

**INTERLOCAL AGREEMENT
Agreement No. 20200262**

between

OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION

Old Capitol Building, P.O. Box 47200
Olympia, WA 98504-7200

and

NORTHWEST EDUCATIONAL SERVICE DISTRICT 189

1601 R Avenue
Anacortes, WA 98221

Federal Identification 91-0868056
Unified Business Identifier #600-253-146

THIS AGREEMENT is made and entered into by and between the Northwest Educational Service District 189, hereinafter referred to as "NWESD 189" and the Office of Superintendent of Public Instruction, hereinafter referred to as "OSPI."

PURPOSE OF THIS AGREEMENT

This Agreement is necessary for the successful implementation and operation of a Migrant NWESD 189 SPOT instrument-based vision screening device lending library to support districts with mitigating the risk of under-diagnosis and under-treatment of vision problems for migrant students.

THEREFORE, IT IS MUTUALLY AGREED THAT:

BACKGROUND

RCW 28A.210.020 requires Washington school districts to screen students in grades one, two, three, five, and seven "for the visual and auditory acuity of all children attending schools in their districts to ascertain which if any of such children have defects sufficient to retard them in their studies." However, due to the nature of the mobile lifestyle of migrant students and their families, not all students may be screened within the required period. Washington State WAC 246-760-071 supports the use of instrument-based screening devices in lieu to the optotype-based tools.

To support this objective, OSPI has procured a vendor to provide instrument-based screening devices to be used as a lending library and loaned out to school districts within NWESD 189's region. The creation of an instrument-based vision screening lending library at NWESD 189 would support districts with mitigating the risk of under-diagnosis, under-treatment of vision problems, and diminishing barriers to academic success for migrant students. With direct collaboration with OSPI's School Nursing Corps, these devices shall only be used in the years not required by the state in grades four, six, eight, nine, ten, eleven, and twelve, including migrant eligible out-of-school youth.

OBJECTIVES

NWESD 189 will be provided with two (2) SPOT Vision Screener packages including the following:

- SPOT Vision Screener
- Wrist Strap
- Carrying Case with protective foam insert
- Power Supply and Cords
- On-site Training and Train-the-Trainer with Certification
- Training Manuals
- Welch Allyn five (5) year extended SPOT warranty including battery replacement and drop protection

Throughout the term of this Agreement, and as long as the equipment is in possession of NWESD 189, NWESD 189 shall be responsible for caring for and protecting the equipment from being lost or stolen, in accordance with OSPI's High Value Assets Form, which is attached hereto as Attachment A. Accordingly, NWESD 189 shall sign Attachment A and the Equipment Loan Agreement, attached hereto as Attachment B, and return both forms to the Contract Manager. Annually, NWESD 189 shall submit a picture of the two (2) SPOT Vision Screener packages with the state tag number verifying possession of the state's equipment no later than June 30. Failure to locate an item during the annual inventory process due to negligence may result in monetary responsibility to the NWESD 189. Additionally, NWESD 189 shall notify the Contract Manager immediately if any item becomes lost or misplaced.

Upon termination of this Agreement, NWESD 189 shall return equipment to OSPI in accordance with the Termination Procedure provision.

TERM

Subject to its other provisions, the term of this Agreement shall commence on September 1, 2019, regardless of the date of execution, and shall remain continuous, pending annual re-verification of equipment, until either party terminates under the Termination provision.

PAYMENT

This is a non-financial Agreement. In no event shall either party seek compensation for work performed under this Agreement.

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.

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.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND INELIGIBILITY

NWESD 189 certifies that neither it nor its principals are debarred, suspended, proposed for debarment, or voluntarily excluded from participation in transactions by any federal department or agency. NWESD 189 further certifies that they will ensure that potential subcontractors or subrecipients or any of their principals are not debarred, suspended, proposed for debarment, or voluntarily excluded from participation in covered transactions by any federal department or agency. NWESD 189 may do so by obtaining a certification statement from the potential subcontractor or subrecipient or by checking the "List of Parties Excluded from Federal Procurement and Non-Procurement Programs" provided on-line by the General Services Administration, and Washington State vendor debarment list.

CONTRACT MANAGEMENT

The following shall be the contact person for all communications and billings regarding the performance of this Agreement.

NWESD 189	OSPI
Lynnette Ondeck School Nurse Corps Administrator 1601 R Avenue Anacortes, WA 98221 Phone: (360) 299-4013 Email: londeck@nwesd.org	Armando Isais-Garcia Migrant Education Health Program Supervisor Old Capitol Building, P.O. Box 47200 Olympia, WA 98504-7200 Phone: (360) 725-6159 Email: Armando.Isais-Garcia@k12.wa.us

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 one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review 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.

GOVERNANCE

This Agreement 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:

- Applicable state and federal statutes and rules
- Statement of work
- Attachment A – High Value Assets Form

- Attachment B – Equipment Loan Agreement
- Any other provisions of the Agreement, including materials incorporated by reference.

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.

RESPONSIBILITIES OF THE PARTIES

Each party to this Agreement hereby assumes responsibility for claims and/or damages to persons and/or property resulting from any act or omission on the part of itself, its employees, its officers, and its agents. Neither party assumes any responsibility to the other party for the consequences of any claim, act or omission of any person, agency, firm, or corporation not a party to this Agreement.

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.

SUBCONTRACTING

Neither NWESD 189 nor any subcontractor shall enter into subcontracts for any of the work contemplated under this Contract without obtaining prior written approval of OSPI. NWESD 189 is responsible to ensure that all terms, conditions, assurances and certifications set forth in this Agreement are included in any and all subcontracts. In no event shall the existence of the subcontract operate to release or reduce liability of NWESD 189 to OSPI for any breach in the performance of NWESD 189 duties. This clause does not include contracts of employment between NWESD 189 and personnel assigned to work under this Agreement.

If, at any time during the progress of the work, OSPI determines in its sole judgment that any subcontractor is incompetent, OSPI shall notify NWESD 189, and NWESD 189 shall take immediate steps to terminate the subcontractor's involvement in the work. The rejection or approval by OSPI of any subcontractor or the termination of a subcontractor shall not relieve NWESD 189 of any of its responsibilities under the Agreement, nor be the basis for additional charges to OSPI.

TERMINATION

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

TERMINATION DUE TO FUNDING LIMITATIONS OR CONTRACT RENEGOTIATION, SUSPENSION

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to normal completion of this Agreement, with the notice specified below and without liability for damages:

- a. At OSPI's discretion, OSPI may give written notice of intent to renegotiate the Agreement under the revised funding conditions.
- b. At OSPI's discretion, OSPI may give written notice to NWESD 189 to suspend performance when OSPI determines there is reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow NWESD 189's performance to be resumed.
 - 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 OSPI determines that the funding insufficiency is resolved, it will give NWESD 189 written notice to resume performance, and NWESD 189 shall resume performance.
 - 3) Upon the receipt of notice under b. (2), if NWESD 189 is unable to resume performance of this Agreement or if NWESD 189's proposed resumption date is not acceptable to OSPI and an acceptable date cannot be negotiated, OSPI may terminate the Agreement by giving written notice to NWESD 189. The parties agree that the Agreement will be terminated retroactive to the date of the notice of suspension. OSPI shall be liable only for payment in accordance with the terms of this Agreement for services rendered prior to the retroactive date of termination.
- c. OSPI may immediately terminate this Agreement by providing written notice to NWESD 189. The termination shall be effective on the date specified in the termination notice. OSPI shall be liable only for payment in accordance with the terms of this Agreement for services rendered prior to the effective date of termination. No penalty shall accrue to OSPI in the event the termination option in this section is exercised.
- d. For purposes of this section, "written notice" may include email.

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 fifteen (15) working days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

TERMINATION PROCEDURE

Upon termination of this Agreement, OSPI, in addition to other rights provided in this Agreement, will require NWESD 189 to deliver to OSPI any property specifically produced or acquired for the performance of such part of this Agreement as has been terminated.

OSPI shall pay to NWESD 189 the agreed upon price, if separately stated, for completed work and services accepted by OSPI and the amount agreed upon by NWESD 189 and OSPI for (a) completed work and services for which no separate price is stated, (b) partially completed work and services, (c) other property or services which are accepted by OSPI, and (d) the protection and preservation of the property, unless the termination is for cause, in which case OSPI shall determine the extent of the liability. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause for this Agreement. OSPI may withhold from any amounts due to NWESD 189 such sum as OSPI determines to be necessary to protect OSPI against potential loss or liability.

The rights and remedies of OSPI provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law under this Agreement.

After receipt of a notice of termination, and except as otherwise directed by OSPI, NWESD 189 shall:

- a. Stop work under this Agreement on the date and to the extent specified, in the notice;
- b. Place no further orders or subcontractors for materials, services or facilities except as may be necessary for completion of such portion of the work under the Agreement that is not terminated;
- c. Assign to OSPI, in the manner, at the times, and to the extent directed by OSPI, all rights, title, and interest of NWESD 189 under the orders and subcontracts in which case OSPI has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- d. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of OSPI to the extent OSPI may require, which approval or ratification shall be final for all the purposes of this clause;
- e. Transfer title to OSPI and deliver, in the manner, at the times and to the extent as directed by OSPI, any property which, if the Agreement had been completed, would have been required to be furnished to OSPI;
- f. Complete performance of such part of the work not terminated by OSPI; and
- g. Take such action as may be necessary, or as OSPI may direct, for the protection and preservation of the property related to this Agreement which, in is in the possession of NWESD 189 and in which OSPI has or may acquire an interest.

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.


ALL WRITINGS CONTAINED HEREIN

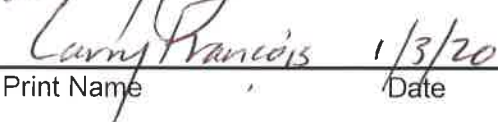
This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement.

Northwest Educational Service District 189

Superintendent of Public Instruction
State of Washington



Signature Title


Print Name Date



Kyla L. Moore, Contracts Administrator



Date

Who certifies that he/she is the entity identified herein, OR a person duly qualified and authorized to bind the entity so identified to the foregoing Agreement.

Approved as to FORM ONLY
by the Assistant Attorney General

ATTACHMENT A – HIGH VALUE ASSETS FORM

I certify that I have received **C071443** Tag Number, **(21) 35361** Serial Number, and **C071444** Tag Number, **(21) 35320** Serial Number, and I understand that I am responsible for this equipment and any change in the status of ownership must be coordinated with the Contract Manager. I also understand that if I am unable to locate this equipment during the annual inventory process, I will be held financially liable for the replacement.

Signature: 
Printed Name: Larry Francois
Date: 1/3/20

EQUIPMENT LOAN AGREEMENT

NAME Larry Francois	OFFICE Northwest Educational Service District	TELEPHONE 360 299-4003	ORDER DATE 9/1/19
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REQUEST USE DATE(S)	
FROM: 9/1/19	
TO: 6/30 annually	Due Back

NOTE:

It is essential that equipment be returned by "Due Back" date.

EQUIPMENT	NO. OF ITEMS	SERIAL NO.	STATE TAG NO.	EQUIPMENT	NO. OF ITEMS	SERIAL NO.	STATE TAG NO.
SPOT Package #1	5	(21) 35361	C071443				
SPOT Package #2	5	(21) 35320	C071444				

THE BORROWER ASSUMES FULL RESPONSIBILITY FOR LOSS OR DAMAGE BEYOND NORMAL WEAR - PLEASE READ AGREEMENT ON REVERSE SIDE

CHECKED OUT TO: _____
Signature of Person Picking up Equipment Date

RETURNED BY: _____
Signature of Person Returning Equipment Date

REPAIRS NEEDED: _____

BY **Armando Isais-Garcia** **9/1/19**
Section Head

BY **9/3/20**
Section Head

REPAIRS COMPLETED: _____

Copy distribution: Copy to Section
Copy to Borrower