# Minimum Disclosures for all Vendors and Contractors

This document includes a compilation of required disclosures from federal and state laws, rules, regulations, and grant award requirements. This is a reference tool provided to assist early education entities in supporting POs or preparing contracts and other agreements. Each party shall perform its obligations in accordance with the following listed terms and conditions for the Purchase Order (PO) or contract. Note: additional federal and state clauses (not included in these lists) are required for subrecipient POs, contracts, or other agreements. The party that executes a PO, contract, or other agreement funded by federal or state grant program funds retains all responsibility for compliance with applicable laws, rules, and regulations. Your entity should conduct research tasks to verify and/or supplement the listed PO/contract provisions.

**1. Accessible Electronic Information Technology**

The Contractor hereby agrees that by entering into this contract, Contractor will provide electronic and information technology resources in complete compliance with the Accessibility standards provided in Rule 60-8.002, F.A.C. These standards establish a minimum level of accessibility. See s. 282.603, F.S.
The Contractor hereby agrees that by entering into this contract, Contractor will, whenever practicable, collect, transmit and store contract, program, and project-related information in open and machine-readable formats rather than in closed formats or on paper as provided in 2 CFR §200.335, *Methods for Collection, Transmission and Storage of Information.*

**2. Assignments and Subcontracts**

a. The Contractor agrees to neither assign the responsibility for this Contract to another party nor subcontract for any of the work contemplated under this Contract without written approval of the ELC, which shall not be unreasonably withheld. Any sublicense, assignment, or transfer otherwise occurring, without prior approval of the ELC, shall be null and void. The ELC reserves the right to reject the subcontracting of certain services or training and the use of subcontractors.
b. The Contractor agrees to be responsible for all work performed and all expenses incurred in connection with the Contract work or by subcontractors and consultants who may be hired by the Contractor under this Contract. If the ELC permits the Contractor to subcontract all or part of the work contemplated under this Contract, including entering into subcontracts with vendors or community providers for services and commodities, it is understood by the Contractor that all such subcontract arrangements shall be evidenced by a written document subject to prior review and comment by the ELC. Such review of the written subcontract document by the ELC shall be limited to a determination of whether the ELC approves of the subcontractor and the applicable terms and conditions of this Contract. The Contractor further agrees that the ELC shall not be liable to the subcontract for any expenses or liabilities incurred under the subcontract and the Contractor shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract. The Contractor, at its expense, will defend the ELC against such claims.
c. The ELC shall always be entitled to assign or transfer its rights, duties, or obligations under this Contract to another governmental agency in the State of Florida, upon giving prior written notice to the Contractor and following appropriate State of Florida procedures. In the event the ELC approves transfer of the Contractor's obligations, the Contractor remains responsible for all duties performed and all expenses incurred in connection with this Contract prior to the date of the assignment or transfer. In addition, this Contract shall bind successors, assigns, and legal representatives of the Contractor and any legal entity that

succeeds to the obligations of the ELC. It is the Contractor's responsibility to ensure that its subcontractors observe all applicable terms and conditions as contained in this Contract.

d. The ELC may undertake or award supplemental contracts for work related to this Contract, or any portion thereof. The Contractor shall cooperate with such other Contractors and the ELC in all such cases. Any subcontractors to the Contractor shall be required to abide by this provision as a condition of the contract between the subcontractor and the Contractor.

e. The ELC shall notify the Contractor if, in the ELC's judgment, the Contractor or any or its subcontractors are not maintaining staff sufficient to deliver the agreed upon services required by this Contract or if performance by certain staff is insufficient to deliver contract services. Within two (2) business days after notification, the Contractor shall state in writing what, if any, actions shall be taken to address the concerns of the ELC.

**3. Background checks**

The ELC may require the Contractor and its employees, agents, representative and subcontractors to provide fingerprints and be subject to such background check as directed by the ELC. The cost of the background check(s) shall be borne by the Contractor. The ELC may require the Contractor to exclude the Contractor's employees, agents, representatives, or subcontractors based on the background check results. Specific instructions are provided by the ELC in the scope of work based on the requirements of Sections 435.03 and 435.04, F.S.

**4. Breach of security/confidentiality**

As defined in Chapter 282.0041, F.S., "Security Incident" means a violation or imminent threat of violation, whether such violation is accidental or deliberate, of information technology security policies, acceptable use policies or standard security practices. As imminent threat of violation refers to a situation in which the state agency has a factual basis for believing a specific event is about to occur.

As defined in Chapter 501.171, F.S., "Breach of Security" means unauthorized access of data containing personal information. Good faith access of personal information by an employee or agent of the ELC does not constitute a breach of security, provided the information is not used for a purpose unrelated to the contract or subject to further unauthorized use.

As defined in Chapter 282.0041, F.S., "Breach" means a confirmed event that compromises the confidentiality, integrity, or availability of information or data.

The Contractor agrees to comply with s. 501.171, F.S. related to the security of confidential personal information and understands that the Contractor for this purpose will be considered a third-party agent as referenced in this statutory section.

The Contractor shall immediately notify the ELC Contract Manager (or other listed contact person) in writing of any Security Incident, Breach or Breach of Security of which it becomes aware by its employees, subcontractors, agents or representatives. Notwithstanding requirements of s. 501.171(3), F.S, Contractor's notification shall be made in writing to the ELC within 24 hours after Contractor learns of the security incident or breach. Contractor's notification shall identify:

(i) the nature of the unauthorized use or disclosure,
(ii) the confidential information used or disclosed,
(iii) who made the unauthorized use or received the unauthorized disclosure,
(iii) what Contractor has done or shall do to mitigate any deleterious effect of the

unauthorized use or disclosure, and

(iv) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.

The Contractor shall provide such other information, including a full written report, as reasonably requested by the ELC. If the ELC, at its sole discretion, determines that the Contractor has failed to comply with any confidentiality provision of this contract, or determines that prompt and satisfactory corrective action has not occurred, the ELC has the unilateral right to suspend the contract until it is satisfied that corrective action has been taken or the ELC may terminate the contract. If the contract is terminated, the Contractor must immediately surrender to the ELC all confidential information and copies thereof obtained under the Contract and any other information relevant to the Contract.

The Contractor understands and agrees that all reasonable fees and costs necessary for the ELC to remedy any breach of confidentiality due to the conduct of the Contractor, its employees, subcontractors, agents, or affiliates, or any individual within the control of the Contractor, shall be the responsibility of the Contractor. The Contractor shall cooperate in the defense and settlement of such claims. The obligations of this section shall survive the expiration or termination of the contract.

The Contractor understands and agrees to the confidentiality and security provisions of this contract regarding the requirements to safeguard the confidentiality of the information which is the subject of the contract, and which is considered a material condition of the contract. If requirements to safeguard the information are impaired, that unauthorized disclosure of the information occurs, or the confidentiality of the information is compromised in any way, the Contractor will be subject to penalties as follows:

Criminal Penalties: The Contractor and any of its employees, agents, contractors, subcontractors, affiliates, or any other individual that breaches the confidentiality requirements of the contract are subject to any state or federal criminal sanctions provided by law. This includes, but not limited to penalties as provided for in s. 119.10, F.S., the Florida Computer Related Crimes Act (chapter 815) or any other applicable state or federal laws or regulations.

Civil Remedies: In addition to criminal sanctions, the Contractor and its employees, agents, contractors, subcontractors, affiliates, or any other individual who breaches the confidentiality requirements of this contract or applicable laws are subject to any and all civil remedies available to the ELC and the State of Florida.

**5. Byrd Anti-Lobbying Certification – applies to purchases over $100,000**

If this contract relies on federal funds, the Contractor must comply with federal laws that restrict lobbying including the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.]). The Contractor shall also file the certification form required (see ACF Certification regarding Lobbying) by 49 CFR part 20, "New Restrictions on Lobbying."

Each tier (Contractor) certifies to the tier above (ELC) that it will not and has not used the contract funds to pay for any federal-level lobbying activities. Prohibited activities include any person or organization paid 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 shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with

respect to this contract. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

**6. Certified Minority Business Enterprises (CMBE) reporting**

The ELC is dedicated to supporting, tracking, and increasing its small minority business enterprise spending as s. 287.0943, F.S. requires. The Contractor shall report spending with these subcontractors with each invoice submitted for payment to the following address, with a copy to the ELC Contract Manager.

**7. Clean Air and Federal Water Pollution Control Act – applies to purchases over $150,000**

Pursuant to the Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended, the Contractor shall 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 and the Federal Water Pollution Control Act. Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**8. Conduct of business – Federal/State laws govern**

The laws of the State of Florida shall govern the contract. Each party shall perform its obligations herein in accordance with the terms and conditions of this contract. The Parties submit to the jurisdiction of the courts of the State of Florida exclusively for any legal action or dispute related to the contract.

Further, the Contractor hereby waives any and all privileges and rights relating to the venue it may have under any other statute, rule or case law, including, but not limited to those based on convenience. The Contractor hereby submits to the venue in the county chosen by the ELC.

If there is any conflict in the provisions set forth in applicable federal and state laws, the conflict will be resolved in the following priority (highest to lowest).

1. Federal law and regulations
2. Florida laws and rules
3. Special conditions/additional requirements
4. Contract Scope of Work

**9. Confidentiality and safeguarding information**

Chapter 119, F.S. instructs the Contractor shall not disclose public records that are exempt or confidential/exempt from public records disclosure requirements except as authorized by federal and state laws, including but not limited to sections1002.72, 1002.97, F.S. and 2 CFR 200.82, Protected Personally Identifiable Information (PPII). The ELC provided additional specific instructions to the Contractor if applicable in the scope of work section.

**10. Conflict of interest/related party activities**

Section 1002.84(20), F.S. prohibits ELCs (or an ELC's subrecipient) from entering into contracts with employees, governing board members, or relatives of either group without prior approval from the Divison of Early Learning and a valid vote of approval by two-thirds of the ELC's governing board (or the governing board of an ELC's subrecipient). Impacted employees/board members must disclose this conflict of interest

in advance of the board's vote and impacted governing board members must abstain from the voting process.

**11. Contract Manager – applies to purchases of $100,000 or more**

A contract manager may be required for POs/contracts that receive $100,000 or more from the ELC. Contact information provided by the ELC if applicable as required by Section 287.057(14)(b), F.S.

**12. Contract Work Hours and Safety Standards Act – applies to purchases of $100,000 or more**

If this contract relies on federal funds, the Contractor must comply with federal labor laws, including the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). These requirements apply to agreements that include salaries for laborers and for all contracts for repairs, improvements, or other construction activities. The Contractor and any subcontractors shall compute wages on a 40-hour week schedule and pay employees for extra hours worked. None shall be forced to work in unsanitary, hazardous, or dangerous conditions or surroundings.

**13. Convicted/discriminatory vendors**

Neither it, nor any person or affiliate of the vendor convicted of a public entity crime as defined in Sections 287.133 and 287.134, F.S. and placed on the convicted or discriminatory vendor list at the federal or state levels can perform work for or provide services to the ELC.

**14. Cooperation with** the ELC**, DEL and DEL's Inspector General**

Pursuant to s. 20.055(5), F.S., the Contractor and any subcontractor(s) used to provide the scoped goods/services understand and will comply with their duty to cooperate in good faith with any reasonable requests from the ELC or State officials to discuss, review, inspect or audit Contractor performance and compliance under this contract. Upon request, the Contractor shall grant access to all records pertaining to the Contract to the ELC, DEL, DEL's Inspector General, DEL's General Counsel, the Office of Program Policy and Government Accountability, and Florida's Chief Financial Officer. The Contractor shall provide any type of information deemed relevant to the Contractor's integrity or responsibility. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the contract. The Contractor shall retain such records for five (5) years after the expiration date of the contract, or the period required by the General Records Schedules maintained by the Florida Department of State (available at http://dos.myflorida.com/library-archives/records-management/general-records-schedules/), whichever is longer.

The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other contract between the Contractor and the ELC which result in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime, travel and lodging expenses, and expert witness and documentary fees.

**15. Copeland Anti-Kickback Act – applies to purchases of $2,000 or more**

If this contract relies on federal funds, the Contractor must comply with federal labor laws including the Copeland Anti-Kickback Act (18 U.S.C. 874 and 40 U.S.C. 276c). These requirements apply to agreements that include salaries for laborers and for all contracts for repairs, improvements, or other construction activities. The Contractor and any subcontractors are prohibited from inducing, by any means, any person employed in the construction, completion or repair of work, to give up any part of the compensation to which he/she is otherwise entitled. The Contractor shall report all suspected or reported violations to the ELC.

**16. Data and Reporting Systems (As applicable)**

The Contractor shall utilize the approved Statewide SR and VPK data and reporting systems to record, maintain, and report on SR and VPK Programs. Guidance and requirements for Statewide data systems is contained in, FPSR-IM-PPA-04-05*, FPSR-PI-FSM-04-01*, and FPSR-IM-LD-03-04*, and any other program instruction or guidance related to SR and VPK data and reporting.

**17. Davis Bacon Act, as amended – applies to purchases of $2,000 or more**

If this contract relies on federal funds, the Contractor must comply with federal labor laws including the Davis-Bacon Act (40 U.S.C. 276a, et. seq.), as supplemented by USDOL regulations (29 CFR Part 5).

- Under this Act, contractors must agree to pay wages to laborers and mechanics at a rate not less than the locally prevailing minimum wages and fringe benefits for similar work projects in the area.
- Contractors are required to pay wages not less than once a week.
- Contractors are required to post/display the applicable wage determination(s) at the site of work in a location in clear view of everyone.
- USDOL determines and sets the prevailing wage rates.
- The Contractor shall report all suspected or reporting violations to USDOL.

**18. Debarment and suspension**

If this contract relies on federal funds, in accordance with Federal Executive Order 12549 and 2 CFR Part 376 regarding Debarment and Suspension, the Contractor shall agree and certify that neither it, nor its principals, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. The Contractor also agrees it shall not knowingly enter into any lower tier contract or other covered transaction with a person who is similarly debarred or suspended from participating in the contract's scoped transaction(s).

**19. Drug-Free Workplace – applies to purchases of services of more than $100,000**

If this contract relies on federal funds, pursuant to the Drug-Free Workplace Act of 1988, the Contractor attests and certifies that the Contractor will provide a drug-free workplace compliant with 41 USC 81. This requirement applies to the purchase of services performed in part or entirely in the United States. This requirement will not apply to purchases of commercial goods.

Additional online instructions to determine coverage for a specific contract or grant are available by contacting USDOL. USDOL drug-free workplace advisor

**20. Equal Employment – applies to all purchases of services per DEL instructions**

This Contractor (and subcontractor(s)) shall abide by the requirements of implementing regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, and Department of Labor. See USDOL OFCCP for more details. These federal regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered Contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or veteran status.

**21. E-Verify – applies to all purchases of services per DEL instructions**

In accordance with Executive Order 11-116, the Contractor agrees to utilize the U.S. Agency of Homeland Security's E-Verify system, https://www.uscis.gov/e-verify, to verify the employment eligibility of all new employees hired during the term of the contract for the services specified. The Contractor shall also include a requirement in subcontracts that the subcontractor(s) shall utilize the E- Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

**22. Filing and payment of taxes**

In accordance with Section 745 of the "Consolidated Appropriations Act, 2016," (Title VII, General Provisions – Government-Wide), none of the federal/state grant funds made available to the ELC may be used to enter into a contract or any other agreement with any corporation that has any unpaid Federal tax liability. Acceptance of these contract terms indicates the Contractor is aware of and currently complies with requirements for full and timely payment of any federal taxes.

**23. Final invoice**

The Contractor shall submit the final invoice for payment to the ELC no more than 45 days after the contract ends or is terminated. If the Contractor fails to do so, unless waived in writing by the ELC, all rights to payment are forfeited and the ELC will not honor any requests submitted after the above 45- day time period. Any payment due under the terms of this contract may be withheld until all reports due from the Contractor and any necessary adjustment(s) thereto have been approved by the ELC. All invoices must be submitted via email to @elc-manatee.org.

**24. Financial consequences**

Section 215.971(1)(c), F.S. requires the inclusion of financial consequences in the event of a Contractor's failure to perform the scoped transaction(s). If the Contractor fails to meet and comply with the deliverables established in this contract, the ELC will prorate any payments pending and/or request a refund of payment in a proportionate amount equal to the goods/services not received.

The ELC, at its sole discretion, may offer the Contractor an extension for any listed task, timeline, or deliverable during which the indicated financial consequences shall not apply. Notification of any extension shall be provided to the Contractor in writing.

Any payment made in reliance on the Contractor's evidence of performance, which evidence is subsequently determined to be erroneous, will be immediately due to the ELC as an overpayment to the extent of such error.

**25. Florida Abuse Hotline reporting**

a. Any employee of the Contractor shall comply with s. 39.201, F.S., the Contractor agrees to immediately report knowledge or reasonable suspicion of abuse, neglect, or exploitation of a child, aged person, or disabled adult on the Florida Abuse Hotline on the statewide toll-free number (1-800- 96ABUSE). As required by Chapter 39 and 415, Florida Statute, this provision is binding upon both the Contractor and its employees.

b. The Contractor agrees to immediately report knowledge of any abuse or alleged abuse, or any severe injury or death suffered by a child who receives early learning services while in the care of an early care and education provider to the ELC. Notice shall be provided in writing and by telephone. In no event shall notice be provided later than twenty-four (24) hours of obtaining such knowledge. The ELC shall receive copies of any documents received by the Contractor relating to any incidents reported to the ELC within twenty-four (24) hours of the receipt of any such documents by the Contractor.

**26. Funding availability/annual appropriation**

Pursuant to Section 287.0582, F.S., the ELC performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature. In the event funds become unavailable, are withdrawn, or redirected by federal/state program funders, the ELC may terminate the contract upon no less than twenty-four (24) hours written notice to the Contractor. In the event the contract is terminated for lack of funding, the ELC shall pay the Contractor for documented and verifiable costs reasonably incurred to the extent such funds are appropriated and available for the contract's scoped transaction(s). The ELC shall be the final authority as to the availability of appropriated funds.

**27. Independent Contractor**

The Contractor and its employees, agents, representatives, and subcontractors are not employees or agents of the ELC. The ELC is not bound by any acts or conduct of the Contractor or its employees, agents, representatives, or subcontractors. The Contractor agrees to include this provision in all its subcontracts under this contract.

**28. Information and data security requirements**

The Contractor must comply with the ELC Information Technology (IT) Security policies (provided at http://www.elc-manatee.org/_wss/clients/172/assets/c172_board_policies/20220817154715704.pdf), the Divison of Early Learning's Information Technology Security Manual (provided separately), Rule Chapter 74-2, F.A.C., Florida Cybersecurity Standards, and employ adequate security measures to protect the ELC's information, applications, data, resources, and services. The ELC IT Security policies are hereby adopted and incorporated by reference as if fully set out herein.

**29. Information resource acquisition**

The Contractor shall obtain prior written approval from the ELC Contract Manager (or other listed contact person) for the purchase of any Information Technology Resource (ITR) using funds from this contract. The Contractor agrees to secure said prior approval by means of an Information Resource Acquisition (IRA) form, available from the ELC.

**30. Insurance – ELC provided proof of coverage**

All insurance policies shall be with insurers qualified and doing business in Florida. The ELC shall be furnished proof of coverage of insurance by standard ACORD form certificates of insurance accompanying the contract documents. The DEL shall be exempt from, and in no way liable for, any sums of money that nay represents a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Contractor.

**a. Insurance – errors and omissions policy**

The Contractor shall obtain and keep in force during the life of the contract, Errors and Omissions Insurance. Such insurance shall indemnify and pay on behalf of the Contractor for direct loss incurred due to human error, computer error, machine error, or equipment problems, whether caused by negligence, error, omission or mistake by the Contractor, subcontractor, any employee, officers, or agents thereof. Errors and Omission Insurance coverage shall not limit any liabilities or any other obligations that the Contractor has under the contract.

**b. Insurance – liability policy**

The Contractor shall maintain adequate liability insurance coverage on a comprehensive basis and always hold such liability insurance during the existence of the contract and any renewal(s) and extension(s) of it. By execution of the contract, unless it is a state agency or subdivision as defined by subsection 768.28(2), F.S., the Contractor accepts full responsibility for identifying and determining the type(s) and extent of liability insurance necessary to provide reasonable financial protections for the Contractor and ELC clients served under the contract. A self-insurance program established and operating under the laws of the State may provide such coverage.

**c. Insurance – reemployment assistance (aka unemployment compensation)**

The Contractor, during the life of the contract, must comply with the reporting and contribution payments required under Chapter 443, Florida Statutes, for all employees connected with the work of the contract.

**d. Insurance – workers' compensation**

During the contract term, the Contractor, at its sole expense shall provide workers' compensation insurance in accordance with Chapter 440, Florida Statutes, with such terms and limits as may be reasonably associated with the contract with minimum employer's liability limits of $100,000 per accident, $100,000 per person, and $500,000 policy aggregate. The policy shall cover all employees engaged in any contract work. Employers who have employees engaged in work in Florida must use Florida rates, rules, and classifications for those employees.

**31. Mandatory reporting of fraud/criminal activity**

The Contractor shall report to the ELC Contract Manager (or other listed contact person) within **twenty-four (24)** chronological hours all suspected or known instances of Contractor's operational fraud or criminal activities relating to the contract.
In accordance with 45 CFR 75.113 (also 2 CFR 200.313), Mandatory disclosures, the Contractor and its approved subcontractors must disclose in a timely manner and in writing to the ELC all violations involving fraud, bribery or gratuity violations potentially affecting this Contract and/or the related federal/grant program(s). The ELC is required to review and consider any publicly available information about the Contractor in the Federal Awardee Performance and Integrity Information System (FAPIIS) https://fapiis.gov.

**32. No contact services performed outside the USA**

The Contractor and its subcontractors and agents are prohibited from (i) performing any of the Contract services outside the United States, or (ii) sending, transmitting, or accessing any School Readiness Program or Voluntary Prekindergarten Education Program or other program-related data pursuant to this contract outside of the United States unless approved by the ELC in writing. The Parties agree that a violation of this provision will:

- Entitle the ELC to immediately terminate the contract for cause upon email notice to the Contractor's Contract Manager.
- Result in immediate and irreparable harm to the ELC, entitling the ELC to immediate injunctive relief.
- Entitle the ELC to recover damages for the breach. These damages will include all reasonable costs incurred by the ELC for investigations, forensic investigations, data recoveries, notifications, and remediation.

**33. No lobbying**

In accordance with sections 11.062 and 216.347, F.S., no funds from the contract may be used for lobbying the state Legislature, the judicial branch, or any state Agency. Acceptance of these contract terms indicates the Contractor is aware of and currently complies with the described lobbying activity restrictions. The Contractor shall require all subcontracts to include this certification language, which is a material representation of fact upon which the parties placed reliance when they made or entered into this transaction.

**34. Notification of legal action**

The Contractor shall notify the ELC of legal actions taken against it or potential actions, such as lawsuits, related to goods/services provided through this contract or that may affect the Contractor's ability to deliver the contractual goods/services, or adversely impact the ELC. The ELC Contract Manager (or other listed contact person) will be notified in writing within **twenty-four (24)** continuous hours of Contractor becoming aware of such actions or from the day of the legal filing, whichever comes first.

**35. Payment audit (records of costs will be available upon request)**

Records of costs incurred under terms of the contract shall be always maintained and made available to the ELC upon request during the period of the contract, and for a period of five years thereafter. Records

of costs incurred shall include the Contractor's general accounting records, together with supporting documents and records of the Contractor and all subcontractors performing work, and all other records of the Contractor and subcontractors considered necessary by the ELC for audit.

**36. Payment and fees**

The ELC shall not be obligated to pay for costs incurred related to the contract prior to its effective date or after the ending date specified.

**37. Payment made after written "agency" acceptance**

The Contractor will be paid upon submission of properly certified invoice(s) to the ELC after delivery and acceptance of commodities or contractual services is confirmed in writing by the ELC. Invoices shall contain sufficient detail for audit thereof and shall contain the contract and the Contractor's Federal Employer Identification Number or Social Security Number.

**38. Payment timeframe - timely payments**

Section 215.422, F.S., provides that entities have five (5) working days to inspect and approve commodities or contractual services. Items may be tested for compliance with specifications. Items delivered not conforming to specifications may be rejected and returned at the Contractor's expense. Interest penalties for late payment are also provided for in section 215.422, F.S. A Vendor Ombudsman, whose duties include acting as an advocate for vendors who may be experiencing problems obtaining timely payments from an entity may be contacted at 850-413-5516, or vendors may call the State Comptroller's Hotline at 1-800-848-3792.

**39. Procurement of recovered materials – applies to all purchases**

In accordance with federal regulations (2 CFR 200.317 / 200.322) and state law (see s. 403.7065, F.S.), the Contractor is required (to the maximum extent possible) to procure products or materials with recycled content when the FL Department of Management Services determines such products/materials are available. "Recycled content" means materials that have been recycled that are contained in the products or materials purchased, including but not limited to, paper, aluminum steel, plastic, glass, and composted material.

**40. Prohibition of peripheral devices for confidential data storage**

The Contractor, its employees, subcontractors, agents, or any other individuals to whom the Contractor exposes confidential information obtained under the contract, shall not store, or allow to be stored, any confidential information on any portable storage media (e.g., laptops, thumb drives, hard drives, etc.) or peripheral device with the capacity to hold information without encryption software installed. Any peripheral devices used must meet the standards prescribed in the National Institute of Standards and Technology Special Publication 800-111 http://csrc.nist.gov/publications/nistpubs/800-111/SP800-111.pdf. Failure to strictly comply with this provision shall constitute a breach of the contract.

**41. Public announcements, press releases, sponsorships**

The ELC does not endorse any Contractor, commodity, or service. The Contractor shall not provide any information to any media representative or any other external party regarding the contract or any services delivered under the contract without prior written approval from the ELC Public Information Office. The Contractor shall also notify the ELC Chief Executive Officer at (941) 757 – 2912 verbally within one (1) hour and in writing, with a copy to the ELC Contract Manager, within one (1) business day of any inquiries received from any media outlet or representative. The Contractor shall not use the ELC logo(s) without the written approval of the ELC.

A sponsorship statement is required when issuing statements, press releases, request for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money. This requirement applies to all States receiving Federal funds, including but not limited to State and local governments and Contractors. The required sponsorship statement shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) the percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources." P. L. 103-333, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act of 1995, § 508 – "Public Announcements and Press Releases".

In addition, s. 286.25, F.S. requires an additional statement if the Contractor is a nongovernmental organization, which sponsors a program financed wholly or in part by state funds, including any funds obtained through this contract. In publicizing, advertising, or describing the sponsorship of the program, the Contractor shall state: "Sponsored by (Contractor's name), the Early Learning ELC, and the State of Florida, Divison of Early Learning." If the sponsorship reference is in written material, the words "the Early Learning ELC and State of Florida, Divison of Early Learning" shall appear in the same size letters or type as the name of the Contractor/organization.
The Contractor is prohibited from using contract information, sales values or sales volumes, or the ELC's stakeholders or customers, in sales brochures or other promotions, including press releases, unless prior written approval is obtained from the ELC.

**42. Public records**

If the vendor meets the definition of "Contractor" in Section 119.0701(1)(a), F.S., the Contractor shall comply with state public records requirements. All Contractor records for the scoped transaction(s) are available for public inspection unless expressly exempt from Sec 24(a) of the State Constitution and s. 119.07(1), F.S. The Contractor shall keep and maintain records ordinarily and necessarily required by the ELC to perform the scoped transaction(s) of this contract. Records subject to these rules include files that support all receipts and expenditure of contract funds. These files may include, but are not limited to, procurement responses/applications, contracts, agreements, financial reports, and supporting documentation for scoped services. Project/contract completion has not occurred until all reporting requirements are satisfied, and final payments have been received/released.

The length of retention for these records in Florida is five years after the completion of the project, provided applicable audits have been released/closed. In no case will such records be disposed of before the five

fiscal years minimum. Any of the records will be made available to the Divison or its designees upon its request.
The contract may be unilaterally canceled by the ELC for refusal by the Contractor to allow public access to records related to this contract and/or for failure to keep and maintain records as described herein.

**43. Public access/public records requests**

If a public records request is received, the Contractor must provide notice to the ELC within one (1) business day pursuant to Chapter 119, F.S. The Contractor shall email to the address shown a copy of all documents provided to the public records requestor by the end of the day such records are sent to the requestor.
IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 941-212-4991 or kgaylord@elc-manatee.org.

**44. Purchase of American-Made Equipment and Products**

The Contractor shall to the greatest extent practicable purchase all American made equipment and products with funds made available by this contract. (P.L. 103-333, the USDOL, USDHHS, USDOE and Related Agencies Appropriations Act of 1995, section 507).

**45. Records Retention**

The Contractor shall keep and maintain records ordinarily and necessarily required by the ELC to perform the scoped transaction(s) of this contract. Records subject to these rules include files that support all receipts and expenditure of contract funds. These files may include, but are not limited to, procurement responses/applications, contracts, agreements, financial reports, and supporting documentation for scoped services. Project/contract completion has not occurred until all reporting requirements are satisfied, and final payments have been received/released. The length of retention for these records in Florida is **five years** after the completion of the project, provided applicable audits have been released/closed. In no case will such records be disposed of before the five fiscal years minimum. Any of the records will be made available to the Divison or its designees upon its request. The contract may be unilaterally canceled by the ELC for failure or refusal by the Contractor to keep and maintain records as described herein.

**46. Renegotiation due to Changes in Federal or State law, rules, or regulations**

The Parties agree to negotiate changes to the contract if Federal or State revisions of any applicable laws or regulations make changes in the contract necessary.

**47. Return of Funds**

The Contractor shall return to the ELC any overpayments disbursed to the Contractor by the ELC due to unearned funds or funds disallowed pursuant to the terms of the contract. In the event the Contractor or its independent auditor discovers an overpayment was received, the Contractor shall repay said overpayment within forty (40) calendar days without prior notification from the ELC. In the event the ELC first discovers an overpayment was made, the ELC will notify the Contractor in writing of such occurrence. Should repayment not be made in a timely manner by the Contractor, the ELC shall be entitled to charge

a lawful rate of interest on the outstanding balance beginning forty (40) calendar days after the date of notification or discovery. Refunds should be sent to the ELC Contract Manager (or other listed contact person) and made payable to the ELC.

**48. Return or destruction of confidential data**

Upon termination of the contract for any reason, Contractor agrees to either return to the ELC or, if the return is not feasible, to destroy all confidential information in whatever form or medium the Contractor received from or created on behalf of the ELC to include without limitation all backup versions. This provision shall also apply to all confidential information in the possession of subcontractors or agents of the Contractor. In such case, Contractor shall retain no copies of such information, including any compilations derived from and allowing identification of confidential information. The Contractor shall complete such return or destruction as promptly as possible, but not more than forty-five (45) calendar days after the effective date of the conclusion of the contract. Within the forty-five (45) days, the Contractor shall certify on oath in writing to the ELC that such return or destruction has been completed. If Contractor believes that ultimate destruction of the information is feasible but that to do so is not feasible or recommended to occur within the required forty-five (45) days, Contractor must contact the ELC Contract Manager (or other listed contact person) and provide the basis for the delay. If the ELC Contract Manager determines that it is in the best interest of the ELC to extend the time for return or destruction of the confidential data, the Contract Manager shall in writing notify the Contractor of the length of the extension and shall include the written notification in the ELC official contract file.

If Contractor believes that the return or destruction of confidential information is not feasible,

The Contractor shall provide in writing within forty-five (45) days, the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return, or destruction is not feasible, Contractor shall continue the protections provided for in this contract if Contractor maintains the confidential information.

**49. Rights to Inventions**

Pursuant to 2 CFR Part 200 Appendix II, item (F) and s. 286.021, F.S., if a discovery or invention arises or is developed in connection with the use of federal/state funds, the ELC will refer it to DEL and the Department of State to determine whether patent protection will be sought in the name of the state of Florida. Any and all patent rights accruing in connection with the performance of the contract are hereby reserved to the state of Florida. The Contractor shall refer any such discovery to the ELC. In addition, the Contractor is subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements." See Rights to Inventions for complete details.

**50. Smoking prohibitions (Pro-Children Act of 2001)**

The Contractor certifies compliance with Public Law 103-227, Title X, Part C, the Pro-Kids Act of 1994 (as amended by the Pro-Children Act of 2001, 42 U.S.C. 7181 through 7184). Smoking is prohibited in any portion of facilities where federally funded children's services are provided or administered. Failure to comply with the provision of this law may result in a civil monetary penalty of up to $1,000 per day.

**51. Subpoenas**

The Contractor shall notify the ELC if any data related to the contract is subpoenaed or used, copied or removed from the Contractor's possession by any individual not authorized by the ELC to use, copy or remove such data. The Contractor shall provide notice to the ELC verbally within twenty-four (24) chronological hours and in writing within seventy-two (72) chronological hours. The Contractor shall cooperate with the ELC in taking all steps as the ELC deems advisable to prevent misuse, regain possession of, and/or otherwise protect the ELC and the State's rights and the data subject's privacy.

**52. Termination for Cause (breach of terms) – applies for purchases over $10,000**

Pursuant to 2 CFR Part 200 Appendix II, item (B), in the event of termination of the Contract by the ELC for cause or breach of listed terms and conditions, the Contractor shall be liable for the ELC expenses for additional managerial and administrative services required to complete or obtain the services or items from another Contractor.

**53. Termination for Convenience – applies for purchases over $10,000**

Pursuant to 2 CFR Part 200 Appendix II, item (B), the ELC, by written notice to the Contractor, may terminate the contract in whole or in part when the ELC determines in its sole discretion that it is in the ELC's best interest to do so. The Contractor shall not furnish any services after it receives notice of the termination, except as necessary to complete the continued portion, if any, of the contract. The Contractor shall not be entitled to recover any cancellation charges or lost profit.

After receipt of a notice of termination, and except as otherwise specified by the ELC, the Contractor shall:

- Stop work on the contract on the date of and to the extent specified in the notice.
- Complete performance of the work not terminated by the ELC.
- Take such action as may be necessary, or as the ELC may specify, to protect and preserve any property related to the contract which is in the possession of the Contractor and in which the ELC has or may acquire an interest.
- Transfer, assign, and make available to the ELC all property and materials belonging to the ELC, upon the effective date of termination of the contract. No extra compensation will be paid to the Contractor for its services in connection with such transfer or assignment.
- Meet all the public records law requirements specified under the Public Records sections of these terms and conditions.

**54. Travel**

Travel expenses are reimbursed only if expressly authorized by the terms of the contract. If authorized, submit bills for any travel expenses to the ELC in accordance with s. 112.061, F.S. Only travel performed in connection with approved contract activities is eligible for reimbursement. The ELC requires travel reimbursements be submitted within thirty (30) calendar days of the travel event.

**55. Unauthorized alien(s)**

The Contractor agrees that unauthorized aliens shall not be employed. The ELC shall consider the employment of unauthorized aliens a violation of section 274A (e) of the Immigration and Nationality Act (8 U.S.C. 1342a). Such violation shall be cause for unilateral cancellation of the contract by the ELC.

**56. Waiver**

The delay or failure by the ELC to exercise or enforce any of its rights under the contract shall not constitute waiver of such rights.

**57. Whistleblower's Act**

In accordance with s. 112.3187, F.S., the Contractor and its subcontractors shall not retaliate against an employee for reporting violations of law, rule, or regulation that creates and presents a substantial and specific danger to the public's health, safety, or welfare. Furthermore, agencies or independent Contractors shall not retaliate against any person who discloses information to an appropriate agency alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of any agency, public officer, or employee. The Contractor and any subcontractor(s) shall inform its employees that they and other persons may file a complaint with the Office of Chief Inspector General, the Divison of Early Learning's Inspector General, and the Florida Commission on Human Relations or the Whistleblower's Hotline number at 1-800-543-5353.