

STATE OF WASHINGTON
Washington Student Achievement Council
SOLE SOURCE TRANSPARENCY POSTING

The Washington Student Achievement Council contemplates awarding a sole source contract to College Success Foundation to provide support service strategies to the Passport to College Promise Program with its network of postsecondary institutions and community partners to increase retention and postsecondary success of Passport students.

The Passport to College Promise RCW 28B.117.005, was authorized as a six-year pilot program in 2007 to encourage current and former foster care youth to prepare for, attend, and successfully complete a higher education; and to provide them with the educational planning, information, institutional support and direct financial resources necessary to succeed. The program was made permanent beginning July 1, 2012 and extended through June 30, 2022. During the 2018 supplemental legislative session the legislature expanded the Passport to College Promise Program (2SSB 6274) to include more categories of foster and at risk youth. It also established the Passport to Careers program with two programmatic pathways: the Passport to College Promise Scholarship program and the Passport to Apprenticeship Opportunities program.

In the 2019-2021 biennial operating budget, the WSAC was requested to work with a non-profit organization that could provide support services to postsecondary institutions, other agencies, and community partners to increase student completion in their post- secondary program.

Beginning in 2009-10, CSF was instrumental in establishing the Passport support infrastructure, and continues to expand on the foundational work, on which this effective, viable program is based. The relationship building with and between other agencies and post-secondary institutions, whose mandate is ensuring foster youth are successful in meeting their goals, has been paramount in the program's success.

The contract will be issued on or about October 21, 2020 for nine (9) months. The dollar value is estimated at \$500,000.

In the absence of other qualified sources, it is the state's intent to make a sole source award of the contract.

The Contract is listed here:

Contract No. 21-PR190
Contract for Professional Services
between the
State of Washington
Washington Student Achievement Council
and
College Success Foundation

This Contract is made and entered into by and between the state of Washington, Washington Student Achievement Council, hereinafter referred to as the "AGENCY," and the below named firm, hereinafter referred to as "CONTRACTOR."

College Success Foundation
15500 SE 30th PL, STE 200
Bellevue, WA 98007
Phone: 425-416-2009
FAX: 425-416-2001
Email: jskelly@collegesuccessfoundation.org
Federal TIN: 20-5561911
WA State UBI Number: 602-027-399

PURPOSE

The purpose of this contract is to support College Success Foundation's (CSF) efforts to continue to employ support service strategies with its network of postsecondary institutions and community partners to increase retention and postsecondary success of Passport students. In addition to support services, CSF will improve student outcomes through the creation of individualized case management plans.

The Passport to College Promise RCW 28B.117.005, was authorized as a six-year pilot program in 2007 to encourage current and former foster care youth to prepare for, attend, and successfully complete a higher education; and to provide them with the educational planning, information, institutional support and direct financial resources necessary to succeed. The program was made permanent beginning July 1, 2012 and extended through June 30, 2022. During the 2018 supplemental legislative session the legislature expanded the Passport to College Promise Program (2SSB 6274) to include more categories of foster and at-risk youth. It also established the Passport to Careers program with two programmatic pathways: the Passport to College Promise Scholarship program and the Passport to Apprenticeship Opportunities program. A final change to the program this past year was the eligibility change making youth Passport-eligible who have been in care after age 13. For purposes of this agreement, references to Passport to Careers (PTC) are intended to include all program elements.

SCOPE OF WORK

A.) Exhibit A, attached hereto and incorporated by reference, contains the *General Terms and Conditions* governing work to be performed under this contract, the nature of the working relationship between the AGENCY and the CONTRACTOR, and specific obligations of both parties.

B.) The CONTRACTOR will provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

1. Knowledge Sharing, Professional Development & Networking

Objective(s):

- a. To continue to provide Washington Passport Network members with resources, information, and connections to colleagues with the goal of increased statewide coordination, fidelity, and quality of supportive services for students from foster care and unaccompanied homeless youth pursuing post-secondary education.

Goals:

- a. The Washington Passport Network (WPN) website will continue to serve as an effective way for members to: 1.) access information and resources; 2.) connect with other members of the network community; and 3.) request technical assistance or information from CSF or WSAC.
- b. The 2020-2021 webinar series will provide training on critical topics accessible to all members via live or recorded formats. Recorded versions of each webinar are proactively sent to all members of the Washington Passport Network via email.
- c. The annual statewide Passport to Careers conference will continue to offer opportunities for relevant professional development, information sharing, networking, innovation, and promoting opportunities to enhance the WPN community.

Activities:

- a. CSF will continue to maintain and ensure timely updates to resources made available through www.washingtonpassportnetwork.org. In coordination with WSAC and the Passport Leadership Team (PLT), CSF will design the 2020-2021 educational webinar series. Trainings will be held monthly from September – April (a minimum of 8 trainings). Facilitators may include CSF staff, WSAC staff, WPN members, or subject matter expert guest presenters.
- b. In consultation with WSAC, CSF will continue leading the planning and implementation of the statewide annual Passport conference.

Performance Metrics:

Activity	Performance Metrics	Reporting Interval
Website	CSF will report on key performance indicators (KPIs): sessions, users, new users, bounce rate, content performance, and other relevant metrics. Data will be used to improve site design, content, and functionality. CSF will routinely add new information to the website including blog posts, timely news, practitioner-focused resources, and a calendar of event listings.	Quarterly
Webinar Series	CSF will create annual webinar training calendar, informed by WSAC and the PLT. There will a minimum of 8 trainings. 90% of post-survey respondents will report webinars meet stated learning goals.	Quarterly
Passport Conference	CSF will promote, plan and deliver a Passport-specific conference for members of the Washington Passport Network. This conference will be virtual and remote during the 2020-2021 year due to COVID-19, with the opportunity for an in-person or hybrid event maintained in the future. Based on attendees' surveyed feedback, CSF will report on conference's	Annually

	value, relevance of workshops, and overall attendee satisfaction.	
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2. On-Boarding Training for Campus Champions

Objective(s):

- a. To deliver individualized on-boarding training to new campus Designated Support Staff (DSS) and other PTC campus champions in order to optimize effective staff transitions and enhance programmatic quality and continuity.

Goals:

- a. With input from WSAC, CSF will develop a standardized PTC on-boarding orientation. The orientation will be designed to help new campus champions learn the following:
 - a. PTC background, goals, and program design
 - b. Review existing student support plan and campus-based goals and strategies
 - c. Orientation to the WPN and supports CSF provides PTC champions, including the opportunity to participate in a Regional Service Coordination Group (RSCG).

Activities:

- a. When CSF learns of turnover in a DSS position, from WSAC or directly from a campus, we will offer on-boarding training to the incoming DSS. Training will also be offered to new incoming Passport Campus Leaders (PCLs) and Financial Aid Administrators (FAAs) upon request.

Performance Metrics:

Activity	Performance Metrics	Reporting Interval
DSS onboarding trainings	CSF will offer PTC onboarding training to 100% of new, incoming DSS upon notification of turnover. CSF will also provide training to new PCLs and FAAs upon request. CSF will conduct post-training surveys and share finding on trainee satisfaction and effectiveness for process improvement.	Quarterly – to include the number of training sessions held.
Technical Assistance	With WSAC's guidance, CSF will provide technical assistance to campus leaders to support and ensure implementation of Student Support Plans.	Quarterly

3. Passport Leadership Team (PLT)

Objective(s):

- a. To optimize strong stakeholder engagement in Passport program implementation and quality improvement efforts statewide.

- b. To offer WPN leaders a quarterly platform for networking, strategic planning, and coordinated professional development.
- c. To help implement strategies outlined by the PLT purpose subcommittee.

Goals:

- a. The PLT will remain a vibrant, representative leadership team well-positioned to provide advisory assistance to WSAC on matters related to Passport program implementation, expansion, and quality improvement.
- b. PLT members and WSAC will help inform decisions related to the following:
 - a. Membership structure & stakeholder representation
 - b. Annual goals and work plan
 - c. Overall quality and process improvement

Activities:

- a. CSF will conduct planning with WSAC and select PLT members in early fall, upon receiving recommendations of the Purpose workgroup, to determine PLT annual work plan and goals.
- b. The Purpose Workgroup's goals are as follows:
 - a. Gain further clarity about the purpose and role of the Passport Leadership Team, and its relationship to and coordination with WSAC, regional groups, PEI and WPN.
 - b. Create a document(s) that serves as informational for an external audience and an internal guiding document for the group.
 - c. Document processes and procedures that support the work of the PLT (e.g., decision-making, membership)
 - d. Formalize the PLT's priorities and objectives for this year, particularly during this challenging time.
- c. The Purpose Workgroup also plans to continue to develop membership by recruiting those who are listed in statute, but not currently members of the Purpose Workgroup.
 - a. In accordance with work plan, CSF and PLT representatives will conduct PLT member outreach to reaffirm commitments from current members and recruit new members to align with the requirements of the statutory language.
 - b. In consultation with WSAC, CSF will plan and facilitate quarterly meetings.
 - c. CSF will form workgroups and organizations ad hoc meetings as needed.
 - d. CSF will leverage the PLT to provide stakeholder input on critical WPN projects and events.

Performance Metrics:

Activity	Performance Metrics	Reporting Interval
Member Recruitment	CSF and PLT representatives will recruit and retain PLT members in accordance with statute and membership plan.	Quarterly
Planning	In coordination with WSAC, CSF will ensure the PLT has clearly defined annual goals and work plans that support these goals.	Quarterly
Meetings	In coordination with WSAC, CSF will plan and facilitate quarterly meetings as well as ad hoc meetings as needed.	Quarterly

4. Passport Scholar Persistence Fund (PSPF)

Objective(s):

- a. To increase student persistence through providing timely small grants to Passport scholars with urgent needs that are not met by institutional incentive grant dollars.

Goals:

- a. In coordination with campus partners, CSF will award PSPF grants in a timely manner to address immediate needs and work with the recipient on a plan to prevent future financial hardship.

Activities:

- a. CSF will promote PSPF through WPN's network and various communication channels.
- b. CSF will coordinate disbursements with campus partners to maximize impact for students, and avoid duplication or redundancies in processes or disbursements

Performance Metrics:

Activity	Performance Metrics	Reporting Interval
PSPF grants	CSF will review: <ul style="list-style-type: none">• the number of students requesting funds• the number of students receiving funds• total awards granted• amount of funds disbursed• average size of award• how funds were utilized	Quarterly

5. Campus Based College Coaches on Select Campuses

Objective(s):

- a. In alignment with PEI recommendations, continue piloting individualized coaching for PTC scholars on two campuses while exploring support for additional regional campuses.

Goals:

- a. Ensure alignment with regards to the role of the PTC coach, their integration on college campus, their supervision, and other planning details. Ensure PTC coach efforts are complementary to existing PTC program services, supports, and resources.
- b. Provide expert, high touch coaching for enrolled PTC scholars based on a modified version of the Casey Family Programs / SEITA Scholars 7 life domains coaching model.
- c. CSF will ensure that students selected for the additional support under this contract are not counted in served numbers under the auspices of any other State contract.
- d. Use available data to customize supports and analyze short-term student outcomes related to persistence and completion.

Activities:

- a. CSF will explore options to expand Passport Coaches' caseload by serving Passport Scholars at regional campuses. If selected, CSF will, with input and approval from WSAC, finalize additional campus support by end of Fall 2020. Following campus selection and approval, Memorandums of Understanding and Data Sharing Agreements will be signed.
- b. PTC coaches will participate in Western Michigan's Fostering Success Coaching training.
- c. Coaches will collaborate with PTC campus champions to support the full and effective implementation of the selected campuses' student support plans, including:
 - a. Recruiting prospective PTC students
 - b. Supporting retention and graduation
 - c. Coordinating and collaborating with regional partners – participating and potentially leading the facilitation of local Regional Service Coordination Groups (RCSGs)

- d. Coaches will meet with PTC scholars frequently and support them in the following domains: academics, housing, finances, physical and mental health, social and community connections, personal and cultural identity, and life skills. To avoid duplication, coaches will concentrate on domains where no other adequate support is being provided to the student from another campus or community resource.
- e. Coaches will advocate with campus staff and leadership for the adoption and implementation of PTC best practices and policies. It is CSF's responsibility to educate and partner with campus staff and leadership about the effective use of Passport Student Support Funds (formerly incentive grant funds), in a manner consistent with guidelines articulated by the Passport Student Support Funds Guide, program law and campus-specific student support plan strategies. (Note: Passport Student Support Funds are designed to address gaps in financial need and support services for Passport scholars. However, the way in which these funds are used varies across campuses. Some campuses prioritize provision of financial support and resources, e.g., laptops, loan write-offs, emergency funds. Others may prioritize support services, however can only fund part-time, temporary, and/or less experienced staff).
- f. Coaches will serve a support role in regional service coordination meetings. These meetings are led by the CSF Statewide Initiatives program managers. The table below outlines specific activities supported by CSF and by campus partners. In general, campus partners are responsible for advising, while CSF is responsible for coaching. In advising, specific needs are addressed (e.g., financial aid, registration, course selection, major selection). In coaching, CSF will take on a holistic approach that focuses on student development. Coaching is a collaborative process between student and coach that considers both the short and long-term goals for the student.
 - a. Coaching may supplement advising and ensure actions that result from advising sessions align with a student's future personal and professional goals. It is critical to ensure a seamless support experience for students, so it will be necessary for CSF and campuses to cross-promote and collaborate on various support activities.

CSF	Campuses
<ul style="list-style-type: none"> • Coordinate with campus staff to support recruitment and outreach efforts • Developed individual coaching and student development plans, using Fostering Success Michigan 7 Domains Coaching Model (with a strong focus on: Life Skills, Personal Identity, Employment, Supportive Relationships, Physical and Mental Health) • Meet established per-quarter outreach attempts • Capture student progress data in Salesforce Student Information System (SIS); utilize SIS to track student data • Evaluate student data to prioritize daily outreach and coaching plans for each student • Support regional service coordination groups to foster relationships between K-12 and higher education systems and ensure a seamless student journey across these systems • Share evaluation data with campus partners to ensure data-informed practices and ongoing program improvement • Support relevant campus workshops (e.g., Summer Orientation & Residential Programs) • Offer continuity of service through participation in 	<ul style="list-style-type: none"> • Focus on intrusive advising (vs. coaching) through campus meetings focused on: Course Selection, Study Skills, Transition-to-College Skills, Financial Aid Analysis, On-Campus Engagement, Navigating Campus Systems, Study Skills • Review each Passport student's individual budget to ensure cost of attendance can be met (with minimal loans) • Respond to PTC scholar's request for financial support (e.g., laptop needs, loan write-offs, etc.) • Host college success workshops and events • Participate in RSCGs and opportunities to network with community or K-12 orgs supporting Passport-eligible students • Refer PTC scholars to CSF coaches for developmental support

<ul style="list-style-type: none"> campus events that support Passport scholars. Collaborate with campus staff to develop relevant workshop content. 	
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Performance Metrics:

Activity	Performance Metrics	Reporting Interval
Recruitment	CSF will review: <ul style="list-style-type: none"> Number of prospective students receiving outreach Number of students who submit PTC Release of Information forms as a result of outreach engagements 	Quarterly
Retention & Graduation Supports	CSF will review: <ul style="list-style-type: none"> Number of served students receiving coaching Frequency of coaching sessions with students Percent of students reporting they are stably housed by term Percent of students reporting they are food secure by term Percent of students who report adequate access to physical and mental health care by term Percent of students who report adequate financial resources by term Term to term persistence Percent of students meeting SAP by term 	Quarterly
Connections with regional partners	CSF will review: <ul style="list-style-type: none"> Number of regional service coordination group meeting facilitated / supported Number of other active efforts made to connect and collaborate with key regional partners Regional connections for each of the 7 Life Domains. 	Quarterly
Support adoption & implementation of PTC best practices and policies	CSF will review: <ul style="list-style-type: none"> Passport incentive dollars disbursed as budgeted 	Quarterly

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The CONTRACTOR shall produce the following written reports or other written documents (deliverables) by the dates indicated below.

Quarterly/Semiannual Reporting

Each report listed in Table 1 will describe:

- Quarterly performance measurement progress for each measure in each area or the activity areas including outcome data;
- Quarterly student record level data for intervention activities and personnel detail for intervention activities. (Reports should indicate under which category students were served, i.e. foster youth, unaccompanied homeless, tribal, etc.)
- Students reported as served under this contract may not be served under another State Contract (e.g. a PTC scholar may not be counted as served under this contract if they receive services under the Leadership 1000 contract).
- Semiannual financial statements outlining program expenditures. The semiannual report due July 31, 2021 will incorporate the final annual report.

The annual report is due by July 31, 2021 and will address how performance measures were met, exceeded, or not met and why.

Contract Year 2020-2021
November 30, 2020
January 31, 2021 (quarterly and semiannual financial reports)
April 30, 2021
July 31, 2021 (quarterly and final semiannual financial reports)

All written reports required under this contract must be delivered to Marla Skelley, the Contract Manager, in accordance with the schedule above.

PERIOD OF PERFORMANCE

The period of performance under this contract will be from October 21, 2020, or date of execution, whichever is later, through June 30, 2021.

DES FILING REQUIREMENT –SOLE SOURCE CONTRACTS (*Non Direct Buy*)

The provisions of Chapter 39.26 RCW require the AGENCY to file this sole source professional service contract with the Department of Enterprise Services (DES) for approval. No contract so filed is effective nor shall work commence under it until the tenth (10th) working day following the date of filing or until DES approval, whichever is later. The AGENCY is also required to provide notice of this sole source professional services contract opportunity by posting notice on the state's enterprise vendor registration and bid notification system (WEBS). No contract so posted is effective, nor shall work commence under it, until the fifth (5th) working day following the date of posting. Further, the AGENCY is required to make this sole source professional services contract available for public inspection by posting this contract on the AGENCY's website. No contract so posted is effective, nor shall work commence under it, until the tenth (10th) working day following the date of posting.

COMPENSATION

Total compensation payable to CONTRACTOR for satisfactory performance of the work under this contract shall not exceed four-hundred ninety-nine thousand, five-hundred twenty-six dollars (\$499,526.00) for the

performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work.

CONTRACTOR'S compensation for services rendered shall be based on the following rates or in accordance with the following terms:

Table 2

November 16, 2020 - Invoice 1 of 9 – For October 2020	\$55,502.00
December 16, 2020 - Invoice 2 of 9 – For November 2020	\$55,503.00
January 15, 2021 - Invoice 3 of 9 – For December 2020	\$55,503.00
February 15, 2021 - Invoice 4 of 9 – For January 2021	\$55,503.00
March 16, 2021 - Invoice 5 of 9 – For February 2021	\$55,503.00
April 15, 2021 - Invoice 6 of 9 – For March 2021	\$55,503.00
May 14, 2021 – Invoice 7 of 9 – For April 2021	\$55,503.00
June 15, 2021 - Invoice 8 of 9 – For May 2021	\$55,503.00
July 15, 2021 - Invoice 9 of 9– For June 2021	\$55,503.00

Payments shall be rendered in eight monthly disbursements of fifty-five thousand, five hundred three dollars and no cents (\$55,503.00) and one monthly disbursements of fifty-five thousand, five hundred two dollars and no cents (\$55,502.00) as described in Table 2 of the COMPENSATION/PAYMENT section.

The AGENCY will determine whether the reports contain sufficient quantitative as well as qualitative information to approve the payment. Should performance be deemed insufficient, the AGENCY will request additional information within a specified timeframe. In the event that performance is still judged insufficient, payments will be reduced or withheld.

BILLING PROCEDURES AND PAYMENT

AGENCY will pay CONTRACTOR upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Contract Manager not more often than monthly.

The invoices shall describe and document, to the AGENCY'S satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the contract reference number 21-PR0190. If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of \$50.00 or more in order to receive reimbursement.

Payment shall be considered timely if made by the AGENCY within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the CONTRACTOR.

The AGENCY may, in its sole discretion, terminate the contract or withhold payments claimed by the CONTRACTOR for services rendered if the CONTRACTOR fails to satisfactorily comply with any term or condition of this contract.

No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by the AGENCY.

CONTRACT MANAGEMENT

The Contract Manager for each of the parties shall be the contact person for all communications and billings regarding the performance of this contract.

CONTRACTOR Contract Manager	AGENCY Contract Manager
Juliette Schindler Kelly College Success Foundation 15500 SE 30 th PL, STE 200 Bellevue, WA 98007 <i>Phone:</i> (425) 416-2047 <i>Fax:</i> (425) 416-2001 <i>Email address:</i> jskelly@collegesuccessfoundation.org	Marla Skelley Washington Student Achievement Council 917 Lakeridge Way SW P.O. Box 43430 Olympia, WA 98504-3430 <i>Phone:</i> (360) 753-7851 <i>Fax:</i> (360) 753-7808 <i>Email address:</i> marlas@wsac.wa.gov

INSURANCE

The CONTRACTOR shall provide insurance coverage as set out in this section.

The intent of the required insurance is to protect the state should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the CONTRACTOR or subcontractor, or agents of either, while performing under the terms of this contract.

The CONTRACTOR shall provide insurance coverage, which shall be maintained in full force and effect during the term of this contract, as follows:

1. Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence.

Additionally, the CONTRACTOR is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

2. Automobile Liability. In the event that services delivered pursuant to this contract involve the use of vehicles, either owned or unowned by the CONTRACTOR, automobile liability insurance shall be required. The minimum limit for automobile liability is \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.
3. The insurance required shall be issued by an insurance company/ies authorized to do business within the state of Washington and shall name the state of Washington and its agents and employees as additional insureds under the insurance policy/ies.

All policies shall be primary to any other valid and collectable insurance. CONTRACTOR shall

instruct the insurers to give AGENCY thirty (30) calendar days advance notice of any insurance cancellation.

CONTRACTOR shall submit to AGENCY within fifteen (15) calendar days of the contract effective date a certificate of insurance that outlines the coverage and limits defined in the Insurance section. CONTRACTOR shall submit renewal certificates as appropriate during the term of the contract.

ASSURANCES

AGENCY and the CONTRACTOR agree that all activity pursuant to this contract will be in accordance with all the applicable current federal, state, and local laws, rules, and regulations.

ORDER OF PRECEDENCE

Each of the exhibits listed below is by this reference hereby incorporated into this contract. In the event of an inconsistency in this contract, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable federal and state of Washington statutes and regulations
2. Special terms and conditions as contained in this basic contract instrument
3. Exhibit A – General Terms and Conditions
4. Exhibit B – Contractor's Budget Proposal
5. Any other provision, term or material incorporated herein by reference or otherwise incorporated

ENTIRE AGREEMENT

This contract, including referenced exhibits, represents all the terms and conditions agreed upon by the parties. No other statements or representations, written or oral, shall be deemed a part hereof.

CONFORMANCE

If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

APPROVAL

This contract shall be subject to the written approval of the AGENCY'S authorized representative and shall not be binding until so approved. If this is a Sole Source Contract and unless otherwise exempt, it is not binding until approved by the Department of Enterprise Services, and until other posting requirements have been met. This contract was filed with DES on October 5, 2020 posted on the Washington State enterprise vendor registration and bid notification system on October 5, 2020 and posted on the AGENCY's website on October 5, 2020. The contract may be altered, amended, or waived only by a written amendment executed by both parties.

THIS CONTRACT, consisting of eleven pages and two attachments, is executed by the persons signing below, who warrant they have the authority to execute the contract.

Washington Student Achievement Council

Signature

Signature

Title

Date

Director, SFA

Title

Date

EXHIBIT A - GENERAL TERMS AND CONDITIONS

DEFINITIONS

As used throughout this contract, the following terms shall have the meaning set forth below:

- A.** "AGENCY" shall mean the Washington Student Achievement Council of the State of Washington, any division, section, office, unit or other entity of the AGENCY, or any of the officers or other officials lawfully representing that AGENCY.
- B.** "AGENT" shall mean the Executive Director of the Washington Student Achievement Council, and/or the delegate authorized in writing to act on the Executive Director's behalf.
- C.** "CONTRACTOR" shall mean that firm, provider, organization, individual or other entity performing service(s) under this contract, and shall include all employees of the CONTRACTOR.
- D.** "SUBCONTRACTOR" shall mean one not in the employment of the CONTRACTOR, who is performing all or part of those services under this contract under a separate contract with the CONTRACTOR. The terms "SUBCONTRACTOR" and "SUBCONTRACTORS" means SUBCONTRACTOR(s) in any tier.

ACCESS TO DATA

In compliance with RCW 39.26.180, the CONTRACTOR shall provide access to data generated under this contract to AGENCY, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the CONTRACTOR'S reports, including computer models and methodology for those models.

ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by the AGENCY.

AMENDMENTS

This contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35

The CONTRACTOR must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

ASSIGNMENT

Neither this contract, nor any claim arising under this contract, shall be transferred or assigned by the CONTRACTOR without prior written consent of the AGENCY.

ATTORNEYS' FEES

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

The CONTRACTOR shall not use or disclose any information concerning the AGENCY, or information that may be classified as confidential, for any purpose not directly connected with the administration of this contract, except with prior written consent of the AGENCY, or as may be required by law.

CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONTRACTOR terminate this contract if it is found after due notice and examination by the AGENT that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONTRACTOR in the procurement of, or performance under this contract.

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

COPYRIGHT PROVISIONS

Unless otherwise provided, all materials produced under this contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the AGENCY. The AGENCY shall be considered the author of such materials. In the event the materials are not considered "works for hire" under the U.S. Copyright laws, CONTRACTOR hereby irrevocably assigns all right, title, and interest in materials, including all intellectual property rights, to the AGENCY effective from the moment of creation of such materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For materials that are delivered under the contract, but that incorporate pre-existing materials not produced under the contract, CONTRACTOR hereby grants to the AGENCY a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The CONTRACTOR warrants and represents that CONTRACTOR has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the AGENCY.

The CONTRACTOR shall exert all reasonable effort to advise the AGENCY, at the time of delivery of materials furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document that was not produced in the performance of this contract.

The AGENCY shall receive prompt written notice of each notice or claim of infringement received by the CONTRACTOR with respect to any data delivered under this contract. The AGENCY shall have the right to modify or remove any restrictive markings placed upon the data by the CONTRACTOR.

COVENANT AGAINST CONTINGENT FEES

The CONTRACTOR warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the CONTRACTOR for securing business.

The AGENCY shall have the right, in the event of breach of this clause by the CONTRACTOR, to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

DISALLOWED COSTS

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

DISPUTES

Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with AGENT.

1. The request for a dispute hearing must:

- Be in writing;
- State the disputed issue(s);
- State the relative positions of the parties;
- State the CONTRACTOR'S name, address, and contract number; and
- Be mailed to the AGENT and the other party's (respondent's) contract manager within 3 working calendar days after the parties agree that they cannot resolve the dispute.

2. The respondent shall send a written answer to the requester's statement to both the agent and the requester within 5 working calendar days.

3. The AGENT shall review the written statements and reply in writing to both parties within 10 working days. The AGENT may extend this period if necessary by notifying the parties.

4. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this contract shall be construed to limit the parties' choice of a mutually acceptable ADR method in addition to the dispute resolution procedure outlined above.

DUPLICATE PAYMENT

The AGENCY shall not pay the CONTRACTOR, if the CONTRACTOR has charged or will charge the State of Washington or any other party under any other contract or agreement, for the same services or expenses.

GOVERNING LAW

This contract shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

INDEMNIFICATION

To the fullest extent permitted by law, CONTRACTOR shall indemnify, defend, and hold harmless State, agencies of State and all officials, agents and employees of State, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. "Claim," as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including loss of use resulting therefrom.

CONTRACTOR'S obligations to indemnify, defend, and hold harmless includes any claim by CONTRACTORS' agents, employees, representatives, or any subcontractor or its employees.

CONTRACTOR expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to CONTRACTOR'S or any subcontractor's performance or failure to perform the contract. CONTRACTOR'S obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials.

CONTRACTOR waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless State and its agencies, officials, agents or employees.

INDEPENDENT CAPACITY OF THE CONTRACTOR

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

INDUSTRIAL INSURANCE COVERAGE

The CONTRACTOR shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the CONTRACTOR fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees, as may be required by law, AGENCY may collect from the CONTRACTOR the full amount payable to the Industrial Insurance accident fund. The AGENCY may deduct the amount owed by the CONTRACTOR to the accident fund from the amount payable to the CONTRACTOR by the AGENCY under this contract, and transmit the

deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the CONTRACTOR.

LICENSING, ACCREDITATION AND REGISTRATION

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

LIMITATION OF AUTHORITY

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

NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

In the event of the CONTRACTOR'S non-compliance or refusal to comply with any nondiscrimination law, regulation, or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the CONTRACTOR may be declared ineligible for further contracts with the AGENCY. The CONTRACTOR shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

NONDISCRIMINATION

During the performance of this contract, the CONTRACTOR shall comply with all federal and state nondiscrimination laws, regulations and policies.

PRIVACY

Personal information including, but not limited to, "Protected Health Information," collected, used, or acquired in connection with this contract shall be protected against unauthorized use, disclosure, modification or loss. CONTRACTOR shall ensure its directors, officers, employees, subcontractors or agents use personal information solely for the purposes of accomplishing the services set forth herein. CONTRACTOR and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as otherwise required by law.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The CONTRACTOR agrees to indemnify and hold harmless the AGENCY for any damages related to the CONTRACTOR'S unauthorized use of personal information.

PUBLICITY

The CONTRACTOR agrees to submit to the AGENCY all advertising and publicity matters relating to this contract wherein the AGENCY'S name is mentioned or language used from which the connection of the AGENCY'S name may, in the AGENCY'S judgment, be inferred or

implied. The CONTRACTOR agrees not to publish or use such advertising and publicity matters without the prior written consent of the AGENCY.

RECORDS MAINTENANCE

The CONTRACTOR shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

CONTRACTOR shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by the AGENCY, personnel duly authorized by the AGENCY, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

REGISTRATION WITH DEPARTMENT OF REVENUE

The CONTRACTOR shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this contract.

RIGHT OF INSPECTION

The CONTRACTOR shall provide right of access to its facilities to the AGENCY, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract.

SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the AGENCY may terminate the contract under the "Termination for Convenience" clause, without the ten-day notice requirement, subject to renegotiation at the AGENCY'S discretion under those new funding limitations and conditions.

SEVERABILITY

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

SITE SECURITY

While on AGENCY premises, CONTRACTOR, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

SUBCONTRACTING

Neither the CONTRACTOR nor any SUBCONTRACTOR shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the AGENCY. In no event shall the existence of the subcontract operate to release or reduce the liability of the contractor to the Department for any breach in the performance of the contractor's duties. This clause does not include contracts of employment between the contractor and personnel assigned to work under this contract.

Additionally, the CONTRACTOR is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this agreement are carried forward to any subcontracts. CONTRACTOR and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as provided by law.

TAXES

All payments accrued because of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the CONTRACTOR or its staff shall be the sole responsibility of the CONTRACTOR.

TERMINATION FOR CAUSE

In the event the AGENCY determines the CONTRACTOR has failed to comply with the conditions of this contract in a timely manner, the AGENCY has the right to suspend or terminate this contract. Before suspending or terminating the contract, the AGENCY shall notify the CONTRACTOR in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the CONTRACTOR shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

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

TERMINATION FOR CONVENIENCE

Except as otherwise provided in this contract, the AGENCY may, by 10 calendar days written notice, beginning on the second day after the mailing, terminate this contract, in whole or in part. If this contract is so terminated, the AGENCY shall be liable only for payment required under the terms of this contract for services rendered or goods delivered prior to the effective date of termination.

TERMINATION PROCEDURES

Upon termination of this contract, the AGENCY, in addition to any other rights provided in this contract, may require the CONTRACTOR to deliver to the AGENCY any property specifically

produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The AGENCY shall pay to the CONTRACTOR the agreed upon price, if separately stated, for completed work and services accepted by the AGENCY, and the amount agreed upon by the CONTRACTOR and the AGENCY for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by the AGENCY, and (iv) the protection and preservation of property, unless the termination is for default, in which case the AGENT shall determine the extent of the liability of the AGENCY. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. The AGENCY may withhold from any amounts due the CONTRACTOR such sum as the AGENT determines to be necessary to protect the AGENCY against potential loss or liability.

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

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

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

TREATMENT OF ASSETS

- A. Title to all property furnished by the AGENCY shall remain in the AGENCY. Title to all property furnished by the CONTRACTOR, for the cost of which the CONTRACTOR is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the AGENCY upon delivery of such property by the CONTRACTOR. Title to other property, the cost of which is reimbursable to the CONTRACTOR under this contract, shall pass to and vest in the AGENCY upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the

performance of this contract, or (iii) reimbursement of the cost thereof by the AGENCY in whole or in part, whichever first occurs.

- B. Any property of the AGENCY furnished to the CONTRACTOR shall, unless otherwise provided herein or approved by the AGENCY, be used only for the performance of this contract.
- C. The CONTRACTOR shall be responsible for any loss or damage to property of the AGENCY that results from the negligence of the CONTRACTOR or which results from the failure on the part of the CONTRACTOR to maintain and administer that property in accordance with sound management practices.
- D. If any AGENCY property is lost, destroyed or damaged, the CONTRACTOR shall immediately notify the AGENCY and shall take all reasonable steps to protect the property from further damage.
- E. The CONTRACTOR shall surrender to the AGENCY all property of the AGENCY prior to settlement upon completion, termination or cancellation of this contract
- F. All reference to the CONTRACTOR under this clause shall also include CONTRACTOR'S employees, agents or SUBCONTRACTORS.

WAIVER

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

