



Commonwealth of Kentucky

CONTRACT

DOC ID NUMBER:

PON2 540 2200002914

Version: 1

Record Date:

Document Description: FY 23 Engineering Program Instructor at Estill Co ATC

Cited Authority: FAP111-44-00
Memorandum of Agreement

Reason for Modification:

Issuer Contact:Name: April Vermillion
Phone: 502-564-3472
E-mail: april.vermillion@education.ky.gov**Vendor Name:**

ESTILL COUNTY BOARD OF EDUCATION

PO BOX 930

253 MAIN ST
IRVINE

KY 40336

Vendor No.

KY0000034

Vendor ContactName: ANGELA D HOWELL
Phone: 606-723-2181
Email: ANGIE.HOWELL@ESTILL.KYSCHOOLS.US

Effective From: 2022-07-01

Effective To: 2023-06-30

Line Item	Delivery Date	Quantity	Unit	Description	Unit Price	Contract Amount	Total Price
1		0.00000		FY 23 Engineering Program Instructor at Estill Co ATC	\$0.000000	\$41,750.00	\$41,750.00

Extended Description:

Effective date: July 1, 2022 Expiration date: June 30, 2023

SCOPE OF SERVICES: This is to provide reimbursement for an Engineering Program instructor at the Estill County Area Technology Center (ECATC).

Method of Payment:

Payment will be made two times per year: December 15, 2022 and June 15, 2023 upon submission of invoice and the OCTEST MOA Reimbursement Form.

This contract authorizes funding for the contract period based upon the availability of funds

Shipping Information:	Billing Information:
KDE - Division of Financial Managment 300 Sower Blvd, 5th Floor, CSW Frankfort KY 40601	KDE - Division of Financial Managment 300 Sower Blvd, 5th Floor, CSW Frankfort KY 40601

TOTAL CONTRACT AMOUNT:**\$41,750.00**



	Document Description	Page 3
2200002914	FY 23 Engineering Program Instructor at Estill Co ATC	

Memorandum of Agreement Terms and Conditions
Revised December 2019

This Memorandum of Agreement (MOA) is entered into, by and between the Commonwealth of Kentucky, KENTUCKY DEPARTMENT OF EDUCATION (“the Commonwealth”) and Estill County Public Schools (ECPS)) (“the Contractor”). The initial MOA is effective from July 1, 2022 through June 30, 2023.

Scope of Services:

This is to provide reimbursement for an Engineering Program teacher at the Estill County Area Technology Center (ECATC).

Goals/Deliverables:

This MOA is a financial agreement between the Kentucky Department of Education (KDE) and Estill County Public Schools (ECPS). The term of this MOA will, by ratification, be effective as of July 1, 2022.

Upon initial employment, KDE and ECPS, through their superintendent or appropriate designee, shall agree on ECPS employee or employee contracted through the ECPS district to teach within the Estill County engineering program. The selected employee or contract employee shall meet all certification requirements necessary to teach within the Engineering program. Furthermore, ECPS will provide appropriately certified substitute teachers in the event the ECPS employees or contract employees are absent.

ECPS shall pay the salary or contracted amount of the ECPS employees or contract employees placed in the role of Engineering teacher(s) at the Estill County Area Technology Center.

KDE agrees to reimburse ECPS for the salary of the employees or contracted employees up to \$41,750.00.

In the event either party to this Agreement determines the employee(s) or contract employee(s) is not effectively performing his or her duties and responsibilities, either party may cancel the contract with 30 days written notice. In the event of the resignation, dismissal, or reassignment of the employee(s) or contract employee(s), the superintendent of the ECPS or his/her designee shall provide written notice to the KDE. The filling of the vacancy shall be in accord with Paragraph II, above.

KDE and ECPS, by and through each party’s Commissioner, Superintendent, or appropriate designee, shall take reasonable action to assure there is no discrimination under this Agreement against any individual on the basis of race, color, national origin,

	Document Description	Page 4
2200002914	FY 23 Engineering Program Instructor at Estill Co ATC	

political affiliation, sex, genetic information, disability, age, religion, marital status, or limitations related to pregnancy, childbirth, or related medical conditions.

If, during the term of this Agreement, or an extension thereof, it is found that a specific provision or language used herein is not valid under federal or state law or regulation, the remainder of the Agreement shall not be affected by such a ruling or determination and all other provisions shall remain in force.

It is understood and agreed that as state agencies none of the parties hereto waive, by entering into this Agreement, any right that either may have to use the defense of sovereign immunity/governmental immunity or other immunity defenses which may be asserted against any party hereto.

Nothing in this Agreement is intended by the parties and shall not be construed as creating rights, entitlements, and/or benefits of any kind whatsoever for anyone as a third-party beneficiary.

Performance Responsibilities:

Maintain a minimum of over 12.5 student-teacher ratio as per Kentucky Tech Policies. The enrollment in the health science and industrial maintenance pathway(s) will be reported for the 2020 fall semester.

Maintain teacher certification or adjunct certification required of the program area being taught.

Adhere to the Kentucky Teacher Performance Standards established by the Kentucky Education Professional Standards Board in accord with 16 KAR 5:010.

Adhere to the Code of Ethics established by the Kentucky Education Professional Standards board in accord with KRS 161.028

Adhere to KRS Chapter 11A Code of Ethics for executive branch employees.

Maintain open communication with the Estill County ATC, the KDE regional supervisor, ECPS leadership, appropriate community partners and parents as needed.

Pricing:

Total amount not to exceed: \$ 41,750

Method of Payment:

	Document Description	Page 5
2200002914	FY 23 Engineering Program Instructor at Estill Co ATC	

Two payments during the contract year. Invoice should be received by 12/15/2022 and final invoice by 6/15/2022.

Billing:

Remit all invoices, bills, or requests for payment to: April Vermillion, Division of Technical Schools and Federal Programs, Kentucky Department of Education, 300 Sower Blvd 5SW, Frankfort, KY 40601, or email to April.Vermillion@education.ky.gov.

**Kentucky Department of Education
Terms and Conditions**

Discrimination

The contractor agrees to comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 (Section 504), and applicable federal regulations relating thereto set forth at 34 C.F.R. Part 104 prohibiting the exclusion of participation, denial of benefits, or discrimination of any qualified individual under any program or activity.

Choice of Law and Forum

The laws of the Commonwealth of Kentucky shall govern all questions as to the execution, validity, interpretation, construction, and performance of this agreement or any of its terms.

Any suit, action or other proceeding regarding the execution, validity, interpretation, construction, or performance of this agreement shall be filed in the Franklin Circuit Court of the Commonwealth of Kentucky.

Requirement for Reporting to Kentucky Teachers Retirement System

Please note that, if any bidder to this solicitation is a current retiree of the Kentucky Teachers Retirement System ("KTRS"), or proposes to use a current or potential retiree of KTRS to perform any work under any contract, this may have an adverse impact upon retirement benefits for that retiree. This would occur, regardless of whether a contract is awarded to the individual directly, or to another legal entity for which the individual works.

Accordingly, if a potential bidder proposes to use such individuals to perform the work, the bidder is strongly encouraged to check with KTRS to determine what requirements apply, before submitting a response. The KTRS help desk number is 800-618-1687.

	Document Description	Page 6
2200002914	FY 23 Engineering Program Instructor at Estill Co ATC	

Furthermore, as a condition of any successful contract award, any information on such retirees (as defined and required by KTRS) must be submitted prior to any services being performed by said individuals under this contract.

As a firm condition of this contract, any contractor agrees to be financially responsible for any failure by such current or potential retirees to properly report information concerning their retirement status during the life of any contract awarded.

508 Compliance

Contractor hereby warrants that the products or services to be provided under this contract comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1194.1. Contractor further warrants that the products or services to be provided under this contract comply with existing federal standards established under Section 255 of the Federal Telecommunications Act of 1996 (47 U.S.C. § 255), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1194.2, to the extent the contractor's products or services may be covered by that act. Contractor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services which is brought to its attention.

Contractor will use the W3C's Web Content Accessibility Guidelines (WCAG) 2.0 Levels A and AA and the Web Accessibility Initiative Accessible Rich Internet Applications Suite (WAI-ARIA) 1.0 for web content, which are incorporated by reference.

Family Educational Rights and Privacy Act

If during the course of this agreement, KDE discloses to the contractor any data protected by the Family Educational Rights and Privacy Act of 1974 (FERPA), as amended, and its regulations, and data protected by the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq)(NSLA) and Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.)(CNA) the contractor is bound by the confidentiality, security and redisclosure requirements and restrictions stated in FERPA, NSLA and CNA and will enter into a confidentiality agreement and ensure its employees and contractors execute affidavits of nondisclosure as required by KDE.

Data Security and Breach Protocols

Contractors that receive Personal Information as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, et seq., (the "Act"), shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set forth in the Act.

	Document Description	Page 7
2200002914	FY 23 Engineering Program Instructor at Estill Co ATC	

“Personal Information” is defined in accordance with KRS 61.931(6) as “an individual’s first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:

An account, credit card number, or debit card number that, in combination with any required security code, access code or password, would permit access to an account;

A Social Security number;

A taxpayer identification number that incorporates a Social Security number;

A driver’s license number, state identification card number or other individual identification number issued by an agency;

A passport number or other identification number issued by the United States government; or

Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended 20 U.S.C. sec 1232g.”

As provided in KRS 61.931(5), a “non-affiliated third party” means “any person or entity that has a contract or agreement with the Commonwealth and receives (accesses, collects or maintains) personal information from the Commonwealth pursuant to the contract or agreement.”

The contractor hereby agrees to cooperate with the Commonwealth in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.

The contractor shall notify as soon as possible, but not to exceed seventy-two (72) hours, the contracting agency, the Commissioner of the Kentucky State Police, the Auditor of Public Accounts, and the Commonwealth Office of Technology of a determination of or knowledge of a breach, unless the exception set forth in KRS 61.932(2)(b)2 applies and the contractor abides by the requirements set forth in that exception. If the agency is a unit of government listed in KRS 61.931(1)(b), the contractor shall notify the Commissioner of the Department of Local Government in the same manner as above. If the agency is a public school district listed in KRS 61.931(1)(d), the contractor shall notify the Commissioner of the Department of Education in the same manner as above. If the agency is an educational entity listed under KRS 61.931(1)(e), the contractor shall notify the Council on Postsecondary Education in the same manner as above. Notification shall be in writing on a form developed by the Commonwealth Office of Technology.

	Document Description	Page 8
2200002914	FY 23 Engineering Program Instructor at Estill Co ATC	

The contractor hereby agrees to report, immediately and within twenty-four (24) hours, any known reasonably believed instances of missing data, data that has been inappropriately shared, or data taken off site to my immediate supervisor, Associate Commissioner, and to the KDE Office for whom I perform work under the contract with KDE.

The contractor hereby agrees that the Commonwealth may withhold payment(s) owed to the contractor for any violation of the Identity Theft Prevention Reporting Requirements.

The contractor hereby agrees to undertake a prompt and reasonable investigation of any breach as required by KRS 61.933.

Upon conclusion of an investigation of a security breach of Personal Information as required by KRS 61.933, the contractor hereby agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.

In accordance with KRS 61.932(2)(a) the contractor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth Office of Technology:

<http://technology.ky.gov/ciso/Pages/InformationSecurityPolicies,StandardsandProcedures.aspx>

Student Data Security

Pursuant to KRS 365.734 (House Bill 232 (2014)), if contractor is a known cloud computing service provider (as defined in KRS 365.734(1)(b) as “any person or entity other than an educational institution that operates cloud computing services”), or, through service to agency, becomes the equivalent of a cloud computing service provider, contractor does further agree that:

Contractor shall not process student data for any purpose other than providing, improving, developing, or maintaining the integrity of its cloud computing services, unless the provider receives express permission from the student’s parent. The contractor shall work with the student’s school and district to determine the best method of collecting parental permission. KRS 365.734 defines “process” and “student data”.

With a written agreement for educational research, contractor may assist an educational institution to conduct educational research as permitted by the Family Education Rights and Privacy Act of 1974, as amended, 20 U.S.C.sec.1232g.

Pursuant to KRS 365.734, contractor shall not in any case process student data to advertise or facilitate advertising or to create or correct an individual or household profile for any advertisement purposes.

	Document Description	Page 9
2200002914	FY 23 Engineering Program Instructor at Estill Co ATC	

Pursuant to KRS 365.734, contractor shall not sell, disclose, or otherwise process student data for any commercial purpose.

Pursuant to KRS 365.734, contractor shall certify in writing to the agency that it will comply with KRS 365.734(2).

Federal Funding Accountability and Transparency Act Compliance (applicable for federal)

For agreements that include Federal funds, the Contractor 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 Contractor is \$30,000 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 KDE 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.

Uniform Guidance Subpart F—Audit Requirements

The contractor must provide the Kentucky Department of Education with documentation of compliance with audit requirements as required by the Uniform Guidance 2 CFR 200.500-200.507 Cost Principles, Audit, and Administrative Requirements for Federal Awards.

The Kentucky Department of Education reserves the right to withhold or cease funding for non-performance, or breach, during the life of the contract, if it is in the best interest of the Commonwealth to do so.

This contract authorizes funding for the contract period based upon the availability of funds

	Document Description	Page 10
2200002914	FY 23 Engineering Program Instructor at Estill Co ATC	

**Memorandum of Agreement Standard Terms and Conditions
Revised December 2019**

1.00 Effective Date:

All Memorandum of Agreements are not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the agreement and until the agreement has been submitted to the government contract review committee. However, in accordance with KRS 45A.700, memoranda of agreement in aggregate amounts of \$50,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

KRS 45A.695(7) provides that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee 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.

2.00 EEO Requirements

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The contractor shall comply with all terms and conditions of the Act.

3.00 Cancellation clause:

Both parties shall have the right to terminate and cancel this contract at any time not to exceed thirty (30) days' written notice served on the other party by registered or certified mail.

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4.00 Funding Out Provision:

The state agency may terminate this agreement if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the agreement. The state agency shall provide the Contractor thirty (30) calendar day's written notice of termination of the agreement due to lack of available funding.

5.00 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

	Document Description	Page 11
2200002914	FY 23 Engineering Program Instructor at Estill Co ATC	

service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement will be reduced by the amount specified in that document. If the contract funding is reduced, then the scope of work related to the contract may also be reduced commensurate with the reduction in funding. This reduction of the scope shall be agreeable to both parties and shall not be considered a breach of contract.

6.00 Access to Records:

The state agency 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, 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 agreement for the purpose of financial audit or program review. 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. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

7.00 Violation of tax and employment laws:

KRS 45A.485 requires the Contractor and all subcontractors performing work under the agreement to reveal to the Commonwealth, prior to the award of a contract, any final determination of a violation by the Contractor 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 corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively.

To comply with the provisions of KRS 45A.485, the Contractor and all subcontractors performing work under the agreement 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 Contractor and all subcontractors performing work under the agreement shall be in continuous compliance

	Document Description	Page 12
2200002914	FY 23 Engineering Program Instructor at Estill Co ATC	

with the provisions of those statutes, which apply to their operations, and that their failure to reveal a final determination as described above, or failure to comply with the above statutes for the duration of the agreement shall be grounds for the Commonwealth's cancellation of the agreement and their disqualification from eligibility for future state contracts for a period of two (2) years.

[Check box section below need only be included for Contractors that are quasi-governmental entities or 501(c)3 non-profit entities.]

Contractor must check one:

_____ The Contractor has not violated any of the provisions of the above statutes within the previous five (5) year period.

_____ The Contractor has violated the provisions of one or more of the above statutes within the previous five (5) year period and has revealed such final determination(s) of violation(s). Attached is a list of such determination(s), which includes the KRS violated, the date of the final determination, and the state agency which issued the final determination.

8.00 Discrimination:

This section applies only to agreements disbursing federal funds, in whole or part, when the terms for receiving those funds mandate its inclusion. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this agreement, the Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The Contractor 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 Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, 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 compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places,

	Document Description	Page 13
2200002914	FY 23 Engineering Program Instructor at Estill Co ATC	

available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

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

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

The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

The Contractor will 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.

In the event of the Contractor's noncompliance with the nondiscrimination clauses of this agreement or with any of the said rules, regulations or orders, this agreement may be cancelled, terminated or suspended in whole or in part and the Contractor 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 Contractor will 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 subcontractor or vendor. The Contractor will take such action

	Document Description	Page 14
2200002914	FY 23 Engineering Program Instructor at Estill Co ATC	

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 Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

	Document Description	Page 15
2200002914	FY 23 Engineering Program Instructor at Estill Co ATC	

Approvals

This agreement is subject to the terms and conditions stated herein. By affixing signatures below, the parties verify that they are authorized to enter into this agreement and that they accept and consent to be bound by the terms and conditions stated herein. In addition, the parties agree that (i) electronic approvals may serve as electronic signatures, and (ii) this agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement.

1st Party:

_____ Signature	_____ Director, Div. of Budgets & Financial Management Title
_____ Karen Wirth Printed Name	_____ Date

2nd Party:

_____ Signature	_____ Title
_____ Printed Name	_____ Date

Other Party:

_____ Signature	_____ Title
_____ Printed Name	_____ Date

Approved as to form and legality:

 Approved in eMARS
 Kentucky Department of Education
 Attorney

Applicable for federal funds:

Unique Entity Identifier (UEI) Number: _____

Must be registered in the [System for Award Management](#) system.

Include Data Universal Numbering System (DUNS) identifier number if the amount of Federal funds awarded to the Second Party is \$30,000 or more. (See Federal Funding Accountability and Transparency Act Compliance section)

SAM CAGE Code _____