



Contract Number: CT-CS-14*510
 Effective Date: 7-1-14
 Term Date: 6-30-15
 Cost: \$162,500.-
 Revenue: _____
 Total: _____ NTE: _____
 Action
 Renewal By: 4-1-15
 Term: 6-30-15
 Reviewed by: [Signature]

BOARD OF SUPERVISORS AGENDA ITEM SUMMARY

Requested Board Meeting Date: July 1, 2014

ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:

Background

SER—Jobs for Progress of Southern Arizona, Inc. "Contractor" provides basic education and English as a Second Language to adults, dislocated workers, and youth over age 18 to prepare them for the workforce.

Contractor and County in entering into this Contract have relied upon information provided in the Pima County Solicitation RFP No. CSET-WF-2011-01 including the Instructions to Bidders, Standard Terms and Conditions, Specific Terms and Conditions, Solicitation Addenda, Contractor's Proposal and on other information and documents submitted by the Contractor in its' response to said Solicitation.

Effective Date: 7/1/14

Termination Date: 6/30/15

Contract Amount: \$162,500.00

Contract Officer: Risé Hart, 243-6723

Payment System: AMS

CONTRACT NUMBER (If applicable): CT-CS-14-510

STAFF RECOMMENDATION(S):

To be approved by Board of Supervisors.

CORPORATE HEADQUARTERS: _____

Procure Dept 05/11/14 PM02:31

Ver. - 1
 Vendor - 1
 Pgs 17
 To: COP - 6-18-14
 Agenda 7-1-14
 (1)

CLERK OF BOARD USE ONLY: BOX M.G.

ITEM NO.

PIMA COUNTY COST: \$162,500.00

and/or REVENUE TO PIMA COUNTY: _____

FUNDING SOURCE(S): U.S. Department of Labor, Arizona Dept. of Economic Security Workforce Investment Act (WIA) grant funds (90%) and other workforce fund sources obtained by the county (10%).

Advertised Public Hearing:

		YES	X	NO
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Board of Supervisors District:

1		2		3		4		5		All	XX
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IMPACT:

IF APPROVED:

SER will be able to continue to provide basic education and ESL services in Pima County.

IF DENIED:

May impact basic education and ESL services provided in Pima County.

DEPARTMENT NAME: Community Services

CONTACT PERSON: Risé Hart

TELEPHONE NO.: 243-6723

**PIMA COUNTY COMMUNITY SERVICES,
EMPLOYMENT AND TRAINING DEPARTMENT
PROFESSIONAL SERVICES CONTRACT**

CONTRACT
NO. <u>CT.CS-14000000000000000000510</u>
AMENDMENT NO. _____
<small>This number must appear on all invoices, correspondence and documents pertaining to this contract.</small>

Program Name: Basic Education and English as a Second Language (ESL) for Adults, Dislocated Workers and Youth over age 18

Contractor: SER-Jobs for Progress of Southern Arizona, Inc.
40 West 28th Street
Tucson, AZ 85713
(520) 624-8629 Fax 623-5754

Amount: \$162,500.00

Contract Term: July 1, 2014 through June 30, 2015

Funding: U.S. Department of Labor, Arizona Department of Economic Security, and other workforce fund source(s) obtained by County

Recitals

This Contract is made by and between Pima County, a body politic and corporate of the State of Arizona, ("County") and SER—Jobs for Progress of Southern Arizona, Inc. ("Contractor").

WHEREAS, County receives funds from federal, state and local sources to operate the One Stop Career Center System local workforce program; and

WHEREAS, pursuant to A.R.S. § 11-254.04, County may appropriate and spend public monies for and in connection with activities that the County Board of Supervisors finds and determines will assist in the creation or retention of jobs or will otherwise improve or enhance the economic welfare of the County inhabitants; and

WHEREAS, County finds that the provision of workforce development services is in the best interest of the residents of the County and, therefore, requires the services of a Contractor qualified to provide such services to local residents; and

WHEREAS, County's Workforce Investment Board ("WIB"), issued Request for Proposals No. RFP-CSET-WF-CSET-WF-2011-01 ("the RFP") for workforce development services; and

WHEREAS, Contractor has specialized training and expertise in providing workforce development services and has submitted a response to the RFP that is beneficial to the residents of the County.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I – TERM AND EXTENSIONS

- A. This Contract, as awarded by County, shall commence on July 1, 2014, and shall terminate on June 30, 2015, unless sooner terminated or further extended pursuant to the provisions of this Contract. The County shall have the option to renew this Contract for up to two (2) 12-month periods or any portion thereof.
- B. Any modification or extension of the contract termination date shall be by formal written amendment executed by the parties hereto.

- C. Amendments to the Contract must be approved by the County, as required by the Pima County Procurement Code, before any services under the amendment commences.

ARTICLE II – SCOPE OF SERVICES

- A. The Contractor shall provide the County with those services as described in the attached **Exhibit A** in accordance with the terms and conditions of this Contract.
- B. Contractor shall employ suitably trained and skilled personnel to perform all services under this Contract.
- C. Contractor shall perform its duties under this Contract in a humane and respectful manner and in accordance with any applicable professional standards. Contractor shall obtain and maintain all applicable licenses, permits and authority required for its performance under this Contract.
- D. Unless otherwise provided for herein, the personnel delivering Contract services shall be employees or volunteers of the Contractor and shall satisfy any qualifications and carry out any duties set forth in this Contract and shall be covered by personnel policies and practices of Contractor. Contractor's employees shall not be considered officers, employees or agents of the County. Contractor certifies that no individual or agent has been employed or retained to solicit or secure this Contract for commission, percentage, brokerage or contingent fee except a bona fide employee maintained by the Contractor to secure business.
- E. No program funded under this Contract shall impair existing contracts for services or collective bargaining agreements or be inconsistent with the terms of a collective bargaining agreement without the written concurrence of the labor organization and employer concerned.

ARTICLE III – COMPENSATION AND PAYMENT

- A. In consideration for the services specified in **Exhibit A** of this Contract, County agrees to pay Contractor in an amount not-to-exceed **\$162,500.00**.
- B. Funding is from United States Department of Labor (DOL), Arizona (AZ) Department of Economic Security (DES), and other workforce fund source(s) obtained by County.
- C. Request for payments must be submitted to the County by the 15th working day of each month for the previous month of service. Invoices must be:
1. On invoices approved and signed by an authorized representative of the Contractor.
 2. For services and costs as identified in **Exhibit A** and must reference this contract number.
 3. Supportable by documentation which Contractor shall provide to County upon request.
 4. Verifiable by County representative.
 5. In compliance with Office of Management and Budget (OMB) Cost Principles Circular A-122 for personnel costs.
 6. Only for properly enrolled, eligible, and documented One Stop participants. (County shall determine the eligibility of each program participant.)
 7. Only for authorized expenses which are not paid or reimbursed by another Federal or grant revenue source.
- D. **REQUEST FOR FINAL PAYMENT** for compensation earned and/or eligible costs incurred shall be submitted to the County within 15 working days **after the end of the contract** on invoices that meet the requirements set forth in Paragraph C above.
- E. Payment by County will generally occur thirty (30) days from the date of invoice. Contractor

should budget their cash needs accordingly.

- F. Contractor shall report to the County: accrued expenditures, any program income as defined in 29 CFR Part 97.25, and all other fiscal resources applied to expenses incurred in providing services under this Contract
- G. Changes between budget line items may only be made as follows:
1. Changes of LESS than 15% of the total budget amount may be granted by and at the sole discretion of the Director of Community Services, Employment and Training (CSET) or his designee. Contractor must submit a written request and show that any proposed increase is offset by a decrease of equal value to the remaining line items. No increase to the total operating budget will be allowed. **The change will not be effective, nor will compensation under the change be provided, until the date set forth in the written approval of the Director or his designee.**
 2. Changes of MORE than 15% of the total budget will require a contract amendment. **The change will not be effective, nor will compensation under the change be provided, until the contract amendment is fully executed by both parties.**
- H. No payments will be made to Contractor, until all of the following conditions are met:
1. Contractor has completed and submitted a W-9 Taxpayer Identification Number form (<http://www.irs.gov/pub/irs-pdf/fw9.pdf>);
 2. Contractor has registered as a Pima County Vendor at the following web address -- <https://secure.pima.gov/procurement/vramp/login.aspx>; and
 3. This Contract is fully executed.
- I. Advances: County may advance funds allocated under this Contract only if the Director of CSET finds that the advance is justified by extraordinary circumstances. Contractor's report of cumulative and projected expenditures and earnings in performance of this Contract, verified by County staff, shall accompany and support Contractor's written request for an advance. Advance payments are a debt of Contractor to County. County shall not pay for activities and expenditures billed by Contractor under this Contract until the total amount payable by County exceeds the amount of outstanding advance payments. Unless, within thirty days after an advance payment, activities and expenditures billed by Contractor and payable by County under this Contract equal or exceed the amount of the advance payment, Contractor shall immediately repay the difference to County.
- J. Within 30 days of a request from County, Contractor shall submit to the County the portion of any payment, which exceeds the amount owed under this Contract, except as provided in paragraph I above.
- K. Interest income: Any Interest income in excess of \$250 earned on funds advanced pursuant to Paragraph I above and deposited in interest bearing accounts shall be remitted annually. Interest income earned in excess of \$250.00 annually must be returned in accordance with requirements at 29 CFR Part 95.22(I) for non-profit organizations and institutions of higher education. For state, local governments, and tribal governments, interest income earned in excess of \$100.00 annually must be remitted at least quarterly in accordance with 29 CFR Part 97.21(I).
- L. Disallowed Charges or Cost principles shall be as follows:
1. The cost principle set forth in the Code of Federal Regulations (CFR), Title 48, Chapter 1, Part 31.201-6(e), (October 1, 1991), as modified by amendments and additions, on file with the Secretary of State and incorporated herein by reference, shall be used to determine the allowability of incurred costs for the purpose of reimbursing costs under Contract provisions

which provide for the reimbursements of costs. Those costs which are specifically defined as unallowable therein will not be submitted for reimbursement by the Contractor and may not be reimbursed with Department funds.

2. Contractor shall reimburse County for improper, unallowable or unsubstantiated costs discovered as a result of audit or otherwise within thirty (30) days following demand for reimbursement by County.
- M. Funding and services of grant-funded programs are limited to the amount of funds allocated to and made available to County for this program. The maximum funding under this Contract is subject to availability and continuation of grant funding. This amount may be decreased at any time due to reduction, termination, or any other change in funding.
- N. For the period of record retention required under **Article XXI – Books and Records**, County reserves the right to question any payment made under this Article and to require reimbursement therefore by setoff or otherwise for payments determined to be improper or contrary to the Contract or law.

ARTICLE IV – INSURANCE

- A. Pima County in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Agreement by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.
- B. Minimum Scope and Limits of Insurance: Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability – Occurrence Form

- a. Policy shall include bodily injury, property damage, personal injury and broad form contractual liability.

i. General Aggregate	\$2,000,000.00
ii. Products – Completed Operations Aggregate	\$1,000,000.00
iii. Personal and Advertising Injury	\$1,000,000.00
iv. Blanket Contractual Liability – Written and Oral	\$1,000,000.00
v. Fire Legal Liability	\$ 50,000.00
vi. Each Occurrence	\$1,000,000.00

- b. The policy shall be endorsed to **include coverage for sexual abuse and molestation**.
- c. The policy shall be endorsed to include the following additional insured language: **“Pima County is named an additional insured with respect to liability arising out of the activities performed by or on behalf of the Contractor”**.
- d. Policy shall contain a waiver of subrogation against Pima County, its departments, agencies, boards, commissions, and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Agreement.

- a. Combined Single Limit (CSL) \$1,000,000.00
 - i. The policy shall be endorsed to include the following additional insured language: **"Pima County is named an additional insured with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor"**.
 - ii. Policy shall contain a waiver of subrogation against Pima County, its departments, agencies, boards, commissions and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

3. Worker's Compensation and Employers' Liability

- a. Workers' Compensation Statutory
- b. Employers' Liability:
 - i. Each Accident \$ 500,000.00
 - ii. Disease – Each Employee \$ 500,000.00
 - iii. Disease – Policy Limit \$1,000,000.00
- c. Policy shall contain a waiver of subrogation against Pima County, its departments, agencies, boards, commissions and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- d. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

C. Additional Insurance Requirements: The policies shall contain, or be endorsed to contain, the following provisions:

- 1. Pima County, wherever additional insured status is required, shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Agreement.
- 2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
- 3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Agreement.

D. Notice of Cancellation: Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to Pima County. Such notice shall be sent directly to the **Department Director, Arthur Eckstrom, 2797 E. Ajo Way, Tucson, AZ 85713** and shall be sent by certified mail, return receipt

requested. The Project Name/Contract Number and project description shall be noted on the Certificate of Insurance.

- E. Acceptability of Insurers: Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency. All Certificates of Insurance are to be received and approved by Pima County before work commences.

ARTICLE V – INDEMNIFICATION

- A. Contractor shall indemnify, defend, and hold harmless County, its officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of any act, omission, fault or negligence by the Contractor, its agents, employees or anyone under its direction or control or on its behalf in connection with performance of this Contract.
- B. Contractor warrants that all products and services provided under this Contract are non-infringing. Contractor will indemnify, defend and hold County harmless from any claim of infringement arising from services provided under this Contract or from the provision, license, transfer or use for their intended purpose of any products provided under this Contract.

ARTICLE VI – COMPLIANCE WITH LAWS

- A. Contractor shall comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Contract. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Contract, and any disputes hereunder. Any action relating to this Contract shall be brought in a court of the State of Arizona in Pima County. Any changes in the governing laws, rules, and regulations during the terms of this Contract shall apply, but do not require an amendment.
- B. In addition, Contractor, as Subcontractor, warrants compliance with all applicable laws, regulations, requirements and special provisions, in carrying out its obligations pursuant to this Contract, as set forth in **Exhibit B**, Subcontractor's Warranties.

ARTICLE VII – INDEPENDENT CONTRACTOR

The status of Contractor shall be that of an independent contractor. Neither Contractor nor Contractor's officers, agents, or employees shall be considered an employee of Pima County or be entitled to receive any employment-related fringe benefits under the Pima County Merit System. Contractor shall be responsible for payment of all federal, state and local taxes associated with the compensation received pursuant to this Contract and shall indemnify and hold County harmless from any and all liability which County may incur because of Contractor's failure to pay such taxes. Contractor shall be solely responsible for its program development, operation, and performance.

ARTICLE VIII – SUBCONTRACTOR

Contractor will be fully responsible for all acts and omissions of any subcontractor and of persons directly or indirectly employed by any subcontractor and of persons for whose acts any of them may be liable to the same extent that the Contractor is responsible for the acts and omissions of persons directly employed by it. Nothing in this contract shall create any obligation on the part of County to pay or see to the payment of any money due any subcontractor, except as may be required by law.

ARTICLE IX – ASSIGNMENT

Contractor shall not assign its rights to this Contract in whole or in part, without prior written approval of the County. Approval may be withheld at the sole discretion of the County, provided that such approval shall not be unreasonably withheld.

ARTICLE X – NON-DISCRIMINATION

Contractor agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 **including flow down of all provisions and requirements to any subcontractors.** Executive Order 2009-09 supersedes Executive order 99-4 and amends Executive order 75-5 and may be viewed and downloaded at the Governor of the State of Arizona's website:

http://www.azgovernor.gov/dms/upload/EO_2009_09.pdf

These provisions are hereby incorporated into this contract as if set forth in full herein. During the performance of this contract, Contractor shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

ARTICLE XI – AMERICANS WITH DISABILITIES ACT

Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. If Contractor is carrying out a government program or services on behalf of County, then Contractor shall maintain accessibility to the program to the same extent and degree that would be required by the County under 28 CFR Sections 35.130, 35.133, 35.149 through 35.151, 35.160, 35.161 and 35.163. Failure to do so could result in the termination of this Contract.

ARTICLE XII – AUTHORITY TO CONTRACT

Contractor warrants its right and power to enter into this Contract. If any court or administrative agency determines that County does not have authority to enter into this Contract, County shall not be liable to Contractor or any third party by reason of such determination or by reason of this Contract.

ARTICLE XIII – FULL AND COMPLETE PERFORMANCE

The failure of either party to insist on one or more instances upon the full and complete performance with any of the terms or conditions of this Contract to be performed on the part of the other, or to take any action permitted as a result thereof, shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time shall not be construed as an accord and satisfaction.

ARTICLE XIV – CANCELLATION FOR CONFLICT OF INTEREST

This Contract is subject to cancellation for conflict of interest pursuant to ARS § 38-511, the pertinent provisions of which are incorporated into this Contract by reference. In addition, Contractor agrees to comply with all applicable conflict of interest provisions contained in Federal and State laws and regulations that govern specific funding sources identified in the contract, including, but not limited to, those governing nepotism.

ARTICLE XV – TERMINATION/SUSPENSION

- A. Termination for Convenience: County reserves the right to terminate this Contract at any time and without cause by serving upon Contractor 30 days advance written notice of such intent to terminate. In the event of such termination, the County's only obligation to Contractor shall be payment for services rendered prior to the date of termination.
- B. Insufficient Funds: Notwithstanding Paragraph A above, if any state or federal grant monies used to pay for performance under this Contract are either reduced or withdrawn, County shall have the right to either reduce the services to be provided and the total dollar amount payable under this Contract or terminate the Contract. To the extent possible, County will endeavor to provide fifteen (15) days written notice of such reduction or termination. In the event of a reduction in the amount payable, County shall not be liable to Contractor for more than the reduced amount. In the event of a termination under this paragraph, County's only obligation to Contractor shall be payment for services rendered prior to the date of termination to the extent that grant funds are available.
- C. Termination for Cause: This Contract may be terminated at any time without advance notice and without further obligation by the County when the Contractor is found by County to be in default of any provision of this Contract.
- D. Non-Appropriation: Notwithstanding any other provision in this Contract, this Contract may be terminated if for any reason, there are not sufficient appropriated and available monies for the purpose of maintaining County or other public entity obligations under this Contract. In the event of such termination, County shall have no further obligation to Contractor, other than for services rendered prior to termination.
- E. Suspension: County reserves the right to suspend Contractor's performance and payments under this Contract immediately upon notice delivered to contractor's designated agent in order to investigate Contractor's activities and compliance with this Contract. In the event of an investigation by County, Contractor shall cooperate fully and provide all requested information and documentation. At the conclusion of the investigation, or within forty-five (45) days, whichever is sooner, Contractor will be notified in writing that the contract will be immediately terminated or that performance may be resumed.

ARTICLE XVI – NOTICE

- A. Contractor shall give written notice of any change of corporate or entity status as promptly as possible and, in any event, within fifteen days after the change is effective. A change in corporate or entity status includes, but is not limited to, change from unincorporated to incorporated status and vice versa and any suspension or termination of corporate status based on failure to comply with all applicable federal, state, and local reporting requirements.
- B. Any notice required or permitted to be given under this Contract shall be in writing and shall be served by delivery or by certified mail upon the other party as follows:

County:

Arthur Eckstrom, Director
Pima County Community Services
2797 E. Ajo Way
Tucson, AZ 85713

Contractor:

Ernesto Urias
SER-Jobs for Progress of Southern Arizona
40 West 28th Street
Tucson, AZ 85713

ARTICLE XVII – NON-EXCLUSIVE CONTRACT

Contractor understands that this Contract is nonexclusive and is for the sole convenience of County. County reserves the right to obtain like services from other sources for any reason.

ARTICLE XVIII – OTHER DOCUMENTS

Contractor and County in entering into this Contract have relied upon information provided in the Pima County Solicitation RFP No. RFP-CSET-WF-2012/2013 including the Instructions to Bidders, Standard Terms and Conditions, Specific Terms and Conditions, Solicitation Addenda, Contractor's Proposal and on other information and documents submitted by the Contractor in its' response to said Solicitation. These documents are hereby incorporated into and made a part of this Contract as if set forth in full herein, to the extent not inconsistent with the provisions of this contract.

ARTICLE XIX – REMEDIES

Either party may pursue any remedies provided by law for the breach of this Contract. No right or remedy is intended to be exclusive of any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Contract.

ARTICLE XX – SEVERABILITY

Each provision of this Contract stands alone, and any provision of this Contract found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Contract.

ARTICLE XXI – BOOKS AND RECORDS

- A. Contractor shall keep and maintain proper and complete books, records and accounts, which shall be open at all reasonable times for inspection and audit by duly authorized representatives of County.
- B. In addition, Contractor shall retain all records relating to this contract at least 5 years after Contractor submits its single or last expenditure report or until completion of any action and resolution of all issues which arise from any related litigation, claim, negotiations, audit or other action involving the records that was started before the expiration of the 5-year period, whichever is later.

ARTICLE XXII – AUDIT REQUIREMENTS

- A. Contractor shall:
 - 1. Establish and maintain a separate, identifiable accounting of all funds provided by County pursuant to this Contract. Such records shall record all expenditures which are used to support invoices and requests for payment from the County under this Contract.
 - 2. Establish and maintain accounting records which identify the source and application of any funds not provided under this Contract used to support these Contract activities.
 - 3. All accounting records must meet the requirements of the Federal, State, County, and generally accepted accounting principles laws and regulations.
 - 4. Upon written notice from County, provide a program-specific or financial audit. Such notice from County will specify the period to be covered by the audit, the type of audit and the deadline for completion and submission of the audit.
 - 5. Assure that any audit conducted pursuant to this Contract is performed by a qualified, independent accounting firm and submitted to County within six (6) months of completion of the audit required pursuant to this Article, unless a different time is specified by County. The audit submitted must include Contractor responses, if any, concerning any audit findings.
 - 6. Pay all costs for any audit required or requested pursuant to this Article, unless the cost is allowable for payment with the grant funds provided pursuant to this Contract under the

appropriate federal or state grant law and the cost was specifically included in the Contractor grant budget approved by County.

7. County audit requirements applicable to all contracts are as follows:
 - a. If total expenditures are GREATER than \$100,000, but less than \$500,000, then a program-specific audit in accordance with generally accepted auditing standards, which includes compliance testing, is required annually.
 - b. If total expenditures are LESS than \$100,000, but at least \$50,000, then a program-specific audit in accordance with generally accepted auditing standards, which includes compliance testing, is required bi-annually.
 - c. Agencies with total expenditures LESS than \$50,000 do not have an annual federal audit requirement.
8. Timely submit the required or requested audit(s) to:

Arthur Eckstrom, Director
Community Services, Employment & Training Dept.
2797 E. Ajo Way, 3rd Floor
Tucson, AZ 85713

- B. If Contractor is a "nonprofit corporation" that meets the definition of "corporation" in A.R.S. §10-3140, Contractor shall comply with the applicable audit requirements set forth in A.R.S. § 11-624, "Audit of Non-Profit Corporations Receiving County Monies."
- C. If Contractor is a government entity, Contractor shall comply with federal single audit requirements and, upon request from County, provide County with a copy of the required audit document within ninety (90) days following the end of Contractor's fiscal year.
- D. If Contractor is receiving federal funds under this Contract, and Contractor is a state or local government or non-profit organization, Contractor shall provide an annual audit which complies with the requirements of the most recent version of OMB Circular A-133 "Audits of State and Local Governments and Non-Profit Organizations."

ARTICLE XXIII – CONFIDENTIALITY

Contractor shall maintain all client and applicant files confidential and shall provide access to these files only to persons properly authorized. Contractor shall observe and abide by all applicable State and Federal statutes and regulations regarding use or disclosure of information including, but not limited to, information concerning applicants for and recipients of contract services.

ARTICLE XXIV – COPYRIGHT

Neither, Contractor nor its officers, agents or employees shall copyright any materials or products developed through contract services provided or contract expenditures made under this Contract without prior written approval by the County. Upon approval, the County shall have a non-exclusive and irrevocable license to reproduce, publish or otherwise use or authorize the use of any copyrighted material.

ARTICLE XXV – PROPERTY OF THE COUNTY

- A. Contractor is not the agent of County for any purpose and shall not purchase any materials, equipment or supplies on the credit of the County. Contractor shall comply with OMB Circular No. A-122, "Cost Principals for Non-Profit Organizations" (if Contractor is a non-profit corporation), OMB Circular No. A-110, "Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations," and any other applicable regulations.

- B. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the County. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the County.

ARTICLE XXVI – DISPOSAL OF PROPERTY

Upon the termination of this Agreement, all property involved shall revert back to the owner. Termination shall not relieve any party from liabilities or costs already incurred under this Agreement, nor affect any ownership of property pursuant to this Agreement.

ARTICLE XXVII – COORDINATION

On matters relating to the administration of this Contract, County shall be Contractor's contact with all Federal, State and local agencies that provide funding for this Contract.

ARTICLE XXVIII – ACCOUNTABILITY

To the greatest extent permissible by law, County, and any authorized federal, state or local agency, including, but not limited to, the State of Arizona, the U.S. Department of Labor, and the Comptroller of the United States shall at all reasonable times have the right of access to Contractor's facility, books, documents, papers, or other records which are pertinent to this Contract, in order to make audits, examinations, excerpts and transcripts for the purpose of evaluating Contractor's performance and Contractor's compliance with this Contract. This provision shall be included in all contracts between Contractor and its subcontractors providing goods or services pursuant to this Contract. Contractor shall be responsible for subcontractors' compliance with this provision and for any disallowances or withholding of reimbursements resulting from noncompliance of said subcontractors with this provision.

ARTICLE XXIX – PUBLIC INFORMATION

- A. Pursuant to A.R.S. § 39-121 *et seq.*, all information submitted in response to this solicitation, including, but not limited to, pricing, product specifications, work plans, and any supporting data becomes public information and, upon request, is subject to release and/or review by the general public including competitors.
- B. Any records submitted in response to this solicitation that respondent believes constitute proprietary, trade secret or otherwise confidential information must be appropriately and prominently marked as CONFIDENTIAL by respondent prior to the close of the solicitation.
- C. Notwithstanding the above provisions, in the event records marked "CONFIDENTIAL" are requested for public release pursuant to A.R.S. § 39-121 *et seq.*, County shall release records marked CONFIDENTIAL ten (10) business days after the date of notice to the respondent of the request for release, unless respondent has, within the ten day period, secured a protective order, injunctive relief or other appropriate order from a court of competent jurisdiction, enjoining the release of the records. For the purposes of this paragraph, the day of the request for release shall not be counted in the time calculation. Respondent shall be notified of any request for such release on the same day of the request for public release or as soon thereafter as practicable.
- D. County shall not, under any circumstances, be responsible for securing a protective order or other relief enjoining the release of records marked CONFIDENTIAL, nor shall County be in any way financially responsible for any costs associated with securing such an order.

ARTICLE XXX – ELIGIBILITY FOR PUBLIC BENEFITS

AGENCY shall comply with applicable provisions of A.R.S. §§1-501 and 1-502 regarding public benefits, which are hereby incorporated as provisions of this Contract to the extent such provisions are applicable.

ARTICLE XXXI – LEGAL ARIZONA WORKERS ACT COMPLIANCE

- A. Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Contractor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor shall further ensure that each subcontractor who performs any work for Contractor under this contract likewise complies with the State and Federal Immigration Laws.
- B. County shall have the right at any time to inspect the books and records of Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.
- C. Any breach of Contractor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting Contractor to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Contractor shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, (subject to County approval if MWBE preferences apply) as soon as possible so as not to delay project completion.
- D. Contractor shall advise each subcontractor of County's rights, and the Subcontractor's obligations, under this Article by including a provision in each subcontract substantially in the following form:
- "Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor will be deemed to be a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."
- E. Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of Contractor. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of Contractor's approved construction or critical milestones schedule, such period of delay shall be deemed excusable delay for which Contractor shall be entitled to an extension of time, but not costs.

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ARTICLE XXXII – ENTIRE AGREEMENT

This document constitutes the entire agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. This Contract may be modified, amended, altered or extended only by a written amendment signed by the parties.

IN WITNESS THEREOF, the parties have affixed their signatures to this Contract on the date written below.

PIMA COUNTY

Chair, Board of Supervisors

Date

ATTEST

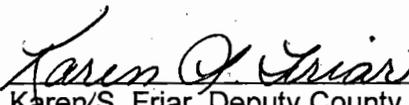
Clerk, Board of Supervisors

APPROVED AS TO CONTENT



Community Services, Employment
& Training Director

APPROVED AS TO FORM



Karen S. Friar, Deputy County Attorney

CONTRACTOR



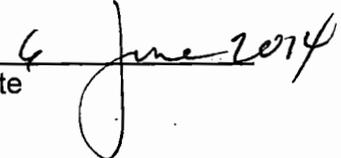
Authorized Officer Signature



Please print name



Title



Date

**EXHIBIT A
SCOPE OF WORK**

CONTRACTOR: SER

PROGRAM: Basic Education

Payment Type: Unit Cost

I. PROGRAM OVERVIEW.

Contractor shall provide Basic Education classes and English as a Second Language classes to clients referred from the One Stop.

Unless otherwise specified herein, participation in programs and activities financially assisted in whole or in part by this Contract shall be open to citizens of the United States, lawfully admitted permanent resident aliens, lawfully admitted refugees and parolees, and other individuals authorized by the U.S. Attorney General to work in the United States.

II. PROGRAM GOALS

- A. Prepare persons of the labor force for current and projected occupations that offer self-sufficient wages or occupations that have a clear career path leading to self-sufficiency.
- B. Assist in the economic development of Pima County by helping to develop a trained, productive labor force that meets employer needs.
- C. Coordinate workforce efforts through the One Stop Career Center System by providing employment and training services authorized under the Workforce Investment Act (WIA) by working with County, mandated WIA partners, and other contractors.

III. PROGRAM ACTIVITIES

- A. Contractor shall provide Basic Education (BE) and English as a Second Language (ESL) classes to clients referred by the County One Stop at least 30 hours a week.
- B. General Requirements. Contractor shall:
 - 1. Ensure that the client has had at least one core service, as defined by WIA, before enrolling the person into BE or ESL.
 - 2. Accept Adult and Dislocated Worker (DW) referrals from One Stop Case Managers. Referrals may be for part-time or full-time remediation, depending on client's schedule and needs.
 - 3. Assess client's academic and language needs to determine areas of weakness and to develop individual goals and objectives.
 - 4. Prepare a lesson plan for each person based on client's long-term occupational goals.
 - 5. Notify referring case manager if and when client is accepted and the client's start date.
 - 6. Make space available for One Stop Case Manager and Job Developer visits.
 - 7. Provide on-site case management and job development, and inform the referring case manager of all steps taken on client's behalf.
 - 8. Conduct periodic testing to assess client's progress.
 - 9. Refer clients to High School Equivalency (HSE) testing, when appropriate.
 - 10. Maintain a file on each client's progress and attendance.
 - 11. Notify referring Case Manager when client is close to reaching client's lesson plan goals.

IV. LOCATION.

SER-Jobs for Progress of Southern Arizona, Inc.
40 W. 28th St.
Tucson, AZ 85713

V. TARGET POPULATION. Pima County residents over the age of 18 who have low functional scores based on the Test for Adult Basic Education (TABE) and/or are limited English speakers. Clients must meet WIA qualifications. Clients may be dislocated workers.

VI. OUTCOMES. Basic Education participants shall advance one grade level for every 100 hours of attendance. Eighty percent (80%) of total participants enrolled shall successfully complete and meet all goals established in their individual plan.

VII. REPORTING.

By the 5th working day of each month, Contractor must submit a monthly cumulative report which shows:

- A. Referrals received from the One Stop;
- B. Client referrals accepted;
- C. Total number of clients served; and
- D. Total number of clients who have completed their individual lesson plans successfully.

VIII. BUDGET. Contractor shall be paid on a Unit Cost basis, of \$6.50 per student per hour ("one unit") for a maximum of 25,000 units.

END EXHIBIT A

EXHIBIT B
SUBCONTRACTOR'S WARRANTIES

Contractor certifies, as evidenced by the signature (initials), that in carrying out its obligations pursuant to this Contract, it shall comply with applicable laws, regulations, requirements and special provisions, as follows:

1. OMB Circular A-122, Cost Principles for Non-Profit Organizations
2. 29 CFR Part 96 and 99, Single Audit Act
3. 29 CFR Part 95, Uniform Administrative Requirements for Institutions of Higher Education, Hospitals, and other Non-Profit Organizations
4. Arizona Department of Economic Security Special Terms and Conditions
5. Workforce Investment Act, P.L. 105-220, and regulations adopted pursuant to that Act, including 20 CFR Part 652, et al, and
6. Wagner-Peyser Act
7. Child labor laws, including, but not limited to A.R.S. § 23-230 *et seq*, to the extent that such provisions are applicable due to statute, case law, County contract or other legal authority.
8. Fingerprinting, including but not limited to A.R.S. § 46-141, to the extent that such provisions are applicable due to statute, case law, County contract or other legal authority.
9. Background Checks for Employment including but not limited to A.R.S. § 8-804, to the extent that such provisions are applicable due to statute, case law, County contract or other legal authority.
10. Debarment and Suspension; Drug Free Workplace, pursuant to 29 CFR Part 98: Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for Debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
11. Lobbying Certification pursuant to 29 CFR Part 93: Contractor certifies that no federal funds have been paid or will be paid, by or on behalf of the contractor to any person or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
12. Nondiscrimination and Equal Opportunity Requirements pursuant to 29 CFR Parts 30, 31, 32, 33, 34, 36 and 37.
13. Contractor certifies that no funds provided pursuant to this Contract shall be used for any partisan or non-partisan political activity or to further the election or defeat of any candidate for public office. No funds provided pursuant to this Contract shall be used to transport voters or prospective voters to and from the polls or render similar assistance in connection with any such election or any voter registration activity.
14. Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).
15. CLEAN AIR ACT & CLEAN WATER ACT: As the Contractor you must be in compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368)
16. ENERGY POLICY AND CONSERVATION ACT: Contractor must adhere to the standards and policies relating to energy efficiency; which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat.871).
17. COPELAND "ANTI-KICKBACK" ACT: Contractor is expected to comply with the Copeland "Anti-Kickback" Act (18 U.S.C.874) as supplemented in the Department of Labor regulations (29 CFR part 3). In as such this regulation applies to all contracts and sub grants for construction or repair.
18. DAVIS-BACON ACT: Contractor must comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5) when required by Federal grant program legislation.