

**State of Delaware  
Request for Proposals (RFP)**

**Program:** Learning for Careers

**Issued by:** Delaware Workforce Development Board in partnership with Delaware Departments of Labor and Education

**RFP Number:** LAB 20 001-LFC

**I. Overview**

The Delaware Workforce Development Board (“DWDB”) in partnership with Delaware Department of Labor, Division of Employment and Training (“DOL”) and Delaware Department of Education, (“DOE”) (collectively “Delaware”) invites eligible applicants to propose services and request funding to engage Delaware’s business community in a planning process that results in the creation or expansion of paid work experiences for youth and adult learners in Delaware. The purpose of the investments that result from this RFP is to increase employer participation in student education, training, and employment programs that leads to an increase in the number of:

1. Youth served through summer youth employment or other DOL funded programs; or
2. Secondary school students participating in work-based learning and/or co-operative education programs; or
3. Postsecondary students participating in work-based learning and/or clinical/experiential learning programs.

This request for proposals (“RFP”) is issued pursuant to 29 *Del. C.* §§ [6981 and 6982](#).

**II. RFP Schedule and Important Dates**

A. The following is the schedule of events and due dates pertinent to this RFP:

Public Notice:	January 13, 2020
Pre-Bid Meeting:	February 4, 2020 at 10:00 AM to 12:00 PM
Deadline for Questions regarding this RFP:	February 5, 2020
Response to Questions Posted:	February 11, 2020
Deadline for Receipt of Proposal:	February 25, 2020 no later than 1:00 PM
Proposal Review (Written Review):	February 28, 2020
Estimated Notification of Award:	March 6, 2020
Performance Period (Planning Phase I):	March 16 – May 29, 2020
Deadline for Learning for Careers Plan:	May 29, 2020
Learning for Career Plan Review:	June 4, 2020
Performance Period (Implementation Phase II):	July 1, 2020 – August 31, 2021

**B. Pre-bid Meeting**

A pre-bid meeting has been scheduled for February 4, 2020 from 10:00 AM-12:00 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 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](mailto:DWDBDETContracting@state.de.us) with your name, organization, contact phone number, and number of people attending. You do not have to register to attend.

**III. Scope of Services**

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

**A. Program Design Model**

This RFP will fund two phases of programming: 1) planning and 2) implementation.

1. Planning Phase (Phase I). This will be funded to develop Learning for Careers Plans (LFCP), template attached as Appendix B. The purpose of Phase I is to support employers through employer associations, employer chambers, employer groups, or state agency acting on behalf of a group of employers in Delaware to engage their business membership/community in identifying how they can partner with education and training providers to create and/or expand their use of paid work experiences for youth and adult learners. Multi-employer solutions are required (see B below).
2. Implementation Phase (Phase II). The LFCP developed in Phase I will then be used to request additional funds for the Implementation Phase (Phase II). Phase II will be used to implement the LFCP. The intent of Phase II funds is to provide funding to eligible recipients to empower their employer members to support student participation in paid work experiences that align with: 1) summer youth employment programs or other DOL funded programs included in the definition of Employment and Training Providers other DOL funded programs, or 2) secondary school work-based learning and/or co-operative education programs, or 3) postsecondary work-based learning and/or clinical/experiential learning programs.

**B. Eligible Applicants**

A Lead Provider (“Provider”) must submit proposal on behalf of a Phase I Applicant Group. Phase I Applicant Group must include at least three employers who agree to participate in the Phase I planning process. Other entities such as community-based organizations, postsecondary institutions, government, regional or local economic development entities, labor unions, local education agency, industry associations, philanthropic organizations, other education and training providers and other relevant partners are strongly encouraged to be part of the Phase I Applicant Group. Bonus points will be awarded to those whose proposal includes an Applicant Planning Group that contains at least one Local Education Agency or Postsecondary Program and/or at least four (4) employers. See section V.C.4.

The Lead Provider is the entity designated by the Phase I Applicant Group to serve as the Fiscal Agent for the partnership for the purposes of the Phase I and II. The Lead Provider is the responsible entity for producing the product (Learning for Careers Plan) and meeting the Phase I and Phase II requirements. It is expected that documentation of the planning process will be maintained by the Lead provider. A Lead provider can be anyone of the following:

- Employer/Industry Association

- Employer Chamber
- Employer Group
- State Agency acting on behalf of a group of employers
- Labor Union

An organization can serve on multiple Phase I Employer Groups but can only serve as the Lead provider on one submission. The Lead provider for Phase I award does not have to be the Lead provider for the Phase II award if awarded.

### **C. Funding**

1. The source of funds for this solicitation are State General Funds appropriated in Fiscal Year 2020 Final Operating Budget Act (HB 225) to the Department of Labor, Division of Employment and Training for the Learning for Careers Program described in Section 267 of the Act.
2. The awards for Phase I and Phase II will be separate. LFCP will be submitted at the end of the Phase I period of performance. Phase II awards will be determined from the LFCP received, which will serve as Proposals for Phase II funds. Only proposals that are awarded under Phase I are eligible for Phase II funding and the award of Phase I funds does not indicate that a Phase II award will be made. All awards will be competitive.
3. The estimated total funding available for Phase I awards is \$120,000 and is subject to change without notice. The estimated total funding available for Phase II awards is \$380,000 and is subject to change without notice. Any funds not awarded or not expended within the performance period of this RFP may be used to fund future awards within the Learning for Careers Program or other use by the Delaware Workforce Development Board.
4. Other state or federal funds that become available may also be used to fund this solicitation.
5. There is no limit on the number of awards resulting from this RFP for either Phase. The number of awards will be determined by the quality of the proposal submitted and available funding. The Delaware Workforce Development Board reserves the right to take into consideration geographic distribution, demonstrated readiness of the recipient, and in-kind or supplementary resources included within the initial application or Phase I plan.
6. The Phase I award amount is capped at \$30,000 per award. There is no funding cap on Phase II awards.

### **D. Specific Information for Phase I**

1. Proposals are being solicited to develop a LFCP that engages Delaware's business community to plan for their increased participation in student paid work experience through summer youth employment programs or other DOL funded programs included in the definition of Employment and Training Providers, secondary school work-based learning and/or co-operative education programs, and/or postsecondary work-based learning and/or clinical/experiential learning programs.
2. Phase I will support up to a planning process (March 16, 2020 – May 29, 2020) to enable the Lead Provider to coordinate the Phase I Applicant Group and other employer

members/stakeholders to jointly develop the LFCP. At end of the Phase I performance period, Provider(s) will have developed a LFCP to meet the requirements for submittal for Phase II. See Appendix A for definition for LFCP as well as Appendix B for the template plan.

3. The LFCP will be developed by members of the Phase I Applicant Group and other employer members/stakeholders as applicable and be coordinated under the lead provider.
4. LFCP are encouraged to be developed in partnership or coordination with at least one Local Education Agency or Postsecondary Program and furthermore Lead Providers are encouraged to plan with at least one Local Education Agency implementing the state model program of study for work-based learning. **The state model program of study for work-based learning and implementing districts may be obtained via email request to [DWDBDETContracting@delaware.gov](mailto:DWDBDETContracting@delaware.gov)**
5. LFCP shall be developed to address in demand occupations found at <https://de.gov/dwdbindemand> and/or aligned to a Department of Education state model program of study found at <https://de.gov/DOEprogramsstudy>.
6. Phase I funds will be provided in up to two payments. 75% of award amounts will be provided to Provider(s) upon contract execution. Any additional funds owed will be determined after the submission of a final financial report detailing LFCP expenses and in accordance with the approved line item budget incorporated into the executed Agreement.
7. Phase I funds may be used to support the facilitation of the planning process, including documented staff time to coordinate the planning process and to develop the LFCP. It is expected that documentation of the planning process will be maintained by the Lead Provider. The Funds will be used to:
  - Market and conduct outreach to prospective partners
  - Assemble the partners and stakeholders;
  - Identify the critical skills gaps, workforce needs, and other long-term workforce issues;
  - Identify the training, education, human resource and other solutions to address the critical needs; and
  - Develop the detailed LFCP to implement these solutions.
8. Expenses for Planning Phase I shall be set at the following rates:
  - Consultants (including facilitators): No more than \$500 per day, plus travel expenses
  - Mileage: \$0.41/mile
  - Meals: Per diem rates found at [www.gsa.gov/perdiem](http://www.gsa.gov/perdiem)
9. Phase I funds may not be used for the following:
  - Capital improvements
  - Equipment
10. Phase I Provider(s) will be required to submit status reports at least twice (mid- and final) during the performance period.

11. Phase I Provider will be required to submit financial reports (mid- and final) on the form prescribed, satisfactorily completed, within twelve (12) calendar days of the close of the reporting period to Delaware. All reported expenditures must be in accordance with the approved budgeted attached to the resulting agreement and the Provider shall maintain detailed supporting documentation for all expenditures.
12. All Phase I Provider(s) will be eligible to request funds for Phase II to implement their proposed LFCP. The requests will be made through the submission of the final LFCP. A LFCP will be submitted by all Phase I Provider(s) no later than the last day of the Performance Period for Phase I.
13. The LFCP will serve as the final report for the Phase I. The Implementation Phase II will provide funding to selected LFCPs developed.
14. The LFCPs will be designed to fulfill the following goals:
  - a. Address business' pipeline/workforce needs by creating and/or expand their use of paid work experiences for students participating in summer youth employment programs or other DOL funded programs included in the definition of Employment and Training Providers, secondary school work-based learning and co-operative education programs, and postsecondary work-based learning and clinical/experiential learning programs and
  - b. Address the needs of students to explore career interests, contextualize learning/education, and/or gain professional and occupational skills.
15. The LFCPs will be designed to increase the Phase I Applicant Group's participation in student education, training, and employment programs thus increasing the number of students who receive a paid work experience through summer youth employment programs or other DOL funded programs included in the definition of Employment and Training Providers, secondary school work-based learning and co-operative education programs, and postsecondary work-based learning and clinical/experiential learning programs. They will include the use of paid work experiences, job shadowing, or other work-based learning models to engage participants with local employers.

**E. Specific Information for Phase II**

1. Phase II Provider(s) will provide the services proposed in their LFCP with any modifications that are mutually agreed upon and specified in a resulting agreement.
2. LFCPs can target specific populations and should identify them in their proposal(s), but at a minimum, the population served will be:
  - a. 14 years or older;
  - b. Eligible to work in the United States;
  - c. Delaware Residents;
3. LFCP must be implemented in partnership or coordination with at least one Local Education Agency or Postsecondary Program.
4. Phase II Provider(s) will be responsible for utilizing or conducting assessments to determine participant's likelihood for success in proposed program. This can include academic, career interests, and service needs. This includes the Student Success Plan completed in Delaware's secondary schools.

5. Phase II Provider(s) will enter required data into the Delaware JobLink system (<https://joblink.delaware.gov>) for participant tracking and outcome reporting. LFCP's budgets, when submitted, should reflect staffing to complete this task.
6. Phase II Provider(s) will utilize Delaware Job Link to maximize participants' job search and placement, if applicable. At a minimum, participants will create a Jobseeker account in Delaware Joblink (<https://joblink.delaware.gov>).
7. Phase II funds will be provided on a cost reimbursement basis. Monthly financial reports will trigger payments. Delaware will require a line item budget as part of the proposal. The approved budget will be incorporated into the executed contract.
8. Phase II Provider(s) 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. When requesting reimbursement through the submission of the monthly financial report, all reported expenditures must be in accordance with the approved budgeted attached to the resulting agreement and the Provider shall have detailed supporting documentation for all expenditures.
9. No payments for services be made in advance of the work performed.
10. Budgets that include Tuition 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.
11. Phase II funds shall be used to implement the LFCPs. This includes programming, training, paid work experiences to participants and may include items such as (see line item budget in Appendix B):
  - Staff salary and fringe
  - Assessments
  - Certifications
  - Tuition
  - Employer Training
  - Participant Training
  - Participant Wages
  - Participant Fringes
  - Supportive Services to participants
  - Training/Learning Materials
  - Space

#### **IV. 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 for Phase I (Appendix D).
3. Complete all appropriate attachments and forms as identified within the RFP.

**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. Any Provider without a current contract with Delaware Workforce Development Board or State of Delaware, will provide a copy of their most recent financial statement to State of Delaware to enable State of Delaware to establish their fiscal soundness and eligibility for a contract.
3. Compliance check received by the Department of Labor, Divisions of Industrial Affairs and Unemployment Insurance. The State of Delaware may choose to not execute a contract resulting from this RFP due to the feedback obtained from these Division at its discretion.
4. Any trainer identified in the LFCP who will deliver proposed training in Phase II must be any one (1) of the following:
  - a. A State of Delaware public institution or training center; or
  - b. An institution of higher education described in Section 102 of the Higher Education Act (20 USC 1002) that is qualified to participate in the student financial assistance programs authorized by title IV of that Act; or
  - c. A private business or trade school approved by the Department of Education. If Provider is not an approved Private Business and Trade School by the Department of Education at the time of proposal submission, Provider must be approved prior to contract execution.

**V. 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](http://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:**

Rachel Turney

[DWDBDETContracting@delaware.gov](mailto:DWDBDETContracting@delaware.gov)

To ensure that written requests are received and answered in a timely manner, electronic mail (email) correspondence is the only acceptable submission method except for 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](http://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 for organizations currently doing business in the State of Delaware who require contact in the normal course of that business as well as gathering information and data in response to the RFP from appropriate state agency (e.g. Office of Occupational and Labor Market Information).
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@delaware.gov](mailto:DWDBDETContracting@delaware.gov) and must be received no later than 1:00 PM (Local Time) on the date specified for the Deadline for Receipt of Proposals in section II. Overview. Providers are directed to enter "BID ENCLOSED- LAB 20 001-LFC 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@delaware.gov](mailto:DWDBDETContracting@delaware.gov) 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 April 31, 2020. 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 B and D, Attachment 3 as appropriate.

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 publicly 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 and are required given the definition in Appendix A of Lead Provider. Only one (1) of the venture partners is designated as the “lead provider”. The Lead provider 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. Lead Provider

The State of Delaware expects to negotiate and contract with only one “Lead 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 lead Provider will be responsible for the management of all subcontractors.

Any contract that may result from this RFP shall specify that the lead 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 Lead 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 lead 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 lead Provider may not submit more than one (1) proposal. However, lead 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](http://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](http://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 Delaware's terms and conditions, must be recorded on Appendix B and 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 Delaware. 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 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, Delaware will award the contract.

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

It should be explicitly noted that 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 Delaware approvals.

After a final selection is made, the winning Provider(s) will be invited to negotiate a contract with the 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.

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 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

For Phase I funding, the State of 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) DWDB member or DWDB Staff, one (1) Department of Education staff, and other representatives as Delaware sees fit.

#### 3. Proposal Review

Proposals who meet the RFP criteria described in Section (C)(1) above (for Phase I) and all submitted LFCPs (for Phase II), 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 (LFCPs for Phase II). 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**-If the Evaluation Team deems necessary, 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, Provider's should be prepared with a maximum seven-minute presentation. Handouts, promotional materials, videos, presentations, etc. are not permitted at Proposal Clarification. The Proposal Evaluation Team will ask each Provider questions. These questions may 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 most of the time allotted.

The Proposal Clarification 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. Delaware recognizes that these may be different staff.

All 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 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 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 occupational skills training.
- For all Providers who have had a contract with DWDB or State of Delaware in the past, State of 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:

<b>Phase I Criteria</b>	<b>Maximum Points</b>
<b>Applicant Group-</b> Proposal demonstrates the Lead Provider can coordinate with various stakeholders on other initiatives and proposer has credibility and partnerships with identified employers and stakeholders. Proposal demonstrates applicant group consists of relevant stakeholders.	15
<b>Program Design and Results-</b> Proposal demonstrates that Planning Phase I goals can be achieved through the proposed activities.	20
<b>Budget-</b> Proposed budget is reasonable and competitive as compared to other proposals	10
<b>Bonus Points-</b> <ul style="list-style-type: none"> <li>● Proposals that maximize the potential of the collaboration through direct financial or in-kind contributions by members of the planning Phase I applicant group or other stakeholders <b>and/or</b></li> <li>● Proposal demonstrates that the Applicant Planning Group represents or contains at least four employers <b>and/or</b></li> <li>● Proposal demonstrates that the Applicant Planning Group contains at least one Local Education Agency or Postsecondary Programs <b>and/or</b></li> <li>● Proposal demonstrates that the Applicant Planning Group contains at least one Local Education Agency with the intent to use the state model program of study for work-based learning</li> </ul>	20

<b>Phase II Criteria</b>	<b>Maximum Points</b>
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<b>Applicant Group-</b> Proposal demonstrates that the LFCP was developed with input from the appropriate stakeholders, primarily employers who employ occupation(s) identified in demand occupations found at <a href="https://de.gov/dwdbindemand">https://de.gov/dwdbindemand</a> and/or graduates from the identified Department of Education state model program of study found at <a href="https://de.gov/DOEprogramsstudy">https://de.gov/DOEprogramsstudy</a> .	15
<b>Program Design and Results-</b> Proposal demonstrates that the Implementation Phase II goals can be achieved through the proposed activities.	20
<b>Budget-</b> Proposed budget is reasonable and competitive as compared to other proposals	15
<b>Past Performance-</b> Proposer demonstrates the ability or includes trainers with the ability to operate like or similar programs.	10
<b>Bonus Points</b> <ul style="list-style-type: none"> <li>• Proposals that maximize the potential of the collaboration through direct financial or in-kind contributions by members of the Phase I applicant group or other stakeholders and/or</li> <li>• Proposal demonstrates implementation in partnership with at least one Local Education Agency using the state model program of study for work-based learning Proposal Partner with a Delaware School District utilizing the state model program of study for Work Based Learning</li> </ul>	15
<b>Oral Clarification/Presentation(if applicable)</b>	10

## 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 (1) 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.

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.

## VI. 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

- i. 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.
- ii. 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.
- iii. During the term of this contract, the Provider shall, at its own expense, also carry insurance minimum limits as follows:
  - a. 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.
  - b. 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.
  - c. 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
  - iv. 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).
  - v. The State of Delaware shall not be named as an additional insured.
  - vi. 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. 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.
8. 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.

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.

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).

9. Liquidated Damages. Delaware may include in the final contract liquidated damages provisions for non-performance.

10. 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.

11. 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.
12. 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.

13. 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.
14. 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.
15. 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 B and D, Attachment 5, and are subject the approval and acceptance of Delaware.

16. 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 B and D, Attachment 5 are considered approved upon award. Changes to those subcontractor(s) listed in Appendix B and D, Attachment 5 must be approved in writing by Delaware.

17. 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.

18. 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.

19. **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.
20. **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.
21. **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.

22. **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.
23. **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.

24. **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.
25. **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.
26. **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.
27. **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.

## **VII. 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.

**VIII. Appendices**

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

Appendix A: Definitions

Appendix B: Learning for Careers Plan Template and Required Template Attachments, unless otherwise noted

Appendix C: Phase I Proposal Submission Template and Required Template Attachments, unless otherwise noted

Appendix D: Minimum Criteria for Submission Checklist