

REPORT TO THE LEGISLATURE

Language Access Providers

HB 2691
Chapter 289, Laws of 2020

December 1, 2020

DSHS – Office of the Secretary
Office of Diversity and Inclusion
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Executive Summary

Summary of 2SSB6245 (2018)

DSHS, HCA, DCYF and L&I must purchase in-person spoken language interpreter services directly from language access providers or through contracts with scheduling or coordinating entities or both by September 1, 2020. Each agency must also have at least one contract with an entity that provides telephonic and video remote interpreter services. DES must develop and implement a model that all state agencies must use to purchase spoken language interpreter services directly from language access providers or through scheduling or coordinating entities or both by September 1, 2020. DES must also have at least one contract with an entity that provides telephonic and video remote services. DSHS, HCA, DCYF, and L&I may procure these contracts independently if demand can't be met through a DES contract.

All language access providers procured by DSHS, HCA, DCYF, L&I, and DES must be certified or authorized by the state or by National Certification Commission for Health Care interpreters or the National Board for Certification of Medical Interpreters. Agencies can hire language access providers with different qualifications if one of those listed is not available.

DSHS may only offer spoken language interpreter testing in languages for which requests are unfilled 10 percent or more of the time except for certain listed exceptions.

Language services providers may form three different statewide bargaining units to include; 1) providers for DSHS, DCYF or medical enrollee appointments; 2) providers for injured workers or crime victims receiving benefits from L&I; and 3) other providers for any state agency through DES.

Any part of the act that conflicts with federal requirements is inoperative, and nothing in the act may restrict an agency's ability to serve limited English proficient clients in a timely manner.

Summary Response

DSHS currently procures in-person interpreter services from a coordinating entity and has an emergency procedure in place due to the current pandemic to schedule telephonic and video remote interpreter services through the same coordinating entity. DSHS does not have a procured contract in place for scheduling these remote services. DES is in the process of procuring a coordinating entity through which state agencies can procure interpreter services in all modalities. DSHS will use this vendor once selected. Recommendations are to extend the time for DES to procure a viable contracting solution for all agencies and develop a statewide body for interpreter/translator management and oversight to appropriately determine and uphold standards for language services throughout the state.

Current procurement processes and implementation update

DSHS's purchases in-person spoken language interpreter services through the Healthcare Authority's (HCA) contract with coordinating entity, Universal Language Services (K2474). While this contract does not include remote services, DSHS is currently directing staff to use the contract for both telephonic and video remote interpreter services during the pandemic.

DSHS has multiple contracts available for on demand telephonic interpreter services. These are interpreter services required immediately upon request and satisfy the requirement that we provide meaningful, timely access to clients with limited English proficiency (LEP).

DSHS has access to DES contract 02819 for video remote services. However, these vendors are not able to provide three way calling capability for video services and neither are approved by the Office of Cyber Security for Category 3 or 4 information.

When DSHS is not able to fill a request through one of the contracting options listed above, staff can go off contract and directly hire language access providers.

Implementation barriers and recommendations for removing the barriers

DSHS needs a contract with a coordinating or scheduling entity for telephonic and video remote requests. Working toward this end, DSHS staff joined the procurement team lead by the Department of Enterprise Services (DES) for a master contract with a coordinating entity. This vendor will be available to all qualifying state agencies and would include options for in person and remote services. The DES procurement is in the final bid evaluation stage, and is now being reviewed by the Office of Cyber Security. DES expects to have a contract in place by early 2021. We understand that this contract may not include video remote services that are three-way capable.

DSHS also posted a Request for Information (RFI) in late 2020 to investigate the option of procuring its own coordinating entity. This RFI lead us to believe that due to the volume and complexity of work, we should hold off on our own procurement and instead to use the DES master contract once it is in place. The major barriers to complying with the requirements of RCW 39.26.300 include; increased costs, increased need for staffing resources, limitations of available technology, requirement to comply with intricate details of collective bargaining, legal requirement to provide services without delay, and the limited number, availability and reliability of qualified interpreters.

Impacts of the changes to the bargaining units for language access providers.

DSHS has not been impacted by the change in potential bargaining units. Future impacts are unclear.

Recommendations on how to improve the procurement and accessibility of language access providers.

DSHS recommends the following:

- a) Extend the timeline requiring a contract for video remote interpreter services. In order for DSHS to use these services, the vendor would need to have three-way capable technology. More time would allow DES to work on a new procurement focused solely on video remote interpreter services.
- b) Extend the timeline for DES to finish their current procurement, and to initiate another procurement if this one does not result in a vendor that all interested agencies can use. Managing and monitoring a contract with a coordinating entity will be costly and require a dedicated management team. Sharing the costs through a master contract will be the best use of state funds.
- c) Convene a work group with the goal of creating a statewide body for interpreter/translator management and oversight that includes input and involvement from all stakeholders. The need for a unified approach to language access has never been more important. The new Office of Equity may be an appropriate place for this.

- a. DSHS's interpreter/translator tests were created in response to the Reyes Consent Decree, through which DSHS agreed to qualify interpreters, translators, and bilingual staff members who serve DSHS clients. RCW 39.26.300(6) refers to language access providers who are certified or authorized by the state. This language leads agencies to rely on tests that only qualify interpreters to serve DSHS clients.
- b. DSHS's credentials focus on interpretation and translation of information and materials that are specific to social services. There may be unique services and needs in other agencies and private entities that require different credentialing. For example, DSHS is no longer in a position to determine the ongoing needs of medical interpreters or to determine the specific requirements for interpreters working with unique client populations outside of DSHS.
- c. A statewide policy is needed to set standards and ensure quality language access services for state residents.