# **CONTRACT OPPORTUNITY:**

Quote Request for the Colorado Department of Education (CDE) Nita M. Lowey 21st Century Community Learning Centers (CCLC) External Evaluation

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| **CDE CONTACT:** | Bonnie Brett, Ph.D.  Research and Evaluation Consultant  Office of Dropout Prevention and Student Re-engagement  [brett\_b@cde.state.co.us](mailto:brett_b@cde.state.co.us) |
| **CONTRACT AMOUNT:** | Not to exceed $15,000 |
| **PROPOSAL DUE DATE:** | July 15, 2024, 5:00 pm Mountain Time |
| **PROGRAM:** | TheNita M. Lowey 21st Century Community Learning Centers (21st CCLC) Grant Program is managed by the Office of Student Support at the Colorado Department of Education (CDE). The 21st Century Community Learning Centers (21st CCLC) competitive grant program is authorized under Title IV, Part B, of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA) of 2015. The purpose of this important program is to establish or expand community learning centers that:   1. **Provide opportunities for academic enrichment** to help students meet state and local student performance standards in core academic subjects such as reading, writing, and mathematics; 2. **Offer students a broad array of additional services, programs, and activities**, such as youth development activities, service learning, nutrition and health education, drug and violence prevention programs, counseling programs, arts, music, physical fitness and wellness programs, technology education programs, financial literacy programs, environmental literacy programs, mathematics, science, career and technical programs, internship or apprenticeship programs, and other ties to an in-demand industry sector or occupation for high school students that are designed to reinforce and complement the regular academic program of participating students; and 3. **Offer families of students served by community learning centers opportunities for active and meaningful engagement in their children’s education**, including opportunities for literacy and related educational development.   Visit the following webpages for more information:   * [Nita M. Lowey 21st Century Community Learning Centers (CCLC) and ESSER II Out-of-School Time (E2 OST) Programs](https://www.cde.state.co.us/21stcclc) * [21st CCLC Subgrantee Resources](https://www.cde.state.co.us/21stcclc/subgranteeresources) (Information is under Evaluation Resources and Data Reporting Requirements) * [External Evaluation of the 21st CCLC Program in Colorado](https://www.cde.state.co.us/21stcclc/evaluation) |
| **PURPOSE:** | The program is now accepting proposals from external evaluators to assist with meeting federal requirements, data storytelling, and providing recommendations for continuous program improvement.  In accordance with sections 4202(c)(3)(C) and 4203(a)(14)(A) of the ESEA, CDE must conduct a comprehensive evaluation of programs and activities provided with 21CCLC funds. The purpose of this Quote Request is to help identify a vendor to provide a comprehensive Evaluation Plan and Evaluation Report of the status of Colorado’s 21st CCLC grant program in Colorado for the 2022-2023 fiscal year by analyzing the data collected by CDE and creating a formal report of the findings. Evaluation results will guide CDE’s efforts to provide assistance to subgrantees, enhance program quality and improve outcomes for 21st CCLC program participants. |
| **FEDERAL & STATE EVALUATION REQUIREMENTS:** | Per federal mandate, this comprehensive evaluation must include, at a minimum—   * Performance indicators and performance measures (see CDE Performance Indicators and Measures section below) that align with the regular academic program of the school(s) participating students attend and the academic needs of those students. These indicators and measures must—   + Be able to track student success and improvement over time;   + Include results for English Language Arts and Math state assessment (CDE uses [Colorado Measures of Academic Success (CMAS)](https://www.cde.state.co.us/assessment/cmas)) results and other indicators of student success and improvement, such as improved attendance during the school day, better classroom grades, regular (or consistent) program attendance, and on-time advancement to the next grade level; and   + For high school students, may include indicators such as career competencies, successful completion of internships or apprenticeships, or work-based learning opportunities; and * A description of how evaluation data were collected.   In addition, CDE seeks an evaluator who will work with the internal program and evaluation team to develop an Evaluation Plan for use over time. This plan will include, at minimum, an overview of evaluation methods, questions, state-level performance indicators and measures, and a logic model.  The vendor will be expected to provide printable electronic copies of the Evaluation Plan, final report, and executive summary to be used and publicly distributed by CDE staff. The audience for the report includes the U.S. Department of Education, CDE staff, subgrantees and their local 21st CCLC programs and communities and the public at large. Examples of previous reports can be seen here <https://www.cde.state.co.us/21stcclc/evaluation>. |
| **CDE PERFORMANCE INDICATORS AND MEASURES:** | The following performance indicators and measures are required by the U.S. Department of Education. CDE reports to the USDOE on the following measures on an annual basis:   1. Activities: unduplicated count by type (i.e., STEAM, literacy, cultural programs) 2. Staffing: unduplicated count by role (i.e., administrators, school day teachers, other non-teaching school day staff) 3. Participation: total hours of participation and demographic analysis by grade-level, race/ethnicity, sex, and population specifics (language, economic, disability status, family members served) 4. Outcomes for students who attend four or more hours of programming (comparing previous/baseline year to present):    1. Academic achievement       1. CMAS ELA and Math scores (grades 4-8)       2. Grade Point Averages (grades 7-8 and 10-12)    2. School day attendance (grades 1-12)    3. Behavior as measured by rates of in-school suspensions (grades 1-12)    4. Engagement as measured by teacher survey data (grades 1-12)   CDE will work with the selected external evaluation vendor to co-create a state-level Evaluation Plan that identifies state-level performance indicators and measures for annual reporting purposes. |
| **DATA:** | CDE collects quantitative and qualitative data from sub-grantees and their local 21st CCLC programs on an annual basis using several methods (see detailed information for each data category in [*Appendix C*](#_heading=h.2ka93qi0k8sj)):   1. [**EZReports**](https://www.ezreports.org/) **- Web-Based Afterschool Management & Reporting Software:**     1. Activities by type (i.e., STEAM, literacy, cultural programs)    2. Staffing by role (i.e., program administrators, school day teachers, other non-teaching school day staff)    3. Participation: unduplicated attendance, regular attendance, and average daily attendance rates for students; unduplicated family participation    4. Outcomes:       1. CMAS ELA and Math scores       2. Grade Point Averages       3. School day attendance rates       4. In-school suspensions       5. Teacher survey data 2. **Qualtrics - End-of-Year Surveys:** Data collected on an annual basis includes student and family participation rates; family, school, community partnership self-assessment; narratives of programmatic successes and challenges; technical assistance needs; progress on state performance measures; and self-assessment of program quality indicators.   During the 2022-2023 school year CDE collected data from 69 subgrantees providing programming at a total of 134 Centers serving over 20,000 youth and over 13,000 family members (this sample includes community learning centers funded by ESSER II funds). |
| **PROJECT PERIOD:** | August 1, 2024 to October 14, 2024 |

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| **Deliverables and Timeline** | **Date** |
| Anticipated Project Awarded | Week of August 1, 2024 |
| Initial Project Meeting and Data Provided | Week of August 1, 2024 |
| 1st Draft of Evaluation Plan to CDE | Week of August 26, 2024 |
| 1st Follow-up meeting | Week of August 26, 2024 |
| 2nd Draft of Evaluation Plan to CDE and follow-up meeting | Week of September 9, 2024 |
| 2nd Follow-up meeting | Week of September 9, 2024 |
| Final Evaluation Plan Due | Week of September 16, 2024 |
| 1st Draft of 2023-2024 Report to CDE | Week of September 23, 2024 |
| 1st Follow-up meeting | Week of October 14, 2024 |
| 2nd Draft of 2023-2024 Report CDE and follow-up meeting | Week of October 14, 2024 |
| 2nd Follow-up meeting | Week of October 14, 2024 |
| Final 2023-2024 Report with Executive Summary Due | Week of October 28, 2024 |
| Close-out Meeting with CDE | By October 31, 2024 |

Please note, CDE may extend this contract with the selected vendor for up to two additional years based on quality of services and deliverables.

# RESPONDING TO THE QUOTE REQUEST:

**Please email proposals to** [**brett\_b@cde.state.co.us**](mailto:brett_b@cde.state.co.us) **by the deadline of July 15, 2024 at 5:00 pm Mountain Time. Proposals should not exceed five pages, single spaced, 11-point font, with 1-inch margins.**

**Please note that any submitted proposals/quotes are subject to the Colorado Open Records Act (CORA) CRS §§24-72-200.1, et seq. and are not confidential.**

The content of the proposal shall include the following:

1. **PROJECT SUMMARY**

The proposal should include a project summary to demonstrate a complete understanding of the intent and requirements.

1. **APPROACH TO TASK**

The proposal should describe fully the proposed approach to meet each of the requirements specified in the [Statement of Work (*Appendix A*](#_heading=h.ae1b8ke4dtwj)*)*. For each task, the following items should be covered:

1. A description of the approach/methodology to work with CDE to co-create an Evaluation Plan and to deliver a 2022-2023 program evaluation
2. A discussion of anticipated challenges in completing deliverables and potential solutions to these anticipated challenges
3. **TIMELINE AND BUDGET**

The proposal should include a timeline of tasks to be completed and a budget aligned with tasks listed in the [Statement of Work](#_heading=h.ae1b8ke4dtwj).

1. **QUALIFICATIONS, EXPERIENCE AND EXPERTISE**

The proposal should include the experience and qualifications of the applicant and key personnel to complete the work described in this contract opportunity. The following items should be covered:

1. A description of experience with data organization and cleaning
2. A description of experience with quantitative and qualitative data analysis
3. A description of experience with writing reports for different audiences
4. A description of experience with data visualizations such as creating charts, graphs, and presenting data in a graphical form (i.e., charts, bar charts, or other visually pleasing data representations)
5. A description of experience evaluating 21st CCLC programs, afterschool/out-of-school time programs, and/or K-12 education programs.
6. **ADDITIONAL REQUIREMENTS**

The proposal should include a statement that demonstrates a complete understanding of the following requirements:

* 1. **CONTRACTUAL REQUIREMENTS:** Upon selection of a successful vendor by CDE, a Purchase Order will be offered to the vendor. CDE’s Purchase Order terms and Conditions are published with this Quote Request as [*Appendix B*](#_heading=h.7u42e8wxerud). In the event that the vendor’s forms (or parts of forms) are included in the vendor’s response and included as attachments or exhibits to the Purchase Order, the vendor agrees that, where there are contradictions or inconsistencies, the PO terms and conditions shall always supersede, manage, and control those of any such appendix or exhibit. The vendor’s submission of a proposal is confirmation that the vendor understands and acknowledges that any award will require a Purchase Order between the State and the vendor containing the attached PO terms and conditions.
  2. **PRIVACY AND SECURITY REQUIREMENTS:** Vendor shall comply to existing privacy/security standards established by the Family Educational Rights and Privacy Act (FERPA), the Student Data Transparency and Security Act (C.R.S. §§22-16-101 et al.), and any other applicable laws, and to OIS’s data privacy and security policies as outlined in [*Appendix*](#_APPENDIX_D) *D*, Confidentiality and Protection of Personally Identifiable Information Agreement. The Confidentiality and Protection of Personally Identifiable Information Agreement is based on [C.R.S. §§22-16-101](https://www.cde.state.co.us/dataprivacyandsecurity/crs22-16-101) et al. Per this statute, CDE cannot enter into or renew a Purchase Order with any individual or entity that refuses to comply with the requirements of the statute. As such, most of the provisions in the Confidentiality and Protection of Personally Identifiable Information Agreement are not negotiable. By submitting a proposal, the Offeror confirms its willingness to agree to the language in the Confidentiality and Protection of Personally Identifiable Information Agreement.
  3. **PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION (PII) IN REPORTS:** Vendor will need to ensure that any reports that will be viewed by individuals other than CDE staff must not contain any information that could be personally identifiable. The Vendor will need to propose a Disclosure Avoidance methodology that will ensure that the reports do not contain PII. The methodology submitted must include processes related to the following:
     1. Best practices for disclosure methods will include suppression, complementary suppression, and top/bottom coding as appropriate. For assistance with these processes, refer to the National Center for Education Statistics Brief discussing Statistical Methods for Protecting Personally Identifiable Information in Aggregate Reporting available here: <https://nces.ed.gov/pubs2011/2011603.pdf>.
     2. Use of a minimum n-size of 16 for students and 5 for educators.
     3. Processes to remove any sensitive and non-sensitive information that, alone or combined with other information that is linked or linkable to a specific individual, would allow identification. Simple removal of direct identifiers from the data to be released shall not constitute adequate de-identification.
     4. Processes to remove all data that in conjunction with previous data releases and other reasonably available information, including publicly available directory information and de-identified data releases from education records and other sources, could allow for identification of a particular individual.
  4. **REPORT REVIEW:** Upon completing the report and completing all the necessary de-identification, Vendor will provide the report(s) to CDE Data Privacy Office ([dataprivacy@cde.state.co.us](mailto:dataprivacy@cde.state.co.us)) for review and approval prior to sending the report(s) to any other individuals or entities aside from Office of Dropout Prevention and Student Re-engagement and Office of Student Support staff.

1. **REQUIRED ATTACHMENTS**

Please submit the following attachments along with the proposal (which are not included in the five-page limit):

* 1. Resumes– Resumes of the key personnel to perform tasks on this project.
  2. Evaluation Report Sample –An example of a completed evaluation report that highlights the skills listed above. Please only select a report that the evaluator/evaluation team has the capacity (e.g., software, time, templates) to replicate. Please include a sample evaluation plan, if available.
  3. Professional References –A list of three relevant references. Reference information should include the following:

1. Contact name
2. Organization
3. Relationship
4. Example work conducted
5. Contact information (including day-time phone number and email)

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| ***Please direct any questions about the application process to Bonnie Brett (***[***brett\_b@cde.state.co.us***](mailto:brett_b@cde.state.co.us)***)*** |

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# APPENDIX A

***21ST CENTURY COMMUNITY LEARNING CENTERS (CCLC) EXTERNAL EVALUATION REPORTING***

The vendor shall provide all personnel and materials needed to complete the following tasks outlined below during the project start/end date.

**TASK 1: MAINTAIN COMMUNICATION WITH THE CDE 21ST CCLC STAFF**

* 1. The vendor shall maintain communication throughout the project with CDE’s Research and Evaluation Consultant and the 21st CCLC Research and Evaluation team.
  2. The vendor shall meet with the Research and Evaluation Consultant and the 21st CCLC team within two weeks of the effective date of contract (EDOC) to discuss the work plan. Prior to this meeting, the Vendor will have read the prepared materials sent by the CCLC team and be prepared to advise on the State team’s proposed plan.
  3. The vendor shall provide a copy of the finalized work plan designed to complete the deliverables and paperwork required to begin the project.
  4. After each draft of both the Evaluation Plan and the final report, the vendor shall meet with the Research and Evaluation Consultant and 21st CCLC team to discuss progress and potential challenges.
  5. The vendor shall communicate with the Research and Evaluation Consultant to acquire any needed data.
  6. More frequent communication will occur as needed.
  7. The vendor will meet with the Research and Evaluation Consultant and the 21st CCLC team to go over the Evaluation Plan as well as the findings of the final Report and close out the project.

**TASK 2: REVIEW RELEVANT MATERIALS**

* 1. The vendor shall review past reports posted on the CDE website (<https://www.cde.state.co.us/21stcclc/evaluation>) to help inform the Evaluation Plan, data analyses, and reporting.
  2. The vendor shall review relevant documents related to the evaluation of the 21st CCLC Grant Program provided by the Research and Evaluation Consultant and the 21st CCLC team.

**TASK 3: REVIEW AND ANALYZE DATA PROVIDED BY CDE**

* 1. The vendor will review the provided data and connect with the Research and Evaluation Consultant to provide any missing data or to answer any questions.
  2. The vendor will organize available data sources and clean the data as needed for the desired analyses.
  3. The vendor will analyze data provided by the CDE and identify relevant trend data and outcomes in order to outline results.

**TASK 4: DEVELOP AN EVALUATION PLAN, TWO DRAFTS, A LOGIC MODEL, AND A FINAL REPORT**

* 1. After an initial conversation with CDE staff concerning evaluation aims and available data, the vendor will create an Evaluation Plan that will guide both the current and future evaluation reports. The plan should satisfy federal reporting requirements and should include, at minimum, an overview of evaluation methodology, evaluation questions, and a logic model.
  2. The vendor will present at least one working draft of the Evaluation Plan to the Research and Evaluation Consultant and will make recommended changes for the final version.
  3. Upon approval of the Evaluation Plan, the vendor shall use the plan in conjunction with reports from previous years as a starting point to create and organize the 2022-2023 report into relevant subject areas. A preliminary conversation with CDE staff will also guide the creation of the first report. The report should include an executive summary.
  4. The vendor shall develop two working drafts of the report to be submitted to the Research and Evaluation Consultant. Along with the first working draft, the vendor will also submit recommendations for areas of further exploration to be expanded upon in the second draft.
  5. The vendor will use effective data visualization strategies to design charts, graphs, or report structure.
  6. The vendor will make recommended changes based on the reviews conducted by the Research and Evaluation Consultant and the 21st CCLC team.
  7. The vendor shall submit a final report to the Research and Evaluation Consultant with an accompanying executive summary. The report will be reviewed and approved by the Research and Evaluation Consultant and the 21st CCLC team.

# APPENDIX B

**State of Colorado Purchase Order Terms and Conditions**

1. **Offer/Acceptance.**  This Purchase Order, together with these terms and conditions (including, if applicable, Addendum 1: Additional Terms and Conditions for Information Technology, and Addendum 2: Additional Terms and Conditions for Federal Provisions, below), and any other attachments, exhibits, specifications, or appendices, whether attached or incorporated by reference (collectively the “PO”) shall represent the entire and exclusive agreement between the State and the Vendor. If this PO refers to Vendor’s bid or proposal, this PO is an ACCEPTANCE of Vendor’s OFFER TO SELL in accordance with the terms and conditions of this PO. If a bid or proposal is not referenced, this PO is an OFFER TO BUY, subject to Vendor’s acceptance, demonstrated by Vendor’s performance or written acceptance of this PO. Any COUNTER-OFFER TO SELL automatically CANCELS this PO, unless a change order accepting the counter-offer is issued in accordance with **§4** accepting a counter-offer. The State shall not be responsible or liable for goods or services delivered or performed prior to issuance of this PO.
2. **Order of Precedence.** In the event of a conflict or inconsistency within this PO, such conflict or inconsistency shall be resolved by giving preference to the documents in the following order of priority: **(a)** If applicable, Addendum 2: Additional Terms and Conditions for Federal Provisions, below; **(b)** the Purchase Order document; **(c)** these Terms and Conditions (including, if applicable, Addendum 1: Additional Terms and Conditions for Information Technology below); and **(d)** any attachments, exhibits, specifications, or appendices, whether attached or incorporated by reference. Any terms and conditions included on Vendor’s forms or invoices not included in this PO are void.
3. **Safety Information.**  All chemicals, equipment, and materials proposed or used in the performance of this PO shall conform to the requirements of the Occupational Safety and Health Act of 1970. Vendor shall furnish all Material Safety Data Sheets (MSDS) for any regulated chemicals, equipment, or hazardous materials at the time of delivery.
4. **Changes.**  Vendor shall furnish goods or services in strict accordance with the specifications and price set forth for each item. This PO shall not be modified, superseded or otherwise altered, except in writing signed by the State and accepted by Vendor. If this PO is for goods only and Vendor has not delivered the goods prior to the expiration of this PO, but Vendor delivers all of the goods to the State only after expiration of this PO, then the State, in its sole discretion, may accept the goods under this PO by extending this PO and delivering the modification to Vendor; however, regardless of anything to the contrary, if the State does not extend this PO for any reason then the goods delivered after expiration of this PO shall be deemed rejected, Vendor shall arrange the return of all delivered goods at Vendor’s sole expense, and the State shall have no liability for any such goods.
5. **Delivery.**  Unless otherwise specified in this PO, delivery shall be FOB destination, freight prepaid and allowed. The State is relying on the promised delivery date and any installation or service performance set forth in this PO as material and basic to the State’s acceptance. If Vendor fails to deliver or perform as and when promised, the State, in its sole discretion, may cancel its order, or any part thereof, without prejudice to its other rights, return all or part of any shipment so made, and charge Vendor with any loss or expense sustained as a result of such failure to deliver or perform as promised. Time is of the essence.
6. **Rights to Materials.** **[*Not Applicable to POs issued either in whole or in part for Information Technology, as defined in CRS § 24-37.5-102(2); which shall be governed by Addendum 1 §B.*]**  Unless specifically stated otherwise in this PO, all materials, including without limitation supplies, equipment, documents, content, information, or other material of any type, whether tangible or intangible (collectively “Materials”), furnished by the State to Vendor or delivered by Vendor to the State in performance of its obligations under this PO shall be the exclusive property of the State. Vendor shall return or deliver all Materials to the State upon completion or termination of this PO.
7. **Reporting.**  If Vendor is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this PO or may affect Vendor’s ability to perform its obligations under this PO, Vendor shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State. Vendor shall disclose, in a timely manner, in writing to the State all violations of federal or state criminal law involving fraud, bribery, or gratuity violations potentially affecting this PO. The State may impose any remedies available, which may include, without limitation, suspension or debarment.
8. **Conflicts of Interest.**  Vendor acknowledges that with respect to this PO, even the appearance of a conflict of interest is harmful to the State’s interests. Absent the State’s prior written approval, Vendor shall refrain from any practices, activities, or relationships that reasonably may appear to be in conflict with the full performance of Vendor’s obligations to the State hereunder. If a conflict or appearance of a conflict of interest exists, or if Vendor is uncertain as to such, Vendor shall submit to the State a disclosure statement setting forth the relevant details for the State’s consideration. Failure to promptly submit a disclosure statement or to follow the State’s direction with respect to the actual or apparent conflict constitutes a breach of this PO. Vendor acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S.  Vendor further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S. with regard to this PO.
9. **Warranties.**  All provisions and remedies of the Colorado Uniform Commercial Code, CRS, Title 4 (“UCC”), relating to implied or express warranties for goods are incorporated herein, in addition to any warranties contained in this PO.
10. **Inspection and Acceptance.**  The State’s final acceptance of goods or services is contingent upon completion of all applicable inspection procedures. All goods delivered shall be newly manufactured and the current model, unless otherwise specified. The State shall have the right to inspect goods or services provided under this PO at all reasonable times and places. The State shall be the sole judge in determining “equals” with regard to conformance with the specifications outlined in this PO for quality, price, and performance. If any of the goods or services do not conform to this PO, the State, at its sole discretion, may require Vendor to either **(a)** replace the goods specified by the State or **(b)** perform the services again, without additional payment from the State. When defects in the quality or quantity of goods or services cannot be corrected by replacement or re-performance, the State may **(c)** require Vendor to take necessary action to ensure that future performance conforms to this PO and **(d)** equitably reduce the payment due Vendor to reflect the reduced value of the goods or services performed. These remedies do not limit the remedies otherwise available in this PO, at law, or in equity.
11. **Taxes.**  The State is exempt from federal excise taxes and from State and local sales and use taxes.
12. **Payment.**  The State shall not pay Vendor any amount for performance under this PO in excess of the Document Total set forth on the Purchase Order document. The State shall pay Vendor for all amounts due within 45 days after the State’s receipt of goods or services and acceptance of a correct invoice of amount due. Amounts not paid by the State within 45 days of the State’s acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate set forth in CRS §24-30-202(24) until paid in full. Interest shall not accrue if a good faith dispute exists as to the State’s obligation to pay all or a portion of the amount due. Vendor shall invoice the State separately for interest on delinquent amounts due, referencing the delinquent payment, number of day’s interest to be paid, and applicable interest rate. The State may benefit from any early payment discount offered by Vendor by making payment within the timeframes required by Vendor to be eligible for such discount. If Vendor offers an early payment discount, then the discount shall be shown on Vendor’s invoices to the State, and if the State makes payment on the invoice within the time frame for the discount, Vendor shall either **(a)** accept the payment amount less the appropriate discount or **(b)** refund the discount back to the State. Except as specifically agreed in this PO, Vendor shall be solely responsible for all costs, expenses, and other charges it incurs in connection with its performance under this PO.
13. **Assignment.** Vendor’s rights and obligations under this PO shall not be transferred or assigned without the prior, written consent of the State and execution of a new PO. Any attempt at assignment or transfer without such consent and new PO shall be void. Any new PO approved by the State shall be subject to the same terms and conditions as those set forth in this PO.
14. **Subcontracts.**  Unless otherwise specified in this PO, Vendor shall not enter into any subcontract in connection with its obligations under this PO without the prior, written approval of the State. Vendor shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Vendor in connection with this PO shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this PO.
15. **Severability.**  The invalidity or unenforceability of any provision of this PO shall not affect the validity or enforceability of any other provision of this PO, which shall remain in full force and effect, provided, that the parties can continue to perform their obligations in accordance with the intent of this PO.
16. **Survival of Certain PO Terms.**  Any provision of this PO that imposes an obligation on a party after termination or expiration of this PO shall survive the termination or expiration of this PO and shall be enforceable by the other party.
17. **Third Party Beneficiaries.**  Except for the parties’ respective successors and assigns, this PO does not and is not intended to confer any rights or remedies upon any person or entity other than the parties. Enforcement of this PO and all rights and obligations hereunder is reserved solely to the parties. Any services or benefits which third parties receive as a result of this PO are incidental to this PO, and do not create any rights for such third parties.
18. **Waiver.**  A party’s failure or delay in exercising any right, power, or privilege under this PO, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.
19. **Indemnification.** [***Not Applicable to Inter-governmental POs***]  Vendor shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the “Indemnified Parties”), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys’ fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Vendor, or its employees, agents, subcontractors, or assignees in connection with this PO. This shall include, without limitation, any and all costs, expenses, claims, damages, liabilities, court awards and other amounts incurred by the Indemnified Parties in relation to any claim that any work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right or any claim for loss or improper disclosure of any confidential information or personally identifiable information.
20. **Notice.**  All notices given under this PO shall be in writing, and shall be delivered to the contacts for each party listed on the Purchase Order document. Either party may change its contact or contact information by notice submitted in writing to the other party without a formal modification to this PO.
21. **Insurance.**  Except as otherwise specifically stated in this PO, Vendor shall obtain and maintain insurance as specified in this section at all times during the term of this PO: **(a)** workers’ compensation insurance as required by state statute, and employers’ liability insurance covering all Vendor employees acting within the course and scope of their employment; **(b)** Commercial general liability insurance written on an Insurance Services Office occurrence form, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows: $1,000,000 each occurrence; $1,000,000 general aggregate; $1,000,000 products and completed operations aggregate; and $50,000 any one fire; and **(c)** Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of $1,000,000 each accident combined single limit. If Vendor will or may have access to any protected information, then Vendor shall also obtain and maintain insurance covering loss and disclosure of protected information and claims based on alleged violations of privacy right through improper use and disclosure of protected information with limits of $1,000,000 each occurrence and $1,000,000 general aggregate at all times during the term of this PO. Additional insurance may be required as provided elsewhere in this PO. All insurance policies required by this PO shall be issued by insurance companies with an AM Best rating of A-VIII or better. This insurance requirement shall not apply if this PO is solely for goods, as determined by the State, unless specifically stated otherwise in this PO or any attachment or exhibit to this PO. If Vendor is a public agency within the meaning of the Colorado Governmental Immunity Act, then this section shall not apply and Vendor shall instead comply with the Colorado Governmental Immunity Act. The State shall be named as additional insured on all commercial general liability policies required of Vendor. All insurance policies secured or maintained by Vendor in relation to this Purchase Order shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Vendor or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.
22. **Termination Prior to Vendor Acceptance**.  If Vendor has not begun performance under this PO, the State may cancel this PO by providing written notice to the Vendor.
23. **Termination for Cause**.  **(a)** If Vendor refuses or fails to timely and properly perform any of its obligations under this PO with such diligence as will ensure its completion within the time specified in this PO, the State may notify Vendor in writing of non-performance and, if not corrected by Vendor within the time specified in the notice, terminate Vendor’s right to proceed with this PO or such part thereof as to which there has been delay or a failure. Vendor shall continue performance of this PO to the extent not terminated. **(b)** Vendor shall be liable for excess costs incurred by the State in procuring similar goods or services and the State may withhold such amounts as the State deems necessary. **(c)** If after rejection, revocation, or other termination of Vendor’s right to proceed under the UCC or this clause, the State determines for any reason that Vendor was not in default or the delay was excusable, the rights and obligations of the State and Vendor shall be the same as if the notice of termination had been issued pursuant to termination under §**24**.
24. **Termination in Public Interest.** The State is entering into this PO for the purpose of carrying out the public interest of the State, as determined by its Governor, General Assembly, or Courts. If this PO ceases to further the public interest of the State as determined by its Governor, General Assembly, or Courts, the State, in its sole discretion, may terminate this PO in whole or in part and such termination shall not be deemed to be a breach of the State’s obligations hereunder. This section shall not apply to a termination for cause, which shall be governed by **§23**. A determination that this PO should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. The State shall give written notice of termination to Vendor specifying the part of this PO terminated and when termination becomes effective. Upon receipt of notice of termination, Vendor shall not incur further obligations except as necessary to mitigate costs of performance. For services or specially manufactured goods, the State shall pay **(a)** reasonable settlement expenses, **(b**) this PO price or rate for supplies and services delivered and accepted, (**c**) reasonable costs of performance on unaccepted supplies and services, and **(d)** a reasonable profit for the unaccepted work. For existing goods, the State shall pay **(e)** reasonable settlement expenses, **(f)** the PO price for goods delivered and accepted, **(g)** reasonable costs incurred in preparation for delivery of the undelivered goods, and **(h)** a reasonable profit for the preparatory work. The State’s termination liability under this section shall not exceed the total PO price. As a condition for payment under this section, Vendor shall submit a termination proposal and reasonable supporting documentation, and cost and pricing data as requested by the State.
25. **Funds Availability.** Financial obligations of the State payable after the State’s current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. If this PO is funded in whole or in part with federal funds, this PO is subject to and contingent upon the continuing availability of federal funds for the purposes hereof. The State represents that it has set aside sufficient funds to make payment for goods delivered in a single installment, in accordance with the terms of this PO.
26. **Governmental Immunity.** Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, CRS §24-10-101, *et seq*., the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State’s risk management statutes, CRS §§24-30-1501, *et seq*. No term or condition of this PO shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.
27. **Independent Contractor**.  Vendor shall perform its duties under this PO as an independent contractor and not as an employee. Neither Vendor nor any agent or employee of Vendor shall be deemed to be an agent or employee of the State. Vendor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Vendor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Vendor or any of its agents or employees. Vendor shall pay when due all applicable employment taxes, income taxes and local head taxes incurred pursuant to this PO. Vendor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.**
28. **Compliance with Law.** Vendor shall comply with all applicable federal and state laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
29. **Choice of Law, Jurisdiction and Venue.** [***Not Applicable to Inter-governmental POs***]  Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this PO. The UCC shall govern this PO in the case of goods unless otherwise agreed in this PO. Any provision included or incorporated herein by reference, which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this PO shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver. Any provision incorporated herein by reference which purports to negate this or any other provision in this PO in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Vendor shall exhaust administrative remedies in CRS §24-109-106, prior to commencing any judicial action against the State.
30. **Prohibited Terms.**  Nothing in this PO shall be construed as a waiver of any provision of CRS §24-106-109. Any term included in this PO that requires the State to indemnify or hold Vendor harmless; requires the State to agree to binding arbitration; limits Vendor’s liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with that statute in any way shall be void ab initio.
31. **Vendor Offset and Erroneous Payments.** [***Not Applicable to Inter-governmental POs or to POs issued solely for goods***]  The State Controller may withhold payment under the State’s Vendor offset intercept system for debts owed to State agencies for: **(a)** unpaid child support debts or child support arrearages; **(b)** unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, *et seq*.; **(c)** unpaid loans due to the Student Loan Division of the Department of Higher Education; **(d)** amounts required to be paid to the Unemployment Compensation Fund; and **(e)** other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State’s discretion, payments made to Vendor in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Vendor by deduction from subsequent payments under this PO, deduction from any payment due under any other contracts, grants or agreements between the State and Vendor, or by any other appropriate method for collecting debts owed to the State.

**ADDENDUM 1:**

**Additional Terms & Conditions for Information Technology**

IF ANY PART OF THE SUBJECT MATTER OF THIS PO IS INFORMATION TECHNOLOGY, AS DEFINED IN

CRS § 24-37.5-102 (2), THE FOLLOWING PROVISIONS ALSO APPLY TO THIS PO.

**A. Definitions.** The following terms shall be construed and interpreted as follows: **(a)** “**Business Day**” means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in CRS §24-11-101(1); **(b)** “**CJI**” means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended, and all Criminal Justice Records as defined under CRS §24-72-302; **(c)**  “**HIPAA**” means the federal Health Information Portability and Accountability Act; **(d)** “**Incident**” means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, pursuant to CRS §§24-37.5-401 *et seq*.; **(e)** “**PCI**” means payment card information including any data related to credit card holders’ names, credit card numbers, or the other credit card information as may be protected by state or federal law; **(f)** “**PHI**” means any protected health information, including, without limitation any information whether oral or recorded in any form or medium that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual including, without limitation, any information defined as Individually Identifiable Health Information by HIPAA; **(g)** “**PII**” means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records, including, without limitation, all information defined as personally identifiable information in CRS §24-72-501. “PII” shall also mean “personal identifying information” as set forth at § 24-74-102, et. seq., C.R.S. ; **(h)** “**State Confidential Information**” means any and all State Records not subject to disclosure under the Colorado Open Records Act, CRS §§24-72-200.1, et seq. (“CORA”), and includes, without limitation, PII, PHI, PCI, Tax Information, CJI, and State personnel records not subject to disclosure under CORA; **(i)** “**State Records**” means any and all State data, information, and records, regardless of physical form; **(j)** “**Tax Information**” means federal and State of Colorado tax information including, without limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation, including, without limitation all information defined as federal tax information in Internal Revenue Service Publication 1075; and **(k)** “**Work Product**” means the tangible and intangible results of the delivery of goods and performance of services, whether finished or unfinished, including drafts.

**B. Intellectual Property.** Except to the extent specifically provided elsewhere in this PO, any State information, including without limitation pre-existing State software, research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials; or Work Product prepared by Vendor in the performance of its obligations under this PO shall be the exclusive property of the State (collectively, “State Materials”). Vendor shall deliver all State Materials to the State upon completion or termination of this PO. The State’s exclusive rights in any Work Product prepared by Vendor shall include, but not be limited to, the right to copy, publish, display, transfer, and prepare derivative works. Vendor shall not use, willingly allow, cause or permit any State Materials to be used for any purpose other than the performance of Vendor’s obligations hereunder without the prior written consent of the State. The State shall maintain complete and accurate records relating to **(a)** its use of all Vendor and third party software licenses and rights to use any Vendor or third party software granted under this PO and its attachments to which the State is a party and **(b)** all amounts payable to Vendor pursuant to this PO and its attachments and the State’s obligations under this PO or to any amounts payable to Vendor in relation to this PO, which records shall contain sufficient information to permit Vendor to confirm the State’s compliance with the use restrictions and payment obligations under this PO or to any third-party use restrictions to which the State is a party. Vendor retains the exclusive rights, title and ownership to any and all pre-existing materials owned by or licensed to Vendor including, but not limited to all pre-existing software, licensed products, associated source code, machine code, text images, audio, video, and third-party materials, delivered by Vendor under this PO, whether incorporated in a deliverable or necessary to use a deliverable (collectively, “Vendor Property”). Vendor Property shall be licensed to the State as set forth in a State-approved license agreement: **(c)** entered into as exhibits or attachments to this PO, **(d)** obtained by the State from the applicable third-party Vendor, or **(e)** in the case of open source software, the license terms set forth in the applicable open source license agreement. Notwithstanding anything to the contrary herein, the State shall not be subject to any provision incorporated in any exhibit or attachment attached hereto, any provision incorporated in any terms and conditions appearing on any website, any provision incorporated into any click through or online agreements, or any provision incorporated into any other document or agreement between the parties that **(i)** requires the State to indemnify Vendor or any other party, **(ii)** is in violation of State laws, regulations, rules, fiscal rules, policies, or other State requirements as deemed solely by the State, or **(iii)** is contrary to this PO.

**C. License or Use Audit Rights.** If this PO includes any license or other right to use Vendor’s intellectual property, Vendor shall have the right, at any time during and throughout the term of this PO, but not more than once during any State fiscal year, to request via written notice in accordance with the notice provisions of this PO that the State audit its use of Vendor’s intellectual property and certify as to its compliance with any applicable license or use restrictions and limitations contained in this PO (an “Audit Request”). The Audit Request shall specify the time period to be covered by the audit, which shall not include any time periods covered by a previous audit. The State shall complete the audit and provide certification of its compliance to Vendor (“Audit Certification”) within 120 days following the State’s receipt of the Audit Request. If upon receipt of the State’s Audit Certification, the parties reasonably determine that: **(a)** the State’s use of licenses, use of software, use of programs, or any other use of intellectual property during the audit period exceeded the use restrictions and limitations contained in this PO (“Overuse”) and **(b)** the State would have been or is then required to purchase additional rights to use Vendor’s intellectual property (“Additional Rights”), Vendor shall provide written notice to the State in accordance with the notice provisions of this PO identifying any Overuse or required Additional Rights and request that the State bring its use into compliance with such use restrictions and limitations. Notwithstanding anything to the contrary in this PO, or incorporated as a part of Vendor’s or any subcontractor’s website, click-through or online agreements, third-party agreements, or any other documents or agreements between the parties, the State shall not be liable for the costs associated with any Overuse or Additional Rights, during the audit period regardless of whether the State may have been notified in advance of such costs.

**D. Vendor Records.** Vendor shall maintain a file of all documents, records, communications, notes, and other materials relating to the work (the “Vendor Records”). Vendor Records shall include all documents, records, communications, notes and other materials maintained by Vendor that relate to any work performed by Subcontractors, and Vendor shall maintain all records related to the work performed by Subcontractors required to ensure proper performance of that work. Unless a longer period is required in this PO or any attachment or exhibit to this PO, Vendor shall maintain Vendor Records until the last to occur of: **(a)** the date 3 years after the date this Purchase Order expires or is terminated, **(b)** final payment under this Purchase Order is made, **(c)** the resolution of any pending Purchase Order matters, or **(d)** if an audit is occurring, or Vendor has received notice that an audit is pending, the date such audit is completed and its findings have been resolved (the “Record Retention Period”).  Vendor shall permit the State, the federal government, and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy, and transcribe Vendor Records during the Record Retention Period. Vendor shall make Vendor Records available during normal business hours at Vendor’s office or place of business, or at other mutually agreed upon times or locations, upon no fewer than 2 Business Days’ notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State. The State, in its discretion, may monitor Vendor’s performance of its obligations under this Purchase Order using procedures as determined by the State. The State shall monitor Vendor’s performance in a manner that does not unduly interfere with Vendor’s performance of the work. Vendor shall promptly submit to the State a copy of any final audit report of an audit performed on Vendor’s records that relates to or affects this Purchase Order or the work, whether the audit is conducted by Vendor or a third party.

**E. Information Confidentiality.**  Vendor shall keep confidential, and cause all subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Vendor shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this PO, permitted by law, or approved in writing by the State. Vendor shall provide for the security of all State Confidential Information in accordance with all applicable laws, rules, policies, publications, and guidelines. If Vendor or any of its subcontractors will or may have access to any State Confidential Information or any other protected information, Vendor shall comply with all Colorado Office of Information Security (OIS) policies and procedures which OIS has issued pursuant to CRS §§24-37.5-401 through 406, and 8 CCR §1501-5 and posted at <https://oit.colorado.gov/standards-policies-guides/technical-standards-policies>, all information security and privacy obligations imposed by any federal, state, or local statute or regulation, or by any industry standards or guidelines, as applicable based on the classification of the data relevant to Vendor’s performance under this PO. Such obligations may arise from HIPAA; IRS Publication 1075; Payment Card Industry Data Security Standard (PCI-DSS); Federal Bureau of Investigation Criminal Justice Information Service Security Addendum; Centers for Medicare & Medicaid Services (CMS) Minimum Acceptable Risk Standards for Exchanges; and Electronic Information Exchange Security Requirements and Procedures for State and Local Agencies Exchanging Electronic Information With The Social Security Administration. Vendor shall immediately forward any request or demand for State Records to the State’s purchasing agent.

**F. Other Entity Access and Nondisclosure Agreements.**  Vendor may provide State Records to its agents, employees, assigns and subcontractors as necessary to perform the work, but shall restrict access to State Confidential Information to those agents, employees, assigns, and subcontractors who require access to perform their obligations under this PO. Vendor shall ensure all such agents, employees, assigns, and subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this PO, and that the nondisclosure provisions are in force at all times the agent, employee, assign or subcontractor has access to any State Confidential Information. Vendor shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions if requested by the State.

**G. Use, Security, and Retention.** Vendor shall use, hold, and maintain State Confidential Information in compliance with all applicable laws and regulations only in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information. Vendor shall provide the State with access, subject to Vendor’s reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this PO, Vendor shall return State Records provided to Vendor or destroy such State Records and certify to the State that it has done so, as directed by the State. If Vendor is prevented by law or regulation from returning or destroying State Confidential Information, Vendor warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

**H. Incident Notice and Remediation.**  If Vendor becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Vendor can establish none of Vendor or any of its agents, employees, assigns, or subcontractors are the cause or source of the Incident, Vendor shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Vendor shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State. The State may adjust or direct modifications to this plan, in its sole discretion and Vendor shall make all modifications as directed by the State. If Vendor cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Vendor shall reimburse the State for the reasonable actual costs thereof.

**I. Data Protection and Handling.**  Vendor shall ensure that all State Records and Work Product in the possession of Vendor or any subcontractors are protected and handled in accordance with the requirements of this PO at all times. Upon request by the State made any time prior to 60 days following the termination of this PO for any reason, whether or not this PO is expiring or terminating, Vendor shall make available to the State a complete and secure download file of all data that is encrypted and appropriately authenticated. This download file shall be made available to the State within 10 Business Days following the State’s request, and shall contain, without limitation, all State Records, Work Product, and system schema and transformation definitions, or delimited text files with documents, detailed schema definitions, and attachments in its native format. Upon the termination of Vendor’s services under this PO, Vendor shall, as directed by the State, return all State Records provided by the State to Vendor, and the copies thereof, to the State or destroy all such State Records and certify to the State that it has done so. If legal obligations imposed upon Vendor prevent Vendor from returning or destroying all or part of the State Records provided by the State, Vendor shall guarantee the confidentiality of all State Records in Vendor’s possession and will not actively process such data. The State retains the right to use the established operational services to access and retrieve State Records stored on Vendor’s infrastructure at its sole discretion and at any time.

**J. Compliance with OIS Policies and Procedure.**  Vendor shall review, on a semi-annual basis, all Colorado Office of Information Security (“OIS”) policies and procedures which OIS has promulgated pursuant to CRS §§ 24-37.5-401 through 406 and 8 CCR § 1501-5 and posted at <https://oit.colorado.gov/standards-policies-guides/technical-standards-policies>, to ensure compliance with the standards and guidelines published therein. Vendor shall cooperate, and shall cause its subcontractors to cooperate, with the performance of security audit and penetration tests by OIS or its designee.

**K. Safeguarding PII.**  If Vendor or any of its subcontractors will or may receive PII under this PO, Vendor shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, all State requirements relating to non-disclosure, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Vendor shall be a “Third-Party Service Provider” as defined in CRS §24-73-103(1)(i) and shall maintain security procedures and practices consistent with CRS §§24-73-101.  In addition, as set forth in § 24-74-102, et. seq., C.R.S., Contractor, including, but not limited to, Contractor’s employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If Contractor is given direct access to any State databases containing PII, Contractor shall execute, on behalf of itself and its employees, the certification [PII Individual Certification Form](about:blank) or [PII Entity Certification Form](about:blank) [Download form from Hyperlink] on an annual basis and Contractor’s duty and obligation to certify shall continue as long as Contractor has direct access to any State databases containing PII. If Contractor uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Contractor shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

**L. Software Piracy Prohibition.** State or other public funds payable under this PO shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Vendor hereby certifies and warrants that, during the term of this PO and any extensions, Vendor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Vendor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this PO, including, without limitation, immediate termination of this PO and any remedy consistent with federal copyright laws or applicable licensing restrictions.

**M. Information Technology.** To the extent that Vendor provides physical or logical storage of State Records; Vendor creates, uses, processes, discloses, transmits, or disposes of State Records; or Vendor is otherwise given physical or logical access to State Records in order to perform Vendor’s obligations under this PO, Vendor shall, and shall cause its subcontractors, to: **(a)** provide physical and logical protection for all hardware, software, applications, and data that meets or exceeds industry standards and the requirements of this PO; **(b)** maintain network, system, and application security, which includes, but is not limited to, network firewalls, intrusion detection (host and network), annual security testing, and improvements or enhancements consistent with evolving industry standards; **(c)** comply with State and federal rules and regulations related to overall security, privacy, confidentiality, integrity, availability, and auditing; **(d)** provide that security is not compromised by unauthorized access to workspaces, computers, networks, software, databases, or other physical or electronic environments; **(e)** promptly report all Incidents, including Incidents that do not result in unauthorized disclosure or loss of data integrity, to a designated representative of the OIS; and **(f)** comply with all rules, policies, procedures, and standards issued by the Governor’s Office of Information Technology (OIT), including project lifecycle methodology and governance, technical standards, documentation, and other requirements posted at <https://oit.colorado.gov/standards-policies-guides/technical-standards-policies>. Vendor shall not allow remote access to State Records from outside the United States, including access by Vendor’s employees or agents, without the prior express written consent of OIS. Vendor shall communicate any request regarding non-U.S. access to State Records to the State. The State, acting by and through OIS, shall have sole discretion to grant or deny any such request.

**N. Accessibility.**  Vendor shall comply with and the Work Product provided under this PO shall be in compliance with all applicable provisions of §§24-85-101, *et seq.*, C.R.S., and the*Accessibility Standards for Individuals with a Disability,* as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S. Vendor shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards. Vendor shall indemnify, save, and hold harmless the Indemnified Parties against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys’ fees and related costs) incurred by any of the Indemnified Parties in relation to Vendor’s failure to comply with §§24-85-101, *et seq*., C.R.S., or the*Accessibility Standards for Individuals with a Disability* as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S. The State may require Vendor’s compliance to the State’s Accessibility Standards to be determined by a third party selected by the State to attest to Vendor’s Work Product and software is in compliance with §§24-85-101, *et seq*., C.R.S., and the*Accessibility Standards for Individuals with a Disability* as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

**ADDENDUM 2:**

**Additional Terms & Conditions for Federal Provisions**

IF ANY PART OF THIS PO HAS BEEN FUNDED, IN WHOLE OR IN PART, WITH FEDERAL FUNDS, THE FOLLOWING PROVISIONS SHALL ALSO APPLY TO THIS PO.

1. **Applicability of Provisions.**
   1. The Contract or Purchase Order to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Contract or Purchase Order, or any attachments or exhibits incorporated into and made a part of the Contract or Purchase Order, the provisions of these Federal Provisions shall control.
2. **Compliance.**
   1. Contractor shall comply with all applicable provisions of the Transparency Act, all applicable provisions of the Uniform Guidance, and the regulations issued pursuant thereto, including but not limited to these federal Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
3. **System for Award Management (SAM) and UNIQUE ENTITY ID Requirements.**
   1. SAM. Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later.  Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
   2. Unique Entity ID. Contractor shall provide its Unique Entity ID to its Recipient, and shall update Contractor’s information at http://www.sam.gov at least annually after the initial registration, and more frequently if required by changes in Contractor’s information.
4. **Contract Provisions Required by Uniform Guidance Appendix II to Part 200.**
   1. **Contracts for more than the simplified acquisition threshold,** which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. The simplified acquisitions threshold is $250,000
   2. **All contracts in excess of $10,000 must address termination for cause and for convenience** by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
   3. **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR Part 60, “Office of federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
   4. **Davis-Bacon Act**, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
   5. **Contract Work Hours and Safety Standards Act** (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
   6. **Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
   7. **Clean Air Act (42 U.S.C. 7401-7671q.) and the federal Water Pollution Control Act (33 U.S.C. 1251-1387),** as amended - Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
   8. **Debarment and Suspension** (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
   9. **Byrd Anti-Lobbying Amendment** (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
   10. **Prohibition on certain telecommunications and video surveillance services or equipment §2 CFR 200.216**
       1. Recipients and sub recipients are prohibited from obligating or expending loan or grant funds to:
          1. Procure or obtain;
          2. Extend or renew a contract to procure or obtain; or
          3. Enter into a contract (or extend a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
   11. **Contracts with small and minority businesses, women’s business enterprises, and labor surplus area firms. (2 CFR §200.321).** The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
   12. **Domestic preferences for procurements. (2 CFR §200.322)** As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
   13. **Procurement of recovered materials. (2 CFR §200.323)** A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

1. **Termination for Convenience of the Government**
   1. Pursuant to §4.2 of these Federal Provisions, the State of Colorado may terminate this contract, in whole or in part, when it is in the Government’s interest. Solicitations and contracts shall include clauses as required by FAR 49.502 (2023).  Termination for convenience of the government shall comply with the following provisions of the Federal Acquisition Regulations:
      1. For Fixed Price Contracts: FAR 52.249-2 (2023)
      2. For Contracts for Personal Services: FAR 52.249-12 (2023)
      3. For Construction Contracts for Dismantling, Demolition, or Removal of Improvements: FAR 52.249-3 (2023)
      4. For Educational and Other Nonprofit Institutions: FAR 52.249-5 (2023)
2. **Event of Default.**
   1. Failure to comply with these Federal Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.

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# APPENDIX C

# *21st CCLC DATA ELEMENTS*

## Federal Performance Measures

The following information is collected by CDE from 21st CCLC subgrantees and reported to the U.S. Department of Education (USDOE) by the center level in aggregate on an annual basis.

**Activities**

**Activity Categories**

* Academic Enrichment
* Activities for English Learners
* Assistance to Students who have been Truant, Suspended, or Expelled
* Career Competencies and Career Readiness\*
* Cultural Programs
* Drug and Violence Prevention and Counseling
* Expanded Library Service Hours
* Healthy and Active Lifestyle
* Literacy Education
* Parenting Skills and Family Literacy
* Science, Technology, Engineering, and Mathematics, including computer science
* Services for Individuals with Disabilities
* Telecommunications and Technology Education
* Well-rounded Education Activities, including credit

**Data elements**

* How many participants attended each identified activity during the term.
* How many total hours of each activity the center offered during the term.

**Staffing**

**Staff type**

* administrator
* college student
* community member
* high school student
* parent
* school day teacher
* other non-teaching school staff
* subcontracted staff
* other

**Data elements**

* Whether staff members were paid or were volunteers

**Participation**

**Data elements**

* Grade levels of student participants (K-12)
* Student participation by hour band
  + At least 4 hours, and less than 15 hours
  + 15-44 hours
  + 45-89 hours
  + 90-179 hours
  + 180-269 hours
  + 270 hours or more
* Race/Ethnicity
  + American Indian or Alaska Native
  + Asian
  + Black or African American
  + Hispanic or Latino
  + Native Hawaiian or Pacific Islander
  + White
  + Two or more races
  + Data Not Provided
* Sex
  + Male
  + Female
  + Not Reported in Male or Female
  + Data Not Provided
* Population Specifics
  + Students who are English learners
  + Students who are economically disadvantaged
  + Students with disabilities
* Family members of participants served

**Outcomes**

Outcomes of the 21st CCLC federal grant program that must be reported are from the Government Results and Performance Act, or GPRA. The following student outcomes are reported via state data sources available to CDE, and CDE aggregates the provided data and reports student data by center to the USDOE:

* GPRA Measure: Student Academic Achievement
  + Percentage of students in grades 4-8 participating in 21st CCLC programming during the school year and summer who demonstrate growth in reading and language arts on state assessments.
  + Data source: Colorado Measures of Academic Success (CMAS) English Language Arts and Math scores
* GPRA Measure: Student School Day Attendance
  + Percentage of students in grades 1-12 participating in 21st CCLC during the school year who had a school day attendance rate at or below 90% in the prior school year and demonstrated an improved attendance rate in the current school year.
  + Data source: Previous year and current year student attendance rates

The following student outcomes are reported by the subgrantee by student, and CDE aggregates the provided data and reports student data by center to the USDOE:

* GPRA Measure: Student Academic Achievement
  + Percentage of students in grades 7-8 and 10-12 attending 21st CCLC programming during the school year and summer with a prior-year unweighted Grade Point Average (GPA) of less than 3.0 who demonstrated an improved GPA.
  + Data source: Previous year and current year student Grant Point Averages (GPAs)
* GPRA Measure: Student Behavior
  + Percentage of students in grades 1-12 attending 21st CCLC programming during the school year and summer who experienced a decrease in in-school suspensions compared to the previous school year.
  + Data source: Previous year and current year number of student In-School Suspensions
* GPRA Measure: Student Engagement in Learning
  + Percentage of students in grades 1–5 participating in 21st CCLC programming in the school year and summer who demonstrated an improvement in teacher-reported engagement in learning
  + Data source: Annually collected teacher survey for each student attending at least 75 hours of programming during the school year)
    - Questions: Since the beginning of the school year, to what extent has your student changed their behavior in the following areas?
      * Completing classwork and homework on time?
      * Completing homework to your satisfaction?
      * Participating in class (in person, virtual, hybrid, and/or remote)?
      * Attending class regularly?
      * Coming to school motivated to learn?
      * Being attentive in class?
      * Behaving well in class?
      * Getting along well with other students?
    - Range of answers
      * Not Applicable
      * Did Not Need to Improve
      * Declined
      * Maintained/No Improvement
      * Improved

## 

## State Performance Measures

The following information is reported by the subgrantee by center on an annual basis, and CDE uses this information to help inform technical assistance for continuous improvement as well as the annual statewide external evaluation.

**Data elements**

* Students served: comparing projected and actual Participation Targets
  + Unduplicated: Count of students attending 21st CCLC programming at least once during the attendance reporting period
  + Regular: Count of students who have attended 75 hours or more of programming are considered regular participants.
  + Average Daily Attendance (ADA): Count of students attending programming at each center on any given day on average during the school year program and during the summer program. ADA is determined by dividing the total monthly attendance by the number of program days in the month.
  + Unduplicated Family Members: Count of participating parents, guardians, siblings, aunts, uncles, grandparents, etc. of students served in the program.
* Teacher survey response rate
* Family, school, community partnership self-assessment
* Programmatic narratives of successes and challenges
* Technical Assistance Feedback and Requests
* State Performance Measures for three areas: 1) Core Academics, 2) Essential Skills/Educational Enrichment, and 3) Family Engagement
  + Progress reporting categories: exceeded, met, making progress, not making progress data not available
  + Data validation
* Teacher Survey response rate (CDE expects a 100% response rate)
* Narratives of programmatic successes and challenges
* Updates on technical assistance needs
* Quality Implementation Rubric (QIR) and Action Tool(s) to inform CDE staff of program implementation progress. The rubric measures effectiveness of program implementation and program quality in years one through four of the grant cycle.
* Local Evaluation Summaries
* Sustainability Plan with Funding Chart in Year 2 of the initial three-year grant period

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# APPENDIX D

**CONFIDENTIALITY AND PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION AGREEMENT**

This **Education Data Exhibit** shall remain in effect and be binding on both Parties for as long as a purchase order is in place regarding the Work and as a long as the education Data Exhibit is attached to a purchase order.

**This Education Data Exhibit will not be valid as a stand-alone document; it must be attached to and only becomes valid when attached to an executed Purchase Order**.

This exhibit regarding **Education Data Privacy Provisions** (the “**Education Data Exhibit**”) is an essential part of the Agreement between the State and Contractor as described in the Purchase Order to which this **Education Data Exhibit** is attached. Unless the context clearly requires a distinction between the Purchase Order and this **Education Data Exhibit**, all references to “Purchase Order” shall include this Education Data Exhibit.

1. The following definitions shall apply to this Education Data Exhibit:
   1. “Business Days” means any day other than Saturday, Sunday, or a Legal Holiday recognized by CDE.
   2. "Destroy" means to remove Education Data from Contractor’s systems, paper files, records, databases, and any other media regardless of format, in accordance with the standard detailed in NIST Special Publication 800-88 Guidelines for Media Sanitization so that the Education Data is permanently irretrievable in the Contractor’s normal course of business.
   3. **“Education Data” includes Student Personally Identifiable Information and Educator Personally Identifiable Information.**
   4. **“Educator Personally Identifiable Information (Educator PII)” includes, but is not limited to, the educator’s name; any unique identifier, including social security number; other information that, alone or in combination, is linked or linkable to a specific educator; or any other information related to an educator protected by any applicable state or federal law**. **(FERPA does not cover Educator PII.)**
   5. “Education Incident” means an accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of Education Data. Incidents include, but are not limited to successful attempts to gain unauthorized access to Education Data regardless of where such information is located; or any suspected event that is reasonably believed may lead to a threat to Education Data.
   6. “Services” means the Services to be performed by Contractor as set forth in this Purchase Order, and shall include any Services to be rendered by Contractor in connection with the Goods.
   7. **"Student Personally Identifiable Information (PII)" means (i) information that is collected, maintained, generated, or inferred and that, alone or in combination, personally identifies an individual student or the student's parent or family; (ii) information that is collected and stored at the individual student level and is included in a student’s educational record; or (iii) any other information related to a student protected by any applicable state or federal law. (FERPA covers Education Records, or Student PII.)**
   8. “Subcontractor” means any third party engaged by Contractor to aid in performance of the Work.
   9. “Targeted Advertising” means selecting and sending advertisements to an individual based on information obtained or inferred over time from the individual’s online behavior, use of applications, or Education Data.
2. General Provisions
   1. In addition to the requirements of the main body of this Purchase Order, if Contractor or any Subcontractor is given access to Education Data in connection with Contractor’s performance under the Purchase Order, Contractor shall protect all Education Data in accordance with this Exhibit. All provisions of this Exhibit that refer to Contractor shall apply equally to any Subcontractor having access to Education Data in connection with the Purchase Order.
   2. For the avoidance of doubt, the terms of this Exhibit shall apply to the extent that any of the following statements is true in regard to Contractor access, use, or disclosure of Education Data:
      1. Contractor provides physical or logical storage of Education Data;
      2. Contractor creates, uses, processes, discloses, transmits, or disposes of Education Data; or
      3. Contractor is otherwise given physical or logical access to Education Data in order to perform Contractor’s obligations under this Purchase Order.
   3. The State reserves all right, title, and interest to Education Data and all related data and content.
   4. Contractor shall comply with all laws and regulations concerning confidentiality of Education Data including, but not limited to the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g; 34 C.F.R. Part 99 and the Student Data Transparency and Security Act, C.R.S. Section 22-16-101 et. seq.
   5. Contractor shall immediately forward to the State’s Principal Representative any request or demand from a third party for Education Data in the possession of Contractor or Subcontractors.
   6. Upon request of the State or by the Colorado State Board of Education and subject to Contractor’s reasonable access security requirements and with reasonable prior notice, Contractor shall provide the State or a State approved delegate with access to Contractor’s Education Data processing facilities for the purpose of inspecting and monitoring the use of Education Data and compliance with the measures referred to in this Education Data Exhibit.
   7. Contractor shall send the State a written notice, which includes a clear explanation of the proposed changes, prior to making a material change to Contractor’s privacy policies.
3. Subcontractors
   1. Contractor may not maintain or forward Education Data to or from any other facility or location, except for the authorized and approved purposes of backup and disaster recovery purposes, without the prior written consent of the State. Any backup or disaster recovery Contractor shall be considered a Subcontractor that shall comply with the Subcontractor requirements in this Purchase Order.
   2. Contractor shall not allow remote access to Education Data from outside the United States, including access by Contractor’s employees or agents, without the prior express written consent of the State. Contractor shall communicate any request regarding non-U.S. access to Education Data to the State’s Principal Representative. The State shall have sole discretion to grant or deny any such request.
   3. Contractor shall not share or forward any Education Data to any party in a manner inconsistent with Contractor’s privacy policy. Contractor shall not use a Subcontractor or disclose Education Data to a Subcontractor unless and until the Contractor Contractually requires the Subcontractor to comply with C.R.S. §§22-16-108 through 22-16-111 and the requirements of this Purchase Order.
   4. No later than thirty (30) days after the execution of the Purchase Order, Contractor shall provide the State with information detailing the purpose and the scope of the Purchase Order between the Contractor and all Subcontractor(s) and the types and uses of Education Data that Subcontractor(s) holds under the Purchase Order between the Contractor and Subcontractor(s). Contractor shall provide copies of Subcontractor Agreements to the State upon written request.
   5. If Contractor, any Subcontractor, or any subsequent subcontractor has committed a material breach of the Purchase Order between Contractor and Subcontractor that involves the misuse or unauthorized release of Education Data, Contractor acknowledges that the State may terminate the Purchase Order with Contractor unless Contractor terminates the Purchase Order with the Subcontractor as soon as possible after Contractor knows or has reason to know of Subcontractors’ or any subsequent Subcontractors’ material breach.
4. Termination
   1. Should Contractor not comply with the requirements of this Purchase Order and that non-compliance results in the misuse or unauthorized release of Education Data by the Contractor, the State may terminate the Purchase Order immediately as provided under this Purchase Order and in accordance with C.R.S. Section 22-16-105(5).
5. Data Transfer and Destruction
   1. Contractor shall perform the following duties in accordance with the State’s written instructions:
      1. Contractor shall make available to the State a complete, encrypted, and appropriately authenticated download file of all Education Data. This download file shall be made available to the State within ten (10) Business Days of the State’s request, and shall contain, without limitation, all Education Data with system schema and transformation definitions or delimited text files with documents and detailed schema definitions along with attachments in its native format.
      2. Contractor shall accomplish a complete transition of all Education Data from Contractor to the State or to any other contractor as directed by the State without any interruption of or adverse impact on the Services or any other Services provided by third parties in this Purchase Order. Contractor shall cooperate fully with the State and/or such other contractor and promptly take all steps required to assist in effecting a complete transition of the Education Data as directed by the State. All Services related to such transition shall be performed at no additional cost beyond what would be paid for the Services in this Purchase Order.
      3. Contractor shall, within fifteen (15) calendar days after receiving a written destruction request from the State, Destroy all Education Data collected, generated, or inferred as a result of this Purchase Order. The Contractor shall notify the State in writing of the date upon which all of the Education Data is Destroyed. If legislation imposed upon Contractor prevents it from Destroying all or part of the Education Data provided by the State to Contractor, Contractor shall provide the State with a written explanation of the requirements and the specific Education Data that must be retained. Contractor shall only retain the specific Education Data impacted by that legislation and shall not actively process such Education Data anymore.
6. Use
   1. The State retains the right to use established operational services to access and retrieve Education Data stored on Contractor’s infrastructure at its sole discretion.
   2. Contractor shall not use or share Education Data beyond the purposes listed in Statement of Work. Contractor shall ensure that all uses and sharing of Education Data authorized by this Purchase Order are included in Contractor’s privacy policy.
   3. Contractor may use Education Data for a purpose not strictly authorized by the Purchase Order only as follows:
      1. With the written consent of the State and, for uses of Student PII, with the written consent of the student (provided that the student is over the age of 18) or the student’s parent or legal guardian; and
      2. Provided that the use does not involve selling or using Education Data for Targeted Advertising or creating a personal profile of the student or educator.
   4. Contractor may use Education Data without the written consent of the State only for one or more of the following purposes:
      * 1. To ensure legal or regulatory compliance or to take precautions against liability.
        2. To respond or to participate in the judicial process.
        3. To protect the safety of users or others on Contractor’s website, online service, online application, or mobile application.
        4. To investigate a matter related to public safety.
   5. If Contractor seeks to share or publicly release Education Data without complying with the requirements of this Purchase Order for Subcontractors, Contractor must de-identify or aggregate Education Data prior to providing that information to a third party or releasing the data publicly. For data to be de-identified or aggregate, the following requirements apply:
      1. Aggregated or de-identified Education Data shall not include direct identifiers, such as names, student IDs, or social security numbers. Aggregated or de-identified Education Data shall also not include any other sensitive and non-sensitive information that, alone or combined with other information, is linked or linkable to a specific individual.
      2. Simple removal of direct identifiers from the data to be released shall not constitute adequate de-identification.
      3. Contractor shall de-identify Education Data to remove cumulative re-identification risks.
      4. Contractor shall remove all Education Data that, in conjunction with previous data releases and other reasonably available information from education records or other sources, would allow for identification of a particular individual.
      5. Contractor shall, at the request of the State, provide the State with a document that lists the steps and methods Contractor shall use to de-identify Education Data.
      6. Any Education Data that is not properly de-identified or aggregated in accordance with this Purchase Order and is publicly released or transferred to a third party by Contractor or Subcontractors, shall be considered an Education Incident.
7. Incident
   1. If Contractor becomes aware of an Education Incident affecting Contractor, Subcontractors, or any of Contractor’s agents, it shall notify the State’s Principal Representative within twenty-four (24) hours and cooperate with the State regarding the recovery and remediation of the Education Incident and the necessity to involve law enforcement, if any.
   2. If an Education Incident results in or is reasonably likely to result in the loss or misuse of Education Data and if Contractor or any of its Subcontractors is the cause or source of the Education Incident, Contractor shall be responsible for the following:
      1. Contractor shall be responsible for the cost of notifying each person whose Education Data may have been compromised by the Education Incident.
      2. Contractor shall take steps to reduce the risk of incurring a similar type of Education Incident in the future as directed by the State. This includes, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State. This remediation plan will be provided to the State within ten (10) Business Days after providing the State with notice of the Education Incident. The State may adjust or direct modifications to this plan in its sole discretion, and Contractor shall make all modifications as directed by the State. If Contractor cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Contractor shall reimburse the State for the actual costs thereof.
      3. The State may, in its sole discretion and at Contractor’s sole expense, require Contractor to engage the Services of an independent, qualified, State-approved third party to conduct a security audit. Contractor shall provide the State with the results of such audit and evidence of Contractor’s planned remediation in response to any negative findings.
      4. Contractor shall provide the State or its designated representatives with seven (7) days a week, twenty-four (24) hours a day access to Contractor’s Education Data processing facilities for the purpose of evaluating, mitigating, or resolving the Education Incident.
   3. Unauthorized disclosure of Education Data by Contractor or any Subcontractor for any reason may be cause for legal action by third parties against Contractor, the State, or their respective agents. Contractor shall indemnify, save, and hold harmless the State, its employees, and agents against any and all claims, damages, liability, and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by Contractor, or its employees, agents, Subcontractors, or assignees pursuant to this Purchase Order. Notwithstanding any other provision of this Purchase Order, Contractor shall be liable to the State for all direct, consequential, and incidental damages arising from an Education Incident caused by Contractor or its Subcontractors.
8. Disallowed Activities
   1. Contractor shall not knowingly engage in any of the following activities:
      1. Contractor shall not sell Education Data, except that this prohibition does not apply to the purchase, merger, or other type of acquisition of the Contractor, or any assets of the Contractor by another entity, so long as the successor entity continues to be subject to the provisions of this Purchase Order.
      2. Contractor shall not use or share Education Data with any party for the purposes of Targeted Advertising to students or educators.
      3. Contractor shall not use Education Data to create a personal profile of a student or educator other than for supporting the purposes authorized by this Purchase Order or, for uses of Student PII, with the consent of the student (provided that the student is over the age of 18) or the student’s parent or legal guardian.
9. Data Security
   1. Contractor shall maintain a comprehensive information security program that is reasonably designed to protect the security, privacy, confidentiality, and integrity of Education Data. At a minimum, the information security program shall include the requirements listed in this Section, Data Security.
   2. Contractor shall take full responsibility for the security of all Education Data in its possession, and shall hold the State harmless for any damages or liabilities resulting from an unauthorized disclosure or loss thereof.
   3. Contractor shall provide for the security of such Education Data, in a form acceptable to the State, including, without limitation, non-disclosure, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, network firewalls, intrusion detection (host and network), data security logging and monitoring systems, and audits.
   4. Contractor shall perform, in a form reasonably acceptable to the State, current background checks on all of its respective employees and agents performing Services or having access to Education Data provided under this Purchase Order. The background checks must include, but are not limited to, the following areas: County, State, National and Federal Criminal Records and a Sex Offender Registry Search. A background check performed within thirty (30) calendar days prior to the date such employee or agent begins performance on this Purchase Order or obtains access to Education Data shall be deemed to be current. Contractor will provide notice to the State’s Principal Representative indicating that background checks have been performed. Such notice will inform the State of any action taken in response to such background checks, including any decisions not to take action in response to negative information revealed by a background check.
   5. Contractor shall have strong access controls in place that ensure that all access to Education Data is limited to Contractor’s authorized employees and agents who require access to Education Data to perform Services under this Purchase Order.
   6. Contactor shall ensure that all of Contractors’ workstations and other data processing devices storing or processing Education Data shall automatically lock when not in use and must be manually locked when left unattended.
   7. Contractor shall protect all Education Data with a complex password. Contractor shall ensure passwords are confidential and prohibit the sharing of passwords. Passwords shall not be written down or stored in an unsecure location. Contractor shall periodically change passwords and shall ensure passwords are not reused. Contractor shall have password locks for laptops and mobile devices.
   8. Contractor shall disable and/or immediately delete unused and terminated user accounts. Contractor shall periodically assess account inactivity for potential stale accounts.
   9. Contractor shall not share Education Data on display screens, during demonstrations or presentations, or when sharing screen shots for troubleshooting or other purposes.
   10. Contractor shall implement annual intrusion penetration/vulnerability testing and shall remediate any findings a timely manner.
   11. Contractor shall encrypt Education Data at rest on central computing systems. Contractor shall also encrypt any laptop, mobile device, backup, backup media, removable media, tape or other copies that access, process, or store Education Data.
   12. Contractor shall provide annual, mandatory security awareness and Education Data handling training for all of its employees or agents handling Education Data pursuant to this Purchase Order.
   13. Contractor shall install and maintain on computers accessing or processing Education Data appropriate endpoint security anti-virus and anti-malware software. Contractor shall ensure all Contractor’s data processing systems, servers, laptops, PCs, and mobile devices are regularly scanned and have all security patches applied in a timely manner.
   14. Contractor shall use a secure method such as Secure File Transfer Protocol (SFTP) or comparable method to transmit Education Data. Contractor shall never send Education Data via unencrypted email or transport Education Data on unencrypted removable media.
   15. Contractor shall have physical security in buildings housing Education Data, along with controlled physical access to buildings and/or data centers.
   16. Contractor’s devices used to copy or scan hard copies of Education Data must have encrypted storage. Contractor shall scrub storage devices when equipment is retired. Hard copies containing Education Data are discouraged and must be physically secured, not left unattended, and physically Destroyed.
   17. Contractor shall protect Education Data stored in cloud-based systems in the same manner as local Education Data. Use of free cloud based Services is prohibited. Contractor shall use secondary encryption to protect Education Data in cloud storage. Cloud environments, when used by Contractor, must be fully documented by Contractor and open to the State’s inspection and verification unless otherwise approved in writing by the State. Access to Contractor’s cloud based computing environments is only permitted via restricted access, by VPN, or least privileged access lists, and never accessible directly via the Internet.
10. Transparency Requirements
    1. Contractor acknowledges that the State will post this Purchase Order to the State's website.
    2. If Contractor collects, stores, or accesses Student PII, Contractor must comply with the following requirements for transparency:
       1. Contractor shall facilitate access to and correction of any factually inaccurate Student PII in response to a request from the State.
       2. Contractor shall provide transparency to parents, school districts and the public about its collection and use of Student PII including posting the following information on its public website; Contractor shall update this information on its website as necessary to maintain accuracy:
          1. Contact information for an individual within Contractor’s organization that can provide information on or answer questions related to the use of Student PII by Contractor.
          2. An explanation of how Student PII will be shared with Subcontractors or disclosed to any third party.
          3. The types of Student PII Contractor collects, generates, or uses. This information must include all Student PII that is collected regardless of whether it is initially collected or ultimately held individually or in the aggregate.
          4. An explanation of the Student PII, an explanation of how the Student PII is used, and the learning purpose for which the Student PII is collected and used.
11. Disclosure Allowances by Statute
12. The general rule under FERPA (the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g; and 34 C.F.R. Part 99) is that PII from education records cannot be disclosed without written consent. However, FERPA includes several exceptions that permit the disclosure of PII from education records without consent.
13. The applicable FERPA Exception, allowing Student PII disclosure from education records is:
    * 1. The “Studies” Exception (20 U.S.C. §1232g(b)(1)(F) and §99.31(a)(6))  The Studies Exception allows for the disclosure of PII from education records without consent to organizations conducting studies for, or on behalf of, schools, school districts, or postsecondary institutions. Studies can be for the purpose of developing, validating, or administering predictive tests; administering student aid programs; or improving instruction.
      2. The “Audit or Evaluation” (20 U.S.C. 1232g(b)(1)(C), (b)(3), and (b)(5) and §§99.31(a)(3) and 99.35) : The audit or evaluation exception allows for the disclosure of PII from education records without consent to authorized representatives of the Comptroller General of the U.S., the Attorney General, the Secretary of Education, and State or local educational authorities (FERPA-permitted entities). Under this exception, PII from education records must be used to audit or evaluate a Federal- or State-supported education program, or to enforce or comply with Federal legal requirements that relate to those education programs (audit, evaluation, or enforcement or compliance activity). The entity disclosing the PII from education records is specifically required to use reasonable methods to ensure to the greatest extent practicable that its designated authorized representative complies with FERPA and its regulations.

“Education program” is an important term under the audit or evaluation exception because PII from education records can only be disclosed to audit or evaluate a Federal- or State-supported “education program,” or to enforce or to comply with Federal legal requirements related to an education program. As specified in the FERPA regulations, §99.3, an education program must be principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education, and any program that is administered by an educational agency or institution.

* + 1. N/A – PII from education records (student PII) is not being disclosed. FERPA Exceptions only apply to Student PII and education records. Check this box if CDE will be disclosing Educator PII to the Contractor.

1. The State will disclose the following PII (Student or Educator) to Contractor:

i. **Activities**

**Activity Categories**

* Academic Enrichment
* Activities for English Learners
* Assistance to Students who have been Truant, Suspended, or Expelled
* Career Competencies and Career Readiness\*
* Cultural Programs
* Drug and Violence Prevention and Counseling
* Expanded Library Service Hours
* Healthy and Active Lifestyle
* Literacy Education
* Parenting Skills and Family Literacy
* Science, Technology, Engineering, and Mathematics, including computer science
* Services for Individuals with Disabilities
* Telecommunications and Technology Education
* Well-rounded Education Activities, including credit

**Data elements**

* How many participants attended each identified activity during the term.
* How many total hours of each activity the center offered during the term.

**Staffing**

**Staff type**

* administrator
* college student
* community member
* high school student
* parent
* school day teacher
* other non-teaching school staff
* subcontracted staff
* other

**Data elements**

* Whether staff members were paid or were volunteers

**Participation**

**Data elements**

* Grade levels of student participants (K-12)
* Student participation by hour band
  + At least 4 hours, and less than 15 hours
  + 15-44 hours
  + 45-89 hours
  + 90-179 hours
  + 180-269 hours
  + 270 hours or more
* Race/Ethnicity
  + American Indian or Alaska Native
  + Asian
  + Black or African American
  + Hispanic or Latino
  + Native Hawaiian or Pacific Islander
  + White
  + Two or more races
  + Data Not Provided
* Sex
  + Male
  + Female
  + Not Reported in Male or Female
  + Data Not Provided
* Population Specifics
  + Students who are English learners
  + Students who are economically disadvantaged
  + Students with disabilities
* Family members of participants served

**Outcomes**

Outcomes of the 21st CCLC federal grant program that must be reported are from the Government Results and Performance Act, or GPRA. The following student outcomes are reported via state data sources available to CDE, and CDE aggregates the provided data and reports student data by center to the USDOE:

* GPRA Measure: Student Academic Achievement
  + Percentage of students in grades 4-8 participating in 21st CCLC programming during the school year and summer who demonstrate growth in reading and language arts on state assessments.
  + Data source: Colorado Measures of Academic Success (CMAS) English Language Arts and Math scores
* GPRA Measure: Student School Day Attendance
  + Percentage of students in grades 1-12 participating in 21st CCLC during the school year who had a school day attendance rate at or below 90% in the prior school year and demonstrated an improved attendance rate in the current school year.
  + Data source: Previous year and current year student attendance rates

The following student outcomes are reported by the subgrantee by student, and CDE aggregates the provided data and reports student data by center to the USDOE:

* GPRA Measure: Student Academic Achievement
  + Percentage of students in grades 7-8 and 10-12 attending 21st CCLC programming during the school year and summer with a prior-year unweighted Grade Point Average (GPA) of less than 3.0 who demonstrated an improved GPA.
  + Data source: Previous year and current year student Grant Point Averages (GPAs)
* GPRA Measure: Student Behavior
  + Percentage of students in grades 1-12 attending 21st CCLC programming during the school year and summer who experienced a decrease in in-school suspensions compared to the previous school year.
  + Data source: Previous year and current year number of student In-School Suspensions
* GPRA Measure: Student Engagement in Learning
  + Percentage of students in grades 1–5 participating in 21st CCLC programming in the school year and summer who demonstrated an improvement in teacher-reported engagement in learning
  + Data source: Annually collected teacher survey for each student attending at least 75 hours of programming during the school year)
    - Questions: Since the beginning of the school year, to what extent has your student changed their behavior in the following areas?
      * Completing classwork and homework on time?
      * Completing homework to your satisfaction?
      * Participating in class (in person, virtual, hybrid, and/or remote)?
      * Attending class regularly?
      * Coming to school motivated to learn?
      * Being attentive in class?
      * Behaving well in class?
      * Getting along well with other students?
    - Range of answers
      * Not Applicable
      * Did Not Need to Improve
      * Declined
      * Maintained/No Improvement
      * Improved

## State Performance Measures

The following information is reported by the subgrantee by center on an annual basis, and CDE uses this information to help inform technical assistance for continuous improvement as well as the annual statewide external evaluation.

**Data elements**

* Students served: comparing projected and actual Participation Targets
  + Unduplicated: Count of students attending 21st CCLC programming at least once during the attendance reporting period
  + Regular: Count of students who have attended 75 hours or more of programming are considered regular participants.
  + Average Daily Attendance (ADA): Count of students attending programming at each center on any given day on average during the school year program and during the summer program. ADA is determined by dividing the total monthly attendance by the number of program days in the month.
  + Unduplicated Family Members: Count of participating parents, guardians, siblings, aunts, uncles, grandparents, etc. of students served in the program.
* Teacher survey response rate
* Family, school, community partnership self-assessment
* Programmatic narratives of successes and challenges
* Technical Assistance Feedback and Requests
* State Performance Measures for three areas: 1) Core Academics, 2) Essential Skills/Educational Enrichment, and 3) Family Engagement
  + Progress reporting categories: exceeded, met, making progress, not making progress data not available
  + Data validation
* Teacher Survey response rate (CDE expects a 100% response rate)
* Narratives of programmatic successes and challenges
* Updates on technical assistance needs
* Quality Implementation Rubric (QIR) and Action Tool(s) to inform CDE staff of program implementation progress. The rubric measures effectiveness of program implementation and program quality in years one through four of the grant cycle.
* Local Evaluation Summaries
* Sustainability Plan with Funding Chart in Year 2 of the initial three-year grant period

1. C.R.S. § 24-74-105
   1. Pursuant to § 24-74-105, C.R.S., the signatory of this agreement on behalf of Contractor and its employees, hereby certifies (and will certify annually upon any renewal purchase order being executed) under the penalty of perjury that the Contractor has not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.
   2. In addition, If Contractor uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Contractor shall require such Subcontractors to execute and deliver a certification, stating the information listed above and signed by Subcontractor, to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.