

# State of Oregon



## **Workforce Talent and Development Board Continuous Improvement Committee Assessment 2026**

Formal Request for Proposal: OregonBuys #S-52500-00016064

HECC #25-194

Date of Issue: 02/18/2026 Closing Date 03/19/2026 at **3:00 PM Pacific Time**

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## 1. INTRODUCTION

The Oregon Workforce and Talent Development Board (“WTDB”) strives to ensure *equitable prosperity for all Oregonians*. To realize this vision, the WTDB's mission is to empower Oregon's workforce and employers by informing and shaping an inclusive, coordinated training and education system responsive to their needs. WTDB enables the mission by:

- Leading and communicating a long-term vision for Oregon that anticipates and acts on future workforce needs.
- Partnering with workforce, education, and training organizations including Local Workforce Development Boards (“LWDBs”).
- Advising the Governor and the legislature on workforce policy and plans.
- Aligning workforce policy, resources, and services with employers, education, training, and economic development.
- Identifying barriers, providing solutions, and avoiding duplication of services.
- Providing accountability among public workforce partners.
- Sharing best practices and innovative solutions that are scalable statewide and across multiple regions within the entire.
- Promoting transparency through public meetings.
- Promoting continuous improvement and mission/vision alignment.

WTDB's Continuous Improvement Committee (“CIC”), acting by and through the Higher Education Coordinating Commission's (“HECC's”) Office of Workforce Investments (“OWI”) intends to award one contract to a successful proposer with an estimated term of 12 months. HECC reserves the right to amend the resulting Contract for related services and time as HECC determines necessary. The estimated cost for the work is \$200,000. Travel expenses will not be allowable cost.

HECC is conducting this intermediate procurement under the authority of Oregon Laws 2025, Chapter 384, Section 4 and ORS 350.075.

This project will be completely or partially funded with state and federal funds.

## 2. BACKGROUND

Oregon's CIC is a collaboration between the WTDB and LWDBs. The CIC's charge is to assess the effectiveness of Oregon's public workforce development system or WorkSource Oregon (“WSO”). WSO is a network of public and private partners who work together to effectively respond to workforce challenges through high-quality services to individuals and businesses, resulting in job attainment, retention, and advancement. The CIC is charged with identifying and contracting with an independent, third-party entity to conduct a biennial assessment and develop recommendations (“CIC WSO Assessment”). The CIC is the result of an Oregon legislative initiative ([Senate Bill 623, 2021](#)).

In 2007, Oregon set a goal for integrated service delivery within WSO involving co-location of multiple partners within WSO and the adoption of businesses and job seekers as primary WSO customers. In 2013, Governor Kitzhaber issued Executive Order No. 13-08 which strengthened roles and responsibilities for LWDBs, charged state agencies that administer workforce programs to align themselves, and designated the Oregon Workforce Investment

Board, now the WTDB, as an independent advisory body to the Governor to ensure progress and accountability at both the state and local levels.

The Workforce Innovation and Opportunity Act (“WIOA”), was signed into law in July 2014. This legislation, in addition to Executive Order No. 13-08 and related efforts in Oregon, resulted in a renewed vigor around workforce system redesign. The Oregon Workforce Partnership, in partnership with the Oregon Employment Department (“OED”) and HECC Office of Workforce Investments (“OWI”), chartered a project to establish a statewide framework for consistent workforce service delivery throughout Oregon. This resulted in the adoption of the WSO Operational Standards in 2017 and added more partners into the WSO system. The [WSO Operational Standards 2.0](#) provide the minimum-level content/services(s) required to be available via all WSO centers as we work toward development of a seamless customer-facing service delivery system.

### **3. THE PROJECT DESCRIPTION AND SCOPE**

#### **A. Description**

The WTDB’s CIC, acting by and through HECC’s Office of Workforce Investments, is seeking a firm to conduct a biennial comprehensive assessment of the WSO system as outlined in [Senate Bill 623, 2021](#). As described in the Bill, the “comprehensive assessment shall include a review of the workforce programs and services administered by the following entities through the public workforce system.” The entities are those Oregon agencies and organizations who are identified in WIOA as partners in the One-Stop Delivery System ([WIOA, Section 121](#)):

- a. Higher Education Coordinating Commission;
- b. Local workforce development boards;
- c. Employment Department;
- d. Commission for the Blind;
- e. Department of Human Services, including Oregon Department of Self Sufficiency and Vocational Rehabilitation Program;
- f. Housing and Community Services Department; and
- g. Other entities deemed appropriate by the CIC.

The comprehensive assessment shall include a review of the workforce programs and services administered by the following entities through the public workforce system:

- a. The Higher Education Coordinating Commission;
- b. Local workforce development boards;
- c. The Oregon Employment Department;
- d. The Oregon Commission for the Blind;
- e. The Oregon Department of Human Services, including Oregon Department of Self Sufficiency and Vocational Rehabilitation Program;
- f. The Oregon Housing and Community Services Department; and
- g. Any other entities deemed appropriate by the CIC.

The Successful Proposer should assess the public workforce system's performance in:

- 1) Advancing racial justice, equity, diversity, access, and inclusion through the programs and services delivered through the public workforce system;
- 2) Aligning state and local efforts to improve the public workforce system in Oregon;
- 3) Supporting improvements that create a more comprehensive public workforce system;
- 4) Providing quality employment experiences and equitable outcomes for job seekers and businesses participating in workforce programs;
- 5) Improving the quality of workforce resources, programs, and services made available through the public workforce system and the transparency of information regarding performance metrics and outcomes related to those resources, programs, and services; and
- 6) Building on any current workforce program assessments that are required by law.

Per 6) above, the assessment should build on prior comprehensive assessments commissioned by the Continuous Improvement Committee through HECC, including:

- [2021 CIC Initial Assessment](#)
- [2022 WSO Governance Assessment Report](#) (with focus on Pillar 4 Findings and Recommendations)
- [2024 WSO Continuous Improvement Assessment Full Report](#)

Contractors should consider where reassessment is and is not needed, gaps in prior assessments, and where and how recommendations from prior assessments have or could be implemented.

#### **4. TASKS AND DELIVERABLES**

The proposed Tasks and Deliverables below are examples of what HECC thinks it may want. Proposer should use their experience and expertise to propose how the work shall progress.

##### **Task #1: Review Documents**

The Successful Proposer's first task should be to conduct a review of documents. At a minimum, the informational documents reviewed should include:

1. [Senate Bill 623](#) (2021 Regular Session)
2. 2021 CIC Initial Assessment
3. [2022 WSO Governance Assessment Report](#) (with focus on Pillar 4 Findings and Recommendations)
4. [2023 System Definition](#)
5. 2024 WorkSource Oregon Assessment
6. [WSO Operational Standards 2.0](#)
7. [Oregon WIOA Performance Data](#)
8. [2025 Governor's Letter on Performance Measures to the WTDB](#)

9. [Current WTDB work on performance measures and WTDB data reporting from Governor Kotek](#)
10. [Current WTDB Strategic Plan and Scorecard](#)
11. Any additional documents mutually determined by the parties

The above documents will be provided to the Successful Proposer on or before execution of the Contract. This review should identify where reassessment is and is not needed, gaps in prior assessments, which prior recommendations have been implemented, which continue to face barriers, and what conditions, action steps, and accountability processes are needed to enable and accelerate systemwide improvement.

**Deliverable:** Email confirmation that Successful Proposer has reviewed the above document(s) and any additional materials to inform its strategy and approach to completing the remainder of tasks and deliverables.

**Deadline:** As soon as possible following contract execution.

### **Task #2: Virtual Kickoff Meeting and Project Plan**

The Successful Proposer will facilitate a virtual kickoff meeting with the CIC and any other key interested parties as determined by HECC in its sole discretion. This kickoff meeting is to be scheduled as soon as possible after the review of documents in Task #1. The goal of this initial meeting is to ensure all parties are aligned with the goals and scope of the Project to accelerate the implementation of prior recommendations, reveal additional opportunities with recommendations for operational improvements, and strengthen system development. The Successful Proposer will explore and discuss the documents reviewed in Task #1, and discuss questions, themes, and gaps it has identified.

The Successful Proposer will present and discuss its draft Project Plan including proposed deliverables, timelines, and deadlines. The parties will determine the necessary responsibilities and ensure the CIC and any other key interested parties are clear on the roles they will play in this process, including as they relate to decision-making and an improved and prescriptive transparency and accountability process.

This discussion will present an opportunity for questions, anticipated challenges, and adjustments of the Project Plan as needed. Following this project kickoff, The Successful Proposer will revise, finalize, and submit to HECC for approval the Project Plan, including deliverables, timeline, and deadlines. The Project Plan should include a preliminary implementation framework that defines how each major recommendation will be advanced, with clear milestones and success indicators, and a formal, transparent accountability process.

#### **Deliverables:**

1. Kick-Off Meeting held.
2. Project Plan Submitted to HECC for review and approval

**Deadline:** Within 14 days of completion of Task #1.

### **Task #3: Data Gathering**

#### **A. Convenings**

The Successful Proposer will implement its HECC-approved Project Plan by first designing a customized outreach strategy that generates meaningful feedback on improvement implementation barriers, enablers, and practical solutions. The Successful Proposer shall lead and facilitate multiple in-person convenings of WSO partners to be hosted by a minimum of five partners from these local regions/communities across the state (at least one per the regions below):

1. Frontier (counties covered by Eastern Oregon Workforce Investment Board and Northwest Oregon Works)
2. Rural (counties covered by Southwest Oregon Workforce Investment Board, Rogue Workforce Partnership, East Cascades Works.
3. Mid-metro (counties covered by Lane Workforce Partnership and Willamette Workforce Partnership)
4. Metro (counties covered by Worksystems and Clackamas Workforce Partnership)
5. To be determined from the above list by the Continuous Improvement Committee.

There are nine local workforce areas, and HECC prefers more convenings than the minimum of five. These partners must include at least one of each of the following:

- i) a WSO Center (including the relevant Local Leadership Team),
- ii) a local workforce board,
- iii) a community college,
- iv) an economic development organization, and
- v) a business/industry organization (e.g. Chamber, etc.).

Attendance by a diverse and representative mix of existing and potential customers including job seekers (adults and youth/students) and businesses/employers is required and a top-priority goal of this Project. Feedback collected by the Successful Proposer will be used to co-design improvement actions, including but not limited to a formal Accountability Process Map. Final selection of the specific organizations will be determined by the CIC or a WSO Assessment CIC subcommittee.

#### **B. Information Gathering and Strengths, Weaknesses, Opportunities and Threats ("SWOT") Scan**

The Successful Proposer will interview leaders, participants, current and previous customers, protentional customers, and others to gather qualitative and quantitative input to inform a cost benefit, program impact (promising, best, and struggling practices) analysis

from a variety of different workforce system integration/alignment efforts across the state, and to identify effective implementation practices and system conditions that lead to measurable improvement. Results of this analysis will include an inventory of where Oregon is consistent across the state and where there are tangible differences in system integration and alignment efforts that are positively and negatively impacting the quality and overall value of customer service delivery.

The Successful Proposer will also assess improvement recommendations that have been implemented as provided in the 2024 WSO CIC Assessment. HECC believes this information should be gathered via focus groups, surveying, convenings, and other methods the Successful Proposer recommends, and must include at a minimum, the relevant Governor's Policy Advisor(s), the business and employer community, the Workforce System Executive Team, the WTDB members, the CIC, the Oregon Workforce Partnership, and others as determined by the CIC.

The Successful Proposer will develop an Implementation-to-Completion Matrix for each recommendation, identifying implementation stage, barriers encountered, lessons learned, and next opportunities for acceleration. Findings will highlight successful local practices that can be scaled statewide.

#### C. Design Work Sessions on Assessment and Recommendations Validation

The Successful Proposer will design and facilitate at least two design work sessions with the CIC and partners to validate its findings, and to co-develop implementation strategies, tools, and frameworks. The Successful Proposer will examine each opportunity, cause, and potential solutions throughout the validation of the assessment with an emphasis on actionable levers such as policy, data sharing, transparency, accountability, governance, funding, and capacity development.

**Deliverables:** The Successful Proposer will:

1. Lead not less than five convenings/engagements with five or more local areas/regions across the state to include frontier, rural, mid-metro and metro areas.
2. Lead, coordinate, and convene nine partner-hosted events at key partners locations.
3. Gather SWOT information (including in person, paper survey) and analysis conducted at the nine partner-hosted events noted above. Findings and analysis will be integrated into the Draft Report described below.
4. Submit a Draft Report Outline and Draft Report for CIC review, revision (if determined by HECC or CIC), and approval.
5. Host additional virtual and in-person feedback sessions as the parties mutually agree are necessary.
6. Host and facilitate two virtual and/or in-person design work sessions with CIC.

**Deadline:** To be determined.

#### **Task #4: Development of 2026 CIC WSO Assessment Report**

The Successful Proposer will:

Co-develop a WSO System Improvement Plan (“SIP”) with the CIC that translates validated findings into actionable next steps, with clear expectations, owners, timelines, and accountability measures to ensure the entire WSO System is answerable for defined results.

This SIP will be developed through an iterative process among members of the CIC, CIC Staff, HECC, and the Successful Proposer. The Successful Proposer and the CIC will mutually define the elements of the report.

The SIP may include, but is not limited to the following elements:

- i) Executive Summary
- ii) Key themes and implications from analysis and interested party outreach
- iii) Identification of current successes in the WSO System and potential scalability and replication statewide
- iv) Identification of current challenges in the WSO system
- v) Implementation priorities and strategies to achieve measurable system improvement within the next 12–24 months with clear milestones
- vi) Next steps, identified owners, timeline for implementation, and expected performance indicators
- vii) Summary of recommendations and considerations
- viii) Successful Proposer will facilitate at least three additional meetings of the CIC as it determines necessary to prioritize implementation strategies, confirm ownership, memorialize a formal, transparent process of accountability, and finalize the continuous improvement work plan.
- ix) Successful Proposer will present on the final report to the Executive Branch of relevant WSO state agencies, the legislature, the Governor, and the WTDB. HECC anticipates this will comprise of four presentations to the aforementioned entities, and the format (e.g. in-person versus virtual) will be determined by HECC in its sole discretion.

In addition to the above, the Successful Proposer will also develop:

- i) **Local Improvement Toolkit.** This toolkit should enable regional and local partners to lead continuous improvement efforts within their own service delivery systems. The toolkit should translate statewide findings and priorities into actionable, locally adaptable tools rather than requiring local partners to independently design solutions. The toolkit should include, at minimum:



- Templates for local improvement or action plans
- Examples or models of successful partner process or coordination changes
- Interested party and community engagement planning tools
- Self-assessment or diagnostic worksheets for local systems
- Guidance materials supporting continuous improvement practices

The final toolkit should be practical, user-friendly, and designed for direct adoption by local partners with minimal additional technical assistance.

- ii) **Statewide Implementation Roadmap.** This document should design a phased implementation roadmap outlining a recommended sequence for implementing improvement strategies statewide. The roadmap should recognize that successful implementation requires trust-building, interested party engagement, and readiness development prior to system changes. Each phase of the roadmap should clearly identify:

- Purpose and objectives of the phase
- Activities and milestones
- Key interested parties and partners involved
- Expected outputs or deliverables
- How outputs support the next phase of implementation

The roadmap should balance urgency with realistic adoption capacity across diverse regional partners.

- iii) **Implementation-to-Completion Tracking Framework.** The Successful Proposer will develop a tracking framework aligned to the Statewide Implementation Roadmap that enables statewide monitoring of progress toward completion. The framework should allow state and regional partners to:

- Track implementation progress across phases
- Identify implementation barriers or delays
- Support mutual accountability among partners
- Monitor readiness and completion status statewide

The framework should be practical for ongoing use by program leadership and adaptable over time.

- iv) **Accountability and Roles Framework.** The Successful Proposer will

develop an accountability framework clarifying roles and responsibilities for implementation activities across agencies and partners. The framework should utilize a recognized responsibility model (e.g., RACI: Responsible, Accountable, Consulted, Informed) or an equivalent methodology.

The framework should:

- Identify responsible parties for each major implementation activity
- Clarify decision authority and ownership
- Reduce duplication or gaps in responsibility
- Support efficient cross-partner coordination

The framework must be practical and usable by partners in real-world coordination environments.

- v) **Performance Dashboard Framework.** The Successful Proposer will develop a performance measurement framework identifying shared metrics that enable partners to evaluate system performance and outcomes. This framework will inform future dashboard development but does not require creation of a technical dashboard solution.

The framework should include:

- Recommended performance measures beyond federal compliance measures
- Metrics supporting accountability for service access, system coordination, and outcomes
- Measures relevant to policymakers, community interested parties, and service users
- Guidance for data collection feasibility and reporting considerations

### **Deliverables:**

1. Final Draft 2026 WSO System Improvement Plan.
2. Final, CIC-approved Local Improvement Toolkit.
3. Final, CIC-approved Implementation-to-Completion Tracking Framework.
4. Final, CIC-approved Accountability and Roles Framework.
5. Final, CIC-approved Performance Dashboard Framework.
6. Recommendations for next-phase CIC priorities, including potential pilot implementation activities, establishment of a continuous learning feedback loop, assessment of system capacity and readiness for change, and development of shared

accountability metrics and formal accountability policies and procedures to track progress beyond this assessment cycle.

The goal of all Deliverables through this project is to ensure each has a practical use by the party identified as responsible for its implantation, have usability, adaptability, and have operational clarity rather than theoretical or purely strategic in nature.

**Deadline:** November 15, 2026

**Use of Generative Artificial Intelligence Prohibited.** The Successful Proposer shall not use any generative artificial intelligence tools to complete any of the tasks and deliverables.

## 5. REQUESTS FOR CLARIFICATION

Any requests for clarification must be submitted via email to [HECC.Procurement@hecc.oregon.gov](mailto:HECC.Procurement@hecc.oregon.gov) with a copy to [Derek.Dizney@hecc.oregon.gov](mailto:Derek.Dizney@hecc.oregon.gov) no later than 3:00 PM Pacific Time on March 5, 2026. The subject line should include a reference to this solicitation number, HECC #25-207 / OregonBuys #52500-00016064.

## 6. PROPOSAL SUBMISSION

Proposals **must** be submitted through the state's electronic procurement system, OregonBuys, no later than 3:00 PM Pacific Time on March 19, 2026. The OregonBuys number is shown on the first page of this RFP. HECC cannot accept any proposals outside of the OregonBuys system.

## 7. PROPOSAL CONTENT REQUIREMENTS

Proposals must address each of the items listed in this section and all other requirements set forth in this RFP. Proposer shall describe the Goods to be provided or the Services to be performed or both. A Proposal that merely offers to provide the Goods or Services as stated in this RFP will be considered non-Responsive to this RFP and will not be considered further.

### A. Proposal Certification Sheet

The Proposer shall complete and submit the Proposer Information and Certification Sheet (Attachment A).

### B. Introduction to Proposer and Proposer's Relevant Experience

Describe Proposer. Describe the firm. How long has it been in business? From which locations will the services be performed? How does Proposer support diversity, equity, and inclusion? How does Proposer support responsible environmentally sustainable practices?

The Proposal must contain information that clearly demonstrates that Proposer has a minimum of three years of professional experience within the past five years, successfully providing services that are comparable to those described in this RFP.

HECC prefers Proposers that have experience working with a government entity. If your firm has this experience, include a discussion that describes the experience.

Proposals should contain a discussion on Proposer's ability to successfully complete the Project on time and within budget.

### C. **Proposer's Implementation Plan**

The Proposer shall describe how they intend to do the work. The description should include:

- Proposer's knowledge and understanding of the Project.
- The approach that Proposer will take in performing the work described in this RFP; must include a sample timeline and proposed schedule.
- If possible, how Proposer's plans will help HECC achieve the goals outlined in HECC's [Equity Lens](#). Working toward equity requires an understanding of historical contexts and the active investment in changing social structures and practice over time to ensure that individuals from all communities have the opportunities and support to realize their full potential. The HECC applies its Equity Lens to all aspects of its work.
- If possible, how Proposer's plans will further responsible environmentally sustainable practices and products used in this Project.

### D. **Key Person Experience and Resumes**

The Proposer should describe its relevant experience and include the resumes of all key staff to perform the Services.

### E. **Cost Proposal**

For each activity described in the **Tasks and Deliverables Section** (Section 4 of this solicitation), the cost proposal must include identifiable costs, time estimates for completing each activity, and a summary of all proposed costs pertaining to each deliverable listed in accordance with the itemized activity. HECC prefers Proposals with a fixed fee per task/deliverable but will consider Proposals to state the hourly rates for Proposer's key staff performing the Services and a total not-to-exceed limitation per each task/deliverable.

### F. **Agreement with Sample Contract**

The Proposer must note any exceptions to the terms and conditions contained in the Sample Contract attached as Attachment B to this solicitation. Failure to do so will be treated as agreement to the terms and conditions during contract negotiations.

## 8. **EVALUATION**

Proposals shall be evaluated on the following criteria and scored out of 100 possible points:

### **Experience (30 points possible)**

- How well has the Proposer demonstrated their experience in conducting studies and creating reports of this nature?
- How experienced is Proposer with conducting this type of study?

- Are the Proposer's designated key persons experienced and capable of performing the work?

### **Project Approach (45 points possible)**

- How well does the Proposer clearly and concisely describe their intended approach to performing the work described in this solicitation?
- How well does the Project Approach demonstrate an understanding of the Project requirements?
- Does the Proposer offer any new or enhanced ideas to add value to the work described in this solicitation?
- Does Proposer itself, or through their Project Approach further HECC's goals of diversity, equity, inclusion, and accessibility and environmentally sustainable practices?

### **Cost Proposal (10 points possible)**

- How clearly and concisely does the Proposer convey the cost per deliverable?
- How clearly and concisely does the Proposer convey the basis on which prices are quoted?
- How well do the proposed costs align with the Proposer's Project Approach?
- What is the overall cost?

### **Resources (10 points possible)**

- How well does the Proposer demonstrate they have the resources to successfully provide the Services described in this solicitation in the timeframe required by HECC?

### **Public Information/Past Performance (5 points possible)**

- Publicly available information, if any, may be used to evaluate Proposers.
- Past performance with State of Oregon agencies, if any, may be used to evaluate Proposers.

Proposers will be ranked in order of median scores calculated from points awarded by a scoring evaluation committee. After an initial evaluation session, HECC may ask leading Proposers for interviews and/or presentations. If subsequent rounds are utilized, HECC reserves the right to add scoring from subsequent rounds to the initial round of scoring or as stand-alone scoring for selection of a Successful Proposer. HECC further reserves the right for subsequent rounds of scoring to use the same scoring criteria as the initial scoring round, or to determine different criteria for the subsequent round(s).

## **9. SUCCESSFUL PROPOSER REQUIREMENTS**

#### **A. Insurance**

Prior to execution of the Contract, the apparent Successful Proposer shall secure and demonstrate to HECC proof of commercial general liability insurance coverage in the amounts of \$1,000,000 per occurrence and \$2,000,000 aggregate, unless otherwise negotiated. Policies can usually be obtained for short-term durations for relatively low cost—please consult an insurance broker if you do not already carry the above-described insurance.

#### **B. Taxpayer Identification Number**

The apparent Successful Proposer shall provide its Taxpayer Identification Number on a completed W-9 form (which can be found here: <https://www.irs.gov/pub/irs-pdf/fw9.pdf>). The apparent Successful Proposer must provide its backup withholding status on the W-9 form if either of the following applies:

1. When requested by HECC (normally in an intent to award notice), or
2. When the backup withholding status or any other information of Proposer has changed since the last submitted W-9 form, if any.

HECC will not make any payment until HECC has a properly completed W-9.

#### **C. Business Registry**

If selected for an award, Proposer shall be duly authorized by the State of Oregon to transact business in the State of Oregon before executing the Contract. The selected Proposer shall submit a current Oregon Secretary of State Business Registry number, or an explanation if not applicable.

All Corporations and other business entities (domestic and foreign) must have a Registered Agent in Oregon. See requirements and exceptions regarding Registered Agents. For more information, see Oregon Business Guide, How to Start a Business in Oregon and Laws and Rules. The titles in this subsection are available at the following Internet site: <http://www.filinginoregon.com/index.htm>.

#### **D. SAM.Gov Registry**

If selected for an award, Proposer must be registered, active, and in good standing in SAM.Gov in order to receive federal funds. Registration information can be found here: <https://sam.gov/entity-registration>.

### **10. ADDITIONAL INFORMATION**

#### **A. Governing Laws**

This RFP is governed by the laws of the State of Oregon. Venue for any administrative or judicial action relating to this RFP, evaluation and award is the Circuit Court of Marion County for the State of Oregon; provided, however, if a proceeding must be brought in a federal forum, then it must be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh

Amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court.

**B. Ownership**

All Proposals submitted in response to this RFP become the Property of HECC. By submitting a Proposal in response to this RFP, Proposer grants the State a non-exclusive, perpetual, irrevocable, royalty-free, fully paid-up, worldwide license for the rights to copy, distribute, display, prepare derivative works of and transmit the Proposal solely for the purpose of evaluating the Proposal, negotiating an Agreement, if awarded to Proposer, or as otherwise needed to administer the RFP process, and to fulfill obligations under Oregon Public Records Law (ORS 192.311 through 192.478). Proposals, including supporting materials, will not be returned to Proposer unless the Proposal is submitted late.

**C. Cost of Submitting Material**

Proposer shall pay all the costs in submitting its Proposal, including, but not limited to, the costs to prepare and submit the Proposal, costs of samples and other supporting materials, or costs to participate in demonstrations.

**D. Statewide E-waste**

If applicable, Proposer shall include information in its Proposal that demonstrates compliance with the Statewide E-Waste/Recovery Procedure 107-011-050\_PR. Download the procedure by visiting [www.oregon.gov/DAS](http://www.oregon.gov/DAS), then enter the procedure number into the search bar, and find the procedure in the search results window.

**E. Recyclable Products**

Proposer shall use recyclable products to the maximum extent economically feasible in the performance of the Services or Work set forth in this document and the subsequent Contract. (ORS 279B.025)

**F. Printing, Binding Work**

Except as provided in ORS 282.210(2), all printing, binding and stationery work, including the manufacture of motor vehicle registration plates and plates required to be affixed to motor carriers, for the State or any county, city, town, port district, school district, or other political subdivision, must be performed within the State of Oregon.

**G. No Proposer Debriefing or Feedback**

HECC does not have the capacity to host debriefing interviews with proposers nor provide feedback outside of a public records request. Information about submitting a Public Records Requests can be found here: <https://www.oregon.gov/highered/public-engagement/pages/public-records-requests.aspx>

## ATTACHMENT A — PROPOSAL CERTIFICATION SHEET

Legal Name of Proposer: \_\_\_\_\_

Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

State of Incorporation: \_\_\_\_\_ Entity Type: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

**Any individual signing below hereby certifies they are an authorized representative of Proposer and that:**

1. Proposer understands and accepts the requirements of this RFP. By submitting a Proposal, Proposer agrees to be bound by the Contract terms and conditions in Attachment C and as modified by any Addenda, except for those terms and conditions that Agency has reserved for negotiation, as identified in the RFP.
2. Proposer acknowledges receipt of any and all Addenda to this RFP.
3. Proposal is a Firm Offer for 180 days following the Closing.
4. If awarded a Contract, Proposer agrees to perform the scope of work and meet the performance standards set forth in the final negotiated scope of work of the resulting Contract.
5. I have knowledge regarding Proposer's payment of taxes and by signing below I hereby certify that, to the best of my knowledge, Proposer is not in violation of any tax laws of the state or a political subdivision of the state, including, without limitation, ORS 305.620 and ORS chapters 316, 317 and 318.
6. Proposer does not discriminate in its employment practices with regard to race, creed, age, religious affiliation, gender, disability, sexual orientation, national origin. When awarding subcontracts, Proposer does not discriminate against any business certified under ORS 200.055 as a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a veteran owns or an emerging small business. If applicable, Proposer has, or will have prior to contract execution, a written policy and practice, that meets the requirements described in ORS 279A.112, of preventing sexual harassment, sexual assault and discrimination against employees who are members of a protected class. HECC may not enter into a contract with an anticipated contract price of \$150,000 or more with a Proposer that does not certify it has such a policy and practice. See <https://www.oregon.gov/DAS/Procurement/Pages/hb3060.aspx> for additional information and sample policy template.
7. Proposer complies with ORS 652.220 and does not unlawfully discriminate against any of Proposer's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age.

Contractor's continuing compliance constitutes a material element of this Contract and a failure to comply constitutes a breach that entitles Agency to terminate this Contract for cause.



Contractor may not prohibit any of Contractor's employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. Contractor may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person.

8. Proposer and Proposer's employees, agents, and subcontractors are not included on:
  - A. the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>, or
  - B. the government-wide exclusions lists in the System for Award Management found at: <https://www.sam.gov/SAM>
9. Proposer certifies that, to the best of its knowledge, there exists no actual or potential conflict between the business or economic interests of Proposer, its employees, or its agents, on the one hand, and the business or economic interests of the State, on the other hand, arising out of, or relating in any way to, the subject matter of the RFP. If any changes occur with respect to Proposer's status regarding conflict of interest, Proposer shall promptly notify the State in writing.
10. Proposer certifies that all contents of the Proposal (including any other forms or documentation, if required under this RFP) and this Proposal Certification Sheet are truthful and accurate and have been prepared independently from all other Proposers, and without collusion, fraud, or other dishonesty.
11. Proposer understands that any statement or representation it makes, in response to this RFP, if determined to be false or fraudulent, a misrepresentation, or inaccurate because of the omission of material information could result in a "claim" (as defined by the Oregon False Claims Act, ORS 180.750(1)), made under Contract being a "false claim" (ORS 180.750(2)) subject to the Oregon False Claims Act, ORS 180.750 to 180.785, and to any liabilities or penalties associated with the making of a false claim under that Act.
12. Proposer acknowledges these certifications are in addition to any certifications required in the Contract and Statement of Work in Attachment C at the time of Contract execution.
13. Proposer is registered in the State's electronic procurement system, OregonBuys, found here: <https://oregonbuys.gov/bso/>. (Registration is free by clicking the blue "Register" button on the top right corner of the webpage.)

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Authorized Signature

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Date

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(Printed Name and Title)

# ATTACHMENT B — SAMPLE CONTRACT

## STATE OF OREGON CONTRACT FOR SERVICES

This Contract for Services (this “Contract”) is between the State of Oregon (“State”) acting through its Higher Education Coordinating Commission (“HECC”), and [REDACTED] (“Contractor”) and is effective as of the Effective Date.

Contractor’s Contract Administrator for this Contract is:

Contractor Contract Administrator

Street Address

City, State Zip

Phone: Phone Number

Email: E-mail

HECC’s Contract Administrator for this Contract is:

HECC Contract Administrator

3225 25th Street SE

Salem, OR 97302

Phone: Phone Number

Email: E-mail

Either party may change its Contract Administrator by providing the other notice in compliance with Section 17.6 of this Contract.

### 1. CONTRACT TERM.

The “Effective Date” of this Contract is the date this Contract has been fully executed by each party and, approved as required by applicable law. Unless extended or terminated earlier in accordance with its terms, this Contract terminates on [REDACTED]. The termination of this Contract will not extinguish or prejudice HECC’s right to enforce this Contract with respect to any default by Contractor that has not been cured.

### 2. CONTRACT DOCUMENTS.

This Contract consists of the following documents, which are listed in descending order of precedence:

- Exhibit C (Federal Terms and Conditions”);
- This contract less all exhibits;
- Exhibit A (Statement of Work); and
- Exhibit B (Required Insurance).

The foregoing documents and Exhibits are attached hereto and made a part of the Contract by this reference.

### 3. SERVICES.

**3.1. Performance of Services.** Contractor shall perform the services (the “Services”) and deliver to HECC the deliverables (“Deliverables”) set forth in Exhibit A, the Statement of Work (the “Statement of Work”). The Statement of Work includes the delivery schedule for

the Deliverables and Services. Contractor shall perform the Services in accordance with the terms and conditions of this Contract.

- 3.2. Submission and Acceptance of Deliverables.** When the Statement of Work requires Contractor to deliver Deliverables to HECC, then Contractor shall deliver Deliverables that comply with the requirements and acceptance criteria set forth in the Statement of Work.
- 3.3. Rejection of Deliverables; Corrections.** If HECC determines that a Deliverable(s) does not have the characteristics or otherwise meet the acceptance criteria set forth in the Statement of Work in all material respects, HECC will notify Contractor in writing of HECC's rejection of the Deliverable(s) and describe in reasonable detail in such notice HECC's basis for rejection of the Deliverable(s). Upon receipt of notice of non-acceptance, Contractor shall, within a 15 business day period, modify or improve the Deliverable(s) at Contractor's sole expense so that the Deliverable(s) has the characteristics described in the Statement of Work and meets, in all material respects, the acceptance criteria, and notify HECC in writing that it has completed such modifications or improvements and re-tender the Deliverable(s) to HECC. Failure of the Deliverables to have the characteristics or meet in all material respects the acceptance criteria set forth in the Statement of Work after the second submission will constitute a default by Contractor. In the event of such default, HECC may either, (i) notify Contractor of such default and instruct Contractor to modify or improve the Deliverables as set forth in this Section, or (ii) notify Contractor of such default and pursue its remedies for default provided for by law or the terms of this Contract.

#### **4. COMPENSATION.**

- 4.1. Fixed Fees.** HECC shall pay Contractor a fixed fee for each task/deliverable as described in Exhibit A - Statement of Work, in addition to any allowable expenses described in Section 4.6 below.
- 4.2. Not-to-Exceed Compensation.** The maximum, not-to-exceed compensation payable to Contractor under this Contract, which includes any allowable expenses, is \$\_\_\_\_\_. HECC will not pay Contractor any amount in excess of the not-to-exceed compensation of this Contract, and will not pay for Services performed before the Effective Date or after the expiration or termination of this Contract. If the maximum compensation is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Services subject to the amendment.
- 4.3. Method of Compensation.** Contract performance shall be based on the tasks and deliverables described herein. Contractor shall invoice HECC based on work completed. All work must be performed to the satisfaction of HECC prior to release of payment for services.
- 4.4. Payments.** Payments, including interim payments, to Contractor are subject to ORS 293.462, will be made only for completed and accepted Deliverables and Services, and will be made in accordance with the payment schedule and requirements set forth in Exhibit A - Statement of Work.
- 4.5. Invoices.** Contractor shall submit invoices in accordance with the payment schedule set forth in Exhibit A - Statement of Work or, if no payment schedule is set forth therein, then no more frequently than once per month for accepted Deliverables and Services; regardless, any payments due shall be invoiced within 45 days of performance of the services or delivery of the goods. To be processed for payment, Contractor's invoice(s) must include the following information:

- Invoice date;
- HECC's Contract number: 25-194; OregonBuys # PO-52500-
- HECC's Contract Administrator;
- A detailed description of all Services performed, including
  - the dates Contractor performed the Services for which it is requesting payment; and
  - the total amount due and the payment address.

Contractor shall send invoices to the Contract Administrator at their email address listed in on the first page to this Contract, with a copy to [HECC.finance@hecc.oregon.gov](mailto:HECC.finance@hecc.oregon.gov)

**4.6. Expenses.** HECC will not pay or reimburse Contractor or any other third party for any expenses under this Contract other than those listed in Exhibit A – Statement of Work.

**4.7. Funds Available and Authorized.** Contractor will not be compensated for Services performed under this Contract by any agency or department of the State of Oregon other than HECC. HECC believes it has sufficient funds currently available and authorized for expenditure to make payments under this Contract within HECC's biennial appropriation or limitation. Contractor understands and agrees that HECC's payments under this Contract are contingent on HECC receiving appropriations, limitations, or other expenditure authority sufficient to allow HECC, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

## 5. CONTRACTOR'S PERSONNEL.

**5.1. Key Persons.** Contractor acknowledges and agrees that HECC selected Contractor, and is entering into this Contract, because of the special qualifications of Contractor's key persons identified in the Statement of Work (each a "Key Person" and, together, "Key Persons"). Neither Contractor nor a Key Person may delegate performance of the powers and responsibilities that a Key Person is required to provide under this Contract to another Contractor employee, subcontractor or agent without first obtaining the written consent of HECC. Further, Contractor may not re-assign or transfer a Key Person to other duties or positions such that the Key Person is no longer available to provide HECC with the required expertise, experience, judgment, and personal attention, without first obtaining HECC's written consent to such re-assignment or transfer, which HECC will not unreasonably withhold or delay. Notwithstanding the foregoing, Contractor may replace a Key Person in the event the Key Person is no longer available due to circumstances beyond Contractor's reasonable control, such as death, illness, or termination of employment with Contractor. In the event Contractor requests that HECC approve a re-assignment or transfer of a Key Person, or if Contractor must replace a Key Person, HECC may interview, review the qualifications of, and approve or reject the proposed replacement for the Key Person. Any such replacement must have substantially equivalent or better qualifications than the Key Person being replaced. Any replacement personnel approved by HECC in writing (email acceptable) will thereafter be deemed a Key Person for purposes of this Contract, and the Statement of Work will be deemed amended to include such Key Person.

**5.2. Payment for Replacement Key Personnel.** If HECC is paying Contractor on an hourly or other periodic basis, then Contractor will not charge HECC, and HECC will not pay, for a replacement Key Person while such replacement acquires the project knowledge and skills necessary to perform the Services. Such period of non-charge will be agreed upon by the parties.

- 5.3. **State Premises.** Contractor and Contractor staff shall comply with all policies, rules, procedures, and regulations established by HECC and the State for access to and activities in and around premises controlled by HECC or any other agency of the State.

## 6. INDEPENDENT CONTRACTOR; RESPONSIBILITY FOR TAXES AND WITHHOLDING.

- 6.1. **Independent Contractor.** Contractor shall perform all Services as an independent contractor. HECC reserves the right (i) to determine and modify the delivery schedule for the Services and (ii) to evaluate the quality of the Services; however, HECC may not and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Services.
- 6.2. **No Conflicts.** Contractor, by signature to this Contract, represents and warrants that Contractor's performance of the Services under this Contract creates no potential or actual conflict of interest as defined by ORS 244; and no statutes, rules or regulations of any State of Oregon or federal agency for which Contractor currently performs work would prohibit Contractor from performing the Services under this Contract.
- 6.3. **Affiliation.** Contractor understands and agrees that it is not an "officer," "employee," or "agent" of the State of Oregon, as those terms are used in ORS 30.265 or otherwise.
- 6.4. **Taxes and Benefits.** Contractor is responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under this Contract and, unless required by applicable law, HECC will not withhold from such compensation or payments any amount to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under this Contract, except as a self-employed individual.

## 7. SUBCONTRACTS, SUCCESSORS, AND ASSIGNMENTS.

- 7.1. **Subcontracts.** Contractor shall not enter into any subcontracts for any of the Services required by this Contract without HECC's prior written consent. In addition to any other provisions HECC may require, Contractor shall include in any permitted subcontract under this Contract provisions to ensure that HECC will receive the benefit of subcontractor's performance as if the subcontractor were Contractor. HECC's consent to any subcontract does not relieve Contractor of any of its duties or obligations under this Contract.
- 7.2. **Successors and Assigns.** The provisions of this Contract are binding upon and inure to the benefit of the parties to this Contract, their respective successors, and permitted assigns, if any.
- 7.3. **No Assignment.** Contractor shall not assign or transfer any of its rights or delegate its obligations under this Contract without HECC's prior written consent.

## 8. REPRESENTATIONS AND WARRANTIES.

- 8.1. **Contractor's General Representations and Warranties.** Contractor represents and warrants to HECC that:
- 8.1.1. Contractor has the power and authority to enter into and perform this Contract;
  - 8.1.2. This Contract, when executed and delivered, is a valid and binding obligation of Contractor enforceable in accordance with its terms;

- 8.1.3. Contractor shall, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Services;
- 8.1.4. Contractor prepared its proposal related to this Contract, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty; and
- 8.1.5. Contractor (to the best of Contractor's knowledge, after due inquiry), for a period of no fewer than six calendar years preceding the Effective Date, faithfully has complied with:
  - 8.1.5.1. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
  - 8.1.5.2. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor;
  - 8.1.5.3. Any tax provisions imposed by a political subdivision of this State that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor;
  - 8.1.5.4. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions; and
- 8.1.6. Contractor has no undisclosed liquidated and delinquent debt owed to the State or any department or agency of the State.

## **8.2. Contractor's Performance Warranties.**

- 8.2.1. Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor shall apply that skill and knowledge with care and diligence to perform the Services in a professional manner and in accordance with the highest standards prevalent in Contractor's industry, trade or profession;
- 8.2.2. The Services and each Deliverables delivered by Contractor pursuant to the Services will materially comply with any service descriptions, specifications, standards or requirements set forth in this Contract;
- 8.2.3. Except as otherwise provided in this Contract (including Section 9), Contractor shall transfer all Deliverables to HECC free and clear of any and all restrictions on or conditions of transfer, modification, licensing, sublicensing, direct or indirect distribution, or assignment, and free and clear of any and all liens, claims, mortgages, security interests, liabilities, and encumbrances of any kind; and
- 8.2.4. Except as otherwise set forth in this Contract, any subcontractors performing work for Contractor under this Contract have assigned all of their rights in the Deliverables to Contractor or HECC and no third party has any right, title or interest in any Deliverables supplied to HECC under this Contract.
- 8.2.5. Contractor shall disclose to HECC any Products and/or Services that utilize artificial intelligence ("AI") and shall not employ any Products and/or Services that utilize AI without prior written authorization from HECC and applicable safeguards in providing the Products and/or Services under this Agreement. Changes to Contractor's use of AI will require an amendment to this Agreement.

**8.3. Warranties Cumulative.** The warranties set forth in Section 8 are in addition to, and not in lieu of, any other warranties set forth elsewhere in this Contract.

## **9. OWNERSHIP OF WORK PRODUCT.**

**9.1. Definitions.** As used in this Section 9, and elsewhere in this Contract, the following terms have the meanings set forth below:

- 9.1.1. "Contractor Intellectual Property" means any intellectual property owned by Contractor and developed independently from the Services.

- 9.1.2. "Third Party Intellectual Property" means any intellectual property owned by parties other than HECC or Contractor.
- 9.1.3. "Work Product" means everything that is originally made, conceived, discovered, or reduced to practice by Contractor or Contractor's subcontractors or agents (either alone or with others) pursuant to this Contract, including every invention, modification, discovery, design, development, customization, configuration, improvement, process, work of authorship, documentation, formula, datum, technique, know how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection).
- 9.2. **Original Works.** All Work Product created by Contractor pursuant to the Services, including derivative works and compilations of Work Product, and whether or not such Work Product is considered a work made for hire or an employment to invent, is the exclusive property of HECC. HECC and Contractor agree that such Work Product is "work made for hire" of which HECC is the author within the meaning of the United States Copyright Act. If for any reason the Work Product is not "work made for hire," Contractor hereby irrevocably assigns to HECC any and all of its rights, title, and interest in all Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon HECC's reasonable request, Contractor shall execute such further documents and instruments necessary to fully vest such rights in HECC. Contractor forever waives any and all rights relating to Work Product, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- 9.3. **License in Contractor Intellectual Property.** In the event that a Deliverable(s) delivered by Contractor under this Contract is a derivative work based on Contractor Intellectual Property, or is a compilation that includes Contractor Intellectual Property, Contractor hereby grants to HECC an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of the Contractor Intellectual Property employed in the Deliverables, and to authorize others to do the same on HECC's behalf.
- 9.4. **License in Third Party Intellectual Property.** In the event that a Deliverable(s) delivered by Contractor under this Contract is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Contractor shall secure on HECC's behalf and in the name of HECC an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of the Third Party Intellectual Property employed in the Deliverables, and to authorize others to do the same on HECC's behalf.
- 9.5. **No Rights.** Except as expressly set forth in this Contract, nothing in this Contract may be construed as granting to or conferring upon Contractor any right, title, or interest in any intellectual property that is now owned or subsequently owned by HECC. Except as expressly set forth in this Contract, nothing in this Contract may be construed as granting to or conferring upon HECC any right, title, or interest in any Contractor Intellectual Property that is now owned or subsequently owned by Contractor.
- 9.6. **Marks.** Neither party grants the other the right to use its trademarks, trade names, service marks or other designations in any promotion or publication without prior written consent. Each party grants only the licenses and rights specified in this Contract.

- 9.7. Competing Services.** Subject to the provisions of this Section 9, and Contractor's obligations with respect to Confidential Information, including as defined in Section 10, nothing in this Contract precludes or limits in any way the right of Contractor to: (i) provide services similar to those contemplated in this Contract, or consulting or other services of any kind or nature whatsoever to any individual or entity as Contractor in its sole discretion deems appropriate, or (ii) develop for Contractor or for others, deliverables or other materials that are competitive with those produced as a result of the Services provided hereunder, irrespective of their similarity to the Deliverables delivered pursuant to this Contract. Each party is free to utilize any concepts, processes, know-how, techniques, improvements or other methods it may develop during the course of performance under this Contract free of any use restriction or payment obligation to the other.

## **10. CONFIDENTIAL INFORMATION.**

- 10.1. Confidential Information.** Contractor acknowledges that it and its employees, officers, directors, agents or subcontractors (collectively, "Contractor Staff") may, in the course of performing the Services under this Contract, be exposed to or acquire information that is confidential to HECC or HECC's clients. Any and all information of any form (including but not limited to records, files, papers, materials, documents, and communications in written, verbal, oral and electronic form) that Contractor or any Contractor Staff may come into contact with or that is obtained by Contractor or Contractor Staff in the performance of this Contract shall be considered for the purposes of this Contract the confidential information of HECC ("Confidential Information"). Contractor shall, and shall cause Contractor Staff to treat any reports or other documents or items (including software) that result from the use of the Confidential Information in the same manner as the Confidential Information. Confidential Information does not include information that (i) is or becomes (other than by disclosure by Contractor or Contractor Staff acquiring such information) publicly known or is contained in a publicly available document except to the extent applicable law still restricts disclosure; (ii) is furnished by HECC to others without restrictions similar to those imposed by this Contract; (iii) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Contract; (iv) is obtained from a source other than HECC without the obligation of confidentiality, (v) is disclosed with the written consent of HECC, or; (vi) is independently developed by Contractor or Contractor Staff who can be shown to have had no access to the Confidential Information.
- 10.2. Non-Disclosure.** Contractor shall hold, and shall cause Contractor Staff to hold, all Confidential Information in confidence, using the highest standard of care applicable, and shall not copy, reproduce, sell, assign, license, market, transfer, distribute, or otherwise dispose of, give, make available or disclose, in whole or in part, directly or indirectly, Confidential Information to third parties (other than its authorized subcontractors), or use Confidential Information for any purposes whatsoever other than the provision of Services to HECC hereunder, and shall advise Contractor Staff of their obligations to keep Confidential Information confidential. Contractor shall assist HECC in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Contractor shall advise HECC immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract, and Contractor will at its expense cooperate with HECC in seeking injunctive or other equitable relief in the name of HECC or Contractor against any such person. Contractor shall not at any time during or after the term of this Contract, except as directed by HECC, disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Contract. Upon expiration or termination of this Contract or at HECC's request,



Contractor shall deliver to HECC all documents, papers, and other matter in Contractor's possession that embody Confidential Information. Notwithstanding the foregoing and unless otherwise specified in this Contract, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits and evidence of performance of the Services.

- 10.3. Confidentiality Policies.** Contractor shall, upon HECC's request, provide its policies and procedures for safeguarding Confidential Information to HECC for HECC's review and consent. Such policies must address information conveyed in oral, written, and electronic format and include procedures for how Contractor will respond when a violation or possible violation occurs.
- 10.4. Injunctive Relief.** Contractor acknowledges that breach of this Section 10, including disclosure of any Confidential Information, will cause irreparable injury to HECC that is inadequately compensable in damages. Accordingly, HECC may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of HECC and are reasonable in scope and content.
- 10.5. Publicity.** Contractor agrees that it will not disclose the form, content or existence of this Contract or any Deliverable(s) in any advertising, press releases or other materials distributed to prospective customers, or otherwise attempt to obtain publicity from its association with HECC or the State of Oregon, whether or not such disclosure, publicity or association implies an endorsement by HECC or the State of Oregon of Contractor's services, without the prior written consent of HECC.

## **11. INDEMNITY BY CONTRACTOR.**

- 11.1. Claims.** Contractor shall defend, save, hold harmless, and indemnify the State of Oregon and HECC and their officers, employees and agents from and against all third party claims, suits, actions, losses, damages, liabilities, costs (including attorneys' fees) and expenses (collectively, "Claims") of any nature whatsoever resulting from, arising out of, or relating to the activities of Contractor or its officers, employees, subcontractors, or agents under this Contract, including but not limited to, unauthorized disclosure of Confidential Information, professional malfeasance, infringement of intellectual property rights, intentional, willful, or wanton wrongful acts, and acts outside the scope of Services set forth in this Contract.
- 11.2. Legal Counsel.** If Contractor is required to defend the State of Oregon or HECC or their officers, employees or agents under Section 11.1, then Contractor shall select legal counsel reasonably acceptable to the Oregon Attorney General to act in the name of, or represent the interests of, the State of Oregon, HECC or their officers, employees and agents. Such legal counsel must accept appointment as a special assistant attorney general under ORS chapter 180 before such action or representation. Further, the State of Oregon, acting by and through its Department of Justice, may assume its own defense, including that of its officers, employees and agents, at any time when in the State of Oregon's sole discretion it determines that (i) proposed counsel is prohibited from the particular representation contemplated; (ii) counsel is not adequately defending the interests of the State of Oregon or its officers, employees and agents; (iii) important governmental interests are at stake; or (iv) the best interests of the State of Oregon are served thereby. Contractor's obligation to pay for all costs and expenses includes those incurred by the State of Oregon in assuming its own defense or that of its officers, employees, and agents under (i) and (ii) above.

- 11.3. Damages to State Property and Employees.** Contractor is liable for all Claims for personal injury, including death, damage to real property and damage to tangible and intangible personal property of the State of Oregon or any of its employees, subcontractors or agents resulting from, arising out of, or relating to the intentional, reckless or negligent acts or omissions of Contractor or its officers, employees, subcontractors, or agents under this Contract.
- 11.4.** CONTRACTOR IS NOT AUTHORIZED TO SETTLE OR COMPROMISE ANY CLAIM REFERENCED IN THIS SECTION WITHOUT THE EXPRESS WRITTEN CONSENT OF HECC.

## **12. LIMITATION OF LIABILITIES.**

- 12.1.** EXCEPT FOR LIABILITY ARISING OUT OF OR RELATED TO (i) SECTION 10, OR (ii) SECTION 11, CONTRACTOR'S LIABILITY FOR DAMAGES FOR ANY CAUSE WHATSOEVER SHALL BE LIMITED TO ONE AND ONE HALF TIMES THE MAXIMUM-NOT-TO-EXCEED AMOUNT OF THIS CONTRACT.
- 12.2.** EXCEPT FOR LIABILITY TO THIRD PERSONS ARISING OUT OF OR RELATED TO (i) SECTION 10, OR (ii) SECTION 11, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY LOST PROFITS, LOST SAVINGS, OR PUNITIVE, INDIRECT, EXEMPLARY, CONSEQUENTIAL, OR INCIDENTAL DAMAGES.

## **13. INSURANCE.**

Contractor shall maintain insurance as set forth in Exhibit B.

## **14. DEFAULT; REMEDIES; TERMINATION.**

- 14.1. Default by Contractor.** Contractor will be in default under this Contract if:

- 14.1.1. Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis; or
- 14.1.2. Contractor no longer holds a license or certificate that is required for Contractor to perform its obligations under the Contract and Contractor has not obtained such license or certificate within 14 calendar days after HECC's notice or such longer period as HECC may specify in such notice; or
- 14.1.3. Contractor commits any material breach or default of any covenant, warranty, obligation, certification, or agreement under this Contract, fails to perform the Services under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Services as to endanger Contractor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within 14 calendar days after HECC's notice, or such longer period as HECC may specify in such notice; or
- 14.1.4. Contractor has liquidated and delinquent debt owed to the State of Oregon or any department or agency of the State.

- 14.2. HECC's Remedies for Contractor's Default.** In the event Contractor is in default under Section 14.1, HECC may, at its option, pursue any or all of the remedies available to it under this Contract and at law or in equity, including, but not limited to:

- 14.2.1. Termination of this Contract under Section 14.6.2; or
- 14.2.2. Withholding all monies due for Services and Deliverables that Contractor has failed to deliver within any scheduled completion dates or has performed inadequately or defectively; or

- 14.2.3. Initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief; or
- 14.2.4. Exercise of its right of setoff, and withholding of amounts otherwise due and owing to Contractor, without penalty; or
- 14.2.5. Undertaking collection by administrative offset, or garnishment if applicable, of all monies due for Services and Deliverables to recover liquidated and delinquent debt owed to the State of Oregon or any department or agency of the State. Offsets or garnishment may be initiated after the Contractor has been given notice if required by law.

**14.3. Remedies Cumulative.** The remedies set forth in Section 14.2 are cumulative to the extent the remedies are not inconsistent, and HECC may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that Contractor was not in default under Sections 14.1, then Contractor will be entitled to the same remedies as if this Contract was terminated pursuant to Section 14.6.1.

**14.4. Default by HECC.** HECC will be in default under this Contract if:

- 14.4.1. HECC fails to pay Contractor any amount pursuant to the terms of this Contract, and HECC fails to cure such failure within 30 calendar days after Contractor's notice or such longer period as Contractor may specify in such notice; or
- 14.4.2. HECC commits any material breach or default of any covenant, warranty, or obligation under this Contract, and such breach or default is not cured within 30 calendar days after Contractor's notice or such longer period as Contractor may specify in such notice.

**14.5. Contractor's Remedies.** In the event HECC terminates this Contract under Section 14.6.1, or is in default under Section 14.4, and whether or not Contractor elects to exercise its right to terminate the Contract under Section 14.6.3, Contractor's sole monetary remedy will be (i) with respect to Services compensable at a stated rate, a claim for unpaid invoices, time worked within any limits set forth in this Contract but not yet invoiced and authorized expenses incurred and interest, subject to ORS 293.462, and (ii) with respect to Deliverables-based Services, a claim for the sum designated for completing the Deliverables multiplied by the percentage of Services completed and accepted by HECC, less previous amounts paid and any claim(s) that HECC has against Contractor. In no event will HECC be liable to Contractor for any expenses related to termination of this Contract or for anticipated profits. If previous amounts paid to Contractor exceed the amount due to Contractor under this Section 14.5, Contractor shall pay immediately any excess to HECC upon written demand.

**14.6. Termination.**

- 14.6.1. HECC's Right to Terminate at its Discretion. HECC may terminate this Contract:
  - 14.6.1.1. Upon 30 calendar days' prior written notice by HECC to Contractor;
  - 14.6.1.2. Immediately upon written notice by HECC to Contractor if HECC fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to pay for the Services or Work Products; or
  - 14.6.1.3. Immediately upon written notice by HECC to Contractor if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that HECC's purchase of the Services or Work Products under this Contract is prohibited or HECC is prohibited from paying for such Services or Work Products from the planned funding source.
- 14.6.2. HECC's Right to Terminate for Cause. In addition to any other rights and remedies HECC may have under this Contract, HECC may terminate this Contract immediately

upon written notice by HECC to Contractor, or at such later date as HECC may establish in such notice, if Contractor is in default under Section 14.1.

- 14.6.3. **Contractor's Right to Terminate for Cause.** Contractor may terminate this Contract immediately upon written notice to HECC, or at such later date as Contractor may establish in such notice, if HECC is in default under Section 14.4.

- 14.7. **Return of Property.** Upon termination of this Contract for any reason whatsoever, Contractor shall immediately deliver to HECC all of HECC's property (including without limitation any Services or Work Products for which HECC has made payment in whole or in part) that is in the possession or under the control of Contractor in whatever stage of development and form of recordation such HECC property is expressed or embodied at that time.

- 14.8. **Effect of Termination.** Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless HECC expressly directs otherwise in such notice of termination. Upon HECC's request, Contractor shall surrender to anyone HECC designates, all documents, research or objects or other tangible things needed to complete the Services and the Deliverables.

## **15. COMPLIANCE WITH LAW.**

- 15.1. **Compliance with Law Generally.** Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to Contractor and the Contract. HECC's performance under the Contract is conditioned upon Contractor's compliance with the obligations of contractors under ORS 279B.045, 279B.220, 279B.230 and 279B.235, which are incorporated by reference herein.

### **15.2. Compliance with Oregon Tax Laws.**

- 15.2.1. Contractor shall, throughout the duration of this Contract, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this Section, "tax laws" includes the tax laws described in Section 8.1.5.1 through 8.1.5.4.

- 15.2.2. Any violation of Section 15.2.1 constitutes a material breach of this Contract. Further, any violation of Contractor's warranty in Section 8.1.5 of this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also constitutes a material breach of this Contract. Any violation entitles HECC to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

15.2.2.1. Termination of this Contract, in whole or in part;

15.2.2.2. Exercise of the right of setoff, or garnishment if applicable, and withholding of amounts otherwise due and owing to Contractor without penalty; and

15.2.2.3. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. HECC is entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement Services.

- 15.2.3. These remedies are cumulative to the extent the remedies are not inconsistent, and HECC may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

- 15.3. **Compliance with Federal Law.** Contractor shall comply with all applicable federal laws.

- 15.4. Pay Equity Compliance.** As required by ORS 279B.235 Contractor shall comply with ORS 652.220 and shall not discriminate against any of Contractor's employees in the payment of wages or other compensation for work of comparable character, the performance of which requires comparable skills, or pay any employee at a rate less than another for comparable work, based on an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age. Contractor's compliance with this Section constitutes a material element of this Contract and a failure to comply constitutes a breach that entitles HECC to terminate this Contract for cause.

Contractor may not prohibit any of Contractor's employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. Contractor may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person.

## **16. GOVERNING LAW; VENUE AND JURISDICTION.**

- 16.1. Governing Law.** This Contract is governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law.
- 16.2. Venue and Jurisdiction.** Any claim, action, suit or proceeding between HECC (or any other agency or department of the State of Oregon) and Contractor that arises from or relates to this Contract must be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon. CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. In no event may this Section be construed as (i) a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim, action, suit or proceeding, or (ii) consent by the State of Oregon to the jurisdiction of any court.

## **17. MISCELLANEOUS PROVISIONS.**

- 17.1. Records Maintenance; Access.** Contractor shall maintain all financial records relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Contractor, whether in paper, electronic or other form, that are pertinent to this Contract ("Records") in such a manner as to clearly document Contractor's performance. Contractor acknowledges and agrees that HECC and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to such financial records and other Records that are pertinent to this Contract, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such financial records and other Records for a minimum of 6 years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
- 17.2. Foreign Contractor.** If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies

relative to this Contract. Contractor shall demonstrate its legal capacity to perform the Services under this Contract in the State of Oregon prior to entering into this Contract.

- 17.3. Force Majeure.** Neither HECC nor Contractor may be held responsible for delay or default caused by fire, riot, epidemic, natural disaster, acts of God, terrorist acts, or other acts of political sabotage, or war where such cause was beyond the reasonable control of HECC or Contractor, respectively. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 17.4. Survival.** All rights and obligations cease upon termination or expiration of this Contract, except for the rights and obligations and declarations which expressly or by their nature survive termination of this Contract, including without limitation this Section 17.4, and provisions regarding Contract definitions, warranties and liabilities, independent Contractor status and taxes and withholding, maximum compensation, Contractor's duties of confidentiality, ownership and license of intellectual property and Deliverables, confidentiality and non-disclosure, Contractor's representations and warranties, control of defense and settlement, remedies, return of HECC property, dispute resolution, order of precedence, maintenance and access to records, notices, severability, successors and assigns, third party beneficiaries, waiver, headings, and integration.
- 17.5. Time is of the Essence.** Contractor agrees that time is of the essence under this Contract.
- 17.6. Notice.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder must be given in writing by email, personal delivery, or mailing the same, postage prepaid, to Contractor or HECC at the email address, postal address or telephone number set forth in this Contract, or to such other addresses or numbers as either party may indicate pursuant to this Section 17.6. Any communication or notice so addressed and mailed is effective five business days after mailing. Any communication or notice given by personal delivery is effective when actually delivered. Any notice given by email is effective when the sender receives confirmation of delivery, either by return email, or by demonstrating through other technological means that the email has been delivered to the intended email address.
- 17.7. No Third-Party Beneficiaries.** HECC and Contractor are the only parties to this Contract and are the only parties entitled to enforce the terms of this Contract. Nothing in this Contract gives, is intended to give, or may be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 17.8. Severability.** The parties agree that if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or otherwise invalid, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the parties will be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 17.9. Merger Clause; Waiver.** This Contract and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Contract. No waiver, consent, modification or change of terms of this Contract will bind the parties unless in writing and signed by both parties and all necessary State approvals have been obtained. Such waiver, consent, modification or change, if made, will be effective only in the specific instance and for the specific purpose given. The failure of HECC to enforce

any provision of this Contract in one instance will not constitute a waiver by HECC of its right to enforce that or any other provision.

**17.10. Amendments.** HECC may amend this Contract to the extent permitted by applicable statutes and administrative rules. No amendment to this Contract is effective unless it is in writing signed by the parties and has been approved as required by applicable law, unless explicitly stated in other Sections of this Contract.

**17.11. Counterparts.** This Contract may be executed in several counterparts, all of which when taken together constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Contract so executed constitutes an original.

**17.12. Oregon False Claims Act.** Contractor acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any action by Contractor pertaining to this Contract, including the procurement process relating to this Contract, that constitutes a "claim" (as defined by ORS 180.750(1)). By its execution of this Contract, Contractor certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to this Contract. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false claim or performs a prohibited act under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against Contractor. Contractor understands and agrees that any remedy that may be available under the Oregon False Claims Act is in addition to any other remedy available to the State or HECC under this Contract or any other provision of law.

**17.13. Certifications.** The individual signing on behalf of Contractor hereby:

17.13.1. Certifies and swears under penalty of perjury to the best of the individual's knowledge that: (a) Contractor is not subject to backup withholding because (i) Contractor is exempt from backup withholding, (ii) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that Contractor is no longer subject to backup withholding; (b) s/he is authorized to act on behalf of Contractor, s/he has authority and knowledge regarding Contractor's payment of taxes, and to the best of her/his knowledge, Contractor is not in violation of any Oregon tax laws, including, without limitation, those tax laws listed in ORS 305.380(4), namely ORS Chapters 118, 314, 316, 317, 318, 320, 321 and 323 and Sections 10 to 20, Chapter 533, Oregon Laws 1981, as amended by Chapter 16, Oregon Laws 1982 (first special session); the elderly rental assistance program under ORS 310.657; and any local taxes administered by the Oregon Department of Revenue under ORS 305.620; (c) Contractor is an independent contractor as defined in ORS 670.600; and (d) the supplied Contractor tax identification numbers are true and accurate;

17.13.2. Certifies that, to the best of the undersigned's knowledge, Contractor has not discriminated against and will not discriminate against any disadvantaged business enterprise, minority-owned business, woman-owned business, business that service-disabled veteran owns or emerging small business certified under ORS 200.055 in obtaining any required subcontracts;

17.13.3. Certifies that Contractor has a written policy and practice that meets the requirements, described in ORS 279A.112, of preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class. Contractor agrees, as a material term of the Contract, to maintain the policy and practice in force during the entire Contract term; and

17.13.4. Certifies that Contractor and Contractor's employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>.

IN WITNESS WHEREOF, the parties have executed this Contract as of the dates set forth below.

**Contractor**

**By:** \_\_\_\_\_  
Authorized Representative, Title

\_\_\_\_\_  
Date

**HIGHER EDUCATION COORDINATING COMMISSION**

**By:** \_\_\_\_\_  
Ben Cannon, Executive Director

\_\_\_\_\_  
Date

**HECC – Review for procurement sufficiency**

**Reviewed by:** \_\_\_\_\_  
Derek Dizney, Procurement Manager

\_\_\_\_\_  
Date

**DOJ – Review for legal sufficiency – \_\_\_\_\_.**



**EXHIBIT A  
STATEMENT OF WORK**

**A. GENERAL INFORMATION**

To Be Filled In

**B. REQUIRED SERVICES, DELIVERABLES, AND DELIVERY SCHEDULE**

To Be Filled In

**Contractor shall not use any Artificial Intelligence tools in performing services under this Contract, without HECC's prior written approval.**

**C. BUDGET**

To Be Filled In

**D. KEY PERSONS**

Contractors' Key Persons under this contract include the following:

To Be Filled In

## **EXHIBIT B REQUIRED INSURANCE**

### **INSURANCE REQUIREMENTS**

Contractor shall obtain, at Contractor's expense, the insurance specified in this Exhibit B prior to performing under this Contract and shall maintain it in full force and at its own expense throughout the duration of this Contract, as required by any extended reporting period or tail coverage requirements, and all warranty periods that apply. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon ("State") and that are acceptable to HECC. Coverage shall be primary and non-contributory with any other insurance and self-insurance, with the exception of Professional Liability and Workers' Compensation. Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

### **WORKERS' COMPENSATION & EMPLOYERS' LIABILITY**

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If Contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

### **COMMERCIAL GENERAL LIABILITY:**

☒ **Required** ☐ **Not required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Contract, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.

### **AUTOMOBILE LIABILITY INSURANCE:**

☒ **Required** ☐ **Not required**

Automobile Liability Insurance covering Contractor's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

### **PHYSICAL ABUSE AND SEXUAL MOLESTATION LIABILITY:**

☐ **Required** ☒ **Not required**

Abuse and Molestation Insurance in a form and with coverage that are satisfactory to HECC covering damages arising out of actual, perceived, or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, training, investigation, reporting to proper authorities, and retention of any person for whom the Contractor is responsible including but not

limited to Contractor and Contractor's employees and volunteers. Policy endorsement's definition of an insured shall include the Contractor, and the Contractor's employees and volunteers. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Any annual aggregate limit shall not be less than \$3,000,000. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. These limits shall be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individuals, and irrespective of the number of incidents or injuries or the time period or area over which the incidents or injuries occur, shall be treated as a separate occurrence for each victim. Coverage shall include the cost of defense and the cost of defense shall be provided outside the coverage limit.

**PROFESSIONAL LIABILITY:**

☐ Required ☒ Not required

Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract by the Contractor and Contractor's subcontractors, agents, officers or employees in an amount not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability Insurance coverage, or the Contractor shall provide Tail Coverage as stated below.

**EXCESS/UMBRELLA INSURANCE:**

A combination of primary and excess/ umbrella insurance may be used to meet the required limits of insurance.

**ADDITIONAL INSURED:**

The Commercial General Liability insurance and Automobile liability insurance required under this Contract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 04 13 or equivalent.

**TAIL COVERAGE:**

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Contractor shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Contract, for a minimum of 24 months following the later of (i) Contractor's completion and HECC's acceptance of all Services required under this Contract, or, (ii) HECC or Contractor termination of Contract, or, iii) The expiration of all warranty periods provided under this Contract.

**CERTIFICATE(S) AND PROOF OF INSURANCE:**

Contractor shall provide to HECC Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. If excess/ umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/ umbrella insurance. As proof of insurance HECC has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

**NOTICE OF CHANGE OR CANCELLATION:**

The Contractor or its insurer must provide at least 30 days' written notice to HECC before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

**INSURANCE REQUIREMENT REVIEW:**

Contractor agrees to periodic review of insurance requirements by HECC under this Contract and to provide updated requirements as mutually agreed upon by Contractor and HECC.

**STATE ACCEPTANCE:**

All insurance providers are subject to HECC acceptance. If requested by HECC, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to HECC's representatives responsible for verification of the insurance coverages required under this Exhibit B.

**EXHIBIT C**  
**FEDERAL TERMS AND CONDITIONS**

**A. FEDERAL FUNDS**

If specified below, HECC's payments to Contractor under this Contract will be paid in whole or in part by funds received by HECC from the United States Federal Government. If so specified then Contractor, by signing this Contract, certifies that neither it nor its employees or subcontractors who will perform the Services are currently employed by an agency or department of the federal government.

Payments ☒ will ☐ will not be made in whole or in part with federal funds.

In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, HECC has determined that:

☐ Contractor is a sub-recipient ☒ Contractor is a contractor

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Contract:  
(to be determined)

**B. FEDERAL ASSURANCES AND CERTIFICATIONS**

The use of all federal funds paid under this Contract are subject to all applicable federal regulations, including without limitation, the requirements of 2 CFR, 29 CFR and 34 CFR, and the Federal Assurances and Certifications described below.

Contractor shall ensure that any further distribution or payment of the federal funds paid under this Contract by means of any subcontract or other agreement between Contractor and another party for the performance of any of the work of this Contract, shall include the requirement that said funds shall be used solely in a manner that complies with the provisions of this Contract.

Contractor shall include and incorporate the Federal Assurances and Certifications described below in all subcontracts that may use, in whole or in part, the funds provided by this Contract.

By signing on the line below, Contractor hereby certifies and assures that it will fully comply with the following provisions, as applicable:

\_\_\_\_\_  
Authorized Representative, Title

\_\_\_\_\_  
Date

## ASSURANCES AND CERTIFICATIONS

**In accordance with Appendix II to 2 CFR Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, the following provisions apply to this Contract, as applicable:**

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 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.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must 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 must 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 non-Federal award.

(J) See §200.322 Procurement of recovered materials: [https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=92b159d8a4db712007ed9d36214ee0ec&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200\\_1322](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=92b159d8a4db712007ed9d36214ee0ec&mc=true&n=pt2.1.200&r=PART&ty=HTML#se2.1.200_1322)

**In accordance with Subpart F to 2 CFR Part 200 – Audit Requirements, the following provisions apply to this Contract, as applicable:**

**§200.501 Audit requirements**

(a) Audit required. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.

(b) Single audit. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with §200.514 Scope of audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section.

(c) Program-specific audit election. When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with §200.507 Program-specific audits. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.

(d) Exemption when Federal awards expended are less than \$750,000. A non-Federal entity that expends less than \$750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from

Federal audit requirements for that year, except as noted in §200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO).

(e) Federally Funded Research and Development Centers (FFRDC). Management of an auditee that owns or operates a FFRDC may elect to treat the FFRDC as a separate entity for purposes of this part.

(f) Subrecipients and Contractors. An auditee may simultaneously be a recipient, a subrecipient, and a contractor. Federal awards expended as a recipient or a subrecipient are subject to audit under this part. The payments received for goods or services provided as a contractor are not Federal awards. Section §200.330 Subrecipient and contractor determinations sets forth the considerations in determining whether payments constitute a Federal award or a payment for goods or services provided as a contractor.

(g) Compliance responsibility for contractors. In most cases, the auditee's compliance responsibility for contractors is only to ensure that the procurement, receipt, and payment for goods and services comply with Federal statutes, regulations, and the terms and conditions of Federal awards. Federal award compliance requirements normally do not pass through to contractors. However, the auditee is responsible for ensuring compliance for procurement transactions which are structured such that the contractor is responsible for program compliance or the contractor's records must be reviewed to determine program compliance. Also, when these procurement transactions relate to a major program, the scope of the audit must include determining whether these transactions are in compliance with Federal statutes, regulations, and the terms and conditions of Federal awards.

(h) For-profit subrecipient. Since this part does not apply to for-profit subrecipients, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The agreement with the for-profit subrecipient must describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the agreement, and post-award audits. See also §200.331 Requirements for pass-through entities.