

SETTLEMENT AGREEMENT

BETWEEN

U. S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE FOR CIVIL RIGHTS, SOUTHEAST REGION

AND

ALABAMA DEPARTMENT OF HUMAN RESOURCES

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I. Introduction

This Settlement Agreement (Agreement) is entered into by the United States Department of Health and Human Services (USDHHS), Office for Civil Rights (OCR) and the Alabama Department of Human Resources (ADHR). This Agreement resolves the issues reviewed within the Child Welfare Programs of ADHR under transaction number 10-116910 and any other preceding transaction numbers concerning the provision of services to limited English proficient persons. The review was initiated in response to a referral from the United States Department of Justice, Federal Compliance and Coordination Division, which indicated that ADHR terminated the parental rights of a limited English proficient father because he failed to learn to speak English. OCR's investigation addressed potential violations of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., and its implementing regulation, 45 C.F.R. Part 80 (Title VI). OCR has been investigating ADHR since 2003 concerning Title VI violations with respect to consistent failures to provide language assistance to limited English proficient persons. OCR initiated an investigation in 2003 and found that ADHR subjected a Guatemalan mother to different treatment when it removed her child from her custody, refused to reunify her with her daughter, limited her visitation rights, and failed to provide her with effective language assistance. As a result of a 2010 report, OCR broadened the investigation in 2011 to include five counties to determine the compliance of the foster care and adoption program. OCR's broadened investigation found systemic concerns within the program within the five counties. The last review by OCR occurred in 2011. There has been no report received by OCR since the review in 2011. Accordingly, OCR offers this Agreement to address ADHR's consistent failures to provide language assistance to limited English proficient persons.

A. Parties to Agreement

1. United States Department of Health and Human Services, Office for Civil Rights.
2. Alabama Department of Human Resources.

B. Jurisdiction

ADHR receives Federal financial assistance from the USDHHS, and is subject to Title VI. Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving Federal financial assistance. The implementing regulations prohibit both intentional discrimination and policies and practices that appear neutral but have a discriminatory effect. Title VI and its implementing regulations also require that recipients take reasonable steps to provide meaningful access to individuals with limited English proficiency.

C. Purpose of Agreement

1. To resolve these matters expeditiously and without further burden or expense of investigation or litigation, ADHR and OCR agree to the terms stipulated in this Agreement and affirms its assurance of compliance with all provisions of Title VI and its implementing regulations. The promises, obligations, or other terms and conditions set

forth in this Agreement constitute the exchange of valuable consideration between ADHR and OCR.

2. This Agreement shall not be construed as an admission or as evidence that ADHR has not complied with those provisions of Title VI of the Civil Rights Act of 1964 or its implementing regulations that relate to the issues investigated in the subject review. Additionally, this Agreement is not a concession by HHS that ADHR is not in violation of Title VI of the Civil Rights Act of 1964 or its implementing regulations that relate to the issues investigated in the subject review

II. Definitions

For the purpose of this Agreement, the terms listed below shall have the following meaning:

- A. **Applicant** means any person who inquires about or submits an application for services from ADHR's Child Welfare Program.
- B. **Bilingual/Multilingual Staff** means an ADHR staff member who has demonstrated proficiency in English and at least one other language, and who can interpret accurately, impartially, and effectively to and from such language(s) and English using any specialized terminology necessary for effective communication, but whose main job responsibilities are other than interpretation. An ADHR staff member who only has a rudimentary familiarity with a language other than English shall not be considered "Bilingual/Multilingual Staff" under this agreement.
- C. **Contractor** means any entity that provides direct services to applicants or participants of the ADHR Child Welfare Program on behalf of the Child Welfare Program under a contractual agreement with reimbursement, which includes monies allocated to ADHR as Federal financial assistance from HHS. Contractors specifically includes all outside entities to whom CWP participants are referred and required to obtain services as part of their reunification plans, such as psychiatrists, psychologists, and alcohol treatment providers.
- D. **Child Welfare Program (CWP)** means the Family Services Division of ADHR or any subsequent division responsible for adoption, foster care and child protective services.
- E. **Frequently-Encountered Language** means any language spoken by a significant number or percentage of the population eligible to be served or likely to be directly affected by ADHR's programs and services.
- F. **Interpreter** means a person who has demonstrated proficiency in both spoken English and at least one other language; and who can interpret accurately, impartially, and effectively to and from such language and English using any specialized terminology necessary for effective communication; and who understands interpreter ethics and client confidentiality needs. A person who has rudimentary familiarity with a language other than English is not to be considered an "interpreter" under this agreement.

- G. **Language Assistance** means all oral and written language services needed to assist LEP individuals to communicate effectively with staff, sub-recipients, and contractors to provide LEP individuals with meaningful access to, and an equal opportunity to participate fully in the services, activities, or programs, administered by CWP.
- H. **Limited-English Proficient (LEP) Individual** means an individual whose primary language for communication is not English and who has a limited ability to read, write, speak or understand English.
- I. **Participant** means any person who has applied for and is receiving services under any CWP program or service for which USDHHS funding is received. This includes persons who are the subject of any Child Welfare Program investigation.
- J. **Primary Language** means the language that an LEP individual identifies as the language that he or she uses to communicate effectively, and is the language that the individual prefers to use to communicate with CWP.
- K. **Proficiency** means the ability of a person to speak, read, write, and understand a language.
- L. **Staff Interpreter** means an ADHR staff member or contractor whose job is to provide interpretation and translation services.
- M. **Sub-recipients** means an entity that receives Federal assistance as a pass-through from ADHR to carry out a federally-funded program, in which the sub-recipient provides services to and has contact with CWP applicants and participants in the same manner as CWP if the CWP were to administer the program directly, but does not include an individual applicant or participant who is a beneficiary of the program.
- N. **Vital Documents** shall include, but are not limited to: CWP applications; consent forms; complaint forms; letters or notices pertaining to eligibility for benefits; letters or notices pertaining to the reduction, denial, or termination of services or benefits that require a response from the LEP person; written tests that evaluate competency for a particular license, job, or skill for which knowing English is not required; documents that must be provided by law; and notices regarding the availability of free language assistance services for LEP individuals.

III. General Provisions

- A. **Facilities Covered by Agreement.** The agreement covers all Child Welfare Program services ADHR administers or provides directly or through sub-recipients or contractors.
- B. **Effective Date and Duration of Agreement.** This Agreement shall become effective on the date it is executed by both parties (Effective Date) and shall terminate on December

31, 2018, as long as ADHR is in substantial compliance. By December 18, 2018, if OCR believes the State is not in substantial compliance, OCR shall invoke the procedures pursuant to Section III.G. herein, to extend this Agreement. Notwithstanding the aforementioned time limitation, ADHR acknowledges that it will comply with Title VI of the Civil Rights Act of 1964 for so long as it continues to receive Federal financial assistance.

C. ADHR's Continuing Obligation. Nothing in this Agreement is intended to relieve ADHR of its obligation to comply with applicable non-discrimination statutes and their implementing regulations.

D. Effect on Other Compliance Matters. The terms of this Agreement apply to all concerns or issues of OCR related to accessibility or provision of services to persons with limited English proficiency regardless of the complaint, case, or transaction number. The terms of the agreement do not apply to any other issues, investigations, reviews, or complaints of discrimination that are unrelated to the subject matter of this Agreement and that may be pending before OCR or any other Federal Agency. Any unrelated compliance matters arising from reviews or investigations will be addressed and resolved separately. OCR shall review complaints against ADHR that are received on or after the Effective Date that concern the laws, regulations, issues, and subject matter covered by this Agreement. Nothing in this Agreement shall be construed to limit or restrict OCR's statutory and regulatory authority to conduct complaint investigations and compliance reviews or to seek remedies for conduct beyond the conduct addressed in this agreement.

E. Prohibition Against Retaliation and Intimidation. ADHR shall not retaliate, intimidate, threaten, coerce, or discriminate against any person who has filed a complaint, assisted, or participated in any manner in the investigation of matters addressed in this Agreement.

F. OCR's Review of ADHR's Compliance with Agreement. OCR may, at any time, review ADHR's compliance with this Agreement. As part of such review, OCR may require ADHR to provide written reports, permit inspection of offices, interview staff members, and allow OCR to examine and copy documents. ADHR agrees to retain records required by OCR to assess its compliance with the Agreement, as described in Section IV.T., and to submit reports to OCR as specified in Section IV.W.

G. Failure to Comply with the Terms of Agreement. If at any time OCR determines that ADHR has failed to comply with any provision of this Agreement, OCR shall notify ADHR in writing. The notice shall state the nature of the default, the requested cure and the timeframe within which the cure is requested. ADHR shall have thirty (30) calendar days to either: (a) explain in writing the reasons for its actions and describe the remedial actions that have been or shall be taken to achieve compliance with this Agreement; or (b) dispute the accuracy of OCR's findings. On notice to ADHR, OCR may shorten the 30-calendar day period if it determines that a delay would result in irreparable injury to any complainant or to other affected parties. If ADHR does not respond to the notice, or if, upon review of ADHR's response, OCR determines that ADHR has not complied with the terms of the Agreement, OCR shall inform ADHR that it

is in violation of the Agreement and may take actions set forth in the Title VI implementing regulations authorizing enforcement or other appropriate action.

H. Non-Waiver Provision. Failure by OCR to enforce this entire Agreement or any provision thereof with respect to any deadline or any other provision shall not be construed as a waiver of OCR's right to enforce other deadlines or any other provision of this Agreement.

I. Entire Agreement. This Agreement constitutes the entire understanding between ADHR and OCR in resolution of Transaction Number 10-116910 as well as any other matters related to the accessibility or provision of services to persons with limited English proficiency regardless of the complaint, case, or transactions number. Any statement, promise, or agreement not contained herein shall not be enforceable through this Agreement.

J. Modification of Agreement. This Agreement may be modified by mutual agreement of the parties in writing. The parties further agree to modify the Agreement as necessary to comply with any new state or federal law, rule or regulation. The parties further agree to modify the Agreement as necessary to adjust with required changes in procedures or to take such steps as both parties may agree provide a more effective method of implementation. The parties further acknowledge that required changes in procedures may be made following the termination of this Agreement as are necessary to comply with any new Federal law, rule or regulation, or any new State law, rule or regulation that is consistent with Federal law..

K. Effect of ADHR Program Changes. ADHR reserves the right to change or modify its programs, so long as ADHR ensures compliance with Title VI and its implementing regulations, and other applicable state and federal laws, and the provisions of this Agreement. Significant program changes that may affect compliance with this Agreement or any applicable statues and regulations within OCR's jurisdiction must be reported to OCR promptly.

L. Publication or Release of Agreement. OCR places no restrictions on the publication of the terms of this Agreement. In addition, OCR may be required to release the Agreement and all related materials to any person upon request consistent with the requirements of the Freedom of Information Act, 5 U.S.C. § 552, and its implementing regulations, 45 C.F.R. Part 5.

M. Authority of Signer. The individual who signs this document on behalf of ADHR represents that he or she is authorized to bind ADHR to this Agreement.

N. Third Party Rights. This Agreement can only be enforced by the parties specified in this Agreement, their legal representatives and assigns. This Agreement shall be unenforceable by third parties and shall not be construed to create third party beneficiary rights.

O. Severability. In the event that a court of competent jurisdiction determines that any provision of this Agreement is unenforceable, such provision shall be severed from this Agreement and all other provisions shall remain valid and enforceable; provided, however, that if the severance of any such provision materially alters the rights or obligations of the Parties, they shall, through reasonable, good faith negotiations, agree upon such other amendments

hereto as may be necessary to restore the Parties as closely as possible to the relative rights and obligations initially intended by them hereunder.

P. Technical Assistance. OCR agrees to provide appropriate technical assistance to ADHR regarding compliance with this Agreement, as requested and as reasonably necessary.

IV. Specific Provisions

A. Recognition. ADHR recognizes that LEP individuals need language assistance services to access and fully participate in ADHR's Child Welfare Programs and activities. ADHR further recognizes that an individual's lack of proficiency in English and use of non-English languages is a direct outgrowth of, and is integrally tied to, their national origin. Therefore, pursuant to ADHR policy and compliance with Title VI, ADHR recognizes and agrees that it will not discriminate on the basis of national origin, including the provision of language assistance to LEP individuals. Additionally, ADHR will provide competent language assistance at no cost and in a timely manner to LEP individuals to ensure they have meaningful access to and an equal opportunity to participate fully in CWP services, activities, programs, or other benefits administered by CWP. This includes ensuring effective communication between ADHR staff members, sub-recipients, and contractors with LEP individuals. ADHR also recognizes that national origin includes an individual's manifestation of the physical, cultural, or linguistic characteristics of a national origin group and, while there is not always a direct relationship between an individual's language and national origin, often language does serve as an identifier of national origin and a factor for discriminating against a person in violation of Title VI.

B. Develop and Implement Policy. Within ninety (90) calendar days of the Effective Date of this Agreement, ADHR shall update its Family Services written policies and procedures to: 1) arrange for the provision of language assistance to LEP individuals pursuant to Section IV.A. of this Agreement and Title VI; and 2) bar discrimination on the basis of national origin, including adverse treatment of persons because they have the physical, cultural, or linguistic characteristics of a national origin group. OCR shall review the policy and procedures within thirty (30) calendar days of receipt. The policy and procedures shall not be implemented by ADHR without the approval of OCR. Within fifteen (15) calendar days of OCR approval, ADHR shall disseminate the policy and procedures to CWP staff members, contractors, and sub-recipients and publish them in an appropriate ADHR-wide communication piece.

C. Assessment for Determining Linguistic Needs

1. Determining the Language Needs of the Affected Population. Within sixty (60) calendar days of the Effective Date of this Agreement, and annually thereafter, ADHR shall assess the language needs of LEP individuals that are eligible for services and are likely to be directly affected by its Child Welfare Programs. Such assessment shall identify the following:

- a. The non-English languages likely to be encountered in ADHR's Child Welfare Programs.

b. An estimate of the number of LEP individuals likely to be directly affected by ADHR's Child Welfare Programs and their languages by reviewing various sources including but not limited to:

- i. Census data;
- ii. Utilization data from LEP individuals' files;
- iii. School system data;
- iv. Data from state and local governments;
- v. Data from community agencies and organizations; and
- vi. Information from refugee/immigrant serving agencies.

c. The points of contact within ADHR's Child Welfare Programs and ADHR's contractors where language assistance is likely to be needed.

d. The locations and availability of language assistance resources, and arrangements that must be made to access these resources in a timely manner. This shall include the number of bilingual/multilingual staff volunteers, staff interpreters, contracted interpreters, community volunteer interpreters, and telephonic interpreting services required at each ADHR Child Welfare Program office and the resources needed to translate documents, as required.

e. Existing vital documents in the Child Welfare Program and a process for determining which later-created documents are vital documents.

2. Determining the Language Needs of Each LEP Individual. Within ninety (90) calendar days of the Effective Date of this Agreement, ADHR shall develop and implement a system for determining the primary language of each LEP individual at the first point of contact with the Child Welfare Program. The parties acknowledge that the initial system of delivery is attached hereto as Exhibit A.

a. Coordination between ADHR Departments, Sub-recipients, and Contractors. A system or process shall be developed by which information concerning the language assistance needs of applicants and participants are communicated between ADHR departments, program areas, sub-recipients, and contractors. The system shall ensure that referrals to contractors will not be delayed due to language needs and that interpreters will be provided for all services provided by contractors.

D. Notifying LEP Individuals of the Availability of Free Language Assistance. Within sixty (60) calendar days of the Effective Date of this Agreement, ADHR shall provide notice to LEP and community agencies serving LEP individuals in ADHR's service area of the availability of free language assistance where necessary to provide meaningful access and the

process for filing and resolving complaints about such services with ADHR. Such methods shall include:

1. Posters and signs translated into frequently-encountered languages prominently displayed in each ADHR CWP office, in waiting rooms, reception areas, and other initial points of entry;
2. Child Welfare Program brochures or flyers translated into frequently-encountered languages providing notice to community agencies and organizations;
3. Statements included on Child Welfare Program application forms and informational material disseminated to the public, including the ADHR website.

E. Oral Language Services (Interpretation)

1. ADHR currently provides interpreter services under a contract for in-person interpretation and a contract for telephone interpreter services. Additionally, ADHR may utilize bilingual/multilingual staff or volunteer interpreters.
2. ADHR shall ensure that, pursuant Section IV.L. of this Agreement, regardless of the type of language assistance provider, the language assistance provider is competent to interpret or translate. Competency shall be assessed in accordance with Exhibit A, Section V. as attached hereto or as subsequently modified.
3. Within sixty (60) calendar days of the Effective Date of this Agreement, ADHR shall provide interpretation, pursuant to Section IV.H. of this Agreement, for LEP individuals who need such assistance to communicate effectively with CWP staff, and for all other CWP contracted programs and services. ADHR may utilize any of the following language assistance resources, to the extent such resources result in effective communication:
 - a. Bilingual/multilingual staff;
 - b. Staff or contract interpreters;
 - c. ADHR language phone banks staffed with bilingual/multilingual staff;
 - d. Interpreters from community organizations;
 - e. Telephone interpreter services procured under contract by ADHR; or
 - f. Volunteer interpreter program.
4. ADHR shall ensure that, pursuant to Section IV.L. of this Agreement, regardless of the type of language assistance provided, the language assistance provider is competent to

interpret or translate in accordance with Exhibit A, Section V. as attached hereto or as subsequently modified.

5. Within sixty (60) calendar days of the Effective Date of this Agreement, ADHR will develop, and ensure that each ADHR Child Welfare Program office maintains a list identifying all available language interpreters, telephone language lines, and other services and resources. For each office, the list shall identify all of the following:

- a. The name and telephone number of every language assistance resource available to the office;
- b. The location of the office to which the interpreter is assigned, if the interpreter is a staff member of ADHR;
- c. The languages for which each interpreter is qualified;
- d. The hours and days the interpreter or resource is available to provide interpretation or other assistance; and
- e. The procedure by which each interpreter or resource shall be accessed by staff.

6. The list shall be updated annually by each county office.

G. Translation of Written Documents.

1. Within six (6) months after the Effective Date of this Agreement, ADHR shall identify and review existing vital documents in the Child Welfare Program and shall establish a process for determining which later-created documents are "vital" to the meaningful access of the LEP populations served.

2. Within one (1) year after the Effective Date of this Agreement, ADHR shall translate existing vital documents in the Child Welfare Program into any language spoken by five (5%) percent of the total population served by the Child Welfare Program in 2016 or, or one thousand (1000) persons in that population, whichever is less; later-created vital documents shall be translated into the same languages within a reasonable time of being created, but not to exceed six (6) months of being created.

a. If there are fewer than fifty (50) persons in a language group that reaches the five (5%) percent trigger, ADHR may, in lieu of translating the vital documents, elect to provide written notice in the primary language of the LEP language group of the right to receive competent oral translation of the vital documents, free of cost to the LEP individual.

b. ADHR shall develop a process for ensuring that correspondence and other documents submitted to CWP by an LEP individual in the LEP individual's primary language are translated without undue delay.

c. ADHR shall evaluate the translation of written documents as part of the annual assessment under Section IV.C.1. herein.

H. Timely, Competent Language Assistance. ADHR shall provide each LEP individual the competent oral and written language assistance services necessary to ensure meaningful access to ADHR Child Welfare Programs, pursuant to Section IV.A. of this Agreement and Title VI. ADHR may offer to schedule appointments for LEP individuals at specified times in order to minimize waiting times and to ensure the availability of appropriate qualified language interpreters, provided that the use of an appointment facilitates the provision of language assistance and does not impede or delay the individual's access to benefits and/or services provided by CWP.

I. Language Assistance Resources. Based on the language needs assessment conducted pursuant to Section IV.C. of this Agreement, ADHR shall annually determine what resources and arrangements are needed to provide sufficient language assistance services in a timely manner for oral and written communication with the Child Welfare Program. ADHR shall hire appropriate staff and utilize outside agencies as required to provide necessary services.

J. Telephone Communication. ADHR shall provide uniform procedures for timely and effective telephone communication between CWP staff members and LEP individuals. Telephone communication between CWP staff members and LEP individuals shall be provided in accordance with the system of delivery set out in Exhibit A to this Agreement or any subsequent modification executed with the agreement of ADHR and OCR.

K. Subsequent Home-Based Communications. ADHR shall provide uniform procedures for timely and effective communication between CWP staff members and LEP individuals during home visits and inspections. Communication between CWP staff members and LEP individuals during home visits and inspections shall be conducted in accordance with the system of delivery set out in Exhibit A of this Agreement or any subsequent modification executed with the agreement of ADHR and OCR.

L. Language Assistance Standards. ADHR shall take reasonable steps to ensure that Child Welfare Program staff interpreters and translators, bilingual/multilingual staff, interpreters from community organizations, and contractors providing language assistance services, including interpretation and translation, are capable of competently performing their duties. Competency of language assistance service providers may be established by a variety of means including self-attestation of the interpreter after having reviewed the interpreter competency standards listed below.

Standards for interpreter competency shall include the following:

1. Communicate in both English and the LEP individual's primary language accurately and effectively;
2. Interpret to and from English and the LEP individual's primary language accurately and impartially;

3. Possess appropriate knowledge of specialized terms and concepts used frequently in the provision of the CWP's services and programs;
4. Understand and follow the obligation to maintain confidentiality;
5. Understand the roles of interpreters and the ethics associated with being an interpreter;
6. For those providing written translations, have the ability to translate written documents effectively.

M. Use of Family or Friends as Interpreters. The parties recognize that LEP individuals may seek to use family members or friends as interpreters. Regardless, CWP staff members shall not require an LEP individual to utilize family members or friends to provide interpretation or translation services, and must make the LEP individual aware that he or she has the option of ADHR providing language services free of charge. If the LEP individual declines ADHR's offer to provide language services free of charge, ADHR should note the individual's decision in the file. In addition:

1. If an LEP individual, after the offer of free language assistance in his or her primary language, elects to use a family member or friend to provide interpretation, CWP shall take reasonable steps to determine whether the individual providing the interpretation is competent to provide this service in accordance with the system of delivery set out in Exhibit A to this Agreement or any subsequent modification executed with the agreement of ADHR and OCR. Further, CWP shall take reasonable steps to determine whether conflict of interest, confidentiality or other concerns make use of the friend or family member inappropriate in accordance with the system of delivery set out in Exhibit A to this Agreement or any subsequent modification executed with the agreement of ADHR and OCR. These concerns are heightened and require the exercise of significant caution, if the LEP individual asks to have a minor provide interpretation. If the family member or friend is not competent or appropriate under the circumstances, CWP shall provide interpreter services in place of or, if appropriate, in addition to the person selected by the LEP individual.

N. CWP Language Assistance Coordinator. Within sixty (60) calendar days of the Effective Date of this Agreement, ADHR shall designate a senior staff person to serve as its CWP Language Assistance Coordinator. The CWP Language Assistance Coordinator shall have overall responsibility for coordinating CWP's comprehensive language assistance services and directing compliance with this Agreement, including but not limited to:

1. Serving as a liaison between ADHR and USDHHS, and other stakeholders serving LEP individuals who seek to access and fully participate in programs and activities operated by CWP; and.

2. Answering questions posed by the County Language Assistance Coordinators;
3. Transmission of the monthly reports to OCR on the no later than the fifteenth day of the month following the report; and
4. Performing other duties identified in CWP policies and procedures that will be implemented pursuant to this Agreement.

O. County Language Assistance Personnel. Within sixty (60) calendar days of the Effective Date of this Agreement, ADHR shall identify appropriate personnel at the county level of the Child Welfare Program organization who will coordinate language assistance services for their respective levels. The identified personnel shall have responsibility for directing compliance with Title VI and implementation of this Agreement at their respective levels, including but not limited to:

1. Distributing to the appropriate ADHR staff members the policies and procedures regarding language assistance referenced in Section IV.B. of this Agreement, and the list of available language assistance services referenced in Section IV.F.3. of this Agreement;
2. Consulting with the CWP Language Assistance Coordinator on the development and implementation of staff training pursuant to Section IV.P. of this Agreement;
3. Collecting internal data pursuant to Section IV.U. of this Agreement;
4. Answering questions from the public or county staff relating to Language Assistance Services; and
5. Performing other duties as identified in policies and procedures implemented pursuant to this Agreement.

P. Training. Within six (6) months of the Effective Date of this Agreement, ADHR will develop and implement mandatory staff training for all CWP supervisors as well as for CWP staff members who have regular contact with applicants and participants on the CWP policies and procedures for communicating with and serving LEP individuals. The training will specifically address CWP's responsibility to provide interpreter services to LEP individuals during home visits to determine eligibility for services and the requirement to ensure referrals to contractors will not be delayed for LEP individuals and that interpreter services will be provided. Thereafter, training on these policies and procedures shall be conducted annually and at orientation for new employees, or at least within thirty (30) calendar days of employment. Training may be conducted online and be self-paced with acknowledgment of understanding by the trainees and the opportunity to ask questions to relevant Language Assistance personnel.

1. The training program shall be of sufficient content and duration to cover the following:
 - a) The importance of effective communication with LEP individuals;

- b) The policy and procedures outlined in this Agreement;
- c) The method used to assess an individual's need for interpreter or other language assistance services;
- d) The use of interpreters when CWP staff members receive incoming calls from or make outgoing calls to LEP individuals;
- e) The use of interpreters by contractors to whom participants are referred for services required by the reunification plan;
- f) The impact of ethnic and cultural differences on effective communication and the need for sensitivity to diversity issues;
- g) The effective method of using an in-person and telephone interpreter;
and
- h) Applicable record-keeping procedures.

2. ADHR shall maintain a training registry that records the names and dates of the staff members who have been trained.

Q. Complaint Procedures. Within sixty (60) calendar days of the Effective Date of this Agreement, ADHR will develop and implement uniform procedures for receiving and responding to complaints and concerns from LEP individuals who need language assistance services from CWP. Resolution of complaints shall be conducted in accordance with the system of delivery set out in Exhibit A to this Agreement or any subsequent modification executed with the agreement of ADHR and OCR.

R. Notice of Non-Discrimination Policy. Within sixty (60) calendar days of the Effective Date of this Agreement, ADHR shall develop and post, in each area in which participants wait for service at each CWP office, a notice of its non-discrimination policy.

S. CWP Sub-Recipients and Contractors. ADHR shall ensure that all applicable sub-recipients and contractors are informed of the LEP requirements of Title VI and this Agreement. ADHR shall provide information to and oversee the applicable sub-recipients and contractors as necessary to monitor compliance with these requirements.

T. Monitoring.

To ensure effective language assistance and access to services, ADHR shall develop and implement a program to monitor CWP's provision of language assistance services to LEP individuals and compliance with this Agreement. As part of the monitoring program, ADHR may implement all or part of the following provisions:

1. Review LEP individuals' case records to assess whether primary languages are properly recorded in all case records and whether such persons are provided adequate language assistance services;
2. Review complaints filed by LEP individuals to determine adequacy of language assistance services;
3. Assess CWP staff, sub-recipients and contractors' knowledge about CWP's language assistance policies and procedures;
4. Review the accuracy of the list(s) containing the availability of bilingual staff, interpreters, and other resources;
5. Request feedback from LEP individuals and advocates;
6. Review the development and distribution of translated CWP documents and posting of signs in public assistance offices;
7. Assist with the recruitment and assignment of bilingual staff, if applicable;
8. Analyze the impact of all procedural and policy changes affecting LEP individuals;
9. Reassess the linguistic needs of the affected population by conducting the Assessment for Determining Linguistic Needs described in Section IV.C.; and
10. Develop and conduct a self-assessment program to determine whether language assistance services are provided to LEP persons when they visit CWP offices or contact an office by telephone. The self-assessment program may include:
 - a. Unannounced site visits to a sampling of randomly selected CWP offices to be conducted every six (6) months, beginning within six (6) months of the Effective Date of this Agreement; and
 - b. Requests for public assistance information in languages other than English by testers. Monitoring shall be conducted in accordance with the system of delivery set out in Exhibit A to this Agreement or any subsequent modification executed with the agreement of ADHR and OCR.

U. CWP Internal Data Collection. CWP shall maintain a centralized record-keeping system that facilitates coordination between CWP programs, divisions, branches, and units and assures the ready availability of data regarding the provision of language assistance services to LEP individuals, in which:

1. CWP shall record the primary language spoken by each LEP person in the FACTS system or any such electronic record keeping system implemented thereafter.

2. CWP shall record in each LEP individual's case file the primary language of the individual, the type of language assistance provided during each encounter, if any, and if a family member or friend of the LEP individual provided interpretation, the name of the family member or friend, pursuant to Section IV.M. of this Agreement. The parties acknowledge that data at the encounter level will be maintained in a narrative or written format and will be transmitted to the County Language Assistance Coordinator through the use of a spreadsheet to be developed by ADHR, in consultation with OCR.

3. ADHR shall identify, in consultation with OCR, any other data needed to ascertain compliance with this Agreement, which may include but is not limited to:

- a. The number of LEP individuals served, by primary language; and
- b. The number and type of language assistance services provided.

V. Reporting Requirements to OCR

1. Within ninety (90) calendar days of the Effective Date of this Agreement, ADHR shall submit written policies and procedures pursuant to Section IV.B. of this Agreement for OCR's review and approval.

2. Within ninety (90) calendar days of the Effective Date of this Agreement, ADHR shall submit to OCR, a preliminary report on the data collected pursuant to Section IV.U. of this Agreement.

3. Beginning within six (6) months of the Effective Date of this Agreement and continuing through December 2018, ADHR shall provide to OCR a monthly report detailing the information collected in Section IV.N., Section IV.O. and Section IV.U..

W. Signatures

//S//

Nancy Buckner, Commissioner
Alabama Department of Human Resources

8/17/17
Date

//S//

Timothy Noonan
Regional Manager, Southeast Region
U.S. Department of Health & Human Services
Office for Civil Rights

8/28/2017
Date

EXHIBIT A

I. Oral Language Services (Interpretation)

A. ADHR currently provides interpreter services under a contract for in-person interpretation and a contract for telephone interpreter services. Additionally, ADHR may utilize bilingual/multilingual staff or volunteer interpreters.

B. ADHR shall ensure that, pursuant Section IV.L of this Agreement, regardless of the type of language assistance provider, the language assistance provider is competent to interpret or translate.

C. Within sixty (60) calendar days of the Effective Date of this Agreement, ADHR shall ensure all interpretation services are provided, in accordance with to Section IV.H. of this Agreement, for LEP individuals who need such assistance to communicate effectively with CWP staff, and for all other CWP contracted programs and services. ADHR may utilize any of the following language assistance resources, to the extent such resources result in effective communication:

1. Bilingual/multilingual staff;
2. Staff or contract interpreters;
3. ADHR language phone banks staffed with bilingual/multilingual staff;
4. Interpreters from community organizations;
5. Telephone interpreter services procured under contract by ADHR; or
6. Volunteer interpreter program.

D. Within sixty (60) calendar days of the Effective Date of this Agreement, ADHR will develop, and ensure that each ADHR Child Welfare Program County office maintains a list identifying all available language interpreters, telephone language lines, and other services and resources. For each office, the list shall identify all of the following:

1. The name and telephone number of every language assistance resource available to the office;
2. The location of the office to which the interpreter is assigned, if the interpreter is a staff member of ADHR;
3. The languages for which each interpreter is qualified;
4. The hours and days the interpreter or resource is available to provide interpretation or other assistance; and
5. The procedure by which each interpreter or resource shall be accessed by staff.

E. The list shall be updated annually by each county office.

II. Initial In-person Communication.

A. Upon a CWP staff member's initial encounter with an LEP individual, the staff member will determine the individual's primary language utilizing multi-language identification cards or modified "I Speak" cards attached hereto as Addendum A. Any subsequent modification of the "I Speak" card shall inform the individual of the right to a free interpreter services and shall give offer the opportunity to accept or decline the services. If the LEP person does not read or recognize any of the languages included in one of the methods described above, ADHR shall use a telephone interpreting service to identify the individual's primary language. If an LEP individual requests an interpreter from the Child Welfare Program, one shall be provided. Under no circumstances shall a staff member deny a request for an interpreter based solely on whether an LEP individual can answer short questions by nodding or through the use of questions to which the answers are simply "yes" or "no." The acceptance or refusal of services shall be documented on the "I Speak" card.

B. Upon identification of the LEP person's primary language, the ADHR staff member will refer the individual to the pre-printed statement, if available, in the individual's primary language that reads, "Please wait while I obtain an interpreter."

III. Subsequent In-person Communication

If an interpreter was requested or utilized during the initial communication with the client, an interpreter should be utilized during subsequent communications.

CWP staff should continually assess the need for interpretive services. An interpreter should be provided at any time one is requested by the client or at such time as the staff member determines that the client is not able to effectively communicate with the staff member, provider or contractor.

IV. Telephone Communication.

When a CWP staff person places or receives a telephone call and cannot determine the language spoken by the person on the line, a telephone interpreter services provider will be contacted to make an assessment of the language spoken by the other party and to assist the other party as necessary and to provide interpreter services. The caseworker shall document the language in the individual's record using the modified "I Speak" card.

V. Verification of Interpreter Competency

A. Each individual, whether contractor, staff, volunteer or family member, who provides in-person interpretation services must provide verification of competency by completing the Interpreter Services card labeled "Verification of In-Person Interpreter." A card should be completed for each occasion during which services for in-person interpretation is provided. The card should be maintained as part of the case record. A copy of the card should be provided to the County Language Assistance Coordinator and the data included in the monthly county report. If at any time the client or ADHR staff or contractors have difficulty communicating through an interpreter or bi-lingual employee, ADHR staff and contractors

will immediately obtain alternative interpreter services to ensure clients have meaningful access to ADHR programs and services.

B. CWP staff, contractor or provider shall verify the competency of any individual providing telephone interpretation services by completing the Interpreter Services card labeled "Verification of Phone Interpreter." The card should be maintained as part of the case record. A copy of the card should be provided to the County Language Assistance Coordinator and the data included in the monthly county report.

VI. Complaint Procedures.

The County Language Assistance Coordinator shall receive and resolve immediately when possible or shall address within 5 business days all concerns from LEP individuals who need language assistance services from CWP. A summary of each complaint and response will be forwarded as part of the monthly report to the CWP Language Assistance Coordinator for review by the fifteenth day of the month.

VII. CWP Sub-Recipients and Contractors.

ADHR shall ensure that all applicable sub-recipients and contractors are informed of the LEP requirements of Title VI and this Agreement. ADHR will provide all current contractors a copy of a brochure outlining their obligations regarding Language Services within ninety (90) calendar days of the Effective Date of this Agreement and will provide a copy to all future sub-recipients and contractors within thirty (30) days of their engagement.

VIII. Monitoring.

A. County Management Evaluations: ADHR shall monitor County DHR office compliance with Title VI by incorporating compliance into the management evaluation review process, which includes site visits to the County DHR offices under evaluation, or shall create a parallel process for language services compliance. Deficiencies found by DHR during the review shall be transmitted to the County Language Assistance Coordinator and the State Language Assistance Coordinator and a corrective action plan shall be developed and implemented.

B. Record Review. County DHR offices shall monitor compliance by incorporating language service compliance into a random case record review process to be conducted by the County Language Assistance Coordinator. The County Language Assistance Coordinator shall pull a sufficient sample to establish that each unit is reviewed at least annually. The initial annual review shall be completed no later than December 1, 2017. Subsequent reviews shall be completed within the following twelve-month period. ADHR shall provide the county offices a form which provides the information to be reviewed, the standards of the review and the information to be reported to the State Language Assistance Coordinator. A summary report shall be provided to the State Language Assistance Coordinator. The report shall include, but not be limited to, any deficiencies found by the

County office during the review. The State Language Assistance Coordinator shall provide a corrective action plan to the County Language Assistance Coordinator within thirty (30) days of the receipt of the report.

C. Corrective Action.

1. ADHR shall ensure that any complaints made by the public regarding the provision of language services by County DHR offices shall be forwarded to the Director of affected office, the County Language Assistance Coordinator and also forwarded to the State Language Assistance Coordinator.
2. ADHR shall take appropriate corrective action, subject to State personnel law, when it is determined that a particular office or individual employees at a particular County DHR office is/are not complying with Title VI or the provisions of this Agreement, or otherwise are in need of corrective action to assure compliance.

D. Personnel Policy. Annual performance reviews of the Language Assistance Coordinator, County Language Assistance Coordinators, and County Directors shall include compliance with language assistance requirements. District Administrative Specialists shall consider Title VI compliance as part of their evaluation of County Directors. Progressive discipline procedures shall apply to all DHR staff who do not comply with the requirements of Title VI and the terms of this Agreement.