

REQUEST FOR PROPOSALS FOR PROFESIONAL SERVICES

PRE-APPRENTICESHIP PROGRAMS

**ISSUED BY DELAWARE DEPARTMENT OF LABOR
DIVISION OF EMPLOYMENT AND TRAINING**

RFP NUMBER: LAB 18 001-Pre-Apprenticeship

PERFORMANCE PERIOD: January 2, 2019-December 31, 2019

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I. Overview

The State of Delaware, Division of Employment and Training, (“Delaware”) seeks professional services to provide high quality Pre-Apprenticeship programs to create a qualified pipeline of Registered Apprentices and to expand the underrepresented, disadvantaged, or low-skilled population that participates in Registered Apprenticeship (RA). This request for proposals (“RFP”) is issued pursuant to 29 *Del. C.* §§ [6981](#) and [6982](#).

The proposed schedule of events subject to the RFP is outlined below:

Public Notice:	September 12, 2018
Pre-Bid Meeting:	October 4, 2018 at 1:00 PM-4:00 PM
Deadline for Questions:	October 8, 2018
Response to Questions Posted:	October 12, 2018
Deadline for Receipt of Proposals:	October 24, 2018 no later than 1:00 PM
Written Review:	November 1, 2018
Proposal Clarification:	November 15, 2018
Estimated Notification of Award:	November 26, 2018

Pre-bid Meeting

A pre-bid meeting has been scheduled for October 4, 2018, 1:00 PM-4:00 PM. The meeting will take place at the Buena Vista State Service Center, 661 S. DuPont Hwy, New Castle, DE 19720. **This is not a mandatory meeting.** The pre-bid meeting is very important for applicants and those who desire a compliant submission. This meeting will serve to explain the RFP, the RFP process, and address any questions or concerns from potential bidders. It is requested that you register by emailing DWDBDETContracting@state.de.us with your name, organization, contact phone number and email, and number of people attending. You do not have to register to attend.

II. Scope of Services

For definitions of terms used throughout this RFP, refer to Appendix A, Definitions.

A. Funding

The source of funds for this solicitation is a United States Department of Labor Apprenticeship USA Grant awarded to the State of Delaware (grant AP-30074-16-60-A-10). As a condition of any resulting Agreement from this RFP, Provider will be held accountable to the Terms and Conditions of the funding source which are attached to this RFP as Appendix B. The anticipated aggregate amount of State Apprenticeship Expansion Grant funding available for all programs to be funded through this RFP is \$125,000. The funding level identified is an estimate and is subject to change without notice. The State of Delaware has the right to identify additional federal or state funding to support any resulting agreement from this RFP.

B. Population

A Registered Pre-Apprentice must:

1. Be age sixteen (16) years or older;
2. Be eligible to work in the United States;
3. Be unable to obtain a an RA position in the occupation of choice due to a lack of skill (occupational and/or professional/soft skills), experience, or resources.

Delaware strongly encourages proposals where underrepresented, disadvantaged, or low-skilled populations represent no less than 50% of the population being served. Definitions of these populations can be found in Appendix A. However, proposals that do not meet this criterion will still be considered.

All Registered Pre-Apprentices served must be determined and documented as eligible prior to enrolling by the Provider in accordance with Appendix C (Pre-Apprenticeship Documentation of Eligibility Policy).

C. Goals

The intent of this RFP is to fund programs that:

1. Create a qualified pipeline of Registered Apprentices;
2. Expand the underrepresented, disadvantaged, or low-skilled population that participates in RA; and
3. Allow for successful completers to either meet any required prerequisites of an RA Program or receive related instruction advanced standing in an RA Program.

D. Required Components of a Pre-Apprenticeship Program

The following are the required components for a Registered Pre-Apprenticeship Program:

1. Employer Engagement

Objective: Demonstrate that the Pre-Apprenticeship Program is engaging with RA Sponsors (employers).

All Pre-Apprenticeship programs must:

- i. Be aligned with at least one RA program. A letter of support from at least one RA Sponsor must accompany application; and
- ii. Include job placement support for participants focused on RA employer(s).

In addition, other examples of Employer Engagement include:

- i. Formalized agreements with RA Sponsors to agree to hire Pre-Apprentices upon successful completion;
- ii. Collaborative promotion of RA as a preferred means for employers to develop a skilled workforce and create career opportunities for individuals; and
- iii. Use of employers including established industry councils/program advisory committees to inform curriculum, placement, etc.

2. Established Curriculum

Objective: To prepare individuals with the skills and competencies needed to enter into and be successful in a RA program.

Training and curriculum must be approved and the following are required and will be demonstrated in the application:

- i. Training and curriculum aligns with the industry or occupational standards/needs (including reading and math skill needs);
- ii. Program design provides training in work-readiness or “soft skills” as integrated parts of the training curriculum. These should be taught and reinforced continually as important and interrelated parts of the program;
- iii. Program design includes career exploration activities such as occupational interest assessment and/or specific career and industry awareness workshops;
- iv. Program design includes meaningful hands-on training. The hands-on training will accurately simulate the industry and occupational conditions while observing proper supervision and safety protocols. Some examples include: simulated lab experience, job shadowing, and paid internship/work experience opportunities that do not displace existing paid positions;
- v. Program design includes or demonstrates linkages to supportive services to alleviate employment barriers. This would include expungement programs, how to communicate criminal background to employers, support in obtaining a driver’s license, transportation assistance, assistance with stable housing or other public assistance, and addressing mental health and substance abuse needs;
- vi. Application includes outline of curriculum; and
- vii. Application includes a letter of support or formalized agreement between the Pre-Apprenticeship Program and the related instruction provider of at least one of the RA Sponsors included in the application, which includes any details for articulation

agreements, if applicable (e.g. completion of Pre-Apprenticeship program leads to advanced placement for related instruction of RA).

3. Inclusion of Underrepresented, Disadvantaged, or Low-Skilled Populations

Objective: Underrepresented, disadvantaged, or low-skilled individuals will be prepared to meet the entry requirements and be successful in an RA program.

Programs are required to include ***one*** (1) of the following:

- i. Provides or refers individuals to educational and pre-vocational services. These would be targeted to the population such as specific services for English Language Learners or women, or workshops for parents and/or high school students to educate on RA as a post-secondary option; or
- ii. Recruitment and outreach focused on underrepresented, disadvantaged, or low-skilled populations.

E. Additional Requirements and Policies

In order to implement programs, the following are considered additional requirements and policies that will be required of successful Providers:

1. All Providers are responsible for recruitment, determining and documenting eligibility, and data entry of participant information and activities into Delaware JobLink (DJL) and in accordance with Delaware's policies and procedures.
2. All Providers are required to provide some type of assessment that is relevant to the proposed program. This includes an objective assessment of the academic and skill levels, service needs, and/or developmental needs of the participant in order to identify appropriate services and career options as well as good fit for the program. Basic language and numeric skills training will be provided concurrently with skills training as appropriate. Assessments provided by the local education agency (e.g. Smarter Balance, PSAT, and SAT) may be used to assess reading and math skills. Providers will describe their assessment process in their Proposal.
3. All Providers are required to develop Individualized Service Strategies ("ISS") for each participant. The ISS will include an ultimate employment goal, along with incremental work readiness, academic steps and credentials needed to achieve the goal. The ISS will be reviewed and updated regularly.
4. All Providers will offer training appropriate to the intended job placement opportunity and demonstrate that the curriculum being offered through proposed training meets the current and projected needs of the local employers.
5. All Providers will utilize DJL to maximize participants' job search and placement. At a minimum, this will include a jobseeker account with a current updated resume built in DJL.
6. All Providers will have up to ninety (90) days after completion of program/or last day of program attendance to place participants into unsubsidized employment.
7. All Providers will provide supportive services to ensure retention and success. Providers that request funding for supportive services will document linkages with other human service Providers.
8. All Providers will provide retention services, as necessary to meet performance measures for six (6) months after program completion.

9. All Providers will maintain documentation for each participant, including eligibility, assessments attendance, completed work, credentials/certificates, and outcomes. Providers will provide documentation to Delaware and/or their designees upon request. This documentation must be retained for a minimum of five (5) years after the last day of the term of any resulting Agreement from this RFP or if an audit has begun until the audit is finally resolved, whichever is later.
10. All Providers will be required to submit status reports at least quarterly during the performance period. This is a narrative summary of accomplishments, concerns, and technical assistance requests.
11. For the purposes of Pre-Apprenticeship, Delaware will allow approval of Pre-Apprenticeship Programs that are in partnership with an RA Program approved by USDOL or any USDOL recognized State Apprenticeship Agency in other states. In this instance it must be reasonable that Pre-Apprentices can become Registered Apprentices regionally (Delaware and surrounding states).
12. All Registered Pre-Apprentices who successfully complete a program will receive a Pre-Apprenticeship Certificate issued by Delaware. Provider will work with Delaware to issue certificates.
13. All Providers will receive a certificate documenting Pre-Apprenticeship approval status. This certificate will be valid for two (2) years. After the expiration, the Organization will need to apply again. Nothing in this clause prohibits Delaware from revoking approval status prior to the expiration.

F. Performance Measures

The Performance Measures for Providers are provided below. All programs must have program designs that support the attainment of these measures. All measures except the Employment Outcome Day 1 Wage are a percentage of the total participants.

Enrollment at goal in resulting Agreement	100%
Program Completion	80%
Day 1 Outcome (unsubsidized employment)	75%
Employment Outcome Day 1 Hourly Wage (Median)	\$11.00
Day 30 Follow-Up	70%
Day 90 Follow-Up	68%
Becomes Registered Apprentice	50%

III. Required Information

The following information shall be provided in each proposal. Failure to respond to any request for information within this proposal may result in rejection of the proposal at the sole discretion of Delaware.

A. Minimum Requirements

1. All Providers shall have the State of Delaware license(s) and/or certification(s) necessary to perform services as identified in the scope of services. Documentation of having a State of Delaware Business License (non-public entities) or non-profit status, if not required to have a State of Delaware Business License shall be submitted with Proposal.

2. Provider shall complete and submit the Proposal Submission Template and all of its required attachments (Appendix D).
3. Any RA Sponsor who is either included as a Registered Sponsor in the Pre-Apprenticeship application or the applicant itself, must be considered compliant with the Office of Apprenticeship. This includes being up to date on all required documentation. This relates to their RA program.
4. Provider must be aligned with at least one RA program. Provider must submit a letter of support from at least one RA Sponsor with the submission of the Proposal Submission Template.
5. Provider must submit a letter of support or formalized agreement between the Pre-Apprenticeship Program and the related instruction provider of at least one of the RA sponsors, which includes any details for articulation agreements, if applicable (e.g. completion of Pre-Apprenticeship program leads to advanced placement for related instruction of RA) with the submission of the Proposal Submission Template.

B. Prior to Contract Execution

The following will be provided to Delaware prior to contract execution with the successful Providers:

1. Proof of insurance and amount of insurance shall be furnished to Delaware prior to the start of the contract period and shall be no less than as identified in this RFP as indicated in section (V)(G)(5) Insurance.
2. Be considered in compliance by the Department of Labor, Division of Unemployment Insurance, and Division of Industrial Affairs.
3. Any Provider without a current contract with Delaware Workforce Development Board or Delaware (specifically the Department of Labor, Division of Employment and Training), will provide a copy of their most recent financial statement to Delaware to enable Delaware to establish their fiscal soundness and eligibility for a contract.

IV. Professional Services RFP Administrative Information

A. RFP Issuance

1. Public Notice
Public notice has been provided in accordance with 29 *Del. C.* [§6981](#).
2. Obtaining Copies of the RFP
This RFP is available in electronic form through the State of Delaware Procurement website at www.bids.delaware.gov . Paper copies of this RFP will not be available.
3. Assistance to Providers with a Disability
Providers with a disability may receive accommodation regarding the means of communicating this RFP or participating in the procurement process. For more information, contact the Designated Contact listed in this RFP no later than ten days prior to the deadline for receipt of proposals.
4. RFP Designated Contact
All requests, questions, or other communications about this RFP shall be made in writing via email to Delaware. Address all communications to the person listed below; communications

made to other State of Delaware personnel, or attempting to ask questions by phone or in person, will not be allowed or recognized as valid and may disqualify the Provider. Providers should rely only on written statements issued by the RFP Designated Contact.

Designated Contact:

Colleen Cunningham

DWDBDETContracting@state.de.us

To ensure that written requests are received and answered in a timely manner, electronic mail (email) correspondence is the only acceptable submission method with the exception of questions being asked at the mandatory Pre-bid Meeting. No questions shall be asked after the deadline for questions specified in Section I. Overview. All questions and answers will be posted on the State of Delaware Procurement website at www.bids.delaware.gov by the date provided in Section I. Overview.

5. **Consultants and Legal Counsel**
Delaware may retain consultants or legal counsel to assist in the review and evaluation of this RFP and the Providers' responses. Bidders shall not contact the State of Delaware's consultant or legal counsel on any matter related to the RFP.
6. **Contact with State Employees**
Direct contact with State of Delaware employees other than the State of Delaware Designated Contact regarding this RFP is expressly prohibited without prior consent. Providers directly contacting State of Delaware employees risk elimination of their proposal from further consideration. Exceptions exist only for organizations currently doing business in the State of Delaware who require contact in the normal course of that business.
7. **Organizations Ineligible to Bid**
Any individual, business, organization, corporation, consortium, partnership, joint venture, or any other entity including subcontractors currently debarred or suspended is ineligible to bid. Any entity ineligible to conduct business in the State of Delaware for any reason is ineligible to respond to the RFP.
8. **Exclusions**
The Proposal Evaluation Team reserves the right to refuse to consider any proposal from a Provider who:
 - i. Has been convicted for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract;
 - ii. Has been convicted under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty that currently and seriously affects responsibility as a State contractor;
 - iii. Has been convicted or has had a civil judgment entered for a violation under State or Federal antitrust statutes;
 - iv. Has violated contract provisions such as;
 - 1) Knowing failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - 2) Failure to perform or unsatisfactory performance in accordance with terms of one or more contracts;
 - v. Has violated ethical standards set out in law or regulation; and

- vi. Any other cause listed in regulations of the State of Delaware determined to be serious and compelling as to affect responsibility as a State of Delaware contractor, including suspension or debarment by another governmental entity for a cause listed in the regulations.

B. RFP Submissions

1. Acknowledgement of Understanding of Terms

By submitting a bid, each Provider shall be deemed to acknowledge that it has carefully read all sections of this RFP, including all forms, schedules, appendices, and exhibits hereto, and has fully informed itself as to all existing conditions and limitations.

2. Proposals

To be considered, all proposals must be submitted in writing (electronic submission) and respond to the items outlined in this RFP by completing the Proposal Submission Template and all required attachments. Proposals received after the specified date and time will not be accepted or considered. Delaware reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted via email using Microsoft Word or PDF attachments. To document compliance with the deadline, Providers will receive a confirmation email confirming receipt of proposal. It is the Provider's responsibility to ensure timely submission. Provider should contact the RFP Designated Contact if confirmation email is not received. If a Provider is a successful Provider, documents will be requested in Microsoft Word or Excel.

All proposals shall be sent to DWDBDETContracting@state.de.us and must be received no later than **1:00 PM (Local Time)** on October 24, 2018. Providers are directed to enter "BID ENCLOSED- LAB 18 001-Pre-Apprenticeship" in the subject line of the email.

Delaware may allow paper submissions at its discretion and only after prior written approval has been granted to the proposer for extenuating circumstances. Approval must be requested via email to DWDBDETContracting@state.de.us prior to the deadline for Receipt of Proposals specified.

Any proposal received after the Deadline for Receipt of Proposals date shall not be considered. The proposing Provider bears the risk of delays in delivery. The contents of any proposal shall not be disclosed as to be made available to competing entities during the negotiation process.

Upon receipt of Provider proposals, each Provider shall be presumed to be thoroughly familiar with all specifications and requirements of this RFP. The failure or omission to examine any form, instrument or document shall in no way relieve Providers from any obligation in respect to this RFP.

3. Proposal Modifications

Any changes, amendments or modifications to a proposal must be made in writing, submitted in the same manner as the original response and conspicuously labeled as a change, amendment or modification to a previously submitted proposal. Changes, amendments or modifications to proposals shall not be accepted or considered after the hour and date specified as the deadline for submission of proposals.

4. Proposal Costs and Expenses

Delaware will not pay any costs incurred by any Provider associated with any aspect of responding to this solicitation, including proposal preparation, printing or delivery, attendance at Provider's conference, system demonstrations or negotiation process.

5. Proposal Expiration Date

Prices quoted in the proposal shall remain fixed and binding on the bidder at least through March 1, 2019. The State of Delaware reserves the right to ask for an extension of time if needed.

6. Proposal Opening

Delaware will receive proposals until the date and time shown in this RFP.

There will be no public opening of proposals but a public log will be kept of the names of all Provider organizations that submitted proposals. The contents of any proposal shall not be disclosed in accordance with [Executive Order # 31](#) and Title 29, Delaware Code, [Chapter 100](#).

7. Non-Conforming Proposals

Non-conforming proposals will not be considered. Non-conforming proposals are defined as those that do not meet the requirements of this RFP. The determination of whether an RFP requirement is substantive or a mere formality shall reside solely within Delaware.

8. Concise Proposals

The State of Delaware discourages overly lengthy and costly proposals. It is the desire that proposals be prepared in a straightforward and concise manner. Unnecessarily elaborate brochures or other promotional materials beyond those sufficient to present a complete and effective proposal are not desired. The State of Delaware's interest is in the quality and responsiveness of the proposal.

9. Realistic Proposals

It is the expectation of the State of Delaware that Providers can fully satisfy the obligations of the proposal in the manner and timeframe defined within the proposal. Proposals must be realistic and must represent the best estimate of time, materials and other costs including the impact of inflation and any economic or other factors that are reasonably predictable.

The State of Delaware shall bear no responsibility or increased obligation for a Provider's failure to accurately estimate the costs or resources required to meet the obligations defined in the proposal.

10. Confidentiality of Documents

Subject to applicable law or the order of a court of competent jurisdiction to the contrary, all documents submitted as part of the Provider's proposal will be treated as confidential during the evaluation process. As such, Provider proposals will not be available for review by anyone other than the State of Delaware/Proposal Evaluation Team or its designated agents. There shall be no disclosure of any Provider's information to a competing Provider prior to award of the contract unless such disclosure is required by law or by order of a court of competent jurisdiction.

The State of Delaware and its constituent agencies are required to comply with the State of Delaware Freedom of Information Act, [29 Del. C. § 10001, et seq. \("FOIA"\)](#). FOIA requires

that the State of Delaware's records are public records (unless otherwise declared by FOIA or other law to be exempt from disclosure) and are subject to inspection and copying by any person upon a written request. Once a proposal is received by the State of Delaware and a decision on contract award is made, the content of selected and non-selected Provider proposals will likely become subject to FOIA's public disclosure obligations.

The State of Delaware wishes to create a business-friendly environment and procurement process. As such, the State of Delaware respects the Provider community's desire to protect its intellectual property, trade secrets, and confidential business information (collectively referred to herein as "confidential business information"). Proposals must contain sufficient information to be evaluated. If a Provider feels that they cannot submit their proposal without including confidential business information, they must adhere to the following procedure or their proposal may be deemed unresponsive, may not be recommended for selection, and any applicable protection for the Provider's confidential business information may be lost.

In order to allow the State of Delaware to assess its ability to protect a Provider's confidential business information, Providers will be permitted to designate appropriate portions of their proposal as confidential business information.

Provider(s) may submit portions of a proposal considered to be confidential business information in a separate attachment clearly labeled "Confidential Business Information" and include the specific RFP number. The attachment must contain a letter from the Provider's legal counsel describing the documents, representing in good faith that the information in each document is not "public record" as defined by 29 Del. C. § 10002, and briefly stating the reasons that each document meets the said definitions. The Provider should also include the confidential attachment information on Appendix D, Attachment 3.

Upon receipt of a proposal accompanied by such an attachment, the State of Delaware will open the attachment to determine whether the procedure described above has been followed. A Provider's allegation as to its confidential business information shall not be binding on the State of Delaware. The State of Delaware shall independently determine the validity of any Provider designation as set forth in this section. Any Provider submitting a proposal or using the procedures discussed herein expressly accepts the State's absolute right and duty to independently assess the legal and factual validity of any information designated as confidential business information. Accordingly, Provider(s) assume the risk that confidential business information included within a proposal may enter the public domain.

11. Price Not Confidential

Providers shall be advised that as a publically bid contract, no Provider shall retain the right to declare their pricing confidential.

12. Multi-Provider Solutions (Joint Ventures)

Multi-Provider solutions (joint ventures) will be allowed only if one (1) of the venture partners is designated as the "**prime contractor**". The "**prime contractor**" must be the joint venture's contact point for the State of Delaware and be responsible for the joint venture's performance under the contract, including all project management, legal and financial responsibility for the implementation of all Provider systems. If a joint venture is proposed, a copy of the joint venture agreement clearly describing the responsibilities of the partners must be submitted with the proposal. Services specified in the proposal shall not be subcontracted without prior written approval by the State of Delaware, and approval of a request to subcontract shall not in any way relieve Provider of responsibility for the professional and

technical accuracy and adequacy of the work. Further, Provider shall be and remain liable for all damages to the State of Delaware caused by negligent performance or non-performance of work by its subcontractor or its sub-subcontractor.

Multi-Provider proposals must be a consolidated response with all cost included in the cost summary. Where necessary, RFP response pages are to be duplicated for each Provider.

a. Primary Provider

The State of Delaware expects to negotiate and contract with only one “prime Provider”. The State of Delaware will not accept any proposals that reflect an equal teaming arrangement or from Providers who are co-bidding on this RFP. The prime Provider will be responsible for the management of all subcontractors.

Any contract that may result from this RFP shall specify that the prime Provider is solely responsible for fulfillment of any contract with the State of Delaware as a result of this procurement. The State of Delaware will make contract payments only to the awarded Provider. Payments to any subcontractors are the sole responsibility of the prime Provider (awarded Provider).

Nothing in this section shall prohibit the State of Delaware from the full exercise of its options under Section IV.B.17 regarding multiple source contracting.

b. Subcontracting

The Provider selected shall be solely responsible for contractual performance and management of all subcontract relationships. This contract allows subcontracting assignments; however, Providers assume all responsibility for work quality, delivery, installation, maintenance, and any supporting services required by a subcontractor.

Use of subcontractors must be clearly explained in the proposal, and major subcontractors must be identified by name. **The prime Provider shall be wholly responsible for the entire contract performance whether or not subcontractors are used.** Any subcontractors must be approved by State of Delaware.

c. Multiple Proposals

A primary Provider may not submit more than one (1) proposal. However, primary Providers may be a subcontractor participating in another proposal. Sub-contracting Providers may participate in multiple joint venture proposals.

13. Subcontracting

The Provider selected shall be solely responsible for contractual performance and management of all subcontract relationships. This contract allows subcontracting assignments; however, Providers assume all responsibility for work quality, delivery, installation, maintenance, and any supporting services required by a subcontractor.

Use of subcontractors must be clearly explained in the proposal, and subcontractors must be identified by name. All subcontractors must be approved by State of Delaware.

14. Discrepancies and Omissions

Provider is fully responsible for the completeness and accuracy of its proposal, and for examining this RFP and all addenda. Failure to do so will be at the sole risk of Provider. Should Provider find discrepancies, omissions, unclear or ambiguous intent or meaning,

concerning this RFP, Provider shall notify the State of Delaware's Designated Contact, in writing, of such findings in the same manner as the submission of questions at least ten (10) days prior to the deadline for the submission of proposals.

Protests based on any omission or error, or on the content of the solicitation, will be disallowed if these faults have not been brought to the attention of the Designated Contact, in writing in the specified manner and timeframe.

a. RFP Question and Answer Process

The State of Delaware will allow written requests for clarification of the RFP. All questions shall be received no later than the date specified in Section I. Overview. All questions will be consolidated into a single set of responses and posted on the State of Delaware's website at www.bids.delaware.gov by the date specified in Section I. Overview. Provider names will be removed from questions in the responses released. Questions should be submitted in the following format. Deviations from this format will not be accepted:

Section number;
Paragraph number;
Page number; and
Text of passage being questioned.

Questions shall be submitted in accordance with Section IV(A)(4).

15. State's Right to Reject Proposals

The State of Delaware reserves the right to accept or reject any or all proposals or any part of any proposal, to waive defects, technicalities or any specifications (whether they be in the State of Delaware's specifications or Provider's response), to sit and act as sole judge of the merit and qualifications of each product offered, or to solicit new proposals on the same project or on a modified project which may include portions of the originally proposed project as the State of Delaware may deem necessary in the best interest of the State of Delaware.

16. State's Right to Cancel Solicitation

The State of Delaware reserves the right to cancel this solicitation at any time during the procurement process, for any reason or for no reason. The State of Delaware makes no commitments expressed or implied, that this process will result in a business transaction with any Provider.

This RFP does not constitute an offer by the State of Delaware. Provider's participation in this process may result in the State of Delaware selecting your organization to engage in further discussions and negotiations toward execution of a contract. The commencement of such negotiations does not, however, signify a commitment by the State of Delaware to execute a contract nor to continue negotiations. The State of Delaware may terminate negotiations at any time and for any reason, or for no reason.

17. State's Right to Award Multiple Source Contracting

Pursuant to 29 *Del. C.* [§ 6986](#), the State of Delaware may award a contract for a particular professional service to two (2) or more Providers if the agency head makes a determination that such an award is in the best interest of the State of Delaware.

18. Potential Contract Overlap

Providers shall be advised that the State, at its sole discretion, shall retain the right to solicit for goods and/or services as required by its agencies and as it serves the best interest of the State of Delaware. As needs are identified, there may be instances where contract deliverables, and/or goods or services to be solicited and subsequently awarded, overlap previous awards. The State of Delaware reserves the right to reject any or all bids in whole or in part, to make partial awards, to award to multiple Providers during the same period, to award by types, on a zone-by-zone basis or on an item-by-item or lump sum basis item by item, or lump sum total, whichever may be most advantageous to the State of Delaware.

19. Notification of Withdrawal of Proposal

Provider may modify or withdraw its proposal by written request, provided that both proposal and request are received by the State of Delaware prior to the proposal due date. Proposals may be re-submitted in accordance with the proposal due date in order to be considered further.

Proposals become the property of the State of Delaware at the proposal submission deadline. All proposals received are considered firm offers at that time.

20. Revisions to the RFP

If it becomes necessary to revise any part of the RFP, an addendum will be posted on the State of Delaware's website at www.bids.delaware.gov. The State of Delaware is not bound by any statement related to this RFP made by any State of Delaware employee, contractor or its agents.

21. Exceptions to the RFP

Any exceptions to the RFP, or the State of Delaware's terms and conditions, must be recorded on Appendix D, Attachment 2. Acceptance of exceptions is within the sole discretion of the evaluation committee. Delaware reserves the right to deny any and all exceptions taken to the RFP requirements.

22. Business References

Provide at least three (3) business references consisting of current or previous customers of similar scope and value using Appendix D, Attachment 4. Include business name, mailing address, contact name and phone number, number of years doing business with, and type of work performed. Personal references cannot be considered.

23. Award of Contract

The final award of a contract is subject to approval by the State of Delaware. The State of Delaware has the sole right to select the successful Provider(s) for award, to reject any proposal as unsatisfactory or non-responsive, to award a contract to other than the lowest priced proposal, to award multiple contracts, or not to award a contract, as a result of this RFP. Delaware can fund proposals in whole, part, or none.

Notice in writing to a Provider of the acceptance of its proposal by the State of Delaware and the subsequent full execution of a written contract will constitute a contract, and no Provider will acquire any legal or equitable rights or privileges until the occurrence of both such events.

a. RFP Award Notifications

After reviews of the evaluation committee report and its recommendation, and once the contract terms and conditions have been finalized, the State of Delaware will award the contract.

The contract shall be awarded to the Provider whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP.

It should be explicitly noted that the State of Delaware is not obligated to award the contract to the Provider who submits the lowest bid or the Provider who receives the highest total point score, rather the contract will be awarded to the Provider whose proposal is the most advantageous to the State of Delaware. The award is subject to the appropriate State of Delaware approvals.

After a final selection is made, the winning Provider(s) will be invited to negotiate a contract with the State of Delaware; remaining Providers will be notified in writing of their selection status.

24. Cooperatives

Providers, who have been awarded similar contracts through a competitive bidding process with a cooperative, are welcome to submit the cooperative pricing for this solicitation.

C. RFP Evaluation Process

An evaluation team will evaluate proposals. Neither the lowest price nor highest scoring proposal will necessarily be selected.

The State of Delaware reserves full discretion to determine the competence and responsibility, professionally and/or financially, of Providers. Providers are to provide in a timely manner any and all information that the State of Delaware may deem necessary to make a decision.

Proposals will be evaluated pursuant to the selection criteria of the RFP and procedures established in 29 *Del. C.* §§ [6981 and 6982](#). The following is the process proposals will be handled after submission:

1. Initial Review

The Delaware staff will review proposals and reject all that do not meet the minimum criteria as listed in Appendix E. Those not rejected will be advanced to the next review (“Written Review”).

2. Evaluation Team

The Proposal Evaluation Team shall be comprised of at least one (1) Delaware Workforce Development Board (“DWDB”) member or DWDB Staff or State Apprenticeship Council member, and other representatives as State of Delaware sees fit.

3. Proposal Review

Proposals who meet the RFP criteria described in Section (C)(1) above, will be reviewed by an Evaluation Team in up to two (2) phases:

- a. Written Review- The Proposal Evaluation Team will individually review and score written proposals. Points will be awarded based on the Proposal Evaluation Team’s review of the written proposals. The Proposal Evaluation Team will decide which proposal(s) will move forward and be invited to Proposal Clarification Day. Those

proposals not invited to Proposal Clarification Day will be rejected at this point and not considered for funding. Delaware will notify all Providers of the outcome of this phase. Delaware and the Evaluation Team reserve the right to not hold a Proposal Clarification and make recommended awards based solely on the Written Review.

- b. Proposal Clarification- Selected Providers will be invited to attend a Proposal Clarification with a set date and time per proposal to provide an in-person meeting. Points will be awarded based on the Proposal Clarification. During this meeting, Providers should be prepared with a maximum five (5) minute presentation. Handouts, promotional materials, videos, presentations, etc. are not permitted at Proposal Clarification. The Proposal Evaluation Team will be prepared to ask each Provider four (4) to ten (10) questions. These questions will be developed from the Written Review and will be specific questions targeted to each Proposal. It is anticipated that the questions and answers will take the majority of the time allotted.

The Proposal Clarification is will take place on the date specified in Section I Overview. Providers will be invited to attend and be scheduled a specific time. The Proposal representative(s) attending the Proposal Clarification shall be technically qualified to respond to questions related to the proposal. Providers are strongly encouraged to bring staff who can answer questions regarding the programmatic components and staff who can answer questions regarding the budget. The State of Delaware recognizes that these may be different staff.

All of the Provider's costs associated with participation in Proposal Clarification are the Provider's responsibility.

While the Proposal Clarification will be the primary venue to clarify uncertainties or eliminate confusion, the Proposal Evaluation Team or State of Delaware staff designee at the request of the Proposal Evaluation Team may contact any Provider in order to clarify uncertainties or eliminate confusion concerning the contents of a proposal.

Proposals may not be modified as a result of any such clarification request.

4. Proposal Selection Criteria

The Proposal Evaluation Team shall assign up to the maximum number of points for each Evaluation Item to each of the proposing Provider's proposals. All assignments of points shall be at the sole discretion of the Proposal Evaluation Team.

The proposals shall contain the essential information on which the award decision shall be made. The information required to be submitted in response to this RFP has been determined by the State of Delaware to be essential for use by the Proposal Evaluation Team in the bid evaluation and award process. Therefore, all instructions contained in this RFP shall be met in order to qualify as a responsive and responsible Provider and participate in the Proposal Evaluation Team's consideration for award. Proposals which do not meet or comply with the instructions of this RFP may be considered non-conforming and deemed non-responsive and subject to disqualification at the sole discretion of the Proposal Evaluation Team.

The Proposal Evaluation Team reserves the right to:

- Select for contract or for negotiations a proposal other than that with lowest costs.
- Reject any and all proposals or portions of proposals received in response to this RFP or to make no award or issue a new RFP.

- Waive or modify any information, irregularity, or inconsistency in proposals received.
- Request modification to proposals from any or all Providers during the contract review and negotiation.
- Negotiate any aspect of the proposal with any Provider and negotiate with more than one (1) Provider at the same time.
- Select more than one (1) Provider pursuant to 29 Del. C. §6986. It is anticipated that multiple Providers will be selected. Such selection will be based on the type of services and programming being offered and the existing needs for services and programming for Pre-Apprenticeship.
- For all Providers who have had a contract with Delaware or DWDB in the past, Delaware will provide the Proposal Evaluation Team with information about past performance, which will be taken into consideration when making funding recommendations.

Criteria Weight

All proposals shall be evaluated using the same criteria and scoring process. Providers are encouraged to review the evaluation criteria and to provide a response that addresses each of the scored items. Evaluators will not be able to make assumptions about a Provider’s capabilities so the responding Provider should be detailed in their proposal responses.

The following criteria shall be used by the Evaluation Team to evaluate proposals:

Criteria	Maximum Points
Demonstrated Ability- Provider demonstrates the ability to operate like or similar high quality training programs that have resulted in at a minimum high employment rates or similar outcomes or performance measures as described in (II)(F).	15
Cost/Budget- Costs are reasonable and competitive as compared to other similar programs. Costs will be reviewed as a cost per proposed enrollment as well as a cost per proposed training hour.	10
Employer Engagement- Program design is responsive to the solicited services described in section (II)(D)(1)	20
Established Curriculum- Program design is responsive to the solicited services described in section (II)(D)(2)	20
Inclusion of Underrepresented, Disadvantaged, or Low-Skilled Populations- Program design is responsive to the solicited services described in section (II)(D)(3)	20
Oral Clarification/Presentation (if occurs)	15
<i>The following Bonus Points may be awarded where applicable. They are not required, only desired. Proposals may receive Bonus Points in more than one (1) area:</i>	
Promise Communities- Proposal includes service delivery targeted to serve Promise Communities as defined in Appendix A and in this RFP.	10
Population- Provider proposes to serve underrepresented, disadvantaged, or low-skilled populations which represents no less than 50% of the population being served.	6

Women- Provider proposed to serve 100% women specifically with the goal of increasing women registered apprentices in occupations where they are currently underrepresented (e.g. construction trades).	6
Leveraged Funding/Resources- Proposal maximizes collaboration through direct financial or in-kind contributions by other programs, employers, investors, stakeholders, etc.	4

5. Funding Decisions

The Proposal Evaluation Team will total all points allotted per team member, determine the total points allotted per proposal and rank all proposals. The Proposal Evaluation Team may negotiate with one or more Providers during the same period and may, at its discretion, terminate negotiation with any or all Providers. The Proposal Evaluation Team shall make a recommendation regarding the awards to Delaware, who shall have final authority, subject to the provisions of this RFP and 29 Del. C. § 6982(b), to award contracts to successful Provider(s) in the best interests of the State of Delaware. Delaware may accept the recommendations in whole or in part, or may add conditions to the recommendations. Funding may be approved to fund all or any portion of the cost of a program.

Providers may request an explanation of the basis of the awarding of funds from the Director of the Division of Employment and Training. The request must be in writing and must be submitted within ten (10) days of the date indicated on the award notification.

6. References

The Proposal Evaluation Team may contact any customer of the Provider, whether or not included in the Provider's reference list, and use such information in the evaluation process. Additionally, Delaware may choose to visit existing installations of comparable systems, which may or may not include Provider personnel. If the Provider is involved in such site visits, Delaware will pay travel costs only for State of Delaware personnel for these visits.

V. Contract Terms and Conditions

A. Contract Use by Other Agencies

REF: Title 29, Chapter 6904(e) Delaware Code. If no State of Delaware contract exists for a certain good or service, covered agencies may procure that certain good or service under another agency's contract so long as the arrangement is agreeable to all parties. Agencies, other than covered agencies, may also procure such goods or services under another agency's contract when the arrangement is agreeable to all parties.

B. Cooperative Use of Award

As a publicly competed contract awarded in compliance with 29 DE Code Chapter 69, this contract is available for use by other states and/or governmental entities through a participating addendum. Interested parties should contact the State of Delaware Contract Procurement Officer identified in the contract for instruction. Final approval for permitting participation in this contract resides with the Director of Government Support Services and in no way places any obligation upon the awarded Provider(s).

C. General Information

1. The term of the contract between the successful Provider and Delaware shall be for one (1) year with two (2) optional extensions for a period of one (1) year for each extension.

2. The selected Provider will be required to enter into a written agreement with Delaware. Delaware reserves the right to incorporate standard State of Delaware contractual provisions into any contract negotiated as a result of a proposal submitted in response to this RFP. Any proposed modifications to the terms and conditions of the standard contract are subject to review and approval by the Delaware. Providers will be required to sign the contract for all services, and may be required to sign additional agreements.
3. The selected Provider or Providers will be expected to enter negotiations with Delaware, which will result in a formal contract between parties. Procurement will be in accordance with subsequent contracted agreement. This RFP and the selected Provider's response to this RFP will be incorporated as part of any formal contract.
4. The successful Provider shall promptly execute a contract incorporating the terms of this RFP within thirty (30) days after award of the contract. No Provider is to begin any service prior to the execution of the contract.
5. If the Provider to whom the award is made fails to enter into the agreement as herein provided, the award will be annulled, and an award may be made to another Provider. Funds returned may be allocated as deemed appropriate by Delaware.
6. Delaware reserves the right to extend this contract on a month-to-month basis for a period of up to one (1) year after the term of the full contract has been completed.

D. Collusion or Fraud

Any evidence of agreement or collusion among Provider(s) and prospective Provider(s) acting to illegally restrain freedom from competition by agreement to offer a fixed price, or otherwise, will render the offers of such Provider(s) void.

By responding, the Provider shall be deemed to have represented and warranted that its proposal is not made in connection with any competing Provider submitting a separate response to this RFP, and is in all respects fair and without collusion or fraud; that the Provider did not participate in the RFP development process and had no knowledge of the specific contents of the RFP prior to its issuance; and that no employee or official of the State of Delaware participated directly or indirectly in the Provider's proposal preparation.

Advance knowledge of information which gives any particular Provider advantages over any other interested Provider(s), in advance of the opening of proposals, whether in response to advertising or an employee or representative thereof, will potentially void that particular proposal.

E. Lobbying and Gratuities

Lobbying or providing gratuities shall be strictly prohibited. Providers found to be lobbying, providing gratuities to, or in any way attempting to influence a State of Delaware employee or agent of the State of Delaware concerning this RFP or the award of a contract resulting from this RFP shall have their proposal immediately rejected and shall be barred from further participation in this RFP.

The selected Provider will warrant that no person or selling agency has been employed or retained to solicit or secure a contract resulting from this RFP upon agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, Delaware shall have the right to annul any contract resulting from this RFP without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

All contact with State of Delaware employees, contractors or agents of the State of Delaware concerning this RFP shall be conducted in strict accordance with the manner, forum and conditions set forth in this RFP.

F. Solicitation of State Employees

Until contract award, Providers shall not, directly or indirectly, solicit any employee of the State of Delaware to leave the State of Delaware's employ in order to accept employment with the Provider, its affiliates, actual or prospective contractors, or any person acting in concert with Provider, without prior written approval of Delaware's contracting officer. Solicitation of State of Delaware employees by a Provider may result in rejection of the Provider's proposal.

This paragraph does not prevent the employment by a Provider of a State of Delaware employee who has initiated contact with the Provider. However, State of Delaware employees may be legally prohibited from accepting employment with the contractor or subcontractor under certain circumstances. Providers may not knowingly employ a person who cannot legally accept employment under State of Delaware or federal law. If a Provider discovers that they have done so, they must terminate that employment immediately.

G. General Contract Terms

1. Independent Contractors

The parties to the contract shall be independent contractors to one another, and nothing herein shall be deemed to cause this agreement to create an agency, partnership, joint venture or employment relationship between parties. Each party shall be responsible for compliance with all applicable workers compensation, unemployment, disability insurance, social security withholding and all other similar matters. Neither party shall be liable for any debts, accounts, obligations or other liability whatsoever of the other party or any other obligation of the other party to pay on the behalf of its employees or to withhold from any compensation paid to such employees any social benefits, workers compensation insurance premiums or any income or other similar taxes.

It may be at the Delaware's discretion as to the location of work for the contractual support personnel during the project period. Delaware may provide working space and sufficient supplies and material to augment the Contractor's services.

2. Temporary Personnel are Not State Employees Unless and Until They are Hired

Provider agrees that any individual or group of temporary staff person(s) provided to Delaware pursuant to this Solicitation shall remain the employee(s) of Provider for all purposes including any required compliance with the Affordable Care Act ("ACA") by the Provider. Provider agrees that it shall not allege, argue, or take any position that individual temporary staff person(s) provided to the Delaware pursuant to this Solicitation must be provided any benefits, including any healthcare benefits by the State of Delaware and Provider agrees to assume the total and complete responsibility for the provision of any healthcare benefits required by the ACA to aforesaid individual temporary staff person(s). In the event that the Internal Revenue Service, or any other third party governmental entity determines that the State of Delaware is a dual employer or the sole employer of any individual temporary staff person(s) provided to the State of Delaware pursuant to this Solicitation, Provider agrees to hold harmless, indemnify, and defend the State of Delaware to the maximum extent of any liability to the State of Delaware arising out of such determinations.

Notwithstanding the content of the preceding paragraph, should the State of Delaware subsequently directly hire any individual temporary staff employee(s) provided pursuant to this Solicitation, the aforementioned obligations to hold harmless, indemnify, and defend the State of Delaware shall cease and terminate for the period following the date of hire. Nothing herein shall be deemed to terminate the Provider's obligation to hold harmless, indemnify, and defend the State of Delaware for any liability that arises out of compliance with the ACA prior to the date of hire by the State of Delaware. Provider will waive any separation fee provided an employee works for both the Provider and hiring agency, continuously, for a three (3) month period and is provided thirty (30) days written notice of intent to hire from the agency. Notice can be issued at second month if it is the State of Delaware's intention to hire.

3. Licenses and Permits

In performance of the contract, the Provider will be required to comply with all applicable federal, State of Delaware and local laws, ordinances, codes, and regulations. The cost of permits and other relevant costs required in the performance of the contract shall be borne by the successful Provider. The Provider shall be properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* § [2502](#).

Prior to receiving an award, the successful Provider shall either furnish Delaware with proof of State of Delaware Business Licensure or initiate the process of application where required. An application may be requested in writing to: Division of Revenue, Carvel State Building, P.O. Box 8750, 820 N. French Street, Wilmington, DE 19899 or by telephone to one (1) of the following numbers: (302) 577-8200—Public Service, (302) 577-8205—Licensing Department.

Information regarding the award of the contract will be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject Provider to applicable fines and/or interest penalties.

4. Indemnification

i. General Indemnification

By submitting a proposal, the proposing Provider agrees that in the event it is awarded a contract, it will indemnify and otherwise hold harmless the State of Delaware, its agents and employees from any and all liability, suits, actions, or claims, together with all costs, expenses for attorney's fees, arising out of the Provider's, its agents', and employees' performance work or services in connection with the contract.

ii. Proprietary Rights Indemnification

Provider shall warrant that all elements of its solution, including all equipment, software, documentation, services and deliverables, do not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary rights of any third party. In the event of any claim, suit or action by any third party against the State of Delaware, Delaware shall promptly notify the Provider in writing and Provider shall defend such claim, suit or action at Provider's expense, and Provider shall indemnify the State of Delaware against any loss, cost, damage, expense or liability arising out of such claim, suit or action (including, without limitation, litigation costs, lost

employee time, and counsel fees) whether or not such claim, suit or action is successful.

If any equipment, software, services (including methods) products or other intellectual property used or furnished by the Provider (collectively “Products”) is or in Provider’s reasonable judgment is likely to be, held to constitute an infringing product, Provider shall at its expense and option either:

- 1) Procure the right for the State of Delaware to continue using the Product(s);
- 2) Replace the Product with a non-infringing equivalent that satisfies all the requirements of the contract; or
- 3) Modify the Product(s) to make it or them non-infringing, provided that the modification does not materially alter the functionality or efficacy of the Product or cause the Product(s) or any part of the work to fail to conform to the requirements of the Contract, or only alters the Product(s) to a degree that the State of Delaware agrees to and accepts in writing.

5. Insurance

1. Provider recognizes that it is operating as an independent contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney’s fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the Provider’s negligent performance under this contract, and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the Provider in its negligent performance under this contract.
2. The Provider shall maintain such insurance as will protect against claims under Worker’s Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this contract. The Provider is an independent contractor and is not an employee of the State of Delaware.
3. During the term of this contract, the Provider shall, at its own expense, also carry insurance minimum limits as follows:
 - i. Provider shall in all instances maintain the following insurance during the term of this Agreement:
 - 1) Worker’s Compensation and Employer’s Liability Insurance in accordance with applicable law.
 - 2) Commercial General Liability
\$1,000,000.00 per occurrence/\$3,000,000 per aggregate.
 - ii. The successful Provider must carry at least one (1) of the following depending on the scope of work:
 - 1) Medical/Professional Liability
\$1,000,000.00 per occurrence/\$3,000,000 per aggregate.
 - 2) Miscellaneous Errors and Omissions
\$1,000,000.00 per occurrence/\$3,000,000 per aggregate.
 - 3) Product Liability
\$1,000,000 per occurrence/\$3,000,000 aggregate.
 - iii. If the contractual service requires the transportation of departmental clients or staff, the Provider shall, in addition to the above coverage’s, secure at its own expense the following coverage:

- 1) Automotive Liability Insurance (Bodily Injury) covering all automotive units transporting departmental clients or staff used in the work with limits of not less than \$100,000 each person and \$300,000 each accident.
- 2) Automotive Property Damage (to others) - \$25,000
4. The Provider shall provide a Certificate of Insurance (COI) as proof that the Provider has the required insurance. The COI shall be provided prior to any work being completed by the awarded Provider(s).
5. The State of Delaware shall not be named as an additional insured.
6. Should any of the above described policies be cancelled before expiration date thereof, notice will be delivered in accordance with the policy provisions.
6. Performance Requirements
The selected Provider will warrant that it possesses, or has arranged through subcontractors, all capital and other equipment, labor, materials, and licenses necessary to carry out and complete the work hereunder in compliance with any and all Federal and State of Delaware laws, and County and local ordinances, regulations and codes.
7. Bid Bond
There is no Bid Bond requirement.
8. Performance Bond
There is no Performance Bond requirement.
9. Warranty
The Provider will provide a warranty that the deliverables provided pursuant to the contract will function as designed for a period of no less than one (1) year from the date of system acceptance. The warranty shall require the Provider correct, at its own expense, the setup, configuration, customizations or modifications so that it functions according to the State's requirements.
10. Costs and Payment Schedules
All contract costs must be as detailed specifically in the Provider's cost proposal. No charges other than as specified in the proposal shall be allowed without written consent of Delaware. The proposal costs shall include full compensation for all taxes that the selected Provider is required to pay.

Funded proposals will be expected to provide the services specified, at the cost proposed unless further negotiation as requested by Delaware. Awards granted for less than the proposal amount are contingent on the proposer working closely with staff, demonstrating that the level of funding is sufficient to operate the program.

Tuition fee contracts may be allowed when documentation of the following conditions is provided: Tuition charges or entrance fees are not more than the education institution's catalog price, are necessary to receive specific training, and the training is open to and attended by the general public. When requesting reimbursement for tuition, Private Business and Trade Schools must comply with the Department of Education Private Business and Trade Schools Refund policy.

Cost Reimbursement Contracts will be implemented. Delaware will require a line item budget as part of the proposal. The approved budget will be incorporated into the executed contract. Funding distribution or method of payment for resulting agreements is based upon a cost reimbursement plan. Provider will be required to submit monthly financial reports on the form prescribed, satisfactorily completed, within twelve (12) calendar days of the close of the reporting period to Delaware. Payments for services will not be made in advance of the work performed.

Profit is an allowable expense for “for profit” trainers. All profit is negotiable. No profit will be allowed until all contracted performance is achieved. Profit shall be listed as a separate line item in the budget template provided in Appendix D, Attachment 6.

All budgeted costs must be allocable to one of two categories: one (1) administration and two (2) program. Administration may not exceed 12% of the total budget. Although the breakout of costs is not required in the submitted budget, proposals that are funded must meet this requirement.

The following costs are not allowable charges under this RFP:

- Costs of fines and penalties resulting from violation or, failure to comply with Federal, State, or local laws and regulations;
- Back pay, unless it represents additional pay for WIOA services performed for which the individual was underpaid;
- Entertainment costs;
- Bad debts expense;
- Insurance policies offering protection against debts established by the Federal Government;
- Contributions to a contingency reserve or any similar provision for unforeseen events;
- Contracts with persons falsely labeling products made in America;
- Expenses prohibited under any other federal, State of Delaware or local law or regulation;
- Wages of incumbent employees during their participation in economic development activities provided through a statewide workforce development system;
- Sub awards or contracts with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in state or federal programs or activities
- Foreign travel; and
- Costs prohibited by 29 CFR part 93 (Lobbying).

11. Liquidated Damages

The State of Delaware may include in the final contract liquidated damages provisions for non-performance.

12. Dispute Resolution

At the option of, and in the manner prescribed by the Office of Management and Budget (OMB), the parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this agreement. All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the parties, their agents, employees, experts and attorneys are

confidential, privileged and inadmissible for any purpose, including impeachment, in arbitration or other proceeding involving the parties, provided evidence that is otherwise admissible or discoverable shall not be rendered inadmissible.

If the matter is not resolved by negotiation, as outlined above, or, alternatively, OMB elects to proceed directly to mediation, then the matter will proceed to mediation as set forth below. Any disputes, claims or controversies arising out of or relating to this Agreement shall be submitted to mediation by a mediator selected by OMB, and if the matter is not resolved through mediation, then it shall be submitted, in the sole discretion of OMB, to the Office of Management and Budget, Government Support Services Director, for final and binding arbitration. OMB reserves the right to proceed directly to arbitration or litigation without negotiation or mediation. Any such proceedings held pursuant to this provision shall be governed by State of Delaware law and venue shall be in the State of Delaware. The parties shall maintain the confidential nature of the arbitration proceeding and the Award, including the Hearing, except as may be necessary to prepare for or conduct the arbitration hearing on the merits. Each party shall bear its own costs of mediation, arbitration or litigation, including attorneys' fees.

13. Termination of Contract

The executed agreement resulting from this RFP may be terminated by Delaware for cause, convenience, and funding out/ non-appropriation, and the parties can mutually agree to terminate by stipulation.

14. Non-discrimination

In performing the services subject to this RFP the vendor, as set forth in Title 19 Delaware Code Chapter 7 section 711, will agree that it will not discriminate against any employee or applicant with respect to compensation, terms, conditions or privileges of employment because of such individual's race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin. The successful vendor shall comply with all federal and state laws, regulations and policies pertaining to the prevention of discriminatory employment practice. Failure to perform under this provision constitutes a material breach of contract.

Recipients of financial assistance through this RFP must take reasonable steps to ensure that communications with individuals with disabilities are as effective as communications with others. This means that, upon request and at no cost to the individual, recipients are required to provide appropriate auxiliary aids and services to qualified individuals with disabilities.

Failure to perform under this provision constitutes a material breach of contract.

15. Covenant against Contingent Fees

The successful Provider will warrant that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement of understanding for a commission or percentage, brokerage or contingent fee excepting bona-fide employees, bona-fide established commercial or selling agencies maintained by the Provider for the purpose of securing business. For breach or violation of this warranty Delaware shall have the right to annul the contract without liability or at its discretion to deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

16. Provider Activity

No activity is to be executed in an off shore facility, either by a subcontracted firm or a foreign office or division of the Provider. The Provider must attest to the fact that no activity will take place outside of the United States in its transmittal letter. Failure to adhere to this requirement is cause for elimination from future consideration.

17. Provider Responsibility

Delaware will enter into a contract with the successful Provider(s). The successful Provider(s) shall be responsible for all products and services as required by this RFP whether or not the Provider or its subcontractor provided final fulfillment of the order. Subcontractors, if any, shall be clearly identified in the Provider's proposal by completing Appendix D, Attachment 5, and are subject the approval and acceptance of Delaware.

18. Personnel, Equipment and Services

- i. The Provider represents that it has, or will secure at its own expense, all personnel required to perform the services required under this contract.
- ii. All of the equipment and services required hereunder shall be provided by or performed by the Provider or under its direct supervision, and all personnel, including subcontractors, engaged in the work shall be fully qualified and shall be authorized under State of Delaware and local law to perform such services.
- iii. None of the equipment and/or services covered by this contract shall be subcontracted without the prior written approval of Delaware. Only those subcontractors identified in Appendix D, Attachment 5 are considered approved upon award. Changes to those subcontractor(s) listed in Appendix D, Attachment 5 must be approved in writing by Delaware.

19. Fair Background Check Practices

Pursuant to 29 Del. C. [§6909B](#), the State of Delaware does not consider the criminal record, criminal history, credit history or credit score of an applicant for State of Delaware employment during the initial application process unless otherwise required by State of Delaware and/or federal law. Providers doing business with the State of Delaware are encouraged to adopt fair background check practices. Providers can refer to 19 Del. C. [§711\(g\)](#) for applicable established provisions.

20. Provider Background Check Requirements

Provider(s) selected for an award that access State of Delaware property or come in contact with vulnerable populations, including children and youth, shall be required to complete background checks on employees serving the State of Delaware's on premises contracts or vulnerable populations. Unless otherwise directed, at a minimum, this shall include a check of the following registry:

- State of Delaware, Delaware Sex Offender Central Registry at:
<https://sexoffender.dsp.delaware.gov/>.

Individuals that are listed in the registry shall be prevented from direct contact in the service of an awarded State of Delaware contract, but may provide support or off-site premises service for contract Providers. Should an individual be identified and the Provider(s) believes their employee's service does not represent a conflict with this requirement, may apply for a waiver to Delaware. Delaware's decision to allow or deny access to any individual identified on a registry database is final and at Delaware's sole discretion.

By Delaware's request, the Provider(s) shall provide a list of all employees serving an awarded contract, and certify adherence to the background check requirement. Individual(s) found in the central registry in violation of the terms stated, shall be immediately prevented from a return to State of Delaware property in service of a contract award. A violation of this condition represents a violation of the contract terms and conditions, and may subject the Provider to penalty, including contract cancellation for cause.

Individual contracts may require additional background checks and/or security clearance(s), depending on the nature of the services to be provided or locations accessed, but any other requirements shall be stated in the contract scope of work or be a matter of common law. The Provider(s) shall be responsible for the background check requirements of any authorized subcontractor providing service to Delaware's contract.

21. Work Product

All materials and products developed under the executed contract by the Provider are the sole and exclusive property of the State of Delaware. The Provider will seek written permission to use any product created under the contract.

22. Contract Documents

The RFP, the executed contract and any supplemental documents between Delaware and the successful Provider shall constitute the contract between Delaware and the Provider. In the event there is any discrepancy between any of these contract documents, the following order of documents governs so that the former prevails over the latter: contract, Delaware's RFP, and Provider's response to the RFP.

23. Applicable Law

The laws of the State of Delaware shall apply, except where Federal Law has precedence. The successful Provider consents to jurisdiction and venue in the State of Delaware.

In submitting a proposal, Providers certify that they comply with all federal, state and local laws applicable to its activities and obligations including, but not limited to:

- i. the laws of the State of Delaware;
- ii. the applicable portion of the Federal Civil Rights Act of 1964;
- iii. the Equal Employment Opportunity Act and the regulations issued there under by the federal government;
- iv. a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury; and
- v. that programs, services, and activities provided to the general public under resulting contract conform with the Americans with Disabilities Act of 1990, and the regulations issued there under by the federal government.

If any Provider fails to comply with one (1) through five (5) of this paragraph, the State of Delaware reserves the right to disregard the proposal, terminate the contract, or consider the Provider in default.

The selected Provider shall keep itself fully informed of and shall observe and comply with all applicable existing Federal and State of Delaware laws, and County and local

ordinances, regulations and codes, and those laws, ordinances, regulations, and codes adopted during its performance of the work.

24. Severability

If any term or provision of this RFP is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this RFP, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

25. Assignment Of Antitrust Claims

As consideration for the award and execution of a resulting contract by the State of Delaware, the Provider hereby grants, conveys, sells, assigns, and transfers to the State of Delaware all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, regarding the specific goods or services purchased or acquired for the State of Delaware pursuant to a resulting contract. Upon either the State of Delaware's or the Provider notice of the filing of or reasonable likelihood of filing of an action under the antitrust laws of the United States or the State of Delaware, the State of Delaware and Provider shall meet and confer about coordination of representation in such action.

26. Scope of Agreement

If the scope of any provision of a resulting contract is determined to be too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the contract shall not thereby fail, but the scope of such provisions shall be curtailed only to the extent necessary to conform to the law.

27. Affirmation

The Provider must affirm that within the past five (5) years the firm or any officer, controlling stockholder, partner, principal, or other person substantially involved in the contracting activities of the business is not currently suspended or debarred and is not a successor, subsidiary, or affiliate of a suspended or debarred business.

28. Audit Access to Records

The Provider shall maintain books, records, documents, participant files and other evidence pertaining to a resulting Contract to the extent and in such detail as shall adequately reflect performance hereunder. The Provider agrees to preserve and make available to the State of Delaware, upon request, such records for a period of five (5) years from the contract end date. Records involving matters in litigation shall be retained for one (1) year following the termination of such litigation. The Provider agrees to make such records available for inspection, audit, or reproduction to any official State representative in the performance of their duties under the Contract. Upon notice given to the Provider, representatives of the State of Delaware or other duly authorized State of Delaware or Federal agency may inspect, monitor, and/or evaluate the cost and billing records or other material relative to this Contract. The cost of any Contract audit disallowances resulting from the examination of the Provider's financial records will be

borne by the Provider. Reimbursement to the State of Delaware for disallowances shall be drawn from the Provider's own resources and not charged to Contract cost or cost pools indirectly charging Contract costs.

29. Other General Conditions

- i. Current Version – “Packaged” application and system software shall be the most current version generally available as of the date of the physical installation of the software.
- ii. Current Manufacture – Equipment specified and/or furnished under this specification shall be standard products of manufacturers regularly engaged in the production of such equipment and shall be the manufacturer’s latest design. All material and equipment offered shall be new and unused.
- iii. Volumes and Quantities – Activity volume estimates and other quantities have been reviewed for accuracy; however, they may be subject to change prior or subsequent to award of the contract.
- iv. Prior Use – The State of Delaware reserves the right to use equipment and material furnished under this proposal prior to final acceptance. Such use shall not constitute acceptance of the work or any part thereof by the State of Delaware.
- v. Status Reporting – The selected Provider will be required to lead and/or participate in status meetings and submit status reports covering such items as progress of work being performed, milestones attained, resources expended, problems encountered and corrective action taken, until final system acceptance and all other required meetings.
- vi. Regulations – All equipment, software and services must meet all applicable local, State of Delaware and Federal regulations in effect on the date of the contract.
- vii. Assignment – Any resulting contract shall not be assigned except by express prior written consent from Delaware.
- viii. Changes – No alterations in any terms, conditions, delivery, price, quality, or specifications of items ordered will be effective without the written consent of the Delaware.
- ix. Billing – The successful Provider is required to "Bill as Shipped" to the respective ordering agency(s). Ordering agencies shall provide contract number, ship to and bill to address, contact name and phone number.
- x. Payment – Delaware reserves the right to pay by Automated Clearing House (ACH), Purchase Card (P-Card), or check. The agencies will authorize and process for payment of each invoice within thirty (30) days after the date of receipt of a correct invoice. Providers are invited to offer in their proposal value added discounts (i.e. speed to pay discounts for specific payment terms). Cash or separate discounts should be computed and incorporated as invoiced.
- xi. Purchase Orders – Agencies that are part of the First State Financial (FSF) system are required to identify the contract number on all Purchase Orders (P.O.) and shall complete the same when entering P.O. information in the State’s financial reporting system.
- xii. Purchase Card – The State of Delaware intends to maximize the use of the P-Card for payment for goods and services provided under contract. Providers shall not

charge additional fees for acceptance of this payment method and shall incorporate any costs into their proposals. Additionally there shall be no minimum or maximum limits on any P-Card transaction under the contract.

- xiii. Additional Terms and Conditions – Delaware reserves the right to add terms and conditions during the contract negotiations.

VI. RFP Miscellaneous Information

A. No Press Releases or Public Disclosure

Delaware reserves the right to pre-approve any news or broadcast advertising releases concerning this solicitation, the resulting contract, the work performed, or any reference to the State of Delaware with regard to any project or contract performance. Any such news or advertising releases pertaining to this solicitation or resulting contract shall require the prior express written permission of Delaware.

Delaware will not prohibit or otherwise prevent the awarded Provider(s) from direct marketing to the State of Delaware agencies, departments, municipalities, and/or any other political subdivisions, however, the Provider shall not use the State's seal or imply preference for the solution or goods provided.

B. Definitions of Requirements

To prevent any confusion about identifying requirements in this RFP, the following definition is offered: The words *shall*, *will* and/or *must* are used to designate a mandatory requirement. Providers must respond to all mandatory requirements presented in the RFP. Failure to respond to a mandatory requirement may cause the disqualification of your proposal.

C. Production Environment Requirements

The State of Delaware requires that all hardware, system software products, and application software products included in proposals be currently in use in a production environment by at least three (3) other customers, have been in use for at least six (6) months, and have been generally available from the manufacturers for a period of six (6) months. Unreleased or beta test hardware, system software, or application software will not be acceptable.

VII. Appendices

The following appendices shall be considered part of this RFP solicitation:

- Appendix A: Definitions
- Appendix B: USDOL Funding Terms and Conditions
- Appendix C: Pre-Apprenticeship Documentation of Eligibility Policy
- Appendix D: Proposal Template and Required Template Attachments, unless otherwise noted
- Appendix E: Minimum Criteria for Submission Checklist