAC chapters or sections shall include any successor, amended, or replacement regulation.

2. **Amendment.** This Agreement, or any term or condition thereof, may be modified only by a written amendment signed by both parties. Only personnel authorized to bind each of the parties shall sign an amendment.

3. **Assignment.** Except as otherwise provided herein in Section 21, the County shall not assign rights or obligations derived from this Agreement or any Program Agreement to a third party without the prior, written consent of the CCLS Chief and the written assumption of the County's obligations by the third party.

4. **Billing Limitations.** Unless otherwise specified in a Program Agreement, DSHS shall not pay any claims for services submitted more than twelve (12) months after the calendar month in which the services were performed.

5. **Compliance with Applicable Law.** At all times during the term of this Agreement and any Program Agreement, the County and DSHS shall comply with all applicable federal, state, and local laws, regulations, and rules, including but not limited to, nondiscrimination laws and regulations and the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

6. **Confidentiality.**

a. The parties shall not use, publish, transfer, sell or otherwise disclose any Confidential Information gained by reason of any Program Agreement for any purpose that is not directly connected with the performance of the services contemplated there under, except:

(1) As provided by law; or,

b. In the case of Personal Information, as provided by law or with the prior written consent

of the person or personal representative of the person who is the subject of the Personal Information. The parties shall protect and maintain all Confidential Information gained by reason of any Program Agreement against unauthorized use, access, disclosure, modification or loss. This duty requires the parties to employ reasonable security measures, which include restricting access to the Confidential Information by:

(1) Allowing access only to staff that have an authorized business requirement to view the Confidential Information.

(2) Physically securing any computers, documents, or other media containing the Confidential Information.

c. To the extent allowed by law, at the end of the Agreement term, or when no longer needed, the parties shall return Confidential Information or certify in writing the destruction of Confidential Information upon written request by the other party.

d. Paper documents with Confidential Information may be recycled through a contracted firm, provided the contract with the recycler specifies that the confidentiality of information will be protected, and the information destroyed through the recycling process. Paper documents containing Confidential Information requiring special handling (e.g., protected health information) must be destroyed through shredding, pulping, or incineration.

e. The compromise or potential compromise of Confidential Information must be reported to the DSHS Contact designated on the Program Agreement within five (5) business days of discovery for breaches of less than 500 persons' protected data, and three (3) business days of discovery for breaches of over 500 persons' protected data. The parties must also take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law.

7. **County Certification Regarding Ethics.** By signing this Agreement, the County certifies that the County is in compliance with Chapter 42.23 RCW and shall comply with Chapter 42.23 RCW throughout the term of this Agreement and any Program Agreement.

8. **Debarment Certification.** The County, by signature to this Agreement, certifies that the County is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement or any Program Agreement by any federal department or agency. The County also agrees to include the above requirement in all subcontracts into which it enters.

9. **Disputes.**

Both DSHS and the County ("Parties") agree to work in good faith to resolve all conflicts at the lowest level possible. However, if the Parties are not able to promptly and efficiently resolve, through direct informal contact, any dispute concerning the interpretation, application, or implementation of any section of the Agreement or applicable Program Agreement(s), either Party may reduce its description of the dispute in writing, and deliver it to the other Party for consideration. Once received, the assigned managers or designees of each Party will work to informally and amicably resolve the issue within five (5) business days. If the managers or designees are unable to come to a mutually acceptable decision within five (5) business days, they may agree to issue an extension to allow for more time.

If the dispute cannot be resolved by the managers or designees, the issue will be referred through each Agency's respective operational protocols, to the Secretary of DSHS ("Secretary") and the County Representative or their deputy or designated delegate. Both Parties will be responsible for submitting all relevant documentation, along with a short statement as to how they believe the dispute should be settled, to the Secretary and the County Representative.

Upon receipt of the referral and relevant documentation, the Secretary and County Representative will confer to consider the potential options for resolution, and to arrive at a decision within fifteen (15) business days. The Secretary and County Representative may appoint a review team, a facilitator, or both, to assist in the resolution of the dispute. If the Secretary and County Representative are unable to come to a mutually acceptable decision within fifteen (15) days, they may agree to issue an extension to allow for more time.

Both Parties agree that, the existence of a dispute notwithstanding, the Parties will continue without delay to carry out all respective responsibilities under the Agreement or applicable Program Agreement(s) that are not affected by the dispute.

The final decision will be put in writing and will be signed by both the Secretary and County Representative. If the Agreement is active at the time of resolution and amendment of the Agreement is warranted for ongoing clarity, the Parties will execute an amendment to incorporate the final decision into the Agreement. If this dispute process is used, the resolution decision will be final and binding as to the matter reviewed and the dispute shall be settled in accordance with the terms of the decision. Notwithstanding the foregoing, each Party reserves the right to litigate issues *de novo* in court.

10. **Entire Agreement.** This Agreement and any Program Agreement, including all documents attached to or incorporated by reference into either, shall contain all the terms and conditions to be agreed upon by the parties. Upon execution of any Program Agreement, this Agreement shall be considered incorporated into that Program Agreement by reference. No other understandings or representations, oral or otherwise, regarding the subject matter of this Agreement or any Program Agreement shall be deemed to exist or bind the parties.

11. **Governing Law and Venue.** The laws of the state of Washington govern this Agreement. In the event of a lawsuit by the County against DSHS involving this Agreement or a Program Agreement, venue shall be proper only in Thurston County, Washington. In the event of a lawsuit by DSHS against the County involving this Agreement or a Program Agreement, venue shall be proper only as provided in RCW 36.01.050.

12. **Responsibility.** Each party to this Agreement shall be responsible for the negligence of its officers, employees, and agents in the performance of any Program Agreement. No party to this Agreement or any Program Agreement shall be responsible for the acts and/or omissions of entities or individuals not party to this Agreement and any Program Agreement. DSHS and the County shall cooperate in the defense of tort lawsuits, when possible. Both parties agree and understand that such cooperation may not be feasible in all circumstances. DSHS and the County agree to notify the attorneys of record in any tort lawsuit where both are parties if either DSHS or the County enters into settlement negotiations. It is understood that the notice shall occur prior to any negotiations, or as soon as possible thereafter, and the notice may be either written or oral.

13. **Independent Status.** For purposes of this Agreement and any Program Agreement, the County acknowledges that the County is not an officer, employee, or agent of DSHS or the state of Washington. The County shall not hold out itself or any of its employees as, nor claim status as, an officer, employee, or agent of DSHS or the state of Washington. The County shall not claim for itself or its employees any rights, privileges, or benefits which would accrue to an employee of the state of Washington. The County shall indemnify and hold harmless DSHS from all obligations to pay or withhold federal or state taxes or contributions on behalf of the County or the County's employees.

14. **Inspection.** Either party may request reasonable access to the other party's records and place of business for the limited purpose of monitoring, auditing, and evaluating the other party's compliance with this Agreement, any Program Agreement, and applicable laws and regulations. During the term of any Program Agreement and for one (1) year following termination or expiration of the Program Agreement, the parties shall, upon receiving reasonable written notice, provide the other party with access to its place of business and to its records which are relevant to its compliance with this Agreement, any Program Agreement, and applicable laws and regulations. This provision shall not be construed to give either party access to the other party's records and place of business for any other purpose. Nothing herein shall be construed to authorize either party to possess or copy records of the other party.

15. **Insurance.** DSHS certifies that it is self-insured under the State's self-insurance liability program, as provided by RCW 4.92.130, and shall pay for losses for which it is found liable. The County certifies that it is self-insured, is a member of a risk pool, or maintains insurance coverage as required in any Program Agreements. The County shall pay for losses for which it is found liable.

16. **Maintenance of Records.**

    During the term of this Agreement and for six (6) years following termination or expiration of this Agreement, both parties shall maintain records sufficient to:

    a. Document performance of all acts required by law, regulation, or this Agreement;

    b. Demonstrate accounting procedures, practices, and records that sufficiently and properly document the County's invoices to DSHS and all expenditures made by the County to perform as required by this Agreement.

17. **Operation of General Terms and Conditions.** These General Terms and Conditions shall be incorporated by reference into each Program Agreement between the County and DSHS in effect on or after the start date of this Agreement. These General Terms and Conditions govern and apply only to work performed under Program Agreements between the parties.

18. **Order of Precedence.** In the event of an inconsistency in this Agreement and any Program Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence, in the following order, to:

    a. Applicable federal and state of Washington statutes and regulations;

    b. This Agreement;

c. The Program Agreement(s).

19. **Ownership of Material.** Material created by the County and paid for by DSHS as a part of any Program Agreement shall be owned by DSHS and shall be "work made for hire" as defined by 17 USC§ 101. This material includes, but is not limited to: books; computer programs; documents; films; pamphlets; reports; sound reproductions; studies; surveys; tapes; and/or training materials. Material which the County uses to perform a Program Agreement but is not created for or paid for by DSHS is owned by the County and is not "work made for hire"; however, DSHS shall have a perpetual license to use this material for DSHS internal purposes at no charge to DSHS, provided that such license shall be limited to the extent which the County has a right to grant such a license.

20. **Severability.** The provisions of this Agreement and any Program Agreement are severable. If any court holds invalid any provision of this Agreement or a Program Agreement, including any provision of any document incorporated herein or therein by reference, that invalidity shall not affect the other provisions this Agreement or that Program Agreement.

21. **Subcontracting.** The County may subcontract services to be provided under a Program Agreement, unless otherwise specified in that Program Agreement. If DSHS, the County, and a subcontractor of the County are found by a jury or other trier of fact to be jointly and severally liable for personal injury damages arising from any act or omission under this Agreement or any Program Agreement, then DSHS shall be responsible for its proportionate share, and the County shall be responsible for its proportionate share. Should a subcontractor to the County pursuant to a Program Agreement be unable to satisfy its joint and several liability, DSHS and the County shall share in the subcontractor's unsatisfied proportionate share in direct proportion to the respective percentage of their fault as found by the trier of fact. Nothing in this section shall be construed as creating a right or remedy of any kind or nature in any person or party other than DSHS and the County. This provision shall not apply in the event of a settlement by either DSHS or the County.

22. **Subrecipients.**

a. General. If the County is a subrecipient of federal awards as defined by 2 CFR Part 200 and this Agreement, the County will:

(1) Maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity;

(2) Maintain internal controls that provide reasonable assurance that the County is managing federal awards in compliance with laws, regulations, and provisions of contracts or grant agreements that could have a material effect on each of its federal programs;

(3) Prepare appropriate financial statements, including a schedule of expenditures of federal awards;

(4) Incorporate 2 CFR Part 200, Subpart F audit requirements into all agreements between the County and its Subcontractors who are subrecipients;

(5) Comply with the applicable requirements of 2 CFR Part 200, including any future amendments to 2 CFR Part 200, and any successor or replacement Office of Management and Budget (OMB) Circular or regulation; and

(6) Comply with the Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non-Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39.

b. Single Audit Act Compliance. If the County is a subrecipient and expends $750,000 or more in federal awards from all sources in any fiscal year, the County will procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the County will:

(1) Submit to the DSHS contact person the data collection form and reporting package specified in 2 CFR Part 200, Subpart F, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor;

(2) Follow-up and develop corrective action for all audit findings; in accordance with 2 CFR Part 200, Subpart F; prepare a "Summary Schedule of Prior Audit Findings" reporting the status of all audit findings included in the prior audit's schedule of findings and questioned costs.

c. Overpayments. If it is determined by DSHS, or during the course of a required audit, that the County has been paid unallowable costs under this or any Program Agreement, DSHS may require the County to reimburse DSHS in accordance with 2 CFR Part 200.

23. Survivability. The terms and conditions contained in this Agreement or any Program Agreement which, by their sense and context, are intended to survive the expiration of a particular Program Agreement shall survive. Surviving terms include, but are not limited to: Confidentiality (Section 6), Disputes (Section 9), Responsibility (Section 12), Inspection (Section 14), Maintenance of Records (Section 16), Ownership of Material (Section 19), Subcontracting (Section 21), Termination for Default (Section 26), Termination Procedure (Section 27), and Title to Property (Section 29).

24. Termination Due to Change in Funding, Contract Renegotiation or Suspension.

If the funds DSHS relied upon to establish any Program Agreement are withdrawn, reduced or limited, or if additional or modified conditions are placed on such funding, after the effective date of this Agreement but prior to the normal completion of any Program Agreement:

a. At DSHS's discretion, the Program Agreement may be renegotiated under the revised funding conditions.

b. Upon no less than fifteen (15) calendar days advance written notice to County, DSHS may suspend County's performance of any Program Agreement when DSHS determines that there is reasonable likelihood that the funding insufficiency may be

resolved in a timeframe that would allow the County's performance to be resumed prior to the normal completion date of the Program Agreement. For purposes of this sub-section, "written notice" may include email.

(1) During the period of suspension of performance, each party will inform the other of any conditions that may reasonably affect the potential for resumption of performance.

(2) When DSHS determines that the funding insufficiency is resolved, it will give the County written notice to resume performance. Upon the receipt of this notice, the County will provide written notice to DSHS informing DSHS whether it can resume performance and, if so, the date of resumption.

(3) If the County's proposed resumption date is not acceptable to DSHS and an acceptable date cannot be negotiated, DSHS may terminate the Program Agreement by giving written notice to the County. The parties agree that the Program Agreement will be terminated retroactive to the effective date of suspension. DSHS shall be liable only for payment in accordance with the terms of the Program Agreement for services rendered through the retroactive date of termination.

c. DSHS may terminate the Program Agreement by providing at least fifteen (15) calendar days advance written notice to the County. DSHS shall be liable only for payment in accordance with the terms of the Program Agreement for services rendered through the effective date of termination. No penalty shall accrue to DSHS in the event the termination option in this section is exercised.

25. Termination for Convenience. The CCLS Chief may terminate this Agreement or any Program Agreement in whole or in part for convenience by giving the County at least thirty (30) calendar days' written notice addressed to the County at the address shown on the cover page of the applicable agreement. The County may terminate this Agreement and any Program Agreement for convenience by giving DSHS at least thirty (30) calendar days' written notice addressed to: Central Contracts and Legal Services, PO Box 45811, Olympia, Washington 98504-5811.

26. Termination for Default.

a. The CCLS Chief may terminate this Agreement or any Program Agreement for default, in whole or in part, by written notice to the County, if DSHS has a reasonable basis to believe that the County has:

(1) Failed to meet or maintain any requirement for contracting with DSHS;

(2) Failed to perform under any provision of this Agreement or any Program Agreement;

(3) Violated any law, regulation, rule, or ordinance applicable to this Agreement or any Program Agreement; or

(4) Otherwise breached any provision or condition of this Agreement or any Program Agreement.

b. Before the CCLS Chief may terminate this Agreement or any Program Agreement for default, DSHS shall provide the County with written notice of the County's noncompliance with the agreement and provide the County a reasonable opportunity to correct the County's noncompliance. If the County does not correct the County's noncompliance within the period of time specified in the written notice of noncompliance, the CCLS Chief may then terminate the agreement. The CCLS Chief may terminate the agreement for default without such written notice and without opportunity for correction if DSHS has a reasonable basis to believe that a Client's health or safety is in jeopardy.

c. The County may terminate this Agreement or any Program Agreement for default, in whole or in part, by written notice to DSHS, if the County has a reasonable basis to believe that DSHS has:

(1) Failed to meet or maintain any requirement for contracting with the County;

(2) Failed to perform under any provision of this Agreement or any Program Agreement;

(3) Violated any law, regulation, rule, or ordinance applicable to this Agreement or any Program Agreement; and/or

(4) Otherwise breached any provision or condition of this Agreement or any Program Agreement.

d. Before the County may terminate this Agreement or any Program Agreement for default, the County shall provide DSHS with written notice of DSHS' noncompliance with the agreement and provide DSHS a reasonable opportunity to correct DSHS' noncompliance. If DSHS does not correct DSHS' noncompliance within the period of time specified in the written notice of noncompliance, the County may then terminate the agreement.

27. Termination Procedure. The following provisions apply in the event this Agreement or any Program Agreement is terminated:

a. The County shall cease to perform any services required by the Program Agreement as of the effective date of termination and shall comply with all reasonable instructions contained in the notice of termination which are related to the transfer of clients, distribution of property, and termination of services.

b. The County shall promptly deliver to the DSHS contact person (or to his or her successor) listed on the first page of the Program Agreement, all DSHS assets (property) in the County's possession, including any material created under the Program Agreement. Upon failure to return DSHS property within fifteen (15) working days of the Program Agreement termination, the County shall be charged with all reasonable costs of recovery, including transportation. The County shall take reasonable steps to protect and preserve any property of DSHS that is in the possession of the County pending return to DSHS.

c. DSHS shall be liable for and shall pay for only those services authorized and provided through the effective date of termination. DSHS may pay an amount mutually agreed by the parties for partially completed work and services, if work products are useful to or

usable by DSHS.

d. If the CCLS Chief terminates any Program Agreement for default, DSHS may withhold a sum from the final payment to the County that DSHS determines is necessary to protect DSHS against loss or additional liability occasioned by the alleged default. DSHS shall be entitled to all remedies available at law, in equity, or under the Program Agreement. If it is later determined that the County was not in default, or if the County terminated the Program Agreement for default, the County shall be entitled to all remedies available at law, in equity, or under the Program Agreement.

28. **Treatment of Client Property.** Unless otherwise provided in the applicable Program Agreement, the County shall ensure that any adult client receiving services from the County under a Program Agreement has unrestricted access to the client's personal property. The County shall not interfere with any adult client's ownership, possession, or use of the client's property. The County shall provide clients under age eighteen (18) with reasonable access to their personal property that is appropriate to the client's age, development, and needs. Upon termination or completion of the Program Agreement, the County shall promptly release to the client and/or the client's guardian or custodian all of the client's personal property. This section does not prohibit the County from implementing such lawful and reasonable policies, procedures and practices as the County deems necessary for safe, appropriate, and effective service delivery (for example, appropriately restricting clients' access to, or possession or use of, lawful or unlawful weapons and drugs).

29. **Title to Property.** Title to all property purchased or furnished by DSHS for use by the County during the term of a Program Agreement shall remain with DSHS. Title to all property purchased or furnished by the County for which the County is entitled to reimbursement by DSHS under a Program Agreement shall pass to and vest in DSHS. The County shall take reasonable steps to protect and maintain all DSHS property in its possession against loss or damage and shall return DSHS property to DSHS upon termination or expiration of the Program Agreement pursuant to which it was purchased or furnished, reasonable wear and tear excepted.

30. **Waiver.** Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. No waiver shall be construed to be a modification of the terms and conditions of this Agreement unless amended as set forth in Section 2, Amendment. Only the CCLS Chief or designee has the authority to waive any term or condition of this Agreement on behalf of DSHS.