



Commonwealth of Kentucky

PURCHASE ORDER MODIFICATION

IMPORTANT
Show Doc ID number on all packages, invoices and correspondence.

Doc Description: KYAE-2018-029 KEDC	
Doc ID No: PO2 415 1800001248 2	Procurement Folder: 4607124
Procurement Type: MOA/PSC Exception	Record Date:
Issued By: Ashley Smither	Cited Authority: KRS164.020-22
Telephone: 502-537-1555	

Reason For Modification: KEDC is to assume KYAE services provided in Boyd County. Adding additional funds of \$110,520 to cover expenses from January 1st-June 30st. Original contract amount \$1,008,352.00. Adding \$110,520. New contract total \$1,118,872.00. New terms updated.

C O N T R A C T O R	Kentucky Educational Development Corporation	
	904 W Rose Rd	
	Ashland	KY 41102
	US	

Effective From: 07/01/2017 **Effective To:** 06/30/2018

Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
1	Core Services		0.00		0.00000	908,292.00	908,292.00

Extended Description

Provide adult education and literacy services in order to: (a) assist adults to become literate and obtain the knowledge and skills necessary for employment and self-sufficiency; (b) assist adults who are parents to obtain the educational skills necessary to become full partners in the educational development of their children; (c) assist adults in the completion of a secondary school education; and (d) provide services that are of sufficient duration and intensity of hours to assist families, defined as at least one child between the ages of birth and eighteen and at least one adult who is primarily responsible for the child's well being and who is consistently an influence on the child's development, to make sustainable increases in their literacy level and to become self-sufficient.

Budgeted source of funds: 68% state, 32% federal (CFDA 84.002 A, Adult Education State Administered Grant)

Method of payment: cost-reimbursement upon receipt and approval of monthly KYAE Expenditure Report submitted online. All costs must be reasonable, allowable and actual.

Modification: KEDC is to assume KYAE services provided in Boyd County. Adding additional funds of \$110,520 to cover expenses from January 1st-June 30st. Original contract amount \$1,008,352.00. Adding \$110,520. New contract total \$1,118,872.00. New terms updated.

B I L L T O	419862	S H I P T O
	COUNCIL ON POSTSECONDARY ED - KY ADULT ED	
	1024 CAPITAL CTR DR	
	KY ADULT EDUCATION SUITE 320	
	FRANKFORT KY 40601	
	US	

Effective From: 07/01/2017 **Effective To:** 06/30/2018

Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
3	Performance Funding		0.00		0.00000	81,148.00	81,148.00

Extended Description

Funding to enhance the delivery of Adult Education services and professional development.

Budgeted source of funds: 100% State; This is the maximum that could be earned. The final award amount will be based on final FY17 performance and displayed in the on-line KYAE Finance Module.

Method of payment: cost-reimbursement upon receipt and approval of monthly KYAE Expenditure Report submitted online. All costs must be reasonable, allowable and actual.

B I L L T O	419862 COUNCIL ON POSTSECONDARY ED - KY ADULT ED 1024 CAPITAL CTR DR KY ADULT EDUCATION SUITE 320 FRANKFORT KY 40601 US	S H I P T O	
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Effective From: 07/01/2017 Effective To: 06/30/2018

Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
4	Federal Supplement		0.00		0.00000	114,432.00	114,432.00

Extended Description

Funds are to be used to aid in additional enrollments, retention efforts and to help programs produce additional results.

Method of payment: cost-reimbursement upon receipt and approval of monthly KYAE Expenditure Report submitted online. All costs must be reasonable, allowable and actual.

The funding is 100% federal WIOA Title II CFDA 84.002
Maximum Administrative expense is 5%.

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Effective From: 01/01/2018 Effective To: 06/30/2018

Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
5	Start Up		0.00		0.00000	15,000.00	15,000.00

Extended Description

Funding to new Adult Education program for efficient set up and transfer of prior program's materials and equipment and purchase of any additional supplies in preparation for serving students at the start of the contract period.

Budgeted source of funds: 100% State-General Fund

Method of payment: cost-reimbursement; receipt and approval of monthly KYAE Expenditure Report submitted online.

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Total Order Amount:	1,118,872.00
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This Memorandum of Agreement (MOA) is entered into, by and between the Commonwealth of Kentucky, First Party, Kentucky Adult Education Skills U, Council on Postsecondary Education, referred to as “KYAE Skills U Skills U”, and the Contractor, hereinafter referred to as the Second Party to establish an agreement for Kentucky Adult Education Services. The initial MOA is effective from July 1st 2017, through June 30th 2018.

I. The Second Party agrees to perform the following services:

- A. Operate a program in compliance with the Scope(s) of Work, Performance Measures and Budget(s). Individuals employed by the Second Party are considered employees of the provider, not KYAE Skills U Skills U; therefore the Second Party is responsible for any benefits accrued prior to the current grant year and pursuant to 42 U. S. C. § 418, all social security contributions;
- B. Operate a program in compliance with the provisions of the Kentucky Adult Education Skills U Implementation Guidelines as amended from time to time, located in KAERS, and hereby incorporated by reference; and
- C. Operate a program in compliance with the approved proposal, which is hereby incorporated by reference.

II. The Second Party agrees to the following:

A. CONFIDENTIALITY

- 1. Assure the confidentiality of all information, whether written, verbal or electronic, provided by or about any client seeking or receiving services under this contract, except as approved and authorized in writing by the client, or as otherwise by law in accordance with the provisions of 5 U. S. C. § 552a which governs the release of public information.
- 2. (a) Use or permit access to the Kentucky Adult Education Reporting Information Network (hereafter referred to as “KAERS”), an information system that allows for the transfer of data to accommodate the assessment of potential services and program eligibility, only for purposes specifically authorized;
- (b) Provide to the First Party the completed Request for the KAERS Access form for any employee to be considered for access to the KAERS;
- (c) Require all employees who have been trained and granted access by the First Party to the KAERS to read and sign a copy of the Employee Security Contract which is available in KAERS and is hereby incorporated by reference;
- (d) Maintain a copy of signed security agreements in the personnel files of the respective employees and make copies available to KYAE Skills U Skills U upon request;
- (e) Ensure that only authorized employees are given access to the KAERS; and
- (f) Instruct all employees with access to the KAERS regarding the confidential nature of the information, including the relevant statutes and regulations.

B. INDEMNITY

The Second Party shall indemnify KYAE Skills U from any and all loss, claims, expenses, actions, causes of action, costs, damages, and obligations, arising from any and all acts of the Second Party, its agents, employees, licensees, or invitees that result in injury to persons, corporations, partnerships, or any other entity. Also, it shall indemnify KYAE Skills U from any and all liability, loss, or damage that KYAE Skills U may suffer resulting therefrom. Provided, however, in the event the Second Party is a state agency or subcontracts for services with a state agency subject to the

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jurisdiction of the Board of Claims pursuant to KRS 44.070 through KRS 44.160, the state agency's tort liability may be limited to an award from the Board of Claims up to the jurisdictional amount. In the event the Second Party is legally prohibited from entering into an indemnity contract, the Second Party shall hold KYAE Skills U harmless from any and all loss, claims, expenses, actions, causes of action, costs, damages, and obligations, arising from any and all acts of the Second Party, its agents, employees, licensees, invitees, or participants that result in injury to persons, damage to property or loss arising from performance of this contract, as those injuries, damages or losses related to any persons, corporations, partnerships, or any other entity, from any and all liability, loss, or damage.

C. SUBCONTRACTING

The Second Party agrees not to subcontract services under this contract. All services identified within this contract are to be directly provided by the Second Party unless specifically identified in the agreement or in the case wherein salary is being facilitated by the provider to the employing educational entity.

D. CONFLICT OF INTEREST

The Second Party certifies that it is legally entitled to enter into the subject contract and certifies that no employee or representative of the Second Party with procurement authority shall participate, either directly or indirectly, in any activities that are in conflict with the provisions stated in KRS 45A.340 , KRS 45A.455 and KRS Chapter 11A, Executive Branch Code of Ethics.

E. AUDIT

The Second Party shall procure, as to the completed contract, a single agency-wide audit, in accordance with and as required by, appropriate state and federal laws, regulations, and Federal Uniform Guidance documents, as applicable for your agency. The audit threshold is \$750,000 or more in annual aggregate federal financial assistance for **all** programs administered by the Second Party. Federal financial assistance includes federal dollars received either directly from a federal agency or indirectly through a state or other agency. In the event that aggregate federal funding equals or surpasses the threshold, a single audit shall be required and the Second Party shall submit a copy of the audit report to KYAE Skills U no later than March 31, 2019. In the event that aggregate federal funding is less than \$750,000, written notification that an audit report is not required must be sent to KYAE Skills U no later than March 31, 2019.

Failure to comply with this section may result in payments being delayed or withheld.

In addition, KYAE Skills U may arrange for a comprehensive program and financial audit and/or follow-up audits of the Second Party.

F. METHOD OF PAYMENT

The Method of Payment will be in accordance with guidelines implementing the federal Cash Management Improvement Act, Pub. L. 101-453, 104 Stat. 1058. This is a direct program cost reimbursement contract. Payment will be made based on reasonable, allowable, and actual costs incurred. KYAE Skills U does not permit the Second Party to charge indirect costs, or “overhead” charges, against this grant.

The Second Party understands that funds awarded under this contract cannot be used to provide services that would be otherwise available from another funding source or be available on a non-reimbursable basis. If travel is included, it shall be paid in accordance with local policy or, in the absence of such policy, in accordance with 200 KAR 2:006. Payment by KYAE Skills U to the

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Second Party, as well as the Second Party's continued performance, shall be subject to the availability of state or federal funds necessary to finance the provision of the services described in this contract.

The Second Party agrees to:

1. Submit monthly expenditure reports to KYAE Skills U detailing expenditures of actual costs incurred using the on-line Expenditure Report form and including detailed personnel expenditure on the Time Sheet Summary form on or before the 10th of each month following the month of services. Invoices received after the 10th shall be processed in the subsequent payment cycle. For programs administering more than one county, a report shall be submitted for each county individually, except where approved otherwise.
2. Submit the final year-end on-line invoice detailing actual cost incurred no later than July 20, 2018 unless notified otherwise in writing by KYAE Skills U.
3. Report only expenditures that are for goods received or services provided or received during the contract term and are determined allowable in compliance with the cost principles set forth in Federal Uniform Guidance documents. Encumbered but unexpended funds are not eligible for reimbursement unless the goods/services have been received by close of business June 30, 2018.
4. Expenditures that exceed the approved budget line are not eligible for reimbursement.
5. A maximum of 15% of the core services grant funding may be used for administrative purposes. Any administrative functions provided at the local level shall be budgeted at the local level.
6. Reimburse KYAE Skills U within 60 days of notification for any unresolved costs and/or payments that are disallowed as of a result of KYAE Skills U policy, federal/state guidelines, and/or audit findings.
7. Payments shall not be authorized for services rendered after Government Contract Review Committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the secretary.
8. Failure by the Second Party to adhere to KYAE Skills U reporting requirements may result in:
 - ☞ Reimbursements being delayed or withheld; or
 - ☞ The 30-day contract termination clause being invoked by KYAE Skills U.

G.FINANCIAL MANAGEMENT SYSTEM

The Second Party shall establish and/or maintain a financial system that shall provide for:

1. Accurate, current, and complete disclosure of the financial results of the functions/services performed under this contract in accordance with reporting requirements set forth in Federal Uniform Guidance documents, (2 CFR 200);
2. Records that identify the source and application of funds for activities/functions/services performed under this contract. These records shall contain information pertaining to federal and/or state funds received, obligations, unobligated balances (if applicable), assets, liabilities, expenditures, and income;
3. Effective control over and accountability for all funds, property, and other assets. The Second Party shall safeguard all such assets and shall assure that they are used solely for authorized purposes in the provision of functions/services under this contract;
4. Submit a cumulative inventory report form on-line using the KYAE Skills U Finance Module on or before **August 31, 2018** for all non-consumable property with a life expectancy of one year or

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more and acquired with KYAE Skills U funds. Cumulative inventory is defined as any inventory purchase made with KYAE Skills U funds under this agreement or any previous agreement with KYAE Skills U (previously known as DAEL). All property purchased with Adult Education funds will revert to KYAE Skills U in the event this contract is not executed or is terminated; Note: Federal regulations restrict purchase of any item valued at \$5,000 or greater without prior written approval.

5. When computer equipment has reached the end of its useful life, it may be disposed of following the Commonwealth Office of Technology (COT) guidelines for safeguarding personal and student information. It is the responsibility of the Second Party to properly dispose of equipment in accordance with COT policy. The sanitizing process shall be documented with the COT-F108, Commonwealth of Kentucky Record of IT Equipment Sanitization Form. A completed record must be maintained in a central location designated by the agency. This information must be maintained as outlined by the Kentucky Department of Library and Archives (KDLA) record retention schedule.
6. Accounting records that are supported by original source documentation;
7. Assurance that no other funds or assets of the Second Party shall be co-mingled with the funds provided for these programs to be administered under this contract to any other program account, and that these funds shall not be utilized for any purposes except those specifically identified herein; and
8. Responsibility for monitoring, fiscal and/or program exceptions established by evaluation, monitoring and/or audit of this contract, and for promptly settling any monitoring, fiscal and program audit exceptions by making direct payment, or reduction of future reimbursement, or by other methods approved by KYAE Skills U.

H. MEDIA RELEASES

Assure that all printed or electronic materials or presentations used for the promotion of programs paid wholly or in part with state or federal adult education funds identify that the program is a federal and state program administered by KYAE Skills U. All materials produced should be tagged with “A Proud Partner of the American Job Center Network”.

I. COPYRIGHTING

KYAE Skills U has a royalty free, non-exclusive and irrevocable right to reproduce, publish or otherwise use, or permit others to use, any copyrighted material developed in the course of or under this contract.

J. EXTENSION/AMENDMENTS

1. The terms and conditions of this contract may be extended or amended by mutual consent of the parties in writing.
2. The Second Party may reallocate funds up to but not exceeding 10% of the original line item budget. No money may be moved between sub-grants. The total amount of the grant is not subject to alteration by the Second Party. Written notification of reallocation shall be made in the KYAE Skills U Finance Module prior to invoicing with the reallocated budget. Notification of reallocation must be received by KYAE Skills U no later than December 29, 2017.
3. In exceptional circumstances and for good cause shown, the Second Party may request to amend

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the contract budget beyond 10% of any original line item. A request for such amendment shall be **received** by KYAE Skills U in the KYAE Skills U Finance Module **no later than December 29, 2017**, and will be considered on a case-by-case basis. Approval from KYAE Skills U must be secured prior to expending funds based upon any reallocation in excess of 10% of the original line item.

K. TERMINATION

KYAE Skills U may cancel the contract at any time for failure to perform it’s contractual duties, or on 30 day written notice without cause.

L. CHOICE OF LAW AND FORUM PROVISION

The laws of the Commonwealth of Kentucky shall govern all questions concerning the execution, validity, interpretation, and performance of this contract. Furthermore, the parties hereto agree that any legal action that is brought on the basis of this Contract shall be filed in the Franklin County Circuit Court of the Commonwealth of Kentucky.

ASSURANCES AND CERTIFICATIONS

Following is a series of state and federal laws and regulations with which a recipient of federal or state funding must be in compliance in order to receive the funds. If the Second Party cannot comply with any of these laws and regulations, federal or state funds cannot be released to that applicant.

M. KRS 45A.485 CERTAIN CONTRACTS REQUIRED TO MANDATE REVEALING OF VIOLATIONS OF AND COMPLIANCE WITH SPECIFIED KRS CHAPTERS – EFFECT OF NONDISCLOSURE OR NONCOMPLIANCE.

The Second Party shall comply with KRS 45A.485 to (a) reveal to the Commonwealth, prior to the award of this contract, any final determination of a violation by the applicant within the previous five-year period of the provisions of KRS Chapters 136 – Corporation and Utility Tax, 139 – Sales and Use Tax, 141 – Income Taxes, 337 – Wage and Hours, 338 – Occupational Safety and Health of Employees, 341 – Unemployment Compensation, and 342 – Workers Compensation and (b) for the duration of the grant to be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342. To comply with provisions of KRS 45A.485, the contractor shall report any such final determination(s) of violation(s) to the Commonwealth by providing the following information concerning the final determination(s): the KRS violated, the date of the final determination, and the state agency which issued the final determination. Failure to comply with the above-cited statutes for the duration of the contract shall be grounds for the Commonwealth’s cancellation of the contract and the contractor’s disqualification from eligibility to bid or submit proposals to the Commonwealth for a period of two years.

N. DISCRIMINATION PROHIBITED

1. The Second Party agrees not to discriminate on the basis of race, color, national origin, religion, sex, age, or disability in employment or service delivery and program participation in conformity with the provisions of Title VI and VII of the Civil Rights Act of 1964, as amended; Title IX of the Education Amendments of 1972, as amended; Rehabilitation Act of 1973, as amended; Age Discrimination Act of 1975, as amended; Americans with Disabilities Act of 1990; and Executive Order No. 11246 of September 24, 1965, as amended; and all other applicable laws which prohibit discrimination and implementing regulations, guidelines, and standards lawfully

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adopted and promulgated under the laws.

2. In compliance with KRS 344.015, Kentucky Adult Education Skills U, Council for Postsecondary Education has adopted a Title VI Plan. The Second Party shall likewise adopt the Title VI Plan or certify compliance with its own Title VI Plan. The CPE Title VI Plan is available at www.cpe.ky.gov
3. To the extent that the Second Party is a required partner in a Kentucky Career Center established pursuant to Title I of the Workforce Innovation Opportunity Act of 2014 (P.L. 113-128), the Second Party assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:
 - ✂ Section 188 of the Workforce Innovation Opportunity Act of 2014 (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I-financially assisted program or activity;
 - ✂ Title VI of the Civil Rights act of 1964, as amended, which prohibits discrimination on the basis of race, color and national origin;
 - ✂ Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
 - ✂ The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
 - ✂ Title IX of the Education amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The Second Party also assures that it will comply with all regulations implementing the laws listed above. This assurance applies to the Second Party's status, if applicable, as a required partner in a one-stop delivery system established under WIOA. The Second Party understands that the United States has the right to seek judicial enforcement of this assurance.

O. CERTIFICATION OF A DRUG-FREE WORKPLACE

The Second Party shall comply with the provisions of 34 CFR Part 85, Subpart F, Drug Free Workplace Act of 1988.

P. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION, LOWER TIER COVERED TRANSACTIONS

1. The Second Part certifies that neither the Second Party nor its principals:
 - (a) Are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Adult Education or agency;
 - (b) Have within a three-year period preceding this contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with performing a public transaction;
 - (c) Are presently indicted for or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses defined at 34 CFR Part 85;
 - (d) Have within a three-year period preceding this contract had one or more public transaction terminated for cause or default;

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2. Where the Second Party is unable to certify to any of the statements in this certification, they shall submit an explanation to KYAE Skills U; and
3. The instructions for certification, which are an integral part of this certification, have been read and agreed to by the Second Party.

Q. CERTIFICATION ON LOBBYING

No federally appropriated funds have been paid or will be paid, by or on behalf of the Second Party, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member or Congress in connection with the making of any federal grant, the entering into any cooperative contract, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative contract. If any funds, other than federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or an employee of Congress, or an employee of a member of Congress in connection with this Federal grant or cooperative contract, the Second Party shall complete and submit standard form-LLL "Disclosure Form to Report Lobbying" in accordance with its instructions. The Second Party shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including contracts, and contracts under grants and cooperative contracts) and that all sub-recipients shall certify and disclose accordingly.

R. SAFETY

The Second Party assures that program participants shall not be required or permitted to receive KYAE Skills U funded services in buildings or surroundings which are dangerous, unsanitary, or hazardous to either the participant's or employee's health and safety.

S. REMEDIES FOR BREACH

In the event of breach of contract by the Second Party, KYAE Skills U may pursue any remedy available to it pursuant to this contract, or to the provisions of KRS Chapter 45A, or any other remedy available to it at law.

III. In relation to the contract, KYAE Skills U agrees to:

- A. Monitor and evaluate the program for compliance with the provisions of this contract;
- B. Provide information, consultation, technical assistance, and forms;
- C. Provide the Second Party access to the KAERS for the limited purpose of assessment of potential services and program eligibility; and
- D. Provide timely payments to the contractor upon receipt of approved invoices.

**SCOPE OF WORK
FY 2017 – 2018**

AUTHORITY

KYAE Skills U administers federal and state funds for adult education programs to provide adult education and literacy services to assist adults to become literate and obtain the knowledge and skills necessary for employment, self-sufficiency and completion of a secondary education in compliance with the Workforce Innovation Opportunity Act, Title II Adult Education and Literacy, 20 U. S. C. § 9201 et seq., KRS151B.410, KRS164.041, the KYAE Skills U State Plan, Implementation Guidelines, and

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implementing regulations.

Family Literacy Component (as applicable)

KYAE Skills U administers state funds for adult education programs to provide family literacy services that are of sufficient intensity in terms of hours, and of sufficient duration, to assist families to make sustainable increases in their literacy level and to become self-sufficient, pursuant to KRS 151B.410 and KRS 158.360.

A. PROGRAM DESIGN AND ACTIVITIES

The Second Party agrees to the following:

1. Provide adult education services or instruction below the postsecondary level for eligible individuals who:
 - a) has attained 16 years of age;
 - b) who is not enrolled or required to be enrolled in secondary school under State law; and
 - c) who-
 - i. is basic skills deficient;
 - ii. does not have a secondary school diploma or its recognized equivalent, and has not achieved an equivalent level of education; or
 - iii. is an English language learner.
2. Assess students to determine their academic level utilizing an enrollment assessment instrument recognized by KYAE Skills U. Administer standardized tests consistent with KYAE Skills U assessment policy.
3. Entities receiving funding related to prior year’s performance measures must expend those performance funds in accordance with KYAE Skills U fiscal policies and procedures.
4. Acceptable expenditures may include, but are not limited to, KYAE Skills U approved or sponsored training, instructional materials and equipment, advertising or facility improvements that do not include structural changes as defined in applicable federal circulars.
5. Bonuses for employees are not an allowable expense.
6. Submit any changes to the proposed delivery of services consistent with applicable statutes, regulations, and policies, including budget, scope of work, or personnel qualifications worksheets to KYAE Skills U for review and approval.
7. Adhere to all KYAE Skills U policies as outlined in the KYAE Skills U Implementation Guidelines.
8. Adhere to any statutes and regulations applicable as a result of receiving federal grant funding.

B. REPORTING

The Second Party agrees to:

1. Submit the KYAE Skills U Expenditure Report monthly in compliance with the Method of Payment as outlined in this contract, II. F. 1-8;
2. Submit to KYAE Skills U by August 31, 2018, a cumulative Inventory Report on-line for all non-consumable items purchased with KYAE Skills U funds (II. G. 4);
3. Submit a copy of the single audit as per section II. E of this document by March 31, 2019; and that
4. Failure by the Second Party to adhere to KYAE Skills U reporting requirements may result in:
 - ☞ Reimbursements being delayed, reduced or withheld; or
 - ☞ KYAE Skills U invoking the 30-day contract termination clause.

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C. PROFESSIONAL DEVELOPMENT

The Second Party agrees to:

1. Adhere to KYAE Skills U Professional Development and Training Policy as detailed in the KYAE Skills U Implementation Guidelines, which may be amended from time to time; and
2. Ensure that expenditure for professional development activities follows the Fiscal Guidelines for Professional Development in accordance with KYAE Skills U Policy and

Procedure

manual for KYAE Skills U approved professional activities.

D. CORRECTIONS

The Second Party agrees to provide, where applicable, adult education and literacy services to eligible incarcerated participants on a cost reimbursable basis, and in compliance with KYAE Skills U policies and contract payment and reporting requirements as specified in this document. In the event the Second Party elects not to offer services in a correctional facility, KYAE Skills U reserves the right to secure services from another entity.

PROGRAM ASSURANCES FY 2017-2018

Assurances to Kentucky Adult Education Skills U, Council on Postsecondary Education (KYAE Skills U), under authority of Title II of the *Workforce Innovation Opportunity Act of 2014*, P.L. 113-128, KRS 151B.410, KRS 158.360 and KRS 164.020-234 . The Second Party assures Kentucky Adult Education, Council on Postsecondary Education that:

- 1.) The information contained in the application/proposal is correct and accurate to the best knowledge of the second party.
- 2.) The second party will comply with all provisions of the KYAE Skills U Policy and Procedure Manual. (This is a State Requirement. The Federal Workforce Innovation Opportunity Act, Adult Education and Family Literacy Act, Title II, requires that RFPs identify state requirements.)
- 3.) The second party will meet enrollment, academic performance, GED and transition goals. (This is a State Requirement.)
- 4.) The second party will provide direct services to eligible adults and will not subcontract service provision. (This is a State Requirement.)
- 5.) The second party will provide structured, scheduled, instructor-led learning opportunities resulting in successful student and program outcomes as well as effectiveness and efficiency. The second party will incorporate KYAE Skills U's managed program design parameters. (This is a State Requirement.)
- 6.) The second party will incorporate KYAE Skills U Common Core Standards into classroom use. (This is a State Requirement.)
- 7.) A major indicator of program success is a high-quality instructional staff and instructional leadership. The second party assures that all staff will meet KYAE Skills U minimum personnel requirements as specified in the KYAE Skills U Implementation Guidelines and that new staff will be hired through a structured, rigorous recruitment and selection process. (This is a State Requirement.)
- 8.) Grantees located in counties with full-service jails will work in cooperation with the local jailer to offer adult education services in correctional settings. (This is a State Requirement.)
- 9.) The second party will adhere to all KYAE Skills U data collection and reporting requirements. (This is a State Requirement.)
- 10.) The second party is responsible for providing technical support to the adult education program as

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needed to ensure security of information, computer access for staff and students, and proper functionality of hardware and software. (This is a State Requirement.)

11.) Funds received under this grant will be used to supplement and not supplant funds already available to the applicant from other sources for purposes authorized by the Adult Education and Family Literacy grant program.

12.) KYAE Skills U funds will not be expended for any purposes other than the direct provision of the adult education program.

13.) The second party will have sufficient working capital to sustain program services until the first invoice is paid according to the Commonwealth of Kentucky's contracting and invoicing process. In accordance with the Federal Cash Management Improvement Act, eligible providers that lack sufficient working capital may submit a written request for a working capital advance.

14.) The second party will repay any funds that have been finally determined through federal or state audit resolution processes to have been questioned or disallowed costs or otherwise not properly accounted for, and further agrees to pay any collection fees that may subsequently be imposed by the federal and/or state government. (This is a State Requirement.)

15.) A maximum of 15 percent (5 percent federal, 10 percent state) of the core services grant funding may be used for administrative purposes. Fiscal agents serving multiple counties should be aware that (These are State Requirements.):

- ✂ Administrative funds can be pooled from multiple counties to support a full-time adult education director.
- ✂ Administrative funds from multiple counties must be used proportionately throughout the contracted counties.
- ✂ Any administrative functions performed at the county level must be budgeted at the county level.
- ✂ Instructional funds may not be used to cover administrative costs at the county level.

16.) No more than 15% of a program's core services budget shall be spent on instructional materials and supplies in the last quarter of the program year. Eighty-five percent (85%) of instructional materials and supplies shall be expended by March 31. Any amendments shall be initiated by December 29, 2017. (This is a state requirement)

17.) To maximize the amount of funds available for direct instructional services, KYAE Skills U expects adult education programs to pay minimal or no rent for space; those located in publically-owned buildings, particularly, should expect no or minimal rent for space. If total operational costs exceed 5 percent of the county's total core services allocation, the applicant must provide a strong justification for the cost in the budget narrative. If operational costs exceed 5 percent, the budget will be negotiated with the applicant prior to final approval of the proposal. (This is a State Requirement.)

1. Fiscal agents shall ensure that (These are State Requirements.):

- ✂ All instructional facilities and services are in compliance with the Americans with Disabilities Act of 1990.
- ✂ Facilities have appropriate exterior and interior signage clearly identifying the adult education programs. The learning environment is in good condition and properly maintained with adequate space and equipment.
- ✂ There is a separate room available for student assessment and counseling purposes.
- ✂ The building and surroundings are safe, sanitary and non-hazardous.

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- ✎ The location is easily accessible with adequate parking.
- ✎ The facility has an environment conducive to adult learning.

2. State and Federal funds are to be used for program services. Fiscal agents are expected to seek donated or in-kind space in order to provide maximum resources to the students. Postsecondary education institutions receiving grants shall provide adult education services on their postsecondary campus as the primary site for services OR provide strong justification to KYAE Skills U why this is not feasible.

3. If it is determined through a KYAE Skills U site visit that the facility does not meet requirements, the second party may be asked to relocate the center to a more appropriate location or correct deficiencies. (This is a State Requirement.)

Workforce Innovation and Opportunity Act Considerations:

In awarding grants or contracts under this section, the eligible agency shall consider;

1. The degree to which the eligible provider would be responsive to-
 - a. Regional needs as identified in the local plan under section 108; and
 - b. Serving individuals in the community who were identified in such plan as most in need of adult education and literacy activities including individuals-
 - i. Who have low levels of literacy skills; or
 - ii. Who are English language learners;
2. The ability of the eligible provider to serve eligible individuals with disabilities, including eligible individuals with learning disabilities;
3. Past effectiveness of the eligible provider in improving the literacy of eligible individuals, to meet State-adjusted levels of performance for the primary indicators of performance described in section 116, especially with respect to eligible individuals who have low levels of literacy;
4. The extent to which the eligible provider demonstrates alignment between proposed activities and services and the strategy and goals of the local plan under section 108, as well as the activities and services of the one-stop partners;
5. Whether the eligible provider's program-
 - a. Is of sufficient intensity and quality, and based on the most rigorous research available so that participants achieve substantial learning gains; and
 - b. Uses instructional practices that include the essential components of reading instruction;
6. Whether the eligible provider's activities, including whether reading, writing, speaking, mathematics, and English language acquisition instruction delivered by the eligible provider, are based on the best practices derived from the most rigorous research available and appropriate, including scientifically valid research and effective educational practice;
7. Whether the eligible provider's activities effectively use technology, services, and delivery systems, including distance education in a manner sufficient to increase the amount and quality of learning and how such technology, services, and systems lead to improved performance;
8. Whether the eligible provider's activities provide learning in context, including through integrated education and training, so that an individual acquires the skills needed to transition to and

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complete postsecondary education and training programs, obtain and advance in employment leading to economic self-sufficiency, and to exercise the rights and responsibilities of citizenship;

9. Whether the eligible provider's activities are delivered by well-trained instructors, counselors, and administrators who meet any minimum qualifications established by the State, where applicable, and who have access to high quality professional development, including through electronic means.

10. Whether the eligible provider's activities coordinate with other available education, training, and social service resources in the community, such as by establishing strong links with elementary schools and secondary schools, postsecondary educational institutions, institutions of higher education, local workforce investment boards, one-stop centers, job training programs, and social service agencies, business, industry, labor organizations, community-based organizations, nonprofit organizations, and intermediaries, for the development of career pathways;

11. Whether the eligible provider's activities offer flexible schedules and coordination with Federal, State, and local support services (such as child care, transportation, mental health services, and career planning) that are necessary to enable individuals, including individuals with disabilities or other special needs, to attend and complete programs;

12. Whether the eligible provider maintains a high-quality information management system that has the capacity to report measurable participant outcomes (consistent with section 116) and to monitor program performance; and

13. Whether the local areas in which the eligible provider is located have a demonstrated need for additional English language acquisition programs and civics education programs.

Cancellation clause:

Either party may cancel the agreement at any time for cause or may cancel without cause on 30 days' written notice.

Funding Out Provision:

The state agency may terminate this agreement if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the agreement. The state agency shall provide the Contractor thirty (30) calendar days written notice of termination of the agreement due to lack of available funding.

Reduction in Contract Worker Hours:

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement will be reduced by the amount specified in that document.

Access to Records

The state agency certifies that it is in compliance with the provisions of KRS 45A.695, "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030(8) and (10), agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for the purpose of financial audit or program review. The Contractor also

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recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

The Second Party agrees to maintain all records pertaining to this agreement for a period of not less than three (3) years after the contract closing date and that all matters pertaining to this contract (i.e., audit, settlement of audit exceptions, disputes) are resolved in accordance with applicable federal and/or state laws, regulations, and policies (except as may otherwise be specified in this contract). This includes files of all personnel, financial records, statistics, property, participants, and supporting documentation or other written materials that relate to the delivery of service.

The Second Party agrees to permit staff of KYAE Skills U, or persons acting for KYAE Skills U, and/or staff designated by appropriate federal agencies, to monitor and evaluate services being performed and review all documents or records related to the provision of most services. The Second Party also agrees to submit all records and documentation of service provisions in regard to contracted services when requested for monitoring purposes.

The Second Party agrees to maintain records that are sufficient to identify the results of the service provided to each individual and for use in evaluating the effectiveness of the total program. These records will be made available to KYAE Skills U staff upon request.

Effective Date:

All Memorandum of Agreements are not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the agreement and until the agreement has been submitted to the government contract review committee. However, in accordance with KRS 45A.700, memoranda of agreement in aggregate amounts of \$50,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

KRS 45A.695(7) provides that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

Violation of tax and employment laws

KRS 45A.485 requires the Contractor and all subcontractors performing work under the agreement to reveal to the Commonwealth, prior to the award of a contract, any final determination of a violation by the Contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively.

To comply with the provisions of KRS 45A.485, the Contractor and all subcontractors performing work under the agreement shall report any such final determination(s) of violation(s) to the Commonwealth by providing the following information regarding the final determination(s): the KRS violated, the date of the final determination, and the state agency which issued the final determination.

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KRS 45A.485 also provides that, for the duration of any contract, the Contractor and all subcontractors performing work under the agreement shall be in continuous compliance with the provisions of those statutes, which apply to their operations, and that their failure to reveal a final determination as described above, or failure to comply with the above statutes for the duration of the agreement shall be grounds for the Commonwealth's cancellation of the agreement and their disqualification from eligibility for future state contracts for a period of two (2) years.

Contractor must check one:

_____ The contractor has not violated any of the provisions of the above statutes within the previous five (5) year period.

_____ The contractor has violated the provisions of one or more of the above statutes within the previous five (5) year period and has revealed such final determination(s) of violation(s). Attached is a list of such determination(s), which includes the KRS violated, the date of the final determination, and the state agency which issued the final determination.

Discrimination:

This section applies only to agreements disbursing federal funds, in whole or part, when the terms for receiving those funds mandate its inclusion. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this agreement, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
2. In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.
3. The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as

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a means of enforcing such provisions, including sanctions for noncompliance.

4. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

5. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this agreement or with any of the said rules, regulations or orders, this agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

7. The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Effective Date: July 1, 2017 - Expiration Date: June 30, 2018

Approvals

This agreement is subject to the terms and conditions stated herein. By affixing signatures below, the parties verify that they are authorized to enter into this agreement and that they accept and consent to be bound by the terms and conditions stated herein. In addition, the parties agree that (i) electronic approvals may serve as electronic signatures, and (ii) this agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement.

Council on Postsecondary Education (1st party)

 Reecie Stagnolia, Vice President KYAE Date

Approved as to form and legality

 Travis Powell, General Counsel

2nd Party

 Signature Date

Printed Name: _____

Title: _____

Approved as to form and legality (optional)

 Legal or General Counsel

Council on Postsecondary Education
Title VI of the Federal Civil Rights Act

Sub recipient Acknowledgement Form
2017-18

Accompanying this acknowledgment form is the Council’s current Title VI plan, which is applicable to the following federal programs administered by the Council: Improving Educator Quality, Adult Education, and GEAR-UP Kentucky. We appreciate your cooperation completing and returning this form timely in order for the Council to continue to assure we are meeting our Title VI responsibilities.

Title VI of the Civil Rights act of 1964 (42 U.S.C. 2000d) provides:

No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

In addition Executive Order 13166, August 11, 2000 requires that programs and services be made available to individual participants with Limited English Proficiency (LEP).

Federal Program Name:

Program Director Name and Title: _____

Return the completed form within 30 days to the CPE grant contact identified below:
(Scanned attachments and faxes are acceptable)

_____ Ashley Smither , CPE/KYAE _____

1. _____ is a sub recipient and/or contractor of the federal program listed above and has received a copy of the Council’s current Annual Title VI Implementation Plan and is in compliance with the policies stated therein. A copy of the current plan can be always be obtained at <http://cpe.ky.gov/about/titlevi.htm>

2. As a requirement of the Title VI plan, the sub recipient/contractor will follow the Council’s Title VI plan or the sub recipient / contractor’s Title VI plan. Please check which plan will be followed:

___ Council on Postsecondary Education Title VI Plan

___ Sub recipient / Contractor Title VI plan

Please provide the name and contact information of the sub recipient's/ contractor's responsible Title VI reporting official:

3. As a sub recipient/contractor, _____
_____ agrees to the following:

a. Maintain adequate records on beneficiaries' participation to ensure the federal program is open to all individuals regardless of race, color, or national origin and submit compliance reports if required by Department of Education. Upon request, this information shall be provided to the Council on Postsecondary Education.

b. Promote public outreach by ensuring Title VI posters are posted prominently in the beneficiary's views.

c. Ensure that all employees involved in the federal program are notified of the Title VI responsibilities and complaints procedures.

d. Implement procedures to assist beneficiaries with limited English proficiency (LEP).

e. Forward all complaints and their resolutions, if applicable, to the Council on Postsecondary Education's Title VI Coordinator, Rebecca Bowman, 1024 Capital Center Drive, Frankfort, KY 40601.

(Signature and Date)

(Printed Name and Title)