

State of Delaware
Request for Proposals (RFP)

Program: On-The-Job Training Programs
Issued by: Department of Labor, Division of Employment & Training

RFP Number: LAB-24R-OJT-001

Performance Period: October 1, 2024 –December 31, 2026

I. Overview

The Division of Employment & Training seeks professional services to provide employers with the funds to offset the cost of training new employees for On-The-Job Training 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: July 31, 2024

Pre-Bid Meeting: August 8, 2024 at 1:00pm

Deadline for Questions: August 12, 2024

Response to Questions Posted: August 21, 2024

Deadline for Receipt of Proposal: **September 3, 2024, no later than 1:00 pm**

Review Period: September 4, 2024, through September 18, 2024

Estimated Notification Date: September 19, 2024

Expected Period of Performance: October 1, 2024 through December 31, 2026

B. Pre-bid Meeting

An optional pre-bid meeting has been scheduled for Thursday August 8, 2024, from 1:00PM to 2:00PM. The meeting will take place online using Microsoft Teams.

Please use the below link to the meeting:

[**Join the meeting now**](#)

III. Scope of Services

A. Funding

1. The source of funds for this solicitation are:

- a. The American Rescue Plan Act (ARPA). The anticipated aggregate amount for funding available for all programs to be funded through this RFP is **\$750,000**. The available funding will support multiple programs who respond to this RFP and are selected for funding. The funding level identified is an estimate, the estimate is subject to availability of funds.

B. Services Requested SCOPE): The Division of Employment & Training is seeking employers who

can upskill workers or who have openings but require assistance with employee payroll. On-The-Job Training or OJT is a proven, evidence-based strategy that provides up to 50% wage rate reimbursements to businesses to help compensate for the costs associated with skills upgrading for the extraordinary costs of providing the training and additional supervision of newly hired employees. OJT programs can assist employers who are looking to expand and need additional staff trained with specialized skills. Employers participating in OJT programs are generally the entity providing the training, which helps to ensure all training is relevant to the position the employee is placed. In some instances, however, the employer offering the OJT, may require the participant to receive additional training, if the position requires it, e.g. more specialized IT skills. In such cases, an outside training provider may be hired.

1. Population – Broad:

- a. Be age 18 or older at the time of enrollment;
- b. Be eligible to work in the United States;
- c. Be a Delaware Resident;
- d. Be underemployed, unemployed or looking to upskill to increase their opportunities for economic advancement and;
- e. Males ages 18-24 must have registered with Selective Service. Those that did not register must submit a Status Information Letter: Found Here: [Status Information Letter \(SIL\) | Selective Service System : Selective Service System \(sss.gov\)](#)
- f. Delaware strongly encourages proposal where underrepresented, disadvantaged, or low-skilled populations represent no less than 50% of the population being served. Definitions of these populations can be found in Appendix A. However, Proposals that do not meet this criterion will still be considered.

2. Goals:

- a. The intent of this RFP is to fund programs that support employers in providing customized training;
- b. Develop employee skills and abilities to succeed in their employment choice;
- c. Assist with employer payroll needs to allow for upskilling of Delaware residents;
- d. Allow for employer flexibility in employee hiring that may be newly skilled, long term unemployed or someone with less qualifications than normally required and;
- e. Provide supportive services by removing barriers that may prevent an employee from accepting a position, e.g. transportation or childcare.

3. Employer Requirements:

- a. Offers full time (minimum of 35 hours per week), continued long-term employment position(s) open, providing regular employees with wages (minimum of \$16 per hour/reimbursed at \$8 per hour) to a (maximum of \$25 per hour reimbursed at \$12.50 per hour) with employment benefits including health benefits, working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work. Employers have the flexibility to pay the participant more than \$25 per hour, reimbursement will be capped at \$12.50 per hour regardless.
- b. Positions must be payroll based (contractual, commission, or 1099 positions are not eligible). Businesses must comply with all state and federal labor laws, with union concurrence, if applicable.
- c. Businesses eligible for participation include for profit, non-profit, not-for-profit, city/town, county and government agencies physically located in Delaware for at least 1 year and in good standing.
- d. Training duration must range from a minimum of 4 weeks to a maximum of 13 weeks.
- e. Limit of one OJT participant is permitted per five full time positions, ensuring current employees are not displaced by the new hire and there is adequate staff available to train.

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 (Appendix B including any attachments).

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.
2. Any Provider who has not had a contract with the Division of Employment & Training, Delaware Workforce Development Board or State of Delaware within the past 2 years 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, Division of Small Business, 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. The Minimum Criteria for Submission Checklist (Appendix B) will be used by Delaware to determine if Proposer meets the minimum requirements for submission. Providers are encouraged to use this checklist as well.

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 [Bids - Delaware Bids and Contracts](#) . Paper copies of this RFP will not be available.
3. Assistance to Providers with a Disability
Providers with a disability may receive reasonable accommodations 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 DOL_DET_Contracts@Delaware.gov. 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: Frederick Quick- DOL_DET_Contracts@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 [Bids - Delaware Bids and Contracts](#) 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.

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.

All proposals shall be sent to DOL_DET_Contracts@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-24R-OJT-001"** in the subject line of the email. 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. The designated email will provide you with an automatic reply that states. **This mailbox is used for RFP purposes, if you have received this out of office reply we have received your inquiry.** Should you not receive the automatic reply you need to contact Frederick Quick at Frederick.Quick@Delaware.gov Only inquiries regarding successful receipt of the proposal may be sent to Frederick.Quick@Delaware.gov

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 DOL_DET_Contracts@Delaware.gov prior to the deadline for Receipt of Proposals specified.

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 December 31, 2026. The State of Delaware reserves the right to ask for an extension of time if needed.

6. Proposal Opening.

Delaware will receive proposals until September 3, 2024 at 1:00pm.

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.

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, 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 only if one (1) of the venture partners is designated as the "**lead contractor**". The "**lead contractor**"

must be the joint venture's contact point for the State of Delaware and be responsible for the joint ventures 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 Entity 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. Subcontracting Providers may participate in multiple joint venture proposals.

13. **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 [Bids - Delaware Bids and Contracts](#) 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:

Text of passage being questioned:

14. 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.

15. 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.

16. 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.

17. 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, whichever may be most advantageous to the State of Delaware.

18. 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.

19. 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 [Bids - Delaware Bids and Contracts](#). 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.

20. Exceptions to the RFP.

Any exceptions to the RFP, or Delaware's terms and conditions, must be recorded on Appendix B, 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.

21. Business References.

Provide at least three (3) business references consisting of current or previous customers of similar scope and value using Appendix B 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.

22. 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, because 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 State of Delaware; remaining Providers will be notified in writing of their selection status.

24. Cooperatives.

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

C. RFP Evaluation Process

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

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.

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

2. Evaluation Team.

The Proposal Evaluation Team shall be comprised of representatives of the State of Delaware. The Team shall determine which vendors meet the minimum requirements pursuant to selection criteria of the RFP and procedures established in 29 *Del. C.* §§ 6981 and 6982. Professional services for this solicitation are considered under 29 *Del. C.* § 6982(b). The Team may negotiate with one or more vendors during the same period and may, at its discretion, terminate negotiations with any or all vendors. The Team shall make a recommendation regarding the award to the Executive Director, who shall have final authority, subject to the provisions of this RFP and 29 *Del. C.* § 6982(b), to award a contract to the successful vendor in the best interests of the State of Delaware.

3. Proposal Review.

Proposals that meet the RFP criteria will be reviewed by an Evaluation Team in up to two (2) phases:

- a. **Written Review**-The Proposal Evaluation Team will individually review, and score written proposals. Points will be awarded based on the Proposal Evaluation Team's review of the written proposals. The Proposal Evaluation Team will decide which proposal(s) will

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

- b. **Proposal Clarification**-If the Evaluation Team deems necessary, selected Providers will be invited to attend a Proposal Clarification meeting either in-person or virtually with a set date and time per proposal. Providers 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.

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 to clarify uncertainties or eliminate confusion concerning the contents of a proposal.

Proposals may not be modified because 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.
- For all Providers who have had a contract with the Division of Employment & Training, 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.
- Perform an additional Compliance check to the one submitted by the Provider 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.

Criteria Weight.

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

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

Criteria	Maximum Points
Demonstrated Ability Provider demonstrates the ability to operate high-quality programs that provided similar services as being solicited in this RFP.	50
Capacity to meet requirements (size, financial condition, etc.) Provider has appropriate size and stability to meet anticipated timelines and provide needed training to upskill participants	50

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 Division of Employment & Training Director. 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 included or not 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 from contract execution date until December 31, 2026.
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 3 months after the term of the full contract has been completed.
7. Providers are not restricted from offering lower pricing at any time during the contract term.

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. Notice

Any notice to the State of Delaware required under the contract shall be sent by registered mail to:

Delaware Department of Labor, Division of Employment & Training
4425 N. Market Street
Wilmington, DE 19802
ATTN: Richard Fernandes

5. **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.

6. Insurance

1. Provider recognizes that it is operating as an independent contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney's fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the Provider's negligent performance under this contract, and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the Provider in its negligent performance under this contract.
2. The Provider shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this contract. The Provider is an independent contractor and is not an employee of the State of Delaware.
3. During the term of this contract, the Provider shall, at its own expense, also carry insurance minimum limits as follows:
4. 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
5. The Provider shall provide a Certificate of Insurance (COI) as proof that the Provider has the required insurance prior to any work being completed by the awarded Provider(s). The certificate holder is as follows:

Delaware Department of Labor, Division of Employment & Training
State of Delaware
4425 N. Market St.
Wilmington, DE 19802
ATTN: Richard Fernandes

6. The State of Delaware shall not be named as an additional insured.
7. Should any of the above-described policies be cancelled before expiration date thereof, notice will be delivered in accordance with the policy provisions.
8. Nothing contained herein shall restrict or limit the Provider's right to procure insurance coverage in amounts higher than those required by this Agreement. To the extent that the Provider procures insurance coverage in amounts higher than the amounts required by this Agreement, all said additionally procured coverages will be applicable to any loss or claim and shall replace the insurance obligations contained herein.
9. Performance Requirements. The selected provider will warrant that I possess 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, County and local ordinances, regulations and codes.
10. Provider Emergency Response Point of Contact: The awarded provider(s) shall provide the name(s), telephone, or cell phone number(s) of those individuals who can be contacted twenty four (24) hours a day, seven (7) days a week where there is a critical need for commodities or services when the Governor of the State of Delaware declares a state of emergency under the Delaware Emergency Operations Plan or in the event of a local emergency or disaster where a state governmental entity requires the services of the provider. Failure to provide this information could render the proposal as non-responsive.
11. In the event of a serious emergency, pandemic, or disaster outside the control of the State, the State may negotiate, as may be authorized by law, emergency performance from the Contractor to address the immediate needs of the State, even if not contemplated under the original Contract or procurement. Payments are subject to appropriation and other payment terms.
12. 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.
13. 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.
14. 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.
15. 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.

16. 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).
17. Liquidated Damages. Delaware may include in the final contract liquidated damages provisions for non-performance.
18. 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, Delaware 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 Delaware, and if the matter is not resolved through mediation, then it shall be submitted, in the sole discretion of Delaware, to the Office of Management and Budget, Government Support Services Director, for final and binding arbitration. Delaware 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.
19. Termination of Contract.: The contract resulting from this RFP may be terminated as follows by Delaware Department of Labor. If, for any reasons, or through any cause, the Vendor fails to fulfill in timely and proper manner its

obligations under this Contract, or if the Vendor violates any of the covenants, agreements, or stipulations of this Contract, the State shall thereupon have the right to terminate this contract by giving written notice to the Vendor of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Vendor under this Contract shall, at the option of the State, become its property, and the Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to the State. On receipt of the contract cancellation notice from the State, the Vendor shall have no less than five (5) days to provide a written response and may identify a method(s) to resolve the violation(s). A vendor response shall not affect or prevent the contract cancellation unless the State provides a written acceptance of the vendor response. If the State does accept the Vendor's method and/or action plan to correct the identified deficiencies, the State will define the time by which the Vendor must fulfill its corrective obligations. Final retraction of the State's termination for cause will only occur after the Vendor successfully rectifies the original violation(s). At its discretion the State may reject in writing the Vendor's proposed action plan and proceed with the original contract cancellation timeline.

a) Termination for Convenience

The State may terminate this Contract at any time by giving written notice of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, supplies, and other materials shall, at the option of the State, become its property and the Vendor shall be entitled to receive compensation for any satisfactory work completed on such documents and other materials, and which is usable to the State.

b) Termination for Non-Appropriations

In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds. This is not a termination for convenience and will not be converted to such.

1. 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.
2. 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.
3. 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.

7. Provider Activity. No activity is to be executed in an offshore 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.
8. Provider Responsibility. Delaware will enter 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, Attachment 5, and are subject the approval and acceptance of Delaware.
9. 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 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.
10. 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.
11. 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.

12. 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.
13. 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.
14. 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.

15. 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.
16. 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.
17. 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.
18. 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.
19. 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.

20. IRS 1075 Publication (If Applicable)

1. Performance

In performance of this contract, the Contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

All work will be performed under the supervision of the contractor or the contractor's responsible employees.

The contractor and the contractor's employees with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.

Any Federal tax returns or Federal tax return information (hereafter referred to as returns or return information) made available shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone other than an officer or employee of the contractor is prohibited.

All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.

No work involving returns and return information furnished under this contract will be subcontracted without prior written approval of the IRS.

The contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.

The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.

The contractor shall comply with agency incident response policies and procedures for reporting unauthorized disclosures of agency data. (Include any additional safeguards that may be appropriate)

21. Criminal/Civil Sanctions: Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRCs 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone without an official need-to-know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRCs 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and

recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors must be advised of the provisions of IRCs 7431, 7213, and 7213A (see Exhibit 4, Sanctions for Unauthorized Disclosure, and Exhibit 5, Civil Damages for Unauthorized Disclosure). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For both the initial certification and the annual certification, the contractor must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

22. Inspection: The IRS and the Agency, with 24-hour notice, shall have the right to send its inspectors into the offices and plants of the contractor to inspect facilities and operations performing any work with FTI under this contract for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. On the basis of such inspection, corrective actions may be required in cases where the contractor is found to be noncompliant with contract safeguards.
23. 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. W-9- The State of Delaware requires completion of The State of Delaware requires completion of the [Delaware Substitute Form W-9](https://esupplier.erp.delaware.gov) through the Supplier Public Portal at <https://esupplier.erp.delaware.gov> to make payments to vendors. Successful completion of this form enables the creation of a State of Delaware vendor record.
- xii. 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.
- xiii. 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.
- xiv. 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.

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 these paragraphs, 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.

VIII. Appendices

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

Appendix A: Minimum Criteria for submission

Appendix B: Proposal Submission Template and required attachments
(1-5)

Appendix C: Mandatory Terms and Conditions

Definitions:

1. **Unemployed or Long-Term Unemployed** (*someone who has lost their job through no fault of their own, or an individual that has not worked for twenty-seven (27) or more weeks in aggregate over the past year*)
2. **Underemployed** (*the worker entered employment after being recently dislocated earning a salary of 80% or less of the previous employer's annual salary, prior to eligibility determination.*)
3. **Looking to upskill** (*individuals seeking to improve their current skill set through additional education and training to better meet job market demands, enhance their career prospects, or adapt to new or evolving roles within their industry).*
4. **Underrepresented Populations** (*An underrepresented group describes a subset of a population that holds a smaller percentage within a significant subgroup than the subset holds in the general population. Specific characteristics of an underrepresented group vary depending on the subgroup being considered).*

Minimum Criteria for Submission Checklist

To aid the proposer and staff the following is a checklist of items that should be contained in the submitted proposal in order to the proposal to be considered accepted:

Item	Completed/Submitted
Attended Pre-Bid Meeting	
Proposal submitted by deadline (no later than 1:00 pm)	
Proposal submitted is completed on Template Provided including live signature	
Attachment 1 – Non-Collusion Statement	
Attachment 2 – Exception Form	
Attachment 3 – Confidential Information Form	
Attachment 4 – Business Reference Form	
Attachment 5 – Subcontractor Information Form (if applicable)- lack of this will not disqualify proposal.	
Budget (In proposal template)	
Copy Of Business License	

**Workforce Innovation Project Manager
Agency Information and Proposal Form**

RFP LAB-24R-OJT-001

(Please type responses within this document)

1. Agency Information

Name of Agency/Organization

Street Address

City

State

Zip Code

Phone Number: _____ Website URL: _____

DUNS#: _____ EIN: _____

Organization Type: ☐ Non-Profit ☐ Governmental ☐ Private for Profit

2. Primary Contact Information

Primary Contact Person: _____

Primary Contact Telephone Number: _____

Primary Contact e-mail address: _____

3. Program Information

Program(s) proposed: _____

4. Program Submission

- a. Demonstrated Ability:
 - i. Describe the full-time permanent positions you are looking to fill, develop or anticipate filling using OJT funds.
 - ii. Will your employees who completed the OJT program fill in-demand/hard to fill positions?
 - iii. Describe how you will target and recruit eligible applicants with comparable skills.
 - iv. What will the training plan look like for these applicants?
 - 1. Is there a credential(s) needed for this position(s)?
 - 2. Do you anticipate supportive services for this/these positions?
 - v. In conjunction with the training plan, describe how the training will be implemented in your day-to-day operations?

Budget Summary:

The only authorized payments are 50% Salary, Supportive Services up to \$2000 per participant and any Certificates needed for training.

Position	Pay Rate	Hours Per Week	Certificate Cost	Supportive Services

Certificate of Information and Authorization-*Must be completed for your proposal to be considered.*

By submitting this proposal, I hereby certify that to the best of my knowledge all information contained in this proposal is accurate and complete, that this is a valid proposal and that I am legally authorized to submit and to represent this organization.

Signature (live):

Name:

Title:

Organization:

Attachment 1

RFP NO.: LAB-24R-OJT-001

RFP TITLE: On-The-Job Training

DEADLINE TO RESPOND: August 8, 2024 @ 1:00 PM

WHERE TO RESPOND: DOL_DET_Contracts@Delaware.gov

NON-COLLUSION STATEMENT

This is to certify that the undersigned Provider has neither directly nor indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal, **and further certifies that it is not a sub-contractor to another Provider who also submitted a proposal as a primary Provider in response to this solicitation** submitted this date to the State of Delaware, Department of Labor, Division of Employment & Training.

It is agreed by the undersigned Provider, the signed delivery of this bid represents, subject to any express exceptions set forth at Attachment 2, the Provider's acceptance of the terms and conditions of this solicitation including all specifications and special provisions.

NOTE: Signature of the authorized representative **MUST** be of an individual who legally may enter his/her organization into a formal contract with the State of Delaware, Department of Labor, Division of Employment & Training.

☐	Corporation
☐	Partnership
☐	Individual

COMPANY NAME _____ (Check one)

NAME OF AUTHORIZED REPRESENTATIVE

(Please type or print) _____

SIGNATURE _____ **TITLE** _____

COMPANY ADDRESS _____

PHONE NUMBER _____ **FAX NUMBER** _____

EMAIL ADDRESS _____

FEDERAL E.I. NUMBER _____ **STATE OF DELAWARE**
LICENSE Number _____

COMPANY CLASSIFICATIONS: CERT. NO.:	Certification type(s)	Circle all that apply	
	Minority Business Enterprise (MBE)	Yes	No
	Woman Business Enterprise (WBE)	Yes	No
	Disadvantaged Business Enterprise (DBE)	Yes	No
	Veteran Owned Business Enterprise (VOBE)	Yes	No
	Service-Disabled Veteran Owned Business Enterprise (SDVOBE)	Yes	No

[The above table is for informational and statistical use only.] **PURCHASE ORDERS SHOULD BE SENT TO:** _____

ADDRESS _____

CONTACT _____

PHONE NUMBER _____ **FAX NUMBER** _____

EMAIL ADDRESS _____

AFFIRMATION: Within the past five years, has your firm, any affiliate, any predecessor company or entity, owner, Director, officer, partner, or proprietor been the subject of a Federal, State, Local government suspension or debarment?

YES _____ **NO** _____ if yes, please explain _____

Attachment 2
RFP NO.: LAB-24R-OJT-001
RFP TITLE: On-The-Job Training
EXCEPTION FORM

Proposals must include all exceptions to the specifications, terms or conditions contained in this RFP. If the provider is submitting the proposal without exceptions, please state so below. The State of Delaware reserves the right to deny any and all exceptions taken to the RFP requirements.

☐ By checking this box, the Provider acknowledges that they take no exceptions to the specifications, terms or conditions found in this RFP.

Paragraph # and page #	Exceptions to Specifications, terms, or conditions	Proposed Alternative

Note: Provider may use additional pages as necessary, but the format shall be the same as provided above.

Attachment 3
RFP NO.: LAB-24R-OJT-001
RFP TITLE: On-The-Job Training
CONFIDENTIAL INFORMATION FORM

☐ By checking this box, the Provider acknowledges that they are not providing any information they declare to be confidential or proprietary for the purpose of production under 29 Del. C. Ch. 100, Delaware Freedom of Information Act.

Confidentiality and Proprietary Information

Note: Provider may use additional pages as necessary, but the format shall be the same as provided above.

Attachment 4
RFP NO.: LAB-24R-OJT-001
RFP TITLE: On-The-Job Training
BUSINESS REFERENCES

List a minimum of three business references, including the following information:

- Business Name and Mailing address
- Contact Name and phone number
- Number of years doing business with
- Type of work performed

Please do not list any State Employee as a business reference. If you have held a State contract within the last 5 years, please provide a separate list of the contract(s).

1.	Contact Name & Title:	
	Business Name:	
	Address:	
	Email:	
	Phone # / Fax #:	
	Current Provider (YES or NO):	
	Years Associated & Type of Work Performed:	

2.	Contact Name & Title:	
	Business Name:	
	Address:	
	Email:	
	Phone # / Fax #:	
	Current Provider (YES or NO):	
	Years Associated & Type of Work Performed:	

3.	Contact Name & Title:	
	Business Name:	
	Address:	
	Email:	
	Phone # / Fax #:	
	Current Provider (YES or NO):	
	Years Associated & Type of Work Performed:	

STATE OF DELAWARE PERSONNEL MAY NOT BE USED AS REFERENCES.

Attachment 5

RFP NO.: LAB-24R-OJT-001

RFP TITLE: On-The-Job Training

SUBCONTRACTOR INFORMATION FORM

☐ By checking this box, the Provider acknowledges that they do not intend to employ subcontractors in performance of the services found in this RFP.

PART I – STATEMENT BY PROPOSING PROVIDER		
1. RFP NO. LAB-24R-OJT-001	2. Proposing Provider Name:	3. Mailing Address
4. SUBCONTRACTOR		
a. NAME	4c. Company OSD Classification: Certification Number: _____	
b. Mailing Address:	4d. Women Business Enterprise ☐ Yes ☐ No 4e. Minority Business Enterprise ☐ Yes ☐ No 4f. Disadvantaged Business Enterprise ☐ Yes ☐ No 4g. Veteran Owned Business Enterprise ☐ Yes ☐ No 4h. Service-Disabled Veteran Owned Business Enterprise ☐ Yes ☐ No	
5. DESCRIPTION OF WORK BY SUBCONTRACTOR		
6a. NAME OF PERSON SIGNING	7. BY (Signature)	8. DATE SIGNED
6b. TITLE OF PERSON SIGNING		
PART II – ACKNOWLEDGEMENT BY SUBCONTRACTOR		
9a. NAME OF PERSON SIGNING	10. BY (Signature)	11. DATE SIGNED
9b. TITLE OF PERSON SIGNING		

* Use a separate form for each subcontractor

Mandatory Terms & Conditions

1) ***Notice and Acknowledgement, Eligibility.*** Recipient¹ acknowledges that Government's provision of funding or payment relating to this transaction is the result of an effort to stimulate the State of Delaware economy and assist the Government in recovering from the unprecedented global reaction to the coronavirus pandemic. By entering into the [Agreement, Loan, Grant], Recipient expressly acknowledges that it is receiving Federal, State, or County funds in each instance it accepts the payments required by the [Agreement, Loan, Grant]. Further, Recipient acknowledges that its statements, disclosures and representations: 1) in arriving at the [Agreement, Loan, Grant], and 2) with respect to each of its communications to the Government required by the [Agreement, Loan, Grant], shall be certified by a person possessing the actual or apparent authority to bind the Recipient under oath and under penalty of criminal or civil prosecution.² Each [Agreement, Loan, Grant] involving CARES Act or ARP Act funding shall explicitly state the legal basis for eligibility at an appropriate location within the highest priority transactional document.

2) ***Audit and Inspection.***

a) ***Government Auditing Rights.*** Recipient shall hold the Recipient's, and any applicable agent, subcontractor, or subconsultant's work and records open at all times for the inspection and/or audit by the Government, any applicable state or federal agency, the U.S. Inspector General, the Comptroller General of the United States, the State of Delaware Department of Justice, or any of their duly authorized representatives, including, any private firm of certified public accountants engaged by the entity, to any books, documents, papers, financial and accounting reports, schedules and records, and any other material of the Recipient and any applicable agent, subcontractor, or subconsultant which relate to this [Agreement, Loan, Grant]. The location of the inspection and/or audit will be at the Government's discretion and the inspection may be preceded by the Government's demand for the production of documents to facilitate the performance of preliminary planning, analytic and examination procedures by the Government. Such access for an on-site inspection and/or audit shall be granted by Recipient during its normal business hours, after receipt by Recipient of at least ten (10) business days advance written notice of a request for such access, at its offices in the State of Delaware, or at such other place or places agreed to by Recipient and the requesting person; provided, however, that this notice provision shall not apply to the execution of any search warrants or subpoenas or where the Government has determined to conduct an unannounced site visit. Absent good cause for more frequent site visits, the Government agrees to conduct no more than one unannounced site visit per calendar year. The provisions of this section shall survive termination or cancellation of this [Agreement, Loan, Grant].

b) ***Mandatory Record Retention.*** Recipient, and any applicable agent, subcontractor, or subconsultant retained by Recipient, must retain all books, documents, papers, financial and accounting reports, schedules and records, and any other material pertaining to costs incurred under this [Agreement, Loan, Grant] for not less than 6 years after the Government makes final payment and all other pending matters are closed and shall make the material available upon request for inspection and/or audit by the Government or any of the entities provided for in this [Agreement, Loan, Grant]. The entire [Agreement, Loan, Grant] includes all tasks regardless of individual task completion date. The Recipient, or any applicable agent, subcontractor, or subconsultant, shall be liable for Government costs incurred for subsequent audit reviews requested by the Recipient.

c) ***Audited Financial Statements.*** Recipient shall provide the Government with annual, audited financial statements,

¹ "Recipient" as used herein refers to as any party receiving funds through contracts, agreements, loans, grants, or any other transaction involving the Government as defined herein.

² See 31 U.S.C. §§ 3729 – 3733; 6 Del. C. c. 12; 18 U.S.C. c. 96; 11 Del. C. c.15.

including all footnotes, prepared in accordance with U.S. generally accepted accounting principles (GAAP) for the most recent two accounting years at the time of this [Agreement, Loan, Grant]. In addition, the Recipient has an ongoing obligation to provide annual, audited financial statements for future accounting years within one hundred twenty (120) days after the end of the Recipient's accounting year and to provide financial statements for interim accounting periods upon the Government's request. The requirement to provide financial statements shall continue through the accounting year ending after the last payment is made by the Government.

- d) ***Tax Record Retention and Production.*** Recipient agrees to provide the Government with any and all tax returns, employee or contractor tax documents and any other tax records upon the Government's request, for the Government's inspection and/or audit of the Recipient's use of the funds provided pursuant to this [Agreement, Loan, Grant]. Such tax returns, employee or contractor tax documents and other tax records include, but are not limited to, annual tax returns, payroll tax returns, quarterly unemployment tax filings, and other employee or contractor tax related information.
- e) ***Cross-Government Sharing of Records.*** Recipient specifically agrees to allow the sharing or exchange of any information or documents which relates to this (Agreement, Loan, Grant) among the Government and its political subdivisions, as well as the Federal Government.

3) ***Subcontracting and Assignments.*** To the extent that subcontracting, or assignments are authorized by a contract or other written [Agreement, Loan, Grant], Recipient agrees that each of its reporting, auditing, invoicing, and certification requirements shall be expressly required of any such subcontractor or assignee.

4) ***Public Access to Audit Materials.*** While confidential business information as defined by the State of Delaware Freedom of Information Act shall remain entitled to protection and shall not be disclosed to members of the public by the Government unless required by law or court order, Recipient, and its approved subcontractors and assignees, shall expect that invoices, reports, certifications, and any Government- generated audit report regarding Recipient's performance may be made available to the public.

5) ***Customized Reporting Obligations.*** Recipient shall issue certified reports regarding compliance with all terms and conditions of the (Agreement, Loan, Grant) which may be required by the Government. Such certified reports will allow for active transactional oversight by the Government and shall be tailored to the specific obligations relevant to the transaction. All reporting obligations shall be reduced to writing and included in the [Agreement, Loan, Grant].³

6) ***Certifications Required.*** All of Recipient's invoices and reports shall contain the following certification:

Recipient acknowledges that each of its requests for payment under this [Agreement, Loan, Grant] constitutes an express true and correct certification that the goods or services for which payment is sought comply with all statutory, regulatory, and contractual requirements related to this [Agreement, Loan, Grant] (including the "CARES Act" or the "American Rescue Plan Act"), and that the Recipient is not holding, billing, or otherwise requesting, any funds which the Government is entitled to possess. Recipient recognizes and agrees that the Government seeks to enter into this [Agreement, Loan, Grant], on an expedited basis and, as such, is explicitly relying on the truth and accuracy (including the lack of any material omissions) of each representation, warranty, certification, and other statement made by Recipient in connection with its entering into this [Agreement, Loan, Grant], including any boilerplate in this [Agreement, Loan, Grant], or related documents, as an express condition of the Government's [Agreement, Loan, Grant] to provide payment pursuant to this [Agreement, Loan, Grant].

7) ***Misrepresentation Illegal.*** In connection with this [Agreement, Loan, Grant], Recipient agrees not to engage in any deception, fraud, false pretense, false promise, misrepresentation, or the concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission whether or not any person has in fact been misled, deceived or damaged thereby (collectively, the 'misrepresentation'), and agrees that any such misrepresentation shall

³ Reports required pursuant to Mandatory Term and Condition No. 5 shall be negotiated by the Government based upon the specific purchase, deliverable, or service being supported by the distribution of CARES Act or ARP Act funds. Accordingly, other than the mandatory obligation that reports be certified, the form, content, and frequency of such reports shall be at the discretion of the Government.

be treated as an unlawful practice under § 2513 of Title 6 of the Delaware Code. Material misrepresentation(s) will be assessed on the basis of individual transactions and/or combined transactions at the Government's discretion.

8) Price Gouging Illegal. Recipient agrees not to engage in price gouging as herein defined and understands and agrees that any price gouging shall be treated as an unlawful practice under § 2513 of Title 6 of the Delaware Code and a violation of Subchapter II of Chapter 25 of Title 6. 'Price gouging' shall have the meaning set forth in paragraph 9 of Governor John C. Carney's Declaration of a State of Emergency dated March 12, 2020, as clarified by paragraph 4 of Governor Carney's 29th Modification of the Declaration of a State of Emergency dated May 18, 2021.

9) Non-Compliance is a Material Breach of Contract. Recipient acknowledges that any failure to comply with the terms and conditions included by virtue of a Mandatory Term & Condition listed herein shall constitute a material breach of (Agreement, Loan, Grant).

10) Non-Compliance Tolls Government Payment Obligation. Any payment obligation by the Government for services rendered or materials provided during a period of time in which a Recipient's report was not timely delivered, or during which a defective report was delivered, shall be tolled until Recipient has fully complied with all of its outstanding and overdue reporting obligations.

11) Non-Waiver. The delay or failure by the Government to exercise or enforce any of its rights under a contract, [Agreement, Loan, Grant], or other transaction shall not constitute or be deemed a waiver of the Government's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

12) Severability. If any term or provision included herein as a Mandatory Term and Condition is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms, conditions or provisions hereof, but such term, condition, or provision shall be deemed modified to the extent necessary in the court's opinion to render such term, condition, 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 [Agreement, Loan, Grant](s) of the Government as set forth herein and as set forth in Exhibit B hereto.

13) No Third-Party Beneficiary Rights. This [Agreement, Loan, Grant], is not intended to and shall not be construed to give any Third Party any interest or rights (including, without limitation, any third-party beneficiary rights) with respect to or in connection with any [Agreement, Loan, Grant] or provision contained herein or contemplated hereby, even if indirectly benefited by it.

14) Jurisdiction and Venue. Recipient irrevocably consents and submits to the exclusive jurisdiction of the State courts of the State of Delaware located in New Castle County, Delaware and the United States District Court for the District of Delaware and waives any objection based on venue or *forum non conveniens* with respect to any action instituted therein arising under this [Agreement, Loan, Grant], or any of the other [Agreement, Loan, Grant](s) or in any way connected with or related or incidental to the dealings of the parties hereto in respect of this [Agreement, Loan, Grant] or the transactions related hereto or thereto, in each case whether now existing or hereafter arising, and whether in contract, tort, equity or otherwise, and agree that any dispute with respect to any such matters shall be heard only in the courts and geographic locations described above.

15) Governing Law. This [Agreement, Loan, Grant], and all claims or causes of action (whether in contract, tort or statute) that may be based upon, arise out of or relate to this [Agreement, Loan, Grant], or the negotiation, execution or performance of this [Agreement, Loan, Grant] (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this [Agreement, Loan, Grant], or as an inducement to enter into same), shall be governed by, and enforced in accordance with, the internal laws of the Government, including its statutes of limitations without regard to its rules of conflict of laws.

16) Force Majeure; Applicability. Neither the Recipient nor the Government shall be held liable for non-performance under the terms and conditions of this (Agreement, Loan, Grant) due, but not limited to:

a) Acts of God; labor disturbances; accidents; failure of a governmental entity to issue a permit or approval required for

performance when the Contractor has filed proper and timely application with the appropriate government entity; civil disorders; acts of aggression; changes in any law or regulation adopted or issued by a governmental entity after the date of this [Agreement, Loan, Grant]; a court order; explosions; failure of utilities; material shortages;

- b) Diseases, plagues, quarantine, epidemics, or pandemics;
- c) Federal, state, or local work or travel restrictions to control, mitigate, or reduce transmission of diseases, plagues, epidemics, or pandemics; or
- d) The State's need to occupy, utilize, or repurpose an active or prospective work area due to diseases, plagues, quarantine, epidemics, pandemics, work or travel restrictions, and the need to control, mitigate, or reduce transmission of diseases, plagues, epidemics, or pandemics.

Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this contract within 2 business days of the party's knowledge of significant non-performance risk.

Notwithstanding the content of subparagraphs (A) through (D) of this paragraph, Recipient agrees that any event giving rise to *Force Majeure* as defined herein shall not relieve the Recipient of the obligation to perform and carry out any of the Mandatory Terms and Conditions set forth in this document.

17) *Warranty.* Recipient hereby warrants that:

- a) All services and deliverables provided hereunder will be performed in a good and workmanlike manner, technically sound and in conformance with all applicable federal, state, and local statutes, Executive Orders and Declarations, codes, ordinances, resolutions, and other regulations applicable to the services. Recipient agrees to correct or re-perform any services not in compliance with this warranty.
- b) Recipient will not provide access to a portal or other software, or produce work product, that violates or infringes on any copyright, trademark, patent, or other intellectual property rights. Recipient shall, without additional compensation, correct or revise any errors or omissions in the portal, software, or work product.
- c) Third-party products within the scope of this [Agreement, Loan, Grant] shall be governed by the terms and conditions of the licenses or other [Agreement, Loan, Grant] (s) by which such products are governed. With respect to all third-party products and services purchased by Recipient for the Government in connection with the provision of the Services, Recipient shall pass through or assign to the Government the rights Recipient obtains from the manufacturers and/or Recipients of such products and services (including warranty and indemnification rights), all to the extent that such rights are assignable.

18) *Indemnification.*

- a) Recipient shall indemnify and hold harmless the Government, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees), arising out of:
 - i) the negligence or other wrongful conduct of the Recipient, its agents or employees; or
 - ii) Recipient's breach of any material provision of this [Agreement, Loan, Grant] that is not cured after notice and opportunity to cure.
- b) Subject to the exceptions stated in subparagraph (c) below, if the Government promptly notifies Recipient in writing of a third-party claim against the Government that any deliverable infringes a copyright or a trade secret of any third party, Recipient shall (i) defend such claim at its expense and (ii) pay any costs or damages that may be finally awarded against the Government.
- c) Recipient shall not be required to indemnify Government, however, to the extent the claim of infringement stems from:

- i) Government's misuse or modification of the deliverable;
 - ii) Government's failure to use corrections or enhancements explicitly made available to Government by Recipient;
 - iii) Government's use of the deliverable in combination with any product or information not owned or developed by Recipient;
 - iv) Government's distribution, marketing or use for the benefit of third parties of the deliverable; or
 - v) Information, direction, specification, or materials provided by Government.
- d) In addition to remedies stated in subparagraph a above, if any deliverable is, or in Recipient's opinion is likely to be, held to be infringing, Recipient shall at its expense and option either:
- i. Procure the right for Government to continue using it;
 - ii. Replace it with a non-infringing equivalent; or
 - iii. Modify it to make it non-infringing.

19) Insurance.⁴ Recipient must obtain at its own cost and expense and keep in force and effect during the term of this [Agreement, Loan, Grant] (including during the term of all extensions), an insurance policy with the minimum coverage limits specified below issued by a carrier satisfactory to the Government. Recipient must carry one or more of the following insurance policies, as determined by the Government, depending on the type of service or product being delivered:

- a) Worker's Compensation and Employer's Liability Insurance in accordance with applicable law.
- b) Commercial General Liability (in amounts determined by the Government).
- c) Automotive Liability Insurance covering all automotive units used in the work (including all units leased from and/or provided by the Government to Recipient pursuant to this [Agreement, Loan, Grant] as well as all units used by Recipient, regardless of the identity of the registered owner, used by Recipient for completing the Work required by this [Agreement, Loan, Grant] to include but not limited to transporting Government clients or staff), providing the following types of coverage on a primary non-contributory basis, with limits as determined by the Government:
 - i) Combined single limit each accident, for bodily injury;
 - ii) Property damage to others;
 - iii) Per person per accident Uninsured/Underinsured Motorists coverage;
 - iv) \$25,000 per person, \$300,000 per accident Personal Injury Protection (PIP) benefits as provided for in 21 Del. C. § 2118; and
 - v) Comprehensive coverage for all leased vehicles, which shall cover the replacement cost of the vehicle in the event of collision, damage, or other loss.
- d) In addition to the insurance coverages listed in the previous section, Recipient shall obtain at its own cost and expense, and keep in force and effect during the term of this [Agreement, Loan, Grant] (including during the term of all extensions), at least one of the following insurance policies (as determined by the Government) with the minimum coverage limits as specified by the Government, issued by a carrier satisfactory to the Government, depending on the scope of work being performed:
 - i) Medical/Professional Liability - per occurrence / aggregate;
 - ii) Miscellaneous Errors and Omissions - per occurrence / aggregate;
 - iii) Product Liability - per occurrence / aggregate; or
 - iv) Cyber Liability Insurance. Data such as names, addresses, phone numbers, email addresses, social security numbers, tax return information, bank account information, dates of birth, driver's license numbers and other

⁴ State of Delaware agencies should consult the State of Delaware Insurance Coverage Office for guidance in determining adequate amounts of insurance coverage.

personally identifiable or other confidential information maintained by Recipient under the [Agreement, Loan, Grant] (collectively, “PII”) shall be encrypted at rest with validated cryptography standards as specified in National Institute of Standards and Technology FIPS140-2 Security Requirements. If Recipient cannot offer encryption at rest, Recipient must maintain cyber security liability insurance coverage for any loss resulting from a data breach. The policy, if required, shall remain in place in the amounts set forth below for the term of the [Agreement, Loan, Grant], inclusive of any extension(s), or for as long as the Recipient possesses or controls PII, whichever is longer.

Levels of cyber liability insurance required are based on the number of records with PII anticipated to be possessed or controlled by Recipient in connection with the [Agreement, Loan, Grant]. Should the actual number of PII records exceed the anticipated number, it is the Recipient’s responsibility to ensure that sufficient coverage is obtained (see table below). In the event that Recipient fails to obtain sufficient coverage, Recipient shall be liable to cover damages and shall indemnify the Government for any damages, cost or expenses beyond the coverage amount.

Level	Number of PII records	Level of cyber liability insurance required (occurrence = data breach)
1	1-10,000	\$2,000,000 per occurrence
2	10,001 – 50,000	\$3,000,000 per occurrence
3	50,001 – 100,000	\$4,000,000 per occurrence
4	100,001 – 500,000	\$15,000,000 per occurrence
5	500,001 – 1,000,000	\$30,000,000 per occurrence
6	1,000,001 – 10,000,000	\$100,000,000 per occurrence

The insurance policy covering Cyber Liability shall include but not be limited to, coverage for liabilities relating to Recipient’s or any independent contractor’s or subcontractor’s premises, operations, products, completed operations, or conduct relating to the [Agreement, Loan, Grant]. At a minimum, the policy must include third-party coverage for credit monitoring, notification costs to data breach victims, and regulatory penalties and fines. Recipient shall be responsible for any deductible or self-insured retention contained in the insurance policy. The coverage under the policy shall be primary, and not excess, to any other insurance carried by the Recipient.

- e) Any insurance policy required pursuant to this [Agreement, Loan, Grant] shall contain a provision that requires the carrier to provide the Government with written notice of cancellation in the event that such policy is cancelled prior to its original expiration date thereof.
- f) Before any work is done pursuant to this [Agreement, Loan, Grant], the Certificate of Insurance and/or complete copies of all required insurance policies, referencing the contract number stated herein, shall be filed with the Government. The certificate holder shall be as follows:

ENTER AGENCY NAME
Contract No: ENTER CONTRACT NUMBER
Unit of Government ADDRESS

- g) Nothing contained herein shall restrict or limit the Recipient’s right to procure insurance coverage in amounts higher than those required by this [Agreement, Loan, Grant]. To the extent that the Recipient procures insurance coverage in amounts higher than the amounts required by this [Agreement, Loan, Grant], all said additionally procured coverages will be applicable to any loss suffered by, and claim made by, the Government pursuant to this [Agreement, Loan, Grant].
- h) To the extent that Recipient has complied with the terms of this [Agreement, Loan, Grant] and has procured insurance coverage for all vehicles Leased and/or operated by Recipient as part of this [Agreement, Loan, Grant], the Government’s self-insured insurance program shall not provide any coverage, regardless whether coverage is sought as primary, co-primary, excess or umbrella insurer or coverage for any loss of any nature.

- i) In no event shall the Government be named as an additional insured on any policy required under this [Agreement, Loan, Grant].

20) *Limitation of Liability.* Except for specifically identified fees and expenses that may be due and owing under the [Agreement, Loan, Grant], and notwithstanding anything to the contrary in this [Agreement, Loan, Grant], neither Government nor any officers, members, employees or attorneys of the foregoing, shall have any liability to Recipient or any other party for fees (including attorneys' fees), expenses, suits, actions, claims or damages, whether direct or indirect, compensatory or punitive, actual or consequential, in or for actions, claims, causes of action or rights, including indemnification rights, arising out of or related in any way to this [Agreement, Loan, Grant].

- a) Notwithstanding anything to the contrary herein, no provision of this [Agreement, Loan, Grant] shall constitute a waiver or limitation of any right held by the Government or United States of America that may exist under applicable statutory or common law.
- b) Notwithstanding anything to the contrary herein, to the extent available under applicable law, Government and their respective officers, members, employees and attorneys, expressly reserve all rights, claims, arguments, defenses and immunities, including, without limitation, claims or defenses based on sovereign immunity, qualified immunity and other statutory or common law rights, claims, defenses or immunities; provided, however, that Recipient shall have the right to seek to enforce this [Agreement, Loan, Grant] in the courts of this State.