



# Commonwealth of Kentucky

## CONTRACT

**IMPORTANT**

Show Doc ID number on all packages, invoices and correspondence.

Doc Description: 730 KCCVS JCPS REACH CORPS	
Doc ID No: PON2 730 1400003345 1	Procurement Folder:
Procurement Type: Grant	
Administered By: Jill Lancaster	Cited Authority: CFDA 94.006
Telephone: 502-564-7420	Issued By: Stacy Phillips

C O N T R A C T	TREAS JEFFERSON CO BD ED
	PO BOX 34020
	LOUISVILLE KY 40232
	US

Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
1	KCCVS-JCPS REACH CORPS Sept 14-Aug 15		0.00		0.00000	259,000.00	259,000.00

**Extended Description**

The JCPS REACH Corps program shall provide statutorily established AmeriCorps programs.  
 Second Party contact: Ben Langley ben.langley@jefferson.ky.us  
 Funding 100% Federal  
 CFDA: 94.006  
 Term of contract: 9/1/14 to 8/31/15

B I L L O	CHFS DFRCVS/FRYSC
	275 EAST MAIN ST 3C-G
	FRANKFORT KY 40621
	US

**Total Order Amount:** 259,000.00

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**Approvals:**

This Contract is subject to the terms and conditions as stated. By affixing their signatures below, the parties agree that electronic approvals may serve as electronic signatures. In addition, the parties verify that they are authorized to bind this agreement between parties and that they accept the terms of this agreement.

**1st Party:**

\_\_\_\_\_  
Signature Title

\_\_\_\_\_  
Printed name Date

**2nd Party:**

\_\_\_\_\_  
Signature Title

\_\_\_\_\_  
Printed name Date

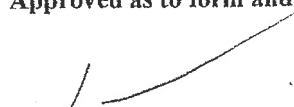
Include registration of a Data Universal Numbering System (DUNS) identifier number if the amount of Federal funds awarded to the Second Party is \$25,000 or more. (See Section 3.13)

**Other Party:**

\_\_\_\_\_  
Signature Title

\_\_\_\_\_  
Printed name Date

**Approved as to form and legality:**

  
\_\_\_\_\_  
Attorney

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**1st Party:**

\_\_\_\_\_  
Signature Title

\_\_\_\_\_  
Printed name Date

**2nd Party:**

\_\_\_\_\_  
Signature Title

\_\_\_\_\_  
Printed name Date

\_\_\_\_\_  
Include registration of a Data Universal Numbering System (DUNS) identifier number if the amount of Federal funds awarded to the Second Party is \$25,000 or more. (See Section 3.13)

**Other Party:**

\_\_\_\_\_  
Signature Title

\_\_\_\_\_  
Printed name Date

**Approved as to form and legality:**

\_\_\_\_\_  
Attorney

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**Memorandum of Agreement**  
*Between A State Agency and Other Governmental Body or Political Subdivision*

**Cabinet for Health and Family Services**  
**Department for Family Resource Centers and Volunteer Service**

**Kentucky Commission on Community Volunteerism and Service (KCCVS)**

**Jill Lancaster, Contract Specialist**  
**Department for Family Resource Centers and Volunteer Services**  
275 East Main Street, 3W-E  
Frankfort, KY 40601  
Telephone: (502) 564-7420 ext. 3845  
Fax: (502) 564-6108  
E-mail: [Jill.Lancaster@ky.gov](mailto:Jill.Lancaster@ky.gov)

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**Section 1—Administrative Overview**

**1.00—Purpose and Background**

The Kentucky Commission on Community Volunteerism and Service (KCCVS) is the State Agency federally mandated to fulfill the obligations and services under Federal Award Identification Number 13FXHKY001 and Catalog of Federal Domestic Assistance (CFDA) 94.006, from the Corporation for National & Community Service (CNCS). Kentucky has established the KCCVS to administer these programs.

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The Jefferson County Public School (JCPS) REACH Corps AmeriCorps program shall operate statutorily established AmeriCorps programs, in accordance with a federally approved plan(s) and budget and this agreement, to provide a local program as described in this agreement and its incorporated attachments. The Cabinet for Health and Family Services (Cabinet), through the KCCVS, will provide funding, training, support and technical assistance to the Jefferson County Public School (JCPS) REACH Corps AmeriCorps program.

**1.01—Issuing Office**

The Commonwealth of Kentucky, Cabinet for Health and Family Services, Department for Family Resource Centers and Volunteer Services, is issuing this Contract on behalf of the Kentucky Commission on Community Volunteerism and Service (KCCVS) contract. The Department for Family Resource Centers and Volunteer Services is the only office authorized to change, modify, amend, alter, or clarify the specifications, terms and conditions of this Contract.

**1.02—Communications**

The Contract Specialist named below is the point of contact for communications concerning contract issues.

**Jill Lancaster, Contract Specialist**  
**502 / 564-7420 ext. 3845**  
 Fax – 502 / 564-6108  
 E-mail – jill.lancaster@ky.gov

**1.03—Terminology**

For the purpose of this Contract, the following terms may be used interchangeably;

Proposer, Offeror, Contractor, Provider, Second Party, or Vendor  
 Contract Specialist, Buyer, Purchaser, or Contract Officer  
 Proposal, or Offer  
 Commonwealth of Kentucky, Commonwealth, State of Kentucky, or State  
 Fiscal Year will be defined as the Commonwealth fiscal year: July 1 through June 30  
 Biennium will be defined as the Commonwealth biennium: July 1 of each even numbered year through June 30 of the next even numbered year.

**1.04—Definitions**

(PER) Periodic Expense Report  
 (PR) Progress Report  
 (CNCS) Corporation for National and Community Service  
 (KCCVS) Kentucky Commission on Community Volunteerism and Service  
 (FFR) Federal Financial Report  
 (JCPS) Jefferson County Public Schools

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(FRYSC) Family Resource and Youth Services Center  
**(MSY) Member Service Year**

### 1.05—Organization

This contract is organized in the following manner:

Section 1—Administrative Overview / General information regarding the objectives of the Contract.

Section 2—Scope of Work / Description of tasks to be performed, contractor responsibilities, deliverables, performance criteria, technology standards, and system requirements.

Section 3—Terms and Conditions of the Contract / Terms and Conditions under which the Contractor shall perform this Contract.

Section 4—CHFS Standard Terms and Conditions of Memorandum of Agreements

### Exhibits— Procurement Requirements

**Exhibit A Required Affidavit For Bidders Or Offerors (Not applicable for public institutions for post-secondary education)**

### Section 2—Scope of Work

### 2.00—Services Required

A. Operate a local AmeriCorps program called REACH Corps, in accordance with all the requirements of Federal Award Identification Number 13FXHKY001, Catalog of Federal Domestic Assistance (CFDA) 94.006. In so doing the vendor shall:

1. Utilize AmeriCorps members to provide early interventions for at-risk elementary and middle school students who are showing signs of chronic absenteeism and are at risk of disengaging from school and eventually dropping out of school. Specifically, AmeriCorps members shall
  - a. Be placed five days a week in elementary and middle schools where they will provide one-on-one mentoring to students who were truant in the previous school year.
  - b. Serve as a liaison to students' parents, identify family needs and connect students and their families with school and community resources available to meet those needs
  - c. Serve on their assigned school's attendance committee.
  - d. Assist the FRYSC Coordinator with students who come into the FRYSC Center, and gather data for reports and updates.



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- e. Promote effective citizenship and serve as a role model for community service to all students in their assigned school by helping students organize school wide service projects that will benefit the community.
  - f. Will continue their outreach after school through a variety of services including joining their assigned students in afterschool activities or extended learning opportunities, meeting with teachers concerning student progress, and attending faculty meetings
  - g. Recruit volunteers to serve the school for a variety of needs.
2. Provide training on prohibited service activities in the pre-service training for members and their site supervisors. Each member and site supervisor shall sign a written statement acknowledging they have read and understand their duties and the activities in which they cannot participate. The Program Director shall also review member's monthly activity report and journal entries to further ensure compliance.
  3. Recruit members utilizing the services of the online recruitment system provided by the Corporation for National and Community Service (CNCS). JCPS shall work directly with school sites and building principals recruit members and make every effort to recruit members from the neighborhoods where the schools are located.
  4. Recruit members who are a minimum of 18 years of age, have a high school diploma or GED equivalent and have successfully completed an intensive interview process.
  5. Provide members with orientation and training before they report to their respective service sites. Members shall receive at least quarterly training in citizenship, housing skills, and volunteer recruitment and management.
  6. Issue the AmeriCorps service gear to all members, who shall then be required to identify themselves as an AmeriCorps member, at all times, to increase national identification and awareness.
  7. Provide all site supervisors with an intensive one-day training, prior to AmeriCorps recruitment and placement. All service site supervisors shall also attend regional orientation training prior to member placement. Topics at such training shall include: supervisor roles and responsibilities; reporting requirements; match and recording systems; prohibited activities (as defined by CNCS); and development of goals, objectives and a sustainability plan.
  8. Ensure the service site coordinator completes a written evaluation (detailing required number of hours, assignments, etc.) for each member at least twice a year.
  9. Ensure that the service site coordinators and the Program Director approve all member weekly attendance and monthly travel logs.

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10. Ensure that service sites assume the lead role in recruitment and selection of members; attend all mandatory trainings and conference calls; direct supervision of members; coordinate local in-service training opportunities; monitor the progress toward members goals and objectives; cooperate with the evaluation process by completing, distributing and collecting evaluation forms; and maintain accurate in-kind match records.
11. Ensure that service sites submit a report of any in-kind match each month. Service sites may provide supervision, office space, office supplies, technology, mileage and some program support as in-kind match. Other sources of match may include training and technical assistance to members and site supervisors and communication and resource exchange through email, and newsletters for members. Service sites shall provide in-kind support through other non-federal funding sources from the state and local level. In-kind contributions may be in the form of supervision, office space, office and program supplies, equipment, and mileage. Notwithstanding anything to the contrary herein, any such match shall comply with all provisions of the AmeriCorps Grant, the JCPS federally approved plan, and/or the policies and procedures of the CNCS in order to qualify as match.
12. Provide the required match as outlined in the federally approved grant application. Second Party shall be fully liable for federal refund of any match deficiencies identified in audit. The cost sharing or matching contributions shall meet all of the following criteria:
- a. Are verifiable from the Second Party's records;
  - b. Are not included as match contributions for any other Federal award;
  - c. Are necessary and reasonable for accomplishment of project or program objectives;
  - d. Are allowable under 2 CFR 200, Subpart E—Cost Principles, where applicable;
  - e. Are not paid by the Federal government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs and written authorization has been received from the other Federal program; and
  - f. Conform to other provisions of 2 CFR 200, as applicable.
13. Comply with the National Service Criminal History Check requirements. Under the Serve America Act (SAA), all grantees must conduct National Service Criminal History checks on participants and program employees in AmeriCorps, Learn and Serve, Foster Grandparent, Senior Companion and any other programs funded by CNCS under National Service laws. All employees, participants, and others who receive a salary, national service education award, living allowance, or stipend under CNCS grants, even if the activities don't involve service with vulnerable populations, must receive the checks prior to beginning employment or service. **A satisfactory criminal history check must be received prior to the issuance of payment for salary or living allowance within the program.** As governed by KRS 17.165, criminal record checks shall be completed every two years for each employee/member coming into contact with any CHFS client and/or school children. Additionally, a check of the child abuse or neglect central registry, as defined in 922 KAR 1:470, shall be completed for each employee/member coming into contact with any CHFS

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client. Any employee/member under indictment or legally charged with a violent or sex crime as outlined in the provisions of the Kentucky Penal Code, Title L of the Kentucky Revised Statutes, Chapters 506 through 532 shall be immediately removed from contact with CHFS clients and/or school children. Ensure that all employee/members and subcontractors have both the criminal record and central registry checks completed prior to enrollment / employment and prior to coming into contact with any CHFS client and/or school children. Records shall be maintained in the member's file.

14. Adhere to all the requirements of the federally approved grant application, the AmeriCorps Grant Provisions, and the Operation UNITE federally approved plan, including continuation plan and attachments and modifications. The Kentucky AmeriCorps State Program Director's Electronic Handbook and the AmeriCorps Grant Provisions are hereby incorporated by reference as if set forth fully herein and are available from the CHFS Department for Family Resource Centers and Volunteer Services.
15. Obtain written permission from the Cabinet prior to the reproduction and/or distribution of any videos and/or any materials developed under this agreement, as these are considered the property of the Cabinet.
16. Programs shall utilize the member file sheet provided by the KCCVS and ensure that, at a minimum, the applicable documentation of the required information that is pre-printed on the sheet is included in each member's file.
17. Ensure that member's service hours are awarded on an hour-for-hour basis only, based on detailed daily time log of service and in accordance with the following:
  - a. Service hours cannot be awarded on a bonus basis.
  - b. Members cannot receive hours for babysitting.
  - c. Service hours shall be traceable to a service objective or a member development objective.
  - d. Service hours for at-home activities must be those activities which produce a tangible product and be pre-approved by the Program Director. (For example: Reading and study performed at home is not an eligible activity. The production of lesson plans, book folders, etc. are allowable activities.)
18. Secure an audit in accordance with OMB (United States Office of Management and Budget) Circular A-133, if applicable, and provide a copy thereof, along with all related reports, to the Financial Officer at KCCVS. This audit, commonly known as a Single Audit, is an examination of an entity that expends \$500,000 or more of federal funds (including those that have passed through state or local government agencies) performed by independent certified public accountants.
19. Provide Health Insurance to eligible members.
20. The Second Party shall ensure that AmeriCorps members and Site Supervisors receive training/certification to recognize and refrain from participation in the following activities prohibited under Federal regulations:

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Prohibited Activities. While charging time to the AmeriCorps program, accumulating service or training hours, or otherwise performing activities supported by the AmeriCorps program or the Corporation, staff and members may not engage in the following activities (see 45 CFR § 2520.65):

- a. Attempting to influence legislation;
- b. Organizing or engaging in protests, petitions, boycotts, or strikes;
- c. Assisting, promoting, or deterring union organizing;
- d. Impairing existing contracts for services or collective bargaining agreements;
- e. Engaging in partisan political activities, or other activities designed to influence the outcome of an election to any public office;
- f. Participating in, or endorsing, events or activities that are likely to include advocacy for or against political parties, political platforms, political candidates, proposed legislation, or elected officials;
- g. Engaging in religious instruction, conducting worship services, providing instruction as part of a program that includes mandatory religious instruction or worship, constructing or operating facilities devoted to religious instruction or worship, maintaining facilities primarily or inherently devoted to religious instruction or worship, or engaging in any form of religious proselytization;
- h. Providing a direct benefit to—
  - i. A business organized for profit;
  - ii. A labor union;
  - iii. A partisan political organization;
  - iv. A nonprofit organization that fails to comply with the restrictions contained in section 501(c)(3) of the Internal Revenue Code of 1986 except that nothing in this section shall be construed to prevent participants from engaging in advocacy activities undertaken at their own initiative; and
  - v. An organization engaged in the religious activities described in paragraph (g) of this section, unless Corporation assistance is not used to support those religious activities;
- i. Conducting a voter registration drive or using Corporation funds to conduct a voter registration drive;
- j. Providing abortion services or referrals for receipt of such services; and
- k. Such other activities as the Corporation may prohibit.

AmeriCorps members may not engage in the above activities directly or indirectly by recruiting, training, or managing others for the primary purpose of engaging in one of the activities listed above. Individuals may exercise their rights as private citizens and may participate in the activities listed above on their initiative, on non-AmeriCorps time, and using non-Corporation funds. Individuals should not wear the AmeriCorps logo while doing so.

## 2.01—Goals and Objectives

1. Ensure that the program is established and self-sufficient.
2. Ensure that the program provides early intervention for at-risk elementary and middle school students

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who are showing signs of chronic absenteeism. Members will also provide assistance to Jefferson County families who are facing multiple economic, educational, and health challenges that can impact children's ability to be successful in school.

3. Ensure recruitment of up to 20 equivalent Member Service Years (MSY's) in accordance with the Grant Application.

**2.02—Reporting Requirements**

Second Party shall:

1. Submit quarterly feedback reports including continuous improvement issues to the Department for Family Resource Centers and Volunteer Services. Quarterly reports shall be due by the 15th day of the month following the end of the reporting quarter. All such reports shall be submitted in writing and on a form approved by KCCVS.
2. Use the KCCVS reporting systems to report service activities performed under this agreement. Second Party shall be required to meet any compliance activities associated with the federally-based eGrant system.
3. Be required to submit quarterly Progress Reports (PR), utilizing a KCCVS reporting system, showing progress toward meeting their approved performance measures. These reports track the status of outcome achievement. The quarterly performance measures are submitted as part of the original grant proposal and must be approved by the CNCS and the KCCVS. The reports are due October 15th, January 15th, April 15th, and July 15th. Reports are reviewed by the Program Officer of KCCVS with appropriate feedback given. If needed upon review, the Program Officer may require a Plan of Action to be submitted to explain why a measure is not being met and how achievement of such will be accomplished. Failure to comply with the aforementioned requirements may result in delayed payment of funds.

KCCVS may at any time request copies of any and all supporting documentation of all payment requests made in association with this contract, for any given month or months. This includes member time and attendance sheets and payroll records. Additionally, the second party shall be prepared to supply any and all monthly general ledger printouts upon request, along with any explanation and/or clarification of the accounting codes. The contractor shall also provide electronic copies in Excel format of any such request.

**2.03—Payment and Invoicing Requirements**

Payment by the Cabinet to the Second Party shall be conditioned upon receipt of appropriate, accurate, and acceptable invoices and satisfactory completion of member service hours. Payments must be submitted by using the "Payment Request Form" to be provided by KCCVS. This form should be filled out properly and submitted to KCCVS when requesting any and all payments associated with this contract.

Initial Payment Advance: An initial advancement of funds may be provided up to 20% of the total contract amount. Any such advance payment shall only be issued by KCCVS in accordance with instructions issued by CNCS upon final approval of this contract. Second Party shall be required to

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submit an invoice for the initial advance using the "Payment Request Form" to be provided by KCCVS. This payment represents an advance against services to be delivered under the contract and is intended to provide the project with necessary working capital, as allowed by CNCS.

Interim Payment Schedule: During the contract period, five (5) interim payments may be made to the Second Party by KCCVS upon receipt of invoices submitted to KCCVS on or about November 15, January 15, March 15, May 15, and July 15 with a final invoice upon completion of the program year. The invoices shall be submitted on the "Payment Request Form" provided by KCCVS and shall include member statistics. The interim payment shall be in the amount of \$1,690.00 per active member. KCCVS may, at its discretion, reduce or suspend interim payments at any time during the contract year if Second Party fails to achieve sufficient member service hours.

Total Contract Payments: For each authorized member that satisfactorily completes the MSY (1,700 hours as outlined by CNCS and the individual service agreement), Second Party shall have received a total of \$12,950.00, through interim payments plus any final payments. For members who exit the program prior to satisfactory completion of their service agreement, Second Party may receive a pro-rated payment based upon service hours completed, in accordance with instructions received from CNCS. Second party may be reimbursed for service hours completed by members who exit the program and are subsequently replaced by a new member, subject to the limit of one MSY covering both the original and replacement member. Service hours are not payable on an hourly basis and must meet all requirements outlined in guidelines issued by CNCS to be considered toward fulfillment of the MSY. Final payment for each member shall be prorated based upon the percentage of the MSY completed at the conclusion of the AmeriCorps program year. Hours of service occurring after proper enrollment as evidenced by a signed member service agreement ("Member Contract") for any member will be considered toward fulfillment of their MSY.

#### **2.04—CHFS/Agency Responsibilities**

KCCVS may:

- A. Monitor fiscal activities and programmatic issues by on-site contractor visits. On-site visits to a program site may also be done.

KCCVS may:

- A. Provide invoice forms and instructions to complete the contract requirements.
- B. Ensure that all policy decisions, changes, interpretations, and reinterpretations affecting this contract are distributed promptly to the program established.

#### **2.05— Performance and Evaluation**

In accordance with the Grant Application and the electronic State Program Director's Handbook, Second Party shall provide support needed to ensure that AmeriCorps members achieve the following outcomes:

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- A. Members will provide mentoring to 200 elementary and 200 middle school students who have truancy issues by engaging in activities related to improving the attendance of their assigned students.
- B. A minimum of 232 students who are matched and mentored by AmeriCorps members will show improved school attendance when compared to the student's previous year's school attendance.
- C. A minimum of 300 of the 400 student/mentor matches will be sustained through the end of the school year.
- D. **Recruit a total of 320 volunteers in a variety of settings including business meetings, senior citizen groups, neighborhood meetings, area festivals, school events, and PTA meetings.**

**Section 3—Terms and Conditions of the Contract**

**3.00—Beginning of Work**

The Contract is not effective and binding until approved by the Office of Policy and Budget and the Secretary of the Finance and Administration Cabinet and filed with the Legislative Research Commission's Government Contract Review Committee. The Contractor shall not commence any billable work until a valid Contract has been fully executed. The Contract shall represent the entire agreement between the parties. Prior negotiations, representations, or agreements, either written or oral, between the parties hereto relating to the subject matter hereof shall be of no effect upon this Contract.

**3.01—Contract Components and Order of Precedence**

The Commonwealth's acceptance of the Contractor's offer indicated by the issuance of a Contract Award by the Department for Family Resource Centers and Volunteer Services and approved by the Office of Policy and Budget, the Finance and Administration Cabinet and filed with the Government Contract Review Committee shall create a valid Contract between the Parties consisting of the following:

1. Any written Agreement between the Parties;
2. The Finance and Administration Cabinet Manual of Policies and Procedures contained in 200 KAR 5:021 and the Office of Material and Procurement Services' General Conditions And Instructions For Solicitations And Contracts contained in FAP110-10-00.

In the event of any conflict between or among the provisions contained in the Contract, the order of precedence shall be as enumerated above.

**3.02—Term of Contract**

The initial Term of the Contract shall be for a period from September 1, 2014 to August 31, 2015.

The Terms and Conditions of this Contract may be extended or amended according to the provisions of KRS Chapter 45A.

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### 3.03—Changes and Modifications to the Contract

Pursuant to KRS 45A.210(1) and 200 KAR 5:311, no modification or change of any provision in the Contract shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by the Contractor and the Commonwealth, and incorporated as a written amendment to the Department for Family Resource Centers and Volunteer Services of the Cabinet for Health and Family Services prior to the effective date of such modification or change pursuant to KRS 45A.210(1) and 200 KAR 5:311. Memorandum of Understanding, written clarification, and/or correspondence shall not be construed as amendments to the Contract.

If the Contractor finds at any time that existing conditions made modification of the Contract necessary, it shall promptly report such matters to the Contract Specialist for consideration, and Cabinet management approval.

### 3.04—Changes in Scope

The Commonwealth may, at any time by written order, make changes within the general scope of the Contract. No changes in scope are to be conducted except at the approval of the Commonwealth through the process described in **Section 3.03—Changes and Modifications to the Contract**.

### 3.05—Cancellation

The Cabinet shall have the right to terminate and cancel this agreement at any time upon thirty (30) days written notice served on the contractor by registered or certified mail outlining the reasons for the cancellation. The Second Party has the same such right to terminate said agreement, upon thirty (30) days written notice served on the Cabinet by registered mail or certified mail outlining the reasons for the cancellation.

### 3.06—Contract Conformance

If the Contract Specialist determines that deliverables due under the Contract are not in conformance with the terms and conditions of the Contract and the mutually agreed-upon project plan, the Contract Specialist may request the Contractor to deliver assurances in the form of additional Contractor resources and to demonstrate that other major schedules will not be affected. The Commonwealth shall determine the quantity and quality of such additional resources and failure to comply may constitute default by the Contractor.

### 3.07—Notices

Unless otherwise instructed, all notices, consents, and other communications required and/or permitted by the Contract shall be in writing.

After the Award of Contract, all programmatic communications are to be made to the Agency Contact Person listed below with a copy to the Contract Specialist as defined in Section 1.02.

Joe Bringardner, KCCVS Executive Director  
Department for Family Resource Centers and Volunteer Services



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Cabinet for Health and Family Services  
275 East Main Street, 3W-E  
Frankfort, Kentucky 40621-0001  
Email: [joe.bringardner@ky.gov](mailto:joe.bringardner@ky.gov)

With copy to:

Jill Lancaster, Contract Specialist  
Department for Family Resource Centers and Volunteer Services  
Cabinet for Health and Family Services  
275 East Main Street, 3W-E  
Frankfort, Kentucky 40621-0001  
Email: [jill.lancaster@ky.gov](mailto:jill.lancaster@ky.gov)

After the Award of Contract, all communications of a contractual or legal nature are to be made to the Contract Specialist.

After the Award of Contract, all communications to the contractor are to be made to the following individual.

Ben Langley, Program Director  
Jefferson Co. Public Schools  
502-485-3926  
[Ben.langley@jefferson.kyschools.us](mailto:Ben.langley@jefferson.kyschools.us)

**3.08—Payment**

The fees and expenses relative to the performance of the services outlined in the Contract shall not exceed the amount as approved in the Contract. The services are to be performed during the term of the Contract as specified in Section 3.02. The Contract is not effective and binding until approved by the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission's Government Contract Review Committee.

The Commonwealth will make payment within thirty (30) working days of receipt of the Contractor's invoice or of acceptance of goods and/or services in accordance with KRS 45.453, KRS 45.454 and KRS 44.010. Invoices for payment shall be submitted to the KCCVS Fiscal Officer or Department Contract Specialist or his/her representative.

Payments are predicated upon successful completion and acceptance of the described work, services, supplies, or commodities, and delivery of the required documentation. Payments on Memorandum of Agreements shall not be authorized for services rendered if the Legislative Research Commission's Government Contract Review Committee has disapproved the contract, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet.

**3.09—Expenses**

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The contractor shall only be reimbursed for those expenses that are expressly detailed in the Contract.

Invoicing for fee: The contractor's fee shall be documented on an original invoice(s) detailing the work performed and the time frame in which it was performed.

Invoicing for travel expenses: If travel expenses are allowed under the contract, they will be submitted pursuant to Section 4.22 Travel and Hourly Rate.

Invoicing for miscellaneous expenses: Allowable expenses shall be documented on an original invoice or certified copy.

### **3.10—Social Security**

The Second Party and all other parties so contracted for services under the scope of service of this Contract agree that they are cognizant that CHFS is not liable for Social Security contributions pursuant to 42 U.S Code, Section 418, relative to the compensation of the Second Party during the effective dates of this Contract.

### **3.11—Advertising Award**

The Contractor shall not refer to the Award of Contract in commercial advertising in such a manner as to state or imply that the firm or its services are endorsed or preferred by the Commonwealth of Kentucky.

### **3.12—No Required Use of Contract**

This contract does not guarantee any minimum use of services. The Cabinet reserves the right to leave all, or any portion, of the contract unused and/or to establish other contracts for additional and/or related services.

### **3.13—Federal Funding Accountability and Transparency Act Compliance**

For agreements that include Federal funds, the Second Party shall comply with the Federal Funding Accountability and Transparency Act (FFATA or Transparency Act - P.L.109-282, as amended by section 6202(a) of P.L. 110-252), including registration of a Data Universal Numbering System (DUNS) identifier number if the amount of Federal funds awarded to the Second Party is \$25,000 or more. Details on how to register and acquire a DUNS number are available at <http://fedgov.dnb.com/webform>, and are free for all entities required to register for grant awards under these provisions. The Second Party must disclose to CHFS the names of the top five executives and total compensation to each, if:

More than 80% of the Second Party's annual gross revenues originate from the federal government (directly or indirectly through the state), and those revenues are greater than \$25,000,000 annually, and Compensation information is not already available to the public (such as, through reporting to the SEC).

## **Section 4—CHFS Standard Terms and Conditions for Memorandum of Agreements**

### **4.00—The Contract**

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CHFS and the Second Party agree to the terms and conditions as set forth in this Contract and as set forth in all Attachments incorporated herein by reference. This Contract and the Attachments incorporated herein by reference comprise a full and complete expression of the rights and obligations of the Parties as to the subject matter hereof and they shall supersede any and all other agreements, written or oral, heretofore made by the Parties.

**4.01—Attachment(s)**

The Attachment(s) as referenced in this Contract is/are incorporated into this Contract and is/are binding on all Parties. If an Attachment(s) is/are in conflict with this Contract and its contract clause(s), this Contract and its contract clauses shall prevail.

**4.02—Effective Date of Contract and Earliest Date of Payment**

The Second Party agrees to perform the services and functions specified during the term of this Contract. It is understood that this Contract is not effective and binding until approved by the Office of Policy and Budget and the Secretary of the Finance and Administration Cabinet and filed with the Government Contract Review Committee in accordance with KRS Chapter 45A.690-.725. CHFS shall provide timely notice to the Second Party of disapproval of this Contract or any amendment thereto under KRS Chapter 45A.690-.725.

**4.03—Extension Periods and Amendments to Contract**

The terms and conditions of this Contract may be extended or amended according to the provisions of KRS Chapter 45A.690-.725, and are subject to the approval of the Office of Policy and Budget and the Secretary of the Finance and Administration Cabinet and filed with the Government Contract Review Committee. The Second Party may request an amendment by submitting a written request to the Cabinet for Health and Family Services, Department for Family Resource Centers and Volunteer Services, 275 East Main Street 3C-G, Frankfort, KY 40601. Amendments are not in effect until written approval is received from CHFS. The Second Party shall not request an amendment for the last sixty (60) days of the Contract period.

**4.04—Funding**

This Contract is expressly conditioned on the availability of state and federal appropriated funds. CHFS shall fund the delivery of services and supports, and activities under the terms and conditions of this Contract to the extent that the funding allocations specified are made available to CHFS. The Second Party shall have no right of action against CHFS in the event that CHFS is unable to perform its obligations under this Contract as a result of the suspension, termination, withdrawal, or failure of funding to CHFS or lack of sufficient funding to CHFS for any activities or functions contained within the scope of this Contract.

Other provisions of this Contract notwithstanding, the Second Party agrees that if funds are not appropriated or are not otherwise made available to CHFS for the purpose of making payments hereunder, then CHFS shall be authorized to make payment to the extent possible and/or terminate this Contract in accordance with Section 4.40 Provisions for Termination without obligation for the payment of any cancellation or termination charges and without any other obligation or liability hereunder.

**4.05—Assignment**

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This Contract shall be binding upon and inure to the benefit of the respective legal successors of the Parties. However, neither this Contract nor any rights or obligations hereunder may be assigned, in whole or in part, without the prior written consent of CHFS, Office of Policy and Budget and the Division of Accounting Services.

#### **4.06—Bankruptcy**

In the event the Contractor becomes the subject debtor in a case pending under the Federal Bankruptcy Code, the Commonwealth's right to terminate this Contract may be subject to the rights of a trustee in bankruptcy to assume or assign this Contract. The trustee shall not have the right to assume or assign this Contract unless the trustee:

1. promptly cures all defaults under this Contract;
2. promptly compensates the Commonwealth for the monetary damages incurred as a result of such default, and
3. provides adequate assurance of future performance, as determined by the Commonwealth.

#### **4.07—Contractor Cooperation in Related Efforts**

The Commonwealth of Kentucky may undertake or award other contracts for additional or related work, services, supplies, or commodities, and the Contractor shall fully cooperate with such other contractors and Commonwealth employees. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Commonwealth employees.

#### **4.08—Notice**

Unless otherwise provided, all notices, consents, and other communications required and/or permitted by this Contract shall be in writing as specified in **Section 3.07** and shall be deemed given to a Party when:

Delivered to the appropriate address by hand, United States Postal Service, or by a nationally recognized overnight courier service (costs prepaid);

Sent by facsimile with confirmation of transmission by the transmitting equipment; or

Received or rejected by the addressee, if sent by certified mail, return receipt requested, in each case to the following addresses and facsimile numbers and marked to the attention of the person by title designated below (or to such other address, facsimile number, or person) as a Party may designate by notice to the other Party:

If personally delivered, such notice shall be effective upon delivery and if mailed as provided for above, such notice shall be deemed effective three (3) calendar days after it is placed in the mail.

#### **4.09—Headings**

The section headings in this Contract are for reference and convenience only and shall not have any effect on the construction or legal effect of this Contract.

#### **4.10—Severability**

It is understood and agreed by the Parties that if any part, term, or provision of this Contract is held by the courts to be illegal or in conflict with any law of the Commonwealth of Kentucky or of the United States of America, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular

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part, term, or provision held to be invalid, if the remainder of the Contract is capable of performance.

**4.11—Indemnification**

The Second Party shall indemnify and hold harmless CHFS and its agents, representatives, officers, directors, employees, insurers, successors, and assigns from and against any and all expenses, costs (including attorneys' fees), causes of action, liability, loss and/or damages suffered or incurred by it or any of them, that results from or arises of (a) this Contract; (b) any and all acts of the Second Party and or its Subcontractor(s); (c) the policies and procedures of the Second Party, specifically including all Second Party employment practices employed by Second Party during the term of this or any prior Agreement with CHFS; (d) any dishonest, fraudulent, criminal, or negligent or unauthorized acts or errors or omissions which are committed by Second Party or any of Second Party's employees or agents or Subcontractors; (e) the publication translation, reproduction, delivery, performance, use or disposition of any data produced by CHFS in an unauthorized manner, provided that such action was not taken by Second Party or as a result of the express written request of CHFS; or (f) Second Party's failure to comply with any applicable state or federal laws or regulations.

Provided, however, in the event the Second Party is a state agency or subcontracts for services with a state agency subject to the jurisdiction of the Board of Claims pursuant to KRS 44.070 through KRS 44.160, the state agency's tort liability shall be limited to an award from the Board of Claims up to the jurisdictional amount.

**4.12—Sovereign Immunity**

The Parties expressly agree that no provision of this Contract is in any way intended to constitute a waiver by CHFS or the Commonwealth of Kentucky of any immunities from suit or from liability that CHFS or the Commonwealth of Kentucky may have by operation of law.

**4.13—Force Majeure**

Neither Party shall be liable for public utility performance (e.g., Postal service, telephone or water company) or for the consequence of public utility non-performance. Events or conditions beyond the reasonable control of the Parties, such as natural disasters, fires, floods, elements, transportation crashes, or utility failures shall not be construed as non-performance, nor shall reductions be applied as a result of such events, provided that CHFS shall have the right to obtain the necessary services elsewhere in the event of such non-performance by the Second Party and the Parties shall negotiate in good faith any appropriate offset to the compensation payable under this Contract. The Second Party shall cooperate and shall require that any Subcontractor cooperate with CHFS in such event. The existence of such causes of delay or failure will extend the period of performance in the exercise of reasonable diligence until after the causes of delay or failure have been removed. Each Party must inform the other in writing with proof of receipt within five (5) business days of the existence of a Force Majeure event or otherwise waive this right as a defense.

**4.14—Obligation of Good Faith**

Each party shall be obligated to act in good faith in the performance and enforcement of its obligations herein, and shall deal fairly, honestly and reasonably with the other party, having due regard for all relevant facts and circumstances.

**4.15—Code of Ethics**

The Second Party and all professional personnel who may provide services under this contract or any subcontract with the Second Party shall be familiar with and abide by any and all code of ethics or

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conduct that has been established by a national or regional association and is generally recognized as being applicable. Failure of the Second Party to abide by the applicable code of ethics shall result in the immediate termination of the contract.

**4.16—Influence on Purchasing and Other Business Transactions**

The Second Party shall not attempt, in any manner, to influence any business transactions to be unlawful in any way or respect, nor attempt in any way to influence specifications for or purchasing of services, commodities, or equipment by the Commonwealth of Kentucky.

**4.17—Notices and Pamphlets**

All notices, employment, advertisements, information pamphlets, research reports, and similar public notices prepared and released by the Second Party, pursuant to this Contract, shall include a statement identifying the appropriate source of funds, for the project or service, including but not limited to, identifying whether the funding is in whole or in part from federal, CHFS, or other state funds.

**4.18—Service Delivery Requirements**

All services provided by the Second Party under the terms and conditions of this Contract shall be delivered in accordance with:

- All applicable federal and state statutes and regulations as they are currently in effect;
- All commitments and assurances as set forth in all CHFS grant awards with respect to goals, strategies, funding, and outcomes made by the Commonwealth as required by and contained in grant applications to federal agencies, foundations, and other agencies providing grant funding and in the resulting award notices from those agencies; and
- All final federally-funded grant award terms and conditions, including federal reporting and expenditure requirements, for any federally-funded proposed project developed jointly by the Second Party and CHFS and submitted to a federal agency.

**4.19—Roles and Responsibilities for Proposed and Existing Staff**

The roles and responsibilities and the written qualifying criteria for all personnel to be employed under the scope of work for all projects funded under this Contract, including any proposed employees under subcontract to the Second Party, shall be in compliance with state and federal laws governing the distribution of funds and the performance of activities as set forth in the project(s) in this Contract. The Second Party shall maintain and make available, upon written request, documentation of all personnel policies and procedures that govern the recruitment, hiring and performance evaluation for all personnel funded under this Contract. All employees hired by the Second Party or its subcontractors and funded under the terms and conditions of this Contract, shall have position descriptions which set out the required qualifications, skills and knowledge required to complete the scope of work as set out under this Contract.

**4.20—Terms and Conditions of Contract Payments**

The Second Party shall not begin work on this contract until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the contract and until the contract has been filed with the Government Contract Review Committee, except as otherwise exempt. [KRS 45A.695 (1)]

CHFS shall make payment to the Second Party only after the Secretary of the Finance and Administration

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Cabinet or his designee and the Government Contract Review Committee approve the contract except as otherwise exempt. Once approved, CHFS shall make payment to the Second Party within thirty (30) business days of receipt of accurate, acceptable and timely invoices, as specified in the Contract, submitted by the Second Party under the terms and conditions of the Contract. Payment is contingent upon Second Party's continued satisfactory performance throughout the duration of contract, as determined by CHFS. The invoice shall contain at a minimum the following information:

- Description of the service performed;
- Itemized statement of costs for a cost reimbursement contract;
- Dates and hours, if applicable, of the services provided; and
- Other information as required in this Contract.

Payment on Memorandum of Agreements shall not be authorized for services rendered after the Government Contract Review Committee's disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary of the Finance and Administration Cabinet. [Statement required by KRS 45A.695(7)]

CHFS shall reimburse the Second Party for services rendered only. If, for any reason, the Second Party is unable to render services, CHFS shall not be liable for payment to the Second Party for the time period in which the Second Party does not provide the services for which CHFS contracted.

CHFS shall reimburse the Second Party for benefits accrued during the contract period only in accordance with the approved budget and shall not be liable for benefits accrued prior to the beginning of or after the end of the contract period. All invoices for benefits, including sick, compensation, and annual leave time must be submitted prior to the contract expiration date to be considered appropriate, acceptable, and timely.

Payment is subject to the availability and allocation of local agency or governmental funds, or state or federal funds necessary to finance the performance of the services described in this Contract. CHFS retains the right to withhold payment if the Second Party does not comply with CHFS programmatic and fiscal reporting and monitoring requirements.

Pursuant to KRS 45A.725, LRC has established policies which govern rates payable for certain professional services. These are located on the LRC webpage (<http://www.lrc.ky.gov/Statcomm/Contracts/homepage.htm>) and would impact any contract established under KRS 45A.690 et seq., where applicable.

**4.21—Total Amount of Funds and Budget Revisions**

The Second Party shall not be reimbursed for any expenses other than those expressly prescribed in this Contract and other Attachments incorporated herein by reference. CHFS shall have the right to recoup the amount of any overpayment, regardless of the reason for the overpayment. Any reconciliation or settlement of fund balances contained in the Summary Line Item Section of this Contract shall be negotiated between CHFS and the Second Party and determined as soon as feasible before the end of the scope of work as set forth under the Contract.

The Second Party shall not request a budget revision within the last sixty (60) days of the contract period.

**4.22—Travel and Travel Hourly Rate**

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The Second Party shall not be paid for travel expense unless and except as specifically authorized under the specifications of this Contract. Unless otherwise indicated, travel reimbursement for activities under the terms and conditions of this Contract shall be in accordance with the Legislative Research Commission Government Contract Review Committee Travel Policy #98-1 and 200 KAR 2:006, notwithstanding Section 2(1). It is the intent of the Cabinet that the contractor's employees and the subcontractor's employees are reimbursed for travel expenses at rates not to exceed the travel reimbursement rates authorized for state employees. No travel time or travel expenses shall be included in the hourly rates of the Second Party's employees, or any subcontractor's employees to the Second Party, under this Contract.

**4.23—Subcontractors**

Unless otherwise provided for in this contract, the Contractor shall make no subcontract with any other party for furnishing any of the work or services herein contracted without written consent of the Cabinet. This provision shall not require the approval of contracts of employment between the Contractor and personnel assigned for services thereunder. The Contractor shall be solely responsible for performance of the entire Contract whether or not subcontractors are used.

All references to the Contractor shall be construed to encompass both the Contractor and any subcontractors of the Contractor.

**4.24—Responsibility for Subcontractor Contract Requirements**

The Second Party shall have a Contract with any subcontractor that the Second Party contracts with to meet the statement of work, method of payment, and deliverables of this Contract that specifies the responsibilities of the parties and the cost. In addition, the Second Party's Contract with the subcontractor shall specify that all requirements of this Contract are applicable and binding on the subcontractor. Any plan to subcontract any of the provisions of this Contract must be set forth in the Second Party's proposal for the delivery of products or services and included in the body of the contract in the subcontractor's section. The subcontractor must make available to the Second Party and to CHFS, if requested, copies of personnel records and documentation of employees' compliance with the terms and conditions of this Contract.

No obligation or right of Second Party under this Contract shall be subcontracted to another, without prior written approval, of CHFS after CHFS has had the opportunity to review all contract documents setting forth the terms and conditions for the subcontract. Second Party, upon the cabinet's request, shall submit the subcontract for approval to: Cabinet for Health and Family Services, Department for Family Resource Centers and Volunteer Services, 275 East Main Street 3C-G, Frankfort, KY 40601.

**4.25—Subcontractor Monitoring Requirements**

The Second Party shall monitor subcontractors for programmatic and fiscal compliance with the terms and conditions of this Contract and those specific provisions set out under the Second Party's contract with the subcontractor. The Second Party agrees to utilize restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, Federal and State laws regulations, and terms and conditions of the federal grant award in contracting with subcontractors.



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Second Party further understands and agrees, and shall ensure that any Subcontractor understands and agrees, that CHFS and any of its duly authorized agents or representatives shall have access to any books, documents, papers, records, or any other materials which are pertinent to this contract or Subcontract, for the purposes of making monitoring, auditing, examination, excerpts, and transcriptions.

**4.26—Cost Principles, Requirements and Limitations**

The Second Party shall conform to the cost principles as set forth in 200 KAR 5:317; 45 C.F.R Parts 74, 92, 96; 48 C.F.R. Part 31 and Contract Cost Principles and Procedures, Office of Management and Budget Circular A-122, *Cost Principles for Non-Profit Organizations* (as revised), Circular A- 21, *Cost Principles for Educational Institutions* (as revised) and/or OMB Circular A-110, *Uniform Administrative Requirements for Grants and Contracts with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations* unless excluded by Federal laws or regulations, as applicable.

**4.27—Requirements and Limitations on Indirect or Administrative Cost Requirements**

When applicable, pursuant to OMB A-122 or OMB A-21, the Second Party shall maintain a written indirect cost allocation plan of direct and/or indirect costs if, in instances where the Second Party operates more than one (1) project, service, program, or activity. This provision is applicable to contracts that are of a cost reimbursement type.

The cost allocation plan shall be consistently and uniformly applied except where it is determined in writing by the CHFS Secretary or his or her designee to be in the best interest of CHFS to do otherwise.

In the event the Second Party has an indirect cost allocation rate and/or plan in operation that has been accepted and approved by the Second Party's cognizant federal agency, CHFS shall recognize the cost allocation plan for purposes of recording and reporting reimbursable costs to the extent that such costs are allowable and within the administrative and/or indirect cost limitation as set forth in the approved budget for each funding source of this Contract. Two (2) copies of the approved indirect cost allocation rate and/or plan shall be furnished to the agency contact identified in **Section 3.07**.

**4.28—Financial Record Retention**

The Second Party agrees to maintain all records pertaining to this contract for a period of not less than three (3) years after all matters pertaining to this contract (e.g., audit, settlement of audit exceptions, disputes) are resolved in accordance with applicable federal and/or state laws, regulations, and policies (except as may otherwise be specified in this contract).

**4.29—Access to Records, Books, and Documents**

The contractor, certifies that it is in compliance with the provisions of KRS 45A.695. "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The contractor, as defined in KRS 45A.030(9) agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1)(c). The contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.

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#### 4.30—Audit Requirements

In the event that the contract is funded, in whole or part, by federal funds and the Second Party is a non-federal entity, the Second Party shall have a single audit conducted in accordance with Government Auditing Standards (GAS), Generally Accepted Auditing Standards (GAAS), and OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations* issued by the Comptroller General of the United States and the Office of Management and Budget as amended. See current requirements at <http://www.whitehouse.gov/omb/circulars/index.html>.

The audit report's accompanying financial statements shall be issued in accordance with Generally Accepted Accounting Principles (GAAP) and reflect its financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year audited.

The audit shall cover each fiscal year period, and a copy of the Second Party's audit report(s), federal schedule of expenditures, supplemental information by cost center and/or program and audit findings with corrective action plan shall be submitted to the agency contact identified in **Section 3.07**, no later than six (6) months after the fiscal year end.

Should the audit report refer to a separate management letter of findings, the Second Party shall include a copy of the management letter with the audit report and comments and/or a corrective action plan. All material findings shall be reported in the audit section of audit findings and shall include the management's response and/or corrective action as required by OMB Circular A-133.

The audit report shall include a schedule of expenditures of federal awards as stipulated by OMB Circular A-133 requirements and contain the following:

The Catalog of Federal Domestic Assistance (CFDA) number;  
CFDA title/description; and  
Pass-through entity's name and contract number.

The audit report shall include supplemental information of all federal grant and/or award expenditures by cost centers and/or programs identifying all administrative and indirect cost for each state fiscal year. The Second Party shall include in the supplemental information a list of their subrecipients of federal monies received through this Contract and provide the following:

Subrecipients name;  
CFDA number, title/description;  
Subrecipient's contract number; and  
Subrecipient's expenditures.

A copy of the engagement letter shall be submitted to the agency contact identified in **Section 3.07** no later than three (3) months prior to the Second Party's fiscal year end, unless the Cabinet grants an extension in writing. If the Auditor of Public Accounts (APA) is to perform the audit, the name of the APA auditor and the anticipated start date shall be submitted to the agency contact identified in **Section 3.07** no later than three (3) months prior to fiscal year end, unless that office or its designee grants an extension in writing.

#### 4.31—Response/Compliance with Audit Findings

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The Second Party shall take action to ensure its or a subcontractor's compliance with or correction of any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle relating to the services and deliverables or any other deficiency contained in any audit, review, or inspection conducted under this section. This action will include Second Party's delivery to CHFS, for CHFS approval, a Corrective Action Plan that addresses deficiencies identified in any audit(s), review(s), or inspection(s) within thirty (30) calendar days of the close of the audit(s), review(s), or inspection(s).

The Second Party shall bear the expense of compliance with any finding of noncompliance under this Section that is:

Required by a Kentucky or Federal law, regulation, rule or other audit requirement relating to Second Party's business;

Performed by Second Party as part of this Contract; or

Necessary due to Second Party's noncompliance with any law, regulation, rule, or audit requirement imposed on Second Party.

#### **4.32—Equipment and Furniture**

The Second Party shall not purchase equipment or furniture with contract funds unless and except as specifically authorized under the scope of work and specifications of this Contract.

#### **4.33—Property of CHFS**

Property purchased by CHFS for the purposes of fulfilling the requirements of this Contract, and which may include, but not be limited to, furniture, computer software, computer hardware, office equipment, and supplies are considered the property of CHFS with any single item purchase of \$500.00 or more, as well as single item purchases of \$5000.00 or more (capital expenditures), requiring prior approval by the Cabinet. Any Capital Expenditures of \$5,000 or more with Federal Dollars must also have the Federal Agency Prior Approval before the Federal government will allow the costs in accordance with 2 CFR Part 225 Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87). All computer and information technology equipment purchases, regardless of cost, require prior approval from the Office of Technology Services and must comply with state technology standards. All required prior approvals shall be obtained by e-mailing the Contract Specialist referenced in Section 3.07 of this contract. This property will remain as such, unless otherwise set forth in this Contract or other controlling documents incorporated herein by reference.

#### **4.34—Property Control Ledger/Logs**

The Second Party shall maintain a property control ledger/log that lists all property and/or furniture provided (whether leased or purchased) by CHFS with funds from this contract. As items are procured, a copy of the information that follows must be provided immediately to the CHFS Agency Property Officer such that a bar-coded Asset Tag can be assigned for all items with a cost of \$500 or more. The second party shall immediately affix the tag provided to the corresponding property.

- a) CHFS Property Tag Number;
- b) Equipment serial number;
- c) Full Description of the item including make, model, color, etc.;
- d) Unit invoice to include all cost (i.e upgrades to the item such as additional computer memory

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- purchased);
- e) Date of purchase and/or lease;
- f) Location where the equipment and furniture are located, include full address and state building number when applicable; and
- g) Name of individual responsible for the equipment.

Once tagged and upon receipt of the following information for all items purchased, the Cabinet's first party will secure insurance coverage for the item. If the second party fails to report the required information, loss of the item will be at their expense.

If there is a change to the information above during the course of this contract, a CHFS 117 is required to be submitted to the CHFS Agency Property Officer.

#### **4.35—Requirement of Inventory**

##### **1. Inventory Tracking**

The Second Party shall conduct a complete, physical inventory of all equipment and/or furniture provided by CHFS and/or purchased with funds from this contract and provide such to the CHFS Agency Property Officer by February 1<sup>st</sup> of each year unless otherwise stated herein. Said findings shall include the information in section 4.34 as well as acknowledgement that the item was located or missing, and where applicable the steps taken to locate the item and/or report such to the police. If an item is/has been transferred to another location or there is a custodian change, a CHFS-117 form is to be immediately completed and routed to the Cabinet's Agency Property Officer, but no later than February 1<sup>st</sup>, or as otherwise stated, with the corresponding inventory.

##### **2. Loss/Destruction**

The Second Party shall immediately notify the CHFS, Department for Family Resource Centers and Volunteer Services, 275 East Main Street 3W-E, Frankfort, KY 40601 immediately if an item purchased by CHFS is damaged, missing, or stolen. In compliance with KRS 45.313, the Second Party shall forward in writing to CHFS the item description and corresponding property tag number with a written explanation of how the item was damaged, missing, and a police report if the item was stolen. The Department for Family Resource Centers and Volunteer Services will immediately notify the Agency Property Officer and the DFM, such that the proper steps can be taken to document/claim this loss to support replacement of the item if possible.

##### **3. Surplus**

All state owned property and supplies no longer needed, may be declared surplus and disposed of upon prior approval from the Cabinet. The CHFS, Office of Information Technology staff are responsible for sanitizing all computer equipment prior to disposal. Upon identification of items to be surplus or returned, the Second Party shall complete a B-217 and mail it to the CHFS Agency Property Officer with a copy to the Department for Family Resource Centers and Volunteer Services, 275 East Main Street 3C-G, Frankfort, KY 40601 within thirty (30) calendar days when any of the following occurs:

- a) The equipment or furniture is no longer needed by the Second party and is available for

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- surplus;
- b) The contract is terminated; or
- c) The contract period ends and will not be renewed.

Upon receipt of the B-217, the Agency's property officer shall review the fixed asset information and advise if the disposal method requested is approved. If the item(s) were purchased by federal funds, any funds received from the sale of the equipment having an acquisition cost of \$5,000 or more, must be credited against the appropriate federal grant.

As soon as possible, but no later than five (5) business days of terminating this contract for any reason, the Second Party shall deliver to CHFS a complete and current inventory, including the information referenced in Section 4.34, of any and all of the Cabinet's equipment and furniture in its possession, custody, or control. Within thirty (30) business days of the contract expiration/termination date, the Second Party shall return or make available any equipment and/or furniture.

If needed, both the CHFS 117 and 217 forms can be obtained by contacting your Contract Specialist listed in Section 3.07.

**4.36—Maintenance of Insurance**

During the term of this Contract, the Second Party shall maintain and shall require any Subcontractor to maintain their directors and officers liability insurance, workers' compensation insurance, employer liability insurance, and such other liability insurance as reasonably necessary in the Second Party's business judgment to provide adequate coverage against losses and liabilities attributable to the respective acts or omissions of the Second Party and the Subcontractor(s) in the performance of this Contract. The Second Party shall provide or cause to be provided and shall require any Subcontractor to provide or cause to be provided evidence of such coverage upon request.

To the extent that the Second Party and any Subcontractor is not self-insured, each shall, in any event, name CHFS as an additional insured on any policy of coverage, with the exception of the workers compensation and any reinsurance. The Second Party and any Subcontractor shall notify CHFS of the evidence of insurance coverage within thirty (30) business days of coverage. Notice shall be sent in writing to the Cabinet for Health and Family Services, Department for Family Resource Centers and Volunteer Services, 275 East Main Street 3W-E, Frankfort, KY 40601.

CHFS shall not be responsible for any premiums or assessments on the policy or policies held by the Second Party or any Subcontractor under this Contract. CHFS may, at its sole option, pay one or more premiums, if it decides that to do so would be in the best interest of the Cabinet. Should CHFS exercise this option, it shall be fully reimbursed by the Second Party, either by Second Party directly or by an offset against future payments.

The Certificate of Insurance for any policy other than self-insurance or any reinsurance must require that the insurer shall not cancel the coverage without thirty (30) days prior written notice to CHFS.

Second Party shall notify CHFS within thirty (30) business days of any cancellation or interruption of Second Party or Subcontractor's insurance coverage. CHFS shall require in any subcontracts that the Subcontractor provide such notice within thirty (30) business days the Second Party and CHFS. Second Party shall assure and require that any Subcontractor assure that insurance is in effect at all times during

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the life of this Contract. If their respective insurance coverage expires at any time during the term of this Contract, the Second Party and any Subcontractor shall provide at least thirty (30) calendar days prior to the expiration date, to the extent possible, a new Certificate of Insurance evidencing coverage as provided herein for not less than the remainder of the term of this Contract.

**4.37—Research Project Approval and Institutional Review Board Requirements**

Any proposed research project undertaken pursuant to the terms and conditions of this agreement that involves human subjects shall be approved by the Cabinet for Health and Family Services Institution Review Board (CHFS IRB) prior to involving any human subjects or their records, in accordance with 920.KAR 1:060.

**4.38—Scientific Misconduct**

The Second Party shall set out a procedure for the inquiry, investigation, appeal, and disposition of complaints alleging misconduct in activities involving any and all research projects funded, in whole or in part, with federal funds included in this Contract, and as authorized under the Public Health Services research grants. Such policies and procedures shall be in accordance with the provisions of 42 CFR 50.101 to 50.104 and 900 KAR 1:080 as amended, and shall be made available, upon request, to the Cabinet for Health and Family Services. The Second Party shall immediately report to CHFS any activity reported to the Second Party under these terms and conditions. Notice shall be sent in writing to the Cabinet for Health and Family Services, Department for Family Resource Centers and Volunteer Services, 275 East Main Street 3W-E, Frankfort, KY 40601.

**4.39—Intellectual Property**

The Second Party agrees that any formulae, methodology, other reports and compilations of data provided by CHFS to the Second Party for the purposes of meeting the terms and conditions of this Contract shall be the exclusive property of the Cabinet, unless the specific ownership of any proposed or developed formulae, methodology or data compilation analyses is otherwise identified in any Attachment(s). The Second Party further agrees that any formulae, methodology, other reports and compilations of data prepared or produced by the Second Party during the course of work pursuant to this Contract shall be made available to CHFS for the Cabinet’s use upon request and without charge. Any use of these material, formulae, methodology, other reports, and compilations of data other than for the purposes of meeting the terms and conditions of this Contract must be reviewed and approved in advance by CHFS.

If any of these materials are included in any publication, training materials or presentations, or for any other type of release of this material other than for the purposes of meeting the terms and conditions of this Contract, appropriate credit for the funding source must be given. This provision shall be included in any subcontract, including contracting for staff, issued by the Second Party under this Contract.

Any proposed project under the scope of work for any of the Projects set forth under the Summary Line Item Section in this Contract shall include specific documentation and justification for titles of ownership as:

Patents;

Trademarks as proposed or registered with the U. S. Patent and Trademark Office; or

Copyrights proposed or certified with the Library of Congress, U.S. Copyright Office.

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**4.40—Provisions for Termination**

The Contract shall be subject to the termination provisions set forth in 200 KAR 5:312.

This Contract may be terminated:

If the Second Party is in default of its contractual obligations, after the Commonwealth has provided the Second Party written notice of the identified deficiencies and a specified time to cure;

For convenience of the Commonwealth by providing the Second Party thirty (30) calendar days written notice of termination;

Immediately for cause; or

Upon less than thirty (30) calendar days notice to the Second Party, upon written determination of the Secretary of the Finance and Administration Cabinet, or his designee, for convenience of the Commonwealth.

All termination notices shall be sent certified mail, return receipt requested and in accordance with 200 KAR 5:312.

**4.41—Turnover Assistance**

Upon receipt of notice of termination of the Contract from CHFS, the Second Party shall provide any turnover assistance reasonably necessary to enable CHFS or its designee to effectively close out the Contract and move the work to another vendor or to perform the work by itself. If the turnover assistance required by CHFS necessitates additional costs to be incurred by the Contractor not covered by the agreement, CHFS will reimburse such costs as allowable by funding.

**4.42—Remedies for Breach**

It is agreed by the Parties that in the event of breach of contract by the Second Party, CHFS may pursue any remedy available to it pursuant to this Contract, or to the provisions of KRS Chapter 45A, or any remedy that is available to it by law. The remedies available to CHFS may be invoked without regard to the existence of any other available remedy, and may include the enforcement of any holdback provision or payment of any specified liquidated damages by the Second Party to CHFS for noncompliance as provided for in this Contract.

**4.43—Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion, Lower Tier Covered Transactions**

The Second Party certifies the following by signing this Contract:

That neither it nor its principals and/or subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency;

Where the prospective recipient of federal assistance funds is unable to certify to any of the statements in this certification, such prospective participant shall submit an explanation in writing to CHFS; and

That should Second Party or its principals, and/or its subcontractors become debarred suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency, it shall immediately by telephone and within five (5) business days in writing notify CHFS of same.

**4.44—Licensure, Certification, and Registration**

The Second Party shall:

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Ensure that each employee under contract or in its employ obtains and maintains all appropriate licenses, registrations, and/or certifications (at all times) necessary to the extent such are required for performance under this Contract;

Ensure that it has readily accessible copies of licenses, registration and/or certifications necessary for each employee under contract or in its employ; and

Produce copies of any employee's license, registration and/or certification at the request of CHFS or the Cabinet's designee.

#### **4.45—Permits, Licenses, Taxes and Commonwealth Registration**

The Contractor shall procure all necessary permits and licenses and abide by all applicable laws, regulations, and ordinances of all Federal, State, and local governments in which work under this Contract is performed.

The Contractor shall maintain certification of authority to conduct business in the Commonwealth of Kentucky during the term of this Contract. Such registration is obtained from the Secretary of State, who will also provide the certification thereof. Additional local registration or license may be required.

The Contractor shall pay any sales, use, and personal property taxes arising out of this Contract and the transaction contemplated hereby. Any other taxes levied upon this Contract, the transaction, or the equipment or services delivered pursuant hereto shall be borne by the Contractor.

#### **4.46—Conflict of Interest Laws and Principles**

The Second Party certifies that the Second Party is legally entitled to enter into this Contract with the Commonwealth of Kentucky, and by holding and performing this Contract will not be violating either any conflict of interest statute, KRS 45A.330-45A.340, 45A.990, KRS 164.390, or KRS 11A.040 of the Executive Branch Code of Ethics, relating to the employment of former public servants.

#### **4.47—Campaign Finance (See Exhibit A)**

The Second Party certifies that neither he/she nor any member of his/her immediate family having an interest of ten percent (10%) or more in any business entity involved in the performance of this Contract, has contributed more than the amount specified in KRS 121.056 (2), to the campaign of the gubernatorial candidate elected at the election last preceding the date of this Contract. The Second Party further swears under the penalty of perjury, as provided by KRS 523.020, that neither he/she nor the company which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth, and that the award of a contract to him/her or the company which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.

#### **4.48—Legal Proceedings**

Except as specifically disclosed in writing to CHFS by the Second Party, prior to the date of this Contract, Second Party certifies there are no suits, investigations, or other proceedings pending or threatened against Second Party or any subcontractor which would have a material effect on Second Party's ability to perform under this Contract, or on Subcontractors ability to perform under their respective subcontracts, if applicable. Further, the Second Party shall use its best efforts to notify CHFS within one (1) business day, and in writing within three (3) business days, of all suits, investigations, or other proceedings involving Second Party related to this Contract. The Second Party shall send written notice to the Cabinet for Health



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and Family Services, Department for Family Resource Centers and Volunteer Services, 275 East Main Street 3W-E, Frankfort, KY 40601.

**4.49—Certification of Lobbying Activities (See Exhibit A)**

Second Party shall disclose any lobbying activities in accordance with Section 1352, Title 31, U. S. Code. The Second Party certifies, to the best of his or her knowledge and belief, 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.

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.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. 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.

**4.50—Discrimination Prohibited (Because of Race, Religion, Color, National Origin, Sex, Age, or Disability)**

During the performance of this contract, the Second Party shall:

Not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex or age. The Second Party further agrees to comply with the provisions of the Americans with Disabilities ACT (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Second Party agrees to provide needed reasonable accommodations upon request. The Second Party shall take affirmative action to ensure that applicants are employed and that employees are treated fairly during employment without regard to their race, religion, color, national origin, sex, age or disability. 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 Second Party agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

In all solicitations or advertisements for employees placed by or on behalf of the Second Party, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, age or disability.

Send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Second Party's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Second Party will take

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such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Comply with all provisions of Executive Order No. 11246 of September 24, 1965, Equal Employment Opportunity as amended by E.O. 11375, "Amending Executive Order 12246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

Comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and all implementing regulations and executive orders. No person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in relation to activities carried out under this contract on the basis of race, color, age, religion, sex, disability or national origin.

If a recipient of Federal Financial assistance, shall comply with Executive Order 13166, Federal Register Volume 65. No.50121, including but not limited to, language providing services to improve access to its programs and activities for persons, who, as a result of their national origin, are limited in their English proficiency ("LEP"). The language services shall:

Be consistent with the general guidance document (LEP Guidance) issued by the Department of Justice which sets forth the compliance standards recipients of Federal financial assistance must follow to ensure that LEP persons have meaningful access to the program's services and activities;

Have a method of identifying LEP individuals; and

Provide language assistance measures (e.g. oral interpretation and written translation services; training of staff; providing notice to LEP persons; monitoring compliance and updating the plan.)

In the event of the Second Party's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Second Party may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

The Second Party shall include the provisions of paragraphs (1) through (7) of Section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each sub-contractor or vendor. The Second Party shall take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event a Second Party becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the Second Party may request the United States to enter into such litigation to protect the interests of the United States.

#### **4.51—Minority Recruitment, Hiring and Reporting Requirements**

The Second Party shall maintain and provide documentation, as needed, of its minority recruiting and hiring policies and procedures, and make available, upon request, a report of these activities.

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#### **4.52—Violation of Tax and Employment Laws**

KRS 45A.485 requires the Second Party to reveal to the Commonwealth, prior to the award of a contract, any final determination of a violation by the Second Party within the previous five (5) year period of the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342. These statutes relate to the state sales and use tax, corporate and utility tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers' compensation insurance laws.

To comply with the provisions of KRS 45A.485, the Second Party shall report any such final determination(s) of violation(s) to the Commonwealth by providing the following information regarding the final determination(s): the KRS violated, the date of the final determination, and the state agency which issued the final determination. KRS 45A.485 also provides that, for the duration of any contract, the Second Party shall be in continuous compliance with the provisions of those statutes which apply to the Second Party's operations, and that the Second Party's failure to comply with the above statutes for the duration of the contract, shall be grounds for the Commonwealth's cancellation of the contract and the Second Party's disqualification from eligibility for future state contracts for a period of two (2) years.

The Second Party shall not have violated any of the provisions of the above-referenced statutes within the previous five (5) year period.

#### **4.53—Certification Regarding Drug Free Workplace**

The Second Party hereby certifies that it will, or will continue to, provide a drug free workplace in accordance with 45 CFR part 82. The Second Party shall at a minimum:

Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited from the Second Party's workplace and specifying actions that will be taken against employees for violation of such prohibition;

Establish an ongoing drug free awareness program to inform employees about:

The dangers of drug abuse in the workplace;

The Second Party's policy of maintaining a drug free workplace;

Available drug counseling, rehabilitation and employee assistance programs; and

The penalties that may be imposed upon employees for drug abuse violation.

#### **4.54—Confidential Information**

The Contractor shall comply with the provisions of the Privacy Act of 1974 and instruct its employees to use the same degree of care as it uses with its own data to keep confidential information concerning client data, the business of the Commonwealth, its financial affairs, its relations with its citizens and its employees, as well as any other information which may be specifically classified as confidential by the Commonwealth in writing to the Contractor. The Contractor will comply with all Federal and State Regulations and Statutes related to confidentiality that are applicable to the Contractor. The Contractor shall have an appropriate agreement with its employees to that effect, provided however, that the foregoing will not apply to:

- Information which the Commonwealth has released in writing from being maintained in confidence;
- Information which at the time of disclosure is in the public domain by having been printed and published and available to the public in libraries or other public places where such data is usually collected; or
- Information, which, after disclosure, becomes part of the public domain as defined above, through no act

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of the Contractor or information required to be disclosed by law.

The Contractor shall have an appropriate agreement with its Subcontractors extending these confidentiality requirements to all Subcontractors' employees.

**4.55—Confidentiality, Confidentiality Agreements and Limitations on Information and Data Use**

The Second Party agrees that it and any employee or agent acting on its behalf in providing services under this Contract will abide by the state and federal rules and regulations governing access to and use of information and data provided by CHFS or collected by the Second Party and will use such information or data only for those purposes expressly delineated, defined and authorized in this Contract. In the performance of services under this Contract, the Second Party agrees as follows:

The Second Party shall cause all personnel who may have access to confidential information provided by CHFS to enter into CHFS approved confidentiality agreements and shall maintain such confidentiality agreements on file. CHFS reserves the right to direct the removal from contract administration, or the termination of access to CHFS provided information, for any individual covered by this Contract who has not signed a confidentiality agreement.

Any subcontractor, their agent, and any of their employees who enter into any type of agreement to fulfill the requirements of this contractual agreement with the Second Party, must provide written assurances that they and any of their agents will abide by the terms of confidentiality as set forth in this Contract, as well as any federal or state confidentiality agreements which may govern the terms and conditions in this Contract.

Any dissemination of information about projects funded and the scope of work described in the terms and conditions of this Contract, must be fully documented and reviewed by the Cabinet's project manager before any representation, electronic or otherwise, of projects, their funding sources, use of data, or data analyses may be posted to a web page or otherwise published.

The Second Party shall permit unrestricted access on demand to personnel of the Cabinet, the Office of the Attorney General, the Office of the Auditor of Public Accounts, and any representative of a government funding agency authorized to review records for audit or investigation purposes to its current policies and procedures for ensuring compliance with these confidentiality requirements, the confidentiality agreements with its personnel, and subcontractor confidentiality assurances.

**4.56—HIPAA Confidentiality Compliance**

The Second Party agrees to abide by the "HIPAA Privacy Rule," 45 CFR Parts 160 and 164, established under the Health Insurance Portability and Accountability Act, Public Law 104-191 (42 USC 1320d) to protect the security, confidentiality, and integrity of health information. In the event, the Second Party is determined to be a business associate under HIPAA Privacy Rule, the Second Party agrees to execute a separate Business Associate Agreement, and use and disclose Protected Health Information only in accordance with HIPAA Privacy Rule.

**4.57—Governing Law and Regulations**

All questions as to the execution, validity, interpretation and performance of this Contract shall be governed by the laws of the Commonwealth. Furthermore, the parties hereto agree that any legal action which is brought on the basis of this Contract shall be filed in the Franklin County Circuit Court of the Commonwealth of Kentucky.

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**4.58—Reduction in Contract Worker Hours**

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts. If under such authority the agency is required by Executive Order, Administrative Regulation, or otherwise to reduce contract hours, the contract will be reduced by the amount specified in that document.

**4.59—No Grant of Employment or Agency**

Nothing in this Contract shall be construed, in any way, as granting to any individual providing services under the Contract any of the claims, privileges, or rights established or recognized under KRS Chapter 18A or KAR Title 101.

At no point shall any individual providing services under this Contract be considered an employee of CHFS, for any purpose, including but not limited to unemployment, taxes, withholding, health insurance, liability, retirement, workers' compensation, vacation, sick or other leave, the Family Medical Leave Act, accrued benefits, evaluations, or any other purpose. At all times, any such individual shall be considered and deemed to be an employee of the Second Party.

In no event shall any employee of the Second Party be deemed to be a third-party beneficiary of this Contract or an agent or an employee of the Commonwealth.

T&C rev. 07.02.2013

**SECRETARY'S ORDER 11-004**

**FINANCE AND ADMINISTRATION CABINET**

**Vendor Document Disclosure**

**WHEREAS**, in order to promote accountability and transparency in governmental operations, the Finance and Administration Cabinet believes that a mechanism should be created which would provide for review and assistance to an Executive Branch agency if said agency cannot obtain access to documents that it deems necessary to conduct a review of the records of a private vendor that holds a

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contract to provide goods and/or services to the Commonwealth; and

**WHEREAS**, in order to promote accountability and transparency in governmental operations, the Finance and Administration Cabinet believes that a mechanism should be created which would provide for review and assistance to an Executive Branch agency if said agency cannot obtain access to documents that it deems necessary during the course of an audit, investigation or any other inquiry by an Executive Branch agency that involves the review of documents; and

**WHEREAS**, KRS 42.014 and KRS 12.270 authorizes the Secretary of the Finance and Administration Cabinet to establish the internal organization and assignment of functions which are not established by statute relating to the Finance and Administration Cabinet; further, KRS Chapter 45A.050 and 45A.230 authorizes the Secretary of the Finance and Administration Cabinet to procure, manage and control all supplies and services that are procured by the Commonwealth and to intervene in controversies among vendors and state agencies; and

**NOW, THEREFORE**, pursuant to the authority vested in me by KRS 42.014, KRS 12.270, KRS 45A.050, and 45A.230, I, Lori H. Flanery, Secretary of the Finance and Administration Cabinet, do hereby order and direct the following:

- I. Upon the request of an Executive Branch agency, the Finance and Administration Cabinet ("FAC") shall formally review any dispute arising where the agency has requested documents from a private vendor that holds a state contract and the vendor has refused access to said documents under a claim that said documents are not directly pertinent or relevant to the agency's inquiry upon which the document request was predicated.
- II. Upon the request of an Executive Branch agency, the FAC shall formally review any situation where the agency has requested documents that the agency deems necessary to conduct audits, investigations or any other formal inquiry where a dispute has arisen as to what documents are necessary to conclude the inquiry.
- III. Upon receipt of a request by a state agency pursuant to Sections I & II, the FAC shall consider the request from the Executive Branch agency and the position of the vendor or party opposing the disclosure of the documents, applying any and all relevant law to the facts and circumstances of the matter in controversy. After FAC's review is complete, FAC shall issue a Determination which sets out FAC's position as to what documents and/or records, if any, should be disclosed to the requesting agency. The Determination shall be issued within 30 days of receipt of the request from the agency. This time period may be extended for good cause.
- IV. If the Determination concludes that documents are being wrongfully withheld by the

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private vendor or other party opposing the disclosure from the state agency, the private vendor shall immediately comply with the FAC's Determination. Should the private vendor or other party refuse to comply with FAC's Determination, then the FAC, in concert with the requesting agency, shall effectuate any and all options that it possesses to obtain the documents in question, including, but not limited to, jointly initiating an action in the appropriate court for relief.

- V. Any provisions of any prior Order that conflicts with the provisions of this Order shall be deemed null and void.

EXHIBIT A

Solicitation/Contract #: \_\_\_\_\_

**REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS**

PAGE 1 OF 2 (Not applicable for public institutions for post-secondary education)

**FOR BIDS AND CONTRACTS IN GENERAL:**

- I. Each bidder or offeror swears and affirms under penalty of perjury, that:
  - a. In accordance with KRS 45A.110 and KRS 45A.115, neither the bidder or offeror as defined in KRS 45A.070(6), nor the entity which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth of Kentucky; and the award of a contract to the bidder or offeror or the entity which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.
  - b. The bidder or offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and all subcontractors therein, are aware of the requirements and penalties outlined in KRS 45A.485; have properly disclosed all information required by this statute; and will continue to comply with such requirements for the duration of any contract awarded.
  - c. The bidder or offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and its affiliates, are duly registered with the Kentucky Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139, and will remain registered for the duration of any contract awarded.
  - d. The bidder or offeror swears and affirms under penalty of perjury that the entity bidding is not delinquent on any state taxes or fees owed to the Commonwealth of Kentucky and will remain in good standing for the duration of any contract awarded.

**FOR "NON-BID" CONTRACTS (I.E. SOLE-SOURCE; NOT-PRACTICAL OR FEASIBLE TO BID; OR EMERGENCY CONTRACTS, ETC):**

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- I. Each contractor further swears and affirms under penalty of perjury, that:
- a. In accordance with KRS 121.056, and if this is a non-bid contract, neither the contractor, nor any member of his/her immediate family having an interest of 10% or more in any business entity involved in the performance of any contract awarded, have contributed more than the amount specified in KRS 121.150 to the campaign of the gubernatorial slate elected in the election last preceding the date of contract award.
  - b. In accordance with KRS 121.330(1) and (2), and if this is a non-bid contract, neither the contractor, nor officers or employees of the contractor or any entity affiliated with the contractor, nor the spouses of officers or employees of the contractor or any entity affiliated with the contractor, have knowingly contributed more than \$5,000 in aggregate to the campaign of a candidate elected in the election last preceding the date of contract award that has jurisdiction over this contract award.

Solicitation/Contract #: \_\_\_\_\_

**REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS**  
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- c. In accordance with KRS 121.330(3) and (4), and if this is a non-bid contract, to the best of his/her knowledge, neither the contractor, nor any member of his/her immediate family, his/her employer, or his/her employees, or any entity affiliated with any of these entities or individuals, have directly solicited contributions in excess of \$30,000 in the aggregate for the campaign of a candidate elected in the election last preceding the date of contract award that has jurisdiction over this contract.

As a duly authorized representative for the bidder, offeror, or contractor, I have fully informed myself regarding the accuracy of all statements made in this affidavit, and acknowledge that the Commonwealth is reasonably relying upon these statements, in making a decision for contract award and any failure to accurately disclose such information may result in contract termination, repayment of funds and other available remedies under law.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Company Name  
Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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Subscribed and sworn to before me by

\_\_\_\_\_ (Affiant)

\_\_\_\_\_ (Title)

of \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.  
(Company Name)

\_\_\_\_\_  
Notary Public

[seal of notary]

My commission expires: \_\_\_\_\_