

LOS ANGELES COUNTY OFFICE OF EDUCATION

LACOE INCOME CONTRACT WITH CONTRACTOR/CONSULTANT
STANDARD TERMS & CONDITIONS

The LOS ANGELES COUNTY OFFICE OF EDUCATION, a public educational agency, located at 9300 Imperial Highway, Downey, California 90242-2890, is hereinafter referred to as "LACOE." The other contracting party as identified on the Contract is hereinafter referred to as "Contracting Entity."

1. BASIS OF CONTRACT AND SCOPE OF WORK

LACOE provides a variety of services for various entities within the County of Los Angeles. Contracting Entity has requested that LACOE shall assist the Contracting Entity as set forth on the Contract. LACOE has agreed to perform the work to be done in accordance with the terms and conditions of this Contract. All work shall be coordinated with LACOE's project director.

2. TERM OF CONTRACT

This Contract's dates of services are as specified in the Contract.

3. PAYMENT

The Contracting Entity shall pay LACOE an amount not to exceed the amount specified on the contract for work performed hereunder. Payment shall be made within 30 days receipt of an invoice.

4. INDEMNIFICATION

Contracting Entity agrees to defend, indemnify, save, and hold harmless LACOE from and against any and all demands, debts, liens, claims, losses, damages, liability, costs, expenses (including, but not by way of limitation, attorney's fees and costs actually incurred, whether or not litigation has commenced), judgments or obligations, actions, or causes of action whatsoever, for or in connection with injury, damage, or loss (including, but not limited to death) to any person or property unless such injury, damage or loss results from or is connected with the sole negligence or error or omission of LACOE. The provisions of this clause shall not be limited to the availability or collectability of insurance coverage.

5. INSURANCE

Contracting Entity and LACOE shall take out and maintain such general liability, property damage, workers' compensation and automobile insurance as is required to protect their interests.

6. NOTICES

Any notices to be given pursuant to this Contract shall be in writing and such notices, as well as any other document to be delivered, shall be delivered by personal service or by deposit in the U.S. Mail, certified or registered, return receipt requested, postage prepaid, and addressed to the party for whom intended as follows:

LACOE:

Contracts Section
LOS ANGELES COUNTY OFFICE OF EDUCATION
9300 Imperial Highway, ECW Building
Downey, CA 90242-2890

Contracting Entity: Mailing Address as shown on the Contract

7-10. SECTIONS RESERVED (Intentionally left blank.)

11. COVENANT AGAINST CONTINGENT FEES

Contracting Entity warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon a Contract or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide established commercial or selling agencies retained by Contracting Entity for the purpose of securing business. For breach or violation of this warranty, LACOE shall have the right to immediate termination of this Contract and, at its sole discretion, deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or commission fee.

12. INDEPENDENT CONTRACTING ENTITY

While performing its obligations under this Contract, Contracting Entity is an Independent Contractor and not an officer, employee or agent of LACOE. Contracting Entity shall not at any time or in any manner represent that it or any of its officers, employees, or agents are employees of LACOE. Contracting Entity warrants its compliance with the criteria established by the U.S. Internal Revenue Service (I.R.S.) and the California Employment Development Department (EDD) for qualification as an Independent Contracting Entity including, but not limited to, being hired on a temporary basis, having some discretion in scheduling time to complete contract work, working for more than one employer at a time, and acquiring and maintaining its own office space and equipment.

13. ASSIGNMENT

Contracting Entity shall not in any manner, directly or indirectly, by operation of law or otherwise, assign, transfer or encumber this Contract or any portion hereof of any interest herein, in whole or in part, without the prior written consent of LACOE. If prior written consent is not given by LACOE to assign, transfer, or encumber this Contract, such action shall be deemed automatically void. In addition, Contracting Entity shall not subcontract the work to be performed pursuant to this Contract without prior written approval of LACOE. The names and qualifications of subcontractors or others whom Contracting Entity intends to employ, other than those identified, shall be submitted to LACOE for prior written approval.

14. INTEGRATION

This Contract, including all exhibits and other documents incorporated herein or made applicable by reference, contains the complete and final understanding of the parties' rights, duties and obligations with respect to the transaction discussed in the Contract and supersedes all prior Contracts, understandings and commitments, whether oral or written. This Contract shall not be amended in any way except by a writing expressly purporting to be such an amendment, signed and acknowledged by both of the parties hereto.

15. MODIFICATION

The Contract shall not be modified or amended without mutual written consent of the parties. If any actual or physical deletions or changes appear on the face of the Contract, such deletions or changes shall only be effective if the initials of both contracting parties appear beside such deletion or change.

16. ORDER OF PRECEDENCE

Except as specifically provided elsewhere in this Contract, conflicting, vague and/or ambiguous provisions of this Contract shall prevail in the following order of precedence: (1) the provisions in the body of this Contract, (2) the exhibits of the Contract, if any; (3) all other documents cited in this Contract or incorporated by reference.

17. SEVERABILITY/WAIVER

17.1. If any provision of this Contract is determined to be illegal, unenforceable, or invalid, such act shall in no way affect the validity of any other provision in this Contract.

17.2. No waiver of any provision of this Contract shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding unless executed in writing by the party making the waiver.

18. AMENDMENTS

The Contract may be amended by mutual written consent of the parties.

19. TERMINATION

The Contract may be terminated by LACOE upon written notification.

20. FAILURE TO COMPLY

In the event Contracting Entity fails to perform in accordance with the indemnification or insurance requirement clauses of this Contract, makes inaccurate certifications as a part of this contract or contracting process, or otherwise breaches any other clause of this Contract, LACOE, the Los Angeles County Board of Education and the individuals thereof, and all officers, agents, employees, representatives, and volunteers shall be entitled to recover all legal fees, costs, and other expenses incident to securing performance or incurred as a consequence of nonperformance.

21. ATTORNEY'S FEES

Should either party be required to file any legal action or claim to enforce any provision of this Contract or resolve any dispute arising under or connected to this Contract, except as set forth in the "Failure to Comply" in this contract, each party shall bear its own attorney's fees and costs in bringing such an action and any judgment or decree rendered in such a proceeding shall not include an award thereof.

22. COMPLIANCE WITH LAW

Contracting Entity shall comply with all applicable federal, state, and local laws, statutes, ordinances, rules, regulations, policies, and procedures in performing under this Contract. Contracting Entity warrants that it has all licenses, permits, certificates and credentials required by law to perform the work specified under this Contract and shall, upon request by LACOE, provide evidence of same.

23. FORCE MAJEURE

In the event that performance on the part of any party hereto shall be delayed or suspended as a result of circumstances beyond the reasonable control and without the fault or negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder shall include, but not be limited to, acts of God or of the public enemy, insurrection, acts of the federal government or any unit of state or local government in sovereign capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes or delays in transportation, to the extent that such circumstances are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

24. GOVERNING LAW/FORUM SELECTION

This Contract is made, entered into and executed in Los Angeles County, California, and the parties agree that any legal action, claim or proceeding arising out of or connected with this Contract shall be filed in the applicable court in Los Angeles County, California. The parties further agree this Contract shall be construed, and all disputes hereunder shall be settled, in accordance with the

laws of the State of California.

25. INCORPORATION BY REFERENCE

Any exhibits referenced herein shall be incorporated and made a part of this Contract.

26. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were so inserted and included.

27. RECORD RETENTION AND INSPECTION

Contracting Entity agrees that LACOE shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent records pertaining to this Contract. All records shall be kept and maintained by Contracting Entity and made available to LACOE during the entire term of this Contract and for a period not less than five (5) years after final payment hereunder by LACOE.

28. NO THIRD PARTY OBLIGATIONS

The execution and delivery of this Contract shall not be deemed to confer any rights upon, nor obligate any parties thereto, to any person or entity other than the parties hereto.

29. LACOE BUDGET/GRANT FUNDS CONTINGENCY

This section is applicable only to Contracts in which LACOE is expending funds: If any portion(s) of LACOE's financial budget affecting the contractual time period of this agreement does not appropriate sufficient funds for these contracted services and/or related programs, or if grant funds related to these contracted services and/or related programs are not available for any reason whatsoever, this agreement shall be of no further force and effect. In this event, LACOE shall have no liability to pay any funds to Contracting Entity under this agreement, and the Contracting Entity shall not be obligated to perform any provisions of this agreement.

In such instances, particularly when partial funding remains available, LACOE shall have the option to either terminate this agreement with no liability occurring to LACOE, or LACOE may offer an amendment to this agreement to reflect the reduced availability of funds.

30. NON-DISCRIMINATION AND NON-SEGREGATION

During the performance of this Contract, both parties hereby agrees to comply with all Federal, state and local laws respecting non-discrimination in employment and non-segregation of facilities including, but not limited to requirements set out in 41 CFR 60-1.4, 60-250.4 and 60-741.4, which equal opportunity clauses are hereby incorporated by reference.

31. TOBACCO AND MARIJUANA-FREE SCHOOLS AND FACILITIES

When at LACOE-owned or LACOE-leased buildings, both parties hereby agree to comply with the Los Angeles County Board of Education's Policy 3513.3 which states: The County Board recognizes the health hazards associated with smoking and the use of tobacco and/or marijuana products including the breathing of second-hand smoke, and desires to provide a healthy environment for students and staff. The County Board prohibits the use of tobacco and/or marijuana products at any time in LACOE-owned or leased buildings, on LACOE property and in LACOE vehicles.

32. ALCOHOL AND DRUG-FREE WORKPLACE

Both parties hereby certify under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et. seq.), and the Los Angeles County Board of Education's Alcohol and Drug-Free Workplace Policy 4020.

33. CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR OTHER INELIGIBILITY (Federal Executive Order 12549)

By executing this contractual instrument, Contracting Entity certifies to the best of its knowledge and belief that it and its principals:

- 33.1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or Agency;
- 33.2. Have not, within a three-year period preceding the execution of this contractual instrument, been convicted of, or had a civil judgment rendered against them, for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction (Federal, State or Local) or contract under a public transaction; or violation of Federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 33.3. Are not presently indicted for, or otherwise criminally or civilly charged by any government entity (Federal, State or Local), with commission of any of the offenses enumerated in Section 35.2 above, of this certification; and,
- 33.4. Have not, within a three-year period preceding the execution of this contractual instrument, had one or more public transactions (Federal, State or Local) terminated for cause of default.

34. SB 1343 SEXUAL HARASSMENT PREVENTION TRAINING

If Contractor employs five (5) or more employees, Contractor must provide at least two (2) hours of sexual harassment prevention training and education to all supervisory employees and one (1) hour of such training to all non-supervisory employees. Contractor must also provide sexual harassment prevention training to its temporary or seasonal employs within thirty (30) calendar days after the hire date or within one hundred (100) hours worked if the employee will work for less than six (6) months. Training and education must be provided once every two (2) years thereafter, pursuant to California Senate Bill 1343.

LACOE reserves the right to request for certification of such training and to terminate this Contract if the Contractor fails to comply with this section.

35. EXECUTION REQUIREMENTS

Proper signatures required for execution of this instrument may be by original signature; photocopy; fax/facsimile copy; valid, encrypted, electronic transmission/signature; and/or other commonly accepted, widely used, commercially acceptable signature methods. This instrument may be executed in counter-parts by each party on a separate copy thereof with the same force and effect as though all parties had executed a single original copy.