

LOS ANGELES COUNTY OFFICE OF EDUCATION**TERMS & CONDITIONS FOR DISTRICT/PUBLIC AGENCY (DE 2.1)**

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 District/Public Agency as identified on the Purchase Order is hereinafter referred to as "District/Public Agency."

1. SCOPE OF WORK

LACOE has determined that assistance is required to perform work specified in the Purchase Order. District/Public Agency has the required background, training and expertise to perform the work to be done and agrees to do so in accordance with the standard terms and conditions of this Purchase Order. All work shall be coordinated with LACOE's project director as specified on the Purchase Order.

2. TERM OF CONTRACT

The dates of service are as specified in the Purchase Order.

3. PAYMENT

LACOE shall pay District/Public Agency an amount not to exceed the amount specified on the Purchase Order for work performed hereunder. Any work performed by the District/Public Agency in excess of this amount shall be considered as having been done at no additional cost to LACOE, unless the Purchase Order is so amended by a written Change Order. Payment shall be made upon completion and acceptance of the work performed and within thirty (30) days of receipt of an approved invoice. Invoices can be emailed to; accounts_payable@lacoe.edu or mailed to the attention of the Accounts Payable Unit.

4. INDEMNIFICATION

District/Public Agency 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.

LACOE agrees to defend, indemnify, save, and hold harmless the District/Public Agency 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 the District/Public Agency. The provisions of this clause shall not be limited to the availability or collectability of insurance coverage.

5. INSURANCE

District/Public Agency shall maintain such general liability, property damage, workers' compensation, and auto insurance as is required to protect District/Public Agency and LACOE as their interests may appear.

6. NOTICES

Any notices to be given pursuant to this Purchase Order 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:
Procurement Services
LOS ANGELES COUNTY OFFICE OF EDUCATION
9300 Imperial Highway, ECW Building Downey, CA
90242-2890

District/Public Agency:
Mailing Address is District/Public Agency Office

7. COVENANT AGAINST CONTINGENT FEES

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

8. INDEPENDENT CONTRACTOR

While performing its obligations under this Purchase Order, District/Public Agency is an Independent Contractor and not an officer, employee or agent of LACOE. District/Public Agency shall not at any time or in any manner represent that it or any of its officers, employees, or agents are employees of LACOE. District/Public Agency 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 Contractor Agency 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; being free from the control and direction of LACOE in connection with the performance of the work, both under the contract for the performance of the work and in fact; performing work that is outside the usual course of LACOE's business; and being customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

9. ASSIGNMENT

District/Public Agency shall not in any manner, directly or indirectly, by operation of law or otherwise, assign, transfer or encumber this Purchase Order 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 Purchase Order, such action shall be deemed automatically void. In addition, District/Public Agency shall not subcontract the work to be performed without prior written approval of LACOE. The names and qualifications of subcontractors or others whom District/Public Agency intends to employ, other than those identified, shall be submitted to LACOE for prior written approval.

10. INTEGRATION

The Purchase Order, including these terms and conditions and 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 Purchase Order and supersedes all prior understandings and commitments, whether oral or written.

11. MODIFICATION

The Purchase Order 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 Purchase Order, such deletions or changes shall only be effective if the initials of both contracting parties appear beside such deletion or change.

12. ORDER OF PRECEDENCE

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

13. SEVERABILITY/WAIVER

- a. If any provision of these terms and conditions is determined to be illegal, unenforceable, or invalid, such act shall in no way affect the validity of any other provision in these terms and conditions.
- b. No waiver of any provision of these terms and conditions 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.

14. AMENDMENTS

The Purchase Order may be amended by a written Change Order mutually agreed to by both parties.

15. TERMINATION

The Contract may be terminated by either party upon written notification.

16. FAILURE TO COMPLY

In the event District/Public Agency fails to perform in accordance with the indemnification or insurance requirement clauses of these terms and conditions, makes inaccurate certifications as a part of the contracting process, or otherwise breaches any other clause of these terms and conditions, 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.

17. 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 the Purchase Order, except as set forth in the "Failure to Comply" in these terms and conditions, 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.

18. COMPLIANCE WITH LAW

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

19. 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, pandemics, 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.

20. GOVERNING LAW/FORUM SELECTION

This Purchase Order 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 Purchase Order shall be filed in the applicable court in Los Angeles County, California. The parties further agree this Purchase Order shall be construed, and all disputes hereunder shall be settled, in accordance with the laws of the State of California.

21. INCORPORATION BY REFERENCE

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

22. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

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

23. RECORD RETENTION AND INSPECTION

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

24. NO THIRD PARTY OBLIGATIONS

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

25. LACOE BUDGET/GRANT FUNDS CONTINGENCY

If any portion(s) of LACOE's financial budget affecting the contractual time period of this Purchase Order 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 Purchase Order shall be of no further force and effect. In this event, LACOE shall have no liability to pay any funds to District/Public Agency under this Purchase Order, and the District/Public Agency shall not be obligated to perform any provisions of this Purchase Order. In such instances, particularly when partial funding remains available, LACOE shall have the option to either terminate this Purchase Order with no liability occurring to LACOE, or LACOE may offer an amendment to this Purchase Order to reflect the reduced availability of funds.

26. NON-DISCRIMINATION AND NON-SEGREGATION

During the performance of this Purchase Order, 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.

27. TOBACCO AND MARIJUANA-FREE SCHOOL AND FACILITIES

When at LACOE-owned or LACOE-leased buildings, District/Public Agency 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. This includes the use of an electronic smoking device that creates aerosol or vapor or of any oral smoking device for the purpose of circumventing the prohibition of smoking.

28. ALCOHOL AND DRUG-FREE WORKPLACE

District/Public Agency hereby certifies under penalty of perjury under the laws of the State of California that District/Public Agency 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.

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

By acceptance of this Purchase Order, District/Public Agency certifies to the best of its knowledge and belief that it and its principals:

- 29.1 Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or Agency;
- 29.2 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;
- 29.3 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 29.2. above, of this certification; and,
- 29.4 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.

30. SEXUAL HARASSMENT PREVENTION TRAINING

District/Public Agency 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. District/Public Agency must also provide sexual harassment prevention training to its temporary or seasonal employees 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 Government Code Section 12950.1.

LACOE reserves the right to request for certification of such training and to terminate this Purchase Order if the District/Public Agency fails to comply with this section.

31. COVID-19 VACCINATION

When at LACOE schools and/or work locations or when there is in-person interaction with LACOE employees, parents/guardians, families, and students in carrying out services regardless of location, Contracting Entity, its officers, agents, employees, subcontractors, representatives and volunteers (collectively hereinafter referred in this Section as Contracting Entity) and as a material condition of this Purchase Order, shall comply with the Los Angeles County Superintendent's Policy 4060 (a) which states: "LACOE shall require proof of being fully vaccinated against COVID-19 by October 31, 2021 from all LACOE employees, including substitute employees, temporary office workers, contractors, interns, and volunteers as a condition of employment.

An individual is considered "fully vaccinated" when at least 2 weeks have passed since that individual's receipt of the second dose in a 2-dose series, such as the Pfizer or Moderna vaccines or 2 weeks after a single-dose vaccine, such as Johnson & Johnson's Janssen vaccine.

Effective immediately, the County Superintendent or designee shall establish any necessary procedures in order to

implement this policy, and shall consider limited exceptions on a case-by- case basis, which may include providing reasonable accommodations in accordance with Superintendent Regulation 4032, Reasonable Accommodation.”

By acceptance of this Purchase Order, Contracting Entity declares and certifies under penalty of perjury under the laws of the State of California that:

- 31.1 all of its officers, agents, employees, subcontractors, representatives and volunteers who report to LACOE school and/or work locations or who will have in-person interaction with LACOE employees, parents/guardians, families and students in carrying out services regardless of location, are or will be fully vaccinated;
- 31.2 all of its officers, agents, employees, subcontractors, representatives and volunteers who are exempt from receiving the vaccine due to a disability or serious medical condition, or a sincerely held religious belief, will submit to weekly COVID-19 testing, will be responsible for the cost and for ensuring that this testing is carried out and pertinent records retained, maintained and made available to LACOE upon request;
- 31.3 all of its officers, agents, employees, subcontractors, representatives and volunteers will comply and remain compliant with this Section and LACOE’s Superintendent’s Policy 4060 throughout the duration of this Purchase Order.

*** PLEASE NOTE: IF ANY PORTION OF THE PROCUREMENT IS FEDERALLY FUNDED, THE FOLLOWING ADDITIONAL PROVISIONS SHALL APPLY:**

34. FEDERAL REQUIREMENTS

34.1 COPYRIGHTS

The rights to any report, evaluation, book, or any other material developed by Contractor under the performance of this sub-award shall belong to LACOE.

34.2 PUBLIC AND MEDIA RELATIONS

In all communications with the press, television, radio, or any other means of communicating with the general public, Contracting Entity shall make specific reference to LACOE as the sponsoring agency. All planned contacts with the media or public officials relative to funding received from LACOE must be reported within twenty-four (24) hours prior to activity by Contracting Entity to the LACOE community outreach program manager. Unplanned media activity must be reported immediately.

34.3 CA STATE “HEALTHY SCHOOLS ACT OF 2007”

Child development Contractor must a) provide annual written notification with specified information on pesticides to all staff and parents, (b) provide the opportunity for interested staff and parents to register with the facility if they want to be notified about individual pesticide applications at the school site before they occur, (c) post warning signs at each of the facilities where pesticides will be applied, (d) maintain records of all pesticide use at the facility for four years and make the records available to the public upon request, and (e) inform contractors hired to apply pesticides at the center that the facility must comply with the Healthy Schools Act.

34.4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Where applicable, all contracts/purchase orders awarded by Contractor in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 USC 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

34.5 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR PURCHASE ORDER

Contracts or purchase orders for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

34.6 CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 USC 1251-1387), AS AMENDED

Contracts, purchase orders and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

34.7 ENERGY POLICY AND CONSERVATION ACT

Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

34.8 BYRD ANTI-LOBBYING AMENDMENT (31 USC 1352)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

34.9 NON-DISCRIMINATION:

- a. Employment. Contracting Entity shall take affirmative action to ensure fairness in the manner that applications are accepted and employees are hired and treated during employment without regard to their race, color, religion, creed, age, sex, gender, sexual orientation, gender identity, gender expression, ancestry, disability, medical condition, genetic information, marital status, military or veteran status, or national origin. Such action shall include, but may not be limited to the following: hiring, employment, promotion, demotion or transfer; recruitment or recruitment advertising; applications, screening, interviews, layoff or termination; working conditions including rates of pay or other forms of compensation; and selection and participation in training, including apprenticeship. Contracting Entity shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by and/ or which are required by the State setting forth the provisions of the Fair Employment and Housing Act.
- b. Civil Rights Act. Contracting Entity hereby assures that it will comply with Title VII of the Civil Rights Act, to the end that no person shall, on the grounds of race, color, religion, sex and national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Purchase Order or under any project, program, or activity supported by this Purchase Order.
- c. Section 504. Contracting Entity hereby assures that it will comply with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990; and other applicable nondiscrimination laws.
- d. Small Businesses, Firms Owned by Minority/Women/ Disabled. It is LACOE's desire that small

businesses and businesses owned and controlled by women, minorities, and persons with disabilities shall have the maximum practicable opportunity to participate in this Contract. Contractor will take all steps to ensure the participation of small businesses, businesses owned and controlled by women, minorities, and persons with disabilities in this Contract where possible.

- e. Non-Discrimination and Non-Segregation. During the performance of this Purchase Order, Contracting Entity 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, and 60-741.4, which equal opportunity clauses are hereby incorporated by reference.