

**BEDFORD COUNTY SCHOOL BOARD'S STANDARD
TERMS AND CONDITIONS FOR PURCHASE ORDERS**

I. GENERAL PROVISIONS

Unless otherwise agreed to in a writing signed by the Chief Financial Officer of Bedford County Public Schools and approved as to form by the attorney for the Bedford County School Board, these Standard Terms and Conditions apply to and govern all purchases, regardless of the type of goods or services purchased, between the Bedford County School Board (the "Board") and the "Contractor" or "Vendor").

I. PROVISIONS REQUIRED BY VIRGINIA LAW

1. During the Contract Period, Contractor or Vendor will comply and conform with the provisions of the Civil Rights Act of 1964, as amended, the Virginia Fair Employment Contracting Act of 1975, as amended, and the Virginia Values Act, as amended, where applicable.
2. **NONDISCRIMINATION.** Contractor or Vendor agree that during the performance of the Agreement:
 - A. It will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin, except where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of Contractor or Vendor. Contractor or Vendor agrees to post in conspicuous places, available to employees and applicants, notices setting forth the provisions of this nondiscrimination clause.
 - B. It will state that it is an equal opportunity employer in all solicitations or advertisements for employees placed by it or on its behalf. Notices, solicitations, and advertisements placed in accordance with federal law, rule, or regulations shall be deemed sufficient for the purposes of meeting the requirements of this section.
 - C. It will, if the Contractor or Vendor employs more than five employees (i) provide annual training on the Contractor's or Vendor's sexual harassment policy to all supervisors and employees providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Commonwealth of Virginia's Department of Human Resource Management, and (ii) post the Contractor's or Vendor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the contractor owns or leases for business purposes and (b) the contractor's employee handbook.
 - D. It will include the provisions of the foregoing paragraphs A, B, and C in every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each such subcontractor or contractor or vendor.

Commented [AWT1]: This new provision is required by statute.

3. **DRUG FREE WORKPLACE.** During the performance of the Agreement, Contractor or Vendor agrees to:
- A. provide a drug-free workplace for Contractor's or Vendor's employees;
 - B. post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in Contractor or Vendor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
 - C. state in all solicitations or advertisements for employees placed by or on behalf of Contractor or Vendor that Contractor or Vendor maintains a drug-free workplace; and
 - D. include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with the Agreement.

4. **RELIGIOUS ORGANIZATIONS.** The Bedford County School Board does not discriminate against faith-based organizations. Pursuant to Section 2.2-4343.1 of the Code of Virginia and applicable Board policy, in all solicitations, contracts, and purchase orders, the Board does not discriminate against faith-based organizations.
- A. "Faith-based Organization" means a religious organization that is or applies to be a Contractor to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193.
 - B. If Contractor is a faith-based organization, then Contractor shall give to each individual who applies for or receives goods, services, or disbursements provided pursuant to this Agreement the following notice in bold-face type:

NOTICE

Neither the Board's selection of a charitable or faith-based provider of services nor the expenditure of funds under this contract is an endorsement of the provider's charitable or religious character, practices, or expression. No provider of services may discriminate against you on the basis of religion, a religious belief, or your refusal to actively participate in a religious practice. If you object to a particular provider because of its religious character, you may request assignment to a different provider. If you believe that your rights have been

violated, please discuss the complaint with your provider or notify the appropriate person as indicated in this form.

C. If Contractor or Vendor is a faith-based organization, then Contractor or Vendor contracting with the School Board (i) shall not discriminate against any recipient of goods, services, or disbursements made pursuant to a contract authorized by this section on the basis of the recipient's religion, religious belief, or refusal to participate in a religious practice or on the basis of race, age, color, gender, sexual orientation, gender identity, or national origin and (ii) shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. Nothing in clause (ii) shall be construed to supersede or otherwise override any other applicable state law.

5. **AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA.** Contractor or Vendor warrants that it is, and for the duration of the Agreement shall remain, authorized to transact business in the Commonwealth of Virginia and that the identification number issued to it by the Virginia State Corporation Commission is _____.
6. **IMMIGRATION LAW.** Contractor or Vendor represents and warrants that it does not, and shall not during the performance of the Agreement, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
7. **CERTIFICATION REGARDING VIOLENT FELONS AND SEX OFFENDERS.** By entering into the Agreement, Contractor or Vendor certifies, as required by Section 22.1-296.1 of the Code of Virginia, that none of the persons who will provide services requiring direct contact with students on school property during school hours or during school-sponsored activities has been convicted of a felony or any offense involving the sexual molestation, physical, or sexual abuse or rape of a child. Contractor or Vendor shall complete the "Certification of Contractor or Vendor/Employee" set forth in **Attachment 1**. Contractor or Vendor shall promptly report to the Bedford County School Board any change that would make this certification no longer accurate.

Contractor or Vendor further understands and acknowledges (1) that if Contractor or Vendor makes a materially false statement regarding any of the above offenses, Contractor or Vendor will be guilty of a Class 1 misdemeanor and (2) that before any person is permitted to provide such services subsequent to this certification, Contractor or Vendor must complete a new certification regarding such person.

8. **NONAPPROPRIATIONS.** This Agreement shall be null, void, and unenforceable if the Bedford County School Board fails to receive, or to continue to receive, funds which, in its sole opinion, are sufficient to meet its obligations hereunder.

Commented [AWT2]: Just fyi, the law does now allow a school board to contract for services by individuals who are non-violent felons if they have had their civil rights restored.

9. **PROMPT PAYMENT REQUIREMENTS FOR SUBCONTRACTORS.** If subcontractors are used in the performance of the Agreement:

Contractor or Vendor shall take one of the two following actions within seven days after receipt of amounts paid to it for work performed by a subcontractor:

- A. Pay the subcontractor for the proportionate share of the total payment received from the Bedford County School Board attributable to the work performed by the subcontractor; or
- B. Notify the Bedford County School Board and subcontractor, in writing, of Contractor or Vendor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

Contractor or Vendor shall provide the Bedford County School Board with its federal employer identification number prior to receiving any payments hereunder.

Contractor or Vendor shall pay interest to the subcontractor on all amounts owed by it that remain unpaid after seven days following receipt by it of payment from the Bedford County School Board for work performed by the subcontractor under the contract, except for amounts withheld as allowed in subparagraph b above.

Unless otherwise provided under the terms of the contract, interest shall accrue at the rate of one percent per month for amounts owed to a subcontractor.

Contractor or Vendor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

Contractor or Vendor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this paragraph shall not be construed to be an obligation of the Bedford County School Board. The contract shall not be modified for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

II. OTHER REQUIRED PROVISIONS

- 1. **HOLD HARMLESS.** Recognizing that the Bedford County School Board cannot validly enter into a hold harmless provision under Virginia law, any provision in the Agreement requiring the Bedford County School Board to indemnify or hold harmless Contractor or Vendor for any act or omission shall not have any effect or be enforceable against the Bedford County School Board.
- 2. **INDEMNITY.** Contractor or Vendor shall indemnify and hold harmless the Bedford County School Board, its officers, boards, commissions, agents and employees against any and all claims, demands, causes of action, suits, proceedings, damages, costs or liabilities (including costs or liabilities of the Bedford County School Board with

respect to its employees), of every kind and nature whatsoever, including, but not limited to, damages for injury or death or damages to person or property, regardless of the merit of any of the same, including any attorney fees, accountant fees, expert witness or consultant fees, court costs, per diem, expense traveling and transportation expense, or other costs or expense arising out of or pertaining to the performance of the Agreement by Contractor or Vendor unless resulting from the gross negligence or willful misconduct of the Bedford County School Board or its officers, boards, commissions, agents or employees.

3. **PROCUREMENT.** Solicitations are subject to applicable School Board policy, which is hereby incorporated into this Contract in its entirety. ANY SOLICITATION OR CONTRACT DOCUMENTS THAT ARE ISSUED, REQUESTED OR EXECUTED IN VIOLATION OF BEDFORD COUNTY SCHOOL BOARD POLICY, OR VIRGINIA LAW ARE VOID AB INTIO, AND OF NO EFFECT, REGARDLESS OF WHETHER ANY PURCHASE HAS BEEN MADE PURSUANT TO A PURCHASE ORDER OR OTHER CONTRACT AND IRRESPECTIVE OF THE AMOUNT OR LENGTH OF THE CONTRACTOR'S OR VENDOR'S PERFORMANCE UNDER THE CONTRACT DOCUMENTS.
4. **CHOICE OF LAW AND VENUE.** The Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Virginia without giving effect to the principles of conflicts of laws. Any legal action arising under this Agreement shall be brought in the general district court or the circuit court located in Bedford County, Virginia.
5. **WARRANTIES.** All goods and services must be warranted to be merchantable, fit for usual and ordinary purposes, and to meet usual, ordinary and expected standards.
6. **ASSIGNMENT.** Contractor or Vendor shall not assign this Agreement without the prior written consent of the Bedford County School Board.
7. **TAXES.** The Bedford County School Board is a political subdivision of the Commonwealth of Virginia and is exempt from federal excise tax and all state and local taxes. Contractor or Vendor shall not include such taxes in any invoices under this Agreement. Upon request, the Bedford County School Board will furnish Contractor or Vendor with tax exemption certificates or the Bedford County School Board's tax-exempt number.
8. **PAYMENT.** The Bedford County School Board will pay any valid invoices within thirty (30) days after the receipt of the invoice or thirty (30) days after the receipt of all goods or services, whichever is later. The Bedford County School Board shall not be subjected to any interest, late charges, or attorney's fees or other legal costs.
8. **SEVERABILITY.** If any provision of this Agreement is void or deemed unenforceable for any reason, the unenforceable provision shall be deemed severed from the remaining provisions of this Agreement, which shall otherwise remain in full force.

9. **MODIFICATION OF THE CONTRACT.** The Agreement shall not be amended, modified, or otherwise changed except by the written consent of Contractor or Vendor and the Bedford County School Board.
10. **COMPLIANCE WITH LAWS.** Contractor or Vendor shall comply with all federal, state, and local statutes, ordinances, and regulations now in effect or hereafter adopted, in the performance of this Agreement. Contractor or Vendor represents that it possesses all necessary licenses and permits required to conduct its business and/or will acquire any additional licenses and permits necessary for performance of this Agreement prior to the initiation of work. If Contractor or Vendor is a corporation, Contractor or Vendor further expressly represents that it is a corporation of good standing in the Commonwealth of Virginia and will remain in good standing throughout the term of the Agreement and any extensions.
11. **ACCESSIBILITY.** The Bedford County School Board is fully committed to the requirements of the Americans with Disabilities Act (“ADA”) and Section 504 of the Rehabilitation Act (“Section 504”) which guarantees non-discrimination and equal access for persons with disabilities in employment, public accommodations, transportation, and all Bedford County School Board programs, activities, and services (“Services”). Contractor or Vendor is subject to this requirement and agrees that it will operate any Services in a manner that will enable the Bedford County School Board to meet its obligations under the ADA and Section 504. Contractor or Vendor further agrees to use all reasonable efforts to meet the needs of an individual requiring accommodations when accessing or using Contractor or Vendor’s Services.
12. **STUDENT PRIVACY.** By entering into this Agreement, Contractor or Vendor acknowledges that the Bedford County School Board is subject to and must comply with the Family Educational Rights and Privacy Act (“FERPA”). Contractor or Vendor agrees and understands that it may be given access to “educational records” as the term in defined by FERPA. To the extent Contractor or Vendor is given access to “educational records,” Contractor or Vendor will ensure that those records remain strictly confidential and not be disclosed to third parties, unless specifically authorized by the School Board or the individual student’s parent or legal guardian in writing. Moreover, if Contractor or Vendor is a School Service Provider as defined in School Board Policy JRCA, Contractor or Vendor acknowledges and agrees that it shall be bound by all requirements set forth in School Board Policy JRCA.
13. **INSURANCE.** If requested by the Bedford County School Board, Contractor or Vendor shall purchase and maintain in force, at its own expense, such insurance as will protect Contractor or Vendor and Bedford County School Board from claims which may arise out of or result from the Contractor or Vendor’s execution of the Agreement, whether such execution be Contractor or Vendor, its employees, agents, subcontractors, or by anyone for whose acts any of them may be liable. The insurance coverages shall be such as to fully protect the Bedford County School Board and the general public from any and all claims for injury and damage resulting by any actions on the part of Contractor or Vendor.

Contractor or Vendor shall furnish insurance in satisfactory limits, and on forms and of companies that are acceptable to the Bedford County School Board and shall require and show evidence of insurance coverages on behalf of any subcontractors (if applicable).

The Contractor or Vendor shall maintain during the initial term and any additional terms of this Agreement the following equivalent coverage and minimum limits:

- A. Commercial General Liability \$1,000,000 Combined Single Limit per occurrence.
- B. Automobile Liability \$1,000,000 Combined Single Limit per occurrence
- C. Workers' Compensation Virginia Statutory limits
- D. Employers' Liability \$100,000 each accident
- E. Umbrella/Excess Liability \$5,000,000
- F. Professional Liability (if appropriate) \$1,000,000 occurrence limit, \$2,000,000 aggregate.

If an insurance certificate is used as evidence of the required insurance, the insurance certificate:

- A. Must reflect that the Commercial General Liability policy names "the Bedford County School Board, its officers, employees, and agents" as an additional insured by endorsement to the policy;
- B. Must reflect that the policies are endorsed to require no less than 30 days' notice of cancellation or other change in coverage to the Bedford School Board;
- C. Must have an authorized signature;
- D. The Certificate Holder should be listed as "Bedford County School Board."

14. **TERMINATION.** It shall be the sole right of the Bedford County School Board to terminate the Agreement upon written notification to the Contractor or Vendor. Moreover, the Bedford County School Board reserves the right to cancel and terminate the Agreement at any time, without penalty, for unsatisfactory product quality and/or service on the part of Contractor or Vendor, in the sole judgment of the Bedford County School Board, or when the Bedford County School Board determines the cancellation to be in its best interests. Repeated delayed or partial deliveries and returns for inadequate, damaged, or spoiled products shall be interpreted as failure to meet contractual obligations and may cause cancellation of the Agreement. Upon receipt of notice of termination, Contractor or Vendor shall cease all deliveries or services unless advised by the Bedford County School Board to do otherwise. In the event of termination, Contractor or Vendor shall be

compensated for those deliveries or services provided to the satisfaction of the Bedford County School Board as of the date of termination.

15. **RULES OF CONDUCT FOR OUTSIDE CONTRACTORS.** Contractor or Vendor agrees to comply with all requirements and certification set forth under Regulation FEG-R, Rules of Conduct for Outside Contractors, the terms of which are incorporated into this Agreement by reference.
16. **CLAIM OF BREACH.** In the event Contractor or Vendor alleges or claims that the Bedford County School Board is in breach of any provision of the Agreement, Contractor or Vendor shall submit a written notice setting forth all relevant details. Copy of the notice shall be sent to Wade T. Anderson, Sands Anderson PC, 1111 East Main Street, Suite 2400, Richmond, VA 23218-1998. The Bedford County School Board shall have 30 days to correct any alleged breach without penalty. If no agreement is reached after 30 days from receipt of the written notice, Contractor or Vendor shall follow the Claims Procedure set forth below. Failure to comply with this notice requirement and Claims Procedure shall result in waiver and release of any claims by Contractor or Vendor.
17. **CLAIMS PROCEDURE.** Notice of Claim must be submitted to the Bedford County School Board in writing no later than sixty (60) days from the time of occurrence of events upon which the claim is based. The Notice of Claim must provide all facts or justifications with supporting documentation. The Bedford County School Board will consider all facts set forth in the Notice of Claim and render a decision within sixty (60) days of receipt of the Notice of Claim.
18. **NOTICES.** All requests, notices and other communications required or permitted to be given under the Contract Documents shall be in writing. Delivery of a notice shall be deemed to have been made when such notice is either:

- A. duly mailed by first-class mail, postage prepaid, return receipt requested, or any comparable or superior postal or air courier service then in effect; or
- B. transmitted by hand delivery, telegram, telex, telecopy or facsimile transmission, to the party entitled to receive the same at the address indicated below or at such other address as such party shall have specified by written notice to the other party. Notices to the Board shall be sent to:

Superintendent of Schools
Bedford County Public Schools
311 South Bridge Street
Bedford, VA 24523

With a copy to:
Wade T. Anderson, Esq.
Sands Anderson, P.C.
P.O. Box 1998

Commented [AWT3]: I was not able to locate this regulation. Can you send me a copy?

Richmond, VA 23218-1998

ATTACHMENT 1

CERTIFICATION OF NO CRIMES AGAINST CHILDREN

Contractor acknowledges that the implementation of this Agreement requires Contractor, Contractor's employees, Vendor, or Vendor's employees or other persons that will provide services under this Agreement to have direct contact with **Bedford County Public Schools** students. Therefore, Contractor or Vendor hereby certifies that neither Contractor, Contractor's employees, Vendor, or Vendor's employees, nor any person that will provide services under this Agreement who will have direct contact with students on school property during regular school hours or during school-sponsored activities have been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child.

Contractor or Vendor understands that, pursuant to Code of Virginia § 22.1-296.1. making a materially false statement regarding offenses which are required to be included in the certification referenced above is a Class I misdemeanor and, upon conviction, the fact of such conviction shall be grounds for the revocation of the contract to provide such services and, when relevant, the revocation of any license required to provide such services. The **Bedford County School Board** shall not be liable for materially false statements regarding the certifications required under this Contract.

Have you, your employees, or any person who will have direct contact with students under this contract been convicted of a violent felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child?

NO

YES (please explain) _____

Contractor/Vendor

Date

By: _____

Print: _____

Title: _____

