

(ATTACHMENT 8) ACTION ON THE AWARD OF EXCEPTION-TO-BID REQUESTS

Purchase Requisition: CR017027
Contract Number: C023982
Vendor: V004186

MILWAUKEE BOARD OF SCHOOL DIRECTORS PROFESSIONAL SERVICES CONTRACT

This Contract is being entered into this 1st day of August 2015, by and between **Board of Regents of the University of Wisconsin System on behalf of UWM – TRIO** (“Contractor”) and Milwaukee Board of School Directors (“MPS”).

1. SCOPE OF SERVICES

Contractor shall specifically provide the following services:

Campus Visits:

Contractor shall provide college major exploration and campus visits for MPS students. Contractor shall host 16 campus visits for up to 50 students as part of an introduction to a specific major. Contractor’s faculty and staff will assist in providing students with hands-on experiences as related to that specific major. Contractor will target three to four major offerings during each visit. Students will arrive at 9:30am and depart at 1:30pm and will receive lunch on campus. When possible, Contractor will arrange for representatives from different departments to facilitate discussions with students and provide literature as a take home reference. Students will also receive one piece of memorabilia and a campus map from the visit.

School Partnerships: Reality Check

Contractor will coordinate a “Reality Check” simulation for 100 students from Bay View and Hamilton High Schools to foster a school relationship and partnership. Students will spend the day at UW-Milwaukee (UWM) to gain information about budgeting and finances. Students will participate in a life simulation which includes getting an occupation, salary and certain life style. Students will have to budget their resources to purchase life’s wants and needs. Contractor agrees to visit the students at their respective schools to conduct a follow-up activity which relates to preparing a college.

Summer Camp:

Contractor will provide a four-week Summer Academy focusing on English, math and ACT preparation from Monday through Friday from 9:00 a.m. - 3:00p.m to 100 TEAM GEAR UP students. Classes will be taught by teachers with one mentor in each class. Contractor will administer pre and post assessments that will be developed with the TEAM GEAR UP staff. One key focus for the camp will be ACT preparation. Students will also participate in college-planning seminars and participate in hands-on lessons/experiences around various college majors and careers. Fifty rising 11th grade students will reside in a residence hall the last week of camp for four nights.

Contractor shall be responsible for reserving classrooms and other needed space, organizing programs, field trips, parent and teacher orientations, closing ceremonies, assisting MPS staff with student enrollment, follow-up with parents and staff concerning precollege opportunities, ensuring that attendance is taken, each day, supervising mentors and handling student discipline issues and supervision of the residential portion of the camp.

MPI and Parent Conference:

Contractor will provide information about the UWM-sponsored parent conference to 50 TEAM GEAR UP parents and support registration efforts.

Contractor will provide UWM admission information to TEAM GEAR UP parents participating in the MPS Milwaukee Parent Institute. Contractor will also provide information concerning admission requirements for adults return to college or entering college as a non-traditional college student.

Evaluation:

Contractor shall also provide data to MPS, as needed, for summative and formative evaluations for the United States Department of Education’s TEAM GEAR UP grant.

In-Kind:

Contractor shall provide \$236,305 of in-kind services to the TEAM GEAR UP grant in services, materials, supplies, postage, facility space and scholarships.

Scholarships:

Contractor's "TPP Department" will provide up to five spots for ACT test taking experience classes through Mini-Courses once Mini Courses has exhausted all Department of Public Instruction scholarships.

The following performance measures are conditions of this Contract:

- a) 90% of the participants attending each College Visit will increase their understanding of careers, college readiness and financial aid options; and
- b) 2.80% of the students participating in the Summer Academy will show growth on the post-assessment.

2. TERM

This Contract shall be in effect from September 1, 2015 through August 31, 2016. Upon mutual written agreement, the Contract may be extended for two additional one-year periods.

No work shall commence before a Contractor receives a fully executed Contract and has been given approval to proceed. Any work performed by the Contractor prior to obtaining a fully-executed contract with approval to proceed shall not be compensated pursuant to this Contract. Any continuation of the Contract beyond this term must be set forth in writing and signed by authorized signatories of each party.

3. COMPENSATION

Total compensation under this Contract shall not exceed \$236,305.00.

MPS reserves the right to determine in its sole discretion whether services have been adequately and fully delivered; to withhold payment until services are fully and adequately delivered; or to disallow a pro rata share of payments for services not fully and adequately delivered.

Milwaukee Public Schools does not pay in advance for services. No payment shall be made until a properly-submitted invoice is approved. Invoices shall be submitted to:

Milwaukee Public Schools
College and Career Readiness
ATTN: Dr. John Hill, Director
5225 W. Vliet Street
Milwaukee, WI 53208

A properly-submitted invoice must include: the first and last name of personnel providing services; date of services; nature of services; and wage per hour or salary percentage charged to the MPS grant. Invoices for materials will state: the type purchased; the quantity; and the purpose of the purchases. All invoices must be sent to TEAM GEAR UP no later than 60 days after the service was rendered or purchase made.

It is mutually agreed that State Prompt pay law does not apply to this Contract.

In the case of grant funding, no payments shall be made after grant close out. Final invoices must be marked as such.

4. NON APPROPRIATION OF FUNDS

This Contract is contingent upon the appropriation of sufficient funds by appropriate MPS officials. If funds are not appropriated, Contractor agrees to take back any commodities furnished under the Contract, terminate any services supplied to MPS under the Contract, and relieve MPS of any further obligations under the Contract.

5. NON-DISCRIMINATION

In the performance of work under this Contract, Contractor shall not discriminate in any way against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age (over 40) or sex. This prohibition includes but is not limited to employment; promotions, demotions and transfers; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. Contractor is required to include a similar provision in all subcontracts to this Contract.

If MPS determines Contractor has violated this non-discrimination policy, MPS may terminate this Contract without liability for undelivered services or materials. MPS may also deem the Contractor ineligible to participate in future contracts with MPS.

6. INDEMNITY

To the fullest extent permitted by the laws of the State of Wisconsin, including, but not limited to, Wis. Stat. §§ 893.82 & 895.46, Contractor agrees to indemnify, defend and hold harmless MPS and its elected officials, officers, employees and agents, against any and all liability, losses, judgments, charges, fines, costs, or expenses, including attorneys' fees, to the extent such damages are caused by or result from any wrongful or negligent acts or omissions of the Contractor's officers, employees, agents or representatives acting within the scope of their employment or agency.

To the fullest extent permitted by the laws of the State of Wisconsin, including, but not limited to, Wis. Stat. §§ 893.80 & 895.46, MPS agrees to indemnify, defend and hold harmless Contractor and its elected officials, officers and employees, against any and all liability, losses, judgments, charges, fines, costs, or expenses, including attorneys' fees, to the extent such damages are caused by or result from any wrongful or negligent acts or omissions of MPS's officers or employees acting within the scope of their employment.

7. BACKGROUND CHECKS

A criminal information background check is required for all persons providing services under this Contract, including volunteers, that: (1) provide services in MPS facility(ies) on a regular and ongoing basis or more than five hours per week; and (2) come into contact with or have access to MPS students with or without the presence of an MPS teacher or MPS supervisor.

The purpose of this check is to ensure there is nothing that would render the person(s) unfit to perform services under this Contract where there is contact and or access to MPS students. MPS will, in its sole discretion, determine whether there is anything in a background check that would render a person unfit to work in an MPS facility with contact or access to MPS students. MPS shall perform background checks in the state(s) in which the individual resided for at least 6 months in the last 5 years, and was 18 years old or older at the time.

Contractor may perform its own criminal background checks through the Wisconsin Department of Justice Crime Information Bureau ("CIB"). Contractor shall provide the completed criminal background checks at least 10 days prior to any services being performed pursuant to this Contract.

MPS will perform the necessary background investigation at the rate of \$10.00 per person. In the event Contractor chooses this option, Contractor may contact the Office of Classified Staffing at 475-8157 to obtain the necessary forms. Please note that all forms must be filled out and submitted at least 30 days prior to the commencement of the services.

All background checks must be completed prior to the commencement of services under this Contract. MPS will NOT be responsible for the payment of any services rendered by Contractor before the completion of these criminal information background checks.

8. INSURANCE AND PROOF OF FINANCIAL RESPONSIBILITY

The State of Wisconsin, including the board of Regents of the University of Wisconsin System, is self-funded for liability (including general, professional, and automobile) under secs. 895.46, 893.82 and 20.505(2)(k) of the Wisconsin Statutes. This protection provides coverage for UW's officers, employees and agents, while in the course and scope of their duties. The State of Wisconsin Liability Program is funded to pay in excess of \$1 million for negligent acts or omissions of its officers, employees, and agents, in accordance with the statutes. Coverage is continuous under the law.

A certificate of insurance is not available, nor may a sponsor be named as an additional insured.

9. SHIPPING /TAXES

If goods are provided pursuant to this Contract, please note that MPS is exempt from Federal Excise and Wisconsin Sales Taxes. All vendor quotes, bids and invoices must include delivery FOB destination to the MPS location receiving the goods and freight must be prepaid. This means any freight, shipping, processing, handling or like charges must be part of a unit price. Any separate line items for freight, shipping, processing, handling or like charges listed on an invoice will be deleted and NOT PAID.

All textbook purchases shall be governed by the terms and conditions in the Milwaukee Board of School Director Textbook Contract, found on the Milwaukee Public Schools portal (<http://mpportal.milwaukee.k12.wi.us>) which provides that textbooks shipped to MPS or its schools must be done at no additional charge to MPS or its schools.

MPS reserves the right to reject any items that do not conform to the bid, quote or Purchase Order. All return freight charges associated with the rejected materials shall be borne by the vendor.

10. IRREPARABLE HARM

It is mutually agreed the breach of this Contract on Contractor's part may result in irreparable and continuing damage to MPS for which money damages may not provide adequate relief. Therefore, the breach of this Contract on Contractor's part shall entitle MPS to seek both preliminary and permanent injunctive relief and money damages insofar as they can be determined under the circumstances.

11. TERMINATION BY CONTRACTOR

Contractor may, at its option, terminate this Contract upon the failure of MPS to pay any amount, which may become due hereunder for a period of 60 days following submission of appropriate billing and supporting documentation. Upon said termination, Contractor shall be paid the compensation due for all services rendered through the date of termination including any retainage.

12. TERMINATION BY MPS - BREACH BY CONTRACTOR

If Contractor fails to fulfill its obligations under this Contract in a timely or proper manner, or violates any of its provisions, MPS shall thereupon have the right to terminate it by giving 20 days written notice before the effective date of termination of the Contract, specifying the alleged violations, and effective date of termination. The Contract shall not be terminated if, upon receipt of the notice, Contractor promptly cures the alleged violation within 20 days. In the event of termination, MPS will only be liable for services rendered through the date of termination and not for the uncompleted portion, or for any materials or services purchased or paid for by Contractor for use in completing the Contract.

13. TERMINATION BY MPS

MPS further reserves the right to terminate this Contract at any time for any reason by giving Contractor written notice by Registered or Certified Mail of such termination. MPS will attempt to give Contractor 20 days notice, but reserves the right to give immediate notice. In the event of said termination, Contractor shall reduce its activities hereunder, as mutually agreed to, upon receipt of said notice. Upon said termination, Contractor shall be paid for all services rendered through the date of termination, including any retainage. This section also applies should the Milwaukee Board of School Directors fail to appropriate additional monies required for the completion of the Contract.

14. INDEPENDENT CONTRACTOR

Contractor agrees and stipulates that in performing this Contract, it is acting as an Independent Contractor, and that no relationship of employer and employee, partnership or joint venture is created by this Contract. Contractor has exclusive control over work hours, location, and other details of such services, and MPS' sole interest is to ensure that said service shall be performed and rendered in a competent, safe, efficient, timely and satisfactory manner in accordance with the terms of this Contract.

Contractor has the sole obligation to provide for and pay any contribution or taxes required by federal, state or local authorities imposed on or measured by income. Contractor specifically covenants not to file any complaint, charge, or claim with any local, state or federal agency or court in which Contractor claims to be or to have been an employee of MPS during the period of time covered by this Contract and that if any such agency or court assumes jurisdiction of any complaint, charge or claim against MPS on Contractor's behalf, Contractor will request such agency or court to dismiss such matter. MPS shall not be charged any obligation or responsibility whatsoever of extending any fringe benefits which may be extended to MPS employees, including any insurance, or pension plans.

Contractor further agrees that MPS is not to be charged with the obligation or responsibility of extending any fringe benefits such as hospital, medical and life insurance, or pension plans which may be extended to employees of MPS from time-to-time and further agree to hold harmless MPS and all its employees, officers and agents from any liability for personal injuries, including death, or for damage to or loss of personal property, which might occur as a result of the performance of the services provided for under this Contract.

15. ASSIGNMENT LIMITATION

This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns; provided, however, that neither party shall assign its obligations hereunder without the prior written consent of the other.

16. PROHIBITED PRACTICES

- A. Contractor during the period of this Contract shall not hire, retain or use for compensation any member, officer, or employee of MPS to perform services under this Contract, or any other person who, to the knowledge of Contractor, has a conflict of interest.
- B. Contractor hereby attests it is familiar with MPS's Code of Ethics, providing in pertinent part, "[a]n employee of Milwaukee Public Schools may not accept any gift or gratuity in excess of \$25.00 annually from any person, persons, group or any firm which does business with or is attempting to do business with MPS."
- C. MPS has a Livable Wage policy that requires anyone having a contract with MPS must pay all of their employees a livable wage in accordance with City of Milwaukee Ordinance 310-13. The current livable wage rate can be found at the City of Milwaukee website <http://city.milwaukee.gov/ImageLibrary/Groups/daoPurchasing/forms/livingWageTable.docx>
- D. No person may enter into this Contract for services that the MPS employee would otherwise perform as an employee.
- E. No current or former MPS employee may perform services on a professional services Contract without the prior written consent of the Director of Human Relations or her designee.
- F. If the Contract is for apparel for \$5,000.00 or more, the Contractor agrees to provide only items manufactured by responsible manufacturers. Contractor is required to include a similar provision in all subcontracts to this Contract.

17. NOTICES

Notices to either party provided for in this Contract shall be sufficient if sent by Certified or Registered mail, postage prepaid, addressed to the signatories on this Contract, or to their designees.

18. WAIVER

The waiver or failure of either Party to exercise in any respect any rights provided for in this Contract shall not be deemed a waiver of any further right under this Contract.

19. INTEGRATION / SEVERABILITY

This Contract and its exhibits and addenda, if any, constitute the entire Contract among the Parties with respect to the subject matter hereof and supersede all prior proposals, negotiations, conversations, discussions and Contracts among the Parties concerning the subject matter hereof. No amendment or modification of any provision of this Contract shall be effective unless the same shall be in writing and signed by both Parties.

The District shall not be bound by any terms and conditions included in of Contractor's packaging, service catalog, brochure, technical data sheet or other document which attempts to impose any conditions at variance with or in addition to the terms and conditions contained herein.

If any term or provision of this Contract should be declared invalid by a court of competent jurisdiction or by operation of law, the remaining terms and provisions of this Contract shall be interpreted as if such invalid Contracts or covenants were not contained herein.

20. CHOICE OF LAW & FORUM

The state courts of Wisconsin shall be the sole forum for all disputes arising of this Contract. The validity, construction, enforcement and effect of this Contract shall be governed solely by the laws of the State of Wisconsin.

21. TIMING

Time is of the essence in this Contract.

22. CERTIFICATION REGARDING DEBARMENT OR SUSPENSION

Contractor certifies that neither Contractor or its principals; its subcontractors or their principals; the sub-recipients (if applicable) or their principals are suspended, debarred, proposed for debarment, voluntarily excluded from covered transactions, or otherwise disqualified by any federal department or agency from doing business with the Federal Government pursuant to Executive Orders 12549 and 12689. Contractor specifically covenants that neither the Contractor or its principals, its sub-contractors or their

principals, or the sub-recipients (if applicable) or their principals are included on the Excluded Parties List System ("EPLS") maintained by the General Services Administration ("GSA").

23. FORCE MAJEURE

MPS will not be liable to pay Contractor for any work that the Contractor is unable to perform due to act of God, riot, war, civil unrest, flood, earthquake, outbreak of contagious disease or other cause beyond MPS' reasonable control (including any mechanical, electronic, or communications failure, but excluding failure caused by a party's financial condition or negligence).

24. STUDENT DATA

Contractor acknowledges that student data is protected by both federal and state law. *See* Wis. Stat. § 118.125; 20 U.S.C. § 1232g(b); 34 C.F.R. § 99.1 *et seq.* If MPS determines that Contractor has disclosed any student record information in violation of either federal or state law, without prejudice to any other rights or remedies the MPS may have, MPS shall be entitled to immediately terminate this and every other existing Contract without further liability. Moreover, MPS may bar Contractor from future MPS contracts for varying periods up to and including permanent debarment.

25. NON-DISCLOSURE

Absent prior written consent of the person listed in ¶ 3 or his/her designee, Contractor shall not: (1) disclose, publish, or disseminate any information, not a matter of public record, that is received by reason of this Contract, regardless of whether the Contractor is or is not under contract at the time of the disclosure; or (2) disclose, publish, or disseminate any information developed for MPS under this Contract. Contractor agrees to take all reasonable precautions to prevent any unauthorized use, disclosure, publication, or dissemination of the same information.

All reports and tangible deliverables created under this Contract shall also be the property of MPS. All original data and curriculum development materials shall remain the property of the Contractor. At the request of MPS, copies of such materials will be provided to MPS and MPS shall have a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use and authorize others to use such materials for educational purposes.

Within ten business days of the earlier of receipt of MPS' written or oral request, or final payment, Contractor will return all documents, records, and copies thereof it obtained during the development of the work product covered by this Contract.

In the event that Contractor seeks to publish or otherwise use information developed during the performance of this Contract, Contractor will provide manuscripts for drafts for review by MPS prior to publication and consider MPS's suggestions in good faith. Contractor agrees not to publish or otherwise use such information until the earlier of 30 days from submission of same to MPS, or upon receipt of MPS's written or oral comments, information and ideas. Absent prior written consent, Contractor will not identify MPS as the subject of any studies or analyses derived as a result of this Contract.

26. MPS LOGO/PUBLICITY

No Contractor shall use the MPS Logo in its literature or issue a press release about the subject of this Contract without prior written notice to and written approval of MPS' Director of Communication and Public Affairs.

27. ORDER OF PRIORITY

Should Contractor and MPS sign Contractor's Contract in addition to this Contract, the terms set forth in this Contract shall govern in the event of a conflict.

28. PUBLIC RECORDS

Both parties understand that the Board is bound by the Wisconsin Public Records Law, and as such, all of the terms of this Contract are subject to and conditioned on the provisions of Wis. Stat. § 19.21, *et seq.* Contractor acknowledges that it is obligated to assist the Board in retaining and producing records that are subject to Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this Contract, and that the Contractor must defend and hold the Board harmless from liability under the law. Except as otherwise authorized, those records shall be maintained for a period of seven years after receipt of final payment under this Contract.

29. HUB REQUIREMENT

The HUB requirement on this Contract is 0%. The student engagement requirement of this Contract is 0 hours. The Career Education requirement for this Contract is 0 hours. Failure to achieve these requirements may result in the application of some or all of the sanctions set forth in Administrative Policy 3.10, which is hereby incorporated by reference.

IN WITNESS WHEREOF, the parties here to have executed this Contract on the day, month and year first above written.

CONTRACTOR (Vendor #:V004186)

By: Ull Fll

Ronald Fleischmann
Associate Director
Office of Sponsored Programs

Date: 8/7/2015

Board of Regents of the University of Wisconsin
System on behalf of UWM - TRIO
PO Box ~~433~~ 340
Milwaukee, WI ~~53021~~ 53201-0340
(414) 229-~~4537~~ 4853

SS# or FEIN: XXXXXXXXXX
Budget Code: GEN-0-I-GQ5-CI-ECTS



MILWAUKEE BOARD OF SCHOOL DIRECTORS

By: Kristen DeCato
Kristen DeCato, Director, Procurement and Risk
Management

Date: 8/10/15

By: Darrienne B. Driver
Darrienne B. Driver Ed.D., Superintendent of Schools

Date: 8/14/15

By: Michael Bonds
Michael Bonds, Ph.D., President
Milwaukee Board of School Directors

Date: 8-21-15

NOTE: BUDGET CODES THAT ARE NOT LOCAL SCHOOL BUDGET CODES, MUST BE APPROVED BY APPROPRIATE DEPARTMENT OR PROGRAM ADMINISTRATOR.

This Contract is not enforceable until fully executed. Payment will not be made on any contract not on file in the Office of Finance. A minimum of fifteen business days is required for approval.

Reviewed by Risk Management:

By: [Signature]

Date: 8.25.15

Reviewed as to form and substance by Office of Finance:

By: [Signature]

Date: 8/10/15