

REQUEST FOR PROPOSALS

Graduate Medical Education Board

DEADLINE FOR APPLICATIONS:

April 29, 2016 by 5:00 PM EDT

Please deliver by mail and electronically

BY MAIL

Indiana Graduate Medical Education Board, c/o

Indiana Commission for Higher Education

101 West Ohio Street, Suite 300

Indianapolis, IN 46204

BY EMAIL

Eugene Johnson, Assistant Commissioner, Indiana Commission for Higher Education

ejohnson@che.in.gov

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All questions and inquires related to this Request must be submitted to:

Eugene Johnson

Assistant Commissioner, Indiana Commission for Higher Education

101 West Ohio Street, Suite 300

Indianapolis, IN 46024

Phone: (317) 232-2368

Email: ejohnson@che.in.gov

I. SERVICES SOUGHT

The Graduate Medical Education Board (“The Board”) seeks the services of a consultant to review 2015 House Enrolled Act 1323¹ and provide the following deliverables:

NEEDS ASSESSMENT

- Statewide evaluation of the need for additional graduate medical education (GME) slots. Evaluation should include:
 - The total² cost of hosting residency programs to an entity and specifically the cost of training per resident
 - Economic impact on host communities
 - Impact of expansion on access to care in designated underserved areas in Indiana
 - Impact of expansion of physician workforces, including the impact on medical specialty workforces
- Assessment of physician shortages by specialty in Indiana and the impact additional GME slots will have on addressing shortages. Specifically overall statewide physician shortage and broken down into geographical areas in Indiana. Emphasis on physician workforce of family medicine, pediatrics, OBGYN, psychiatry, emergency medicine, general surgery, and outpatient community-based internal medicine statewide and in the geographical areas.
- Outlining of viable residency program examples beyond traditional residencies and analysis of the viability of how, if possible, such programs can be used to meet the needs of currently designated underserved primary care areas in Indiana
- A listing of Indiana hospitals, non-profit organizations and other qualifying entities meeting legislative requirements for expansion of resident positions.³
- Identification of hospitals or entities which would be considered “virgin” or that have other designation which would allow for the best funding options.
- Defining and identification of infrastructure needs an entity may need to develop or expand GME.

¹ 2015 HEA 1323 page 5; requirement passed into law but left out of establishing Indiana Code

² “Total Costs” including direct, indirect and unfunded costs

³ IC 21-13-6.5-2; 21-44-7-2;

FISCAL IMPACT ASSESSMENT

- Total cost⁴ of establishing new residency programs and new slots within existing programs
- A breakdown of the total cost⁵ of establishing new residency programs by identified primary care specialty, including
 - Emergency medicine
 - Family medicine
 - Internal medicine
 - General surgery
 - Neuromusculoskeletal medicine
 - Obstetrics and Gynecology
 - Pediatrics
 - Psychiatry
- A proposed methodology for recipients to fulfill the 25% of matching funds awarded requirement and what may be included as part of matching funds.⁶
- An evaluation of funding sources Indiana is currently not utilizing that would impact the ability to expand GME in the state including, but not limited to:
 - Clinical Revenues
 - Federal
 - For-profit entities
 - Non-profit entities
- Recommendations regarding the level of financial participation which would be expected of an entity and what would be required of a host entity to participate in GME expansion.
- A proposed application process and form for an entity wishing to request funds for GME expansion.
- Identification of sources of technical assistance available for entities wishing to establish a residency program.

⁴ Same as 2

⁵ Same as 2

⁶ IC 21-13-6.5-2(b)

LEGISLATIVE EVALUATION

- Review of past and current initiatives in Indiana addressing Graduate Medical Education (GME) including legislative, healthcare care administrative, regional and local initiatives to address the state's physician workforce needs
- Review of similar legislative initiatives to address GME expansion in other states, how implemented, the results of those initiatives, and how community, not-for-profit and other entities were engaged in funding or supporting the GME expansion process.
- Identification of effective best practices on encouraging and promoting medical students to complete a primary care residency in their home state of medical school training.

SUMMARY

- Based on all of the above, provide reasonable options on how best to effectively expand GME in Indiana
- An executive summary of all findings.
- A PowerPoint presentation geared toward educating stakeholders, including legislators, community leaders, hospital executives, physicians and others about the value of investing in the Graduate Medical Education process.

II. RESPONSE REQUIREMENTS

All proposals must address the requirements outlined below:

- History of the capabilities of consultants' organization and a description of similar work performed, including:
 - Summary of minimum of three most recent projects of similar scale
 - References including contact information
 - Outcomes related to the deliverable produced
- Outline of project plan - A description of how the organization will meet each requested deliverable
- Proposed cost for services and itemized price estimates, including, but not limited to:
 - Travel (air, car)
 - Estimated mileage
 - Lodging and dining expenses
 - Administrative costs (duplication, paper, notepads, pens, etc.)
- Personnel information including:
 - Organizational Chart
 - Resumes of key project personnel
 - Names and personnel information of any subcontractors that may be utilized

III. SCORING

- Experience completing work of similar scale - 50 points
 - Plans for the expansion of graduate medical education (GME) for prior clients
 - Experience of key personnel to be assigned to the project
 - Direct GME expansion outcomes aligned with deliverables produced for prior clients
 - References and feedback from a minimum of three (3) prior clients indicating a satisfactory experience with the consultant and product(s) produced

 - Completeness of proposal - 25 points
 - All areas of the “Response Requirements” section addressed
 - Ability to provide requested deliverables; summaries, grouped by category, of the plan to provide deliverables
 - Presentation to Board⁷

 - Cost for services - 25 points
 - Total cost to provide deliverables requested
 - Descriptions of all direct and indirect cost and their relation to providing deliverables
- TOTAL 100 points

⁷ Selected vendors may be invited by the Board to present a plan to provide requested deliverables

IV. TIMELINE FOR PROPOSAL REVIEW AND VENDOR SELECTION

- Week of March 28, 2016
 - RFP sent to minimum of three (3) potential vendors
 - RFP posted on Indiana Commission for Higher Education website
- Friday, April 29, 2016
 - Proposals due to Indiana Commission for Higher Education by 5pm EDT
- Week of May 2, 2016
 - GMEB Committee review of proposal submissions
 - Top-3 proposals selected based on criteria in scoring rubric and sent to full Board for review⁸
- Week of May 9, 2016
 - Full Board evaluates proposal submissions
- Week of May 16, 2016
 - RFP discussed and voted on during 5/16/16 Board meeting

V. TIMELINE FOR PROJECT DELIVERABLES

Friday, July 1 – Initial progress report due; progress update meeting between Vendor, Chairperson and Board⁹

- Report to include:
 - Meetings held with stakeholders and feedback received
 - Initial data gathering and sources used to acquire data
 - Results of any focus groups, town halls, etc. related to the project
 - Updated timeline for completion

Friday, August 5 – 2nd progress report due; progress update meeting between Vendor, Chairperson and Board¹⁰

- Report to include:
 - All information from initial report

Friday, August 16 – Briefing by vendor to full Board on project progress as part of 8/16/16 public GMEB meeting

Friday, September 16 – Final report due to Board

Tuesday, October 18 – Board discusses report during meeting, votes to approve final product or request additional work by vendor

VI. TERMS AND CONDITIONS

The selected vendor agrees to abide by the terms of agreement as listed in the Commission for Higher Education's *Contract For Professional Services*. A sample contract is provide in the Appendix of this RFP under section B. Sample CHE Contract for Professional Services.

FINAL

VII. ABOUT THE GRADUATE MEDICAL EDUCATION BOARD AND FUND

The 10-member Graduate Medical Education Board is tasked to award fund to entities expanding opportunities in Graduate Medical Education in Indiana. Appointed by the Governor, the Board can award funds to entities seeking to fund new residency program slots that will allow qualified individuals to complete residency programs in Indiana. To receive funds entities must be:

- Licensed hospitals seeking to fund new residency program slots in Indiana
- Nonprofit organizations seeking to increase residency program slots in Indiana

The \$6 million¹¹ Graduate Medical Education Fund was established by the Indiana General Assembly to fund qualifying entities selected by the Board. The Board can use these funds to:

- Provide funding for new resident positions not funded by the federal Center for Medicare and Medicaid Services
- Provide technical assistance for entities that wish to establish a residency program
- Provide startup funding for entities that wish to establish a residency program.

AUTHORIZING LEGISLATION: 2015 House Enrolled Act 1323

GOVERNING STATUTES: IC 21-13-6.5

IC 21-13-8

BOARD MEMBERS¹² (10 gubernatorial appointees):

Indiana University School of Medicine

Peter Nalin, MD – Executive Associate Dean for Educational Affairs, IU School of Medicine

Indiana University School of Medicine, Regional Medical School Campus

Steven Becker, MD – Director and Associate Dean, IU School of Medicine, Evansville

Marian University College of Osteopathic Medicine

Vacant

¹¹ \$3 million each year in FY 2016 and FY 2017

¹² Representatives appointed as required by IC 21-13-7

Indiana State Medical Association

James Buchannan, MD – CEO, Fort Wayne Medical Education Program

Indiana Osteopathic Medicine Association

Mark Cantieri, DO – Private Practice and Clinical Assistant Professor, Marian University College of Osteopathic Medicine

Indiana Primary Health Care Association

Beth Wrobel – CEO, HealthLinc

Teaching hospital in the Indiana Hospital Association

Paul Haut, MD – Interim President and Chief Medical Officer, Riley Hospital for Children

Non-teaching hospital in the Indiana Hospital Association

Tim Putnam, DHA, MBA, FACHE - President/CEO, Margaret Mary Health, Batesville, IN

Medical Director of a Residency Program (2 Board Members)

Bryan Mills – CEO, Community Health Network

Tricia Hern, MD – Program Director, Community Health Network East Family Medicine Residency Program

FINAL

APPENDIX

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in **this style type**, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE ENROLLED ACT No. 1323

AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 21-13-6.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 6.5. Medical Residency Education Grants

Sec. 1. (a) The medical residency education fund is established to:

- (1) expand medical education in Indiana; and
 - (2) encourage and promote qualified individuals to complete a residency program in Indiana.
- (b) The fund consists of the following:
- (1) Appropriations by the general assembly.
 - (2) Gifts to the fund.
- (c) The commission shall administer the fund. The expenses of administering the fund shall be paid from money in the fund.
- (d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from those investments shall be deposited in the fund.
- (e) Money in the fund at the end of a fiscal year does not revert to the state general fund but remains available to be used to provide money to fund residency program slots as described under

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this chapter.

Sec. 2. (a) Subject to subsection (b), the money in the fund must be used to provide money to the following:

(1) A hospital licensed under IC 16-21 that is seeking to fund a new residency program slot for a qualified individual to complete a residency program in Indiana.

(2) A nonprofit organization that:

(A) is qualified as tax exempt under Section 501(c)(3) of the Internal Revenue Code; and

(B) has the purpose of increasing residency positions in Indiana by funding new residency program slots at hospitals licensed under IC 16-21.

(b) A recipient of money from the fund must agree to provide matching funds equal to at least twenty-five percent (25%) of the money provided.

(c) The commission shall establish an application process for a person seeking money from the fund.

(d) A person receiving funding under this chapter shall provide any information requested by the commission that the commission determines is necessary to administer this chapter.

Sec. 3. The medical education board shall annually make available to the commission the most recent information concerning the number of current residency program slots in Indiana.

SECTION 2. IC 21-44-1-3, AS AMENDED BY P.L.142-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) "Board", for purposes of IC 21-44-5, refers to the medical education board established by IC 21-44-5-1.

(b) "Board", for purposes of IC 21-44-6, refers to the mental health and addiction services development programs board established by IC 21-44-6-1.

(c) "Board", for purposes of IC 21-44-7, refers to the graduate medical education board established by IC 21-44-7-2.

SECTION 3. IC 21-44-1-8, AS ADDED BY P.L.2-2007, SECTION 285, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) Except as provided in subsection (b), "fund" refers to the family practice residency fund established by IC 21-44-5-18.

(b) "Fund", for purposes of IC 21-44-7, refers to the graduate medical education fund established by IC 21-44-7-6.

SECTION 4. IC 21-44-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2015]:

Chapter 7. Graduate Medical Education Board and Fund

Sec. 1. The following definitions apply throughout this chapter:

- (1) "Board" refers to the graduate medical education board established by section 2 of this chapter.
- (2) "Fund" refers to the graduate medical education fund established by section 8 of this chapter.

Sec. 2. The graduate medical education board is established for the following purposes:

- (1) To provide funding for residents not funded by the federal Centers for Medicare and Medicaid Services.
- (2) To provide technical assistance for entities that wish to establish a residency program, including the following:
 - (A) Entities that are not licensed hospitals.
 - (B) Federally qualified health centers.
- (3) To provide startup funding for entities that wish to establish a residency program.

Sec. 3. (a) The board is comprised of ten (10) members appointed by the governor as follows:

- (1) One (1) member representing the Indiana University School of Medicine.
- (2) One (1) member representing a regional medical school campus of the Indiana University School of Medicine.
- (3) One (1) member representing the Marian University College of Osteopathic Medicine.
- (4) One (1) member representing the Indiana State Medical Association.
- (5) One (1) member representing the Indiana Osteopathic Medical Association.
- (6) One (1) member representing the Indiana Primary Health Care Association.
- (7) One (1) member representing a teaching hospital in the Indiana Hospital Association.
- (8) One (1) member representing a nonteaching hospital in the Indiana Hospital Association.
- (9) Two (2) members who are medical directors of residency programs.

(b) Except as provided in subsection (c), a member appointed to the board shall serve for a term of two (2) years. Except as provided in subsection (c), the term of a member appointed under subsection (a)(1) through (a)(4) begins on January 1 of an odd-numbered year. The term of a member appointed under

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subsection (a)(5) through (a)(9) begins on January 1 of an even-numbered year.

(c) This subsection applies to a member appointed under subsection (a)(1) through (a)(4) before January 1, 2016. A member to whom this subsection applies serves for a term of one (1) year beginning January 1, 2016.

(d) The governor shall make appointments to the board at the following times:

(1) The governor shall make the initial appointments to the board before January 1, 2016.

(2) Before the end of each year after 2015, the governor shall appoint members to the board to succeed those members whose terms are scheduled to expire at the end of the year.

(3) When a member resigns or is otherwise unable to complete the member's term, the governor shall appoint a member to serve the remaining term of the member who has resigned or who is otherwise unable to complete the member's term.

Sec. 4. (a) The commission for higher education shall provide staff for the board. The commission shall call the first meeting of the board and notify members of the board.

(b) The board members shall designate a chairperson from among themselves. The member designated as the chairperson continues to serve as chairperson until the earlier of:

(1) the first anniversary of the chairperson's designation under this section; or

(2) the date on which the chairperson's term expires.

(c) The board shall meet at the call of the chairperson or at the call of a majority of the appointed members.

Sec. 5. An affirmative vote of at least six (6) members is necessary in order for the board to take any official action.

Sec. 6. The board may contract with consultants to develop a graduate medical education expansion plan.

Sec. 7. (a) The board may award grants to fund infrastructure costs for an entity to expand graduate medical education.

(b) The board may require an entity receiving a grant described in this section to financially participate in the infrastructure expenses in an amount not to exceed twenty-five percent (25%) of the infrastructure expenses.

(c) The board may not distribute funds under this chapter to directly fund residency slots.

Sec. 8. (a) The graduate medical education fund is established within the state treasury. Subject to subsection (b), money in the



fund is to be used for the purposes specified in sections 2(1), 2(3), and 7 of this chapter.

(b) Except as provided in section 7(b) of this chapter, a recipient of money from the fund must agree to provide matching funds equal to at least twenty-five percent (25%) of the money provided.

(c) The fund consists of the following:

- (1) Appropriations by the general assembly.
- (2) Grants.
- (3) Gifts.

(d) The board shall administer the fund.

(e) The expenses of administering the fund may be paid from the fund.

(f) Money in the fund that is not needed to meet the obligations of the fund may be invested in the manner that other public money is invested. Interest or other investment returns on money in the fund become part of the fund.

(g) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 5. [EFFECTIVE JULY 1, 2015] (a) As used in this SECTION, "board" refers to the graduate medical education board established by IC 21-44-7-2.

(b) Before November 1, 2016, the board shall submit a report to the general assembly in an electronic format under IC 5-14-6 with recommendations concerning the expansion of graduate medical education in Indiana. The report must include the following concerning an expansion:

- (1) The costs per resident.
- (2) The expected economic impact on host communities.
- (3) The impact of expansion on access to care in health care underserved areas in Indiana.
- (4) The impact of expansion on physician workforces, including the impact by specialty on medical specialty workforces.
- (5) The level of financial participation that would be expected by a host entity and what would be required of a host entity to participate in an expansion.

(c) This SECTION expires December 31, 2016.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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B. SAMPLE CHE CONTRACT FOR PROFESSIONAL SERVICES



INDIANA COMMISSION *for*
HIGHER EDUCATION

CONTRACT FOR PROFESSIONAL SERVICES

PRINCIPAL ("COMMISSION"):	CONTRACTOR (AS SAME):
<p>COMMISSION FOR HIGHER EDUCATION OF THE STATE OF INDIANA, <i>AN INSTRUMENTALITY AND AGENCY OF THE STATE OF INDIANA PURSUANT TO IC 21-18-2</i></p> <p>101 W. OHIO STREET, SUITE 300 INDIANAPOLIS, INDIANA 46204</p> <p>PHONE: (317) 464-4400 FAX: (317) 464-4410</p> <p><i>FOR NOTICE PURSUANT TO PARAGRAPH 13:</i> ATTN: FINANCIAL OPERATIONS E-MAIL: FINANCE@CHE.IN.GOV</p>	<p>COMPANY NAME,</p> <p>STREET CITY, STATE ZIP CODE</p> <p>PHONE: FAX:</p> <p><i>FOR NOTICE PURSUANT TO PARAGRAPH 13:</i> ATTN: COMPANY SIGNATORY NAME E-MAIL: NAME@COMPANY.COM</p>
CONTRACT INFORMATION (AS SAME):	
<p>EDS#: PROJECT: SUPERVISOR: PROJECT FEE: FUNDING: TERM:</p>	<p>PO #:</p>

The parties agree as follows:

1. Services. Contractor shall provide services to the Commission as described in Contractor's letter to the Commission (the "Proposal"), which is hereby incorporated into this Agreement as Attachment A. Such services to be provided by Contractor constitute the "Project." The Proposal states the dates by which certain services shall be provided by Contractor during the Project. Contractor shall submit progress reports to the Commission upon request by the Commission. The report shall be oral, unless the Commission, upon receipt of the oral report, deems it necessary to have the information in written form.

2. Supervisor. The work to be performed by Contractor will be supervised by a member of the Commission's staff (the Supervisor), who will be listed under Contract Information, or by another member of the Commission's staff designated in writing by the Commissioner for Higher Education of the State of Indiana.

3. Location. Project activities shall take place at the location(s) approved by the Supervisor.

4. Key Person(s). If Contractor has designated that certain individual(s) are essential to the services to be performed pursuant to this Agreement, the parties agree that should these individual(s) leave employment of Contractor during the term of this Agreement, for whatever reason, the Commission shall have the right to terminate this Agreement upon thirty (30) days written notice.

5. Project Fee. The Contractor's fee for this Project shall not exceed the amount as detailed under Contract Information. The fee shall be paid within 35 days of receipt of an invoice from Contractor as provided in paragraph 6, below.

6. Payment of Fees and Expenses. Contractor shall submit detailed invoices for services performed describing the services, listing the date, amount of time spent, and a summary description of the work performed, as well as the expenses actually incurred by Contractor pursuant to this Agreement. Contractor's invoices shall be reviewed and approved by the Supervisor for subsequent payment by the Commission if satisfactory to the Commission. Invoices shall be signed by an authorized officer or representative of Contractor attesting to the authenticity and validity of the fees and expenditures. Payments shall be made via electronic funds transfer/ACH pursuant to IC 4-13-2-14.8. Invoices shall be mailed to the attention of Accounts Payable or sent electronically to ap@che.in.gov.

7. Subcontractors. Contractor shall first obtain written approval of the Commission before subcontracting all or any portion of this Agreement, if the subcontractor was not identified in Attachment A. This requirement shall not apply, however, to the purchase of standard commercial supplies or raw materials. Contractor shall be responsible for all performance, compliance with the terms and conditions of this Agreement, and the requirements of the laws and regulations of the State of Indiana and the United States in any subcontract, if subcontracts are used. Upon request by the Commission, Contractor shall provide a copy of any subcontract used for the Project.

8. Access to Records. The Indiana State Board of Accounts shall have access to and be permitted to review the financial and other records of Contractor related to the Project. The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records and other evidence pertaining to the costs incurred under this Agreement. They shall make such materials available at their respective offices at all reasonable times during the term of this Agreement and for three (3) years from the date of final payment under this Agreement, for inspection by the Commission or its authorized designees. Copies shall be furnished at no cost to the Commission if requested.

9. Term. The term of this Agreement shall be for the period as listed under Contract Information. This Agreement may be extended by mutual written agreement of the parties prior to expiration for an additional period not to exceed six (6) months.

10. Termination.

(a) This Agreement may be terminated, in whole or in part, by the Commission whenever, for any reason, the Commission determines that such termination is in the best interests of the Commission or the State of Indiana. Termination of this Agreement pursuant to this subparagraph shall be effective by delivery to Contractor of a written termination notice at least thirty (30) days prior to the termination effective date;

(b) This Agreement shall terminate immediately in the event that the Director of the Indiana State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of this Agreement.

Contractor shall be compensated for services properly rendered and expenses properly incurred prior to the effective date of termination of this Agreement. The Commission and the State of Indiana shall not be liable for services performed or expenses incurred by Contractor, its agents, employees, representatives or contractors after the effective date of termination of this Agreement. Upon termination of this Agreement, for whatever reason, Contractor shall complete the certification attached hereto as Attachment B stating the extent to which services have been performed pursuant to this Agreement listing the final amount of fees for services rendered and expenses incurred paid by the Commission.

In the event this Agreement is terminated pursuant to this paragraph 10, Contractor shall immediately cease its activities and shall submit vouchers/invoices to the Commission for fees and expenses incurred through and including the day of termination of the Agreement.

11. Force Majeure. In the event that either party is unable to perform any of its obligations pursuant to this Agreement because of a natural disaster, acts of God, war or civil unrest, actions or decrees of governmental body not the fault of the affected party (hereinafter referred to as a

“Force Majeure Event”), the party who has been so affected shall immediately give written notice to the other party and shall do everything possible to resume performance upon the termination of the Force Majeure Event. Upon such notice, all obligations under this Agreement shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice to the other party, terminate this Agreement.

12. Penalties/Interest/Attorney’s Fees. The Commission will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney’s fees, except as required by Indiana law, in part, IC 5-17-5 et seq., IC 34-13-1-6 et seq., IC 34-52-2-3 et seq., and IC 34-54-8-5, et seq.

Notwithstanding the provisions contained in IC 5-17-5 et seq., any liability resulting from the Commission’s failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

13. Notice. Notice shall be deemed to have been given if hand delivered to the addresses as listed in Contract Information; sent via overnight mail, with receipt confirmed in writing or electronically; sent via certified U. S. Mail, return receipt requested.

14. Amendments. This Agreement may be amended in writing with the prior written consent of both parties. Any amendment so approved shall become part of this Agreement.

15. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Indiana, and suit, if any, must be brought in Marion County, Indiana.

16. Work Product. The parties agree that any and all work products or deliverables developed by any person pursuant to this Agreement are the property of the State of Indiana. However, this provision shall not apply to materials developed previously by Contractor for commercial use, and which are subsequently made available to the Commission or its associates in the course of this Project.

17. Independent Contractor. Both parties hereto, in the performance of this Agreement, will be acting in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Contractor shall be responsible for providing all necessary unemployment and worker’s compensation insurance for Contractor’s employees. Contractor shall be solely and absolutely responsible for all costs, expenses and liability in connection with performing its duties under this Agreement.

18. Indemnification. With the exception of matters that may be covered by the Indiana Tort Claim Act, Contractor agrees to indemnify, defend, and hold harmless the Commission and the State of Indiana, including their agents, employees, contractors, representatives, and officers

against any loss or expense, including reasonable attorney fees and costs, as a result of any dispute, action, claim, suit or legal proceeding brought or threatened against the Commission and the State of Indiana which is based on the acts or omissions of Contractor or its agents, employees, contractors, representatives, or officers. Contractor's indemnification obligation is limited by the rights and protections accorded to Contractor under the Indiana Tort Claims Act and shall in no event be greater than its liability were the Contractor to be sued directly under Indiana and applicable federal law. The Commission shall not provide such indemnification to the Contractor.

19. Assignment of Antitrust Claims. As part of the consideration for the award of this Contract, the Contractor assigns to the State all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

20. Public Information Disclosure. Contractor acknowledges that the entire contents of this Agreement are subject to full and complete disclosure to the public, including competitors and the news media, in accord with the State of Indiana Access to Public Records Act, IC 5-14-3, et seq.

21. Information Technology Enterprise Architecture Requirements. If the Contractor provides any information technology related products or services to the State, the Contractor shall comply with all Indiana Office of Technology (IOT) standards, policies and guidelines, which are online at <http://iot.in.gov/architecture/>. The Contractor specifically agrees that all hardware, software and services provided to or purchased by the State shall be compatible with the principles and goals contained in the electronic and information technology accessibility standards adopted under Section 508 of the Federal Rehabilitation Act of 1973 (29 U.S.C. 794d) and IC §4-13.1-3. Any deviation from these architecture requirements must be approved in writing by IOT in advance. The State may terminate this Contract for default if the Contractor fails to cure a breach of this provision within a reasonable time.

22. Confidentiality. The Contractor understands and agrees that data, materials, and information disclosed to Contractor may contain confidential and protected data subject to local, state, and federal privacy laws. The Contractor agrees to uphold and remain compliant with all applicable regulations, laws, and policies. Therefore, the Contractor promises and assures that data, material, and information gathered, based upon or disclosed to the Contractor for the purpose of this Agreement, will not be disclosed to others or discussed with third parties without the prior written consent of the Commission. In the event of a breach of confidentiality or security of data, the Contractor shall notify the Commission immediately both verbally and in writing.

23. Compliance with Laws and Ethics Regulations. Contractor agrees to comply with all federal, state, and local laws, rules, regulations or ordinances pertaining to this Agreement or to Contractor's status as a vendor of the State of Indiana and the Commission. Contractor specifically agrees to comply with the laws, regulations, rules and executive orders of the State of Indiana

regarding ethics as they are currently in effect and as they may be amended, modified, or enacted in the future.

The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The Contractor agrees that any payments currently due to the State of Indiana may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.

The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the Commission. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the Commission.

The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State

24. Nondiscrimination. Pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee or applicant's: race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Furthermore, Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services.

25. Drug-Free Workplace Certification. The Contractor hereby covenants and agrees to make a good faith effort to provide and maintain during the term of this Agreement a drug-free workplace, and that it will give written notice to the Commission within ten (10) calendar days after receiving actual notice that an employee of Contractor has been convicted of a criminal drug violation occurring in the Contractor's workplace.

False certification or violation of the certification may result in sanctions including, but not limited to, suspension of payments, termination of the Agreement and/ or debarment of contracting opportunities with the State of Indiana for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total amount set forth in the Agreement is in excess of \$25,000.00, Contractor hereby further agrees that this Contract is expressly subject to the terms, conditions and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Commission is requiring the inclusion of this certification in all Agreements with, and grants from the State of Indiana, in excess of \$25,000. No award of a contract, agreement, or grant shall be made and no contract, purchase order, or agreement, the total amount of which exceeds \$25,000, shall be valid unless and until this certification has been fully executed by the Contractor and made a part of the contract or agreement as part of the contract documents.

The Contractor certifies and agrees that it will provide a drug-free workplace by:

(a) Publishing and providing to all of its employees a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

(c) Notifying all employees in the statement required by subparagraph (a) above that as a condition of continued employment the employee will (1) abide by the terms of the statement; and (2) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

(d) Notifying in writing the Commission for Higher Education within ten (10) days after receiving notice from an employee under subdivision (c)(2)above, or otherwise receiving actual notice of such conviction.

(e) Within thirty (30) days after receiving notice under subdivision (c)(2)above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

(f) Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (a) through (e) above.

26. Employment Eligibility Verification. The Contractor affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees. The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.

The Contractor shall require his/her/its subcontractors, who perform work under this contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor. The State may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

27. Telephone Privacy. As required by IC §5-22-3-7, the Contractor and any principals of the Contractor certify that (a) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of: (i) IC §24-4.7 [Telephone Solicitation Of Consumers]; (ii) IC §24-5-12 [Telephone Solicitations]; or, (iii) IC §24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and, the Contractor will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor, except for de minimis and nonsystematic violations: (a) has not violated the terms of IC §24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and, (b) will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

28. Assignment. The rights and obligations of the Commission pursuant to this Agreement may be assigned by the Commission to another agency or body corporate and politic of the State of Indiana with written notice to Contractor. The rights and obligations of Contractor may not be assigned without prior written consent of the Commission.

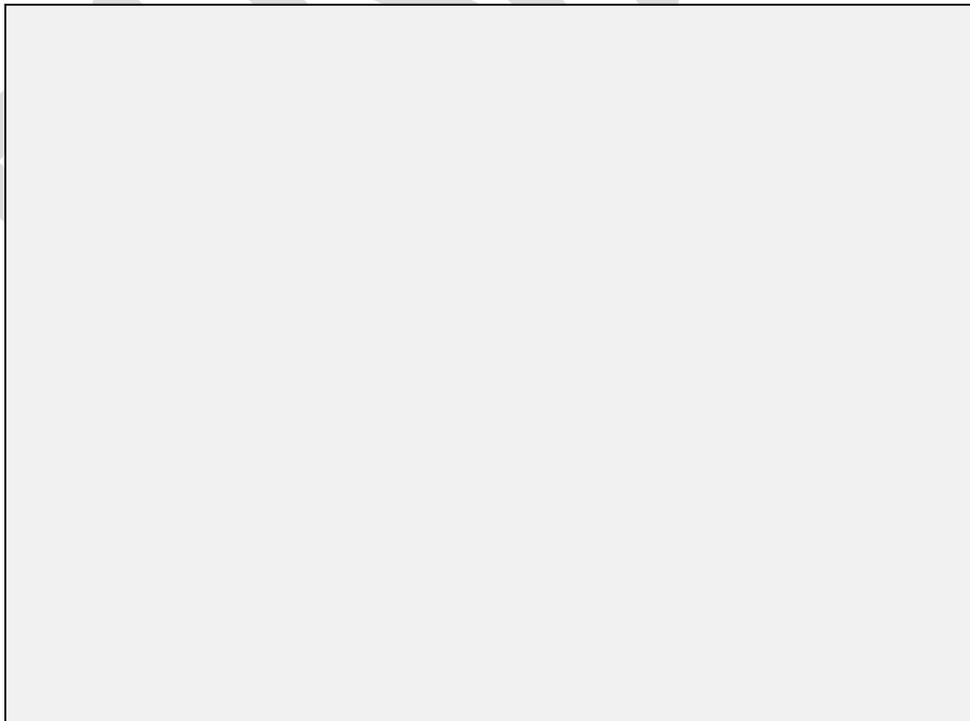
29. Severability. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of other provisions.

30. Waiver of Breach. No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any other breach. Failure of the Commission or Contractor to enforce at any time any provision of this Agreement shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and additional to any other remedies at law or in equity.

31. Authority to Bind. The signatory for the Contractor represents that he/she has been duly authorized to execute this Agreement on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Agreement fully binding upon the Contractor when his/her signature is affixed, and this Agreement is not subject to further acceptance by Contractor when accepted by the Commission.

32. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein. All prior agreements, representations, statements, negotiations, and undertakings, whether written or oral, are superseded hereby. The parties have read and understood the foregoing terms of the Agreement and all attachments hereto and do by their signatures agree to its terms.

[signature page follows]



[CONTRACT J22-16-C### SIGNATURE PAGE]

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Contractor, or that the undersigned is the properly authorized representative, agent, member or officer of the Contractor. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof.

In Witness Whereof, Contractor and the State have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below agree to the terms thereof.

"Commission"

COMMISSION FOR HIGHER EDUCATION OF THE STATE OF INDIANA

By: _____ for

Teresa Lubbers, *Commissioner*

Date: _____

"Contractor"

CONTRACTOR COMPANY NAME

By: _____

Printed Name: _____

Title: _____

Date: _____

FORN