

**DVR Service Provider Agreement
Terms and Conditions**

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DVR Service Provider Agreement Terms and Conditions

These terms and conditions apply to the DVR Service Provider Agreement (Agreement) entered into by the State of Wisconsin, Department of Workforce Development, Division of Vocational Rehabilitation (DVR), and the Service Provider (Service Provider) named in the Service Provider Agreement Signature Form (collectively the parties).

1. Services

Statewide rehabilitation services include: Customized Employment, Internship/Temporary Work (I/TW), Individualized Placement and Support (IPS), Job and Task Analysis and Systematic Instruction, Job Preparation, Development, Placement, and Retention, Job Shadow, Student Work Based Learning Services, Supported Employment, Vocational Evaluation, and Work Incentive Benefits Services. The Service Provider may only provide the rehabilitation services identified in the Agreement to DVR consumers. Additionally, the Service Provider may only provide these services within the counties identified in the Agreement.

All Statewide services must be provided according to the DVR Technical Specifications, (see [DVR Technical Specifications & Sample Reports](#)). The Service Provider is responsible for training all personnel on the DVR Technical Specifications and providing services in accordance with the most current DVR Technical Specifications. DVR will notify the Service Provider via email if it makes updates to the DVR Technical Specifications during the term of the Agreement.

DVR staff will work with individual DVR consumers to select the services and service provider that best meets the needs of the DVR consumer. After making these selections, DVR staff will refer the DVR consumer to the selected service provider and issue a purchase order to the selected service provider in the DVR Service Provider Portal System. Service providers are required to contact the consumer for whom services have been authorized within five (5) days of the receipt of the purchase order. **The Service Provider shall not provide any services to a DVR consumer under this Agreement prior to receiving a purchase order for the requested services.** DVR is not required to pay the Service Provider for any services it provides to DVR consumers prior DVR issuing a purchase order for such services.

Services provided under this Agreement must be consistent with the consumer's interests, employment goals, conditions of employment (i.e., consumer's days and hours of work, job description and duties, work location and environment), service needs identified through the DVR referral information and purchase order(s). Additionally, employment, whether through an Internship/Temporary Work and/or permanent employment, must be in an integrated community work site with wages that are commensurate with those paid to others performing the same or similar work.

DVR cannot and does not guarantee that the Service Provider will receive any referrals or purchase orders under this Agreement.

The Service Provider is responsible for providing all equipment necessary for providing the requested services to DVR consumers; including, but not limited to, office equipment (e.g., telephones, supplies, etc.), insurance, advertising and promotional materials, utilities, etc.

2. Independent Contractor

The parties agree that the Service Provider, its officers, agents, and employees, in the performance of this Agreement shall act in the capacity of an independent contractor and not as an officer, employee, or agent of the state. The Service Provider will provide its federal tax classification in the DVR Service Provider Portal System to demonstrate that it is an independent business entity (e.g., individual/sole proprietorship, single-member LLC, C Corporation, S Corporation, etc.). The Service

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Provider agrees to take such steps as may be necessary to ensure that each subcontractor of the Service Provider will be deemed an independent contractor and will not be considered an agent, servant, joint venture, or partner of the state.

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3. State and Federal Terms and Conditions

3.1. Applicable Law and Compliance

This Agreement shall be governed under the laws of the State of Wisconsin. The Service Provider shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this Agreement and which in any manner affect the work or its conduct. The State of Wisconsin reserves the right to cancel this Agreement if the Service Provider fails to follow the requirements of s. 77.66, Wis. Stats., and related statutes regarding certification for collection of sales and use tax. The State of Wisconsin also reserves the right to cancel this Agreement with any federally debarred Service Provider or a Service Provider that is presently identified on the list of parties excluded from federal procurement and non-procurement contracts.

3.2. Nondiscrimination/Affirmative Action

In connection with the performance of work under this Agreement, the Service Provider agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, disability, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Stats., sexual orientation as defined in s. 111.32(13m), Wis. Stats., or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Service Provider further agrees to take affirmative action to ensure equal employment opportunities.

- a. The Service Provider agrees to post in conspicuous places, available for employees and applicants for employment, a notice provided by the contracting state agency that sets forth the provisions of the State of Wisconsin's nondiscrimination law.
- b. Failure to comply with the conditions of this clause may result in the Service Provider becoming declared an "ineligible" Service Provider, termination of the Agreement, or withholding of payment.
- c. Pursuant to 2019 Wisconsin Executive Order 1, Service Provider agrees it will hire only on the basis of merit and will not discriminate against any persons performing a contract, subcontract, or grant because of military or veteran status, gender identity or expression, marital or familial status, genetic information, or political affiliation.

3.3. Civil Rights Compliance

The Service Provider agrees to comply with state and federal law applicable to the services covered by this Agreement, including the requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975, Title II of the Americans with Disabilities Act (42 U.S.C. § 12132), Title VI of the Civil Rights Act of 1964, and their respective implementing regulations.

The Service Provider also agrees that all services provided under this Agreement meet the conditions required under state and federal civil rights compliance requirements, including Section 188 of the Workforce Opportunity and Innovation Act and its implementing provisions found in 29 CFR Part 38. Further, the Service Provider agrees to comply with all guidelines issued by the DVR to ensure implementation of these and other related state and federal requirements.

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3.4. Contracting with Minority Businesses

The State of Wisconsin has a goal of placing five (5) percent of its total purchasing dollars with certified minority businesses. Authority for this program is found at Wis. Stat. ss. 15.107(2), 16.75(4), and 560.036(2). DVR is committed to the promotion of minority-owned businesses in the State's purchasing program. If the Service Provider subcontracts with other entities, it is encouraged to have subcontracts with minority-owned businesses.

3.5. Insurance Responsibility

The Service Provider performing services for the State of Wisconsin shall:

- a. Maintain worker's compensation insurance as required by Wisconsin Statutes, for all employees engaged in the work. If required, the Service Provider must provide DVR with a certificate demonstrating that the Service Provider has worker's compensation insurance as outlined in Wisconsin Statutes.
- b. Maintain commercial liability, bodily injury and property damage insurance against any claim(s) which might occur in carrying out this agreement/contract. Minimum coverage shall be one million dollars (\$1,000,000) liability for bodily injury and property damage including products liability and completed operations.
- c. DVR reserves the right to require higher or allow lower limits where warranted.

3.6. Public Records Access

Pursuant to s. 19.36 (3), Wis. Stats., all records of the Service Provider that are produced or collected under this Agreement may be subject to disclosure pursuant to a public records request. Upon receipt of notice from the State of Wisconsin of a public records request for records produced or collected under this Agreement, the Service Provider shall provide the requested records to DVR.

3.7. Recordkeeping and Record Retention

The Service Provider shall maintain sufficient records to demonstrate compliance with this Agreement, including maintaining sufficient documentation to demonstrate compliance with the Technical Specifications and maintaining sufficient documentation to substantiate that all amounts invoiced accurately represent hours expended and/or deliverables that were completed. The Service Provider, following final payment, shall retain all records produced or collected under this Agreement for three (3) years.

3.8. Disclosure

If a state public official (s. 19.42, Wis. Stats.), a member of a state public official's immediate family, or any organization in which a state public official or a member of the official's immediate family owns or controls a ten percent (10%) interest, is a party to this Agreement, and if this Agreement involves payment of more than three thousand dollars (\$3,000) within a twelve (12) month period, this Agreement is voidable by the state unless appropriate disclosure is made according to s. 19.45(6), Wis. Stats., before signing the contract. Disclosure must be made to the State of Wisconsin Ethics Board, 44 East Mifflin Street, Suite 601, Madison, Wisconsin 53703 (Telephone 608-266-8123).

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State classified and former employees and certain University of Wisconsin faculty/staff are subject to separate disclosure requirements, s. 16.417, Wis. Stats.

3.9. Employment

3.9.1 Engaging the Services of State Employees

The Service Provider will not engage the services of any person or persons now employed by the State of Wisconsin, including any department, commission, or board thereof, to provide services relating to this Agreement without the written consent of the employing agency of such person or persons and of the contracting agency.

3.9.2 Dual Employment

Section 16.417, Wis. Stats., prohibits an individual who is a State of Wisconsin employee or who is retained as a contractor full-time by a State of Wisconsin agency from being retained as a contractor by the same or another State of Wisconsin agency where the individual receives more than \$12,000 as compensation for the individual's services during the same year. This prohibition does not apply to individuals who have full-time appointments for less than twelve (12) months during any period of time that is not included in the appointment. It does not include corporations or partnerships.

3.10. Hold Harmless

The Service Provider will indemnify and save harmless the State of Wisconsin and all of its officers, agents, and employees from all suits, actions, or claims of any character brought for or on account of any injuries or damages received by any persons or property resulting from the operations of the Service Provider, or of any of its sub-agreement agencies, in prosecuting work under this Agreement.

3.11. Use of Federal Funds

Federal funds will be used to fund a portion of the work performed under this Agreement. The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the Service Provider or any other party pertaining to any matter resulting from the Agreement.

The Wisconsin DVR program receives 78.7 percent of its funding through a grant from the U.S. Department of Education. For federal fiscal year 2023, the total amount of grant funds awarded were \$70,519,871. The remaining 21.3 percent of the costs (\$19,086,065) were funded by Wisconsin state appropriations.

4. Program Specific Terms and Conditions

4.1. Requirement to Accept Referrals

The Service Provider must accept all referrals DVR makes for authorized DVR consumers. Prior to rejecting any DVR referral or severing an agreement to perform services for an authorized DVR consumer, the Service Provider must obtain approval from the Workforce Development Area (WDA) Director or Designee. The Service Provider may not reject referrals due to severity of a DVR consumer's disability or other barriers to employment.

4.2. Service Interruption

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For purposes of this Agreement, a service interruption is defined as any temporary suspension of a service(s) due to the Service Provider's inability to provide the service to a DVR consumer that is estimated to last up to 30 calendar days (hereafter "Service Interruption"). In the event of a Service Interruption, the Service Provider must notify affected DVR consumers and referring DVR counselors of the Service Interruption within five (5) business days of discovering it. In the notification, the Service Provider must inform the DVR consumer and referring DVR counselor the reason for the Service Interruption, the Service Provider's plan for continued services, and/or the anticipated timeframe for the resumption of the service(s).

A Service Interruption lasting more than 30 calendar days, will be considered a waitlist (see **Section 4.3 Service Waitlists**).

In the case of a Service Interruption, DVR may transfer the referral to another Service Provider if the DVR consumer requests the transfer as an exercise of their informed choice.

4.3. Service Waitlists

For purposes of this Agreement, a waitlist is defined as a Service Interruption lasting 30 calendar days or more (see **Section 4.2 Service Interruption**), or a situation in which a Service Provider is unable to initiate a service(s) within 30 calendar days of receiving a DVR service authorization (hereafter "Waitlist"). In the event of a Waitlist, the Service Provider must notify DVR within five (5) business days of discovering the Waitlist by providing written notification to the DVR Director(s). Written notification shall include the following information: the impacted service(s) and county(ies), the start and anticipated end date(s) of the Waitlist, and the reason for the Waitlist.

In addition, at the time of notifying DVR of the Waitlist, and every 30 calendar days thereafter during a Waitlist, the Service Provider must provide a written summary to the DVR Director(s) with the following information:

- o The name(s) of the affected DVR consumer(s).
- o The status of the affected DVR consumer(s)' case(s) (e.g., services initiated, but placed on hold, services not initiated, services completed, etc.).
- o The Service Provider's policies and procedures for the administration and resolution of the waitlist (e.g., first-come, first-served), including the benchmarks and timeframes for addressing and ending the waitlist*.
- o The Service Provider's plan for communicating the delayed service start date to DVR consumers and staff*.

***This information only needs to be included in the 30-day update(s) if there are changes to the information that was submitted by the Service Provider at the time of the initial Waitlist notification.**

Upon receiving the Waitlist notification and Waitlist summary from the Service Provider, the DVR Director(s) will review the information and acknowledge the Waitlist in writing. DVR may request additional information from the Service Provider before acknowledging the Waitlist.

DVR may provide technical assistance, consumer demand projections, and Service Provider specific data by request to assist in addressing the Waitlist.

New DVR referrals may not be issued to the Service Provider for services experiencing a Waitlist in the affected county(ies) until the Waitlist is resolved and the Service Provider is able to initiate and complete services within the timeframe identified in the DVR Statewide Fee Structure.

In the event of a Waitlist, DVR may transfer a referral to another Service Provider if the DVR consumer requests the transfer as an exercise of their informed choice.

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4.4. Requirements for Meeting Spaces

- The Service Provider shall provide accessible, confidential meeting space which is readily available to serve DVR consumers. The DVR consumer must provide verbal or written consent to the Service Provider approving the space and location prior to any meetings or other business conducted under this Agreement. Accessible space is space meeting the Americans with Disabilities Act (ADA) requirements, (see ADA.Gov). Confidential space is space that allows for conversations not intended to be known publicly to be kept secret.

4.5. Progress Reports

The Service Provider must submit service reports to DVR. These reports must meet the DVR Statewide Technical Specification Reporting Requirements referenced in **Section 1 Services**. The Service Provider must submit these reports via the DVR Service Provider Portal System, the URL web portal (electronically uploading one document at a time), fax, email, or mail (as identified below). The preferred method for submitting statewide service reports to DVR is via the DVR Service Provider Portal System.

- To use the DVR Service Provider Portal System or the URL web portal, the Service Provider must identify an individual(s) who will be granted access to the application. The staff person must obtain an account, the same one that is needed for access to Job Center of Wisconsin, and register it with their personal information on the DVR Service Provider website ([DVR Service Provider Portal](#)).
 - Fax: Statewide service reports with the DVR specialized header can be faxed to 608-327-6014. Reports without a header can be faxed toll free to 1-888-693-3479.
 - Email: Reports can be emailed to DVRSCAN@dwd.wisconsin.gov.
 - If unable to use the DVR Service Provider Portal System, URL web portal, fax, or email, reports can be mailed to CSS Scanning Unit, PO Box 8927, Madison, WI 53708-8927.

DVR occasionally updates the reporting templates, and it is the Service Provider's responsibility to use the most current template. If the Service Provider does not use the report forms for statewide services found at the DVR website, DVR will automatically reject the report without notice, 60 days after any updates have been made per the [DVR Service Provider Technical Specifications](#).

The Service Provider must include the DVR (IRIS) case number on all reports. The IRIS number can be retrieved from the purchase order, case notes, or other referral information from DVR. If the IRIS number is not available, the Service Provider must include the DVR consumer's full first and last name.

Additional information regarding options for submitting reports is available in the [Scanning Information tab](#) on the DVR Service Provider website.

4.6. Promotional Advertising, News Releases, and Communications

The Service Provider shall comply with Communications Policy and Guidance for DVR Service Providers, which can be found on the [Agreement References](#) webpage, when making any news releases or communications related to this Agreement or conducting any promotional advertising. If DVR updates this document during the term of this Agreement, the Service Provider shall comply with the latest version.

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4.7. Restriction on Solicitation/Informed Choice

The Workforce and Innovation Opportunity Act (WIOA), 34 U.S.C. § 361.52, requires DVR to assure that applicants and recipients of services or, as appropriate, their representatives, are provided information and support services to assist applicants and recipients of services in exercising informed choice throughout the rehabilitation process. Accordingly, the Service Provider shall not take any actions adverse to the DVR consumer's rights or their exercise of informed choice. Additionally, the Service Provider, including personnel and/or subcontractors, cannot directly solicit DVR consumers for services (i.e., asking for or trying to directly obtain a DVR referral from a prospective or current DVR consumer).

For more information on acceptable and non-acceptable service provider interactions with consumers to inform them of services offered, the Service Provider should contact the DVR Contract Specialist.

4.8. Restrictions on the Provision of Services

4.8.1 DVR Consumers as Service Providers

A current DVR consumer may not become a Service Provider for the purposes of self-employment. However, an existing Service Provider may hire a DVR consumer if they obtain approval from the WDA Director or Designee prior to making an offer of employment.

4.8.2 Providing Services under Multiple Service Agreements

The Service Provider's personnel and/or subcontractor(s) are permitted to work under multiple DVR Service Agreements if the personnel and/or subcontractor(s) obtain approval from the WDA Director, Supervisor, or Designee, and the DVR Contract Specialist before providing services under multiple service agreements.

4.8.3 Service Agreement Main Contacts

An individual cannot serve as a main contact on more than one DVR Service Agreement.

4.8.4 New Service Providers

If current Service Provider personnel and/or subcontractors decide to become independent service providers by establishing a new service agreement with DVR, DVR consumer referrals that may have been previously assigned to them will generally remain with the original Service Provider. DVR may transfer the referral if the DVR consumer requests the transfer as an exercise of their informed choice.

4.8.5 School District Employees as Service Providers

The Service Provider's personnel and/or subcontractors who are also school district employees are permitted to provide DVR services to DVR consumers who attend school(s) where the service provider personnel and/or subcontractor are employed if the personnel and/or subcontractor(s) obtain approval from the WDA Director, Supervisor, or Designee, and the DVR Contract Specialist before providing services under the service agreement.

4.8.6 Conflicts of Interest

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The Service Provider may not provide services to a DVR consumer if providing such services would be a conflict of interest. The Service Provider must take all necessary steps to avoid real and apparent conflicts of interest, including implementing policies and procedures covering conflicts of interest.

If the Service Provider identifies any real or potential conflicts of interest in performing services under this Agreement, the Service Provider must report these conflicts or potential conflicts to the WDA Director, Supervisor, or designee within two business days of when the Service Provider knew or should have known of the conflict. The WDA Director, Supervisor, or designee will work with the Service Provider to determine if the conflict can be mitigated. If the conflict cannot be mitigated, the DVR counselor will work with the DVR consumer to find a different Service Provider to provide services. If the Service Provider fails to report a known conflict of interest to DVR and proceeds with providing services to the consumer(s) with which the conflict exists, then DVR may consider that action grounds for terminating this Agreement. In that instance, DVR has the discretion to terminate this Agreement without providing the Service Provider the opportunity to cure.

A conflict of interest means a situation in which the Service Provider, including its personnel and/or subcontractors, has a financial interest, personal activity, or relationship that could impair the Service Provider's ability to act impartially and in the best interest of the DVR consumer when performing services under this Agreement.

Examples of conflicts of interest include, but are not limited to, a Service Provider helping a consumer obtain employment in a business owned by a family member of the Service Provider; providing loans to the consumer; sharing funds/commingling funds with a consumer; etc.

Private and non-profit corporations are also bound by ss. 180.0831, 180.1911(1), and 181.0831 Wis. Stats., regarding conflicts of interests by directors in the conduct of state contracts.

4.9. Transporting DVR Consumers

Transportation is not an included service component of this Agreement. However, the Service Provider may elect to provide transportation to DVR consumers in connection with providing the included service components of this Agreement at the Service Provider's own cost, convenience, and risk. If a Service Provider elects to provide this type of transportation to DVR consumers, the Service Provider shall maintain a commercial or business automobile liability insurance policy against any claim(s) which might occur in providing transportation to DVR consumers. Minimum coverage shall be a combined single limit of one million dollars (\$1,000,000). The Service Provider shall require the same minimum insurance requirements, as listed above, of all its contractors, and subcontractors. The Service Provider may not charge DVR for providing transportation to DVR consumers under this Agreement.

This Agreement does not prohibit a Service Provider with a transportation division from providing otherwise allowable transportation services under a separate agreement i.e., with a county, a Managed Care Organization, or an IRIS consultant for a common consumer, or a separate authorization with DVR.

4.10. Undue Hardship Policy

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The American with Disabilities Act (ADA) provides a measure of protection from undue hardship to employers with 15 or more employees. Businesses with fewer than 15 employees are not covered by the employment provisions of the ADA. However, regarding undue hardship, DVR will apply this same standard to a Service Provider with fewer than 15 employees. DVR will pay the costs associated with providing an accommodation for the consumer as part of authorized vocational rehabilitation services consistent with an approved Individualized Plan for Employment if the Service Provider has fewer than 15 employees.

Undue hardship means that an accommodation would be unduly costly, extensive, substantial, disruptive, or would fundamentally alter the nature or operation of the business. This includes the services of a qualified sign language interpreter during the provision of authorized contracted services. These costs will be paid directly to the accommodation provider and will not be paid to the Service Provider of the contracted service. Any ongoing or hourly costs will be provided as case progress dictates.

5. Prerequisites for Providing Services

5.1. DVR Service Provider Portal System

Service Providers must create and maintain an account in DVR's Service Provider Portal System throughout this Agreement. The Service Provider must use the DVR's Service Provider Portal System as outlined within this Agreement.

Service Providers must keep their personnel and/or subcontractors who perform services under this Agreement listed in the DVR Service Provider Portal System up to date. Service Providers must enter new personnel and/or subcontractors into the system prior to allowing those personnel and/or subcontractors to work with any DVR consumers or consumer information. Service Providers also must immediately enter an effective end date for any personnel and/or subcontractors who no longer work with DVR consumers or consumer information.

5.2. Certifications

Prior to providing any services under this Agreement, the Service Provider must review, complete, and electronically sign the following certifications via the DVR Service Provider Portal System:

- Certification Regarding Drug-Free Workplace Requirements; and
- Certification of Criminal Background Check Form (see **Section 5.4 Criminal Background Checks**)

5.3. Trainings and Qualifications

Before providing any services under this Agreement, the Service Provider must complete the following trainings, as applicable.

5.3.1 Ethics Training

All Service Provider personnel and/or subcontractors who work with DVR consumers or who work to administer this Agreement, including individuals who perform the Service Provider's reporting or billing, must complete ethics training as outlined on the DVR website. Everyone required to complete this training requirement must re-complete it

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every five years. The required criteria for the ethics training can be found in the [Ethics Training section](#) of the DVR Service Provider Training webpage.

Any new Service Provider personnel and/or new subcontractors brought on by the Service Provider during the term of this Agreement, must also complete this ethics training requirement prior to working with DVR consumers.

5.3.2 Security Awareness Training

All Service Provider personnel and/or subcontractors who work with DVR consumers or who work to administer this Agreement, including individuals who perform the Service Provider's reporting or billing, must complete the Department of Workforce Development Online Information Technology (IT) Security Awareness Training.

If DWD or DVR provides an updated electronic security module, the Service Provider must require its personnel and/or subcontractors to complete the updated online courses as directed by DWD or DVR. Any new Service Provider personnel and/or new subcontractors brought on by the Service Provider during the term of this Agreement must also complete the Online Information Technology (IT) Security Awareness Training module prior to working with DVR consumers.

This online training can be accessed by visiting the [DVR Information Technology \(IT\) Security Awareness Training section](#) on the DVR Service Provider Training webpage.

Upon completion of the Training, the Service Provider shall record the date of completion in the DVR Service Provider Portal System for each active personnel and/or subcontractor listed. The Service Provider shall retain the training certificates for 3 years for audit purposes.

5.4. Criminal Background Checks

DVR provides services to individuals with disabilities, including youth, students, and vulnerable adults. For this reason, criminal background checks are required for all Service Provider personnel and/or subcontractors who work with DVR consumers or who work to administer this Agreement, including individuals serving as the main contact for the service agreement and individuals who perform the Service Provider's reporting or billing. DVR may not allow individuals with substantially related arrests or convictions to work with DVR consumer or consumer related information.

Prior to working with DVR consumers or consumer-related information, the Service Provider shall obtain a criminal history search from the records maintained by the Wisconsin Department of Justice for all Service Provider personnel and/or subcontractors who work with DVR consumers or who work to administer this Agreement, including individuals who perform the Service Provider's reporting or billing. Guidance on how to review whether an arrest or conviction is "substantially related" to a position within the requirements of Wisconsin's Fair Employment Law is provided on the [Arrest and Conviction Record](#) page. It is the responsibility of the Service Provider to conduct this criminal history search and come to a determination as to whether an arrest or conviction is substantially related to the employee's or subcontractor's job duties.

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DVR may request additional information from a Service Provider in order to determine if an arrest or conviction is substantially related to providing services to DVR consumers or working with DVR consumer information.

If the Service Provider knows or has reason to know that any of its personnel and/or subcontractors requiring background checks are not residents of Wisconsin, or if at any time within the last five (5) years preceding the date of the search any of its personnel and/or subcontractors have not been residents of Wisconsin, then the Service Provider shall make a good faith effort to obtain from any state or other United States jurisdiction in which those persons are residents, or were residents within the last five (5) years of the date of the required search, a criminal history search substantially similar to the search conducted by the Wisconsin Department of Justice.

If the Service Provider finds that its personnel and/or subcontractors have been arrested or convicted of a crime that, per DVR's Background Check Policy, is substantially related to its work with DVR consumers under this Agreement, the Service Provider shall submit a copy of the criminal history search results to the DVR Contract Specialist. To determine whether an arrest or crime is considered substantially related, please consult the [DVR Criminal Background Policy](#).

The Service Provider is responsible for completing and paying for all background checks required under this Agreement. Information on how to obtain a criminal history search from the records maintained by the Wisconsin Department of Justice can be found on the [Wisconsin Department of Justice CIB Frequently Asked Questions](#) page.

If the Service Provider has completed a background check of its personnel and/or subcontractors that meets the requirements of this Agreement within six (6) months preceding the signing of this Agreement, the Service Provider may also use that background check to meet its requirements under this Agreement.

Service Providers shall also review the Wisconsin Sex Offender Registry to ensure that personnel and/or subcontractors who provide services to DVR consumers or work with DVR consumer information, including billing records, are not on the offender list. This information can be found on the [Wisconsin Department of Corrections Wisconsin Sex Offender Registry](#) webpage.

After completing the required criminal background check and checking the Wisconsin Sex Offender Registry, the Service Provider must complete and sign a Certification of Criminal Background Check Form electronically.

In addition, when new personnel and/or subcontractors are assigned to provide services under this Agreement, the Service Provider must complete the required criminal background check and check the Wisconsin Sex Offender Registry prior to allowing the individual to work with DVR consumers or consumer information. If the Service Provider has conducted a background check which meets the term of this Agreement within the (6) months preceding the new personnel and/or subcontractors start date, the Service Provider may also use that background check to meet its requirements under this Agreement.

During the term of this Agreement, Service Providers must also notify DVR if they know or have reason to believe that personnel and/or subcontractors are the subject of an investigation that may lead to a conviction that would be substantially related to their work with DVR consumers or DVR consumer information under DVR's criminal background policy. Such notification shall take place within two (2) business days of the time that the Service Provider becomes aware of the

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pending investigation. Service providers should require their employees and subcontractors to inform them of any arrest or conviction within 48 hours of the arrest or conviction.

Additionally, if the Service Provider discovers any new arrests or convictions during the term of this Agreement or an individual requiring a background check under this Agreement is added to the Wisconsin Sex Offender Registry, then the Service Provider must notify the DVR Contract Specialist within two (2) business days of the time that the Service Provider becomes aware of the new arrest, conviction, or placement on the Wisconsin Sex Offender Registry.

Service Providers must keep all criminal background checks on file for three (3) years. DVR reserves the right to request copies of criminal background checks for Service Providers as well as all personnel and/or subcontractors covered by this Agreement at any time.

5.5 Service Provider Qualification Verification

Service Providers must verify that each of its personnel and/or subcontractor(s) who perform services on its behalf under this Agreement meet the established qualification criteria in the DVR Technical Specifications.

For each of its personnel who perform a service on its behalf under this Agreement, the Service Provider must list the personnel's qualifications in the individual personnel record in the DVR Service Provider Portal System. DVR will periodically review the listed qualifications and verify that all personnel are qualified to perform services.

For each subcontractor who performs a service on its behalf under this Agreement, the Service Provider must keep all credentials on file to demonstrate that the subcontractor meets the established qualification criteria in the DVR Technical Specifications. DVR may request that the Service Provider produce a copy of credentials on an individual basis to verify that all subcontractors are qualified to perform the service.

6. Evaluation and Monitoring

6.1 Performance Evaluation

DVR may evaluate the Service Provider's performance under this Agreement on a periodic basis or as otherwise determined by DVR. DVR will use the performance requirements and metrics included in the DVR Technical Specifications referenced in **Section 1 Services**, to evaluate performance under this Section.

In cases where a Service Provider does not meet the performance requirements or metrics identified in the DVR Technical Specifications, the DVR Contract Specialist will notify the Service Provider of items that require corrective action and require the Service Provider to develop and submit a Corrective Action Plan. The Service Provider's response must be submitted to the WDA Director within ten (10) business days of the date of the notice under this section unless DVR approves an extension. DVR will determine if the Service Provider's Corrective Action Plan is likely to resolve performance issues DVR identified, and if so, DVR will approve the Corrective Action Plan. If the Service Provider fails to submit a satisfactory Corrective Action Plan or fails to follow an approved Corrective Action Plan, DVR, at its discretion, may revise or terminate this Agreement accordingly.

DVR may consider the results of any performance evaluation performed under this Section when determining whether to enter into future agreements with the Service Provider.

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6.2 Consumer Complaints

DVR may investigate any consumer complaints it receives related to services the Service Provider provides under this Agreement. The Service Provider shall provide DVR with access to all DVR consumer records upon request, including the results of the Service Provider's administrative reviews of consumer complaints within 5 business days of the date of the notice under this section unless DVR approves an extension. DVR reserves the right to immediately suspend all Service Provider contact with DVR consumers pending the outcome of the investigation. DVR will notify the Service Provider in writing of the results of DVR's investigation of the complaint(s). If DVR identifies items that require corrective action, it will follow the procedure outlined in **Section 6.1 Performance Evaluation**.

6.3 General Monitoring

DVR may monitor the Service Provider's compliance with all terms of this Agreement. DVR may monitor the Service Provider on a periodic basis or as otherwise determined by DVR.

As a result of monitoring, DVR may make recommendations concerning compliance with program requirements, achievement of program performance standards, or the administrative efficiency of the program, and DVR may require that the Service Provider take corrective action to remedy any identified deficiencies.

DVR reserves the right to inspect any and all Service Provider and subcontractor records, procedures, and operations related to the services the Service Provider may perform under this Agreement. DVR may inspect the records, procedures, or operations at any time during and within 3 years after the close of this Agreement term for any DVR funded service.

7. Security Requirements

7.1. Storing and Safeguarding Consumer Information

Service Providers must adhere to the information technology (IT) security standards and requirements identified in **Attachment A, Cyber Security Requirements for DVR Service Providers**. The DVR IT security standards and requirements are subject to change. DVR will notify the Service Provider via email if it makes updates during the term of this Agreement. Service Providers will have 90 days from the date of notification to comply with the updated IT security standards and requirements.

In the event that consumer data in the custody of the Service Provider is lost, stolen, rendered inaccessible, or otherwise compromised or put at risk of misuse, the Service Provider shall notify DVR in writing within 24 hours of the incident, including a copy of any law enforcement report. The Service Provider shall cooperate with DVR by providing notice of the data breach to affected DVR consumers and taking other corrective steps specified by DVR, including but not limited to the purchase of identity theft prevention/detection service for the affected consumers.

Immediately after the end of the retention period of three (3) years required by **Section 3.7 Recordkeeping and Record Retention**, all personally identifiable information and any other consumer related information shall be shredded or otherwise destroyed in a manner which protects the confidentiality of the information. **The storing of DVR Consumer Social Security Numbers is strictly prohibited.**

The Service Provider may retain transitional records and case notes in accordance with any county or long-term care program with which the consumer is concurrently enrolled.

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7.2. Service Provider Portal Access

The Service Provider must have safeguards in place to protect all DVR consumer information it accesses through the DVR Service Provider Portal System. Each personnel accessing the portal must have their own login and password. Credentials may not be shared. Portal access is limited to Service Provider personnel.

7.3. Confidentiality

The Service Provider shall not release personal information or records regarding any DVR consumer authorized for services by DVR without the prior written consent of the DVR consumer. In addition, the Service Provider shall safeguard all DVR consumer personal information and records to prevent the inadvertent or unintentional disclosures. The applicable statutory references for confidential information at the time of this Agreement are 34 CFR § 361.38, s. 47.02(7), Wis. Stats., and Wis. Admin. Code Ch. DWD 68.

The Service Provider acknowledges that in addition to confidential DVR consumer information as described in 34 CFR § 361.8 and Wis. Admin. Code Ch. DWD 68, confidential and proprietary information will be exchanged and that disclosure of any such information to any third party other than as necessary to carry out the terms of this Agreement may cause irreparable harm and damage, and therefore, the Service Provider agrees to keep, protect, and not disclose any confidential or proprietary information to any third party without prior written consent of DWD. Disclosure of confidential and proprietary information will be permitted if ordered by a court of competent jurisdiction.

"Proprietary information" includes the software, systems, procedures, business plans, business strategies, internal organization, designs, flow charts, plans, specifications, manuals, client or customer lists, customer data, cost and price data, marketing information, the terms of this Agreement, any financial information, and any other information received by either party which would reasonably be considered as confidential or proprietary business information.

"Confidential information" means all tangible and intangible information and materials, including all Personally Identifiable Information, being disclosed by one party to another hereunder in connection with the duties carried out pursuant to this Agreement, in any form or medium (and without regard to whether the information is owned by a party or by a third party), that satisfy at least one of the following criteria: (i) Personally Identifiable Information; (ii) non-public information related to the State's employees, customers, technology (including data bases, data processing and communications networking systems), schematics, specifications, and all information or materials derived therefrom or based thereon; or (iii) other information designated in good faith and marked as confidential in writing by a party.

"Personally Identifiable Information" includes an individual's last name and the individual's first name or first initial, in combination with and linked to any of the following elements, if that element is not publicly available information and is not encrypted, redacted, or altered in any manner that renders the element unreadable:

1. The individual's Social Security number;
2. The individual's driver's license number or state identification number;
3. The number of an individual's financial account, including a credit or debit card account number, or any security code, access code, or password that would permit access to the individual's financial account;

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4. The individual's DNA profile;
5. The individual's unique biometric data, including fingerprint, voice print, retina or iris image, or any other unique physical representation, and any other unique physical characteristic protected by applicable state or federal law; or
6. The individual's contact information such as phone number, address, and/or dollar amount of benefits. Such information shall be limited to the information that DWD provides to Service Provider or Service Provider otherwise acquires from or on behalf of DWD for the purpose of Service Provider's use of such information in the performance of its Services pursuant to this Agreement.

The Service Provider shall protect the confidential or proprietary information to the same extent or by the same means that it would protect its own confidential and proprietary information and shall notify DWD in writing of any unauthorized disclosures, either intentional or unintentional, to any third parties, and shall do so immediately after discovering or determining such unauthorized disclosures. Similarly, the Service Provider shall take reasonable precautions and efforts to ensure that no such protected information is disseminated by it or its personnel and/or subcontractors. The obligations to protect confidential and proprietary information shall survive termination of this Agreement.

The Service Provider shall advise all Service Providers' agents, personnel, successors, assigns, and subcontracted entities of the restrictions. The Service Provider shall defend and incur all costs, if any, for actions, which arise as a result of noncompliance by Service Provider, agents, personnel, successors, assignees, and sub-contracted entities regarding the restrictions herein.

8. Audit and Accounting Requirements

The Service Provider agrees to cooperate with DWD/DVR, and other State, Federal, and or DVR contracted program and fiscal auditors. Questions and comments on the State Single Audit Guidelines should be referred to:

DWD Bureau of Finance
P.O. Box 7946
Madison, WI 53707-7946
Finance@dwd.wisconsin.gov

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9. Payment for Services

9.1. Availability of Funds

All of DVR's obligations under this Agreement are contingent upon the availability and continued appropriation of State and Federal funds. In no event shall DVR be liable for any payments in excess of such available appropriated funds. In the event that the amount of any available or appropriated funds provided by the State or Federal sources for the purchase of services hereunder are reduced, terminated, or do not continue at an aggregate level sufficient to allow for the purchase of the specified amount of services purchased hereunder for any reason whatsoever, DVR shall notify the Service Provider of such reduction of funds available and DVR shall be entitled to reduce its commitment here under as it deems necessary.

9.2. DVR Statewide Fee Structure

The fees Service Providers may charge DVR for services it performs under this Agreement are established in the DVR Statewide Fee Structure. The Catalog of Federal Domestic Assistance (CFDA) number for fees under this Agreement is 84.126. Service Providers may not seek or accept payments from another source for the same services invoiced to DVR under this Agreement.

In accordance with the DVR Technical Specifications and the DVR Statewide Service Fee Structure referenced in **Section 1 Services**, the Service Provider must obtain **prior written authorization** by DVR before services can be rendered and payment can be made. DVR will not pay for services that the Service Provider performs without an approved purchase order issued prior to the start date of the service.

9.3. Invoicing

9.3.1 Timing for Invoice Submission

To receive payment for completed services, Service Providers must invoice DVR within 60 days after the completion of acceptable service, as defined for each service by the DVR Technical Specifications, unless another invoicing frequency is stated in the purchase order. At its discretion, DVR may cancel purchase orders not invoiced within 60 days or allow a Service Provider to submit a late invoice.

9.3.2 Certification of Accurate Invoices

All invoices submitted to DVR for payment must accurately represent: (1) hours expended by the Service Provider within the last 60 days or within the timeframe stated in the purchase order or otherwise approved by DVR; and/or (2) payment for deliverables accepted by DVR within the last 60 days or within the timeframe stated in the purchase order. All invoices must also request payment for hours or deliverables that the Service Provider has not previously claimed or have been paid for on past invoices. Service Providers must certify compliance with these requirements by including the following certification on each invoice submitted to DVR for payment:

"I certify that the amount invoiced accurately represents hours expended and/or deliverables that were completed within the last 60 days or within the timeframe stated in the purchase order. I further certify that payment for the amounts and services claimed has not yet been received as of the date of this invoice."

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9.3.3 Supporting Documentation

Service Providers must maintain supporting documentation to verify the accuracy of all invoices submitted to DVR for payment, including documentation of accepted deliverables and documentation to support hours invoiced for salaried, hourly, or contracted staff. Supporting documentation for hours invoiced may include daily job timecards, payroll records, subcontractor invoices, etc. Service Providers are not required to submit supporting documentation with each invoice; however, within 15 business days of DVR's written request, the Service Provider must provide the supporting invoice documentation to DVR for review.

If DVR finds that the supporting documentation does not verify the accuracy of the amount the Service Provider invoiced DVR, DVR will notify the Service Provider in writing of the invoice discrepancy. The Service Provider must respond to DVR as outlined in the notice. DVR reserves the right to withhold payment of the invoice until the discrepancy is resolved. If the discrepancy is not resolved, DVR will only pay the Service Provider for the amounts that, at its sole discretion, it can verify based on the Service Provider's supporting documentation.

9.3.4 Prompt Payment

The State of Wisconsin will typically pay properly submitted invoices once they have been approved and within 30 days of receipt, provided that all reports, goods, and/or services have been delivered and accepted as specified. If payment is not received after 30 days of sending the invoice and DVR has not issued a letter of dispute, Service Providers should contact the local DVR office that authorized the service.

9.3.5 Invoice Submission

DVR's preferred invoicing method is electronic invoicing via the DVR Service Provider Portal System. Other options include emailing electronic invoices in PDF format to dvrvendorinv@dwd.wisconsin.gov or fax to the DVR CCP Unit at 608-266-1133. The DVR Vendor inbox is for invoices only. All invoice inquiries must be directed to DVR staff identified on the Authorization for Services.

9.3.6 Required Information

All invoices must contain accurate information and include the following information:

- Dates of service(s)
- Invoice date
- Federal ID# or FEIN
- Invoice number
- Purchase order number (located at the top of the purchase order)
- Remit to address
- Recipient of services (including DVR consumer first and last name and IRIS case number)
- Itemized list of goods/services provided with dollar breakdown for each DVR consumer
- Invoice total
- Service Provider name, address, and contact information
- Certification language (see **Section 9.3.2 Certification of Accurate Invoices**)
- Signature of authorized representative of the Service Provider

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9.3.7 Invoicing Audits

DVR reserves the right to conduct an invoicing audit under **Section 6.3 General Monitoring**. If DVR finds an invoicing discrepancy as the result of an invoicing audit, DVR will notify the Service Provider in writing of the invoice discrepancy. The Service Provider must respond to DVR as outlined in the notice. DVR reserves the right to withhold payment on future invoices until the discrepancy is resolved. If the discrepancy is not resolved, DVR may withhold payment from the Service Provider's future invoices for the amount of the discrepancy.

9.3.8 Tax Liabilities

Service Providers who have a delinquent Wisconsin tax liability may have their payments offset by the State of Wisconsin.

10. Amendments

10.1. Amendment of the Terms and Conditions

DVR may amend the Terms and Conditions of this Agreement by giving written notice to the Service Provider at least thirty (30) days prior to the effective date of such amendment.

10.2. Amendment to the Scope of Work

The Service Provider may expand the services it offers or its coverage area with the express written approval of the DVR Director, Supervisor, or Designee. If the Service Provider intends to reduce the services it offers or its coverage area, it must provide the WDA Director, Supervisor, or Designee at least 30 days written notice prior to reducing its services or coverage area and adhere to **Section 12 Transition**.

10.3. Notice of Change

The Service Provider shall notify the DVR Contract Specialist if there is a change in Service Provider's name, legal status, Federal employer identification number (FEIN), authorized representative, or address. If the change is anticipated, the Service Provider shall give thirty (30) days' prior written notice to the DVR Contract Specialist. If the change is unanticipated, the Service Provider shall give notice as soon as practicable thereafter. DVR reserves the right to take any and all appropriate action as a result of such change(s), including termination of this contract.

11. Termination

11.1. Without Cause

Upon thirty (30) calendar days of written notice, either party may terminate this Agreement without cause.

11.2. With Cause

If DVR determines that the Service Provider is in non-compliance with the terms and conditions of this Agreement, DVR may terminate the Agreement immediately. At its discretion, DVR may choose to give the Service Provider written notice of its non-compliance with any term of this Agreement and the opportunity to cure prior to terminating the Agreement for cause. If DVR

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chooses to provide the Service Provider with the opportunity to cure or wants to investigate the Service Provider's non-compliance, DVR may choose to suspend DVR consumer referrals to Service Provider while these actions take place.

11.3. Payment Following Termination or Service Reduction

In the event of a termination for cause, termination without cause, or a reduction of services or coverage area, DVR will compensate the Service Provider for all work completed prior to such termination date and for any services provided as part of the Service Provider's Transition Plan, see **Section 12 Transition**. Final invoices are due to DVR within thirty (30) days of the termination date. If the Service Provider does not comply with **Section 12 Transition**, DWD may withhold outstanding payments until such time that the Service Provider complies with those provisions.

12. Transition

12.1. Transition Plan

Within ten (10) business days of receiving a termination for cause notice, receiving a termination without cause notice, or providing notice of reducing services or coverage area, the Service Provider shall develop a written plan for the complete transition of the Service Provider's responsibilities to DVR or to a successor Service Provider. The plan must allow for uninterrupted continuation of services to DVR consumers and shall include provisions for the orderly transfer of all DVR consumer information, including paper and electronic files held by the Service Provider and/or its subcontractor(s). The DVR WDA Director or Designee must approve the Transition Plan.

12.2. Transition Responsibilities

The parties acknowledge that the continuing provision of high-quality services requires that there be no disruption of services during a transition from the Service Provider to a successor Service Provider. Accordingly, the Service Provider agrees to cooperate fully in providing for an orderly and controlled transition to a successor Service Provider and will minimize any disruption in the services to be performed under this Agreement.

12.3. Continuation

At the request of DVR, the Service Provider shall continue providing services under this Agreement until DVR determines that DVR or a successor Service Provider is prepared to fully assume the Service Provider's duties and obligations under this Agreement. All the terms and conditions of this Agreement will apply during this period.

12.4. Transition Management

The DVR WDA Director will oversee the transition by coordinating transition activities and approving the transition plan. The Service Provider shall designate a person responsible for coordinating its transition responsibilities and agrees to assign personnel and/or subcontractors as DVR determines is necessary to assist in the transition. The Service Provider agrees to participate in any status meetings, which must include personnel and subcontractors from all parties involved in the transition, that DVR determines are necessary.

13. Assignment

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No right or duty, in whole or in part, of the Service Provider under this Agreement may be assigned or delegated without the prior written consent of DVR.

14. Severability

If any provision of this Agreement is declared or found to be illegal, unenforceable, or void, then both parties shall be relieved of all obligations under that provision. Performance under the remaining terms of this Agreement shall continue.

15. Force Majeure

Neither party shall be in default by reason of any failure in performance of this Agreement in accordance with reasonable control and without fault or negligence on their part. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform such must be beyond the reasonable control and without the fault or negligence of the party.

16. Entire Agreement

These terms and conditions shall apply to this Agreement and any purchase order issued as a result of this Agreement, except where special terms and conditions are stated in the purchase order; in such cases, the special terms and conditions shall take precedence. Further, the written Agreement and/or purchase order, with referenced parts and attachments, shall constitute the entire Agreement and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by DVR.

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**Attachment A
Cyber Security Requirements for DVR Service Providers**

DVR Service Providers must adhere to the following information technology security standards and requirements to comply with the terms and conditions of the DVR Statewide Service Provider Agreement.

Requirements in bold apply to all DVR Service Providers.

Requirements with an asterisk* only apply to DVR Service Providers with personnel and/or subcontractors.

Protect computers containing DVR consumer information from cyber-attacks by doing the following:

- a. Ensure all computers are equipped with antivirus software and receive regular patches and updates from software vendors to correct security problems, improve functionality, and defend against viruses, malware, and other online threats.
- b. Configure all software, (operating system, anti-malware, and applications), to install updates automatically.
- c. Set antivirus software to run a scan after each update.

Provide firewall security for Internet connection.

- d. All operating systems must have a firewall enabled or firewall software installed.

Backup data and information related to DVR consumers.

- e. Data must be backed up at least weekly on all computers storing DVR consumer information. Data includes email, documents, spreadsheets, databases, financial, human resources, and accounts receivable/payable files.
 - i. If the Service Provider exchanges or stores any DVR consumer information via email, the Service Provider shall only exchange or store DVR consumer information in authorized Service Provider business email accounts.

Control physical access to computers.

- f. Store and lock all computers and portable devices containing DVR consumer information when not in use.
- g. Use automatic locking after a period of nonuse (e.g., five (5) minutes).
- h. Password protect all mobile devices containing DVR consumer information and use data encryption and security apps to prevent unauthorized access while the phone is on public networks.

Secure Workplace Wi-Fi Networks.

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- i. Ensure the Wi-Fi network is secure, encrypted, and hidden from public access.
- j. Password protect access to the router.
- k. Disable guest Wi-Fi access.

Use secure passwords.

- l. Use unique passwords and full disk encryption protection.
- m. Set the operating system to change passwords every three (3) months.
- n. Use passwords that are at least eight (8) characters, complex, contain a special character like # or \$, and a capitalized letter, and change the password every 90 days.

*Maintain company policies on cyber security. Policies must include:

- a. Penalties for violating company information technology security policies.
- b. Instructions on how to report lost or stolen equipment.
- c. A requirement that personnel and/or subcontractors may not install software on devices containing DVR consumer information without permission.

*All personnel and/or subcontractors performing services under the DVR Statewide Service Provider Agreement must be trained on company cyber security policies and sign an acknowledgement that they have received the training.

*Create user accounts for each personnel and/or subcontractors working with DVR consumer information to control physical access to computers.

*Ensure that all personnel and/or subcontractors understand how to do the following:

- o. Spot a phishing email.
- p. Use safe browsing practices.
- q. Identify and avoid suspicious downloads.
- r. Create strong passwords.
- s. Report security incidents involving DVR consumer information.

*Limit access to data and information.

- t. Only personnel and/or subcontractors approved to work with DVR consumers and consumer information should be given access to the specific computers and data that store DVR consumer information.
- u. Limit access to privileged (admin) accounts used to administer servers (if using server-based applications) and individual computers.

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- v. Configure each computer to have a separate login for admin privileges so personnel and/or subcontractors cannot make changes to or update the operating system.