

Service Level Agreement Frequently Asked Questions

Q1: What is the purpose of the Service Level of Agreement (SLA)?

A1: The purpose of the SLA is to describe the terms and conditions for Aboriginal Skills and Employment Training Strategy (ASETS) agreement holders to access Employment and Social Development Canada's (ESDC) data systems, such as Labour Market Development Agreement (LMDA) Access, and to clarify expectations for the collection and management of personal information under the ASETS contribution agreement. The SLA also defines the scope of ASETS agreement holders' responsibility for the protection of personal information by third parties.

Once signed, the SLA is considered an annex to the ASETS contribution agreement.

Q2: Why are ASETS agreement holders being asked to sign an SLA, particularly in the final year of the agreement?

A2: The SLA clarifies expectations for the "reasonable measures" to which Canada and ASETS agreement holders committed in the contribution agreement for the collection and management of personal information (Schedule G, Section 13). More specifically, the contribution agreement states that the terms and conditions, including systems and security requirements, governing ASETS agreement holder and sub-agreement holder access to Canada's data systems would be set out in an SLA that would be annexed to the contribution agreement (Schedule G, Section 8).

ASETS agreement holders and their third parties would be subject to provincial and/or federal legislation governing the collection and management of personal information. The SLA is based on this legislation, and provides more specific guidance on the minimum security requirements applicable to any organization collecting and using personal information. ASETS agreement holders and their third parties must also comply with their respective legislation.

Further information on minimum security standards for the collection and management of personal information is available from the Office of the Privacy Commissioner of Canada: <http://www.priv.gc.ca/resource/tool-outil/security-securite/english/AssessRisks.asp?x=1> .

Q3: Schedule G, Section 8(1) is the only place in the ASETS contribution agreement that mentions an SLA and this section is specific to LMDA Access. Why are ASETS agreement holders that do not use LMDA Access being asked to sign an SLA?

A3: The purpose of the SLA is threefold. First, the SLA addresses the specific requirements for ASETS agreement holders to access Canada's data systems, specifically LMDA Access. Second, it clarifies expectations for the collection and management of personal information more generally under the ASETS contribution agreement, as per Schedule G, Section 13, which states that Canada and ASETS

agreement holders will take all reasonable measures to ensure the security, confidentiality and integrity of information exchanged. Third, it defines the scope of ASETS agreement holders' responsibility for the protection of personal information by third parties.

Q4: What is considered personal information?

A4: Information collected from clients as per Schedule G, Sections 1-5 of the ASETS contribution agreement is personal information.

The *Privacy Act* applies to personal information held by a government institution. As per Schedule G, Section 10(c) of the ASETS contribution agreement, ASETS agreement holders are required to notify clients that information collected under Schedule G, Sections 3-4 and provided to Canada is protected under the *Privacy Act*, and that clients have the right to request this information from Canada.

Section 3 of the *Privacy Act* defines personal information (in part) as: information about an identifiable individual that is recorded in any form including, information relating to the race, national or ethnic origin, colour, religion, age or marital status of the individual; information relating to the education or the medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved; any identifying number, symbol or other particular assigned to the individual; the address, fingerprints or blood type of the individual; and the name of the individual where it appears with other personal information relating to the individual or where the disclosure of the name itself would reveal information about the individual.

ASETS agreement holders should be aware of how personal information is defined in other legislation, such as the *Personal Information Protection and Electronic Documents Act* (PIPEDA) and in any applicable provincial or territorial legislation.

Section 2 of PIPEDA defines personal information as information about an identifiable individual which does not include the name, title or business address or telephone number of an employee of an organization.

Some provinces, such as British Columbia, Alberta and Quebec, have legislation that is "substantially similar" to PIPEDA. ASETS agreement holders should be aware of any provincial legislation and its definition of personal information.

More information on the definition of personal information and federal and provincial legislation is available from the Office of the Privacy Commissioner of Canada: http://www.priv.gc.ca/resource/fs-fi/02_05_d_26_e.asp .

Q5: The security standards in the SLA are more specific than PIPEDA. Why are ASETS agreement holders being asked to implement standards that go beyond what is required by the legislation?

A5: As required by the ASETS contribution agreement and due to the nature of their activities, ASETS agreement holders and their third parties collect significant amounts of personal information about clients. Any time a single piece of client information is used there is a risk that the information could be used in an unauthorized manner. The risk that an individual can be identified from their personal information increases with each additional data element that is collected, used or shared. For example, sharing the name “Tom Smith” on its own would be a lower risk than sharing “Tom Smith, 123 March Street, Ottawa”. Each additional piece of personal information helps to confirm the identity of the individual with more certainty and, therefore, increases the severity of the impact if the information is used inappropriately.

While PIPEDA and substantially similar provincial legislation outline requirements for the protection of personal information, the SLA provides more detailed information on the minimum security standards that are necessary for ASETS agreement holders and their third parties to ensure the security of their clients’ personal information. ESDC has developed a **Personal Information Security Safeguards Checklist** (see attached) that may assist ASETS agreement holders in implementing the terms of the SLA.

Further information on minimum security standards that organizations should have in place to manage the collection and use of personal information is available from the Office of the Privacy Commissioner of Canada: <http://www.priv.gc.ca/resource/tool-outil/security-secure/english/AssessRisks.asp?x=1> .

Q6: ASETS agreement holders have already submitted their annual budgets and may have identified administrative costs that maximize the allowable 15% of the total agreement amount. What should ASETS agreement holders do if they need to incur additional administrative costs to implement the SLA?

A6: ESDC is aware that SLA implementation may pose additional and unforeseen administrative costs for some ASETS agreement holders. ASETS agreement holders that will need to incur additional costs should provide revised Annual Operational Plans identifying the expenses to Service Canada for review to ensure that costs are eligible and reasonable within the ASETS contribution agreement and program terms and conditions.

The ASETS terms and conditions state that administrative costs in excess of 15% of total funding may be permitted in special circumstances, providing the justification is reasonable and the costs have been negotiated in advance and approved by Canada. As SLA implementation is required by all ASETS agreement holders, Service Canada may authorize reasonable administrative expenses related to implementation in excess of the 15% administrative maximum.

Q7: ASETS agreement holders may have fully committed their budgets for the final year of the agreement and have no flexibility to pay for additional costs related to implementing the SLA. What should ASETS agreement holders do if they don’t want to sign the SLA because they know they cannot be compliant?

A7: ASETS agreement holders and their third parties would be subject to provincial and/or federal legislation governing the collection and management of personal information and are likely already implementing many of the SLA provisions. ESDC understands that some ASETS agreement holders may have questions but expects that best efforts will be made and implementation will be substantially completed within six months of signing the SLA.

Security of personal information is important to ESDC and ASETS agreement holders, and we expect that everyone will use their best efforts to put measures in place that safeguard personal information and reflect the requirements of the SLA.

Q8: As an ASETS agreement holder, who are my third parties?

A8: The SLA defines third parties as organizations with which the ASETS agreement holder has an agreement to fulfill all or part of the ASETS agreement holders' obligations under the ASETS contribution agreement. Therefore, third parties are limited to sub-agreement holders, sub-sub agreement holders and sub-sub-sub agreement holders.

Q9: Do I need to sign an SLA with all of my third parties?

A9: As per Schedule D, Section 17 of the ASETS contribution agreement, ASETS agreement holders should already have written agreements in place with their third parties. If adjustments are needed to meet the requirements of the SLA, ASETS agreement holders have two options:

- Amend third party agreements to include clauses for the protection of personal information that mirror the terms of the SLA; or
- Add an appendix or schedule to third party agreements that includes clauses for the protection of personal information that mirror the terms of the SLA.

ESDC has developed an **SLA Guide for Third Party Agreements** (see attached) that may assist ASETS agreement holders in implementing the terms of the SLA.

Q10: ASETS agreement holders refer clients to employers and other organizations so they can access specific services, and may also have agreements with provincial/territorial governments. The ASETS agreement holders may not have written agreements or MOUs with all of these organizations if they do not exchange money. Do ASETS agreement holders need SLAs with all of these organizations?

A10: The SLA defines third parties as organizations with which the ASETS agreement holder has an agreement to fulfill all or part of the ASETS agreement holders' obligations under the ASETS contribution agreement. Therefore, third parties are limited to sub-agreement holders, sub-sub agreement holders and sub-sub-sub agreement holders As per Schedule D, Section 17 of the ASETS contribution agreement, ASETS

agreement holders should already have written agreements in place with their third parties. As per Section 8.2 of the SLA, these agreements should include clauses for the protection of personal information that mirror the clauses in the SLA.

Other organizations that ASETS agreement holders may liaise with but which are not fulfilling responsibilities under the contribution agreement, such as service providers, are not considered third parties for the purposes of the SLA. These organizations would be subject to PIPEDA or substantially similar provincial legislation governing the protection of personal information and are responsible for having the required safeguards in place.

When exchanging personal information with any organization, the ASETS agreement holders are accountable for ensuring that information is protected as per the relevant protocols stated in the SLA. In addition, as per Section 4.2.2 of the SLA, ASETS agreement holders are responsible for ensuring that all personal information in their care and control, or the care and control of a third party, is protected from misuse and unauthorized access, disclosure, modification, disposal or destruction at all times.

Q11: Will a template third party agreement that complies with the SLA be provided to ASETS agreement holders for use with their third parties?

A11: ESDC will not provide a template agreement that complies with the SLA because the scope of relationships between ASETS agreement holders and third parties is too broad and variable to be covered by a single template. Also, ASETS agreement holders do not necessarily need to sign a new agreement with their third parties to be compliant with the SLA.

ESDC has developed an **SLA Guide for Third Party Agreements** that may assist ASETS agreement holders in implementing the terms of the SLA.

Q12: Would First Nations and Inuit Child Care Initiative (FNICCI) agreements be subject to the SLA?

A12: In part, the purpose of the SLA is to clarify expectations for the collection and management of personal information under the ASETS contribution agreement. If the ASETS agreement holder has an agreement with a child care centre that collects personal information about its clients, the agreement should include clauses to ensure the protection of the personal information that mirror the SLA. The agreement could be amended to include these clauses or an annex/appendix with the relevant clauses could be added to the agreement.

ESDC has developed an **SLA Guide for Third Party Agreements** that may assist ASETS agreement holders in implementing the terms of the SLA.

Q13: If an ASETS agreement holder's client intake form includes a Privacy Impact Statement that informs clients of why their personal information is being

collected and the organizations with whom it will be shared, such as employers, educational institutions, the provincial/territorial government and ESDC, does the ASETS agreement holder also need SLA-type agreements to protect personal information with the organizations listed on the form?

A13: The SLA defines third parties as organizations with which the ASETS agreement holder has an agreement to fulfill all or part of the ASETS agreement holders' obligations under the ASETS contribution agreement. Therefore, third parties are limited to sub-agreement holders, sub-sub agreement holders and sub-sub-sub agreement holders. As per Schedule D, Section 17 of the ASETS contribution agreement, ASETS agreement holders should already have written agreements in place with their third parties. As per Section 8.2 of the SLA, these agreements should include clauses for the protection of personal information that mirror the clauses in the SLA.

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Q14: Do ASETS agreement holders need an agreement with privacy clauses like those in the SLA with case management system owners (such as ARMS and KETO)?

A14: No. Case management system owners are not considered third parties for the purposes of the SLA.

Q15: Is there an instructional guide to accompany the SLA?

A15: There is no instructional guide to accompany the SLA. However, ESDC has developed two tools to assist ASETS agreement holders with implementation: **Personal Information Security Safeguards Checklist** and **SLA Guide for Third Party Agreements** (see attached).

In addition, the Systems Support Operational Guide (SSOG) provides more detailed information on the processes, forms and protocols associated with ESDC system access. ESDC has developed the **Desk Aide – Systems Support Operational Guide** (see attached) that may assist ASETS agreement holders with systems access.

Q16: Section 18 of the ASETS contribution agreement states that the agreement may be executed in counterparts and that it may be transmitted electronically or by fax. Is this permitted under the SLA?

A16: Yes. The SLA only contains information about individuals that is related to their position within the ASETS organization (such as name, title, business address). As per PIPEDA, this information is not considered personal information that requires protection.

ASETS agreement holders should, however, confirm that the definition of personal information in any applicable provincial legislation does not conflict with the definition used in PIPEDA.

Q17: Is it permissible for ASETS agreement holders to change the signature blocks on the SLA to reflect their organization's delegation of authority? For example, could the witness block be removed and an additional signature block for the ASETS agreement holder be added?

A17: Yes. The witness block is not essential and can be removed if preferred by ASETS agreement holders. If organizations require more than one signature on agreements, additional signature blocks may be added, as needed.

Q18: Appendix A of the SLA states that to dispose of documents containing personal information, a shredder producing a cross-cut of 0.8mm x 12mm must be used. These shredders are very expensive. Is it okay for ASETS agreement holders to use a less expensive, strip-cut shredder?

A18: Yes. Given the types of personal information that ASETS agreement holders typically collect and manage, a strip-cut shredder is sufficient.

Q19: Some ASETS agreement holders are located close to the border with the United States and/or some ASETS clients are dual Canadian/American citizens. In these cases, there may be benefits (such as financial, geographic or timing) to the client taking training offered in the United States. The SLA, however, states that personal information cannot be shared outside of Canada. Does this mean that ASETS agreement holders can no longer fund client training courses in the United States?

A19: ASETS agreement holders could continue to fund training offered in the United States where there are clear benefits to clients. ASETS agreement holders with clients attending training institutions in the United States should instruct clients to provide any necessary personal information directly to the training institution and inform the clients that by providing their personal information to an organization within the United States, their personal information will be subject to United States laws and acts.

In addition, none of the clients' personal information provided by ESDC (as per Schedule G, Sections 1 and 2 of the ASETS contribution agreement) should be provided by ASETS agreement holders to organizations outside of Canada.

Q20: What should ASETS agreement holders do if the Privacy Impact Statement on their client intake form does not meet the SLA requirements?

A20: ESDC is working with experts within the department to develop a Privacy Impact Statement that meets the SLA requirements. This will be shared with ASETS agreement holders for use on their client intake forms.

Q21: Can ASETS agreement holders include the expiration of Enhanced Reliability Clearance for their employees in quarterly reports?

A21: Yes, ESDC will add a column to the quarterly report so expiration of clearance can be included.