

## Attachment E

# Educational Attainment & Work Readiness Initiative

## General Terms and Conditions

These terms and conditions shall apply to all contracts issued by this agency for funding administered by the Commonwealth of Massachusetts.

- 1. Contract Effective Start Date.** Notwithstanding verbal or other representations by the parties, or an earlier start date indicated in the contract, the effective start date of performance under the contract shall be the date the contract has been executed by an authorized signatory of the Contractor, the GNBWIB, a later date specified in the contract or the date of any approvals required by law or regulation, whichever is later.
- 2. Payments and Compensation.** The Contractor shall only be compensated for performance delivered and accepted by GNBWIB or its representative in accordance with the specific terms and conditions of the contract. All contract payments are subject to the availability of sufficient non-appropriated funds from Federal or State funding sources. Overpayments shall be reimbursed by the Contractor or may be offset from future payments in accordance with state finance law. Acceptance by the Contractor of any payment or partial payment, without written objection by the Contractor, shall in each instance operate as a release and discharge of the GNBWIB from all claims, liabilities or other obligations relating to the performance of the contract.
- 3. Contractor Payment Mechanism.** All contractors shall be paid after submission of the standard Contract Reimbursement Form supplied by GNBWIB. The contractor shall timely submit invoices and supporting documentation. GNBWIB shall review and return rejected invoices within 15 days of receipt with a written explanation for rejection. GNBWIB will make every effort to pay invoices within thirty days of receipt, subject to availability of funds by Federal or State funding authorities.
- 4. Contract Termination or Suspension.** The contract shall terminate on the date specified in a contract, unless this date is properly amended in accordance with all applicable laws and regulations prior to this date, or unless terminated or suspended under this section upon prior written notice to the Contractor. GNBWIB may terminate the contract without cause and without penalty, or may terminate or suspend the contract if the Contractor breaches any material term or condition or fails to perform or fulfill any material obligation required by the contract, OR in the event of an elimination of an appropriation or availability of funds for the purposes of the contract. Upon immediate notification to the other party, neither the GNBWIB nor the Contractor shall be deemed

to be in breach for failure or delay in performance due to Acts of God or other causes factually beyond their control and without their fault or negligence. Subcontractor failure to perform or price increases due to market fluctuations or product availability will not be deemed factually beyond the Contractor's control.

**5. Written Notice.** Any notice shall be deemed delivered and received when submitted in writing in person or when delivered by any other appropriate method evidencing actual receipt by GNBWIB or the Contractor. Any written notice of termination or suspension delivered to the Contractor shall state the effective date and period of the notice, the reason for the termination or suspension, if applicable, any alleged breach or failure to perform, a reasonable period to cure any alleged breach or failure to perform, if applicable, and any instructions or restrictions concerning allowable activities, costs or expenditures by the contractor during the notice period.

**6. Confidentiality.** The Contractor shall comply with the M.G.L. C. 66A if the Contractor becomes a "holder" of "personal data" . The Contractor shall also protect the physical security and restrict any access to personal or other GNBWIB data in the Contractor's possession, or used by the contractor in the performance of the contract, which shall include, but is not limited to GNBWIB's public records, documents, files, software, equipment or systems.

**7. Record-keeping and Retention, Inspection of Records.** The Contractor shall maintain records, books, files and other data as specified in a contract for a minimum retention period of seven(7) years beginning on the first day after the final payment under the contract, or such longer period as is necessary for the resolution of litigation, claim, negotiation, audit or other inquiry involving the contract. The GNBWIB or its representative will have access during the Contractor's regular business hours and upon reasonable prior notice, to such records, including on-site reviews and reproduction of such records at reasonable expense.

**8. Assignment.** The Contractor may not assign or delegate, in whole or in part, or otherwise transfer any liability, responsibility, obligation, duty or interest under the contract, with the exception that the Contractor shall be authorized to assign present and prospective claims for money due to the Contractor.

**9. Subcontracting by a Contractor.** Any subcontract entered into by the Contractor for the purposes of fulfilling the obligations under the contract must be in writing, authorized in advance by GNBWIB and shall be consistent with and subject to the provisions of these Terms and Conditions and the contract. Subcontracts will not relieve or discharge the Contractor from any duty, obligation, responsibility, or liability arising under the contract. GNBWIB is entitled to copies of all subcontracts and shall not be bound by any provisions in a contract to which it is not a party.

**10. Affirmative Action, Non-Discrimination in Hiring and Employment.** The Contractor shall comply with all federal and state laws, rules and regulations

promoting fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation or for exercising any rights afforded by law. The Contractor commits to purchasing supplies and services from certified minority or women-owned businesses, small businesses, or businesses owned by socially or economically disadvantaged persons or persons with disabilities, when practical.

**11. Indemnification.** Unless otherwise exempted by law, the Contractor, shall indemnify and hold harmless the GNBWIB, and New Directions, against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement or other damages that the GNBWIB may sustain which arise out of or in connection with the Contractors performance of the contract, including but not limited to the negligence, reckless or intentional conduct of the Contractor, its agents, officers, employees or subcontractors. The Contractor shall at no time be considered an agent of GNBWIB After prompt notification of a claim by GNBWIB, the Contractor shall have an opportunity to participate in the defense of such claim and any negotiated settlement agreement or judgment. GNBWIB shall not be responsible for any costs incurred by the Contractor arising under this paragraph. Any indemnification of the Contractor shall be subject to appropriation and applicable law.

**12. Waivers.** Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach.

**13. Risk of Loss.** The Contractor shall bear the risk of loss for any materials used for the contract and for all deliverables or other data which is in the possession of the Contractor or used by the Contractor in the performance of the contract until possession, ownership and full legal title to the deliverables are transferred to and accepted by the GNBWIB.

**14. Forum, Choice of Law and Mediation.** Any actions arising out of the contract shall be governed by the laws of Massachusetts, and shall be brought and maintained in a state or Federal court in Massachusetts, which shall have exclusive jurisdiction thereof.