

AGENDA REQUEST FORM
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Meeting Date 8/19/08	Open Agenda <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Time Certain Request <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Agenda Item Number I-2
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TITLE: Educator Certification Program

REQUESTED ACTION:
Approve a continuation Agreement between The School Board of Broward County, Florida, and WorkForce One and the Business Associate Addendum appended to the Agreement.

SUMMARY EXPLANATION AND BACKGROUND:
The Teaching and Leadership Center's Educator Certification Program proposal was selected and awarded an Employed Worker Training grant from WorkForce One for the fourth consecutive year. The objective of the grant is to assist employees who must complete required training or coursework to retain their employment.

The goal of the Educator Certification Program is to select fifty (50) educators on temporary certificates who must complete up to 15 semester hours of college coursework to obtain their professional certification. The Teaching and Leadership Center will provide program participants with an individual course outline needed for professional certification and register the participants in the college courses. The courses will be delivered through Florida Atlantic University at no tuition cost to the participants. Preference will be given to teachers in Superintendent Schools and those in critical shortage areas. The program participants will be required to sign an agreement to complete the program by June 30, 2009 and a promissory note for reimbursement of any college courses that are dropped or in which the participant receives a grade below a "C".

The program has shown promising results from 2005-2008 culminating in providing assistance to 184 contract teachers in their third and final year of their temporary certificate. These participants achieved professional certification and remained employed as a direct result of this program.

As part of the Agreement, WorkForce One requires that the School Board approve and execute a Business Associate Addendum to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

This Agreement will be effective on the date that the contract has been executed by both parties. The term of the agreement shall conclude on June 30, 2009.

The Agreement has been reviewed and approved as to form and legal content by the School Board Attorney.

SCHOOL BOARD GOALS:

- Goal One: Raise achievement of all students to ensure graduation from high school and readiness for post-secondary education.
- Goal Two: Improve the health and wellness of students and personnel.
- Goal Three: Provide a safe and secure physical and technological environment for all students and employees.
- Goal Four: Promote innovation which focuses on best practices and quality efforts that improve our best-in-class position.
- Goal Five: Recruit, develop, retain, and recognize high performing and diverse faculty and personnel.
- Goal Six: Build strong partnerships with family, business, community and government at the classroom, school, area, and district level.
- Goal Seven: Ensure district's leadership as an environmental steward through innovative ecology and energy conservation programs.

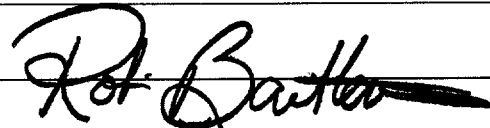
FINANCIAL IMPACT:
The positive financial impact is \$88,812. The source of funds is WorkForce One- Employed Worker Training Program.

EXHIBITS: (List)
Agreement (pages 1-30)
Exhibit A- Program Budget (page 31)
Exhibit B- HIPAA Business Associate Addendum to the Agreement (pages 32-36)

BOARD ACTION: APPROVED	SOURCE OF ADDITIONAL INFORMATION: Elisa Calabrese 954-236-1040
(For Official School Board Records' Office Only)	Name Phone

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
Gracie Diaz, Assistant Superintendent
Human Resource Development

Approved in Open Board Meeting on: ~~AUG 19 2008~~ **AUG 27 2008**

By:  School Board Chair



AGREEMENT NO. 2008-2009-EWT-118

BETWEEN

WORKFORCE ONE

AND

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

THIS AGREEMENT made and entered into this ___ day of _____ 2008, by and between The School Board of Broward County, Florida (hereinafter referred to as "Contractor"), having its principal offices at 600 Southeast 3rd Ave., Fort Lauderdale, FL 33301 and WORKFORCE ONE the administrative entity and fiscal agent for the WorkForce One Council of Elected Officials, a consortium of the Cities of Fort Lauderdale and Hollywood, and Broward County, existing under and by virtue of the laws of the State of Florida as an interlocal unit of government, having its principal offices at 3800 Inverrary Boulevard, Suite 400, Lauderdale, Florida 33319 and serving as the administrative entity fiscal agent for the Broward Workforce Development Board, Inc., to begin on the date this Agreement is executed by all parties and to terminate June 30, 2009.

WITNESSETH:

WHEREAS, WorkForce One through its governing boards is desirous of providing for services in Broward County leading to maximum employment opportunities enhancing the self sufficiency of its residents and citizens; and

WHEREAS, WorkForce One wishes to retain Contractor to provide training to employed workers, as outlined in this Agreement; and

WHEREAS, CONTRACTOR has agreed to provide the training, as set forth below,

NOW THEREFORE IN CONSIDERATION of the terms, conditions, promises, and covenants hereinafter set forth, WorkForce One and Contractor agree as follows:

ARTICLE

AGREEMENT PURPOSE

- 1.1 It is the purpose of this Agreement to state the covenants and conditions under which the Contractor will implement and provide training to fifty (50) employees in the Educator Certification Program as described herein.

ARTICLE 2

DEFINITIONS

AWI

The Agency for Workforce Innovation of the State of Florida

BWDB

The Broward Workforce Development Board, Inc.

CONTRACT ADMINISTRATOR

The WorkForce One Vice President of Operations or the designee of such Vice President. The primary responsibilities of the Contract Administrator are to coordinate and communicate with Contractor and to manage and supervise execution and completion of the Scope of Services and the terms and conditions of this Agreement as set forth herein. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely on the instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.

CONTRACTOR

Shall mean The School Board of Broward County, Florida

COUNCIL OF ELECTED OFFICIALS

The WorkForce One Council of Elected Officials, consisting of the Mayors of the Cities of Hollywood and Fort Lauderdale and a Broward County Commissioner.

EMPLOYEE

Shall mean an individual in the employ of Contractor prior to the start date of the training.

GOVERNOR

The Chief Executive Officer of the State of Florida.

PROGRAM YEAR

July 1 through June 30.

PROJECT

The Project consists of the services described in Article 4 Statement of Work.

WIA

Workforce Investment Act of 1998.

2.10 WORKFORCE ONE

The administrative and fiscal entity authorized to enter into agreements for the WorkForce One Council of Elected Officials and for the BWDB, Inc.

END ARTICLE 2

ARTICLE 3

TERM

This Agreement shall commence on the date that this instrument is fully executed by both parties. The term to be encompassed by this Agreement shall be from the date of execution of this agreement through June 30, 2009.

All duties, obligations, and responsibilities of Contractor required by this Agreement shall be completed no later than June 30, 2009. Time shall be deemed to be of the essence in performing the duties, obligations and responsibilities required by this Agreement.

END ARTICLE 3

ARTICLE 4

STATEMENT OF WORK

SERVICES TO BE PROVIDED

Contractor shall use the funds provided under this agreement to upgrade and augment the skills of fifty (50) employees.

TRAINING TO BE PERFORMED

4.2.1 The program to be provided by the Contractor shall consist of an employed worker training program, in which, individuals in the employ of the Contractor are provided training in one or more of the subject areas identified herein in accordance with a curriculum to be provided by the Contractor. Training shall commence following employee eligibility determination and submission of required documents to WorkForce One. Contractor stipulates that the skills to be provided will improve and/or enhance the employees' skills, adding to the knowledge and skills essential to the employees' full and adequate performance in their job.

4.2.2 Contractor shall provide skills training to fifty (50) employees as described below:

a 3 semester hours of college credit in each of the following courses:

- EDF 3210 Applied Learning Theory or EDF 5935 or EME 6623.
Technology and Theoretical Foundations in Learning (DETA).
- iii. EDF 3610 Education in a Multicultural Society or RED 4335
Content Reading: Middle & Secondary.
- iv. EDG 4343 Classroom Instructional Strategies and
Assessment.
- v. EDG 4419 Building Classroom Management and Discipline.
- vi. Special Methods in the Content Area (SCE 4360, MAE 4360, & SSE 4361).

- b. Employees will be considered to have completed training when they have (1) successfully completed the courses and days/hours listed above prior to June 30, 2009 and (2) have received a certificate or industry certification as applicable to the training provided.
- 4.2.3 Employees to be trained will be identified by Contractor and will be certified as eligible and registered into the WIA program by a WorkForce One, One-Stop Operator within thirty (30) days of the signing of this agreement.
- 4.2.4 Each employee to be trained will be required to complete an individual employability plan, which shall be facilitated by the WorkForce One, One-Stop Operator.
- 4.2.5 All enrollments of employees into training shall be accomplished within a timeframe, which assures successful completion of training by June 30, 2009.
- 4.2.6 In accordance with the Workforce Investment Act requirements the following information must be provided to the WorkForce One, One-Stop Operator by each employee who will participate in the training as a part of the eligibility determination and registration process:
- a. Employee Name.
 - b. Social Security Number.
 - c. Address as indicated on the signed and fully completed I- 9 Form.
 - d. Primary phone number.
 - e. Date of initial participation in the training.
 - f. Date of Birth.
 - g. Gender.
 - h. Race.
 - i. Ethnicity.
 - j. Whether any of the individuals have a disability.
 - k. Workforce One will determine selective service registration through employees' social security numbers.
 - l. Citizenship as indicated on the I-9 form.
 - m. Type of training received.
 - n. If currently enrolled in school.

- o. Highest obtained education level.
- p. Veteran status.
- q. Receiving TANF (Temporary Assistance to Needy Families) or cash assistance.
Family Income.

All individuals participating in the program and services funded by this agreement shall be employees of Contractor prior to the inception of the training.

- 4.2.8 Contractor may use internal staff, educational institutions, or certified instructors to provide the training. This shall be specified prior to the start of training and shall be supported by the costs as budgeted.

Contractor shall provide the requisite instruction, supervision, facilities, and equipment necessary to train the employees.

- 4.2.10 Contractor shall maintain time and attendance documentation related to the employees who participate in the training activities. The documentation shall consist of a sign in sheet for each course and each day during which training is provided. This sign in sheet will serve as part of the reimbursement process. Sign in sheets shall contain original signatures of the trainees.

- 4.2.11 Contractor shall complete all training by June 30, 2009 and shall provide all required reports to WorkForce One within thirty (30) days of completion of the project.

4.3 Performance

In accordance with State of Florida and Broward Workforce Development Board requirements, a total of seventeen thousand, seven hundred sixty two dollars and forty six cents (\$17,762.46) shall be withheld from the total amount due Contractor and shall be paid when the below described performance has been met and the listed documentation has been submitted. a. Performance payments may be prorated. b. Contractor shall be paid three hundred fifty five dollars and twenty five cents (\$355.25) for each individual participant meeting the performance described in Section 4.3.2 up to a total of fifty (50) participants, for a total possible payment of

seventeen thousand, seven hundred sixty two dollars and forty six cents (\$17,762.46).

4.3.2 In order for Contractor to meet performance and be paid the amount withheld for performance described in Section 4.3.1 under this Agreement:

- a. Fifty (50) employees shall register for and successfully complete all the courses into which they were enrolled as listed in Section 4.3.2 (a) by June 30, 2009, and
- b. Performance shall be evidenced by a copy of the attendance logs/sign in sheets, with the participants' original signature and a copy of the certificate awarded to each individual employee upon successful completion of the course(s) into which they were enrolled shall be submitted with Contractor's last invoice, and
- c. Participant's retention in the job as a teacher for the immediately upcoming school year.

END ARTICLE FOUR

ARTICLE 5

COMPENSATION

5.1 Compensation

5. 1 WorkForce One agrees to pay Contractor, in the manner specified below, the total amount of eighty eight thousand, eight hundred twelve dollars and thirty four cents (\$88,812.34) for training actually provided and completed pursuant to this Agreement and in accordance with the required performance and the below stated provisions, which amount shall be accepted by Contractor as full compensation for all such work. It is acknowledged and agreed by Contractor that this amount is the maximum payable and constitutes a limitation upon WorkForce One's obligation to compensate Contractor for its services related to this Agreement. This maximum amount, however, does not constitute a limitation, of any sort, upon Contractor's obligation to perform all items of work required by or which can be reasonably inferred from the Statement of Work. Payment to Contractor shall be conditioned upon:
- (a) The operation of the program described and in accordance with the terms and conditions set forth herein.
 - (b) The provision of the required services within period for performance as stipulated herein.
 - (c) Performance as described in Article Four Section 4.3.
 - (d) The costs incurred and invoiced match the line items in the budget.
 - (e) Contractor has met their 50% match obligation.
 - (f) The terms and conditions of this AGREEMENT, including the provision of the supporting detail for the match and the incurred costs identified in the budget attached to this Agreement as **Exhibit A**.

(g) To the extent that:

Employee time is requested for reimbursement or is used as match such as in the case of time spent developing curriculum Contractor should include a copy of the signed time cards and hourly pay with the submission of their invoices. Contractor may submit such document as may be agreed to by the Contract Administrator that substantiates payments made to the employee such as a direct deposit receipt or a cancelled payroll check. If reimbursement for curricula development by a third party is requested, a copy of the invoice submitted to Contractor and a copy of the check or other evidence of the payment to the third party shall be submitted with the invoice.

For purchases, Contractor shall submit a copy of the paid invoice with the check number indicated on the invoice, and a copy of the front and back of the cancelled check.

- iii. For proprietary materials such as books and supplies, Contractor shall provide signed receipts from employees acknowledging delivery of the materials for which WorkForce One is being charged, along with the paid invoices where appropriate.
- iv. Any cost not a part of the original budget must be approved by WorkForce One prior to Contractor's incurring the cost and must be evidenced by an Amendment to this Agreement.

5.1.2 Contractor shall be paid in accordance with attached budget. Requests for changes to the budget shall be initiated through a written request to WorkForce One. Upon the agreement of the parties, the contract shall be modified in writing to reflect the requested changes. However, to the extent that less than fifty (50) individuals participate in the program, the total amount due Contractor shall be reduced by One Thousand, Seven Hundred Seventy Six Dollars and Twenty Five Cents (\$1,776.25) for each individual less than fifty (50) who does not participate in the program. The amount to be reimbursed shall also be reduced by the amount of Four Hundred Seventeen Dollars and Twenty-seven Cents (\$417.27) for each course not completed by a participant.

5.1.3 Fiscal Controls

In no case shall Contractor be paid in advance of work performed for services rendered.

Contractor shall be responsible for the actions of its representatives and employees with regard to all aspects of the Contractor's program. This includes but is not limited to the certification and submission of time and attendance records, invoices, submission and verification of financial reports, and maintenance of records as well as delivery of services.

- (c) Contractor agrees and understands that funds allocated to the Contractor under this agreement or any Amendment or Modification hereto are contingent upon WorkForce One's receipt of the grant funds supporting this agreement from the State of Florida. WorkForce One, therefore, reserves unto itself the right to unilaterally deobligate, modify or amend Contractor's budget in the event the funds supporting this agreement are reduced by the State or Federal government, or if necessary, suspend or terminate this Agreement or any Amendment hereto instantaneously and as may be necessitated by WorkForce One's funding levels. Any deobligation, modification or amendment of the funds allocated in the Contractor's Agreement or any Amendment hereto, shall be effective upon notification to the Contractor by WorkForce One. In such instances, costs will be reimbursed up to the date of cancellation only; thereafter neither WorkForce One nor Contractor shall have any obligations whatsoever to complete or otherwise continue the program.

5.2 Invoicing

5.2.1 In order to receive payment Contractor shall submit an invoice to WorkForce One within ten (10) working days following the end of each month. Invoices, which are correctly submitted, will be paid within thirty (30) days of receipt. The invoice must be accompanied by all documentation necessary to substantiate the expenses for which Contractor is seeking reimbursement.

To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by Contract Administrator.

Payment shall be made to Contractor at:

The School Board of Broward County, Florida
Treasurer's Office
7720 W Oakland Park Blvd
Sunrise, FL 33351

The final invoice must be submitted within ten days of the termination of the agreement.

5.2.5 Invoices shall be accompanied by documentation of the required match.

5.3 Match

Receipt of the funds provided for under this agreement is conditioned upon the Contractor providing a minimum of fifty percent (50%) match or a dollar for dollar match.

- a. Match is defined as a minimum of fifty percent (50%) of the cost of funds provided under this agreement.
- b. Match may not consist of other federal, state, or local government contributions.

- c. Contractor shall provide WorkForce One with a plan that details the expenses they estimate will be incurred in providing the training which Contractor wishes to identify as match prior to the start of training. All invoices submitted for reimbursement shall also include documentation indicating the amount expended in match. Contractor reimbursements will be limited to the amount of match incurred to assure that the fifty percent (50%) match requirement is met.
- d. Contractor shall maintain written records of the fifty percent (50%) match.
- e. Match may include employee wages made to employees during actual delivery of the training. A copy of the paycheck or payroll record and attendance sheet shall serve as a record of the Contractor's wage payment to the employee/trainee. A log shall be prepared cross-referencing the wages and time in training for each employee. Match may also include other allowable costs incurred in providing the training to the individuals determined WIA eligible which are not reimbursed by WorkForce One. Allowable costs are costs defined Office of Management and Budget Circular A-87 and may be reviewed at www.omb.gov.

END ARTICLE 5

ARTICLE 6

GENERAL

6.1 Disclosure of Financial Interests

- 6.1.1 Contractor warrants that he has not employed any person to solicit or secure this agreement through any agreement for a commission, percentage, brokerage, or contingent fee. Contractor agrees and understands that no officer, employee or agent of the Contractor shall tender, or solicit gratuities, favors or anything of monetary value from any actual or potential sub-contractor or employer or from any staff person or elected official connected with WorkForce One or its governing boards. Breach of this warranty shall give WorkForce One the right to terminate this Agreement, or, at its discretion to deduct from the Contractor's fee the amount of such commission, percentage, brokerage, or contingent fee
- 6.1.2 Contractor warrants that no member of, or delegate to the Congress of the United States or Resident Commissioner, or WorkForce One Official or Employee shall be admitted to any share or part of this Agreement or to any benefit that may arise there from.
- 6.1.3 The Contractor covenants that no person who presently exercises any functions or responsibilities in connection with WorkForce One has any personal or financial interest, direct or indirect in this agreement, and that no person having any conflicting interest shall be employed. Any interest on the part of the Contractor or its employees must be disclosed to WorkForce One. This paragraph shall not be construed so as to unreasonably impede the statutory requirement that maximum opportunity be provided for employment and/or participation by residents of the area.

Prior Agreements

This Agreement shall incorporate by reference Contractor's official proposal as if fully set forth herein. This document incorporates and includes, all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matter contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement, that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms on conditions contained herein shall be effective unless contained in a written document executed by the Contractor and WorkForce One. In the event that any of the terms and conditions set forth in this Agreement is in conflict with Contractor's official proposal, the conflict shall be resolved in favor of this Agreement.

Record Retention

Contractor shall agree to maintain copies of all records, accounts, and documents pertaining to this Agreement or any Amendment hereto for five (5) years following the expiration of this Agreement. However, if any audit, claim, litigation, negotiation or other action involving this Agreement or any Amendment hereto has been started before the expiration of the five (5) year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular five (5) year period, whichever is later.

6.4 Access to Records, Audit and Monitoring

- 6.4. Contractor agrees to provide access to the records maintained to substantiate that the training under this agreement occurred and that the match was provided, to WorkForce One, the State of Florida, the United States Department of Labor or any of their designated representatives. Contractor understands that this agreement is funded by federal grant funds and agrees to cooperate with monitoring activities required by the United States Department of Labor, the State of Florida and WorkForce One during the contract period and the record retention period. WorkForce One shall provide Contractor with notice in the event of a monitoring or review.

If any audit has been initiated and audit findings have not been resolved at the end of the retention period or five (5) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by WorkForce One to be applicable to Contract records, Contractor shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by Contractor. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for disallowance and recovery of any payment made to Contractor as a result of such entry.

- 6.4.2 Contractor agrees to allow WorkForce One personnel access to Contractor's facilities for auditing and monitoring purposes. If the facility is a school site, WorkForce One agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and that WorkForce One and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by Contractor in advance of WorkForce One or its personnel providing any services under the conditions described in the previous sentence. WorkForce One will bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes,

and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to Workforce One and its personnel. The Parties agree that the failure of WorkForce One to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling Contractor to terminate immediately with no further responsibilities of duties to perform under this Agreement. To the extent permitted by law, WorkForce One agrees to indemnify and hold harmless Contractor, its officers and employees for any liability in the form of physical or mental injury, death or property damage resulting in WorkForce One's failure to comply with the requirements of this section or Sections 1012.32 and 1012.465, Florida Statutes. Nothing herein shall be construed as a waiver by Contractor or WorkForce One of sovereign immunity or of any rights secured by Section 768.28, Florida Statutes.

6.5 Amendments To This Agreement

- 6.5.1 Either party may, before or during the conduct of services, request changes in the scope of services to be performed under this contract. Such changes, including any increase or decrease in the services to be rendered or in the amount of Contractor's compensation, which are mutually agreed upon and in writing by and between WorkForce One and the Contractor, shall be incorporated by written amendments into this agreement.
- 6.5.2 No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the WorkForce One and Contractor.

6.6 Notice

All notices required to be given to WorkForce One under this agreement shall be sufficient when mailed to WorkForce One at its office located at 3800 Inverrary Boulevard, Suite 400, Lauderhill, Florida 33319. All notices required to be given to Contractor under this agreement shall be sufficient when mailed to the Contractor at its office located at the Treasurer's Office 7720 W Oakland Park Blvd. Sunrise, FL 33351

Authorized Representative For Workforce One

WorkForce One's authorized representative shall be the President/CEO of WorkForce One.

Authorized Representative For Contractor

Contractor's authorized representative shall be the Superintendent of Schools or his/her designee as noticed to WorkForce One in writing.

Foreign Corporation Status

Contractor warrants that it is licensed to do business in the State of Florida as a Florida corporation and has duly filed all appropriate documents with the State of Florida and is licensed to do business in Broward County, Florida.

6.10 Venue And Applicability Of Governing Laws

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Venue for litigation concerning this Agreement shall be in Broward County, Florida.

6.11 Intellectual Property.

This Agreement does not transfer from Contractor to WorkForce One any Contractor Technology, and all right, title and interest in and to Contractor Technology will remain solely with Contractor.

6.12 Assignment

Contractor shall not assign or transfer any of its interest or duties or obligations, subcontract, delegate, or in any way transfer any of its rights or responsibilities or any part of the work and/or services to be provided for under this Agreement except that claims for monies due or to become due from WorkForce One under the Agreement may be assigned to a bank trust company, or other financial institution.

6.13 Equal Employment And Compliance With Discrimination Laws

6.13. In the discharge of Contractor's duties, Contractor agrees to adhere to the following equal employment laws and comply with discrimination laws as provided for under this Agreement:

- (a) Contractor shall not discriminate against any applicant for employment or employee because of race, color, religion, sex, age national origin, or physical handicap Contractor shall ensure that affirmative action in its personnel procedures be enforced so that, at all skill levels, applicants for employment and employees are treated equally without regard to race, color, religion, sex, age, national origin, or physical handicap. Such affirmative action shall include, but not be limited to the following: employment, promotion, demotion or transfer, minority recruitment, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.
- (b) Contractor shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. Contractor shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by WorkForce One, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, Contractor shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.
- (c) Contractor's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race,

age, religion, color, gender, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully used as a basis for service delivery.

- (d) By execution of this Agreement, Contractor represents that it has not been placed on the discriminatory vendor list (as provided in Section 287.134, Florida Statutes). WorkForce One hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle WorkForce One to terminate this Agreement and recover from Contractor all monies paid by WorkForce One pursuant to this Agreement, and may result in debarment from WorkForce One's competitive procurement activities.

Prior Agreements

This document represents the final and complete understanding of the parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

Independent Contractor

Contractor understands and agrees that it is an independent contractor and no provision of this Agreement shall be construed as creating an agency or employment relationship between WorkForce One and Contractor or Contractor's employees.

Contractor retains all rights, title, and interest (including ownership of copyright) to materials created during the performance period or otherwise (such as those that pre-exist the services as a part of other Contractor or related organization's existing commercial software systems).

Indemnification

Contractor is a state agency as defined in Chapter 768.28, Florida Statutes, and agrees to be fully responsible for acts and omissions of its agents or employees to the extent permitted by law. Nothing herein is intended to serve, as a waiver of sovereign immunity is applicable. Nothing herein shall be construed as consent by Contractor as a political subdivision of the State of Florida to be sued by third parties in any matter arising out of this or any other contract, this Agreement or any part thereof.

If Contractor is not a government agency, then Contractor shall at all times hereafter indemnify, hold harmless and at WorkForce One's option, defend or pay for an Attorney selected by the County Attorney to defend WorkForce One, its officers, agents, servants, and employees against any and all claims, losses, liabilities, and expenditures of any kind, including attorneys fees, court costs, and expenses, caused by a negligent act or omission of Contractor, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by WorkForce One any sums due Contractor under this Agreement may be retained by WorkForce One until all of WorkForce One's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to interest payments on the part of WorkForce One.

6.17 Termination

6.17.1 WorkForce One or Contractor may terminate this Agreement for convenience upon thirty (30) days prior written notice to the other party or such shorter period as may be mutually agreed to by the Contractor and WorkForce One. Contractor will be entitled to receive compensation for services performed through the date of termination not including any payment withheld for performance. WorkForce One shall thereafter not be liable for any monies due the Contractor after the effective date of termination of the Agreement.

6.17.2 This Agreement may be terminated for cause by an aggrieved party if the party in breach has not corrected the breach within ten (10) days after

written notice from the aggrieved party identifying the breach, or for convenience by action of WorkForce One or Contractor upon not less than thirty (30) days' written notice. This Agreement may also be terminated by the WorkForce One President/CEO upon such notice as the WorkForce One President/CEO deems appropriate under the circumstances in the event the WorkForce One President/CEO determines that termination is necessary to protect the public health or safety. An erroneous termination for cause shall be considered a termination for convenience.

- 6.17.3 Termination of this Agreement for cause by WorkForce One shall include, but not be limited to, negligent, intentional, or repeated submission for payment of false or incorrect bills or invoices, failure to suitably perform the work, failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement, or multiple breach of this Agreement which has a material adverse effect on the efficient administration of the Project notwithstanding whether any such breach was previously waived or cured.
6. 7.4 Notice of termination shall be provided in accordance with the NOTICE section of this Agreement except that notice of termination by WorkForce One President/CEO which the WorkForce One President/CEO deems necessary to protect the public health, safety, or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the NOTICES section of this Agreement.
- 6.17.5 WorkForce One may terminate this agreement in the event the grant under which this agreement is funded is rescinded by the state or the federal government. In such instance Contractor will be entitled to receive compensation for services performed and costs incurred through the date of termination. WorkForce One shall thereafter not be liable for any monies due the Contractor after the effective date of termination of the Agreement.

6.18 Vested Powers

All powers not explicitly vested in the Contractor by this Agreement will remain with WorkForce One.

Good Faith Effort

6.19.1 Contractor represents that all persons delivering the services required by this agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services, under this agreement and to provide and perform such services to WorkForce One's satisfaction for the agreed compensation.

6.19.2 Contractor shall perform its duties, obligations, and services under this agreement in a skillful, respectable and cost conscious manner. The quality of Contractor's performance and all interim and final product(s) provided to or on behalf of WorkForce One shall be comparable to the best local, state and national services.

Headings

The headings of the sections of this Agreement are inserted only for the purpose of convenience and reference and shall in no way restrict or otherwise affect the construction of the terms and conditions herein.

Insurance

6.21.1 To ensure the indemnification obligation contained above, Contractor shall, at a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement (unless otherwise provided), the insurance coverage's set forth in below in accordance with the terms and conditions required by this Article. Each insurance policy shall clearly identify the foregoing indemnification as insured.

6.21.2 Such policy or policies shall be without any deductible amount unless otherwise noted in this Agreement and shall be issued by approved

companies authorized to do business in the State of Florida, and having agents upon whom service of process may be made in Broward County, Florida. Contractor shall specifically protect WorkForce One and its governing boards, the WorkForce One Council of Elected Officials and the BWDB, Inc., by naming WorkForce One, the WorkForce One Council of Elected Officials and the BWDB, Inc., as an additional insured under the Comprehensive General Liability Policy only.

- 6.21.3 A Comprehensive General Liability Insurance Policy shall be provided which shall contain minimum limits of one million dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury liability and property damage liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:

Premises and/or operations.

Independent contractors.

Products and/or Completed Operations for contracts.

Broad Form Contractual Coverage applicable to this specific Contract, including any hold harmless and/or indemnification agreement.

Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.

- 6.21.4 Business Automobile Liability. Business Automobile Liability shall be provided only if individuals are being transported or are using their car to participate in the program other than driving to and from classes with

minimum limits of Five Hundred Thousand Dollars (\$500,000.00) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

Owned Vehicles

Hired and Non-Owned Vehicles

Employers' Non-Ownership

6.21.5 Workers' Compensation Insurance. Workers' Compensation insurance to apply for all employees in compliance with Chapter 440, Florida Statutes, the "Workers' Compensation Law" of the State of Florida and all applicable federal laws. In addition, the policy(ies) must include:

Employers' Liability with a limit of one hundred thousand dollars (\$100,000) each accident.

6.21.6 Contractor shall furnish to the Contract Administrator certified copies of Certificates of Insurance or endorsements evidencing the insurance coverage's specified by this Article prior to beginning performance of work under this Agreement.

6.21.7 Coverage is not to cease and is to remain in force (subject to cancellation notice) until all performance required of Contractor is completed. All policies must be endorsed to provide WorkForce One with at least thirty (30) days notice of cancellation and/or restriction. If any of the insurance coverage's will expire prior to the completion of the work, copies of renewal policies shall be furnished at least thirty (30) days prior to the date of their expiration.

6.22 Public Entities Crime

Contractor represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, consultant, or other provider and who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to WorkForce One, may not submit a bid on a contract with WorkForce One for the construction or repair of a public building or public work, may not submit bids on leases of real property to WorkForce One, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with WorkForce One, and may not transact any business with WorkForce One in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid by WorkForce One pursuant to this Agreement, and may result in debarment from WorkForce One's competitive procurement activities.

In addition to the foregoing, Contractor further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a public entity crime and that it has not been formally charged with committing an act defined as a public entity crime regardless of the amount of money involved or whether Contractor has been placed on the convicted vendor list.

Unionization and Collective Bargaining Agreements

- (a) If a program to be funded under this Agreement would be inconsistent with the terms of a collective bargaining agreement, then Contractor shall seek the written concurrence of both the labor organization and the employer concerned prior to operating such programs. Failure to receive a response to a written request may be deemed concurrence.
- (b) Contractor shall not use any funds appropriated under this Agreement or Amendments hereto to assist, promote, or deter union organizing.

Maintenance of Effort

1 Training

Contractor certifies that training funded under this Agreement shall only be in addition to training which would otherwise be financed by the Contractor without assistance under this Agreement.

2 To assure maintenance of effort the program funded by this agreement:

- a. Shall result in an increase in workforce opportunities over those which would otherwise be available.
- b. Shall not result in the displacement of currently employed workers by including partial displacement such as a reduction in the hours of non-overtime work, wages or employment benefits.
- c. Shall not impair current contracts for services or collective bargaining agreements or result in the substitution of federal funds made available by this Agreement to subsidize work that would otherwise be performed by the Contractor.
- d. Shall not infringe in any way upon the promotional opportunities of a currently employed individual.

6.24.3 Relocation

Contractor shall not use any of the funds under this agreement to encourage, or induce the relocation of an establishment.

6.25 Drug Free Workplace

Contractor certifies that it is in compliance with the Drug Free Workplace Act of 1988 and all state and federal implementing regulations.

6.26 HIPAA Compliance

It is expressly understood by the parties that WorkForce One personnel and/or their agents may have access to protected health information (hereinafter known as "PHI") that is subject to the requirements of 45 CFR 164.502 and related regulations. In the event Contractor is a covered entity or business associate and/or is required to comply with the Health Insurance Portability and Accountability Act of 1996 (hereinafter known as "HIPAA"), Contractor shall fully protect individually identifiable health information as required by HIPAA and, if requested by WorkForce One, shall execute a Business Associate Agreement in the form attached hereto as **Exhibit B** for the purpose of complying with HIPAA. Where required, SECOND PARTY shall handle and secure such PHI in compliance with HIPAA and its related regulations and, if required by HIPAA or other laws, include in its "Notice of Privacy Practices" notice of SECOND PARTY's and WORKFORCE ONE's uses of client's PHI. The requirement to comply with this provision and HIPAA shall survive the expiration or earlier termination of this Agreement. WORKFORCE ONE hereby authorizes the President/CEO to sign Business Associate Agreements on its behalf.

6.27 Execution

This document shall be executed in three (3) counterparts, each of which shall be deemed as original.

END OF AGREEMENT

EXECUTION PAGE

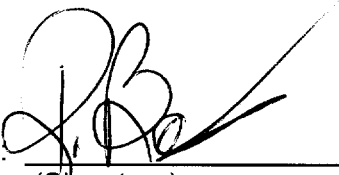
IN WITNESS THEREOF, the parties hereto have made and executed this document on the respective dates under each signature:

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA by and through their CHAIRPERSON following Board action on the 27th day of August, 2008 and WORKFORCE ONE signing by and through its PRESIDENT/CEO.

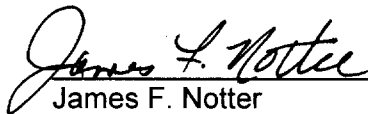
AS TO THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA:

(Corporate Seal)

WITNESSED BY:

BY: 
(Signature)
TITLE: Robin Bartleman, Chair
DATE: 8/27/2008

ATTEST:


James F. Notter
Superintendent of Schools

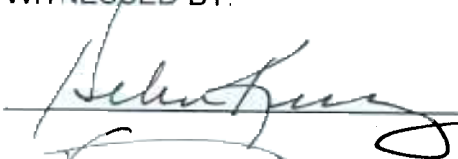
Approved as to Form and Legal Content



School Board Attorney




AS TO WORKFORCE ONE:

WITNESSED BY:



L.S.


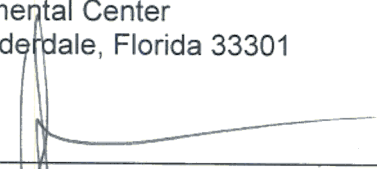
L.S.

BY: 

(Signature)
MASON C. JACKSON
TITLE: PRESIDENT/CEO

DATE: 7-22-08

Approved as to form by
Office of County Attorney for Broward County,
JEFFREY J. NEWTON County Attorney,
Governmental Center
Fort Lauderdale, Florida 33301

BY: 

Rochelle J. Daniels
Assistant County Attorney