

COUNTY OF BERKS

Request for Proposals #24-02-GR

Berks County Workforce Development Area Post-Pandemic Adult Talent and Demographic Study

**Issued on
January 29, 2024**

Pre-Proposal Conference

**Thursday, February 8, 2024, 10:00 A.M., Local Prevailing Time
Refer to Section 1, paragraph 1.2 for details**

Submittal Deadline:

**Wednesday, March 13, 2024, 2:00 P.M., Local Prevailing Time
Refer to Section 5, paragraph 5.1 for submittal instructions.**

County's Point-of-Contact for this RFP

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This Request for Proposals (RFP) package consists of 108 pages including this cover page and the Table of Contents page. If the RFP package you received is missing any pages, contact the County of Berks Purchasing Department by telephone at (610) 478-6168.

TABLE OF CONTENTS

SECTIONS

One	Introduction and Instructions
Two	Method of Vendor Selection
Three	Standard Contract Information
Four	Scope of Work
Five	Proposal Format and Content
Six	Evaluation Criteria and Process

ATTACHMENTS

Attachment A	Proposed Form of Agreement and General Conditions
Attachment B	HIPAA Business Associate Agreement
Attachment C	Non-Collusion Affidavit Form
Attachment D	Financial Status Report (FSR) Template
Attachment E	Budget Sheets
Attachment F	Proposers Fact Sheet
Attachment G	Accessibility Checklist
Attachment H	Berks County Workforce Development Board Grievance Hearing Procedure
Attachment I	Worker Protection and Investment Certification Form BOP-2201
Attachment J	Instructions - How to join and participate in a Microsoft Teams Live Event

SECTION ONE - Introduction and Instruction

1.1 Purpose of this Request for Proposals (“RFP”)

The County of Berks (hereinafter “County”), a municipal corporation with its principal office in Reading, Pennsylvania is soliciting competitive sealed proposals (a “Proposal”) from professional firms (each a “Proposer”) that are interested in and capable of developing, conducting, generating, and assisting the Berks County Workforce Development Board (“WDB”) in communicating, a comprehensive study to identify specific areas of focus for workforce development plans and priorities in Berks County over the next five (5) years leading up to 2030 (“Services”). If the County elects to make an award to a Proposer in connection with the Services, the Proposed Form of Agreement and General Conditions included as Attachment A to this RFP as well as all documents incorporated therein shall form the entire agreement between the County and the successful Proposer (“Agreement”).

1.2 Pre-Proposal Conference

A pre-proposal conference will be held through a live broadcast using Microsoft Teams on Thursday, February 8, 2024, beginning promptly at 10:00 AM. The Proposers may participate in the pre-proposal conference of this Request for Proposal through a call-in number or utilizing Microsoft Teams. The Microsoft Teams URL may be subject to change, current Microsoft Teams URL for the opening can be located and on the following site under the listing for this specific RFP:

<https://www.countyofberks.com/departments/purchasing/itb-rfp>

The purpose of this meeting is to conduct a question and answer session regarding this RFP package to maximize the Proposer’s understanding as to what is required. Should questions asked and answers given at the pre-proposal conference potentially alter the intent or scope of the RFP, the County will issue an addendum to the RFP to formally modify the RFP. This RFP cannot be modified by, and Proposers shall not rely on, comments made during the pre-proposal conference except as set forth in an addendum.

All Proposers who have received the RFP package from the County will receive notification of the issuance of the addendum.

1.3 Due / Opening Dates

The deadline for the County’s receipt of Proposals is 2:00 PM, local prevailing time, Wednesday, March 13, 2024 (“Proposal Deadline”). The County Controller’s time clock shall be considered the official time. Refer to Section 5, paragraph 5.1 for specific Proposal submittal instructions.

Proposals will be opened publicly at 2:15 PM, on Wednesday, March 13, 2024 through a live broadcast using Microsoft Teams. Proposer may attend the proposal opening through a live broadcast using Microsoft Teams. A summary of Proposals received (Proposer name) will be posted on the Purchasing Department’s page of the County’s website

<https://www.countyofberks.com/departments/purchasing/itb-rfp>

This Microsoft Teams URL may be subject to change, current Microsoft Teams URL for the opening can be located and on the following site under the listing for this specific RFP:

<https://www.countyofberks.com/departments/purchasing/itb-rfp>

Refer to Attachment J for detailed instruction on how to participate in the opening through a Microsoft Teams Live event. *Only the name of each Proposer will be read publicly. All other information contained in each Proposal shall be treated as confidential so as to avoid disclosure of contents prejudicial to competing Proposers.*

1.4 Amendments to Submitted, Unopened Proposals

Amendments to or withdrawals of submitted, unopened Proposals will only be allowed if requests are received by the County prior to the Proposal Deadline. No amendments or withdrawals will be accepted after the Proposal Deadline unless they are in response to the County's request.

1.5 Required Review of RFP Package

Proposers shall carefully review this RFP for defects, inconsistencies or ambiguities. Comments concerning defects, inconsistencies or ambiguities must be made in writing and received by the RFP's point-of-contact (see cover page), at least ten (10) business days prior to the Proposal Deadline. This will allow for the issuance of any necessary addenda.

All questions must be in writing and directed to the RFP's point-of-contact. This RFP cannot be modified except by a written addenda issued by the County. The decision on whether an addendum is required shall be made by the County in its sole discretion.

If an addendum is issued, it will be provided to all parties who were provided a copy of the RFP by the County's Purchasing Department. It shall ultimately be the responsibility of the Proposer to check and download Addendums from the County's website.

1.6 Receipt of RFP Package

The County's Purchasing Department is the sole authority to provide the RFP package to interested companies or individuals. Proposers who are working from an RFP package obtained from any other source, may be working from an incomplete set of documents. The County assumes no responsibility for an error, omission, or misinterpretation resulting from a Proposer's use of an incomplete RFP package.

Proposers who have received the RFP package from a source other than the County Purchasing Department, are advised to contact the Purchasing Department to provide their Proposer's name, address, telephone number, fax number, and contact name. This will ensure that the Proposer will receive all communication regarding the RFP such as Addenda.

Proposers who have received the RFP package by downloading it from the County's website and have not provided their Proposer's information to the County's Purchasing Department are responsible for checking the website to obtain any Addenda issued for the RFP.

1.7 Preparation Costs

The County will not be responsible for any costs associated with the preparation, submittal, or presentation of any Proposal. If the County rejects a Proposal or does not award an Agreement to any particular Proposer, the Proposer agrees that it will not seek to recover lost or expected profits, Proposal preparation costs or claims for unjust enrichment.

1.8 Public Information

All Proposals and other material submitted become the property of the County and may be returned only at the County's option. Information contained in the Proposals will not be disclosed during the evaluation process. Under Pennsylvania's "Right to Know" laws (65 P.S.

§§ 67.101-67.3104), public records are required to be open to reasonable inspection. All Proposal information, including detailed price and cost information, will be held in confidence during the evaluation process and prior to the time the Agreement is executed by the County. Thereafter, the Proposals will become public information. Requests for photocopies of public records must be made to the Open Records Officer and will be provided to the requestor for a nominal per page fee.

Trade secrets and other proprietary data contained in Proposals may be held confidential, if the Proposer requests, in writing, that the County does so, and if the County agrees, in writing, to do so. Material considered confidential by the Proposer must be clearly identified and the Proposer must include a brief statement that sets out the reasons for confidentiality.

1.9 Reservation of Rights

1.9.1 The County reserves and may, at its sole discretion, exercise the following rights with respect to this RFP and all Proposals submitted pursuant to this RFP:

- 1.9.1.1** To reject all Proposals and re-issue the RFP at any time prior to execution of the Agreement; to require, in any RFP for similar products and/or services that may be issued subsequent to this RFP, terms and conditions that are substantially different from the terms and conditions set forth in this RFP; or to cancel this RFP with or without issuing another RFP.
- 1.9.1.2** To reject any Proposal if, in the County's sole discretion, the Proposal is incomplete, the Proposal is not responsive to the requirements of this RFP, the Proposer does not meet the qualification requirements set forth in Section 5 herein, or it is otherwise in the best interest of the County to reject the Proposal.
- 1.9.1.3** To supplement, amend, substitute, or otherwise modify this RFP at any time prior to the execution of the Agreement.
- 1.9.1.4** To accept or reject any or all of the items in any Proposal and award the Agreement for the whole or only a part of any Proposal if the County determines, in its sole discretion, that it is in the County's best interest to do so.
- 1.9.1.5** To reject the Proposal of any Proposer that, in the County's sole judgment, has been delinquent or unfaithful in the performance of any contract with the County, is financially or technically incapable, or is otherwise not a responsible Proposer.
- 1.9.1.6** To waive any informality, defect, non-responsiveness, and/or deviation from this RFP that is not, in the County's sole judgment, material to the Proposal.
- 1.9.1.7** To permit or reject, at the County's sole discretion, amendments (including information inadvertently omitted), modifications, alterations, and/or corrections to Proposals by one or more of the Proposers following Proposal submission.
- 1.9.1.8** To request that one or more of the Proposers modify their Proposals or provide additional information.
- 1.9.1.9** To request additional or clarifying information from any Proposer at any time, including information inadvertently omitted by a Proposer.

- 1.9.1.10 To require that Proposers appear for interviews and/or presentations of their Proposals at County offices.
 - 1.9.1.11 To inspect programs similar in type and scope to the work sought in this RFP and/or to inspect the Proposer’s facilities to be used in furnishing goods or services required by the RFP.
 - 1.9.1.12 To conduct such investigations as the County considers appropriate with respect to the qualifications of any Proposer and with respect to the information contained in any Proposal.
- 1.10 Any and all protests related to this solicitation are subject to the County of Berks Protest Policy which is located on the County of Berks Purchasing Department website: <https://www.countyofberks.com/departments/purchasing/itb-rfp>

1.11 RFP Timeline

Following is the County’s estimated timeline for the RFP process:

Issue RFP	Monday, January 29, 2024
Pre-Proposal Conference	Thursday, February 8, 2024
Cutoff for Submission of Written Questions (10 business days before the due date)	Wednesday, February 28, 2024
Deadline for Submission of Proposals	Wednesday, March 13, 2024
Opening of Submitted Proposals	Wednesday, March 13, 2024
County’s Review of Proposals	March 14 – April 3, 2024
Notify Short List Firms	Friday, April 5, 2024
Interview Short List Firms	April 9 – April 10, 2024
Issue Notice of Contract Award	Friday, April 19, 2024
Commencement of Work	Wednesday, May 1, 2024

SECTION 2 – Method of Vendor Selection

2.1 Interviews with Short List Firms

The County may, in its sole discretion, elect to conduct interviews with one or more Proposers. The purpose of an interview will be to clarify and assure the Proposer’s full understanding of, and responsiveness to, the solicitation requirements. Revisions to a Proposal may be permitted after submission and before the County’s execution of the Agreement for the purpose of obtaining best and final offers with the County’s approval. The individual identified in the Proposal as the Program Manager, must be in attendance at the interview.

2.2 Right to Negotiate

After the County’s completion of the Proposal evaluation process, including any interviews held with Proposers during the evaluation process, the County may elect to initiate negotiations with one or more Proposers for modification of any component of the Agreement, including, without limitation, the scope of services, price or schedule for completion. The option of whether or not to initiate or terminate negotiations rests solely with the County, which may be exercised at any time.

2.3 Award of Contract

- 2.3.1** If the County elects to award the Agreement pursuant to this RFP, it intends to award the Agreement to the responsible and responsive Proposer whose Proposal is determined to provide the best overall value to the County. The County intends to award a nine (9) month Agreement term with the option of extending the term of the Agreement for an additional nine (9) month term upon the mutual agreement of the parties. If goals are met and/or exceeded, the Vendor may be asked to submit a program narrative revision and/or a budget modification request. Renewal may be granted for the subsequent program year based on training need, past performance, and the availability of funds. The Vendor should be prepared to begin work on May 1, 2024.
- 2.3.2** The County reserves the right, upon notice to the Proposer, to extend the term of the Agreement for up to three (3) months upon the same terms and conditions. This will be utilized to prevent a lapse in Agreement coverage and only for the time necessary, up to three (3) months, to enter into new Agreement and to ensure a smooth transition process for consumers.
- 2.3.3** The option provision shall be within the sole and exclusive discretion of the County to exercise and shall not obligate the County to extend the Agreement.
- 2.3.4** Amounts of Services to be purchased by County in any additional periods shall be dependent upon the availability of funds and participant demand.

SECTION 3 - Standard Contract Information

3.1 Standard Agreement Provisions

The Agreement resulting from the award of this RFP will be governed by the terms and conditions set forth in the Proposed Form of Agreement and General Conditions set forth in Attachment A, attached hereto and incorporated herein. Proposers must detail in their Proposal their reasons for objection to any part of RFP or Proposed Form of Agreement and General Conditions in their Technical Proposal. Hindrance of the award process due to the extent of a Proposer's objection to the form or substance of the RFP or Proposed Form of Agreement and General Conditions may have a negative impact on the County's assessment of that Proposal.

3.2 Agreement Content

The Agreement will incorporate this RFP, the Proposer's Proposal, and any additional information deemed necessary as a result of the negotiations held with the successful Proposer(s).

3.3 Confidentiality of Protected Health Information:

To the extent applicable, the parties hereto agree to fully comply with the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, and all amendments thereto and regulations promulgated thereunder (collectively, "HIPAA"), as well as any other applicable laws or regulations concerning the privacy and security of health information. The successful Proposer agrees at all times to treat any protected health information (as defined by HIPAA), created by or disclosed or otherwise made available to the successful Proposer in connection with the Agreement, in accordance with all federal, state and local laws and regulations regarding the confidentiality of protected health information. Without limitation to other rights

and remedies under the Agreement or afforded by law, County may immediately terminate the Agreement if it determines that there has been a material breach of this provision.

To the extent that County meets the definition of a “Covered Entity” or “Business Associate” (as such terms are defined under HIPAA) and the successful Bidder is determined by County to meet the definition of a “Business Associate” or “Subcontractor” (as such terms are defined under HIPAA) of County, the successful Proposer and County shall enter into a HIPAA Business Associate Agreement in a form satisfactory to County as set forth in Attachment B, attached hereto and incorporated herein, which shall govern the treatment of any protected health information created, received, transmitted or maintained by successful Proposer on behalf of the County.

SECTION 4 – Scope of Work

4.1. Background

The Berks County Workforce Development Board (“WDB”) has responsibility for long-term strategic planning to meet Berks County’s workforce development needs. This includes planning, analysis, oversight, evaluation and monitoring, and the development and cultivation of partnerships within the Berks County community and/or a regional basis. The Workforce Development Board also manages Federal and State workforce development funds which the County of Berks receives, manages financial and programmatic information systems, and performs the procurement, contracting and administrative systems functions required to support the goals of these funds. The PA CareerLink® Berks County is the Workforce Development Board’s principal provider of operational services and the gateway to the workforce development system in Berks County.

4.2. Program Summary

4.2.1. The WDB, a single county Workforce Development Area (“WDA”) located in Southeast Pennsylvania, is seeking a results-oriented, customer focused organization or individual to develop, conduct, generate, and assist the WDB in communicating, a comprehensive study (“Study”) to identify specific areas of focus for workforce development plans and priorities in Berks County over the next five (5) years leading up to 2030. This Study shall develop and analyze post-pandemic talent and demographic trends, challenges, and opportunities impacting workforce development in the local and regional labor market(s) of the Reading Metropolitan Statistical Area (“MSA”) which is contiguous with the Berks County WDA. The Study shall focus primarily on the adult working age population (ages 25-64); however, the Study should also explore important trends and challenges impacting the emerging local talent pipeline of young adults (ages 18-24).

4.2.2. 2019 - 2023: Stalled Berks County Workforce Growth? Berks County experienced a decade of slow but steady economic growth following the “Great Recession” of 2009 - 2010 leading to 2019 standing out as a “peak year” for the local labor force. In 2019, the local seasonally adjusted (“SA”) unemployment rate dropped consistently below 4.0% for the first time in nearly twenty years. The local civilian labor force reached an all-time peak nearing 219,000 (SA) in 2019. Berks County’s non-farm jobs SA also peaked in 2019 at nearly 183,000. However, due to emerging and reinforcing long-term demographic headwinds, growth in our adult workforce looks to have plateaued in 2019. The sobering reality is that Berks County’s “potential entrant” cohort of young adults (ages 25-29) peaked in 2018 at just under 27,000 and projections are that the size of this age group in Berks County will continue to drift downward over the next decade to under

25,000 by 2034. The other end of our adult working age population is eroding as the long-anticipated exit wave of aging “baby-boomer” local workers choosing to retire has accelerated before, during, and after the COVID-19 pandemic (2020-2023).

- 4.2.3. The negative near-term results of these trends are now visible in local labor market statistics. By July 2023, the size of the local labor force and the number of non-farm jobs in Berks County appear to have settled at levels 1.5% - 2.5% below our 2019 peaks.
- 4.2.4. Given these significant demographic challenges to the local labor force, a renewed focus on our adult working age population (ages 25-64) is warranted.
- 4.2.5. Proposers may find value in referring to previous pertinent labor market reports produced by the WDB (<https://www.countyofberks.com/departments/workforce-development-board>) or by other community partners (e.g. The Berks County Community Foundation’s ground-breaking “BRAIN DRAIN OR BRAIN GAIN?” report produced by the O’Pake Institute at Alvernia University in 2016); the WDB’s expectation is that this newly contracted report will generate original information and analysis relevant to the workforce supply challenges facing Berks County over the next five years.

4.3. Project Goals and Objectives

- 4.3.1. The WDB seeks to understand key medium-term post pandemic developments within the local adult population (ages 25-64), especially regarding that working age population’s engagement in the local workforce. Useful comparisons to surrounding WDA’s and the Commonwealth of Pennsylvania are welcome.

4.4. Scope of Work

4.4.1. General Information

4.4.1.1. Role of the Berks WDB

- 4.4.1.1.1. The Berks WDB is the agent duly authorized to act on behalf of the County on all matters, questions and issues relating to or arising out of or as a result of this Agreement or the County Program.
- 4.4.1.1.2. In particular, the Berks WDB is empowered to monitor all activities and expenditures under this Agreement.
- 4.4.1.1.3. The Berks WDB is also empowered to issue directives and interpretations relating to this Agreement and to receive reports on behalf of the County

4.4.1.2. Other Requirements

- 4.4.1.2.1.1. The safety of consumers, employees, and volunteers is paramount; therefore, the vendor(s) must follow Centers for Disease Control and Prevention (CDC) and Pennsylvania Department of Health (DOH) guidelines for mitigating the spread of the COVID-19 virus, as well as for any other virus or infectious diseases in which they provide guidelines.

4.4.2. Target Group

4.4.2.1. For the purpose of this Study a “working age adult” is defined as a Berks County resident between the ages of twenty-five to sixty-four (25-64).

4.4.3. Services to Be Performed

4.4.3.1. The duties of the selected Proposer shall include the following:

4.4.3.1.1. Develop a Study to analyze post-pandemic talent and demographic trends, challenges, and opportunities impacting workforce development in the local and regional labor market(s) of the Reading Metropolitan Statistical Area (MSA) which is contiguous with the Berks County WDA. The Study shall focus primarily on the adult working age population (ages 25-64).

4.4.3.1.2. Conduct the Study over an applicable time frame to allow the delivery of initial findings to the WDB Planning Committee by August 30, 2024, and a draft report by September 30, 2024.

4.4.3.1.3. Ensure that the draft report is statistically valid as appropriate.

4.4.3.1.4. The selected Proposer shall be solely responsible for locating and engaging appropriate data sources and for relevant data projections to be incorporated in the Study.

4.4.3.1.5. The selected Proposer shall be solely responsible for conducting original analysis to be incorporated in the Study.

4.4.3.1.6. Delivery of a final professional report both in hard copy (fifty (50) copies are required) and .pdf version by November 1, 2024.

4.4.3.1.7. Presenting of findings at a roll-out event prior to December 31, 2024, to be planned in accordance with the WDB and community partners. It is anticipated this shall involve presentation of the main themes of the report and participation in a panel discussion concerning the report topic.

4.4.3.1.8. Assisting the WDB in ongoing education and outreach to the Greater Reading/Berks County Community following publication of the final professional report.

4.4.3.2. At a minimum, the final professional report shall address/answer the following:

4.4.3.2.1. What is the size of the entire target population within Berks County and how will that size change over the next ten (10) years?

4.4.3.2.2. What is the size of the expected local labor force within the target population and how will that size change over the next ten (10) years?

- 4.4.3.2.3. What range of projections can be made regarding the labor force participation rate (“LFPR”) among the target population over the next ten (10) years? What are the implications of an LFPR at the lower versus at the higher end of the projected range?
- 4.4.3.2.4. What recommendations can be made to the WDB and other local stakeholders to maximize the local LFPR within the targeted range over the next five (5) years?
- 4.4.3.2.5. Analyze the current and future educational attainment of the target population in Berks County compared to surrounding local WDAs and the Commonwealth.
- 4.4.3.2.6. Analyze the current and future English Language Proficiency of the target population in Berks County compared to surrounding local WDAs and the Commonwealth.
- 4.4.3.2.7. Analyze the current and future proficiency in applied math/numeracy of the target population in Berks County compared to surrounding local WDAs and the Commonwealth.
- 4.4.3.2.8. Explore the important trends and challenges impacting the emerging local talent pipeline of young adults ages eighteen to twenty-four (18-24).
- 4.4.3.2.9. What numeracy challenges will the emerging young adult workforce experience through 2030 based on the last five (5) years of 8th grade Pennsylvania System of School Assessment (“PSSA”) math proficiency results from the eighteen (18) local school districts? What specific challenges will these results bring to young adults interested in Science, Technology, Engineering and Math (“STEM”) career pathways in the local priority sectors of manufacturing, healthcare, education, agriculture/food production, and construction/utilities?
- 4.4.3.2.10. What projections can be made regarding migration and mobility inside and outside, into and away from, Berks County of the target population? What are the characteristics of this changing talent pool?
- 4.4.3.2.11. Analyze local labor market share and commuting patterns between the Berks County WDB and neighboring counties, including:
 - 4.4.3.2.11.1. An in-depth evaluation of Berks County residents who work outside the County, and
 - 4.4.3.2.11.2. Projections and implications surrounding Berks County residents who primarily work remotely.
- 4.4.3.2.12. Analyze other relevant current and future barriers to employment of the target population in Berks County compared to surrounding local WDAs and the Commonwealth.

- 4.4.3.2.13. What are the predominant competitive strengths within the target population of working age adults ages twenty-five to sixty-four (25-64) over the next ten (10) years?
- 4.4.3.2.14. What opportunities exist to increase the size and skills of the labor force within the target population?
- 4.4.3.2.15. Provide specific and actionable recommendations as to how the Berks County WDB can partner with surrounding local WDBs, economic development partners, education and training providers, public policy makers and most importantly local employers to maximize the labor force participation rate and build needed foundational skills among the target population.

4.4.3.3. Program Status Records and Reports

- 4.4.3.3.1. A Financial Status Report (“FSR”) shall be submitted by noon (12:00 P.M.) on the 5th business day of the month following the month being reported.

4.4.3.4. Other Requirements

- 4.4.3.4.1. The Program, including all associated records, staff, participants, and documentation of performance shall be available for monitoring by WDB staff and representatives of Federal and Commonwealth funding sources.

4.5. Qualifications / Experience

4.5.1. The proposing firm shall at minimum:

- 4.5.1.1. Have demonstrated past performance related to the ability to meet schedules and deadlines on study’s of similar scope and size and;
- 4.5.1.2. Have demonstrated past exceptional performance related to quality developing and implementing programming of design on Programs of similar scope and size.
- 4.5.1.3. It is important to note that “proposing firm” refers to the company that would enter into the Agreement with the County. To be considered, the proposing firm must meet or exceed the benchmarks set forth above on its own merit. The experience and qualifications of firms that the proposing firm will partner with in the performance of this Program, cannot be used to bring a proposing firm’s less than required experience and qualifications up to the benchmark. Also important to note is that the County is not interested in a joint venture Program, but prefers to enter into the Agreement with a single entity.
- 4.5.1.4. Each proposing firm shall certify that it is not currently under suspension or debarment by the Commonwealth of Pennsylvania or federal government. If the proposing firm cannot so certify, then it shall submit a written explanation of why such certification cannot be made.

4.5.2. Program Team

4.5.2.1. The Program manager shall at minimum:

- 4.5.2.1.1.** Have prior experience performing services of similar scope and size, specifically federal, state and local experience, on study's of similar scope and size;
- 4.5.2.1.2.** On past projects of similar scope and size, have demonstrated skills, technical knowledge, and administrative capability to serve all the requirements of the proposed program scope of work; and
- 4.5.2.1.3.** Possess certifications, licenses and proficiency in the application of requirements and guidelines as applicable.

4.5.2.2. The Program team shall at minimum:

- 4.5.2.2.1.** Have three (3) years' experience performing services of similar scope and size on at least three (3) projects of similar scope and size; and
- 4.5.2.2.2.** On past programs of similar scope and size, have demonstrated skills, technical knowledge, and administrative capability to serve all the requirements of the proposed program scope of work.

4.6. Program Timeline

The selected Proposer(s) will be required to begin the work by May 1, 2024 upon receipt of the County's issuance of the notice to proceed.

SECTION 5 - Proposal Format and Content

5.1 Submission of Proposal

- 5.1.1** Proposals shall be submitted with one (1) original and printed on 8½" x 11" paper, and one (1) electronic copy of Proposal and an electronic excel file of Attachment E, Budget Sheets on a CD or thumb drive to: County of Berks, c/o County Controller, Berks County Services Center, 633 Court Street, 12th Floor, Reading, PA, 19601. The original Proposal shall be marked "original" and each copy of the Proposal must be a complete copy of the original including all attachments and appendixes. Proposals received after the Proposal Deadline will not be considered. As there have been mail delays in the past, Proposer shall mail any RFP response with sufficient lead time to allow for such delays in the delivery.
- 5.1.2** Proposals shall be submitted in two (2) parts – a "Technical Proposal" and "Price Proposal". The Technical Proposal shall cover the technical aspects of the Services, but shall not include any mention of proposed fees or out-of-pocket expenses. The Price Proposal shall include all details as to the fees charged and out-of-pocket expenses to be billed for the comprehensive completion of Services. The Technical Proposal and the Price Proposal shall be submitted in separate sealed, opaque envelopes or containers with the words "Sealed Technical Proposal – RFP #24-02-GR" and "Sealed Price Proposal – RFP #24-02-GR" clearly printed on the outside of each package. Proposals received via facsimile will not be considered.

5.1.3 Each Proposal section enumerated in paragraph 5.3 – 5.12 must be clearly identified and tabbed in the submitted Proposal.

5.2 Proposal Format

The County discourages overly lengthy and costly proposals; however, Proposers should follow the format set out herein and provide all of the information requested. For a Proposal to be considered, Proposers must follow the instructions outlined in this RFP.

5.3 Transmittal Letter

Proposals shall include a brief letter which provides the Proposer’s name; address of the main office and any branch offices; telephone and fax number for each office; name, title, telephone number, fax number, and email address of the Proposer’s contact person for this Program; a statement that the Proposal is in response to this RFP; and the signature, typed name, and title of an individual who has *actual authority** to commit the Proposer to the Proposal. The transmittal letter shall also include an acknowledgement of each RFP addendum received (if applicable), and a statement that the Price Proposal is valid for at minimum ninety (90) days from the Proposal opening date.

**Proposals by individuals must be signed personally, with name typed below signature, and witnessed. A complete address and trade name must be provided. Proposals by partnerships must include the typed names and business address of all partners and the trade name of the Proposer. The Proposal must be signed by at least one general partner, whose signature must be witnessed. Proposals by corporations must include the typed name of the corporation, the State of incorporation, and the principal officer of the corporation. The Proposal must be signed by the President or Vice-President (or by an officer or agent duly authorized to bind the corporation to a contract, proof of whose corporate authority shall be attached), and attested by the Secretary, Assistant Secretary, or Treasurer of the corporation.*

5.4 Understanding of the Services

Proposers must provide a comprehensive narrative statement that illustrates their understanding of the requirements of the Services, and illustrates how their methodology will serve to accomplish the work and meet the County’s schedule. Proposers must describe how they will approach the Services; describe the methods and frequency of interface between your program team members and the County’s program team members in performing the Services; and indicate how often the program manager and the program team members will be on site in the performance of the Services.

5.5 Qualification Statement

5.5.1 Each Proposal shall include, at minimum, the following information about the Proposer:

5.5.1.1 The number of years the Proposer has been in business.

5.5.1.2 If an individual, provide a comprehensive resume detailing work experience related to the duties and responsibilities requested in this RFP. Please provide three professional references.

5.5.1.3 Provide a summary of the history of your agency. For how long has your agency provided social services and in what capacity? Provide specific reference to services similar to those described in the RFP.

- 5.5.1.4 The type of organization of the Proposer (i.e. Corporation, Partnership, Sole Proprietorship).
 - 5.5.1.5 The names and titles of the Proposer's principals.
 - 5.5.1.6 The Proposer's most recent annual report or the company's most recent income statement, balance sheet, and statement of cash flow accompanied by an auditor's report attesting to the accuracy of these financial statements.
 - 5.5.1.7 Identify if Proposer holds any current federal certifications for the following: Minority Owned Business (MBE), Women Owned Business (WBE), Small Disadvantaged Business (SDB), Disadvantage Business Enterprises (DBE), 8a Designation, HUB Zone Business Enterprises (HUB) or Disabled Veteran Business (DVBE).
 - 5.5.1.8 Any and all certifications required or sought after for the services being provided.
- 5.5.2 The following questions should be answered thoroughly as part of the Proposal:
- 5.5.2.1 What is the Proposer's main business focus?
 - 5.5.2.2 What are the strengths of the Proposer and how will the County benefit from those strengths?
- 5.5.3 Each Proposal shall address the Proposer's qualifications for the development and completion of the Services based on the following:
- 5.5.3.1 List and describe the Proposer's experience with federal, state or local government whom your agency currently or recently holds/held a contract to provide similar services to those described in this RFP. For each listed program include: name and location of program; reference contact name; telephone number; email address; estimated total project cost and actual total project cost; planned project completion date and actual program completion date; and summary description of the program. Additionally, include three monitoring reports that were supplied to each agency/government. At least one report must be from a government agency (Federal, State or Local).
 - 5.5.3.2 Identify the project manager and submit this individual's credentials (work/program experience and education), evidencing the experience required in Section 4.5.2 herein. Include a resume and job description for this individual. State to whom the management contract will report and the percentage of time they will devote to the program. List the names and titles of your planned program team members and describe their individual levels of experience and expertise with this type of program, evidencing the experience required in Section 4.5.2 herein. Provide a job description for each position including to whom the position will report and percentage of time to be devoted to the program. Include an organizational chart showing the reporting structure of the team members.
 - 5.5.3.3 Proposer shall provide their proposed staffing model and hours of operation.

- 5.5.3.4 Describe the Proposer’s capacity to execute the Services within the proposed schedule. Describe the Proposer’s willingness and ability to commit personnel to meet the scope and schedule of the Services. (Include a list of current programs and the anticipated completion dates of these programs.)
 - 5.5.3.5 Describe past experience providing the Services or other relevant experience that bears directly on a demonstration of your capacity and qualifications. Provide supporting documentation demonstrating achievement of project goals and performance including monitoring reports prepared by grant agencies. Indicate whether your program was cited in monitoring or audit reports for a programmatic or fiscal deficiency.
 - 5.5.3.6 If the Proposer has had past experience with any organization, other than the WDB in the proposed workforce development area, provide the name and address of the contact organization and the contact person’s name, telephone number, and email address.
 - 5.5.3.7 State the name, phone number, and e-mail address of the individual who will be responsible for addressing fiscal issues.
 - 5.5.3.8 How does your agency collect data to ensure performance is on target?
 - 5.5.3.9 How does your firm plan to execute the services while following required Commonwealth of Pennsylvania requirements and CDC social distancing requirements? Identify software programs and electronic mechanisms and process you will utilize to provide these services.
 - 5.5.3.10 Identify all processes, procedures your firm has in place to protect the health of your employees and the clientele your firm services.
- 5.5.4 Program Performance, Promotion, and Reporting.
- 5.5.4.1 Provide the methodology, tools and/or techniques to be used in the execution of this Study. The scope of this identification will be determined in accordance with the scope of work. This description should minimally include, but not be limited to:
 - 5.5.4.1.1 Outline a plan for reviewing demographic and other relevant data.
 - 5.5.4.1.2 A description of relevant sampling techniques that you would propose utilizing to complete this assessment.
 - 5.5.4.1.3 Clarify types of techniques, proposed quantities, proposed timelines, target audiences, recruitment strategies to engage target audience including field practitioners, and field experts, and staffing resources to accomplish tasks.
 - 5.5.4.1.4 Proposed methodology for clarifying the research objectives, data collection requirements and sampling strategy.

- 5.5.4.1.5 The level of granularity of the data.
- 5.5.4.1.6 A description of how data will be compiled.
- 5.5.4.1.7 A description of identified trends.
- 5.5.4.2 Provide examples of times your agency has taken leadership roles in workforce, economic or workforce development activities. What was the outcome? Provide contact information for partner staff that can verify these activities.
- 5.5.4.3 Provide examples of similar reporting that have been provided to workforce agency boards, grant providers, and the community at large. A description of end report that will be produced, including sample reports that your firm has produced for similar projects.
- 5.5.4. Complete Proposers Fact Sheet, Attachment G.
- 5.5.5. Review Attachment H, Berks County Workforce Development Board Grievance Hearing Procedure.
- 5.5.6. Complete the Worker Protection and Investment Certification Form BOP-2201, Attachment I.
- 5.5.7. Provide a copy of your firms' continuity of operations plan.

5.6 Conflict of Interest

- 5.6.1 Each Proposal shall include a conflict of interest statement indicating whether or not any principals in the Proposer, their spouse, or their child is employed by the County of Berks, and whether or not the Proposer or any individuals providing Services has a possible conflict of interest, and, if so, the nature of that conflict. Furthermore, Proposers shall complete the Non-Collusion Affidavit Form attached to this RFP as Attachment C and submit an executed copy with its Technical Proposal.
- 5.6.2 To preserve the integrity of County employees and elected officials and to maintain public confidence in the RFP process, the County prohibits the solicitation or acceptance of anything of value by a County employee or elected official from any person seeking to initiate or maintain a business relationship with County departments, boards, commissions, and agencies.
- 5.6.3 Proposers shall not pay any salaries, commissions, fees, or make any payments or rebates to any employee, elected official of the County or their designees. Nor shall any Proposer favor any employee, elected official of the County or their designees with gifts or entertainment of significant cost or value, or with services or goods sold at less than full market value.
- 5.6.4 The County reserves the right to disqualify a Proposer or cancel an award of the Agreement if any interest disclosed from any source could either give the appearance of a conflict or cause speculation as to the objectivity of the program to be performed by the Proposer. The County's determination regarding any question of conflict of interest shall be final.

5.7 Subcontractors

- 5.7.1** Subcontractors may be used to perform portions of Services. If a Proposer intends to use subcontractors, the Proposer must identify in its Proposal the names of the subcontractors and the portions of Services the subcontractors will perform in its Proposal. Proposals must contain the following information concerning each prospective subcontractor:
- 5.7.1.1** Complete name of the subcontractor.
 - 5.7.1.2** Complete address of the subcontractor.
 - 5.7.1.3** Type of Services the subcontractor will be performing.
 - 5.7.1.4** Percentage of Services the subcontractor will be performing.
 - 5.7.1.5** Evidence that the subcontractor holds a valid Pennsylvania business license.
 - 5.7.1.6** A written statement, signed by each proposed subcontractor, that clearly verifies that the subcontractor is committed to render the Services required.
- 5.7.2** A Proposer's failure to provide this information in its Proposal may cause the County to consider the Proposal non-responsive and reject the Proposal.
- 5.7.3** Proposals from consortia, partnerships or other combinations of organizations must identify one organization as the lead agency and prime contractor and must specify the assignment of subcontracting relationships that are contemplated.

5.8 Insurance

Each Proposer must provide with its Proposal a sample certificate of insurance evidencing, at minimum, the insurance coverage types and levels set forth in the Proposed Form of Agreement and General Conditions.

5.9 Counter Terms

The Proposer shall specify any exceptions or objections taken to this RFP or the Proposed Form of Agreement and General Conditions, attached hereto as Attachment A, for the County to consider when evaluating the Proposal. Each provision the Proposer takes exception to shall be specifically identified (including a citation to the paragraph such provision is found) with the Proposer's suggested modification. It is understood that the Proposer takes no exception to the provisions of the RFP and form of Agreement not specifically identified as an exception or objection in this section of its Proposal.

5.10 Program Schedule

Proposals shall include the Proposer's planned program schedule including expected completion time periods for each task defined in Section 4 - Scope of work, and an expected completion time period for the overall program.

5.11 Alternative Proposals

Proposers are encouraged to review the scope of Services created by the County and the various task requirements called for within the scope of the Specification. If the Proposer believes that there are alternate methods for meeting any of the RFP requirements different than those

envisioned by the County, the Proposer should detail these and submit them as a separate section within the Proposal.

5.12 Price Proposal (the paper and electronic Price Proposal shall be submitted in a separate sealed envelope)

5.12.1 Price Proposals must include at minimum:

5.12.1.1 Complete Attachment E, Budget Sheets which includes but is not limited to the following:

- 5.12.1.1.1** Budget Cover Sheet
- 5.12.1.1.2** Budget Summary Sheet
- 5.12.1.1.3** 01/01 Administration-Staff Salaries
- 5.12.1.1.4** 01/02 Administration-Staff Fringe Benefits
- 5.12.1.1.5** 01.03 Administration-Staff Travel & Conference Expenses
- 5.12.1.1.6** 01/04 Administration-Materials & Supplies
- 5.12.1.1.7** 01/05 Administration-Non-Expendable Property
- 5.12.1.1.8** 01/06 Administration-Rental of Space
- 5.12.1.1.9** 01/08 Administration-Indirect Cost
- 5.12.1.1.10** 02/01 Program-Staff Salaries
- 5.12.1.1.11** 02/02 Program-Staff Fringe Benefits
- 5.12.1.1.12** 02/03 Program-Staff Travel & Conference Expenses
- 5.12.1.1.13** 02/04 Program-Materials & Supplies
- 5.12.1.1.14** 02/05 Program-Non-Expendable Property
- 5.12.1.1.15** 02/06 Program-Rental of Space
- 5.12.1.1.16** 02/09 Program-Other Costs
- 5.12.1.1.17** 02/10 Program-Work Experience
- 5.12.1.1.18** 02/11 Program-Tuition & Fees and Program-Supportive Services

5.12.1.2 Provide justification to support your price proposal, which shall clearly identify the level of service to be provided. What is the proposed service level including expected numbers of participants to be served?

- 5.12.1.3 In case of discrepancy between the electronic and hard copy of Attachment E, the terms set forth in the hard copy shall prevail.
- 5.12.1.4 The Agreement resulting from the award of this RFP will be for a not to exceed amount. The County will make payment within forty-five days of receipt of a properly prepared invoice for services satisfactorily performed. The successful Proposer must submit an invoice monthly, in the timeframe described in Section 4.4.5.2.5 after the completion of services set forth in the scope of services. The amount invoiced must coincide with the amount proposed for each respective service.

SECTION 6 - Evaluation Criteria and Process

- 6.1 A committee of County personnel representing the functions of the Berks County Workforce Development Board (WDB) and members of the WDB Committee performing oversight of the program will review and evaluate Proposals submitted in response to this RFP (“Evaluation Committee”). The proceedings of the Evaluation Committee are confidential. Members of the Evaluation Committee are not to be contacted by the Proposers. All communication between a Proposer and the County shall be through George M. Rodrigues, Contract Manager.
- 6.2 Proposals will be evaluated against the following criteria using a pass/fail determination.
 - 6.2.1 Financial stability of the Proposer (based on our examination of the required financial statements).
 - 6.2.2 Compliance with the essential minimum experience and qualifications of the Proposer.
 - 6.2.3 Compliance with the essential minimum experience and qualifications of the program team members.
 - 6.2.4 Evidence of sufficient levels of insurance coverage.
- 6.3 Proposals must pass this first tier evaluation to move on to the second tier evaluation described below.
- 6.4 Proposals will be evaluated against the following criteria using point-rated scoring.
 - 6.4.1 Ability (Resource Commitment) – The Proposer’s ability to perform the required service expeditiously. The Proposer must have the resources to be capable of meeting the required program completion schedule.
 - 6.4.2 Competence (Qualifications of Personnel) – The Proposer’s competence in performing the required Services as indicated by the training, education and experience of the personnel assigned to the program team. The Proposer must have in its possession all appropriate and required certifications, permits, and licenses.
 - 6.4.3 Past Performance – The Proposer’s past performance on similar programs. If the County cannot verify references based on the information provided in the Proposal, the scoring for this criteria factor may be affected.

- 6.4.4** Quality and Feasibility (Technical & Organizational Approach) – The quality and feasibility of the Technical Proposal and the Proposer’s understanding of the program’s requirements and the overall goals and objectives of the program.
- 6.4.5** Price.
 - 6.4.5.1** Evaluate the justification for the level of proposed funding.
 - 6.4.5.2** Evaluate the Proposer’s process for the leveraging of funds.
 - 6.4.5.3** Evaluate the Proposer’s administrative ability to perform contract with Berks County WDB.
- 6.4.6** Proposal Content/Format – The Proposal’s compliance with the content and format requirements of the RFP.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

AGREEMENT

THIS AGREEMENT (“Agreement”) is entered into by and between the **County of Berks** with offices at Berks County Services Center, 633 Court Street, Reading, Pennsylvania, 19601 (hereinafter “County”) and **Vendor** with offices at [] (hereinafter “Vendor”).

Background

The County desires to engage the Vendor to provide a Post-Pandemic Adult Talent and Demographic Study, in accordance with the requirements set forth in the County’s Request for Proposal RFP #24-02-GR inclusive of all addendums.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. Definitions

Capitalized terms not defined herein shall have the meaning set forth in the RFP.

- | | | |
|-------|---|---|
| 1.1. | BCCL | Shall refer to the Berks County CareerLink |
| 1.2. | COUNTY | Shall refer to the County of Berks |
| 1.3. | DEPARTMENT | Shall refer to the Pennsylvania Department of Labor and Industry, Bureau of Workforce Development Partnership |
| 1.4. | EARN | Shall refer to the Employment, Advancement and Retention Network |
| 1.5. | ELIGIBILITY NOTIFICATION | Shall refer to the certification of eligibility for participation in employment/training activities or services |
| 1.6. | VENDOR | Shall refer to the Program Operator or the provider of services also referred to as the Sub-Contractor |
| 1.7. | LWDA | Shall refer to the Local Workforce Development Area |
| 1.8. | MIS | Shall refer to the BERKS WDB’s Management Information System |
| 1.9. | PARTICIPANT | An individual who has been determined eligible to participate and who is receiving services provided under a WIOA or TANF program |
| 1.10. | PENNSYLVANIA DEPARTMENT OF HUMAN SERVICES | New name for Department of Public Welfare |

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- | | | |
|-------|----------------|--|
| 1.11. | PROPOSAL | Agenda of services tendered for delivery of activities or services by the Vendor under the provisions of the contract |
| 1.12. | TANF | Temporary Assistance for Needy Families |
| 1.13. | SUB-CONTRACTOR | Shall refer to the Program Operator or provider of services, also Referred to as the Vendor |
| 1.14. | WDB | Shall refer to the Workforce Development Board, sole authorized Agent to act in behalf of the County in all WIOA matters |
| 1.15. | WIOA | Shall refer to the Workforce Innovation & Opportunity Act |

2. Engagement

Subject to the terms and conditions set forth in this Agreement, the County hereby engages the Vendor to perform the Services set forth in the RFP on behalf of the County consistent with the terms of this Agreement.

3. Term of Agreement

This Agreement shall be effective May 1, 2024 through December 31, 2024 with one (1), nine (9) month renewal option for the term of January 1, 2025 to September 30, 2025 unless terminated in accordance with the terms and conditions of this Agreement.

4. Scope of Work

The Services shall include, without limitation to provide a Post-Pandemic Adult Talent and Demographic Study, as detailed in RFP #24-02-GR, Section 4, Clause 4.4, Scope of Work inclusive of all addenda (“RFP”) and Vendor’s Proposal thereto dated **Month Day, Year**, both of which are incorporated in this Agreement by reference.

5. Time is of the Essence

Time is of the essence in the performance of this Agreement. The schedule for the performance of Services is identified in RFP #24-02-GR. If the completion of Services is delayed, the County reserves the right, without liability, and in addition to its other rights and remedies, to terminate this Agreement by notice, and to procure substitute Services from another Vendor. The Vendor shall reimburse the County for the costs to procure substitute Services.

6. Fees

The County shall allocate to the Vendor program funds in an amount not to exceed **\$XXX,XXX.XX** for the period of May 1, 2024 to December 31, 2024 to carry out the program contemplated by this Agreement pursuant to the terms hereof and as set forth in Vendor’s Proposal, Attachment E, Budget Sheets. The allocation amount for the additional program years for this Agreement shall be reestablished annually. The following shall apply when submitting said Budget Forms:

- 6.1. Indirect costs are those incurred for the benefit of more than one program or activity, but not readily assignable to each on an equitable and efficient basis. Indirect costs are chargeable to WIOA only when the rate used is based upon a cost allocation plan approved by the fiscal department of the Berks County Workforce Development Board.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 6.2. All program funds provided under this Agreement shall be expended only for the program activities and charged only to the cost categories pursuant to the aforementioned Budget.
- 6.3. All program funds provided under this Agreement shall be expended only for the program activities and charged only to the cost categories pursuant to the aforementioned Budget.
- 6.4. The cost allocation plan must be submitted with a copy of the letter issued by the Certified Public Accounting Firm confirming the plan meets the requirements under the OMB Uniform Code, §200.57 indirect cost rate proposal. An indirect cost rate proposal means the documentation prepared by a non-Federal entity to substantiate its request for the establishment of an indirect cost rate as described in Appendix III to Part 200 – Indirect (F&A) Costs Identification and Assignment and Rate Determination for Institutions of Higher Education (IHEs) through Appendix VII to Part 200 – States and Local Government and Indian Tribe Indirect Cost Proposals of this part, and Appendix IX to Part 200 – Hospital Cost Principles.

7. Notices and Program Manager

All necessary coordination and communication required to carry out this Agreement, including meetings between the parties, as well as all written notices, shall be done through the individuals indicated below. Written notices shall be effective when delivered by hand, or if sent by registered or certified mail, or verified facsimile, or by confirmed courier to the address of each party indicated below.

	<i>County:</i>	<i>Vendor:</i>
Attention	Daniel W. Fogarty, Director, Berks County Employment and Training Office	
Address	1920 Kutztown Road Suite G Reading, PA 19604	
Telephone	610-988-4800	
Fax	610-988-1301	
Email	dfogarty@countyofberks.com	

Written notices shall be copied to: County of Berks, Attn: Kelly A. Laubach, Berks County Services Center, 633 Court Street, 13th Floor, Reading, PA, 19601. Fax: 610-898-7404.

8. Monthly Financial Status Report/Payment

- 8.1. Monthly Financial Status Report (FSR) will serve as the invoice and must **reference the above noted Agreement number**. The FSR shall be submitted to: County of Berks, Attn: Fiscal Manager, Berks County WDB, 1920 Kutztown Road, Suite G, Reading, PA 19604.
- 8.2. Vendor must submit the FSR by the 5th business day on the month following the month being reported for Services properly performed under this Agreement. This shall be a Cost Reimbursement Contract. No advance payments or billings are allowed. Payment by the County shall require the submittal of the FSR as directed under Attachment D of RFP #24-02-GR. The County shall render payment within forty-five (45) days of the County’s receipt of a properly prepared invoice. Payment shall be considered made when the County mails the check. Undisputed amounts unpaid after thirty (30) days of the County’s receipt of a properly prepared invoice shall bear interest at a rate of three percent (3%) per annum.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENEREAL CONDITIONS

- 8.3. Individual budget line items under Program Costs that exceed 10% of the budgeted amount must be approved by the WDB. Regardless of the individual line item, total budget may not be exceeded. No individual budget line items under Administrative Costs can be exceeded.
- 8.4. A primary and secondary authority must be designated for the FSR. This information must be provided to the WDB prior to the submission of the first FSR after the beginning date of this Agreement. Changes in these authorities must be provided to the WDB prior to the submittal of the FSR impacted by the change.
- 8.5. Program funds provided hereunder shall only be used to carry out the above-mentioned program activities and shall only be expended pursuant to the approved Budget and within the following Cost Categories: Administration Costs and Program Costs.
- 8.6. The County shall not be responsible for and shall not reimburse any costs incurred by the Vendor after the above-mentioned termination date or reported after the date of final financial settlement.
- 8.7. The Vendor shall reimburse to the County any and all program funds expended under this Agreement which are subsequently ordered repaid to the Department pursuant to a Final Determination of Audit, provided that the basis for such repayment order is one or more of the following causes:
 - 8.7.1. The payment from contract program funds of wages, fringe benefits or training allowances to any participant, or the expenditure of contract program funds for training or services delivered to such a participant, if such participant had not, prior to employment or enrollment, been certified to the Vendor by the agency designated by the County for such purpose as meeting the eligibility criteria applicable to this Agreement. The burden of proof regarding such eligibility certification shall rest with the Vendor and may be discharged by submission of the form "Employability Assessment Notification" or some successor document.
 - 8.7.1.1. The failure of the Vendor to maintain, in an auditable form, records of all expenditures of program funds provided under this Agreement. The judgment of the independent audit agency regarding auditable status of records shall be accepted by all parties to this Agreement.
 - 8.7.1.2. The expenditure of any program funds on any items not included in the contract budget or in amounts or rates not authorized by the contract budget or determined an unallowable cost base on federal or state code or guidelines.
 - 8.7.1.3. Criminal or grossly negligent conduct on the part of the Vendor, its agents or employees.
 - 8.7.1.4. Vendor is responsible for all unallowable costs. The Vendor must demonstrate access to unrestricted funds for the purpose of reimbursing any unallowable costs that may be determined.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENEREAL CONDITIONS

- 8.7.2. The County shall become entitled to such reimbursement upon its acceptance of the Final Determination of Audit, and nothing herein contained shall require or be deemed to require the County to file any exception to or appeal from the Final Determination of Audit before requiring such reimbursement from the Vendor.
- 8.7.3. Reimbursement shall be made by the Vendor by certified check to the County within thirty (30) days after receipt of written notice of the County's acceptance of the Final Determination of Audit and request for reimbursement.

9. Insurance

- 9.1. The Vendor, at its sole expense, shall carry and maintain, in full force at all times during the term of this Agreement, the following insurance coverages:
 - 9.1.1. Comprehensive General Liability insurance covering bodily injury and property damage with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate;
 - 9.1.2. Commercial Automobile Liability insurance with a combined single limit of not less than \$1,000,000;
 - 9.1.3. Professional Liability insurance with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate;
 - 9.1.4. Umbrella/Excess Liability insurance with limits of not less than \$2,000,000 per occurrence and \$2,000,000 aggregate; and
 - 9.1.5. Worker's Compensation insurance in statutory limits; and Employer's Liability insurance with limits of not less than \$100,000 each accident, \$500,000 disease-policy limit, and \$100,000 disease-each employee.
- 9.2. Prior to the commencement of the performance of Services, Vendor shall furnish to the County a certificate of insurance evidencing all required coverage with at least the limits required herein, naming the County of Berks, its elected officials, agents, and employees as Additional Insured for "ongoing operations" and "products and completed operations" for a period of three (3) years after final payment under the Commercial General Liability Coverage. Coverage should be provided by ISO Endorsements CG20 10 04 13 and CG 20 37 04 13 or their equivalent. Vendor's Commercial General Liability and Umbrella/Excess Policy shall be Primary to and will not require contribution from any other insurance under which the Additional Insured is a Named Insured. To the fullest extent permitted by applicable state law, all policies shall contain a Waiver of Subrogation Clause. The County of Berks reserves the right to waive the waiver of subrogation for any and all worker's compensation policies that are provided under the State Worker's Insurance Fund (SWIF). The Certificate shall note the program and provide that no policies may be cancelled without thirty (30) days advance notice to the County. Such certificate shall be issued to: County of Berks, Attn: Contract Coordinator, 633 Court Street, 13th Floor Services Center, Reading, PA 19601. All insurance policies shall be in effect with companies holding an A.M. Best rating of "A-" or better or financial rating of IX or better with the A.M. Best's Company Key Rating, Guide Latest Edition and shall be licensed or authorized to do business in the Commonwealth of Pennsylvania. Such companies shall also be acceptable to the County. Said policies shall remain in full force and effect until

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

the expiration of the terms of the Agreement or until completion of all duties to be performed hereunder by the Vendor, whichever shall occur later.

- 9.3. In the event that no employees or trainees who will be involved in the program will under any circumstances operate or be required to operate or be transported in a motor vehicle pursuant to the operation of or participation in the program, submission of a certificate of automobile liability insurance coverage will be waived, subject to the prior receipt by the County of a notarized statement to such effect from the Vendor.

10. Bonding

Vendor must be sufficiently bonded to safeguard the maximum amount of funds to be received at one time. The amount of coverage must be the greater of \$100,000.00 or an amount equal to the highest request for funds.

11. Precedence

Where a conflict exists between the RFP and the Vendor's Proposal, the Vendor shall provide the higher quality or quantity of Services except as specifically addressed in this Agreement. Where a conflict exists between these General Conditions and RFP or the Vendor's Proposal, the terms of these General Conditions shall prevail.

12. Availability of Appropriated Funds

- 12.1. The parties agree that any and all payments due from the County, as required under the terms of the Agreement, are contingent upon the availability of appropriated funds.
- 12.2. Receipt of funds from County, by advance or reimbursement, does not constitute earnings of funds; funds are earned only when an allowable cost is incurred. Any unearned funds paid to Vendor shall be repaid by check to County no later than thirty (30) days after notification by County that said funds are due and owing.
- 12.3. Should the "County" or "Department" or "Agency" determine that there are budget variances showing under spending of the contract budget, the "entity" shall have the right to reduce the contract by the accrual amount, with 30 days written notice to the Vendor. Vendor has the right to request a meeting within the 30-day period to review the accrual calculation and present information to amend the accrual amount. This right to reduce shall only be utilized by the "entity" when accruals are present and not as a means to modify the scope or term of the contract.

13. Taxes

The County is exempt from all Federal excise and transportation taxes, and Pennsylvania sales and use tax. The County's registration number with the Internal Revenue Service is 23-6003049. No exemption certificates are required, and none will be issued. Nothing in this paragraph is meant to exempt the Vendor from the payment of any applicable sales tax or use tax required to be paid with respect to its purchase or use of tangible personal property used or transferred in connection with its performance of Service. Only the County is required by law to pay any excise tax and then seek a refund or credit, the Vendor may separately charge the County the amount of the tax as a reimbursable expense.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

14. Ownership of Work Product

- 14.1. The County, its departments, employees, agents or assigns shall have the unrestricted right and authority to reproduce, distribute and use in whole or in part any submitted report or written materials generated by the Vendor in the performance of this Agreement.
- 14.2. Copyrights (29 CFR 97.34) The Berks County Workforce Development Board (WDB) reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:
 - 14.2.1. The copyright in any work developed under a grant, sub-grant, or contract under a grant or sub-grant; and
 - 14.2.2. Any rights of copyright to which a Vendor or a subcontractor purchases ownership with grant support.

15. Patents, Copyrights, Trademarks

Vendor warrants, represents and covenants that the Goods and the sale and use thereof do not infringe directly or indirectly any valid patent, copyright, property right or trademark and Vendor agrees, at its cost and expense, to indemnify and hold the County free and harmless from and against any and all costs, expense, liabilities or damages, including attorneys' fees, arising out of alleged or actual patent, copyright, property right, trademark or trade secret infringement resulting from the sale or use of deliverables provided in the performance of Services.

16. Records, Audit and Inspection

- 16.1. Vendor shall maintain such records as may be necessary to adequately reflect the accuracy of Vendor's charges and invoices for reimbursement under this Agreement and such other additional records as the County may reasonably require in connection with this Agreement. Vendor shall preserve such records in accordance with statutory requirements, but in no case for less than seven (7) years after the date of final payment, or if litigation, monitoring or audit is started prior to the end of the contract, until all issues are resolved, without additional reimbursement or compensation therefore. The County and its duly authorized representatives shall have the right, from time to time, and upon reasonable notice, to audit, inspect and verify the records kept by Vendor in connection with this Agreement. The County and its duly authorized representatives shall have the right to visit, observe, audit, and inspect, during the Vendor's normal business hours, Vendor's production and related facilities utilized to perform its obligations under this Agreement.
- 16.2. Vendor shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred for the performance of this Agreement. The foregoing constitutes "records" for the purpose of this section. Vendor agrees that a program and facilities review, including meetings with consumers, review of service records, review of service policy and procedural issuances, review of staffing rations and job descriptions, and meetings with any staff directly or indirectly involved in the provision of services may be conducted at any reasonable time by State and Federal personnel and other persons duly authorized by the WDB. If Vendor is not a public body, Vendor agrees to maintain books, records, documents, and other evidence and accounting procedures and practices which comply with the nationally accepted

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENEREAL CONDITIONS

- Uniform Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations, as published by the National Health Council and the National Social Welfare Assembly, 1964.
- 16.3. Vendor facilities or such part thereof as may be utilized in the performance of this Agreement and Vendor's records shall be subject at all reasonable times to inspection and audit by the Commonwealth and Federal auditors and other persons duly authorized by the WDB.
- 16.4. Vendor agrees that until the expiration of seven years after final payment under this Agreement, Federal and Commonwealth auditors and other persons duly authorized by the WDB shall have access to and the right to examine any records of the Vendor involving transactions related to this Agreement. Vendor may, in fulfillment of Vendor's obligation to retain Vendor's records, substitute photographs, microphotographs, or other authentic reproductions of such records after the expiration of two years following the last date of reimbursement to the Vendor.
- 16.5. Vendor agrees to collect statistical data of a fiscal nature on a regular basis and to make fiscal statistical reports at time prescribed by, and on forms furnished by the WDB.
- 16.6. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of four years from the date of any resulting final settlement. In addition, records which relate to litigations or the settlement of claims arising out of the performance of this Agreement, or costs and expenses of this Agreement as to which exception has been taken by the Auditors, shall be retained by the Vendor until such litigations, claims, or exceptions have been disposed of.
- 16.7. During the period of this Agreement, all information obtained by the Vendor shall be made available to the WDB immediately upon demand.

17. Warranty

Vendor warrants to the County that all Services shall be done in a skilled manner and shall comply with industry standards. Vendor shall promptly re-perform Services, after receiving notification from the County of defects or nonconformance.

18. Indemnity

Vendor agrees to indemnify and hold harmless the County, its elected officials, employees and agents from and against any and all liability, damages, claims, suits, liens, and judgments (including reasonable attorney's fees), of whatever nature, for injuries to or death of any person or persons, or loss of or damage to property, to the extent attributable to the negligent acts or omissions or willful misconduct of Vendor or its subcontractors or any of their respective agents, servants, or employees or Vendors' failure to perform in accordance with the provisions of this Agreement.

19. Force Majeure

Neither party shall be liable for any failure or delay in its performance resulting from any reasonably foreseeable cause beyond its reasonable control including, but not limited to, acts of God; acts or omissions of civil or military authority; fires, floods; unusually severe weather; strikes or other labor disputes; embargoes; wars; political strife; riots; delays in transportation; sabotage; or fuel, power, material or labor shortages, provided that the affected party notifies the other party, in writing, within forty-eight (48) hours subsequent to the commencement of an occurrence of force majeure.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENEREAL CONDITIONS

20. Additional Services

In the event the Vendor determines that any alteration, modification or addition to the Services is necessary (“Additional Services”), the Vendor shall submit a proposal to the County setting forth in reasonable detail the scope of such Additional Services, the estimated time and price of performing the Additional Services and any potential impact on the then-existing Services and any fees related thereto. The Vendor shall obtain the prior written approval from the County before performing any Additional Services. The Vendor shall not be entitled to additional compensation for any work or materials associated with Additional Services unless it received such approval. If approved by the County, the Vendor shall perform or cause to be performed such Additional Services in accordance with the terms of this Agreement.

21. Termination for Convenience

The County reserves the right, at any time and for its convenience, to terminate this Agreement in whole or in any separable part by written notice to Vendor. Such notice shall be provided at least thirty (30) days prior to the intended termination date. Vendor shall be compensated for Services performed in accordance with the provisions of this Agreement up to the effective date of termination, less any payments previously made by the County for such Services, but in no event shall Vendor be entitled to recover lost or expected profit or termination expenses.

22. Termination for Cause

- 22.1. In the event that either the Vendor or the County defaults in the performance of any obligation specified herein, the non-defaulting party shall notify the other party in writing and may suspend the Agreement, in whole or in part, pending remedy of the default. If such default is not remedied within ten (10) days from the date of receipt of such notice, or if the other party is diligently attempting to cure such default but is unable to cure such default within thirty (30) days from the date of receipt of such notice, then the non-defaulting party shall have the right to terminate the Agreement immediately by providing written notice of termination to the other party.
- 22.2. In the event of such notice of breach, and a failure to cure same, all finished or unfinished documents, dates of studies and reports prepared by Vendor shall at the option of the County become its property and Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents through the date of termination.
- 22.3. Notwithstanding the above, Vendor shall not be relieved of any liability to the County for damages sustained by the County by virtue of any breach of the Agreement by Vendor. The County may withhold any payments to Vendor for the purpose of set off until such time as the exact amount of damage due the County from Vendor is determined.
- 22.4. In the event that a Vendor's agreement is terminated, whether for cause or through nonrenewal and a new Vendor is awarded the agreement, the existing Vendor must participate in a plan of transition as developed by County. This plan may include a gradual transfer of participants to the new agency prior to the end of the existing Vendor's agreement period.
- 22.5. Existing Vendors are prohibited from communicating with participants regarding changes in Vendor agencies. County will notify all participants in writing regarding the change in service Vendor.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 22.6. If this Agreement is only terminated by County in part, Vendor shall continue performance of this Agreement to the extent not terminated, provided, however, that said continuation by Vendor shall take place only after County's evaluation of any and all surrounding circumstances.
- 22.7. After the effective date of any termination by County and except as otherwise stated by County, Vendor shall:
- 22.7.1. Stop work under this Agreement to the extent specified in such termination notice.
 - 22.7.2. Place no further orders and/or agreements for materials, services and/or facilities except as may be necessary for completion of any such portion of work under this Agreement that is not subject to termination.
 - 22.7.3. Terminate any and all orders and/or contracted work to the extent that relates to the performance of any work terminated.
 - 22.7.4. Settle any and all outstanding liabilities and any and all claims arising out of any such termination of orders and/or agreements, to the extent County may require, and/or upon County's written approval of any such settlement.
 - 22.7.5. Return to County any and all funds received not expended for any services and/or materials pursuant to this Agreement.
- 22.8. The remedies set forth above shall be cumulative and shall be in addition to any and all other rights and remedies otherwise available to the County at law or in equity.
- 22.9. If, during the term of this Agreement, Vendor shall be adjudged bankrupt, make a general assignment for the benefit of its creditors, or become insolvent, Vendor shall give the County written notice of such occurrence as soon as is legally permissible. If such occurrence or proposed occurrence is unacceptable to the County, the County may terminate this Agreement immediately upon written notice thereof to Vendor.
- 22.10. If the County terminates this Agreement for cause, in whole or in part, the County may acquire, correct, or replace Services similar to those terminated, by contract or otherwise, and the Vendor shall reimburse the County for any costs incurred by the County thereby, or an equitable reduction to the Vendor's compensation shall be made.
- 22.11. Disputes between the County and Vendor

The parties agree that any disputes between the County and the Vendor arising under this Agreement shall be referred initially for resolution by administrative process and negotiation in lieu of litigation, and that the parties' performance hereunder shall continue unabated pending such resolution. The resolution of disputes by administrative process hereunder shall be in accordance with the following conditions:

- 22.11.1. Disputes arising between the County and the Vendor shall be subject to a three step process involving consultation between representatives of the two parties as a first step, submission to a standing or Ad Hoc Committee of the Berks County Workforce

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

Development Board as a second step, and submission to an impartial hearing officer designated by the Berks County Solicitor as a third step.

- 22.11.2. Any dispute concerning a question of fact, which is not informally resolved, shall be decided by the County's authorized representative who shall render a decision in writing and furnish a copy thereof to the Vendor.
- 22.11.3. In the event that the Vendor desires to appeal any decision of the County, the Vendor shall be afforded an opportunity to be heard and to offer evidence in support of its position in any appeal proceeding hereunder.
 - 22.11.3.1. The Vendor shall have the right to appeal a determination by the County to terminate this Agreement for cause, provided that such appeal is made in writing to the County within thirty (30) days after the date of the County's notice of termination, or within such extended time period as may be approved by the County in writing; otherwise, any such right to appeal is waived by the Vendor.
 - 22.11.3.2. In the event of a termination for cause, the amount of compensation due, if any, to the Vendor shall be determined as follows:
 - 22.11.3.2.1. If the Vendor does not appeal, or if the right to appeal has been waived, the County shall pay the Vendor for work and/or services performed prior to the date of termination and performed pursuant to this Agreement, subject to deductions for the following:
 - 22.11.3.2.1.1. all un-liquidated advance or other payments on account previously made to the Vendor and applicable to the terminated portion of this Agreement,
 - 22.11.3.2.1.2. any claim which the County may have against the Vendor in connection with this Agreement; and
 - 22.11.3.2.1.3. the agreed price, or the proceeds of sale, of any equipment, materials, supplies or property acquired or sold by the Vendor under the terms hereof, and not otherwise previously recovered by or credited to the County.
- 22.11.4. Pending final resolution of a dispute hereunder, the Vendor shall proceed diligently with its performance of the Agreement and in accordance with the County's decision.
- 22.11.5. Questions of law may be considered in connection with proceedings conducted and decisions rendered pursuant hereto; provided that nothing herein contained shall be construed to make final the decision of any administrative official, representative, or board on a question of law.
- 22.11.6. To the extent applicable, and particularly with respect to time periods for notices, appeals, and other actions, the WDB's Grievance and Appeal Procedure shall be followed in administrative proceedings hereunder.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

22.12. Disputes between the Vendor and Employees or Trainees

- 22.12.1. Disputes or Grievances arising between the Vendor and employees or trainees hired or enrolled under the terms of this Agreement shall be subject to the normal grievance and appeal procedures of the Vendor, provided that the Vendor has formally established such procedures, and has posted in a convenient and accessible location notice of the availability of the procedures, the name or title of the individual to whom grievances and appeals must be presented, and the manner and time limits in which grievances and appeals must be filed.
- 22.12.2. In the event that the Vendor does not have formal grievance and appeal procedures, the grievance and appeal procedure of the WDB shall be followed with respect to disputes or grievances between the Vendor and employees or trainees hired or enrolled under the terms of this Agreement.
- 22.12.3. In the event that the only operative grievance and appeal procedures available to employees or trainees hired or enrolled under the terms of this Agreement are those set forth by the WDB, the Vendor shall provide notice to affected employees or trainees that such procedures are available, together with the name or title of the individual to whom grievances or appeals must be presented and the manner and time limits in which grievances and appeals must be filed.
- 22.12.4. In the event that the Vendor has its own formal grievance and appeal procedures, employees or trainees hired or enrolled under the terms of this Agreement shall have access to the grievance and appeal procedure set forth by the WDB only for the resolution of questions arising out of an alleged violation of WIOA law, regulations, contracts or policies; and the WDB's grievance and appeal procedure shall not, in such cases, review the substantive facts of any grievance or appeal which does not allege such a violation, nor shall it take under consideration or reexamination any findings of fact made by the Vendor's grievance and appeal procedure.

23. **Grievance Procedure and Discipline Policy**

- 23.1. The Vendor shall provide each participant, upon enrollment into the program, with a written description of the grievance and appeal procedure, either the Vendor's policy or the WDB's. That description shall include notification of the right to file complaints and appeals and instructions on the procedure, and the Vendor shall further provide participants with a thorough explanation of such procedure required.
- 23.2. The Vendor shall provide each participant, upon enrollment into the program, with a written summary of any institutional rules and/or policies applicable to all trainees.
- 23.3. Each participant shall certify understanding of the grievance and appeal procedure and of the institutional rules and policies by signing a statement to that effect on copies of the documents given to the participant for personal reference, such signed copies to be maintained by the Vendor in the participant's file.
- 23.4. The minimum standards for the above-mentioned requirements regarding notice to and certification of understanding by participants with respect to the applicable procedures and

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- rules are set forth in the Grievance and Appeal Procedure, which is contained in Attachment A of the contract.
- 23.5. The Vendor shall have the right to discipline any participant who has demonstrated a less than conscientious attitude with respect to acquiring a new job skill through participation in the program, or who by his or her conduct interferes with the orderly process of training or the rights of other trainees to pursue their own course of instruction, or who violates standard rules of conduct promulgated by the Vendor or the training facility.
- 23.6. The Vendor shall document any disciplinary measures which could ultimately result in or contribute to the dismissal of a program participant, and shall provide a copy of such documentation to the affected participant at the time such measures are taken, as well as retaining a copy in the participant's file.
- 23.7. The following is a suggested sequence of disciplinary action providing adequate documentation of the dismissal or termination of a program participant:
- 23.7.1. documented warning that rules have been broken or other inappropriate conduct engaged in by the participant, and that further violations or offenses will result in suspension;
 - 23.7.2. if the initial violation or offense is of a particularly serious nature, the warning may be bypassed and suspension or termination, as may be appropriate in the circumstances, may be implemented directly;
 - 23.7.3. if the repeated violation or offense is of a particularly serious nature, suspension may be bypassed, and termination implemented directly.

24. Claims for Consequential and/or Incidental Damages

The Vendor waives claims against the County for lost or expected profits, consequential damages and/or incidental damages arising out of or relating to this Agreement.

25. Release of Liens

Before any payment hereunder shall become due, the County, at its option, may require Vendor to furnish reasonable evidence of the payment of all subcontractor accounts for labor and materials pertaining to Vendor's performance hereunder. Prior to payment, the County reserves the right to require Vendor to furnish the County with a full and complete release of liens from all persons furnishing labor and materials toward the performance hereof, and in any event, Vendor agrees to indemnify and hold harmless the County, its officials, employees and agents from and against any and all liens and encumbrances arising out of Vendor's performance of this Agreement.

26. Assignment

Vendor shall not assign this Agreement in whole or in part nor delegate any duties, without the prior written consent of the County. Such consent shall not be unreasonably withheld. Any assignment consented to by the County shall be evidenced by a written assignment agreement executed by the Vendor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the original Agreement and to assume the duties, obligations, and responsibilities being assigned.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

27. Publicity

Neither Vendor nor any tier subcontractor shall use the name of the County or quote the opinion of any County employee in any advertising, publicity, endorsement or testimonial, without the prior written approval of the County.

28. Compliance with Laws

In the performance of this Agreement, Vendor shall comply with all applicable laws, ordinances, rules and regulations of governmental authorities. Vendor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations. Vendor shall give required notices, and secure and pay for any permits, licenses, and easements required for performance of services. The Vendor shall give any and all necessary formal notices required in conjunction with the lawful prosecution of the Services.

29. Health and Safety

The Vendor shall, at all times, control the health, safety and welfare of its employees, participants and subcontractors. Vendor shall:

- 29.1. comply with all federal, state and local regulations, as well as all safety information and instructions as may be set forth in writing or otherwise provided by the County;
- 29.2. promptly report to the County all incidents with potentially adverse safety, health or environmental implications, including slips, falls, equipment malfunctions, fume releases and any situation requiring first-aid or medical observations or treatment;
- 29.3. promptly report to the County all cases Vendor determines to be recordable on the OSHA 300 log or its equivalent and upon request, provide the County with a copy of the OSHA 300 log and all supporting forms;
- 29.4. properly maintain, inspect and supervise its designated work area and roadways to keep them in reasonably safe condition;
- 29.5. supply the applicable safety data sheets on all products supplied to the County or used on County property;
- 29.6. use, handle, store and dispose of any hazardous materials or waste while on the County's property in strict compliance with applicable laws and as instructed in the safety data sheet(s); and
- 29.7. keep the County's property free of waste as the work progresses and, on completion of such activities, leave the site "broom clean" and tools, equipment and materials furnished shall be so placed and maintained as to permit unobstructed access to the work and to minimize exposure to personal injury or fire loss in a location approved by the County. The County may remove waste or store Vendor's tools, equipment and materials if Vendor fails to properly do so and the Vendor shall reimburse the County for any costs incurred, including charges for employee time, within seven (7) days of demand.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

30. Equal Employment Opportunity

- 30.1. During the performance of the Agreement, the Vendor shall not discriminate against any employees or applicant for employment because of race, color, religion, sex, or national origin. The Vendor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, sex or national origin. Such action 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. The Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this paragraph.
- 30.2. Vendor shall, in advertisements or requests for employment placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, handicap, ancestry, national origin, age, or sex.
- 30.3. Vendor shall send each labor union or workers' representative with which it has a collective bargaining agreement or other Contracts or understanding, a notice advising said labor union or workers' representative of its commitment to this non-discrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by Vendor.
- 30.4. It shall be no defense to a finding of noncompliance with this non-discrimination clause that Vendor had delegated some to its employment practices to any union, training program, or other source of recruitment that prevents it from meeting its obligations. However, if the evidence indicates that the Vendor was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.
- 30.5. Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that Vendor will be unable to meet its obligations under this non-discrimination clause, Vendor shall then employ and fill vacancies through other non-discriminatory employment procedures.
- 30.6. Vendor shall comply with all state and federal laws prohibiting discrimination in hiring or employment opportunities. In the event of Vendor's noncompliance with the non-discrimination clause of this Agreement or with any such laws, this Agreement may be terminated or suspended, in whole or in part, and Vendor may be declared temporarily ineligible for further Agreements, and other sanctions may be imposed and remedies invoked.
- 30.7. Vendor shall furnish all necessary employment documents and records to, and permit access to its books, records, and accounts by, the contracting agency for purposes of investigation to ascertain compliance with the provisions of this clause. If Vendor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting agency.
- 30.8. Vendor shall include the provisions of this non-discrimination clause in every Agreement, so that such provisions will be binding upon each subcontractor.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 30.9. Vendor obligations under this clause are limited to the Vendor's facilities within Pennsylvania or, where the Agreement is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.
- 30.10. Corrective Action Due to Equal Opportunity Compliance Review or Complaint Investigation
- 30.10.1. Corrective action may take place whenever a sub-recipient is cited as the result of an Equal Opportunity Compliance Review or a complaint investigation. When there are findings of discrimination, a conciliation agreement and/or corrective action plan is required. The corrective action shall address the particular act of discrimination and shall include timetables by which the corrective action will be implemented. Corrective action may include recoupment of lost earnings the victim may have suffered. A written assurance must accompany a corrective action (to help ensure that the discrimination does not recur) stating that the sub-recipient will cease in its discriminatory practices.
- 30.10.2. Technical deficiencies may require a different time frame for corrections than findings of discrimination. WDB's Equal Opportunity Officer (EOO) shall notify the sub-recipient in writing of the deficiencies found during Equal Opportunity Compliance Reviews along with a suggested corrective action plan. The EOO shall provide technical assistance in implementing the corrective action plan. The corrective action plan shall include written assurances to certify that a deficiency has been corrected, including the timeframe for correction. The assurance will attest that the sub-recipient shall continue to take steps to ensure that the deficiency(s) do not recur
- 30.10.3. The sub-recipient is made aware at the Equal Opportunity Review or Technical Assistance Training, that follow-up monitoring can occur at any time. In instances where deficiencies are identified and Corrective Action Plans are submitted, on-site follow-up may occur within thirty (30) days from receipt of the corrective action plan to assess the adequacy of the corrective action. A letter advising the recipient of the program, practice or information that will be reviewed shall be provided to the sub-recipient. Training rosters, written assurances, or other appropriate documentation may be required to confirm correction of deficiencies/violations.
- 30.10.4. Sanctions are imposed when a sub-recipient will not agree to or take voluntary corrective action. After all attempts to provide assistance and correction of deficiencies fail, the imposition of sanctions shall be considered. The sanctions imposed for noncompliance shall be on a case-by-case basis, and may include any or all of the following:
- 30.10.4.1. Make whole remedies for discriminatory practices.
- 30.10.4.2. Establishment and issuance of policies as applicable to the violation.
- 30.10.4.3. Placement into a training program or hire into a vacant position for which one may have been qualified but denied.
- 30.10.4.4. Discontinue referral of participants to sites against which discrimination allegations have been alleged and proven.
- 30.10.4.5. Removal of participants from sites refusing to implement corrective actions.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

30.10.4.6. Termination of contract and forfeiture of funding.

31. Corrective Action Due to Equal Opportunity Compliance Review or Complaint Investigation

- 31.1. Corrective action may take place whenever a sub-recipient is cited as the result of an Equal Opportunity Compliance Review or a complaint investigation. When there are findings of discrimination, a conciliation agreement and/or corrective action plan is required. The corrective action must address the particular act of discrimination and must include timetables by which the corrective action will be implemented. Corrective action may include recoupment of lost earnings the victim may have suffered. A written assurance must accompany a corrective action (to help ensure that the discrimination does not recur) stating that the sub-recipient will cease in its discriminatory practices.
- 31.2. Technical deficiencies may require a different time frame for corrections than findings of discrimination. The Workforce Development Board (WDB) Equal Opportunity Officer (EOO) will notify the sub-recipient in writing of the deficiencies found during EO Compliance Reviews along with a suggested corrective action plan. The EOO will provide technical assistance in implementing the corrective action plan. The corrective action plan must include written assurances to certify that a deficiency has been corrected – including the timeframe for correction. The assurance will attest that the sub-recipient will continue to take steps to ensure that the deficiency(s) do not recur.
- 31.3. The sub-recipient is made aware at the Equal Opportunity Review or Technical Assistance Training, that follow-up monitoring can occur at any time. In instances where deficiencies are identified and Corrective Action Plans are submitted, on-site follow-up may occur within 30 days from receipt of the corrective action plan, to assess the adequacy of the corrective action. A letter advising the recipient of the program, practice or information that will be reviewed will be provided to the sub-recipient. Training rosters, written assurances, or other appropriate documentation may be required to confirm correction of deficiencies/violations.
- 31.4. Sanctions are imposed when a sub-recipient will not agree to or take voluntary corrective action. After all attempts to provide assistance and correction of deficiencies fail, the imposition of sanctions will be considered. The sanctions imposed for noncompliance will be on a case-by-case basis, and may include any or all of the following:
 - 31.4.1. Make whole remedies for discriminatory practices.
 - 31.4.2. Establishment and issuance of policies as applicable to the violation.
 - 31.4.3. Placement into a training program or hire into a vacant position for which one may have been qualified but denied.
 - 31.4.4. Discontinue referral of participants to sites against which discrimination allegations have been alleged and proven.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

31.4.5. Removal of participants from sites refusing to implement corrective actions.

31.4.6. Termination of contract and forfeiture of funding.

32. Independent Contractor

32.1. The employees, subcontractors, methods, facilities, and equipment used by Vendor shall be at all times under Vendor's direction and control. Vendor's relationship to the County under this Agreement shall be that of an independent contractor, and nothing in this Agreement shall be construed to constitute Vendor, its subcontractors or any of their employees as an employee, agent, associate, joint venturer, or partner of the County.

32.2. Except as may be otherwise set forth elsewhere in this Agreement, all persons hired and/or paid by or on behalf of the Vendor, or other employing agency or sub-grantee with program funds provided under this Agreement shall receive wages and benefits identical to those of regular employees of the Vendor or other employing entity who are similarly categorized and classified.

33. Employees of Vendor

33.1. Vendor agrees that each of its employees will be properly qualified and will use reasonable care in the performance of services while on County property. If the County, in the County's sole opinion, determines, for any reason, that the qualifications, actions or conduct of any particular Vendor employee is inconsistent with Vendor's obligations under this Agreement by performing unsatisfactory services, interfering with the operation of the County's facilities, bothering or annoying any occupants, visitors, or other Vendors then at facility, or that such actions or conduct is otherwise detrimental to the County, then upon the County's written notice, Vendor shall immediately provide a qualified replacement.

33.2. Vendor shall advise its employees and the employees of its subcontractors and agents that:

33.2.1. It is the policy of the County of Berks to provide a drug-free work environment. To that end the County prohibits the consumption of alcohol or illegal use, possession, sale, manufacture, dispensing, and distribution of drugs or other controlled substances while performing Services or on County property on the work site, and prohibits in the workplace the presence of an individual with such substances in the body for non-medical reasons.

Any employee of Vendor who is found in violation of the policy may be removed or barred from the work site at the discretion of the County.

34. Governing Law and Jurisdiction

This Agreement shall be interpreted under the substantive law of the Commonwealth of Pennsylvania, without giving effect to its principles of conflicts of law. EACH PARTY IRREVOCABLY CONSENTS TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE COURT OF COMMON PLEAS OF BERKS COUNTY, COMMONWEALTH OF PENNSYLVANIA, AND IRREVOCABLY AGREES THAT ALL ACTIONS OR PROCEEDINGS BETWEEN THE PARTIES, INCLUDING, BUT NOT LIMITED TO, THOSE ACTIONS OR PROCEEDINGS RELATING TO THIS AGREEMENT, SHALL BE LITIGATED IN SUCH COURT.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

35. Subcontractors

- 35.1. If subcontractors are permitted by the RFP, the Vendor shall only use such subcontractors identified in its Proposal. The substitution of one subcontractor for another may be made only with the prior written approval of the County. Such approval shall not be unreasonably withheld.
- 35.2. Notwithstanding the foregoing, the Vendor shall not subcontract with or employ any entity or individual who is currently suspended or debarred by the Commonwealth of Pennsylvania or federal government during the term of this Agreement or any extensions or renewals thereof. The County shall have the right to require the Vendor to terminate such subcontracts or employment at no cost to the County. The Vendor agrees to reimburse the County for costs and expenses incurred due to the Vendor's noncompliance with the terms of this certification requirement. For further details regarding debarment refer to Clause 47.

36. Severability

The provisions of this Agreement shall be deemed to be severable. Consequently, in the event that any provision of this Agreement is found to be void or unenforceable, such findings shall not be construed to render any other provision of this Agreement either void or unenforceable, and all other provisions shall remain in full force and effect unless the provisions which are void or unenforceable shall substantially affect the rights or obligations granted to or undertaken by either party.

37. Reservation of Rights

- 37.1. Either party's waiver of any of its remedies afforded hereunder or by law is without prejudice and shall not operate to waive any other remedies which such party shall have available to it, nor shall such waiver operate to waive such party's rights to any remedies for future breach, whether of a like or different character. Furthermore, any termination or assignment of this Agreement shall not relieve or release either party hereto from any rights, liabilities, or obligations which it has accrued under law or under the terms of this Agreement prior to the date of such termination or assignment.
- 37.2. Failure to Enforce No Waiver
Any failure on the part of the County to enforce any provisions of this Agreement or to take any action to which it may be entitled with respect to any breach of the terms and provisions hereof by the Vendor at any time shall not nor be deemed to be a waiver by the County of such rights, and the County shall at all times have the right to enforce each and every provision hereof and to pursue any appropriate legal or equitable remedy for any breach, past or present, of the terms hereof by the Vendor.

38. Funds from Private Sources

Vendor agrees that funds under this Agreement shall not be used to replace funds from non-Federal and non-State sources. Vendor further agrees to continue or initiate efforts to obtain support from private sources or other public organizations for services funded under this Agreement.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

39. Regulations

39.1. General Obligations

- 39.1.1. The Program is being funded in part by grant money provided by the United States Department of Labor and/or the United States Department of Health & Human Services. Vendor shall perform Services and ensure that its Subcontractors perform Services in strict accordance with the requirements and conditions set forth in all grant documents applicable to the Program. If any grant money is forfeited as a direct or indirect result of Vendor's or Subcontractor's performance or non-performance of Services, the Contract Price shall be reduced in the amount equal to the forfeited grant monies.
- 39.1.2. Vendor shall certify that, as of the date of its execution of the Contract Documents, that Vendor, nor any Subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth of Pennsylvania or any other state or federal governmental entity, instrumentality, or authority and, if the Vendor cannot so certify, then it agrees to submit, along with its Proposal, a written explanation of why such certification cannot be made.
- 39.1.3. Vendor shall comply with the Family Support Act as implemented by the Commonwealth of Pennsylvania through the EARN Program.
- 39.1.4. Vendor shall adhere to and, if requested, agree to in writing, all contractor integrity provisions required by any grant associated with this Program.
- 39.1.5. Vendor shall take affirmative steps, as such steps are set forth in 44 CFR § 13.36(e) to assure that minority firms, women's business enterprises, and labor surplus are firms are used when possible.
- 39.1.6. Vendor or subcontractor shall certify it is in compliance with the current Pennsylvania Unemployment Compensation and Worker's Compensation Laws.
- 39.1.7. Vendor shall comply with all pertinent federal, state and local laws and regulations and all amendments made thereto. Definitions of service, eligibility of recipients of service and other limitations on the purchase of the services established in this Agreement are subject to modification by amendments to Federal, State and Local laws and regulations without further notice to the Vendor.

39.2. Federal Procurement Compliance

- 39.2.1. Vendor shall not discriminate on the basis of race, color or national origin in any activity associated with this Program in accordance with Title VI of the Civil Rights Act of 1964, July 2, 1964, P.L. 88-352, Title VI, 42 U.S.C. § 2000d.
- 39.2.2. Vendor shall not discriminate on the basis of age in any activity associated with this Program in accordance with the Age Discrimination Act, Nov 28, 1975, P.L. 94-135, as amended, 42 U.S.C. § 6101 *et seq.*

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 39.2.3. Vendor shall not discriminate on the basis of disability in any activity associated with this Program in accordance with the Section 504 of the Rehabilitation Act of 1973, Sept. 26, 1973, P.L. 93-112, Title V, § 504, 29 U.S.C. § 794.
- 39.2.4. Vendor agrees that compliance with this assurance constitutes a condition of continued receipt of Federal financial assistance, and that is binding upon the Vendor, its successors, transferees and assignees for the period during which such assistance is provided. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Vendor by the County, this assurance shall obligate the Vendor, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance shall obligate the Vendor for the period during which it retains ownership or possession of the property. The Vendor further recognizes and agrees that the United States shall have the right to seek judicial enforcement of this assurance.
- 39.2.5. Vendor shall not discriminate on the basis of disability in any activity associated with this Program in accordance with the Americans With Disabilities Act of 1990, P.L. 101-336, 42 U.S.C. § 12101 *et seq.*, and federal regulations set forth at 28 C.F.R. Part 35. Vendor shall complete the “Accessibility Checklist, Attachment H, attached hereto and made a part of this Agreement.
- 39.2.6. Vendor shall not discriminate on the basis of sex in any activity associated with this Program in accordance with Nontraditional Employment of Women’s Act of 1991.
- 39.2.7. Vendor shall provide an equal opportunity for employment in all contracts and subcontracts associated with this Program in accordance with Executive Order 11246, dated September 24, 1965, as amended by Executive Order 11375, dated October 13, 1967, and as supplemented in Department of Labor Regulations set forth in 40 C.F.R. Part 60.
- 39.2.8. No facilities that will be used to perform the Services may be listed on the List of Violating Facilities maintained by the Environmental Protection Agency and the Vendor, upon request of the County, shall provide a certification verifying the same.
- 39.2.9. Vendor shall inform all parties that this Program is being supported in part by Federal funding when it issues any statements, press releases, requests for proposals, bid solicitations and other similar documents related to the Program.
- 39.2.10. Vendor shall comply with all applicable mandatory standards and policies relating to energy efficiency which are contained in the applicable state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).
- 39.2.11. The United States Department of Labor, United States Health & Human Services, Comptroller General of the United States, the Owner, or their duly authorized representatives shall have access to any books, documents, papers, and records of the Vendor which are directly pertinent to Contract for the purpose of making audit, examination, excerpts, and transcriptions. Vendor shall incorporate in each of its

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

subcontracts a provision requiring its Subcontractors and Sub-subcontractors to provide the United States Department of Labor, United States Department of Health & Human Services, Comptroller General of the United States, the County, or their duly authorized representatives access to any books, documents, papers, and records which are directly pertinent to Contract for the purpose of making audit, examination, excerpts, and transcriptions. Vendor shall (and require each Subcontractor and Sub-subcontractor to) retain all records related to the Program or the Contract for seven (7) years after Final Payment from Owner to Vendor has been remitted and all other pending matters related to the Program or Contract are closed.

39.3. Notices of Federal Statutes, Regulations and Rules

39.3.1. The Vendor is hereby notified that the following federal statutes, regulations and rules apply to the Services as federally funded Program:

39.3.2. Environmental

- 39.3.2.1. Archaeological and Historic Preservation Act of 1974, 16 USCS §469a-1 et seq., (P.L. 86-523, as amended)
- 39.3.2.2. Protection and Enhancement of Cultural Environment, (Executive Order 11593)
- 39.3.2.3. National Historic Preservation Act of 1966, 16 USCS §470, (P.L. 89-665, Section 106, as amended)
- 39.3.2.4. Clean Air Act of 1955, 42 USCS §7401 et seq., (P.L. 84-159, as amended)
- 39.3.2.5. Federal Water Pollution Control Act of 1948 (also known as the “Clean Water Act”) (33 USCA § 1251 et seq., P.L. 845, as amended)
- 39.3.2.6. Coastal Barrier Resources Act, 16 USCS §3501 et seq., (P.L. 97-348)
- 39.3.2.7. Coastal Zone Management Act of 1972, 16 USCS §1451 et seq., (P.L. 92-583, as amended)
- 39.3.2.8. Endangered Species Act of 1973, 16 USCS §1531 et seq., (P.L. 93-205, as amended)
- 39.3.2.9. Fish and Wildlife Coordination Act, (P.L. 85-624, as amended)
- 39.3.2.10. Floodplain Management, (Executive Order 11988, as amended by Executive Order 12148)
- 39.3.2.11. Environmental Justice, (Executive Order 12898)
- 39.3.2.12. Protection of Wetlands, (Executive Order 11990)
- 39.3.2.13. Farmland Protection Policy Act, 7 USCS §4201 et seq., (P.L. 97-98)

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 39.3.2.14. National Environmental Policy Act of 1969, (P.L. 91-190)
 - 39.3.2.15. Safe Drinking Water Act of 1974, (P.L. 93-523, Section 1424(e), as amended)
 - 39.3.2.16. Wild and Scenic Rivers Act of 1968, 16 USCS §1271 et seq., (P.L. 90-542, as amended)
 - 39.3.2.17. Environmental Protection Agency regulations, Title 40 of the Code of Federal Regulations (including, without limitation, 40 CFR part 15)
 - 39.3.2.18. Procurement of Recovered Materials - §200.322
 - 39.3.2.18.1. Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 39.4. Social
- 39.4.1. Promoting the Use of Women’s and Minority Business Enterprise, (Executive Orders 11625, 12138 and 12342)
 - 39.4.2. Civil Rights Act of 1964, Title VI, (P.L. 88-352)
 - 39.4.3. Title IX of the Education Amendments of 1972, as amended, 20 USCS §1681 - 1685 and 1686, Prohibition against Sex Discrimination
 - 39.4.4. Rehabilitation Act of 1973, 29 USCS §794, (P.L. 93-112 Section 504, as amended. Executive Orders 11914 and 11250)
 - 39.4.5. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, (P.L. 92-500), (Clean Water Act”)
 - 39.4.6. Age Discrimination Act of 1975, 42 USCS §6101-6107, (P.L. 94-135, as amended)
 - 39.4.7. Drug Free Workplace Act of 1988, (P.L. 100-690)
 - 39.4.8. Drug Abuse Office and Treatment Act of 1972, (P.L. 92-255)
 - 39.4.9. Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, (P.L. 91-616)

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 39.4.10. Equal Employment Opportunity, (Executive Order 11246, of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60).
 - 39.4.11. The Vendor agrees to comply with and is subject to all applicable provisions of 41 U.S.C. 4172, including prohibitions on reprisal and notice to employees.
 - 39.4.12. The Vendor agrees to comply with 28 CFR Part 38, “Partnerships with Faith Based and Other Neighborhood Organizations.”
 - 39.4.13. Pursuant to Executive Order 13513, “Federal Leadership on Reducing Text Messaging While Driving,” 74 Fed. Reg 51225. The County encourages vendor to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this contract and to establish workplace safety policies and conduct education, awareness and other outreach to decrease crashes caused by distracted drivers.
 - 39.4.14. Public Health Service Act of 1912, 42 USCS §290 dd-3 and §290 ee-3, §523 and §527
 - 39.4.15. Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, (P.L. 100-590)
- 39.5. Economic
- 39.5.1. Procurement Prohibitions under Clean Air Act, Section 306; Clean Water Act, Section 508; and Executive Order 11738
 - 39.5.2. Debarment and Suspension, (Executive Order 12549)
 - 39.5.3. Davis-Bacon Act, 40 U.S.C. §§ 276a to 276a–7, as supplemented by Department of Labor regulations, 29 CFR Part 5
 - 39.5.4. Contract Work Hours and Safety Standards Act, 40 U.S.C. §§ 327–330, as supplemented by Department of Labor regulations 29 CFR Part 5
- 39.6. Miscellaneous
- Vendor must be in compliance with the following acts:
- 39.6.1. Demonstration Cities and Metropolitan Development Act of 1966, (Executive Order 12372, P.L. 89-754, as amended)
 - 39.6.2. Uniform Relocation and Real Property Acquisition Policies Act of 1970, Titles II and III, (P.L. 91-646, as amended)
 - 39.6.3. Anti-Lobbying, 31 USCS §1352, 40 CFR Part 34
 - 39.6.4. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 39.6.4.1. Vendors with an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 39.6.5. In accordance with 2 CFR Part 200, Section 200.318, Vendor attests to the following:
- 39.6.5.1. That no employee, officer, or agent of the Vendor that participates in the selection, award, or administration of this contract has a real or apparent conflict of interest. Such a conflict of interest would arise when an employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.
- 39.6.5.2. The officers, employees, and agents of the Vendor may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontractors.
- 39.6.5.3. The Vendor's standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity/County.
- 39.6.6. Vendor certifies that no Federal Appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 39.6.6.1. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 39.6.6.2. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts,

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

subgrants and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

- 39.6.6.3. This certification is a material representation of fact, upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- 39.6.7. Copeland “Anti-Kickback” Act, 18 U.S.C. § 874, as supplemented in Department of Labor regulations, 29 CFR Part 3
- 39.6.8. Flood Disaster Protection Act of 1973, (Section 102(a), P.L. 93-234)
- 39.6.9. Department of Labor and Department of Health and Human Services Requirements and Regulations pertaining to reporting (including, without limitation, such reporting requirements set forth in Title 6 and Title 44 of the Code of Federal Regulations)
- 39.6.10. Department of Labor and Department of Health & Human Services Requirements and Regulations pertaining to patent rights, copyrights and rights in data (including, without limitation, such requirements set forth in Part 3027 of Title 48 of the Code of Federal Regulations)
- 39.6.11. The Workforce Investment Act of 1998 and subsequent implementing regulations and clarifications.
- 39.6.12. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Reform) and subsequent reauthorization
- 39.6.13. The Trade Act of 1974 (as amended) and Trade Act of 2002
- 39.6.14. The Workforce Innovation and Opportunity Act which became effective July 1, 2015 and replaced the Workforce Investment Act
- 39.6.14.1. Funds provided to employers for work-based training, as described in WIOA Subpart F, must not be used to directly or indirectly assist, promote, or deter union organizing.
- 39.6.15. The Service Contract Act (as amended), 41 U.S.C. 351 et seq., Title 29, Part 4 Labor Standards for Federal Service Contracts
- 39.6.16. Rights to Inventions Made Under a Contract or Agreement which shall be applicable for federal funding streams that meet the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENEREAL CONDITIONS

Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

40. Notice Required

All notices, informational pamphlets, press releases, research reports, and similar public notices prepared and released by the Vendor shall be pre-approved by the WDB and include the statement, "This program is funded, in part, under an Agreement with money allocated by the Pennsylvania Department of Labor and Industry, Bureau of Workforce Development Partnership and the Berks County Commissioners, through the Berks County WDB."

41. Earnings of Funds

- 41.1. In no event shall the County have or be deemed to have any obligation or responsibility under this Agreement or otherwise, to provide program funds in excess of the amount set forth in Section 38.1 hereof, unless the County has expressly given its prior written approval to any such additional funding, specifying the amount and purpose thereof.
- 41.2. The Vendor shall be entitled to receive an operational fund only if the need for procurement of indispensable materials and supplies or staff preparation time is fully justified in the proposal.

42. Program Budget

The Vendor shall accept as referrals and enroll or employ as participants only those individuals who have been certified in writing by the agency specifically designated by the County for such purpose to have satisfied the eligibility criteria applicable to the program to be operated.

43. Program-Budget Changes

- 43.1. Vendor shall inform the WDB in writing of all proposed changes in program operations, administration, or policy prior to implementation and will implement changes only after WDB's approval. The WDB reserves the right to approve contracted client service priorities, forms, and service delivery.
- 43.2. Prior to undertaking any activity concerning which there is any uncertainty or which is not specifically authorized, the Vendor shall request the advice and guidance and shall obtain the approval of the County, and it shall be the responsibility of the County to provide basic, detailed, authoritative information and interpretation regarding this Agreement and the applicable legislative and regulatory requirements, and of the Vendor to comply with all directives of the County issued pursuant hereto.

44. Eligibility Determination

- 44.1. Eligibility for participation in the program funded hereunder shall be determined in all cases by the BERKS WDB or any other agency designated for such purpose by the WDB.
- 44.2. Eligibility for participation in the program funded hereunder shall be certified in writing on an individual basis by the WDB's designated agency on such document as may be approved for such purpose, and the Vendor shall require submission of such form before accepting any individual into the program, and shall retain said form in the participant's file.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

45. Travel and Training

- 45.1. Staff Training
Sub-grantee staff attendance at formal classes and seminars must be approved by the Berks County Workforce Development Board in order to qualify for reimbursement of tuition costs. Failure to obtain prior permission for attendance in classes or seminars will result in the disallowance of tuition costs. Only classes or conferences directly related to an employee's job functions involved with program- funded activities will be authorized.
- 45.2. Direct all correspondence concerning attendance of job-related training to:
Berks County Workforce Development Board
Attention: Contract Administration & Monitoring Manager

46. Travel Expenses

Reimbursement for travel expenses of the staff of the Vendor agency under the provisions of the Agreement shall be subject to the following conditions:

- 46.1. Travel outside the State must have prior approval of the WDB.
- 46.2. Living and travel expenses, with itemized receipts, to be paid under the terms of this Agreement, will be reimbursed by the Vendor, in accordance with Vendor's approved travel policy, or at prevailing County rates, if no approved policy exists, unless otherwise specified.
- 46.3. Travel and expenses for other than WDB approved events of more than \$200.00 must receive prior approval by the WDB.
- 46.4. Out-of-State Travel
 - 46.4.1. Travel and associated costs for travel out-of-state will not be reimbursed unless such costs are:
 - 46.4.1.1. reasonable and necessary to the purposes of the contract, and
 - 46.4.1.2. included in your contract budget.
 - 46.4.2. Requests for approval of out-of-state travel should be in letter form and must include a statement as to the nature and purpose of the travel as it relates to your contract, and an estimate of the amount of travel and associated costs.

47. Integrity Provisions

- 47.1. It is essential that those who seek to contract with the County observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the County procurement process.
- 47.2. In furtherance of this policy, Vendor agrees to the following:
 - 47.2.1. Vendor shall maintain the highest standards of honesty and integrity during the performance of this Agreement and shall take no action in violation of state or federal

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- laws or regulations or any other applicable laws or regulations or other requirements applicable to Vendor or that governs contracting with the County and WDB and Department.
- 47.2.2. Vendor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to Vendor employee activity with the County and WDB and Department; County and WDB and Department employees, and which is distributed and made known to all Vendor employees.
- 47.2.3. Vendor, its affiliates, agents and employees shall not influence, or attempt to influence any County or WDB and Department employee to breach the standards of ethical conduct for County or WDB and Department employees set forth in the *Public Official and Employees Ethics Act, 65 Pa.C.S. §§1101 et seq.*; the *State Adverse Interest Act, 71 P.S. §776.1 et seq.*; and the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.*, or to breach any other state or federal law or regulation.
- 47.2.4. Vendor, its affiliates, agents and employees shall not offer, give or agree or promise to give any gratuity to a County and/or WDB and Department official or employee or to any other person at the direction or request of any County and/or WDB and Department official or employee.
- 47.2.5. Vendor, its affiliates, agents and employees shall not offer, give or agree or promise to give any gratuity to a County official or employee or to any other person, the acceptance of which would violate the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.* or any statute, regulation, statement of policy, management directive or any other published standard of the County and WDB and Department.
- 47.2.6. Vendor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any County or WDB and Department official or employee.
- 47.2.7. Vendor, its affiliates, agents, employees or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the agreement, except as provided in the Agreement.
- 47.2.8. Vendor shall not have a financial interest in any other provider, subcontractor or supplier providing services, labor or material on this program, unless the financial interest is disclosed to the County in writing and the County consents to Vendor's financial interest prior to County execution of the agreement. Vendor shall disclose the financial interest to the County at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Vendor's submission of the agreement signed by Vendor.
- 47.2.9. Vendor must promptly refer to the Department of Justice Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor subcontractor or other person has, in connection with funds under this award (1) submitted a claim that violates the False Claims Act or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct. Potential fraud, waste, abuse or misconduct involving or relating to funds

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENEREAL CONDITIONS

under this contract should be reported to the OIG by (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 950 Pennsylvania Avenue, N.W. Room 4706, Washington, DC 20530; (2) email to: oig.hotline@usdoj.gov and/or (3) the DOJ OIG hotline: at (800) 869-4499 (phone) or (202) 616-9881. Additional information is available from the DOJ OIG website at <http://www.usdoj.gov/oig>.

- 47.2.10. Restrictions and certifications regarding non-disclosure agreements and related matters
- 47.2.10.1. Vendor shall not require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts or purports to prohibit or restrict the reporting (in accordance with law) of waste, fraud or abuse to an investigative or law enforcement representative of federal department or agency authorized to receive such information.
- 47.2.10.2. The foregoing is not intended and shall not be understood by, to contravene requirements applicable to Standard Form 312 (which relates to classified information). Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.
- 47.2.10.3. In accepting this Agreement, the Vendor
- 47.2.10.3.1. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
- 47.2.10.3.2. certifies that if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency whom has awarded these grant funds and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.
- 47.2.10.4. If the Vendor does or is authorized to make subawards (“subgrants”), or engage a procurement contractor to perform services under this Agreement:
- 47.2.10.4.1. it represents that
- 47.2.10.4.1.1. it has determined that no other entity that the Vendor’s application proposes may or will receive award funds (whether through a subaward (“subgrant”), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENEREAL CONDITIONS

- purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
- 47.2.10.4.1.2. it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and
 - 47.2.10.4.1.3. it certifies that, if it learns or is notified that any subrecipient, contractor or subcontractor entity that received funds under this agreement is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, the County will immediately stop any further obligations of agreement funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.
- 47.2.11. Vendor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data or records provided to, or prepared by, Vendor under this agreement without the prior written approval of the County, except as required by the *Pennsylvania Right-to-Know Law, 65 P.S. §§67.101-3104*, or other applicable law or as otherwise provided in this Agreement. Any information, documents, reports, data, or records secured by Vendor from the County or a third party in connection with the performance of this agreement shall be kept confidential unless disclosure of such information is:
- 47.2.11.1. Approved in writing by the County prior to its disclosure; or
 - 47.2.11.2. Directed by a court or other tribunal of competent jurisdiction unless the agreement requires prior County approval; or
 - 47.2.11.3. Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or
 - 47.2.11.4. Necessary for purposes of Vendor’s internal assessment and review; or
 - 47.2.11.5. Deemed necessary by Vendor in any action to enforce the provisions of this Agreement or to defend or prosecute claims by or against parties other than the County; or
 - 47.2.11.6. Permitted by the valid authorization of a third party to whom the information, documents, reports, data or records pertain; or
 - 47.2.11.7. Otherwise required by law.
- 47.2.12. Vendor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the County agency granting officer in writing if and when it or any officer, director, associate, partner,

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following:

- 47.2.12.1. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
 - 47.2.12.2. Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Vendor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual of entity associated with:
 - 47.2.12.2.1. Obtaining;
 - 47.2.12.2.2. Attempting to obtain; or
 - 47.2.12.2.3. Performing a public grant or subgrant
 - 47.2.12.2.4. Vendor's acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval or acquiescence.
 - 47.2.12.3. Violation of federal or state antitrust statutes.
 - 47.2.12.4. Violation of any federal or state law regulating campaign contributions.
 - 47.2.12.5. Violation of any federal or state environmental law.
 - 47.2.12.6. Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.
 - 47.2.12.7. Violation of the *Act of June 2, 1915 (P.L.736, No. 338)*, known as the *Workers' Compensation Act*, 77 P.S. 1 et seq.
 - 47.2.12.8. Violation of any federal and state law prohibiting discrimination in employment, including but not limited to 28 CFR Part 42.
 - 47.2.12.9. Debarment by any agency or department of the federal government or by any other state.
 - 47.2.12.10. Any other crime involving moral turpitude or business honesty or integrity.
- Vendor acknowledges that the County may, in its sole discretion, terminate the agreement for cause upon such notification or when the County otherwise learns that Vendor has been officially notified, charged or convicted.
- 47.2.13. If this Agreement was awarded to Vendor on a non-bid basis, Vendor must, (as required by *Section 1641* of the *Pennsylvania Election Code*) file a report of political contributions with the Secretary of the Commonwealth on or before February 15 of the next calendar

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

year. The report must include an itemized list of all political contributions known to Vendor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:

- 47.2.13.1. Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed as aggregate of one thousand dollars (\$1,000) by any individual during the preceding year; or any employee or members of his immediate family whose political contribution exceeded one thousand dollars (\$1,000) during the preceding year.
- 47.2.13.2. To obtain a copy of the report form, Vendor shall contact the Bureau of Commissioners, elections and Legislation, Division of Campaign Finance and Lobby Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.
- 47.2.14. Vendor shall comply with requirements of the *Lobbying Disclosure Act, 65 Pa.C.S. § 13A01 et seq.*, and the regulations promulgated pursuant to that law. Vendor employee activities prior to or outside of formal Commonwealth procurement communication protocol are considered lobbying and subjects the Vendor employees to the registration and reporting requirements of the law. Actions by outside lobbyists on Vendor's behalf, no matter the procurement stage, are not exempt and must be reported.
- 47.2.15. When Vendor has reason to believe that any breach of ethical standards as set forth in law, the Governor's code of Conduct, or in these provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Vendor shall immediately notify the Commonwealth granting officer or Commonwealth Inspector General in writing.
- 47.2.16. Vendor, by submission of its bid or proposal and/or execution of this agreement by the submission of any bills, invoices or requests for payment pursuant to the grant, certifies and represents that it has not violated any of these integrity provisions in connection with the submission of the bid or proposal, during any agreement negotiations or during the term of the Agreement.
- 47.2.17. Vendor shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Vendor non-compliance with these provisions. Vendor agrees to make identified Vendor employees available for interviews at reasonable times and places. Vendor, upon the inquiry or request of the Office of Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to Vendor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Vendor's business or financial records, documents or files of any type or form that refers to or concern this Agreement.
- 47.2.18. For violation of any of these Integrity Provisions, the County may terminate that and any other agreement with Vendor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another Vendor to complete performance under this Agreement, and debar and suspend Vendor from doing business with the County. These

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENEREAL CONDITIONS

rights and remedies are cumulative, and the use or non-use of anyone shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation or otherwise.

47.2.19. For purposes of these Integrity Provisions, the following terms shall have the meanings found in this Clause 47.

47.2.19.1. “Confidential information” means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Vendor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through an act or omission of Vendor; or e) has not been independently developed by Vendor without the use of confidential information of the County or Commonwealth.

47.2.19.2. “Consent” means written permission signed by a duly authorized officer or employee of the County or Commonwealth, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or grantual terms, the County or Commonwealth shall be deemed to have consented by virtue of execution of this Agreement.

47.2.19.3. “Vendor” means the individual or entity that has entered into this Agreement with the County, including those directors, officers, partners, managers and owners having more than a five percent interest in Vendor.

47.2.19.4. “Financial interest” means:

47.2.19.4.1. Ownership of more than a five percent interest in any business; or

47.2.19.4.2. Holding a position as an officer, director, trustee, partner, employee or holding any position of management.

47.2.19.5. “Gratuity” means tendering, giving or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment or grants of any kind. The exceptions set forth in the Governor’s Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b), shall apply.

47.2.19.6. “Immediate family” means a spouse and any unemancipated child.

47.2.19.7. “Non-bid basis” means a grant awarded or executed by the County with Vendor without seeking bids or proposals from any other potential bidder or offeror.

47.2.19.8. “Political contribution” means any payment, gift, subscription, assessment, grant, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

48. Debarment/Tax Liabilities

- 48.1. For the purpose of these provisions, the term Vendor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, provider, or subcontractor, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant or subgrant with the County, or with a person under contract, subcontract, grant, or subgrant with the County or its state-affiliated entities, and state-related institutions. The term Vendor may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the County.
- 48.1.1. The Vendor must certify, in writing, for itself and all its subcontractors, that as of the date of its execution of any County contract, that neither the Vendor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Vendor cannot so certify, then it agrees to submit, along with the bid/proposal, a written explanation of why such certification cannot be made.
- 48.1.1.1. The Vendor agrees that it shall not knowingly enter into any lower tier covered transaction (as defined in Executive Order 12549, Debarment and Suspension, encoded at 29 CFR Part 98, Section 98510) with a subcontractor/subrecipient who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the United States Department of Labor and Industry.
- 48.1.1.2. The Vendor must also certify, in writing, that as of the date of its execution, of any County contract it has no tax liabilities or other County or Commonwealth obligations.
- 48.1.1.3. The Vendor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Vendor shall have an obligation to inform the contracting agency if, at any time during the term of the contract, it becomes delinquent in the payment of taxes, or other County or Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- 48.1.2. The failure of the Vendor to notify the contracting agency of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the contract with the County.
- 48.1.3. The Vendor agrees to reimburse the County and the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Vendor's compliance with the terms of this or any other agreement between the Vendor and the County, which results in the suspension or debarment of the Vendor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

Vendor shall not be responsible for investigative costs for investigations that do not result in the Vendor's suspension or debarment.

- 48.1.4. Vendor is required to screen their employees and contractors, both individuals and entities, to determine if they have been excluded from participation in Medicare, Medicaid or any other federal health care program. Vendor will immediately notify County and United States Department of Labor and Industry of any discovered exclusion of an employee or contractor, either an individual or entity.
- 48.1.5. All employees, Vendors, contractors, service providers, and referral sources should be screened for exclusion before employing and/or contracting with them and, if hired, should be rescreened on an ongoing monthly basis to capture exclusions and reinstatements that have occurred since the last search.
- 48.1.6. Vendor will develop and maintain auditable documentation of screening efforts, including dates the screenings were performed and the source data checked and its date of more recent update; and periodically conduct self-audits to determine compliance with this requirement.
- 48.1.7. Any Vendor being paid with Medical Assistance or State Children's Health Insurance Program (SCHIP) dollars shall adhere to the following:
- 48.1.7.1. Develop policies and procedures for screening of all employees and contractors (both individuals and entities), at time of hire or contracting; and, thereafter, on an ongoing monthly basis to determine if they have been excluded from participation in federal health care programs;
- 48.1.8. Vendor will use the following databases to determine exclusion status:
- 48.1.8.1. *Pennsylvania Medichk List*: a data base maintained by the Pennsylvania Department of Human Services ("DHS") that identifies providers, individuals, and other entities that are precluded from participation in Pennsylvania's MA Program:
<https://www.humanservices.state.pa.us/Medchk/MedchkSearch/Index>
- Link above is provided for your reference and is subject to change. It shall be the responsibility of the Vendor to determine and utilize the appropriate site for said database.
- If an individual's resume indicates that he/she has worked in another state, providers should also check that state's individual list.
- 48.1.8.2. *List of Excluded Individuals/Entities (LEIE)*: data base maintained by HHS-OIG that identifies individuals or entities that have been excluded nationwide from participation in any federal health care program. An individual or entity included on the LEIE is ineligible to participate, either directly or indirectly, in the MA Program. Although the DHS makes best efforts to include on the Medichk List all federally excluded individuals/entities that practice in Pennsylvania, providers

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

must also use the LEIE to ensure that the individual/entity is eligible to participate in the MA Program:

https://oig.hhs.gov/exclusions/exclusions_list.asp

Link above is provided for your reference and is subject to change. It shall be the responsibility of the Vendor to determine and utilize the appropriate site for said database.

- 48.1.8.3. Excluded Parties List System (EPLS): worldwide database maintained by the General Services Administration (GSA) that provides information about parties that are excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits:

<https://www.sam.gov/>

Link above is provided for your reference and is subject to change. It shall be the responsibility of the Vendor to determine and utilize the appropriate site for said database.

- 48.1.8.4. Vendor shall immediately self-report any discovered exclusion of an employee or contractor, either an individual or an entity, to the Bureau of Program Integrity either:

- 48.1.8.4.1. Via e-mail through the MA Provider Compliance form at the following link:

<https://expressforms.pa.gov/apps/pa/DHS/MA-Provider-Compliance-Hotline>

- 48.1.8.4.2. By U.S. mail at the following address:

Department of Human Services
Office of Administration
Bureau of Program Integrity
Commonwealth of Pennsylvania
P.O. Box 2675
Harrisburg, PA 17105-2675

- 48.1.8.4.3. By fax at: 1-717-772-4655 or 1-717-772-4638.

- 48.1.8.4.4. Vendor shall copy the County on any notice given to the Bureau of Program Integrity in the manner and at the address provided for giving notices to the County in this Agreement.

- 48.1.8.5. Vendor shall develop and maintain auditable documentation of screening efforts, including dates the screenings were performed and the source data checked and its date of most recent update.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 48.1.8.6. Vendor shall periodically conduct self-audits to determine compliance with this requirement.
- 48.1.8.7. Vendor shall provide evidence of compliance with these requirements to the County within ten (10) days following a request by the County.
- 48.1.8.8. The Vendor may obtain a current list of suspended and debarred Commonwealth providers by accessing:
- 48.1.8.8.1. The Commonwealth of Pennsylvania - Debarment and Suspension List online at the website below:
- <https://www.dgs.internet.state.pa.us/debarmentsearch/debarment/index>
- or contacting the:
- Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No: 717-783-6472
Fax No.: 717-787-9138
- 48.1.8.8.2. The Worker Protection and Labor Law Non-Compliance List online at the website below:
- <https://www.dli.pa.gov/Pages/Non-Compliance-List.aspx>
- 48.1.8.9. It shall be the responsibility of the Vendor to determine and utilize the appropriate site for said database.

49. Financial Management System

- 49.1. The maintenance of fiscal records must be accomplished in accordance with Generally Accepted Accounting Principles. The Program Operator must have or develop a financial management system that satisfactorily accounts for and documents the receipt and disbursement of all Program funds. While a separate accounting system need not be established, each sub-grantee must maintain financial records that adequately identify the source and application of all Program funds.
- 49.2. In addition, a cash-based accounting system must be capable of developing the accrued expenditure information needed to complete the required financial reports. Sufficient documentation must be maintained to support the accrual information reported to the Department of Labor and Industry.
- 49.3. Program funds forwarded to the Vendor must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage and the balance exceeding the FDIC coverage must be collaterally insured.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

- 49.4. The Vendor shall establish a system of financial management and control to assure that program funds provided hereunder are disbursed or expended only for the purposes and in the manner specified herein and are not susceptible to misuse, theft or fraudulent conversion, and shall maintain such system in condition for audit.
- 49.5. All expenditures are to be reported on an accrual basis of accounting. This is a requirement of the U.S. Department of Labor and Industry, Training and Employment Guidance Letter 2-16.

50. Progress Reports

- 50.1. The Vendor and its subcontractors shall furnish to the County such progress and daily, weekly or monthly reports in such form and quantity as the County may from time to time require, including but not limited to, status reports of the program, proposed budgets, invoices, copies of all contracts executed and proposed and any and all other information relative to the program as may be requested.
- 50.2. In the event that the County determines that the Vendor or its subcontractors have not furnished such reports as required by the County, the County, by giving written notice to the Vendor, may suspend payments under this Agreement, until such time as the required reports are submitted.
- 50.3. Cumulative financial activity, as well as requests for reimbursement for program operations, shall be reported by the Vendor on a monthly basis by cost category and program activity on the Financial Status Report, such report to be submitted to the County within five (5) working days following the last day of the month to which the report applies.

51. Rights In Data: Copyrights and Disclosure

- 51.1. Definition: The term "data" as used herein, includes written reports, drawings, studies, computer programs, and work of any similar nature that is required to be delivered under this Agreement. It does not include Vendor's financial reports or other information incidental to Agreement's administration.
- 51.2. Rights in Data: Data submitted to and accepted by the County and United States Department of Labor and Industry under this Agreement shall be the property of the County and United States Department of Labor and Industry and it shall have full right to use such data for any official purpose in whatever manner deemed desirable and appropriate. Such use shall be without any additional payment to or approval by the Vendor.
- 51.3. Copyrights: Vendor relinquishes any and all copyrights and/or privileges to data developed under this Agreement. Vendor shall not include in the data any copyrighted matter without the written approval of the County and Department unless Vendor provides the County and Department with written permission of the copyright owner for the County and Department to use such copyrighted matter in a manner provided herein. Vendor shall exert all reasonable effort to advise the County and Department, at the time of delivery of data furnished under this Agreement, of all invasions of the right to privacy contained therein. The Vendor shall defend any suit or proceeding brought against the County and Department on account of any alleged infringement of any copyright arising out of the performance of this Agreement, including all work, services, materials, reports, studies, and computer programs provided by the Vendor.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENEREAL CONDITIONS

This is upon the condition that the County and Department shall provide prompt notification in writing of such suit or proceedings, full right, authorization and opportunity to conduct the defense thereof, and full information and all reasonable cooperation for the defense of the same. As principles of governmental or public law are involved, the County and Department may participate in the defense of any such action. The Vendor shall pay all damages and costs awarded therein against the County and Department. If information and assistance are furnished by the County and Department at Vendor's written request, it shall be at the Vendor's expense, but the responsibility for such expense shall be only that within the Vendor's written authorization. If any of the materials, reports, studies, or computer programs provided by the Vendor are in such suit or proceeding held to constitute infringement and the use of publication thereof is enjoined, the Vendor shall, at his/her own expense and at his/her option, either procure the right to publish or continue use of such infringing materials, reports, studies, or computer programs, replace them with non-infringing items, or so modify them so that they are no longer infringing. The obligations of the Vendor under this paragraph continue without time limit.

- 51.4. The County and the Department shall have unlimited rights to any data first produced or delivered under this Agreement (agreements which involve the use/development of computer programs/applications, or the maintenance of databases or other computer data processing programs, including the inputting of data).

52. Set Off Clause

The Vendor agrees that the County may set off the amount of any county or state tax liability or other obligation of the Vendor or its subsidiaries to the County against any payments due the Vendor under any contract with the County.

53. Property and Supplies

- 53.1. Vendor agrees to use its best efforts to obtain all supplies and equipment for use in the performance of this Agreement at the lowest practicable cost and to purchase all supplies and equipment over \$5,000.00 by means of a system of competitive bidding as required under the provisions of the Pennsylvania 3rd Class County Code, Article XVIII and/or Federal Acquisitions Regulations, as applicable.
- 53.1.1. For items with a unit cost of \$5,000.00 or more which do not reach the established cost level to require formal bidding procedures, the sub-recipient is required to obtain at least three (3) written quotations, on the Vendor's letterheads. These quotes must be submitted to the Berks County Workforce Development Board along with any request to procure non-expendable property.
- 53.1.2. Proper bidding procedures shall adhere to Federal Regulations governing procurement outlined in 2 CFR 200 "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards", as amended. When obtaining written quotations procedures must be in place to ensure that a linkage is maintained with the Small Business Administration and other agencies which are able to assist in identifying small and minority-owned businesses.
- 53.1.3. All purchases of consumable supplies or materials, capital equipment and/or services made pursuant to this Agreement shall be made by purchase order or by written contract.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENEREAL CONDITIONS

- 53.1.4. Inventory must be maintained for all individual items with a purchase price greater than \$499.00. An inventory tracking form will be provided by the WDB. Inventory will be maintained in accordance with WDB policy.
- 53.2. In addition, the Vendor shall maintain and administer with sound business practice a program for maintenance, repair, preservation and insurance of property.
- 53.3. Any vehicle purchased by the Vendor with program funds shall be adequately insured to cover occasional operation by WDB staff; said insurance to be in an amount approved by WDB and proof of said insurance shall be provided to WDB yearly.
- 53.4. Title to all property with a unit cost of \$5,000.00 or more furnished by the Department through the WDB Agreements shall remain with the said Department. Title to all property acquired by the Vendor, including purchase by lease-purchase agreement, for the cost of which the Vendor is to be reimbursed under this Agreement, shall vest in the Vendor during the term of this Agreement unless otherwise noted in the Agreement. Upon cancellation or termination of this Agreement, disposition of such purchased property with a unit cost of \$2,500.00 or more that has remaining useful life shall be made in accordance with the following provisions:
- 53.4.1. If the Vendor wishes to retain any items of such purchased property, both parties will arrange for an independent third-party appraisal (agreed upon by the WDB) of these property items and will reimburse said Department for the value of the remaining life of the property on the basis of such appraisals;
- 53.4.2. The Vendor may sell the property and reimburse said Department for its appropriate share providing said Department is notified ten days in advance of the date of sale, and prior written approval is received from the Secretary of Pennsylvania Department of Labor and Industry, Bureau of Workforce Development Partnership and the WDB.
- 53.5. The WDB and Department property and any property purchased under this Agreement shall, unless otherwise provided herein or approved in writing by said Department, be used only for the performance of this Agreement. In the event the Vendor is compensated for any loss, destruction or damage to the property, the Vendor shall renovate, repair, or replace the property. Any proceeds shall be credited to the Agreement.
- 53.5.1. Vendor shall replace such property with property of the same or essentially equivalent value and scope of work within a reasonable time after such loss, damage or theft, and in any event prior to the termination of this Agreement; or
- 53.5.2. Vendor shall pay the WDB the current replacement cost of such property at the time of such loss, damage or theft, within thirty (30) days after receipt of the County's written request therefore, and in any event prior to the termination of this Agreement.
- 53.5.3. The provisions of this Section shall apply notwithstanding the fact that any insurance policy of the Vendor covering such property may contain a loss deductible clause for an amount in excess of the value of the property lost, damaged or stolen, or that the total amount of any insurance proceeds paid to the Vendor by reason of such loss, damage or

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENEREAL CONDITIONS

theft is less than the current replacement cost of such property at the time of payment, or that the Vendor is otherwise underinsured or uninsured for such loss, damage or theft.

- 53.5.4. The Vendor shall not purchase or lease any property or equipment with a single unit purchase or lease price in excess of \$5,000.00 without prior written approval of the County. Inclusion of the purchase or lease item in the submitted Budget does not constitute, nor should it be deemed to be, approval, tacit or otherwise, from the County to purchase or lease the item.
- 53.5.5. Software packages, which are to be acquired solely for use in training programs and classroom instruction for participants, will not require written authorization prior to acquisition.
- 53.5.6. Excess property and equipment readily available for transfer will take precedence and the County reserves the right to deny a request for purchase.
- 53.5.7. Purchases of expendable supplies needed for operations on a day-to-day basis do not require prior approval, but such acquisitions must be included in the Budget of each proposal.
- 53.5.8. The Vendor shall institute a non-expendable property control system to assure that adequate safeguards are in effect to prevent loss, damage, theft, abuse or unauthorized use of property purchased with program funds, such control system to include, at a minimum: check-in/check-out procedures; supervised use of equipment; adequate maintenance procedures; procedures for the investigation of instances of loss, damage, theft, abuse or unauthorized use; and provisions for periodic inventory and maintenance of inventory records.
- 53.5.9. All materials, supplies, equipment and other property purchased or leased with Program funds shall be used exclusively for the purposes and activities specified by this Agreement.
- 53.5.10. All purchases of non-expendable property having an initial unit acquisition cost of \$2,500.00 or more made with program funds provided hereunder shall be reported to the County by completing the Financial Status Report, Attachment D, such report to be compiled and maintained on a cumulative basis and forwarded to the County within five (5) working days following the last day of the month in which such property was received. Purchases must be substantiated by pertinent invoices, which accompany requests for reimbursement.

54. Right to Know Law

- 54.1. The Pennsylvania Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101-3104, applies to this Agreement.
- 54.2. Unless the Vendor provides the County, in writing, with the name and contact information of another person, the County shall notify the provider using the Vendor information provided by the Vendor in this Agreement if the County needs the Vendor’s assistance in any matter arising

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENEREAL CONDITIONS

- out of the RTKL. The Vendor shall notify the County in writing of any change in the name or the contact information within a reasonable time prior to the change.
- 54.3. Upon notification to the Vendor that the County has received a request for records under the RTKL related to this Agreement that may be in the Vendor’s possession, constituting or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Vendor shall:
- 54.3.1. Provide the County, within five (5) business days after receipt of the County’s written notification, access to, and copies of, any document or information in the Vendor’s possession arising out of this Agreement that the County reasonably believes is Requested Information and may be a public record under the RTKL; and
 - 54.3.2. Provide such other assistance as the County may reasonably request, in order to comply with the RTKL with respect to this Agreement.
- 54.4. If the Vendor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or information that the Vendor considers exempt from production under the RTKL, the Vendor must notify the County and provide within five (5) business days of receiving the County’s written notification, a written statement signed by a representative of the Vendor explaining why the requested material is exempt from public disclosure under the RTKL.
- 54.5. The County will rely upon the written statement from the Vendor in denying a RTKL request for the Requested Information unless the County determines that the Requested Information is clearly not protected from disclosure under the RTKL. If the County denies a RTKL request in reliance upon Vendors written statement and the denial is appealed, Vendor agrees to fully participate in any RTKL appellate proceedings.
- 54.6. If the Vendor fails to provide the Requested Information within the time period required by these provisions, the Vendor shall indemnify and hold the County harmless for any damages, penalties, costs, detriment or harm that the County may incur as a result of the Vendor’s failure, including any statutory damages assessed against the County.
- 54.7. The County will reimburse the Vendor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- 54.8. The Vendor may file a legal challenge to a decision by the County to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Vendor shall indemnify the County for any legal expenses incurred by the County as a result of such a challenge and shall hold the County harmless for any damages, penalties, costs, detriment or harm that the County may incur as a result of the Vendor’s failure, including any statutory damages assessed against the County, regardless of the outcome of such legal challenge. As between the parties, the Vendor agrees to waive all rights or remedies that may be available to it as a result of the County’s disclosure of Requested Information pursuant to the RTKL.

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENEREAL CONDITIONS

- 54.9. The Vendor’s duties relating to the RTKL are continuing duties that survive the expiration of the Agreement and shall continue as long as the Vendor has Requested Information in its possession.

55. Federal and State Audit Requirements

- 55.1. Vendor must comply with all federal and state audit requirements including: the Single Audit Act, as amended, 31 U.S.C. 7501 *et seq*; 2 CFR 200 Subpart F, Audits of States, Local Government and Non-Profit Organizations, as amended; and any other applicable law or regulation and any amendment to such other applicable law or regulation which may be enacted or promulgated by the state or federal government.
- 55.2. If the Vendor is a local government or non-profit organization and expends total federal awards of \$750,000 or more during its fiscal year, received either directly from the federal government or indirectly from a recipient of federal funds, Vendor is required to have an audit made in accordance with the provisions of 2 CFR 200 Subpart F.
- 55.3. If the Vendor is a for-profit organization and expends total federal awards of \$750,000 or more during its fiscal year, received either directly from the federal government or indirectly from a recipient of federal funds, the Vendor is required to have an audit made in accordance with the provisions of OMB Circular A-133 set for a non-federal entity.
- 55.4. If the Vendor expends total federal awards of less than \$750,000 during its fiscal year, it is exempt from these audit requirements but is required to maintain auditable records of federal and any state funds which supplement such awards and to provide access to such records by federal and state agencies or their designees.
- 55.5. In the event an audit is required, the Vendor is responsible for obtaining the required audit and securing the services of a certified public accountant or other independent governmental auditor. The audit shall be completed, and the report submitted to the County no later than 90 days after the close of the agreement period.
- 55.6. In the event that an audit is performed that is not mandated by applicable federal laws or regulations, Vendor shall not charge its costs of the audit to federal funding streams.
- 55.7. Vendor shall maintain adequate and sufficiently detailed records of all the services provided pursuant to this Agreement to permit an evaluation of finances and performance, which records shall be open at all reasonable times for inspection by the County, federal, state and county agencies or their authorized representatives. The County and any competent federal, state or county agency or their authorized representatives shall have the right to inspect, audit and copy Vendor’s records during normal business hours. The County shall provide fourteen (14) days’ notice to Vendor in the event of such an audit.
- 55.8. The County shall advise Vendor of any discrepancies in adherence to this Agreement. Vendor upon receipt of such notification hereby agrees to promptly correct any discrepancies to the satisfaction of the County.
- 55.9. Vendor shall maintain and make available such books, records and documents related to this Agreement for seven (7) years from the termination of this Agreement, or until all disputes

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL CONDITIONS

have been resolved to the satisfaction of the County or by final decision or judgment, or as otherwise required by applicable federal or state laws and regulations, whichever is greater.

56. Worker Protection and Investment

56.1. To the extent applicable, Vendor shall comply with Commonwealth of Pennsylvania Executive Order 2021-06, Worker Protection and Investment, and certify Vendor is in compliance with all applicable Pennsylvania state labor and workforce safety laws including:

- 56.1.1. Construction Workplace Misclassification Act;
- 56.1.2. Employment of Minors Child Labor Act;
- 56.1.3. Minimum Wage Act;
- 56.1.4. Prevailing Wage Act;
- 56.1.5. Equal Pay Law;
- 56.1.6. Employer to Pay Employment Medical Examination Fee Act;
- 56.1.7. Seasonal Farm Labor Act;
- 56.1.8. Wage Payment and Collection Law;
- 56.1.9. Industrial Homework Law;
- 56.1.10. Construction Industry Employee Verification Act;
- 56.1.11. Act 102: Prohibition on Excessive Overtime in Healthcare;
- 56.1.12. Apprenticeship and Training Act; and,
- 56.1.13. Inspection of Employment Records Law.

56.2. Vendor shall also certify compliance with Unemployment Compensation tax requirements and Workers' Compensation insurance requirements.

56.3. Vendor shall certify compliance with the aforementioned statutes by completing the "Worker Protection and Investment Certification Form BOP-2201, Attachment I", attached hereto and made a part of this Agreement.

57. Vendor's Commitments

Any written commitment or representation of Vendor made within the scope of this Agreement shall be binding upon Vendor and is hereby incorporated into this Agreement.

58. Cooperation in Litigation

The Vendor shall cooperate fully with the County in any prosecution or defense of any litigations, claims, and threatened litigations. If County becomes involved in any matters involving litigation or threatened

ATTACHMENT A – PROPOSED FORM OF AGREEMENT AND GENERAL
CONDITIONS

litigation against others not including Vendor, Vendor shall cooperate fully with County's efforts to dispose of such matters. Such cooperation shall include, but not be limited to, submission of information, attendance at meetings and appearance in court or before other judicial or quasijudicial bodies.

59. Membership Restrictions of Facilities

Funds awarded by this Agreement shall not be used to hold meetings, conferences, training sessions or other gatherings at any facility which excludes or restricts membership of individuals on account of race, color, religion, national origin, ancestry or gender.

60. Headings

All headings included for convenience only and shall not affect any construction or interpretation of this Agreement.

61. Entire Agreement

The governing terms and conditions of this Agreement are expressly limited to the terms and conditions contained in this Agreement and documents incorporated herein. This Agreement constitutes the complete integration of all oral and written documents, is the entire and final Agreement between the parties and may be amended only by a written instrument signed by authorized officials of both parties.

With the intent to be legally bound, authorized officials of each party have signed this Agreement on the dates written below. Each person signing this Agreement represents and warrants that such person is fully authorized to sign and enter into this Agreement on behalf of the Vendor named above his or her signature.

Both parties agree and acknowledge that electronic/facsimile signatures are binding to this Agreement.

County of Berks

Vendor

By: _____

By: _____

Name (printed): Kelly A. Laubach, CPPB

Name (printed): _____

Title: Director of Contracts and Procurement

Title: _____

Date: _____

Date: _____

ATTEST:

ATTEST:

By: _____

By: _____

Name (printed): George M. Rodrigues

Name (printed): _____

Title: Contract Manager

Title: _____

ATTACHMENT B – HIPAA BUSINESS ASSOCIATE AGREEMENT

BUSINESS ASSOCIATE AGREEMENT

AND NOW, effective this ____ day of _____, 2023 (the “**Effective Date**”), this Business Associate Agreement (“**Agreement**”) is entered into by and between _____ (the “**Business Associate**”) and **the County of Berks** (the “**Covered Entity**”), located at 633 Court Street, 13th Floor, Services Center, Reading, PA 19601.¹

WHEREAS, Business Associate will or may have access to, or may create on behalf of the Covered Entity, certain Protected Health Information (“**PHI**”) in carrying out its obligations, as more fully described below, and therefore is obligated to protect such PHI as a Business Associate, in accordance with the regulations issued by the U.S. Department of Health and Human Services (“**DHHS**”) pursuant to the Health Insurance Portability and Accountability Act (“**HIPAA**”) and the Health Information Technology for Economic and Clinical Health Act (“**HITECH**”) (the regulations being promulgated thereunder being hereinafter referred to as the “**HIPAA/HITECH Regulations**”).

WHEREAS, the parties desire to delineate their obligations pursuant to the HIPAA/HITECH Regulations, all as more fully described herein.

NOW THEREFORE, in consideration of the mutual promises contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. Definitions.

(a) “**Breach**” shall have the same meaning as in 45 C.F.R. § 164.402, and shall include the acquisition, access, use or disclosure of “Protected Health Information” (as defined below) in a manner not permitted under the Privacy Rule, as defined below, and which compromises the privacy or security of the information, unless there is a low probability that the protected health information has been compromised based on Covered Entity’s risk assessment of the following factors:

- (i) the nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification;
- (ii) the unauthorized person who used the protected health information or to whom the disclosure was made;
- (iii) whether the protected health information was actually acquired or viewed, and
- (iv) the extent to which the risk to the protected health information has been mitigated.

A Breach excludes: (1) Any unintentional acquisition, access, or use of protected health information by a workforce member or person acting under the authority of a Covered Entity or a

¹ To the extent that the County is deemed to be a “Hybrid Entity” (as defined herein), all terms and conditions of this Agreement that apply with respect to the “Covered Entity” above shall apply equally to the County as a “Hybrid Entity” and/or to the covered components or functions of such entity.

ATTACHMENT B – HIPAA BUSINESS ASSOCIATE AGREEMENT

Business Associate, if made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under HITECH; (2) Any inadvertent disclosure by a person authorized to access protected health information at a Covered Entity or Business Associate to another person authorized to access protected health information at such entities, or organized health care arrangement in which the Covered Entity participates, and the information received is not further used or disclosed in a manner not permitted under HIPAA/HITECH Regulations; or (3) Any disclosure of protected health information where the Covered Entity determines in good faith that the person to whom the disclosure was made would not reasonably have been able to retain the information.

(b) “**Business Associate**” shall have the same meaning as in 45 C.F.R. § 160.103, and shall include with respect to a covered entity, a person or entity who, in performing its functions or activities on behalf of such covered entity creates, receives, maintains, or transmits Protected Health Information (as defined below), and includes a person or entity who:

(i) provides legal, actuarial, accounting, consulting, data aggregation (as defined in 45 C.F.R. § 164.501), management, administrative, accreditation, or financial services to or for such covered entity;

(ii) provides data transmission services with respect to protected health information to Covered Entity and that requires access on a routine basis to such protected health information;

(iii) a person that offers a personal health record to one or more individuals on behalf of a covered entity; or,

(iv) a subcontractor that creates, receives, maintains, or transmits protected health information on behalf of the business associate.

(c) “**Designated Record Set**” shall mean a group of records maintained by or for Covered Entity that includes the medical records and billing records about an “individual” maintained by or for the Covered Entity, and shall have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.

(d) “**Electronic PHI**” shall mean electronic protected health information or “PHI”, as further defined below, and shall have the same meaning as the term “electronic protected health information” in 45 C.F.R. § 160.103.

(e) “**HIPAA Rules**” shall mean the privacy, transaction and security regulations/standards further defined below, as promulgated pursuant to **HIPAA**, as codified at 45 C.F.R. Parts 160, 162 and 164.

(f) “**HITECH Standards**” shall mean the breach notification provisions/standards applicable to a business associate under **HITECH**, pursuant to the DHHS regulations promulgated thereunder, as codified at 45 C.F.R. § 164, Subpart D.

(g) “**Hybrid Entity**” shall have the same meaning as defined in 45 C.F.R. 164.103 and refers to a single legal entity whose business activities include both covered and non-covered HIPAA/HITECH functions.

ATTACHMENT B – HIPAA BUSINESS ASSOCIATE AGREEMENT

(h) “**Individual**” shall have the same meaning as the term “individual” in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

(i) “**Individually Identifiable Health Information**” shall have the same meaning as defined in 45 C.F.R. § 160.103, and shall include health information, including demographic information collected from an individual that: (1) is created by or received from a health care provider, health plan, employer or health care clearinghouse, and (2) relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual, and either (i) identifies the individual or (ii) there is a reasonable basis to believe that the information can be used to identify the individual.

(j) “**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, including but not limited to the “individually identifiable health information” (as defined above) created or received by a business associate from or on behalf of a covered entity.

(k) “**Privacy Rule**” shall mean the standards for privacy of individually identifiable health information set forth at 45 C.F.R. § 164, Subpart E.

(l) “**Security Incident**” shall have the same meaning as defined in 45 C.F.R. § 304 and means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

(m) “**Security Rule**” shall mean the security standards, 45 C.F.R. § 164, Subpart C, as they exist now or as they may be amended, including but not limited to § 164.308 (Administrative Safeguards); § 164.310 (Physical Safeguards), and § 164.312 (Technical Safeguards).

(n) “**Unsecured Protected Health Information**” or “**Unsecured PHI**” shall have the same meaning as defined in 45 C.F.R. § 164.402, and shall mean PHI that is not rendered unusable, unreadable or indecipherable to unauthorized persons through the use of a technology or methodology specified by DHHS in the implementing regulations of HITECH.

Terms used, but not otherwise defined, in this Business Associate Agreement shall have the same meaning as those terms in the HIPAA/HITECH Regulations.

2. General Uses and Disclosures. Business Associate acknowledges and agrees as follows:

(a) Use or Disclosure. Business Associate agrees not to use or further disclose PHI other than as expressly permitted or required by this Business Associate Agreement or as required by law.

(b) Minimum Necessary. Business Associate will take reasonable efforts to limit, use and disclosure of PHI to the minimum necessary to fulfill its obligations, or as necessary to fulfill the intended request, use or disclosure.

ATTACHMENT B – HIPAA BUSINESS ASSOCIATE AGREEMENT

(c) Specific Use or Disclosure Provisions. Business Associate may use and disclose PHI to properly perform its obligations pursuant to the parties' Services Agreement (the "**Services Agreement**"), and consistent with applicable law, as long as such use or disclosure would not violate the HIPAA Rules if done by the Covered Entity, and/or such use or disclosure is expressly permitted in (i) through (iii) below:

(i) Business Associate may use PHI as minimally necessary to fulfill its obligations pursuant to the parties' Services Agreement.

(ii) Business Associate may use PHI for the proper management and administration of Business Associate or to carry out Business Associate's legal responsibilities.

(iii) Subject to Section 2(f) below, Business Associate may disclose PHI to third parties for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate provided that the disclosures are required by law, or Business Associate obtains reasonable assurances from the third party to whom the information is disclosed that: (A) the information will remain confidential, (B) the information will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party, and (C) the third party notifies Business Associate of any instances of which it is aware that the privacy/security of the information has been breached in accordance with the HIPAA Rules and HITECH Standards.

(d) Security Safeguards. Business Associate agrees to use appropriate safeguards and comply with the security standards of Subpart C of 45 C.F.R. § 164, to prevent use or disclosure of PHI in a manner that would violate this Business Associate Agreement or applicable legal requirements. Business Associate shall provide Covered Entity with information concerning such safeguards as Covered Entity may reasonably request from time to time. To the extent that Business Associate creates, receives, maintains or transmits Electronic PHI, Business Associate agrees to use appropriate administrative, physical and technical safeguards to protect the Electronic PHI as required by the Security Rule.

(e) Mitigation/Indemnification. To the extent that Business Associate is responsible for a breach, Business Associate agrees to mitigate, to the extent commercially reasonable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Business Associate Agreement, or in violation of applicable HIPAA/ HITECH Regulations. Business Associate acknowledges and agrees that it shall be liable for, and shall indemnify and hold Covered Entity harmless against, any claims, damages or government penalties, as well as reasonable attorneys' fees, resulting from any act or omission of Business Associate or its subcontractor(s)/agent(s) in breach of this Agreement, or in violation of law, including the HIPAA/HITECH Regulations.

(f) Subcontractors and Agents. Business Associate shall ensure that if any subcontractor, to the extent authorized by Covered Entity, creates, receives, maintains or transmits PHI for the Business Associate on behalf of the Covered Entity, the

ATTACHMENT B – HIPAA BUSINESS ASSOCIATE AGREEMENT

subcontractor shall agree to the same restrictions, terms and conditions that apply through this Agreement to Business Associate with respect to such information, including the requirement that it implement reasonable and appropriate safeguards to protect any PHI that is disclosed to it, as well as the breach notification requirements applicable to PHI under HITECH, by executing a business associate agreement approved by Covered Entity. Business Associate shall notify Covered Entity of any subcontractor's breach of its business associate agreement, or of any privacy/security incident or violation of law applicable to the subcontractor, including Business Associate's steps to cure or mitigate subcontractor's breach, if applicable.

(g) Access. Only if applicable to the Services Agreement, and upon reasonable request by the Covered Entity, but not later than thirty (30) days following such request, Business Associate shall provide access or copies to Covered Entity of PHI, in a Designated Record Set in order to meet the requirements under 45 C.F.R. § 164.524.

(h) Amendment. Only if applicable to the Services Agreement, and upon reasonable request by the Covered Entity, but not later than thirty (30) days following such request, Business Associate agrees to make PHI available to Covered Entity for any appropriate amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526.

(i) Accounting. Only if applicable to the Services Agreement, and upon reasonable request by the Covered Entity, but not later than sixty (60) days following such request, Business Associate agrees to document and make available to Covered Entity or subject Individual, for a reasonable cost-based fee (to the extent permitted by HIPAA Rules) such disclosures of PHI, and information related to such disclosures, necessary to respond to a request for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

(j) Audit and Inspection. Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of PHI received from or created or received by Business Associate on behalf of the Covered Entity, available to DHHS or the Covered Entity, in a time and manner requested by DHHS or the Covered Entity, for purposes of determining the Business Associate's compliance with the HIPAA/HITECH Regulations.

(k) Compliance. To the extent the Business Associate is required to carry out any Covered Entity's obligations that are subject to the HIPAA/HITECH requirements, if applicable, Business Associate shall comply with all applicable HIPAA/HITECH requirements and standards the same extent as required by the Covered Entity.

3. Covered Entity Obligations.

(a) If applicable to the Services Agreement, Covered Entity shall notify Business Associate of any limitation(s) in the notice of privacy practices of Covered Entity in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may

ATTACHMENT B – HIPAA BUSINESS ASSOCIATE AGREEMENT

affect Business Associate's use or disclosure of PHI in performing its functions under the Services Agreement.

(b) If applicable to the Services Agreement, Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI in performing its functions under the Services Agreement.

(c) If applicable to the Services Agreement, Covered Entity shall notify Business Associate of any restriction of the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI in performing its functions under the Services Agreement.

(d) If applicable to the Services Agreement, Covered Entity agrees that it will have entered into "Business Associate Agreements" with any third parties (e.g., trading partners) to which Covered Entity directs and authorizes Business Associate to disclose PHI.

4. Security Incident Reporting/Breach Notification. Business Associate agrees to promptly notify the Covered Entity if Business Associate has knowledge of a Security Incident related in any way to the Services Agreement, that PHI has been used or disclosed by Business Associate, its subcontractor/agent or otherwise in a manner that violates the HIPAA/HITECH Regulations or this Business Associate Agreement. Business Associate agrees to report to the Covered Entity any Security Incident or breach of Unsecured PHI (as defined in Section 1) which Business Associate discovers (as defined in 45 C.F.R. § 164.410), immediately and without unreasonable delay, or as promptly as reasonably warranted by the circumstances (subject to (a) below), in order for Covered Entity to properly assess the breach and to comply with all applicable legal requirements in accordance with § the HITECH Standards.

(a) Business Associate shall provide the following information to the Covered Entity immediately upon discovery of a breach/incident except when, despite all reasonable efforts by Business Associate to obtain the information required, circumstances beyond the control of the Business Associate necessitate additional time, in which case the information shall be provided as soon as reasonably possible, but in no event more than two (2) business days following the breach/incident, and in accordance with 45 C.F.R. § 164.404 of the HITECH Rule, as follows:

- (i) the date of the breach/incident;
- (ii) the date of the discovery of the breach/incident;
- (iii) a description of the Unsecured PHI that was involved;
- (iv) identification of each Individual(s) whose Unsecured PHI has been or is reasonably believed to have been, accessed, acquired or disclosed; and,

ATTACHMENT B – HIPAA BUSINESS ASSOCIATE AGREEMENT

(v) any other information reasonably necessary to complete an assessment of the breach and requirements necessary for compliance with the HITECH Standards.

(b) At the direction of the Covered Entity, Business Associate will cooperate with Covered Entity in providing notification to the Individual(s) concerning Unsecured PHI that has been disclosed, as well as to DHHS and by media or public notice, if necessary, as may be required by the HITECH Rule.

(c) Business Associate agrees to take corrective action, if applicable, to investigate the breach, mitigate losses, and protect against any future breaches, and to provide a description of this corrective action plan to Covered Entity promptly upon the reasonable request of Covered Entity.

5. Term; Termination.

(a) Except as otherwise expressly provided herein, the Term of this Business Associate Agreement shall expire automatically upon the termination or expiration of the parties' Services Agreement.

(b) Without limiting the termination rights of the parties pursuant to the Services Agreement, upon Covered Entity's knowledge of a material breach by Business Associate of this Business Associate Agreement, Covered Entity may notify Business Associate that it has thirty (30) days to cure such breach, or such shorter time as reasonably warranted by the circumstances. In the event Business Associate does not cure the breach, or if cure is infeasible as reasonably determined by Covered Entity, the Covered Entity shall have the right to terminate this Business Associate Agreement, upon written notice thereof.

(c) Upon termination of this Agreement for any reason, Business Associate shall, and/or shall cause its subcontractor/agent to, return or destroy and retain no copies of all PHI created or received by, Business Associate or its subcontractor/agent on behalf of the Covered Entity. If Business Associate determines that return or destruction of such information is not feasible, Business Associate shall provide Covered Entity with notification of conditions that render return or destruction infeasible. In such event, Business Associate shall continue to limit the use or disclosure of such information as set forth in this Agreement and shall not use or disclose such information except for those purposes that make return or destruction of the information infeasible, for so long as Business Associate maintains the PHI.

(d) The obligations of Business Associate under this Business Associate Agreement shall survive the termination of this Agreement.

6. Miscellaneous.

(a) Amendment. The parties acknowledge that the foregoing provisions are designed to comply with the mandates of the HIPAA/HITECH Regulations. The parties

ATTACHMENT B – HIPAA BUSINESS ASSOCIATE AGREEMENT

agree to take such action as is necessary to amend this Agreement from time to time as is necessary to comply with all federal, state or other legal requirements, including, but not limited to, the requirements of the HIPAA/HITECH Regulations as may be amended from time to time. The parties shall work in good faith to reach agreement on an amendment to the Business Associate Agreement that continually complies with the law and shall act at all times in accordance with the law, as fully incorporated herein, even this Agreement has not been formerly amended. Any other amendment to this Agreement unrelated to compliance with applicable law and regulations shall be effective only upon execution of a written agreement between the parties.

(b) Other Laws. In addition to the HIPAA/HITECH laws and regulations, the parties acknowledge that there may be other federal or state laws applicable to protecting the privacy and security of the medical or other personal information, including without limitation, Pennsylvania's Breach or Personal Information Notification Act (73 P.S. §§ 2301, et seq.), and the parties agree to fully comply with such laws and corresponding regulations, As fully incorporated by reference herein.

(c) Effect on the Services Agreement. Except as relates to the use, security, privacy and disclosure of PHI and electronic PHI transactions, this Business Associate Agreement is not intended to change the terms and conditions of, or the rights and obligations of the parties under, the Services Agreement. All non-conflicting terms and conditions of the Services Agreement as between Covered Entity and Business Associate shall control the interpretation and enforcement of this Agreement and remain in full force and effect.

(d) No Third-Party Beneficiaries. Except as may be required by law, nothing express or implied in the Services Agreement or in this Business Associate Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties, any rights, remedies, obligations or liabilities whatsoever.

(e) Governing Law. This Business Associate Agreement shall be governed by, and interpreted consistently with, the HIPAA/HITECH Regulations to the fullest extent applicable to this Agreement. In all other respects, the parties agree this Agreement shall be governed by, and interpreted consistently with, the parties' Services Agreement, which is fully incorporated by reference herein.

(f) Assignment. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns, except that neither part may, without the specific prior written consent of the other party, assign any of its interest or rights in or to, or arising under, this Agreement, or delegate the performance of any of its obligations and duties hereunder except to the extent permitted by the parties' Services Agreement.

(g) No Waiver. The failure of any party or parties to enforce at any time any right or privilege under this Agreement shall in no way constitute or be construed as a

ATTACHMENT B – HIPAA BUSINESS ASSOCIATE AGREEMENT

waiver of that or any other right or privilege under this Agreement, nor shall it affect in any way the validity and full enforceability of this Agreement. No waiver of any right or privilege under this Agreement shall operate as a waiver of any other breach of that or any other provision of this Agreement and no waiver of any remedy for any such breach shall operate as a waiver of any other remedy for such breach. Should any provision of this Agreement be deemed unenforceable by a court of competent jurisdiction, such finding shall not invalidate the balance of this Agreement, which shall remain in full force and effect.

(h) No Prior Business Associate Agreement. This Business Associate Agreement is the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior business associate agreements between the parties hereto.

IN WITNESS WHEREOF, the parties' authorized representatives have executed this Agreement effective as of the day and year first above written.

BUSINESS ASSOCIATE

COVERED ENTITY

COUNTY OF BERKS

By: _____

By: _____

Printed Name: _____

Printed Name: Kelly A. Laubach, CPPB

Title: _____

Title: Director of Contracts and Procurement

Date: _____

Date: _____

ATTEST:

ATTEST:

By: _____

By: _____

Name (printed): _____

Name (printed): George M. Rodrigues

Title: _____

Title: Contract Manager

ATTACHMENT C – NON-COLLUSION AFFIDAVIT FORM

INSTRUCTIONS FOR NON-COLLUSION AFFIDAVIT

1. This Non-Collusion Affidavit is material to any Agreement pursuant to a Proposal. According to the Pennsylvania Antirigging Act, 62 Pa. C.S.A. § 4501 *et seq.*, governmental agencies may require Non-Collusion Affidavits to be submitted together with Proposals, such as the Proposal submitted by the Proposer.
2. This Non-Collusion Affidavit must be executed by the member officer, or employee of the Proposer who is authorized to legally bind the Proposer.
3. Proposal rigging and other efforts to restrain competition, and the making of false sworn statements in connection with the submission of bids are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should carefully examine it before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the Proposer with responsibilities for the preparation, approval or submission of the Proposal.
4. If the Proposal is submitted by a joint venture, each party to the venture must be identified in the Proposal documents, and a Non-Collusion Affidavit must be submitted separately on behalf of each party.
5. The term “complementary Proposal” as used in the Non-Collusion Affidavit has the meaning commonly associated with that term in the RFP process, and includes the knowing submission of a Proposal higher than the Proposal of another firm, any intentionally high or noncompetitive Proposal, and any form of Proposal submitted for the purpose of giving a false appearance of competition.
6. Failure to file a Non-Collusion Affidavit in compliance with these instructions will result in disqualification of the Proposal.

ATTACHMENT C – NON-COLLUSION AFFIDAVIT FORM

NON-COLLUSION AFFIDAVIT

State of _____

County of _____

_____, being first duly sworn, deposes and says that:

(1) He/She is _____
(Owner, Partner, Officer, Representative or Agent of Proposer)

of _____, the Proposer that
(Name of the Proposer)

has submitted the attached Proposal;

(2) He/She is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;

(3) Such Proposal is genuine and is not a collusive or sham Proposal;

(4) Neither the said Proposer nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Proposer, firm or person to submit a collusive or sham Proposal or complementary Proposal in connection with the Contract for which the attached Proposal is submitted or to refrain from submitting in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication of conference with any other Proposer, firm or person to fix the price or prices in the attached Proposal or of any other Proposer, or to fix any overhead, profit or cost element of the prices in the Proposal or the price of any other Proposer, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the County of Berks or any person interested in the proposed Agreement;

(5) The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Proposer or any of its agents, representatives, owners, employees, or parties in interest, including this affiant; and,

(6) Neither the said Proposer nor any of its officers, partners, owners, agents or parties in interest, have any interest, present or prospective, that can be reasonably construed to result in a conflict of interest between them and the County of Berks, which the Proposer will be required to perform.

ATTACHMENT C – NON-COLLUSION AFFIDAVIT FORM

I state that _____ understands
(Name of Proposer)

and acknowledges that the above representations are material and important and will be relied on by the County of Berks in awarding the Agreement for which the Proposal is submitted. I understand and the Proposer understands that any misstatement in this Non-Collusion Affidavit is and shall be treated as fraudulent concealment from the County of Berks of the true facts relating to the submission of proposals for this Agreement.

Name: _____

By: _____
Authorized Signatory

Title: _____
President or Vice President

SWORN TO AND SUBSCRIBED
BEFORE ME THIS _____ DAY
OF _____, 2024

Notary Public

My Commission Expires: _____

ATTACHMENT D - FINANCIAL STATUS REPORT(FSR) TEMPLATE

**FINANCIAL STATUS REPORT (FSR)
BERKS COUNTY WORKFORCE DEVELOPMENT BOARD
1920 KUTZTOWN ROAD, SUITE G
READING, PA 19604**

PART 1

CONTRACTOR _____ **REPORTING PERIOD** _____

ADDRESS _____

PROGRAM ACTIVITY _____ **CONTRACT NO.** _____

PART 2

ACCRUED EXPENDITURES BY COST CATEGORIES

<u>MONTH</u>	<u>CUMULATIVE EXPENDITURES</u>	<u>APPROVED BUDGET</u>	<u>BUDGET UNSPENT \$</u>	<u>BUDGET UNSPENT %</u>
ADMINISTRATION				
01. SALARIES*			\$0.00	#DIV/0!
02. FRINGE BENEFITS*			\$0.00	#DIV/0!
03. STAFF TRAVEL & CONFERENCE EXPENSES*			\$0.00	#DIV/0!
04. MATERIALS & SUPPLIES*			\$0.00	#DIV/0!
05. NON-EXPENDABLE PROPERTY*			\$0.00	#DIV/0!
06. RENTAL OF SPACE			\$0.00	#DIV/0!
07. INDIRECT COSTS			\$0.00	#DIV/0!
08. OPERATING COSTS			\$0.00	#DIV/0!
09. OTHER COSTS			\$0.00	#DIV/0!
TOTAL ADMINISTRATION COSTS	\$0.00	\$0.00	\$0.00	#DIV/0!

PROGRAM COSTS

01. SALARIES*			\$0.00	#DIV/0!
02. FRINGE BENEFITS*			\$0.00	#DIV/0!
03. STAFF TRAVEL & CONFERENCE EXPENSES*			\$0.00	#DIV/0!
04. MATERIALS & SUPPLIES*			\$0.00	#DIV/0!
05. NON-EXPENDABLE PROPERTY*			\$0.00	#DIV/0!
06. RENTAL OF SPACE			\$0.00	#DIV/0!
07. INDIRECT COSTS			\$0.00	#DIV/0!
08. PROFIT			\$0.00	#DIV/0!
09. OPERATING COSTS			\$0.00	#DIV/0!
10. OTHER COSTS			\$0.00	#DIV/0!
11. WORK EXPERIENCE			\$0.00	#DIV/0!
12. INDIVIDUAL TRAINING ACCOUNTS (ITAs)**			\$0.00	#DIV/0!
13. ON-THE-JOB TRAINING (OJTs) / WORK BASED**			\$0.00	#DIV/0!
14. TRANSITIONAL EMPLOYMENT			\$0.00	#DIV/0!
15. ASSESSMENT / TESTING FEES			\$0.00	#DIV/0!
16. INCENTIVES			\$0.00	#DIV/0!
17. SUPPORTIVE SERVICES			\$0.00	#DIV/0!
TOTAL PROGRAM COSTS	\$0.00	\$0.00	\$0.00	#DIV/0!

GRAND TOTAL	\$0.00	\$0.00	\$0.00	\$0.00	#DIV/0!
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PART 3. I HEREBY CERTIFY THAT THIS REPORT CONFORMS TO OUR ORGANIZATION'S ACCOUNTING RECORDS AND COMPLIES WITH WIOA AND TANF REGULATIONS.

SIGNATURE: _____ DATE: _____

PRINT NAME & TITLE: _____ PHONE NO. _____

Budget Cover Sheet

Complete the grant information below and the detailed budget pages starting with Page 3. The totals will automatically carry from the detailed budget pages to the Budget Cover Sheet and the Budget Summary Sheet. All budget sheets including any blank sheets should be submitted with your proposal.

Note: This template should not be changed without WDB approval.

Contractor Name: _____

Program Name: _____ **PROGRAM NAME**

Start Date: _____

End Date: _____

01. Administrative _____ **\$0.00**

02. Program _____ **\$0.00**

Budget Grand Total: _____ **\$0.00**

CFDA Identifier (To Be Completed by Berks Co WDB Staff)	
CFDA #	Budget Amount

Total: **\$0.00**

PROGRAM NAME
BUDGET SUMMARY SHEET

<u>COST CATEGORY</u>	<u>Budget</u>
Administration	
01. Staff Wages	\$0.00
02. Fringe Benefits	\$0.00
03. Staff Travel & Conference Expenses	\$0.00
04. Materials & Supplies	\$0.00
05. Non-Expendable Property	\$0.00
06. Rental of Space	\$0.00
07. Indirect Costs	\$0.00
08. Operating Costs	\$0.00
09. Other Costs	\$0.00
Total Administration Budget	\$0.00
Program	
01. Staff Wages	\$0.00
02. Fringe Benefits	\$0.00
03. Staff Travel & Conference Expenses	\$0.00
04. Materials & Supplies	\$0.00
05. Non-Expendable Property	\$0.00
06. Rental of Space	\$0.00
07. Indirect Costs	\$0.00
08. Profit	\$0.00
09. Operating Costs	\$0.00
10. Other Costs	\$0.00
11. Work Experience	\$0.00
12. Individual Training Accounts (ITAs)	\$0.00
13. On-The-Job Training (OJTs) / Work Based	\$0.00
14. Transitional Employment	\$0.00
15. Assessment / Testing Fees	\$0.00
16. Incentives	\$0.00
17. Supportive Services	\$0.00
Total Program Budget	\$0.00

PROGRAM NAME

03. Administration Staff Travel & Conference Exp.			
Staff Travel			
	X		\$0.00
Total Miles		Mileage Reimburs. Rate	Total
Conference Expenses			

Total Conference Expenses: **\$0.00**

Total Staff Travel & Conference Expenses: **\$0.00**

04. Administration - Materials & Supplies			
Description	Quantity	Unit Price	Total
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00

Total Administration - Materials & Supplies: **\$0.00**

PROGRAM NAME

03. Program Staff Travel & Conference Exp.			
Staff Travel			
	X		= <u>\$0.00</u>
Total Miles		Mileage Reimburs. Rate	Total
Conference Expenses			

Total Conference Expenses: \$0.00

Total Staff Travel & Conference Expenses: \$0.00

04. Program - Materials & Supplies			
Description	Quantity	Unit Price	Total
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00
			\$0.00

Total Program - Materials & Supplies: \$0.00

INSTRUCTIONS FOR COMPLETING THE BUDGET FORM

The budget form identifies all costs to be incurred for the specified period to operate the proposed program services. It separates Administration, Program and Work Experience costs (WIOA Youth Only).

Administration costs may not exceed more than 10% of the total contract amount.

This form should not be modified. If any modifications are needed, such as adding additional lines, please contact the WDB Fiscal Manager.

Budget Cover Sheet (Cover)

“Contractor Name” – Enter the legal company name that appears in your contract.

“Program Name” – Enter the name of the program being operated through your contract.

“Start Date” – Enter the beginning date of the contract. (For example, 7/1/2022.)

“End Date” – Enter the ending date of the contract period. *(Note: A budget should be developed on an annual basis. For example, if the start date was 7/1/2022 then the end date would be 6/30/2023.)*

The remaining data includes formulas and will populate according to the information entered in the remaining tabs.

Budget Summary Sheet (Summary)

No information is needed on this tab of the spreadsheet as it pulls the figures from the other tabs of the spreadsheet.

(Note: This tab is what you will use to populate the “Approved Budget” column on your financial status report (FSR) each month.)

Administration Budget

Admin 1.2: Administration Staff Wage and Fringe Benefits

01. **Administration Salaried Staff & Hourly Staff** – There are separated boxes identified for salaried and hourly administrative staff being charged to the contract. Administrative functions are identified in the Pennsylvania Department of Labor & Industry’s Financial Management Guide (FMG).
02. **Administration Staff Fringe Benefits** – All fringe benefits must be identified separately. Some examples of fringe benefits would be F.I.C.A., Worker’s Compensation, Retirement, Unemployment Compensation, Medical Insurance, Life Insurance, and Disability.

(Note: If the fringe benefit is not calculated as a percentage of total payroll, then it may be entered as 100% for “rate” and the budgeted cumulative total expected under “payroll”.)

Admin 3.4: Administration Staff Travel, Conference Expenses, and Materials & Supplies

03. **Administration Staff Travel** – This would be the expected number of miles traveled by administrative staff multiplied by the federal mileage reimbursement rate.

Administration Conference Expenses – This line item would be used for administrative staff conference expenses such as parking, tolls, conference registrations, hotel costs, and meals.

04. **Administration Materials & Supplies** – This line would identify expendable administrative supplies needed such as office supplies (paper, toner, pens/pencils, highlighters, etc.). *Note: Expendable property is any item with a useful life less than one year.*

Admin 5.6.7: Administration Non-Expendable Property, Rental of Space, and Indirect Costs

05. **Administration Non-Expendable Property** – This line would identify any non-expendable property needed for administrative staff. Non-expendable property is any item with a useful life beyond one year. (For example, computers, printers, desks, chairs, filing cabinets, etc.)

Note: Any purchases with a unit price or cumulative price of \$5,000 or more must be approved by submitted to the WDB with a minimum of three quotes. The WDB will then need to obtain approval from PADOL.

06. **Administration Rental of Space** – This would be for leased space needs of administrative staff.

07. **Administration Indirect Costs** – This would be for administrative indirect costs.

(Note: Indirect cost allocation plans must receive WDB approval as mentioned in the County contract.)

Admin 8.9: Administration Operating Costs and Other Costs

08. **Administration Operating Costs** – This would identify any administrative operating costs such as telephone or cell phone costs, software licenses, utilities for leased space, subscriptions or dues, payroll processing fees, or insurance premiums.
09. **Administration Other Costs** – This would be used for any administrative contracted service costs such as accounting or auditing services and financial management system (FMS) maintenance costs.

Program Budget

Program 1.2: Program Staff Wage and Fringe Benefits

01. **Program Salaried Staff & Hourly Staff** – There are separated boxes identified for salaried and hourly program staff being charged to the contract. This would identify all staff needed to perform the proposed program services identified in the request for proposal (RFP).
02. **Program Staff Fringe Benefits** – All fringe benefits must be identified separately. Some examples of fringe benefits would be F.I.C.A., Worker’s Compensation, Retirement, Unemployment Compensation, Medical Insurance, Life Insurance, and Disability.

(Note: If the fringe benefit is not calculated as a percentage of total payroll, then it may be entered as 100% for “rate” and the budgeted cumulative total expected under “payroll”.)

Program 3.4: Program Staff Travel, Conference Expenses, and Materials & Supplies

03. **Program Staff Travel** – This would be the expected number of miles traveled by program staff multiplied by the federal mileage reimbursement rate.

Program Conference Expenses – This line item would be used for program staff conference expenses such as parking, tolls, conference registrations, hotel costs, and meals.

04. **Program Materials & Supplies** – This line would identify expendable program supplies needed such as office supplies (paper, toner, pens/pencils, highlighters, etc.). *Note: Expendable property is any item that has not a useful life less than one year.*

Program 5.6.7.8: Program Non-Expendable Property, Rental of Space, Indirect Costs, and Profit

05. **Program Non-Expendable Property** – This line would identify any non-expendable property needed for program staff. Non-expendable property is any item with a useful life beyond one year. (For example, computers, printers, desks, chairs, filing cabinets, etc.)
Note: Any purchases with a unit price or cumulative price of \$5,000 or more must be approved by submitted to the WDB with a minimum of three quotes. The WDB will then need to obtain approval from PADOL.
06. **Program Rental of Space** – This would be for leased space needs of program staff. (For example, if a satellite location was being proposed and there are associated costs to an additional location.)
07. **Program Indirect Costs** – This would be for program indirect costs. (*Note: Indirect cost allocation plans must receive WDB approval as mentioned in the County contract.*)
08. **Program Profit** – This would be where a for-profit entity would budget for profit. (*Note: The profit rate may not exceed 5%.*)

Program 9.10: Program Operating Costs and Other Costs

09. **Program Operating Costs** – This would identify any operating costs needed to conduct the program services in the proposal such as cell phone stipends, utilities for leased space, software licenses, insurance premiums, subscription and dues, and outreach. (*Note: If located in the CareerLink[®], telephone services will be provided by the CareerLink[®] Operator and paid for by the partners. This cost should not be included in the budget then.*)
10. **Program Other Costs** – This would be used for any contracted service costs such as computer maintenance, security guards, building maintenance, cleaning services or any other proposed contracted service. (*Note: If located in the CareerLink[®], security guards, building maintenance, and cleaning services will be provided by the CareerLink[®] Operator and paid for by the partners. These costs should not be included in the budget then.*)

Program 11 – 17: Program Work Experience, Training, Incentives, and Supportive Services

11. **Program Work Experience Wages** – This line will identify any funds to be spent on participant's work experience wages included in the submitted proposal.

Program Work Experience Fringe Benefits - All fringe benefits must be identified separately. Some examples of fringe benefits would be F.I.C.A. and Unemployment Compensation.

(Note: If the fringe benefit is not calculated as a percentage of total payroll, then it may be entered as 100% for “rate” and the budgeted cumulative total expected under “payroll”.)

Program Training

12. **Program Individual Training Accounts (ITAs)** – This line will identify the funds planned to be used for participants’ ITA training opportunities.

(Note: The WIOA Adult Services contract is the only contract with training funds available for ITAs, OJTs, and CJTs.)

13. **Program On-The-Job Training (OJTs)/ Work Based** - This line will identify the funds planned to be used for participants’ OJT training opportunities.

(Note: The WIOA Adult Services contract is the only contract with training funds available for ITAs, OJTs, and CJTs.)

14. **Program Transitional Employment** – This line identifies the funds planned to be used for transitional employment needs.

(Note: WDB Policy limits this opportunity to only WIOA Youth providers.)

15. **Program Assessment / Testing Fees** – This budget would be used for any fees for assessments or testing services offered to participants such as GED fees.

16. **Program Incentives** – In accordance with the local WDB incentive policy, this is where incentives should be budgeted. Incentives are provided for accomplishing predetermined milestones in the program. Examples of incentives would be pantry items, gift cards, stipends, and transportation. (Note: An incentive plan must be submitted and approved by the WDB before incentives may be charged to the contract or issued to participants. This plan should be in accordance will federal, state, and local policy.)

17. **Program Supportive Services** – In accordance with the local WDB supportive service policy, this is where supportive services should be budgeted. Examples of supportive services would be transportation, childcare, housing assistance, uniforms or clothing, educational needs, and needs related payments.

ATTACHMENT E – BUDGET SHEETS

(Note: A supportive service plan must be submitted and approved by the WDB before supportive services may be charged to the contract or provided to participants. This plan should be in accordance with federal, state, and local policy.)

ATTACHMENT F – PROPOSERS FACT SHEET

Proposer's Fact Sheet

Exact legal name of organization or individual making proposal:

FEIN:

Type of Organization:

Government Non-Profit Private-for-Profit School District/LEA

Other:

Unit Cost per Participant:

A. Total Proposed Budget: \$

B. Number of Participants expected to be served:

C. Cost per Participant (A/B): \$

Corporate Address:

City/State/Zip:

County:

Phone Number:

Name and contact information of individual who can negotiate and bind bidder to contract:

Name:

Phone #:

Fax #:

E-mail:

Name:

Name and contact information of individual knowledgeable to answer questions regarding this proposal:

Name:

Phone #:

Fax #:

E-mail:

Name:

Name and address of branch or facility at which training program will be conducted, if different then above:

Name:

Street:

City/State/Zip:

Accessible to public transportation? Yes NO

If Yes, please describe:

ATTACHMENT G – ASSESSIBILITY CHECKLIST

ACCESS TO AMERICA, INC. TWO MINUTE ACCESSIBILITY CHECKLIST

This two-minute checklist was developed to quickly identify potential problem areas for people with disabilities. This checklist is not intended to be a thorough evaluation of the accessibility of the facility. For additional information or to obtain assistance with correcting problem areas, please contact Access to America, Inc. at (717) 957-4957.

DOES THE FACILITY HAVE THE FOLLOWING ITEMS?	YES	NO	May not be usable
Accessible parking spaces?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wheelchair ramp or curb cut?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sidewalks wide enough to accommodate people using wheelchairs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Entrance without steps?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wide doors and hallways through-out facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tables or desks which can be used by people in wheelchairs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Braille and Large Print – Raised letter signs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information available in large print?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Telephones which have hearing amplification?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Any special devices for quests with hearing impairments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Accessible rest rooms?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Accessible drinking fountains?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Elevators or wheelchair lifts to various floors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please describe any problem areas.

ATTACHMENT H – BERKS COUNTY WORKFORCE DEVELOPMENT BOARD GRIEVANCE HEARING PROCEDURE

BERKS COUNTY WORKFORCE DEVELOPMENT BOARD GRIEVANCE AND HEARING PROCEDURE

Where formal grievance and appeal procedures do in fact exist at a training site or worksite, participants under terms of the contract shall have access to the grievance and appeal procedure set forth by the Berks County Workforce Development Board only for the resolution of complaints arising out of alleged violation of Workforce Innovation and Opportunity Act law, regulations, contracts or policies. The Berks County Workforce Development Board will not review the substantive facts of any grievance appeal, which does not allege such a violation nor will it take under reconsideration or re-examination any finding of fact by the subcontractor's grievance and appeal procedure.

STEP I The Opportunity to File a Complaint

The complainant who has an alleged complaint must meet with the designated representative of the Berks County Workforce Development Board explain the problem and attempt to resolve the issue informally.

STEP II The Opportunity for an Informal Conference

If the complainant remains dissatisfied, he/she must file a written complaint, within five (5) days, with the Berks County Workforce Development Board and request an informal conference. The informal conference must be held within ten (10) days from the date of receipt of the request by the Berks County Workforce Development Board. The complainant and Berks County Workforce Development Board will discuss the allegation(s) and attempt to resolve the issues informally. The findings of the Berks County Workforce Development Board will be submitted to the complainant not later than ten (10) days following the informal conference. Included with the findings must be notification of the right to request a hearing if a satisfactory resolution is not accomplished.

Complaints shall be made in written form and addressed to:

Amber Columbo, Equal Opportunity Officer
Berks County Workforce Development Board
1920 Kutztown Road, Suite G
Reading, PA 19604

STEP III The Opportunity for a Hearing

If the complainant is not satisfied with the results of the informal conference, he/she must so inform the Berks County Workforce Development Board within five (5) days and request a hearing to seek resolution of the issue(s).

An Impartial Hearing Officer will be appointed by the Berks County Workforce Development Board and will attempt to resolve the issue(s) and render an independent decision. The requested hearing will be held within 30 days from the date on which the complaint was filed. Written notification of the hearing will be sent out by the Hearing Officer to all parties concerned, stating the date, time and place of the hearing and the issues to be heard. All parties have the right to be accompanied by an attorney, (at their own expense), or other duly authorized representative, the right to present testimony, to bring witnesses and records, and must attend the hearing.

A written decision will be issued by the Hearing Officer to the complainant and all parties who attended the hearing within 60 days of the filing of the complaint and will include: 1) a synopsis of the facts, 2) a statement of reasons for the decision, and 3) notification of recourse. All correspondence will be mailed certified with a return receipt requested.

STEP IV Notice of Recourse

If the complainant does not receive a decision at the Berks County Workforce Development Board level within 60 days of filing the complaint, or receives a decision that is unsatisfactory to the complainant, the complainant has the right to request a review of the complaint by the Governor. The request for review must be submitted to the Executive Deputy Secretary within ten (10) days of receipt of an adverse decision or, if no timely decision is rendered, within 15 days from the date on which the decision should have been received from the Hearing Officer. A review will be conducted on behalf of the Governor and a decision issued within 30 days from the date of receipt of the review request. The decision rendered will be final.

Mailing address: Deputy Secretary for Workforce Development
PA Department of Labor and Industry
651 Boas Street, Room 1700
Harrisburg, PA 17121

I certify that I have read and understand the Grievance Procedure as stated herein, and that I have received a copy of the same.

Participant's Signature

Date

I certify that the herein named participant was given an explanation and a copy of this Grievance Procedure.

Interviewer's Signature

Date



WORKER PROTECTION AND INVESTMENT CERTIFICATION FORM

A. Pursuant to Executive Order 2021-06, *Worker Protection and Investment* (October 21, 2021), the Commonwealth is responsible for ensuring that every worker in Pennsylvania has a safe and healthy work environment and the protections afforded them through labor laws. To that end, contractors and grantees of the Commonwealth must certify that they are in compliance with Pennsylvania’s Unemployment Compensation Law, Workers’ Compensation Law, and all applicable Pennsylvania state labor and workforce safety laws including, but not limited to:

1. Construction Workplace Misclassification Act
2. Employment of Minors Child Labor Act
3. Minimum Wage Act
4. Prevailing Wage Act
5. Equal Pay Law
6. Employer to Pay Employment Medical Examination Fee Act
7. Seasonal Farm Labor Act
8. Wage Payment and Collection Law
9. Industrial Homework Law
10. Construction Industry Employee Verification Act
11. Act 102: Prohibition on Excessive Overtime in Healthcare
12. Apprenticeship and Training Act
13. Inspection of Employment Records Law

B. Pennsylvania law establishes penalties for providing false certifications, including contract termination; and three-year ineligibility to bid on contracts under 62 Pa. C.S. § 531 (Debarment or suspension).

CERTIFICATION

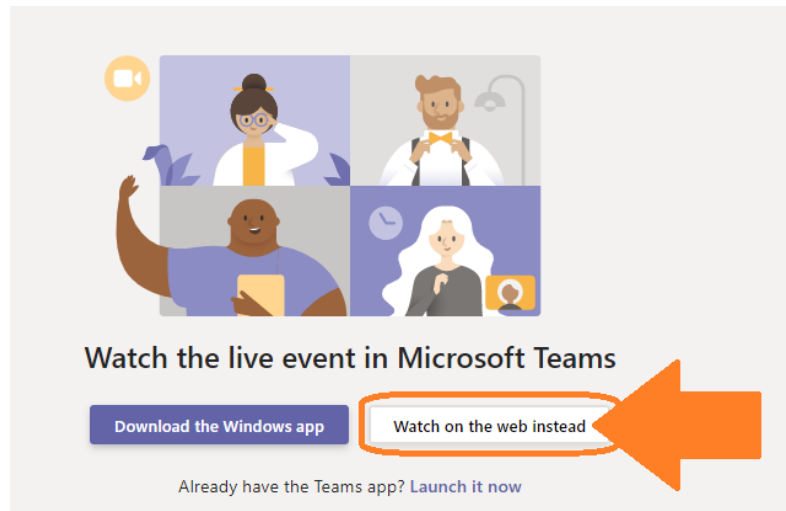
I, the official named below, certify I am duly authorized to execute this certification on behalf of the contractor/grantee identified below, and certify that the contractor/grantee identified below is compliant with applicable Pennsylvania state labor and workplace safety laws, including, but not limited to, those listed in Paragraph A, above. I understand that I must report any change in the contractor/grantee’s compliance status to the Purchasing Agency immediately. I further confirm and understand that this Certification is subject to the provisions and penalties of 18 Pa. C.S. § 4904 (Unsworn falsification to authorities).

<i>Signature</i>	<i>Date</i>
<i>Name (Printed)</i>	
<i>Title of Certifying Official (Printed)</i>	
<i>Contractor/Grantee Name (Printed)</i>	

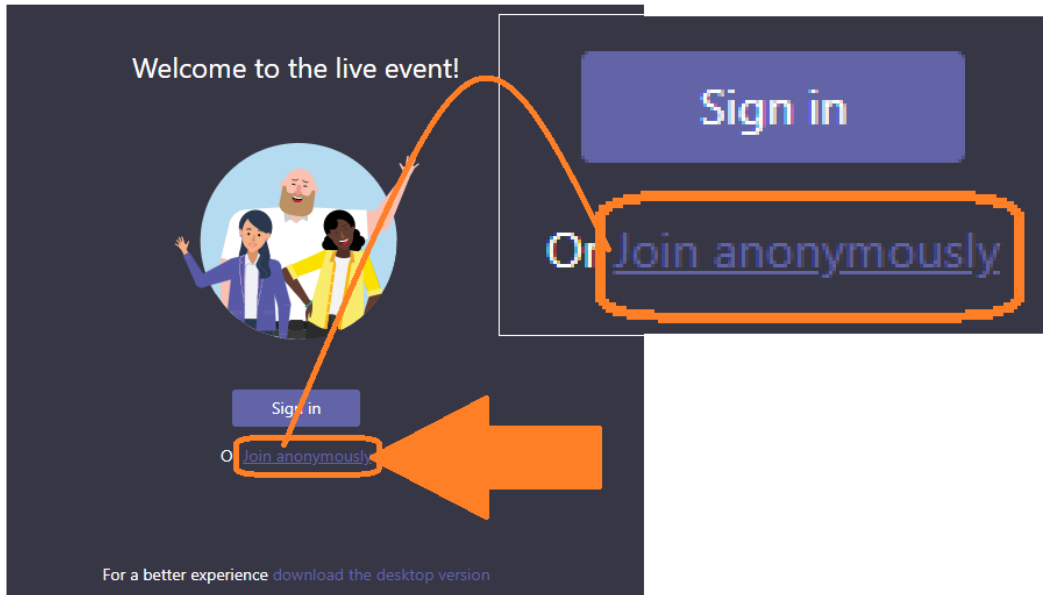
Teams works best in Edge or Chrome. It does not work in Internet Explorer.

The Meeting

- Step # 1. Go to the Purchasing ITB and RFP page on the County website at <https://www.countyofberks.com/departments/purchasing/itb-rfp>
- Step # 2. The Teams Live Event links for the Pre-Bid/Pre-Proposal, as well as the Bid/Proposal Opening will be posted with each specific Invitation to Bid (ITB) and Request for Proposal (RFP).
- Step # 3. Click on the meeting link associated with the ITB or RFP you are interested in for the appropriate event.
- Step # 4. Click Watch on the web instead.



- Step # 5. You will be prompted to download the Teams app, Open in web browser (Edge or Chrome) or Launch the Teams app if you already have it. You can select Join on the web instead and join as a guest. If you have used Teams in the past, launch the app and use a verified account.



ATTACHMENT J - HOW TO JOIN A PURCHASING TEAMS MEETING

- Step # 6. You will join the meeting in the “Lobby” until you are admitted by County staff.
- Step # 7. All Public participants join the meeting muted with cameras off. County staff will change your participation status at which point you can control your camera and microphone.
- Step # 8. Please add your name and company name to the Chat when you are admitted to the meeting. (This is only required for pre-bid/pre-proposal events.)
- Step # 9. You can use the Chat, “Raise Your Hand” feature or unmute and ask your questions real-time. Please keep your questions germane to the ITB/RFP being reviewed.
- Step # 10. Close the application or web browser window to leave the meeting.

End of process