

INTERAGENCY AGREEMENT  
BETWEEN  
STATE OF WASHINGTON DEPARTMENT OF LABOR & INDUSTRIES  
AND  
EMPLOYMENT SECURITY DEPARTMENT (ESD)

This Agreement is made and entered into by and between the Department of Labor & Industries, hereinafter referred to as L&I, and the

Employment Security Department (ESD)  
P.O. Box 9046  
212 Maple Park  
Olympia WA 98507-9046

Telephone: (360) 902-9728  
Facsimile: (360) 902-9315  
E-mail: [rmacs@esd.wa.gov](mailto:rmacs@esd.wa.gov)

hereinafter referred to as the Contractor or ESD.

PURPOSE

It is the purpose of this Agreement to loan ESD \$1.5 million from L&I's Supplemental Pension Account to pay for start-up administrative costs associated with the design, construction and implementation of a new Family Leave Insurance database system.

**THEREFORE, IT IS MUTUALLY AGREED THAT:**

STATEMENT OF WORK

ESD shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or associated with the planning, design, construction and implementation of a new Family Leave Insurance program. ESD will purchase FTEs and the associated standard FTE costs, software, hardware, contract programming, project oversight, and quality assurance.

PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance of this Agreement shall commence on December 14, 2007 and be completed on August 31, 2008, unless terminated sooner as provided herein.

PAYMENT

Funding for the work provided in accordance with this Agreement has been established under the terms of RCW 39.34.130. The parties have estimated that the amount of the loan will not exceed \$1.5 million.

L&I shall loan ESD \$1.5 million from L&I's Supplemental Pension Account. ESD will provide L&I an invoice (A-19) by the 15<sup>th</sup> of each month (except for December 2007 which will be provided immediately). Upon receipt of properly completed, timely A-19, L&I will transfer the funds from the Supplemental Pension Fund to the Family Leave Insurance Account using a journal voucher by the end of each month.

ESD will repay the Supplemental Pension Fund plus interest. This payment must come from the Family Leave Insurance Account appropriated to ESD and paid prior to August 31, 2008. The interest owed will be based on a monthly floating rate that is based on the previous monthly return on the supplemental pension account.

ESD shall maintain all actual disbursement records with the proper audit trail. L&I will maintain records of the loan disbursement and acceptance of loan payments.

### FUNDING CONTINGENCY

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 normal completion, L&I may;

- Terminate this Agreement without advance notice subject to renegotiation under those new funding limitations and conditions or
- After a review of project expenditures and deliverable status, extend the end date of the Agreement and postpone work.

### RECORDS MAINTENANCE

Each party shall maintain books, records, documents and other evidence, which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the services described herein. These records shall be subject to inspection, review, or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access to and the right to examine any of these materials during this period.

Records and other documents, in any medium furnished by one party to this Agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

### RIGHTS IN DATA

The State of Washington shall be the copyright owner for all purposes under Title 17 U.S.C., of all data which originates from this Agreement. Data shall include, but not be limited to reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to use, copyright, patent, register and the ability to transfer these rights.

### INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

### AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement 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.

### TERMINATION

Either party may terminate this Agreement upon 30 days prior written notification to the other party. If this Agreement is so terminated, the terminating party shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement rendered prior to the effective date of termination.

### TERMINATION FOR CAUSE

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If the failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

### DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a dispute board in the following manner: Each party to this Agreement shall appoint a member to the dispute board. The members so appointed shall jointly appoint an additional member to the dispute board. The dispute board shall evaluate the facts, contract terms and applicable statutes and rules and make a determination of the dispute. The determination of the dispute board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

### MEMO OF UNDERSTANDING (MOU)

Any instructions that either Contract Manager determines to address more than day-to-day concerns, but do not modify the terms of this contract, shall be documented by a written, numbered *Memo of Understanding*.

### GOVERNANCE

This contract is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws.

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

1. Applicable state and federal statutes and rules;
2. *Statement of Work*; and
3. Any other provisions of the Agreement, including materials incorporated by reference.

### ASSIGNMENT

The work to be provided under this Agreement, 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.

### WAIVER

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

### ASSURANCES

The parties agree that all activity pursuant to this Agreement will be in accordance with all the applicable current or future federal, state and local laws, rules, and regulations.

### SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

CONFIDENTIALITY

Each party agrees not to divulge, publish or otherwise make known to unauthorized persons confidential information accessed under this Agreement. ESD and L&I agree that all materials containing confidential information received pursuant to this Agreement, including, but not limited to information derived from or containing patient records, claimant file and medical case management report information, relations with clients and agency employees, and any other information which may be classified as confidential, shall not be disclosed to other persons without consent except as may be required by law.

ESD and L&I agree to utilize reasonable security procedures and protections designed to assure that confidential information is not disclosed to persons other than staff who also agree to such confidentiality requirements. ESD and L&I shall include such requirements of confidentiality for all staff that have access to the confidential data pursuant to this Agreement.

CONTRACT MANAGEMENT

The contract manager for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement.


The Contract Manager for the ESD is:	The Contract Manager for L&I is:
Rosie Macs Department of Employment Security P.O. Box 9046 212 Maple Park Olympia WA 98507-9046 Phone: (360) 902-9728 FAX: (360) 902-9315 E-mail: <a href="mailto:rmacs@esd.wa.gov">rmacs@esd.wa.gov</a>	Chris Freed Department of Labor & Industries PO Box 44830 Olympia WA 98504-4830 Phone: (360) 902-6698 FAX: (360) 902-6990 E-Mail: <a href="mailto:frch235@lni.wa.gov">frch235@lni.wa.gov</a>

ALL WRITINGS CONTAINED HEREIN

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

IN WITNESS WHEREOF, the parties have executed this Agreement.

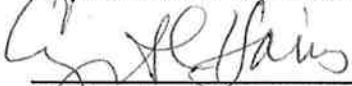
State of Washington  
Employment Security Department (ESD)

 1/3/08

Joel Sacks (Date)  
Assistant Commissioner

916001099 SWV0021657  
(Federal Identification Number)

State of Washington  
Department of Labor & Industries

 1/7/08

Cynthia Harris (Date)  
Assistant Director

916001069  
(Federal Identification Number)