

KSDE CONTRACT NO. 652-17-1917
October 1, 2017 – June 30, 2022
STATE BOARD – Kansas Department of Health and
Environment – Kansas Department for Children
and Families

AGREEMENT

THIS AGREEMENT, effective upon signature no later than October 1, 2017, is made by and between the Kansas State Department of Education, hereinafter referred to as “KSDE,” and the following State Agencies: the Kansas Department of Health and Environment, herein after referred to as KDHE, and the Kansas Department for Children and Families, herein after referred to as KDCF.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, it is agreed by and between the parties hereto as follows:

1. The project period of this Agreement shall be from October 1, 2017, to June 30, 2022.
2. KSDE agrees to complete during the terms of this Agreement the services as described more particularly in the Statement of Work, which is attached hereto and marked Attachment A and incorporated herein by reference and made a part of this Agreement. All services described in Attachment A shall be provided by KSDE in consultation with KSDE’s Director assigned to the project.
3. In consideration of the services provided, KDHE agrees to pay KSDE a total amount not to exceed \$215,000. Equal quarterly payments of \$10,750 shall be made to the KSDE on July 1, October 1, January 1, and April 1 for a period of five fiscal years following execution of this Agreement. In the first fiscal year of this agreement, the July 1 and October 1 payments shall be combined into one payment of \$21,500 on October 1, 2017.
4. In consideration of the services provided, KDCF agrees to pay KSDE a total amount not to exceed \$35,000. Equal quarterly payments of \$1,750 shall be made to the KSDE on July 1, October 1, January 1, and April 1 for a period of five fiscal years following execution of this Agreement. In the first fiscal year of this agreement, the July 1 and October 1 payments shall be combined into one payment of \$3,500 on October 1, 2017.
5. All parties understand and agree that this, or any subsequent, Agreement is contingent upon the continued receipt of IDEA federal grant award through June 30, 2022 and the successful completion of yearly activities.
6. In performing the services described herein, it is expressly agreed and understood that KSDE, its agents, employees, or any other persons under its supervision or control shall not be considered employees of the KDHE or the KDCF for any purpose.
7. KSDE agrees to maintain all accounts and records pertaining to program activities and expenditures under this Agreement, and to cooperate fully with the KDHE and the KDCF in supplying any information that may be required by the applicable program regulations to comply with program planning, evaluation, monitoring and/or auditing requirements.

8. KSDE acknowledges KDHE, KDCF, the U.S. Department of Education, the Comptroller General of the United States and the State Legislative Division of Post Audit, or any of their duly authorized representatives, shall have a right of access to all accounts and records of the KSDE pertaining to activities and expenditures under this Agreement for the purpose of examination, transcription, program evaluation and/or audit for a period of three (3) years following the termination of this Agreement.

9. All notices, approvals, statements, reports or other communications required under this Agreement to be sent to, or obtained from, the KSDE shall be addressed to the Deputy Commissioner of Education, or his designee, at the following address:

State Department of Education
Landon State Office Building
900 SW Jackson St., Suite 354
Topeka, Kansas 66612-1212

10. In the event KDHE and/or KDCF notifies the KSDE in writing of specific items of noncompliance with the conditions of this Agreement and the KSDE fails to correct the deficiency within ten working days, the KDHE and/or the KDCF shall have the right to terminate this Agreement and the funding provided hereunder.

11. KDHE and/or KDCF may terminate this Agreement in whole or in part at any time by giving written notice to KSDE of its intent to terminate the Agreement at least thirty days prior to the proposed termination date. Termination shall be effective as of the date specified in the notice. KSDE shall continue to perform any part of the work that may have not been terminated by the notice.

12. In the event of termination, KSDE shall receive payment prorated for that portion of the contract period services were provided to or goods were accepted by the KDHE and/or the KDCF.

13. This Agreement is nonassignable and no assignment thereof in whole or part by KSDE for any purpose shall take effect and be binding against KDHE and/or KDCF.

14. KSDE expressly agrees to comply with the Kansas Student Data Privacy Act (SDPA), K.S.A. 72-6215 through 72-6223, and amendments thereto and the Family Educational Rights and Privacy Act (FERPA) 30 U.S.C. 1232 g and 34 CFR Part 99, regarding any personally identifiable student information that may be released or made available to the KSDE, its agents, employees or any persons under its supervision or control in accordance with this Agreement or in the performance of the services described herein.

15. The provisions contained in the Contractual Provisions Attachment (Form DA-146a), attached hereto and marked Attachment B, are incorporated by reference and made a part of this Agreement as though fully set forth at length herein.

16. The KSDE certifies by its representative's signature hereon that neither it, its principals, or any employee with which the KSDE will utilize in furtherance of this agreement are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement by any federal department or agency.

IN WITNESS WHEREOF, the duly authorized representatives of the parties hereto have executed this Agreement to be effective the date first above written.

Kansas State Board of Education
Landon State Office Building , Suite 354
900 SW Jackson Street
Topeka, Kansas 66612-1212

By: _____
Dr. Randy Watson
Commissioner of Education
900 SW Jackson
Topeka, KS 66612

By: _____
Dr. Susan Mosier, M.D., MBA, FACS
Secretary and State Health Officer
Kansas Department of Health and Environment
1000 SW Jackson
Topeka, KS 66612

Date: _____

Date: _____

By: _____
Phyllis Gilmore
Secretary
Kansas Department for Children and Families
555 S. Kansas Ave.
Topeka, KS 66603

Date: _____

SCOPE OF WORK – ATTACHMENT A

KSDE agrees to the following:

a) Coordinate with state agencies (KDHE, and KDCF) and the Coordinating Council for Early Childhood Disability Services (CCECDS) to ensure that a comprehensive service delivery system of integrated services is available in Kansas for all children with or at risk of development delays from birth through age five and their families.

b) Work in collaboration with the leadership of the Special Education Advisory Council (SEAC) and the Early Childhood Advisory Council (ECAC) to maintain regular and ongoing communication and sharing of information between these councils.

c) Make staff available to advise and assist the lead agencies, KDHE and KSDE, for IDEA Parts C and B 619 respectively, through CCECDS and committee meetings, including the Executive Committee, to address improvement activities, transition, public awareness, accountability, and other needs identified through Parts C and B Section 619 as related to state or federal performance requirements. This may also include reviewing strategic plans related to a variety of early childhood initiatives and activities in Kansas to ensure that the interests of young children with disabilities and their families are addressed. Meetings will occur at least quarterly.

d) Coordinate with all the state agencies that are members of CCECDS on preparation of agendas to ensure all parties have input on upcoming CCECDS meetings. KSDE staff will disseminate draft agenda, previous minutes, and written staff, committee and agency reports prior to the meeting, as available. Arrange facilities and logistics, prepare minutes and post on the website.

e) Facilitate communication and flow of information with the chairperson of each of the local ICC's in Kansas. The Part C coordinator, Part B Section 619 coordinator, coordinator of the Head Start State Collaboration Office (HSCCO), and the staff of the CCECDS will coordinate and develop a format to collect consistent data from the local ICC's. Attend a minimum of eighteen (18) LICC meetings annually to assist them in meeting the requirements of KAR 28-4-565. Provide written reports to the CCECDS and State Agencies at each scheduled meeting regarding the specific outcomes, data collected from local ICC's and anticipated follow-up activities of each local ICC technical assistance visit completed.

f) By August 30 of each year covered by this Agreement, provide an annual report to the Governor, to the secretaries of KDHE and KDCF, and to the Commissioner of Education about the accomplishments of the council from the prior state fiscal year ending June 30. This report shall be separate from the Annual Performance Report (APR) submitted to the Office of Special Education Programs (OSEP) of the U.S. Department of Education. The report will address the activities of the CCECDS related to the duties detailed in MOA and progress toward the outcomes outlined in the annual strategic plan. The annual report will be posted on the CCECDS website. Until the cancellation, termination, or contrary amendments of this Agreement, annual reports will be submitted in subsequent years about the accomplishments of the year prior as outlined above.

g) Utilize a public notice process to announce vacancies on the Council and post online the selection process. Conduct an initial orientation of new members utilizing an orientation manual, and conduct annual

training of all members with records of participation during a fall full council meeting when all council members' appointments have been confirmed. Annual training will include review of council procedures, policies, roles, expectations, and responsibilities; and discussion of the current Memorandum of Agreement and the Strategic Plan.

h) Maintain a current membership directory on the ICC website to include names, constituencies represented, and term expiration.

i) Solicit information and opinions from concerned agencies, groups, and individuals on proposed policies and recommendations for the delivery of health, education, and social services of young children from birth through age five, with or at risk for disabling conditions and their families.

j) Other duties as outlined in federal and state laws and regulations.

CONTRACTUAL PROVISIONS ATTACHMENT B

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the ____ day of _____, 20____.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.

2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.

3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges-hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

9. **Responsibility For Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.

11. **Information:** **No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.**

12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.