

**MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF HUMAN
SERVICES AND THE STATE PUBLIC DEFENDER CONCERNING FEDERAL
REIMBURSEMENT PURSUANT TO TITLE IV-E OF THE SOCIAL SECURITY ACT**

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SECTION 1. IDENTITY OF THE PARTIES

1. **The Office of the State Public Defender (SPD)** is established under Iowa Code chapter 13B. SPD's address is Lucas State Office Building, Fourth Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083.
2. **The State of Iowa, Department of Human Services (DHS)** is established under Iowa Code and is the IV-E Single State Agency. DHS's address is: Hoover State Office Building, 1305 East Walnut Street, Des Moines, IA 50319.

SECTION 2. DURATION

1. The term of this agreement shall begin effective on the date specified in the DHS federal Cost Allocation Plan and contingent upon approval of the plan. This agreement will remain in effect for not more than six (6) years from the date of execution unless terminated in accordance with the Termination section of this agreement. The agreement may be amended at any time during the duration of the agreement by mutual agreement of the DHS Director and the Iowa State Public Defender.
2. The SPD may submit retroactive claims for services provided on or after the effective date of this agreement to the extent allowed by law.

SECTION 3. PURPOSE

1. The purpose of this Agreement is to promote high quality legal representation for parents and children at all stages of child welfare proceedings. To achieve this purpose, this Agreement establishes the relationship through which DHS, as the IV-E Single State Agency for Iowa, will claim Federal financial participation (FFP) on behalf of SPD for said legal representation for children and parents in dependency and termination cases pursuant to Title IV-E.

SECTION 4. STATUTORY AUTHORITY

1. SPD shall provide legal services to children and parents in accordance with Iowa Code §§ 13B, 815, and 232.
2. Federal law and regulations provide for the partial reimbursement of allowable costs for cases regarding children who meet the eligibility criteria of Title IV-E of the Social Security Act. 42 U.S.C. § 674(a)(3); 45 CFR § 1356.60(c). The provision of legal services for parents and children in dependency and termination cases involving IV-E eligible children is an allowable cost under federal law and regulations.

SECTION 5. RESPONSIBILITIES OF THE STATE PUBLIC DEFENDER

1. The SPD shall coordinate the provision of representation to all indigent parents and children in juvenile proceedings pursuant to Iowa Code §§ 13B, 815, and 232. The representation provided by the SPD is limited to independent legal representation by an attorney for a child and/or parent for children preparing for, and participating in, all stages of foster care legal proceedings. This includes costs for pre-petition representation for parents and/or children. Attorneys for parents and children will provide independent representation of their clients consistent with their ethical obligations.

2. SPD shall keep an accurate record of the costs associated with providing representation in dependency and termination cases. These costs may include salary, benefits, and overhead costs of a public defender, the costs of contract attorneys, the costs of other retained professionals, and other costs associated with providing representation in dependency and termination cases.
3. The SPD shall, by the 10th calendar day following the end of each quarter submit to DHS a summary of those costs for which FFP is claimed in a format acceptable to DHS. Quarterly cost summaries shall include SPD's or its financial officer's certification that the costs are allocable and allowable under all applicable federal regulations. This certification shall be submitted each quarter and accompany quarterly cost reports. Each certification shall be in a format agreeable to the parties. Any indirect costs for which FFP is claimed must be supported by a federally approved cost agreement.
4. SPD shall retain records that support or document the costs claimed and those records shall be made available to the DHS, AOS, and/or federal authorities upon request.
5. SPD, and their personnel, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, and orders when performing the services under this agreement, including, without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as subcontractors or suppliers.

SECTION 6. RESPONSIBILITIES OF DHS

1. DHS shall determine the statewide eligibility rate or penetration rate for IV-E funding for children involved in dependency and termination proceedings.
2. DHS shall review the SPD summary of costs for which FFP is claimed costs at the end of each quarter, and shall timely claim the applicable FFP. This applicable FFP will be determined in accordance with the DHS federal Cost Allocation Plan.
3. DHS shall, within 10 business days of receipt of an accurate and DHS approved summary of costs for which SPD is claiming FFP, transfer claimed FFP funds to SPD.
4. DHS shall provide information to SPD to assist SPD in resolving discrepancies between FFP anticipated by SPD and actual FFP transferred to SPD.
5. DHS, and their personnel, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, and orders when performing the services under this agreement, including, without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as subcontractors or suppliers.

SECTION 7. CONFIDENTIALITY

1. Confidentiality. Records or information of the parties that identifies clients and services is confidential in nature. The parties and their employees, agents, and subcontractors shall be allowed access to such information only as needed for performance of their duties related to the Agreement. No party shall use confidential information for any

purpose other than carrying out the purpose under this Agreement. Each party shall establish and enforce policies and procedures for safeguarding the confidentiality of such data.

2. Compliance with the Health Insurance Portability and Accountability Act of 1996, as amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) (the "HITECH Act") and the federal regulations published at 45 CFR parts 160 and 164 (collectively "HIPAA") shall be maintained by all parties to this agreement.

SECTION 8. TERMINATIONS AND ISSUE RESOLUTION

1. Termination due to lack of funds or change in law. Either party may terminate this agreement, without penalty or incurring of further obligation, upon 60 days' written notice as a result of any of the following conditions:
 - a. Adequate funds are not appropriated or granted to allow DHS or SPD to operate as required or to fulfill its obligations under this agreement;
 - b. Funds are de-appropriated or not allocated;
 - c. The DHS or SPD authorization to operate is withdrawn or there is a material alteration in the programs administered;
 - d. DHS or SPD duties are substantially modified.
2. Termination in whole or in part for cause. The occurrence of any one or more of the following events shall constitute cause for either party to declare the other party in default of its obligations under this agreement and to seek termination:
 - a. The party fails to perform any material requirement under this agreement or in violation of a material provision of this agreement, including, but without limitation, the express warranties;
 - b. The party has failed to comply with applicable federal, state, and local laws, rules, ordinances, regulations, and orders when performing within the scope of this agreement;
 - c. The party fails to comply with any applicable provision of Iowa Code chapter 8F.
3. Issue resolution. If an issue arises under this agreement, the Party's appropriate Point of Contract (POC) shall work together to timely resolve the issue. If the issue relates to the main agreement, the Party's POC for the main agreement shall work together to timely resolve the issue.
 - a. If the POC cannot resolve the issue in a timely manner, SPD's First Assistant and DHS' ACFS Division Administrator and/or Chief Financial Officer shall work together to timely resolve the issue.
 - b. If the Parties cannot resolve the issue in a timely manner, the SPD and DHS' Director shall work together to resolve the issue in a timely manner.
 - c. If the Directors cannot resolve the issue in a timely manner, the Parties shall attempt to resolve the issue by engaging in mediation with a mutually agreed-upon mediator. Each Party shall bear 50 percent (50%) of the costs of such mediation.
 - d. If the Parties cannot resolve the issue or concern during mediation, the Parties shall submit the issue to binding arbitration by a board of arbitration as provided for in Iowa Code section 679A.19. Each Party shall bear 50% of the costs of such arbitration.

SECTION 9. ACCOUNTABILITY

1. The parties shall jointly and regularly evaluate the achievement of the outcomes under this Agreement and shall make appropriate and mutually agreed upon process improvements.
2. SPD and DHS shall work together to maximize allocable and allowable federal IV-E reimbursement to SPD.

SECTION 10. Repayment Obligation

1. Erroneous Payments and Credits. SPD shall promptly repay or refund the full amount of any overpayment or erroneous payment within ten (10) Business Days after either discovery by SPD or notification by DHS of the overpayment or erroneous payment.
2. Disallowance. In the event that any federal funds are deferred and/or disallowed as a result of any audits or expended in violation of the laws applicable to the expenditure of such funds, SPD shall be liable to DHS for the full amount of any claim disallowed and for all related penalties incurred. The requirements of this paragraph shall apply to SPD as well as any subcontractors contract attorneys and/or other retained professionals.

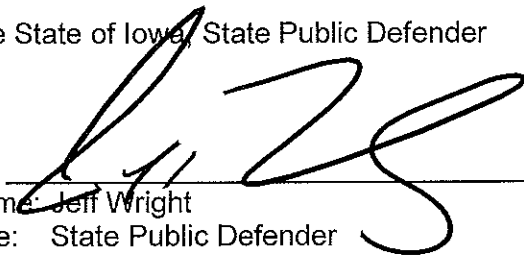
SECTION 11. ADMINISTRATION

1. Notice. Any and all notices, designations, consents, offers, acceptances, or any other communication provided for herein shall be addressed to each party as set forth as follows:
If to DHS: Iowa Department of Human Services
Division Administrator, Adult, Child and Family Services
Hoover State Office Building
1305 East Walnut Street, Des Moines, IA 50319-0114
If to SPD: Iowa State Public Defender
Lucas State Office Building
321 East 12th Street, Des Moines, IA 50319-0083
2. Agreement Managers. For DHS, the designated Agreement Manager is Kara Lynn Regula, Bureau of Child Welfare and Community Services, 515-281-8977, kregula@dhs.state.ia.us.
For SPD, the designated Agreement Manager is Jeff Wright, State Public Defender, 515-242-6158, jwright@spd.state.ia.us.
3. Amendments. This agreement may be amended in writing from time to time by mutual consent of the parties. All amendments to this agreement must be fully executed by both parties.

SECTION 12. EXECUTION

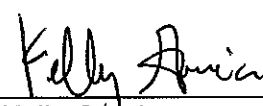
IN WITNESS WHEREOF, in consideration of the mutual covenants set forth above the parties have entered into this agreement and have caused their duly authorized representatives to execute this agreement.

The State of Iowa, State Public Defender

By: 
Name: Jeff Wright
Title: State Public Defender

Date: 2-19-2020

The State of Iowa, Department of Human Services

By: 
Name: Kelly Garcia
Title: Director

Date: 2/23/20