

**GENERAL TERMS AND CONDITIONS
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GENERAL TERMS AND CONDITIONS

PART I - DEFINITIONS

As used throughout this Contract, the following terms shall have the meanings set forth below.

"**CLIENT**" shall mean any agency, firm, organization, individual or other entity applying for or receiving services under this Contract.

"**CONTRACTOR**" shall mean that agency, firm, organization, individual or other entity performing services under this Contract. It shall include any SUBCONTRACTOR retained by the prime contractor as permitted under the terms of this Contract.

"**COUNCIL**" shall mean the Northwest Workforce Council of Washington, any division, section, office, unit or other entity of the Council or any of the officers or other officials lawfully representing the Council.

"**MINORITY BUSINESS ENTERPRISE,**" "**MINORITY-OWNED BUSINESS ENTERPRISE,**" or "**MBE**" shall mean a business organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more minority individuals or minority business enterprises certified by the Office of Minority and Women's Business Enterprises. The minority owners must be United States citizens or lawful permanent residents.

"**SUBCONTRACTOR**" shall mean one, not in the employment of the Contractor, who is performing all or part of those services under this Contract under Contract from the CONTRACTOR. The terms "SUBCONTRACTOR" and "SUBCONTRACTORS" mean SUBCONTRACT(s) in any tier.

"**WOMEN'S BUSINESS ENTERPRISE,**" "**WOMEN-OWNED BUSINESS ENTERPRISE,**" or "**WBE**" shall mean a business organized for profit, performing a commercially useful function, which is legitimately owned and controlled by one or more women or women's business enterprises certified by the Office of Minority and Women's Business Enterprises. The women owners must be United States citizens or lawful permanent residents.

PART II - GENERAL CONDITIONS

A. ACCEPTANCE

It is understood and agreed by and between the Council and the Contractor that the Contractor's payment is conditioned upon satisfactory performance and acceptance by the Council. The Council reserves the right to withhold payment of any deliverable contingent upon acceptance of the deliverable by the Council. If defects preventing acceptance of a deliverable are present, the Council shall immediately notify the Contractor in writing of the nature of the defects and the method of remedy of those defects. The Contractor will take timely action to remedy defects as to permit acceptance of the subject deliverable. Notwithstanding the other provisions of this Contract, the Council shall not unreasonably withhold acceptance of a deliverable nor reimbursement of the Contractor.

B. ACCESS TO RECORDS AND FACILITIES / AUDITS

To the extent permitted by law, the Office of the State Auditor, federal grantor agency, the Comptroller General of the United States, and any persons duly authorized by the Council shall have full access to and the right to examine and copy any or all books, records, documents and other material regardless of form or type which are pertinent to the performance of this Contract, or reflect all direct and indirect costs of any nature expended in the performance of this Contract. In addition, these entities shall have the right to access, examine and inspect any site where any phase of the program is being conducted, controlled or advanced in any way. Such sites may include the home office, any branch office, or other locations of the Contractor. The Contractor shall maintain its records and accounts in such a way as to facilitate the audit and examination, and assure that Subcontractors also maintain records that are auditable. The Contractor is responsible for any audit exceptions resulting from its own actions or those of any Council authorized subcontractors. Access shall be at all reasonable times not limited to the required retention period but as long as records are retained, and at no additional cost to the Council.

The Contractor shall adhere to applicable federal Office of Management and Budget Circulars and other applicable federal and state regulations, including but not limited to OMB 2 CFR 200.

C. ADVANCE PAYMENTS PROHIBITED

No payment in advance or in anticipation of services or supplies to be provided by this Contract shall be made by the Council. In cost reimbursement contracts, the Contractor shall be entitled only to reimbursement for expenses incurred during the contract period for work accomplished as provided elsewhere in this Contract. In fixed unit price contracts, the Contractor shall be entitled only to payment for work accomplished during the contract period and in accordance with the terms of this Contract.

D. ASSIGNMENT AND DELEGATION

The work to be provided under this Contract, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

E. ASSURANCES

Throughout the term of this agreement, Contractor shall comply with all applicable federal, state and local laws, regulations and policies.

If this Contract is funded by the Workforce Innovation and Opportunity Act (WIOA), Contractor shall conduct the program in accordance with the existing or hereafter amended WIOA, federal Uniform Administrative Requirements found in 2 CFR 200, both federal and state non-discrimination law, and all the Washington State WIOA Title I and WorkSource System Policies.

Assurances under Title I of WIOA

Contractor assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

- Section 188 of the Workforce Innovation and Opportunity Act of 2014 (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I-financially assisted program or activity;
- Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color or national origin; Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities; and
- The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The Contractor also assures that it will comply with 29 CFR part 37 and all other regulations implementing the laws listed above. This assurance applies to the Contractor operation of the WIOA Title I-financially assisted program or activity, and to all agreements the Contractor makes to carry out the WIOA Title I-financially assisted program or activity. The Contractor understands that the United States has the right to seek judicial enforcement of this assurance.

F. ATTORNEY FEES AND COSTS

If any litigation is brought to enforce this Contract or any litigation arises out of any contract term, clause or provision, each party shall be responsible for its own expenses, costs and attorney fees.

G. CHANGES AND MODIFICATIONS

1. The Council may unilaterally modify the terms of this agreement when such modifications are required by controlling law or regulation. Such changes, including any increase or decrease in the amount of reimbursement, shall be incorporated as a written modification to the Agreement.

2. The Council or Contractor may, from time to time, request changes in the services to be performed, or in the project undertaken. Such changes, including any increase or decrease in the amount of payment or reimbursement, which are mutually agreed upon by and between the Council and the Contractor shall be incorporated in written modifications to this Contract.

3. The Contractor may make changes to the budget, without a formal modification to the contract and without securing the prior approval of the Council, under the following conditions:

- a. The revisions must not result in the need for additional funding.
- b. Such changes must not alter the scope of the Contract's Statement of Work and must not be prohibited by applicable federal or state statutes or regulations.
- c. No transfers are allowed from the training category or direct payments to trainees to other expense categories without a formal contract modification.
- d. The Contractor may vary actual expenditures within the major cost categories of the budget without securing the prior approval of the Council when such variances do not exceed ten percent (10%) of the total costs originally budgeted in that category. Such variances may be between line items only and may not alter the total amount of money originally budgeted in the major cost category. The Contractor will send written notices of such changes to the Council.

4. Alteration of the terms of this Contract, when effected by implementation of 2 or 3 above shall be valid only when in writing and signed by the authorized representatives of the parties.

H. CERTIFICATIONS

Any annual and final fiscal reports or vouchers requesting payment under this Agreement must include a certification, signed by an official who is authorized to legally bind the Contractor, which reads:

“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise.”

I. CONFLICT OF INTEREST

Notwithstanding any determination by the Washington State Executive Ethics Board or other tribunal, the Council may, in its sole discretion, by written notice to the Contractor terminate this Contract if it is found after due notice and examination by the Council that there is a violation of the Council’s Policy # A 01-37 Code Of Ethics, Conflict Of Interest & Protected Disclosure Policies, the Ethics in Public Service Act, RCW 42.52, or any similar statute involving the Contractor in the procurement of, or performance under, this Contract.

A conflict of interest arises when any of the following have a financial interest or other interest in the firm or organization selected for award.

- a. Individual;
- b. Member of the immediate family;
- c. Employing organization; or
- d. Future employing organization.

In the event this Contract is terminated as provided above, the Council shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of this Contract by the Contractor. The rights and remedies of the Council provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the Council makes any determination under this clause shall be an issue and may be reviewed as provided in the DISPUTES clause of this Contract.

J. CONFLICTING PROVISIONS

If any provision of this Agreement is allegedly in conflict with federal or state law, the conflict will be resolved by giving precedence in the following order:

1. Applicable Federal and Washington State Statutes and Regulations, including, but not limited to, the existing or hereinafter amended WIOA, DOL's regulations relating to WIOA, and the Washington State WIOA Title I and WorkSource Policies;

2. The Agreement and its modifications.

K. CONTRACTOR REGISTRATION

If applicable, the Contractor agrees to complete registration with the Department of Revenue, Department of Labor and Industries New Account Division and Employment Security Tax Administration by having filed a master business application prior to the execution of this Contract and to pay any taxes, fees, or deposits required by the state as a condition of providing services under this Contract. Contractor will provide the Council with its Washington Unified Business Identifier (UBI) number and its Washington Department of Revenue tax account number, and, if applicable, its Labor and Industries account number and its Unemployment Insurance tax number, if registration with these agencies occurred prior to January 2, 1987. Required information will be provided prior to the Contractor commencing services under this Contract.

L. COPYRIGHT/INTELLECTUAL PROPERTY RIGHTS

The Federal Government reserves a paid-up, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for federal purposes: i) the copyright in all products developed under this Agreement, including a sub-grant or contract under the grant or sub-grant; and ii) any rights of copyright to which the Contractor or any subcontractor purchases ownership under an award (including but not limited to curricula, training models, technical assistance products, and any related materials). Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronically or otherwise. Federal funds may not be used to pay any royalty or licensing fee associated with such copyrighted material, although they may be used to pay costs for obtaining a copy which is limited to the developer/seller costs of copying and shipping. If revenues are generated through selling products developed with grant funds, including intellectual property, these revenues are program income. Program income is added to the grant and must be expended for allowable grant activities.

If applicable, the following needs to be on all products developed in whole or in part with grant funds:

“This workforce solution was funded by a grant awarded by the U.S. Department of Labor’s Employment and Training Administration. The solution was created by the Contractor and does not necessarily reflect the official position of the DOL. DOL makes no guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited

to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership. This solution is copyrighted by the institution that created it. Internal use, by an organization and/or personal use by an individual for non-commercial purposes, is permissible. All other uses require the prior authorization of the copyright owner.”

Unless otherwise provided, and subject to the other requirements listed in this Agreement, Contractor shall retain ownership of all material it creates using funds from this Agreement.

Contractor shall license to the public all Materials created or modified using funds from this Agreement under the Creative Commons Attribution License.

For Materials created using funds from this Agreement, or that were developed using WIA or WIOA funding, Contractor hereby grants to Council a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to Council.

M. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agent maintained by the Contractor for the purpose of securing business. The Council shall have the right, in the event of breach of this clause by the Contractor, to annul this Contract without liability or, in its discretion, to deduct from the contract price or consideration or otherwise recover by other means the full amount of such commission, percentage, brokerage or contingent fees. In no event shall the Council be liable for any brokerage or contingent fees.

N. DEBARMENT AND SUSPENSION

Contractor must not be debarred, suspended, or otherwise excluded from participation in Federal Assistance Programs under Executive Order 12549 and “Debarment and Suspension”, Codified at 29 CFR part 98. Contractor must not contract with any individuals or organizations who are debarred, suspended, or excluded from participating in Federal Assistance Programs. Contractor must provide a signed statement, attached as Exhibit E to this Agreement that it is complying with the requirements of this section.

O. DISALLOWED COSTS

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

P. DISPUTES

Except as otherwise provided in this Contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, the parties agree to participate in mediation in good faith. The mediator shall be chosen by agreement of the parties. If the parties cannot agree on a mediator, the parties shall use a mediation service that selects the mediator for the parties. Nothing in this Contract shall be construed to limit the parties' choice of a mutually acceptable alternative resolution method such as a disputes hearing, a Dispute Resolution Board, or arbitration.

Q. DUPLICATION OF BILLED COSTS

The Contractor shall not bill the Council for costs if the Contractor is being paid by another funding source for those same costs.

R. GOVERNING LAW

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington and the venue of any action brought hereunder shall be in the Superior Court for Whatcom County. If any litigation arises out of this Agreement, each party shall be responsible for its own expenses, costs and attorney fees.

S. INDEMNIFICATION, INSURANCE AND BONDING

1. Each party to this Agreement shall be responsible for its own acts and/or omissions and those of its officers, employees and agents. No party to this agreement shall be responsible for the acts and/or omissions of entities or individuals not a party to this agreement. In the case of negligence of both the Council and the Contractor, any damages allowed shall be levied in proportion to the percentage of negligence attributed to each party.
2. The Contractor shall provide insurance coverage, which shall be maintained in full force and effect during the term of this Contract, as follows:
 - a. Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy that covers bodily injury, property damage and contractual liability with the following minimum limits: One Million dollars (\$1,000,000) per occurrence, General Aggregate \$2,000,000. Additionally, the Contractor is responsible for ensuring that any Subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

- b. Business Auto Policy. Contractor shall maintain automobile liability insurance, with a minimum limit of \$1,000,000 when vehicles owned or leased by Contractor or its employees, subcontractors or volunteers are used to provide services in performance of this Contract.
 - c. Professional Liability Insurance. Contractor shall carry and maintain professional liability insurance. Such coverage shall cover losses caused by error and omissions in rendering professional services and shall have the following minimum limits: \$300,000 per incident, loss or person. Contractor shall ensure employees and any subcontractors are covered by professional liability insurance.
 - d. The insurance required shall be issued by an insurance company/ies authorized to do business within the state of Washington, and shall name the Council, its agents and employees as additional insureds under the insurance policy/policies. The insurance required shall be placed with an insurer that has a “Best” rating of A-, Class VII or better. All policies shall be primary to any other valid and collectable insurance. Contractor shall instruct the insurers to give Council thirty (30) days’ advance notice of any insurance cancellation, or material change to policies coverage for services provided under this Agreement.
3. In the event the Contractor has been designated an agent for receiving or disbursing funds from the Council, or where the Contractor has been furnished property in which the Council has title in order to perform the responsibilities under this Contract, the Contractor shall ensure that:
 - a. Every officer, director or employee who is authorized to act on behalf of the Contractor or any Subcontractors for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks or other instruments of payment for program costs is bonded to provide protection against loss.
 - b. Fidelity bonding secured pursuant to this Contract must have coverage of One Hundred Thousand dollars (\$100,000) or the highest planned advance or reimbursement for the program year, whichever is greater.
 - c. If requested, the Contractor will provide a copy of the bonding instrument or a certification of the same for the bond issuing agency.
4. If self-insured, the Contractor warrants that it will maintain coverage sufficient to cover any liability specified above that may arise from the performance of this Contract, and that the Contractor’s Risk Officer or appropriate individual will provide to the Council evidence of such insurance.
5. The Contractor will provide the Council with a copy of the applicable insurance facesheet(s) or certification of self-insurance reflecting these coverages and limits defined in this section. Insurance coverage(s) must be effective no later than the

effective date of this Contract and for the term of this Contract. Contractor shall submit renewal certificates as appropriate during the term of this Contract.

T. INDEPENDENT CAPACITY OF CONTRACTOR

The parties intend that an independent Contractor relationship will be created by this Contract. The Contractor and his or her employees or agents performing under this Contract are not employees or agents of the Council. The Contractor will not hold himself/herself out as, nor claim to be an officer or employee of, the Council or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such employee under law. Conduct and control of the work will be solely with the Contractor.

U. DRUG FREE WORKPLACE

Contractor and any subcontractors must comply with the government-wide requirements for a drug-free workplace, as codified at 29 CFR part 94 and 48 CFR part 23.504. These requirements include but are not limited to: (1) proper establishment, publishing and distribution of drug free workplace statement and drug-free awareness program, and (2) proper notification procedures of any employee violations. Failure to comply with these requirements may be cause for suspension or disbarment.

V. INDUSTRIAL INSURANCE COVERAGE

The Contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, Council may collect from the Contractor the full amount payable to the Industrial Insurance accident fund.

The Council may:

- Deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by Council under this Contract; and
- Transmit the deducted amount to the Department of Labor and Industries (L&I), Division of Insurance Services.

This provision does not waive any of L&I's right to collect from the Contractor.

W. LICENSING AND ACCREDITATION

The Contractor shall comply with all applicable local, state, and federal licensing, accreditation, and registration requirements/standards, necessary for the performance of this Contract.

X. LIMITATION OF SIGNATURE AUTHORITY

Only the Executive Director or Executive Director's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this Contract is not effective or binding unless made in writing and signed by the Executive Director or Executive Director's delegate.

Y. LOBBYING ACTIVITIES AND PUBLICITY

Contractor shall comply with lobbying restrictions set forth in WIOA; 29 CFR Part 93 (New Restrictions on Lobbying) and any subsequent updates; and RCW 42.17A. Contractor shall also make available upon request required disclosure information if the Contractor participates in lobbying activities during the grant period. Contractor shall provide, in Exhibit D to this contract, its certification that it is in compliance with laws and regulations cited above.

In addition, No funds provided under this Agreement shall be used for publicity or propaganda purposes, for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress or any state or local legislature or legislative body, except in presentation to the Congress or any state or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any state or local government, except in presentation to the executive branch of any state or local government itself. Nor shall funds be used to pay the salary or expenses of any recipient or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive Order proposed or pending before the Congress, or any state government, state legislature, or local legislature body other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a state, local, or tribal government

Z. MAINTENANCE OF EFFORT

The Contractor shall ensure the following:

- That funds for training programs do not impair existing contracts for services, or result in the substitution of Federal funds for other funds in connection with work to be performed, including services normally provided by temporary, part-time or seasonal workers, or through subcontracting such services; and
- That funds for training programs result in an increase in employment and training opportunities over those which would otherwise be available.

AA. NONDISCRIMINATION

No individual shall be excluded from participation in, denied benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any such program or activity funded in whole or in part by this Agreement on the basis of race, color, religion, sex, sexual orientation, national origin, age, disability, political affiliation or belief.

Additionally, Contractor must take reasonable steps to ensure that individuals with limited English proficiency have meaningful access to programs in accordance with DOL's Policy Guidance on the Prohibition of National Origin Discrimination as it Affects Persons with Limited English Proficiency [05/29/2003] Volume 68, Number 103, Page 32289-32305.

Contractor shall comply with all nondiscrimination requirements listed in this agreement, as well as all federal and state nondiscrimination laws, including but not limited to, Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972; and the Americans with Disabilities Act of 1990, Section 188 of WIOA and any DOL regulations relating to Section 188.

The Contractor must not discriminate in any of the following areas:

- a. Deciding who will be admitted, or have access, to any WIOA Title I-financially assisted program or activity;
- b. Providing opportunities in, or treating any person in regard to, such a program or activity; or
- c. Making employment decisions in the administration of, or in connection with, such a program or activity.

The Contractor also ensures that it will comply with 29 CFR, Part 37; including the Methods of Administration (MOA) developed by the Washington Council and any WIOA policies and procedures issued.

As long as an individual meets the other program requirements, participation in any programs funded in whole or in part by this Agreement shall be available to all citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees and other immigrants authorized by the Attorney General of the United State to work in the United States.

No person may discriminate against an individual who is a participant in a program or activity that receives funds under this title, with respect to the terms and conditions affecting, or rights provided to, the individual, solely because of the status of the individual as a participant.

The Contractor shall post the attached “Equal Opportunity is the Law” notice prominently in reasonable numbers and places; shall disseminate the notice in internal memoranda, other written or electronic communications; shall include the notice in handbooks or manuals; make the notice available during orientations and to each participant. A signed copy of the notice will also be made a part of the participant’s file. All medical information and/or information regarding a participant’s disability must be kept confidential and maintained in a file that is separate from the participant’s file.

The Contractor shall include the following Equal Opportunity tagline in recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, clients, or the public at large, to describe WIOA Title I financially assisted programs or activities.

“(NAME OF ORGANIZATION) is an equal opportunity employer and provider of employment and training services. Auxiliary aids and services are available upon request to persons with disabilities.”

The Contractor shall promptly notify the State EO Officer of any administrative enforcement actions or lawsuits filed against it alleging discrimination on the grounds of race, color, religion, sex, sexual orientation, national origin, age, disability, or political affiliation or belief; and against any beneficiary of programs financially assisted under Title I of WIOA, on the basis of the beneficiary’s citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIOA Title I-financially assisted program or activity. The State EO Officer will notify the Director of Council; Civil Rights Center (CRC); the Office of the Assistant Secretary for Administration and Management; and DOL.

BB. PATENT RIGHTS

The Council retains the entire right, title and interest to each invention developed during the performance of Contract services. The Council shall receive prompt, written notice of each notice or claim of patent infringement received by the Contractor with respect to patents developed during its performance of Contract services.

CC. PELL GRANTS

If this Contract is WIOA funded and involves participant training at institutions that are certified to participate in student financial aid, as appropriate the Contractor shall incorporate the use of Pell Grants to offset the costs of training, such as tuition, books, supplies, transportation, child care, miscellaneous expenses, and/or special costs for disabled participants. (Department of Labor Information Notice 25-89, dated April 9, 1990.)

DD. PRICE WARRANT

The Contractor warrants that the cost charged for services under the terms of this Contract are not in excess of those charged any other client for the same services performed by the same individuals.

EE. RECORD RETENTION

The Contractor shall:

- a. Retain all records pertinent to grants, grant agreements, interagency agreements, contracts or any other awards, including financial, statistical, property, and supporting documentation, for a period of at least three years after submittal of the final expenditure report (closeout) for that funding period to the awarding agency;
- b. Retain records for non-expendable property for a period of three years after final disposition of the property;
- c. Retain all program and data validation records pertinent to applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment for a period of not less than three years from the point that the record is no longer included in reportable outcomes (as opposed to the close of the applicant's program year);
- d. Retain records regarding complaints and actions taken on complaints for at least three (3) years from the date of resolution of the complaints;
- e. Retain all records beyond the required three (3) years if any litigation or audit is under way or a claim is instituted involving the grant or agreement covered by the records. The records must be retained for at least three (3) years after the litigation, audit, or claim has been resolved;
- f. Records regarding discrimination complaints and actions taken thereunder are confidential, and shall be maintained for a period of not less than three years from the final date of resolution of the complaint; and
- g. Comply with all other requirements of WIOA Title I Policy #5403.

FF. SAFEGUARDING OF CLIENT INFORMATION

Without prior written consent by the recipient or client or as otherwise required by law, Grantee shall not use or disclose any information concerning a program recipient or client for any purpose not directly connected with the administration of the Council's or the Contractor's responsibilities under this Agreement.

Contractor shall not publish, transfer, sell, or otherwise disclose any confidential information gained through this Agreement unless:

- a. Related to the purpose of this Agreement;

- b. Required by law; or
- c. Authorized by prior written approval of the person who is the subject of the confidential information.

Contractor shall maintain proper security measures to protect all confidential information.

GG. SALARY AND BONUS LIMITATIONS (NOT APPLICABLE TO VENDORS)

No funds received under this agreement may be used to pay for the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Legal II. This limitation does not apply to vendors providing goods and services as defined in OMB 2 CFR 200.

HH. SEVERABILITY

The provisions of this Contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Contract.

II. SINGLE AUDIT ACT REQUIREMENTS

If the Contractor expends \$750,000 or more in federal awards during the Contractor's fiscal year, the Contractor must comply with the Single Audit Act as supplemented by the audit requirements of 2 CFR 200, including but not limited to CFR 200.501-.521.

JJ. SITE SECURITY

While on Council premises, Contractor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

KK. SMALL, MINORITY, AND WOMEN-OWNED BUSINESS ENTERPRISES

The Contractor shall provide to qualified small, minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Contract.

LL. SUBCONTRACTING

The Contractor shall not subcontract work or services contemplated under this Contract and/or use an outside consultant except as provided for in the Statement of Work without obtaining the prior written approval of the Council for the authority to enter into subcontracts. Contractor acknowledges that such approval for any subcontract does not relieve the Contractor of its obligations to perform hereunder. The Council retains the

authority to review and approve or disapprove all subcontracts. At the Council's request, the Contractor will forward copies of subcontracts and fiscal, programmatic and other material pertaining to any and all subcontracts.

For any proposed Subcontractor the Contractor shall:

1. Be responsible for Subcontractor compliance with these General Terms and Conditions and the subcontract terms and conditions; and shall ensure that the subcontractor spends the funding only on the WIOA allowable costs or for allowable WIOA activities.
2. Ensure that the Subcontractor follows the Council's reporting formats and procedures as specified by the Council.

MM. TAXES

Contractor shall be solely liable for payment of payroll taxes, unemployment contributions, and any other applicable taxes, insurance, or other expenses for the Contractor staff.

NN. TERMINATION AND SUSPENSION

1. Termination or Suspension for Cause

In the event that the Council determines the Contractor has failed to comply with the conditions of Agreement in a timely manner, Council has the right to suspend or terminate this Agreement. Before suspending or terminating this Agreement, Council may, at its sole discretion, notify the Contractor in writing of the need to take corrective action. If corrective action is not taken the Agreement may be terminated or suspended. In the event of termination or suspension, the Contractor shall not obligate any additional funds under this Agreement and may be liable for additional remedies to Contractor, including but not limited to, the repayment of disallowed costs.

Council reserves the right to suspend all or part of this Agreement, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by the Council to terminate this Agreement. A termination shall be deemed to be a "Termination for Convenience" if it is determined that the Contractor : (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence. The rights and remedies of the Agency provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.

The Council reserves the right to immediately suspend all, or part of, this Agreement, and to withhold further payments, or to prohibit the Contractor from incurring additional obligations of funds when it has reason to believe that fraud, abuse, malfeasance, misfeasance or nonfeasance has occurred on the part of the Contractor under this Agreement.

2. Termination for Funding Reasons

The Council may unilaterally terminate this Agreement in the event that funding from federal, state or other sources becomes no longer available to the Council or is not allocated for the purpose of meeting the Council's obligation hereunder. In the event funding is limited in any way, this Agreement is subject to re-negotiation under any new funding limitations and conditions. Such action is effective upon receipt of written notification by the Contractor.

3. Termination or Suspension for Convenience

Except as otherwise provided in this Agreement, the Council may, by ten (10) days' written notice, beginning on the second day after mailing, suspend or terminate this Agreement, in whole or in part. If this Agreement is so suspended or terminated, the Council shall be liable only for payment required under the terms of this Agreement for services rendered or goods delivered prior to the effective date of suspension or termination. If this Agreement is suspended, the Schedule shall be delayed for a period of time equal to the period of such suspension. The Council may, by ten (10) days' written notice, beginning on the second day after mailing, lift the suspension of the Agreement, in whole or in part, at which time the Schedule and the parties' right and obligations shall resume to the extent that the suspension is lifted.

4. Termination for Withdrawal of Authority

In the event that the Council's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Agreement and prior to normal completion, the Council may terminate this Agreement by seven calendar days or other appropriate time period by written notice to Contractor. No penalty shall accrue to the Council in the event this Section shall be exercised.

OO. TERMINATION PROCEDURE

Upon termination of this Contract, the Council, in addition to any other rights provided in this Contract, may require the Contractor to deliver to the Council any property specifically produced or acquired for the performance of such part of this Contract as has been terminated. The provisions of the TREATMENT OF ASSETS clause shall apply in such property transfer.

The Council shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by the Council and the amount agreed upon by the Contractor and the Council for (1) completed work and service(s) for which no separate price is stated; (2) partially completed work and services; (3) other property or services

which are accepted by the Council; and (4) the protection and preservation of property, unless the termination is for default, in which case the Council shall determine the extent of liability of the Council. Failure to agree with such determination shall be a dispute within the meaning of the DISPUTES clause of this Contract. The Council may withhold from any amounts due to the Contractor such sum as the Council determines to be necessary to protect the Council against potential loss or liability.

The rights and remedies of the Council provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

After receipt of a notice of termination and except as otherwise directed by the Council, the Contractor shall:

1. Stop work under this Contract on the date, and to the extent specified, in the notice;
2. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of work under this Contract as is not terminated;
3. Assign to the Council, in the manner, at the times, and to the extent directed by the Council, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Council has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Council to the extent the Council may require, which approval or ratification shall be final for all purposes of this clause;
5. Transfer title to the Council and deliver in the manner, at the times, and to the extent directed by the Council any property which, if the Contract had been completed, would have been required to be furnished to the Council;
6. Complete performance of such part of the work as shall not have been terminated by the Council; and
7. Take such action as may be necessary, or as the Council may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which the Council has or may acquire an interest.

PP. TREATMENT OF ASSETS

1. Title to all property furnished by the Council shall remain in the Council. Title to all property purchased by the Contractor the cost of which the Contractor has been

reimbursed as a direct item of cost under this Contract, shall pass to and vest in the Council upon delivery of such property by the Contractor. The title shall only pass to the Contractor if the Council specifically agrees to grant title in this Contract for asset(s) purchased.

2. Any property of the Council furnished to the Contractor shall, unless otherwise provided herein, or approved by the Program Manager in writing, be used only for the performance of this Contract.
3. Property will be returned to the Council in like condition to that in which it was furnished to the Contractor, normal wear and tear excepted. The Contractor shall be responsible for any loss or damage to property of the Council in the possession of the Contractor which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain said property in accordance with sound management practices.
4. If any Council property is damaged or destroyed, the Contractor shall notify the Council and shall take all reasonable steps to protect that property from further damage.
5. The Contractor shall surrender to the Council all property of the Council upon completion, termination or cancellation of this Contract.
6. All reference to the Contractor under this clause shall include any employees, agents or Subcontractors.

QQ. USE OF NAME PROHIBITED

The Contractor shall not in any way contract on behalf of or in the name of the Council. Nor shall the Contractor release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning this project without obtaining the prior written approval of the Council.

RR. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing signed by authorized representative of the Council.

SS. ENERGY POLICY AND CONSERVATION ACT

The Contractor shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

TT. ENVIRONMENTAL COMPLIANCE

If Contractor is receiving over \$100,000 in federal grants under this Agreement, the Contractor shall comply with all applicable standards, Orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

UU. LIMITATIONS ON CONSTRUCTION AND REPAIR

1. Davis-Bacon Act

The Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts in excess of \$2000 awarded by Contractors and sub-Contractors when required by Federal grant program legislation.

2. Copeland Anti-Kickback Act

The Contractor shall comply with the Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts and subgrants for construction or repair).

3. Flood Insurance

No funds obtained through this Agreement may be used to acquire, modernize, or construct property in identified flood-prone communities, unless the community participates in the National Flood Insurance program and flood insurance is purchased within one year of the identification. Lists of flood-prone areas that are eligible for flood insurance are published in the Federal Register by FEMA.

4. Funding for Construction

Unless specified otherwise in this Agreement, Contractor shall not spend any funds from this Agreement on construction or purchasing of facilities or buildings, or other capital expenditures for improvement to land or buildings.

Any new facilities designed or constructed with funds from this Agreement must comply with: The Architectural Barriers Act of 1968, 42 U.S.C. 4151, as amended, the Federal Property Management Regulations (see 41 CFR 102-76), and the Uniform Federal Accessibility Standards issued by GSA (See CFR 36 CFR 1191).

5. Religious Construction

Contractor shall not use any funds made available through this Agreement for the construction, operation, or maintenance of any part of any facility used for sectarian instruction or used as a place for religious worship. However, Maintenance of facilities that are not primarily used for instruction or worship and are operated by organization providing services to WIOA participants may be allowed.

VV. LIMITATIONS ON FUNDING PROVIDED

1. Acorn Prohibition

No funds made available under this Agreement may be provided to the Association of Community Organizations for Reform Now (ACORN), or any of its affiliates, subsidiaries, allied organizations, or successors.

2. Business Relocation

No funds obtained through this Agreement may be used to: (1) Encourage or induce any business or part of a business to relocate from any location in the United States, if that relocation will result in any employee losing their job; or (2) provide customized training, skill training, on-the-job training, incumbent worker training, transitional employment, or company specific assessment of job applicants for employees of any business that has relocated from any location in the United States for 120 days after the relocation, if the relocation resulted in an employee losing their job at the original location.

3. Religious Activity Training

Contractor shall comply with the requirements of 29 CFR part 2, subpart 2 which governs circumstances when any funds made available through WIOA and this Agreement may be used to employ or train participants in religious activities.

4. Health Benefits Coverage

The Contractor shall insure that the use of funds obtained through this Agreement used for Health Benefit coverage complies with 506 and 507 of Division G of Public Law 113-235, the Consolidated and Further Continuing Appropriation Act, 2015.

5. Trafficking In Persons

No funds obtained through this Agreement may be used to traffic in persons as defined in DOL Standard Federal Award Terms & Conditions found at <http://doleta.gov/grants/resources.cfm>.

WW. PURCHASING AND CONTRACTING REQUIREMENTS

1. Buy American Act

Purchases made under this Agreement using funds made available under WIOA or the Wagner-Peyser Act (29 U.S.C. 49 et seq.) shall comply with sections 8301 through 8303 of title 41, United States Code (commonly known as the “Buy America Act”). Any

person who a court or Federal Agency has determined in final judgment of selling or shipping any good with a false label of being a product made in America shall be ineligible to receive any contract or subcontract with funds made available under this Agreement.

2. Procurement Requirements

All purchasing and procurement done by Contractor using funds made available through this Agreement must be done in accordance with 2 CFR 200.316-.326 and Washington State laws, policies and regulations, including, but not limited to, RCW §39.26. In addition to these requirements, Contractor shall pay no more than reasonable market value for any equipment or supplies purchased with funds made available through this Agreement.

3. Prohibition on Contracting with Corporations with Felony Criminal Convictions

The Contractor must not knowingly enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that was convicted of a felony criminal violation under any Federal law within the preceding twenty-four (24) months.

4. Prohibition on Contracting with Corporations with Unpaid Tax Liabilities

The Contractor must not knowingly enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that has any unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely matter pursuant to an agreements with the authority responsible for collecting the tax liability.

5. Prohibition on Contracting with Inverted Domestic Corporations

No funds made available under this Agreement may be used for any contract with any foreign incorporated entity which is treated as an inverted domestic corporation under section 535(b) of the Homeland Security Act of 2002(6 U.S.C. 395(b)) or any subsidiary of such an entity.

6. Oversight

Contractor must maintain oversight over all contracts. This includes, but is not limited to, monitoring subcontractor performance regarding contract terms, conditions, and specifications.

7. Equipment and Supplies

a. Acquisition

Contractor must receive prior approval from Council for the purchase of any equipment with a per unit acquisition cost of \$5,000 or more, and a useful life of more than one year using funds obtained through this Agreement. This includes the purchases of automatic data processing equipment. Equipment purchases must be made in accordance with 2 CFR 200.313 or 2 CFR 200.439.

This Agreement does not give approval for equipment specified in a Contractor's budget or statement of work unless specifically approved.

b. Equipment Management

All equipment purchased with funds obtained through this Agreement must be managed in accordance with 2 CFR 200.313. This includes, but is not limited to:

- Maintaining records of the property that includes description of the equipment, title, cost, grant award contribution, and identifiable information;
- Conducting inventory of equipment at least every two years;
- A control system developed to adequately safeguard property;
- Proper maintenance of the equipment; and
- Disposal of equipment in accordance with federal and state law.

c. Supplies

Title to Supplies acquired with funding provided under this Agreement shall vest with the Contractor at acquisition. A residual inventory of unused supplies exceeding \$5000 in value at the time of completion of this Agreement must be used by the Contractor on other federal projects, or sold.

8. Recovered Materials

Purchases made pursuant to this Agreement must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, which requires purchases of items over \$10,000 to contain the highest percentage of recovered materials while maintain satisfactory level of completion. Guidelines for recovered materials are found in 40 CFR part 247.

XX. WAGES AND HOURS

The Contractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by Contractors and subContractors in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers.)

Any wages paid by Contractor using funds from this Agreement shall be reasonable, necessary, and allocable for performance of this Agreement, and not in excess of the usual and accustomed wages for individuals with similar qualifications. Wages must also comply with the Washington State Minimum Wage Act, RCW § 49.46.

No funds obtained through this Agreement may be used to pay the wages of incumbent employees during their participation in economic development activities provided through statewide workforce delivery system.

YY. CONFERENCES AND MEETINGS

1. Approval

Conferences sponsored in whole or in part by the Contractor using funding obtained through federal awards are allowable only if the conference is necessary and reasonable for the successful performance of the Federal Award. Contractor must use discretion and judgment to ensure that all conference costs charged to the federal grant are appropriate and allowable and must comply with the requirements in 2. CFR 200.432. Costs that do not comply with 2 CFR 200.432 will be questioned and may be disallowed.

2. Executive Branch Meetings

The Contractor must not use any funds from this Agreement for the purpose of defraying the costs of a conference held by any Executive branch department, agency, board, commission, or office unless it is directly and programmatically related to the purpose this Agreement. No funds from this Agreement may be used for travel and conference activities that are not in compliance with Office of Management and Budget Memorandum M12-12 Date May 11, 2012. (P.L 113-6, 3003(c)(d)(e)).

3. Hotel Motel Fire Safety Act

Pursuant to 15 U.S.C 2225(a), Contractor must ensure that all space for conferences, meetings, conventions or training seminars funded in whole or in part with funds from this Agreement complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (P.L. 101-391, as amended).

ZZ. INTERNAL CONTROLS

Contractor must develop and maintain an internal control structure and written policies that are in compliance with the “standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States and the “Internal Control Integrated Framework,” issued by the Committee of Sponsoring Organizations of the Treadway Commission. These internal controls are needed to provide safeguards to protect personally identifiable information, records, contracts, grant funds, equipment, sensitive information, tangible items, and other information that is readily or easily exchanged in the open market, or that Council or Contractor or subcontractor considers to be sensitive, consistent with applicable Federal, State and local privacy and confidentiality laws.

These internal controls must include assurance that the Contractor is:

- a. Managing funds under this Agreement in compliance with federal statutes, regulations, and the terms of this Agreement;
- b. Complying with federal statutes, regulations, and the terms and conditions of the federal award;

- c. Evaluating and monitoring sub-recipients' compliance with applicable laws and terms of this Agreement; and
- d. Taking prompt action when instances of noncompliance are identified.



**STATE OF WASHINGTON
EMPLOYMENT SECURITY DEPARTMENT
PO Box 9046
Olympia, WA 98507-9046**

EQUAL OPPORTUNITY IS THE LAW

29 CFR Part 37.30

It is against the law for this recipient of Federal financial assistance to discriminate on the following bases:

Against any individual in the United States, on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief; and

Against any beneficiary of programs financially assisted under Title I of the Workforce Innovation and Opportunity Act of 2014 (WIOA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIOA Title I-financially assisted program or activity.

The recipient must not discriminate in any of the following areas: Deciding who will be admitted, or have access, to any WIOA Title I-financially assisted program or activity; providing opportunities in, or treating any person with regard to, such a program or activity; or making employment decisions in the administration of, or in connection with, such a program or activity.

If you think that you have been subjected to discrimination under a WIOA Title I-financially assisted program or activity, you may file a complaint within one hundred eighty (180) days from the date of the alleged violation with either: the recipient's Equal Opportunity Officer (or person whom the recipient has designated for this purpose); or you may mail your complaint to the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210.

If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until ninety (90) days have passed (whichever is sooner), before filing with the Civil Rights Center (see address above).

If the recipient does not give you a written Notice of Final Action within ninety (90) days of the day on which you filed your complaint, you do not have to wait for the recipient to issue that Notice before filing a complaint with CRC. However, you must file your CRC complaint within thirty (30) days of the ninety- (90-) day deadline (in other words, within one hundred twenty (120) days after the day on which you filed your complaint with the recipient).

If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with CRC. You must file your CRC complaint within thirty (30) days of the date on which you received the Notice of Final Action.