

DOCUMENT B: GENERAL TERMS AND CONDITIONS

WORKFORCE MANAGEMENT

1. Independent Contractor: The Contractor is and shall be deemed to be an independent contractor in the performance of this contractual agreement and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or shall secure at its own expense, all personnel required in performing the services under this contractual agreement. Such employees shall not be employees of, or have individual contractor relationship with, the County.

2. Title VI, Civil Rights Compliance: In accordance with federal laws and policies, the County is prohibited from discriminating on the basis of age, color, disability, gender, national origin, political beliefs, race, religious beliefs, reprisal, or sexual preference.

3. Equal Employment Opportunity: The Contractor shall comply with all federal and state laws, rules, and regulations relating to equal employment opportunity.

4. Key Personnel: The Contractor shall not replace any of the key personnel assigned to the performance of this contractual agreement without the prior written notification to the County. The term "key personnel" includes any and all persons identified as such in the Documents and any other persons subsequently identified as key personnel by the written agreement of the Parties.

5. Subcontracting: The Contractor shall not subcontract (or outsource) any of the work contemplated under this contractual agreement without prior written consent from the County. No work may be subcontracted (or outsourced) by any persons or entities in a foreign country. Any approved subcontractor shall be subject to all conditions of this contractual agreement. Only the subcontractors specified in the Documents are to be considered approved upon award of the contractual agreement. The County shall not be obligated to pay for any work performed by any unapproved subcontractor. The Contractor shall be responsible for the performance of all of its subcontractors.

6. Assignment: No assignment of the Contractor's obligations or the Contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the County may either (i) forward the Contractor's payment(s) directly to any person or entity designated by the Contractor, or (ii) include any person or entity designated by Contractor as a joint payee on the Contractor's payment(s). In no event shall such approval and action obligate the County to anyone other than the Contractor and the Contractor shall remain responsible for fulfillment of its obligations under this contractual agreement.

7. Beneficiaries: Except as herein specifically provided otherwise, this contractual agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this contractual agreement, and all rights of action relating to such enforcement, shall be strictly enforced to the County and the named Contractor. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the County and Contractor that any such person or entity, other than the County or the Contractor, receiving services or benefits under this contractual agreement shall be deemed an incidental beneficiary only.

RECORDS AND CONFIDENTIALITY

8. Access to Persons and Records: The State Auditor shall have access to persons and records as a result of all contractual agreements or grants entered into by the County in accordance with General Statute 147-64.7. Additionally, other federal or state agencies that provide funding, such as the North Carolina Department of Health and Human Services which serves as primary funding agency for the County's Department of Social Services, shall have access to relevant persons and records as a result of all contractual agreements or grants entered into by the County.

9. Health Insurance Portability and Accountability Act (HIPAA): The Contractor agrees that, if the County determines that some or all of the activities within the scope of this contractual agreement are subject to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-91, as amended ("HIPAA"), or its implementing regulations, it will comply with the HIPAA requirements and will execute such agreements and practices as the County may require to ensure compliance.

10. Confidentiality: Any information, data, instruments, documents, studies, or reports given to or prepared or assembled by the Contractor under this contractual agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the County. The Contractor acknowledges that in receiving, storing, processing, or otherwise dealing with any confidential information it will safeguard and not further disclose the information except as otherwise provided in this contractual agreement. However, any printed materials submitted to County by the Contractor may be subject to laws concerning public records and could be shared without notification to Contractor. According to NCGS 132-1, public records are "all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions, including every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority, or other unit of government of the State or of any county, unit, special district, or other political subdivision of government." And, this is with the understanding that non-public records include "public enterprise customer billing information" (see NCGS 132-1.1(c)) and "business trade secrets" (see NCGS 132-1.2). Those non-public records should not be disclosed or considered public information.

11. Care of Property: The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished to it for use in connection with the performance of this contractual agreement and will reimburse the County for loss of, or damage to, such property. At the termination of this contractual agreement, the Contractor shall contact the County for instructions as to the disposition of such property and shall comply with these instructions.

12. Ownership of Data: County is and shall remain the sole owner of all data provided to Contractor pursuant to this contractual agreement. County reserves all rights, title, and interest (including all intellectual property and proprietary rights) in and to such data.

13. Access to Data: County retains the right to access and retrieve provided data that is stored on Contractor's infrastructure.

14. Data Disclosure to Third Parties: Contractor will not receive, transmit, or otherwise deliver any data provided by County outside of the continental United States, nor will Contractor transmit or otherwise

deliver any such data to any third party (except for County's employees) without County's prior written consent.

15. Data Storage: Contractor agrees to receive, store, and process all data provided by County only in the continental United States.

16. Safeguarding Data: Contractor warrants that upon request of County, it will submit its data processing facilities for an audit of the measures described herein.

17. Data Breaches: Contractor shall report, either orally or in writing, to County any use or disclosure of data provided by County not authorized by this contractual agreement or in writing by the County, including any reasonable belief that an unauthorized individual has accessed such data. Contractor will make report to County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been an unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the County's data used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any detrimental effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such documentation, including a written report, as reasonably requested by County.

18. Copyrights and Ownership of Deliverables: All deliverable items produced pursuant to this contractual agreement are the exclusive property of the County. The Contractor shall not assert a claim of copyright or other property interest in such deliverables. The Contractor may use such materials during the term of this contractual agreement, provided that the County has reviewed and approved use of said materials, for purposes of fulfilling its obligations under this contractual agreement.

19. Federal Intellectual Property Bankruptcy Protection Act: The Parties agree that the County shall be entitled to all rights and benefits of the Federal Intellectual Property Bankruptcy Protection Act, Public Law 100-506, codified as 11 U.S.C. 365(n) and any amendments thereto.

20. Record Retention: Records shall not be destroyed, purged, or disposed of without the express written consent of the County. State basic records retention policy requires all grant records to be retained for a minimum of five years or until all audit exceptions have been resolved, whichever is longer. If this contractual agreement is subject to federal policy and regulations, record retention may be longer than five years since records must be retained for a period of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this contractual agreement has been started before expiration of the five-year retention period described above, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular five-year period described above, whichever is later.

FINANCIAL

21. Availability of Funds: The Parties to this contractual agreement agree and understand that the payment of the sums specified in this contractual agreement is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the County.

22. Insurance: During the term of this contractual agreement, the Contractor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with this contractual agreement. As a minimum, the Contractor shall provide and maintain the following coverage and limits:

a. Workers' Compensation: The Contractor shall provide and maintain workers' compensation insurance as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$500,000.00, covering all of Contractor's employees who are engaged in any work under this contractual agreement.

b. Commercial General Liability: The Contractor shall provide general liability coverage with a combined single limit on a comprehensive broad form on an occurrence basis in the minimum amount of \$1,000,000.00. (Defense cost shall be in excess of the limit of liability.)

c. Automobile Liability: The Contractor shall provide automobile liability insurance with a combined single limit of \$500,000.00 for bodily injury and property damage; a limit of \$500,000.00 for uninsured/under insured motorist coverage; and a limit of \$25,000 for medical payment coverage. The Contractor shall provide that insurance for all automobiles that are (i) owned by the Contractor and used in the performance of this contractual agreement; (ii) hired by the Contractor and used in the performance of this contractual agreement; and (iii) owned by Contractor's employees and used in the performance of this contractual agreement ("non-owned vehicle insurance"). Non-owned vehicle insurance protects employers when employees use their personal vehicles for work purposes. Non-owned vehicle insurance supplements, but does not replace, the car-owner's liability insurance.

d. Flood Insurance: The Contractor shall comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

e. Insurance coverage minimums specified above are exclusive of defense costs.

f. The Contractor understands and agrees that the insurance coverage minimums specified above are not limits, or maximum caps, on the Contractor's liability or obligations under this contractual agreement.

g. Providing and maintaining the types and amounts of insurance or self-insurance specified above is a material obligation of the Contractor and is of the essence of this contractual agreement.

h. The Contractor may obtain a waiver of any one or more of the requirements specified above by demonstrating that it has insurance that provides protection that is equal to or greater than the coverage and limits specified above. The County shall be the sole judge of whether such a waiver should be granted.

i. The Contractor may obtain a waiver of any one or more of the requirements specified above by demonstrating that it is self-insured and that its self-insurance provides protection that is equal to or greater than the coverage and limits specified above. The County shall be the sole judge of whether such a waiver should be granted.

j. The Contractor shall only obtain insurance from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in the State of North Carolina. All such insurance shall meet the laws of the State of North Carolina.

k. The Contractor shall comply at all times with all lawful terms and conditions of its insurance policies and all lawful requirements of its insurer.

l. The Contractor shall require its subcontractors to comply with the requirements above.

m. The Contractor shall demonstrate its compliance with the requirements specified above by submitting certificates of insurance to the County before the Contractor begins work under this contractual agreement.

23. Travel Expenses: Reimbursement to the Contractor for travel mileage, meals, lodging, and other travel-related expenses incurred in the performance of this contractual agreement shall not exceed the rates established by County policy.

24. Sales/Use Tax Refunds: If eligible, the Contractor and all subcontractors shall (i) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this contractual agreement, pursuant to General Statute 105-164.14, (ii) exclude all refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports, and (iii) when providing a combination of services and goods in association with a project, to complete the Contractor's responsibility within the project, the Contractor shall maintain a list of purchases to share with the County such that the County may request a refund of sales and use taxes paid. In addition to the purchase date, this list maintained by the Contractor shall contain the following individual components: (1) name of the individual or business from whom goods are purchased, (2) the amount of State sales taxes, (3) the amount of County sales taxes, (4) name of County where goods were obtained (usually where the goods either were picked up or were delivered), and (5) total amount of purchase.

25. Certification Regarding Collection of Taxes: General Statute 143-59.1 bars the County from entering into contractual agreements with a Contractor that meets one of the conditions of General Statute 105-164.8(b) and yet refuses to collect use taxes on sales of tangible property to purchasers in North Carolina. The conditions include (i) maintenance of a retail establishment or office, (ii) presence of representatives in the State that solicit sales or transact business on behalf of the Contractor, and (iii) systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. The Contractor certifies that it and all of its affiliates (if any) collect all required taxes.

26. Indemnification: The Contractor hereby agrees to indemnify and hold harmless the County and any of their officers, agents, and employees, from any claims of third parties arising out of any act or omission of the Contractor in connection with the performance of this contractual agreement. The Parties agree to cooperate fully and to provide assistance to the other Party in the investigation and resolution of any complaints, claims, actions, or proceedings involving this contractual agreement.

IMPORTANT ACTIONS

27. Time of the Essence: Time is of the essence in the performance of this contractual agreement.

28. Date and Time Warranty: The Contractor warrants that the product(s) and service(s) furnished pursuant to this contractual agreement ("product" includes, without limitation, any piece of equipment, hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interfaces therein) that perform any date and/or time data recognition function, calculation, or sequencing will support a four digit year format and will provide accurate date/time data and leap year calculations. This warranty shall survive the termination or expiration of this contractual agreement.

29. Advertising: The Contractor shall not use the award of this contractual agreement as a part of any news release or commercial advertising.

30. Reporting Requirements: The Contractor shall comply with reporting and audit requirements as described in N.C.G.S. Chapter 143-6-22 & 23, federal OMB Circular Number A-133 "Audits of States, Local Governments, and Non-Profit Organizations", and other applicable rules and regulations. The

Contractor shall disclose all information required by either 42 USC 455.104, or 42 USC 455.105, or 42 USC 455.106.

LEGAL LIABILITY

31. Choice of Law: The validity of this contractual agreement and any of its terms and provisions, as well as the rights and duties of the Parties to this contractual agreement, are governed by the laws of North Carolina. The Contractor, by signing this contractual agreement, agrees and submits, solely for matters concerning this contractual agreement, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be the County in which this contractual agreement originated. The place of this contractual agreement and all transactions and agreements relating to it, and their situs and forum, shall be the County where this contractual agreement originated, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

32. Compliance with Laws: The Contractor shall comply with all laws, ordinances, codes, policies, executive orders, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

33. Deposition in Litigation: Contractor agrees to be deposed in litigation cases where data administration processes are required. Any costs incurred by Contractor in time or resources is the responsibility of the Contractor.

34. Limitation of Liability: Limits should be decided by a competent judge in a court in the State of North Carolina.

35. Severability: In the event that a court of competent jurisdiction holds that a provision or requirements of this contractual agreement violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this contractual agreement shall remain in full force and effect.

36. Dispute Resolution: The Parties shall have 30 days from receipt of written notification of action or decision by the other Party to appeal said action or decision regarding this contractual agreement. Appeals must be made in writing to the other Party's Point of Contact. Should resolution not be met between the Parties, a third-party mediator shall be mutually selected. If the mutually selected mediator does not recommend mutually agreed actions in response to the disputed actions and/or decision, legal action may be taken by the aggrieved Party.

37. Waiver of Default: Waiver by the County of any default or breach in compliance with the terms of this contractual agreement by the Contractor shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be modification of the terms of this contractual agreement unless stated to be such in writing, signed by an authorized representative of the County and the Contractor, and attached to this contractual agreement as an amendment.

38. Force Majeure: Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear

explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

OTHER CONCERNS

39. Survival of Promises: All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superceded by applicable federal or state statutes of limitation.

40. Amendment: This contractual agreement may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the County and the Contractor.

Evidence of signatures on 'Document Signatures' form confirms compliance with these terms.