

RFP# FCA-1
GENERAL TERMS AND CONDITIONS

- A. VIRGINIA PUBLIC PROCUREMENT ACT (VPPA): This RFP is subject to the provisions of the VPPA and any revisions thereto, which are hereby incorporated into this document by reference.
- B. APPLICABLE LAWS AND COURTS: This RFP and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the Courts of the Commonwealth and must be in compliance with all applicable Federal, State and Local laws, rules and regulations, inclusive of, but not limited to, the Workforce Innovation and Opportunity Act (WIOA) of 2014, as amended, or any other federal, State or local funding source that may be identified.
- C. ETHICS IN PUBLIC CONTRACTING: Proposing organizations certify that their proposals are made without collusion or fraud and that they have not been offered or received any kickbacks or inducements from any other proposer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- D. IMMIGRATION REFORM AND CONTROL ACT OF 1986: Proposing organizations certify that they do not and will not employ illegal alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986 in the performance of any contract resulting from this RFP.
- E. ANTITRUST: By entering into a contract resulting from this RFP, the contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the services purchased by the Hampton Roads Workforce Council under said contract.
- F. PAYMENTS: The terms for payments will be part of the competitive negotiation process for this RFP and stipulated in the contract.
- G. INDEPENDENT CONTRACTOR: A Contractor resulting from this RFP, and any employees, agents or other persons or entities acting on behalf of the Contractor shall act in an independent capacity and not as officers, employees or agents of the Hampton Roads Workforce Council or the HRWC BOD.
- H. SEVERABILITY: If any provision of a contract resulting from this RFP or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this contract, or the application of such provision to persons or circumstances other than those which it is invalid or unenforceable, shall not be affected, and each provision of this contract shall be valid and enforced to the full extent permitted by law.

- I. **ADDENDA:** Changes or supplemental instructions related to this RFP will be in the form of a written Addendum. Any Addendum that may be required will be posted on the Hampton Roads Workforce Council website at www.theworkforcecouncil.org with this RFP, without notice. It is the responsibility of proposers to check for such on the website prior to the proposal due date and time in order to ensure that all of such are received.
- J. **SUBRECIPIENT STATUS:** An entity that is awarded a contract as a result of this RFP will be considered a Subrecipient of a Federal Award.
- K. **QUALIFICATIONS OF PROPOSING ORGANIZATION:** Proposing organizations agree to provide the Hampton Roads Workforce Council with any other requested information at any time to determine their ability to perform the services proposed. The Hampton Roads Workforce Council may, at its sole discretion, cease negotiations with proposing organizations if information provided or other evidence fails to meet the requirements of the RFP.
- L. **ASSIGNMENT OF CONTRACT:** A contract which may result from RFPs shall not be assignable by the contractor, in whole or in part, without the prior written consent of the Hampton Roads Workforce Council.
- M. **CHANGES TO THE CONTRACT:** Either Party to the contract may request, in writing, changes to the contract. Changes are not binding until both parties have signed an official contract modification document. An increase or decrease in the price of the contract resulting from any modification is subject to applicable provisions of the Virginia Public Procurement Act.
- N. **DEFAULT:** In case of failure to deliver services in accordance with the contract terms and conditions, the Hampton Roads Workforce Council may declare the contractor in default and will immediately notify the contractor in writing. As a result, the Hampton Roads Workforce Council may procure the same services from other sources and reserves the right to seek compensation from the contractor for any and all additional expenditures as a result of the default.
- O. **INSURANCE:** By signing and submitting a proposal in response to this RFP proposing organizations certify that they shall maintain and provide documentation, if requested, of all applicable and/or required insurance coverage(s). Insurance requirements for contracts with Federal, State or Local Governments or their agencies may vary from contracts with private entities.
- P. **AVAILABILITY OF FUNDS:** In the event Federal, State or Local funds that are the resources for contracts are discontinued, curtailed or otherwise no longer available; contracts awarded as a result of any RFP may be cancelled or reduced at any time. The Hampton Roads Workforce Council will notify contractors in writing as soon as possible after receiving any such notice.
- Q. **PROPOSAL ACCEPTANCE PERIOD:** Proposals shall be binding upon proposing organizations for one hundred twenty (120) calendar days following submission deadline. Any proposal that requests a shorter acceptance period may be rejected at the sole discretion of the Hampton Roads Workforce Council.

- R. **SUBCONTRACTS:** In the event that a Contractor desires to subcontract for services to be provided, the contractor shall furnish to the Hampton Roads Workforce Council the names, qualifications and experience of their proposed subcontractor. The Contractor shall remain fully liable and responsible for the work to be done by their subcontractor and shall ensure compliance with all contract requirements. All subcontracts must be approved in writing by the Hampton Roads Workforce Council prior to execution.
- S. **RECORDS RETENTION:** Contractors agree to retain all books, records, and other documents relative to contracts for four (4) years following the expiration of the contract or until audited, whichever is greater. However, if any audit claim, litigation, negotiation or other action involving the records has been started as a result of the audit or before the expiration of the four (4) year period, the records shall be retained until completion of the action and resolution of all issues which may arise. The Hampton Roads Workforce Council, its authorized representatives and/or State and Federal auditors shall have full access to and the right to examine any of said materials during said period. Contractors are responsible for all costs associated with the retention of the books, records and other documents.
- T. **CLARIFICATION OF TERMS OR QUESTIONS:** Clarifications to RFPs and answers to questions not contained in RFPs, as applicable and appropriate, will be posted on the Hampton Roads Workforce Council website at www.theworkforcecouncil.org without further notice.
- U. **HOLD HARMLESS:** Contractors agree to indemnify, defend and hold harmless the Hampton Roads Workforce Council, the HRWC BOD, the Chief Local Elected Officials of the Hampton Roads Region, the Commonwealth of Virginia, and their officers, agents and employees from any claims, damages, and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of materials, goods, or equipment of any kind or nature furnished by the contractor, or arising from, or caused by any services of any kind or nature provided by the contractor, provided that such liability is not attributable to the sole gross negligence on the part of the Hampton Roads Workforce Council or to the failure of the Hampton Roads Workforce Council to use the materials, goods, or equipment in the manner outlined by Contractors and descriptive literature of specifications submitted with contractors' proposals. This section does not apply to contracts with Federal, State or Local Governments or their agencies.
- V. **CONTRACTUAL DISPUTES:** In accordance with Section 2.2-4363 of The Code of Virginia, claims arising out of a contract issued as a result of any RFP, whether for money or other form of compensation, shall be submitted by the contractor, in writing, with all necessary data and information attached to the claim. This submission must be received by the Hampton Roads Workforce Council no later than sixty (60) calendar days after final payment is provided under any contract. The Hampton Roads Workforce Council will respond in writing within ninety (90) calendar days of receipt of the claim, unless both parties agree to a longer response period. In the event the Hampton Roads Workforce Council does not respond within this time period, the contractor may institute legal action pursuant to Section 2.2-4364 of The Code of Virginia.
- W. **EXTENSION OF CONTRACT:** All RFPs will include statements specifying if contracts will be able to be extended past their original term and for how long thereafter.
- X. **HUMAN TRAFFICKING:** Executive Order 1333 requires the termination without penalty of any

contract if the contractor engages in human trafficking.

- Y. **ROLE OF THE VIRGINIA COMMUNITY COLLEGE SYSTEM (VCCS):** In Virginia, the VCCS at the State level is responsible for the formula distribution of WIOA funds; the award of certain Dislocated Worker WIOA Grants; ensuring the integrity of the funds; oversight and monitoring of local workforce development boards; and, developing and implementing WIOA operational guidance and policies in coordination with the Virginia Workforce Development Board. The aforementioned documents can be found at www.elevatevirginia.org/practitioners-corner/.
- Z. **CONTRACT AWARD:** The Hampton Roads Workforce Council will enter into a contract with the selected proposer(s) under this RFP for an initial performance period. Thereafter, the contract may be renewed for additional performance periods as stipulated in the RFP, at the discretion of the Hampton Roads Workforce Council. The initial contract amount will remain in force throughout that performance period, unless otherwise authorized by the Hampton Roads Workforce Council. Amounts for any subsequent contract extensions will be negotiated with the contractor.
- A.A. **HAMPTON ROADS WORKFORCE COUNCIL EO POLICY:** The EO Policy is applicable to this RFP and is posted on the Hampton Roads Workforce Council website at www.theworkforcecouncil.org. Please note that program facilities must be fully accessible to individuals with disabilities.
- B.B. **CERTIFICATIONS AND ASSURANCES:** The following Certifications and Assurances are incorporated by reference and will be made part of any contract(s) entered into by the Hampton Roads Workforce Council as a result of all RFPs:
1. Certification Regarding Lobbying (29 CFR § 93);
 2. Certification Regarding Debarment, Suspension and Other Responsibility Matters (29 CFR § 98);
 3. Nondiscrimination and Equal Opportunity Assurance (29 CFR § 37);
 4. Drug-Free Workplace Requirements Certification (29 CFR § 98); and
 5. Standard Form 424B Standard Assurances (Non-Construction Programs).
- C.C. **WHISTLEBLOWER PROTECTION:** Any contract resulting from this RFP is subject to the whistleblower rights and remedies established at 41 U.S.C. 4712. The recipient shall inform its employees in writing, in the predominant language of the workforce of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation (48 CFR 3.908; note that for the purpose of this term and condition, use of the term “contract,” “contractor,” “subcontract,” or “subcontractor” in section 3.908 should be read as “grant,” “grantee,” “subgrant,” or “subgrantee”). The recipient shall insert the substance of this clause in all subgrants and contracts over the simplified acquisition threshold.
- D.D. **BUY-AMERICAN:** In accordance with Section 502 of WIOA, all funds authorized in Title 1 of WIOA and the Wagner-Peyser Act must be expended in compliance with Sections 8301 through 8303 of the Buy American Act (41 U.S.C. 8301-8305).