

ACADEMY DISTRICT 20
TERMS AND CONDITIONS FOR CONTRACTED SERVICES

TAXES

Vendor shall not include federal, state or applicable local excise or sales taxes in proposal prices, as the District is exempt from payment of such taxes. For state sales and use taxes, it shall be the responsibility of the vendor to complete and file an "Application for Exemption Certificate" with the Colorado Department of Revenue.

CERTIFICATE OF INSURANCE

A. At all times during the term of the contract, Vendor shall carry and maintain in full force at Vendor's expense the following insurance policies with insurance companies requiring minimum of thirty (30) days' notice to the District of change or cancellation (including cancellation for nonpayment of premium).

B. Commercial general liability, must include premises and operations, products and completed operations, contractual liability, personal and advertising injury liability and broad form property damage).

Each Occurrence Limit	\$1,000,000
General Aggregate Limit	\$2,000,000
Products/Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury Limit	\$1,000,000
Fire Damage Limit	\$ 50,000
Medical Expense Limit	\$ 5,000

Coverage must be primary and non-contributory, and must include a blanket waiver of subrogation endorsements.

C. Automobile Liability (Must Include Owned, Non-Owned and Hired Autos)

Combined Single Limit	\$1,000,000
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Must include a blanket waiver of subrogation endorsement.

D. Umbrella/Excess Liability

Each Occurrence	\$1,000,000
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E. Workers Compensation/Employers Liability

Per Occurrence Limit	\$ 100,000
Disease Policy Limit	\$ 500,000
Disease Each Employee	\$ 100,000

Must include a blanket waiver of subrogation endorsement.

F. Crime Insurance for Employee Dishonesty

Per claim	\$1,000,000
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G. Cyber Liability for loss of data risks

Per claim/aggregate	\$5,000,000
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H. Professional Liability (errors, omissions)
Per Claim/aggregate \$5,000,000

If coverage is Claims Made, date must be retroactive to date prior to the inception of the work. If coverage is Claims Made, similar cover must be proactively maintained for three years (or contract termination) following the completion of the work or an extended reporting period of 36 months must be purchased.

NOTE: A certificate of insurance verifying coverage must be submitted with the proposal. The initial certificate can be a copy and does not have to show Academy District 20 as a certificate holder or additional insured.

Upon award of the contract, an **original certificate must be provided naming Academy District 20 as an additional insured under the General Liability, Automotive and Umbrella policies, if appropriate, as well as a copy of the endorsement to the policy with respect to that particular project.**

THE INDEPENDENT CONTRACTOR IS NOT ENTITLED TO WORKERS' COMPENSATION BENEFITS OR UNEMPLOYMENT INSURANCE BENEFITS AND IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED PURSUANT TO THE CONTRACT RELATIONSHIP.

PERA

It is the responsibility of PERA retirees to notify the district of their retiree status. It is also the responsibility of PERA retirees to submit a Disclosure of Compensation form if they are performing services for a PERA employer as an independent contractor. Retirees functioning as independent contractors (or working for a third party) who fail to report compensation to PERA may be required to pay the employer contribution amount and the working retiree contribution amount plus any interest.

INDEMNIFICATION

To the fullest extent permitted by applicable law, the Vendor shall save, indemnify and hold harmless the District against or from all costs, expenses, damages, injury or loss to which said District may be subjected by reason of any wrongdoing, misconduct, want of care, skill, negligence, or default in the execution or performance of contract and shall save and keep harmless the District against and from all claims and losses to it from any causes whatsoever, including actual or alleged patent infringements in the matter of making, furnishing and delivering materials/services as called for in proposal document. The parties acknowledge that the District is not waiving any right, immunity, or protection provided by the Colorado Governmental Immunity Act, CRS 24-1-101, et. seq.

FEDERAL FUNDING/CERTIFICATIONS

(a) Certification Regarding Lobbying

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) 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.

- (2) 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.
- (3) 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 simplified acquisition threshold for each such failure.

- (b) **Debarment and Suspension.** Subpart C of the OMB guidance in 2 CFR Part 180, as implemented by the Department of Defense in 2 CFR Part 1125.

The Recipient also agrees to communicate the requirement to comply with Subpart C to persons at the next lower tier with whom the Recipient enters into transactions that are “covered transactions” under Subpart B of 2 CFR Part 180 and the DoD implementation in 2 CFR Part 1125.

When a Recipient enters into a contract that utilizes federal awards of \$25,000 or more, that Recipient must verify that the vendor is not suspended or debarred or otherwise excluded. This verification may be accomplished by checking the Excluded Parties List System (EPLS) which can be accessed via System for Award Management (SAM) <https://www.sam.gov>, collecting a certification from the vendor, or adding a clause or condition to the contract with that vendor. In addition, Recipient personnel responsible for federal grant administration should receive ongoing training to understand the laws and regulations that apply to its federal grant awards. **A print-out of this research, as proof, must be placed in the file for audit purposes.**

- (c) **Nondiscrimination.** Provisions of the following national policy requirements (as applicable) with respect to the prohibition of discrimination:

- (1) On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.), as implemented by DoD regulations at 32 CFR Part 195.
- (2) On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et. seq), as implemented by DoD regulations at 32 CFR Part 196.
- (3) On the basis of age, in the Age Discrimination Act of 1975 (42 U.S.C. § 6101, et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR Part 90.
- (4) On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), implemented by Department of Justice regulations at 28 CFR Part 41 and DoD regulations at 32 CFR Part 56.

- (d) Hatch Act. 5 U.S.C. 1501-1508 and 7324-7328, as implemented by the Office of Personnel Management at 5 CFR Part 151, which limits political activity of employees or officers of State or Local governments whose employment is connected to an activity financed in whole or in part with Federal funds.
- (e) Drug-Free Workplace. Requirements regarding drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 32 CFR part 26, which implements sec. 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).

SUBGRANTS

- (a) State grantees shall follow state law and procedures when awarding and administering subgrants (whether on a cost reimbursement or fixed amount basis) of financial assistance to local and Indian tribe governments. States shall:
 - (1) Ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations;
 - (2) Ensure that subgrantees are aware of requirements imposed upon them by Federal statute and regulation;
 - (3) Ensure that a provision for compliance with DoD Grant and Agreement Regulations (DoDGARs) 33.42 is placed in every cost reimbursement subgrant; and
 - (4) Conform any advances of grant funds to subgrantees substantially to the same standards of timing and amount that apply to cash advances by Federal agencies.
- (b) All other grantees shall:
 - (1) Ensure that every subgrant includes a provision for compliance with this part;
 - (2) Ensure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations; and
 - (3) Ensure that subgrantees are aware of requirements imposed upon them by Federal statutes and regulations.
- (c) Exceptions. By their own terms, certain provisions of this part do not apply to the award and administration of subgrants:
 - (1) Section 33.10;
 - (2) Section 33.11;
 - (3) The letter-of-credit procedures specified in Treasury Regulations at 31 CFR Part 205, cited in §33.21; and
 - (4) Section 33.50.

ILLEGAL ALIENS

If Provider has any employees or subcontractors, Provider shall comply with § 8-17.5, C.R.S. regarding Illegal Aliens – Public Contracts for Services, and this section of this Agreement. 8-17.5-102 includes, in part, that:

- a) Provider shall not:
 - (i) Knowingly employ or contract with an illegal alien to perform work under this Agreement; or
 - (ii) Enter into a contract with a subcontractor that fails to certify to Provider that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement
- b) Provider has verified or attempted to verify that Provider does not employ any illegal aliens and, will participate in the E-Verify Program or State Department program in order to confirm eligibility of all employees who are newly hired to perform work under public contract for services.
- c) Provider will not use E-Verify Program or State Department program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed.
- d) If Provider obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Provider shall:
 - (i) Notify the subcontractor and the District within three days that Provider has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - (ii) Terminate the subcontract with the subcontractor if within three days of receiving the notice under d(i), the subcontractor does not stop employing or contracting with the illegal alien. However, the Provider shall not terminate the contract with the subcontractor if during this three-day period the subcontractor provides information which establishes that the subcontractor has not knowingly employed or contracted with an illegal alien.
- e) Provider shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in §8-17.5-102(5), C.R.S.
- f) If Provider violates this provision, the District may terminate the Agreement for a breach of contract. If the Agreement is terminated, the Provider shall be liable for actual and consequential damages.

METHODS OF PAYMENT

Academy District 20 uses the following methods for payment. They are listed below in their order of preference.

1. **Single Use Account:** In an effort to eliminate paper and improve our payment efficiencies with our strategic partners, Academy District 20 is enrolled in a virtual credit card payment system. With this payment method, ASD20 provides a “virtual” credit card account number to pay for goods or services. This card number will only be valid for one payment and expires after each use. This will be ASD20’s preferred method of payment, and you will be asked to accept payment in this manner. Under this method, payments

are made after verification of receipt of the goods or services by the receiver and within 5 days after receipt of a proper invoice.

2. **Credit Card Payment after issuance of Purchase Order:** In an effort to eliminate paper and improve our payment efficiencies with our strategic partners, Academy District 20 uses credit cards to make payments. Under this method, payments are made after verification of receipt of the goods or services by the receiver and within 15 days after receipt of a proper invoice.
3. **District Check after issuance of Purchase Order:** Academy District 20 makes payments via district check. Under this method, payments are made after verification of receipt of the goods or services by the receiver and within 30 days after receipt of a proper invoice.

LABOR, WORKMANSHIP, AND SCHOOL SECURITY

All Work under this Contract shall be performed in a skillful and workmanlike manner and in accordance with the Contract Documents. The Vendor shall be and remain liable to the District in accordance with Applicable Law for all damages to the District caused by the Vendor's failure to perform the Work under this Contract in a skillful and workmanlike manner and in accordance with the Contract Documents.

The Contracting Officer may require that the Vendor immediately remove from the Job Site any employee whom the Contracting Officer or on-site school personnel deem to be objectionable. The Vendor shall not utilize, in the performance of this Contract, any laborer or employee who has been convicted of a violent crime or a crime of such nature (such as child related offenses) as to categorize the person as being unsuitable for working around school children, or has engaged in such conduct, in the last five years, as to be similarly categorized, or who, in the opinion of the Vendor or the District, is otherwise unsuitable for working on the Project. Suitability shall be determined by performance of security/background checks (as are necessary in light of the potential of contact with the District's students, staff, property, or sensitive records maintained at District sites) by the Vendor on all laborers and employees utilized in the performance of the Work. When there is reasonable doubt regarding a particular person's suitability, the Contractor may make a request through the District's Contracting Officer for an approval/opinion prior to the individual beginning work. The Vendor shall submit to the District copies of all security/background checks performed within twenty-four (24) hours of a request by the District for such information.

The District may request copies of these security/background checks up to one (1) year after Turnover of the Project. Failure to complete or submit any required constitute an Event of Default, and may result in termination of the Contract, removal from the active vendor and Offeror list for up to one (1) year, or any other available legal or contractual rights or remedies.

All contract providers have a responsibility to make themselves familiar with ASD20 Board of Education policies GBEA, Staff Ethics/Conflict of Interest, and GBEB, Staff Conduct and Responsibilities.

The Vendor, including without limitation its laborers and employees, shall not fraternize or otherwise communicate with students except in cases of safety and like necessities.

The Vendor shall not allow any laborer or employee to wear objectionable clothing or caps with other than company logo, (objectionable clothing will be determined by the District's on-site personnel), or use profanity in any manner while on District property.

The Vendor shall ensure that its laborers and employees fully comply with all District policies/regulations pertaining to restrictions that may affect anyone on District owned property. Examples of these current policies/regulations include:

- (a) Each person or each foreman representing a group of laborers must sign in at the school's main office upon arrival at the Job Site.
- (b) Each person shall maintain professional workmanlike attire.
- (c) No person shall use tobacco, or possess alcohol or any controlled, illegal or dangerous substance on District property.
- (d) No person shall possess any "weapon" of any kind as defined in District policy, including without limitation a pocketknife that is not directly used as a tool for Work in progress.

Removal of a specific person from the Project as a result of any condition mentioned above shall not relieve the Vendor from timely performance of the Work and shall not be considered grounds for a request for additional funds to complete the Project.

COLORADO GOVERNMENTAL IMMUNITY ACT

Except as expressly provided herein, Academy District 20 retains all of its rights under the Colorado Governmental immunity act, Section 24-10-101, ET. seq., C.R.S. This contract shall not be construed to create any right or benefit for any person who is not a party to this contract.

CHANGE ORDERS

The Contracting Officer may issue a change in the work or the manner of work, which causes an increase, or decrease in the cost of the work. If a change that is ordered by the Contracting Officer causes an increase or decrease in the cost of the work, the Contractor shall prepare and present to the Contracting Officer a proposed change order with a cost estimate of any such increase or decrease. The District shall review the cost estimate and either agrees or both parties shall negotiate a cost. If an agreement cannot be reached, then the Contracting Officer shall determine reasonable actual costs, including a reasonable overhead and profit and will use that amount in the issuance of a unilateral modification. The Contractor agrees to perform the changed work, which shall become part of the contract even during the process of disputing the final amount determined by the Contracting Officer. Any dispute will be settled in accordance to the dispute clause. Any additional work performed by the Contractor that has not been ordered by the Contracting Officer shall be at the Contractor's expense and is not subject to reimbursement.

ADDITIONAL CONDITIONS

If travel expenses are to be paid, see the employee Administrative Travel Policy DKC-R on the District Intranet. Mileage will be paid at the prevailing rate paid by Academy District 20.

An individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done. **THE EARNINGS OF A PERSON WHO IS WORKING AS AN INDEPENDENT CONTRACTOR ARE SUBJECT TO SELF-EMPLOYMENT TAX. THE INDEPENDENT CONTRACTOR HAS COMPLETE AUTHORITY FOR METHOD AND PROCESS**

FOR WORK PERFORMED. The independent contractor will provide his or her own supplies, equipment and benefits. The independent contractor is free to enter into agreements with other agencies at their will.

In addition to insurance requirements, when a provider is working directly with Academy District 20 students, a District background check may be required for the Independent Contractor. IF A BACKGROUND CHECK IS NOT

REQUIRED OR FORMAL CERTIFICATE OF INSURANCE IS NOT PROVIDED, THE INDEPENDENT CONTRACTOR MUST BE ESCORTED BY A DISTRICT EMPLOYEE AT ALL TIMES WHILE ON DISTRICT PROPERTY.

Independent Contractor specifically warrants and represents that except as otherwise permitted herein, it will not in any manner disclose, disseminate, copy, sell, resell, sublicense, transmit, assign, or otherwise make available any of Academy District 20's Confidential Student Information to any third party without the prior written permission of ASD20, and further warrants and represents that it will take all reasonable steps necessary to ensure that vendor, its authorized agents, employees, contractors or subcontractors having access to the Confidential Information shall not copy, disclose or transmit any of the Confidential Information, or any portion thereof, in any form, to a third party except as necessary to perform the Services under the Agreement.

FORCE MAJEURE

No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such party's (the "**Impacted Party**") failure or delay is caused by or results from the following force majeure events ("**Force Majeure Event(s)**"): (a) acts of God; (b) flood, fire, earthquake, OTHER POTENTIAL DISASTER(S) OR CATASTROPHE(S), SUCH AS EPIDEMICS, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or action; (e) embargoes or blockades in effect on or after the date of this Agreement; and (f) national or regional emergency; and (g) shortage of adequate power or transportation facilities; and (h) other similar events beyond the reasonable control of the Impacted Party. In the event that the Impacted Party's failure or delay remains uncured for a period of 10 days following written notice given, either party/the other party may thereafter terminate this Agreement upon 10 days' written notice.