

**Software License Agreement Extension  
Index Code 81715**

**THIS SOFTWARE LICENSE AGREEMENT** (the "Agreement") dated this   1st   day of   July  ,   2017   (the "Execution Date")

**BETWEEN:**

**Ryman, Inc. DBA: Complete Technology Solutions** hereinafter referred to as  
"CTS", "Contractor" or "Vendor"

**OF THE FIRST PART**

And

**South Florida Workforce Investment Board** hereinafter referred to as "SFWIB," located at  
**7300 Corporate Center Drive, Suite 500, Miami, Florida, 33126-1234**

**OF THE SECOND PART**

**IN CONSIDERATION OF** the provisions contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

**License**

1. Under this Agreement the Vendor grants to the SFWIB a non-exclusive and non-transferable license (the "License") to use ATLAS (the "Software").
2. "Software" includes the executable computer programs and any related printed, electronic and online documentation and any other files that may accompany the product.
3. Title, copyright, intellectual property rights and distribution rights of the Software remain exclusively with the Vendor. Intellectual property rights include the look and feel of the Software. This Agreement constitutes a license for use only and is not in any way a transfer of ownership rights to the Software.
4. This Agreement grants a site license to the SFWIB. The Software may be accessed only by employees, contractors, partners and customers of the SFWIB.
5. This Agreement grants access to the following ATLAS components storage, self-sign, self-scan, staff-scan, orientations, events and e-courses.
6. The rights and obligations of this Agreement are personal rights granted only to the SFWIB. The SFWIB may not transfer or assign any of the rights or obligations granted under this Agreement to any other person or legal entity. The SFWIB may not make available the Software for use by one or more third parties unless specifically allowed by

vendor.

7. The SFWIB shall not modify, reverse-engineer, or de-compile the Software in any manner through current or future available technologies at any-time during or after this agreement is in effect.
8. Failure to comply with any of the terms under the License section will be considered a material breach of this Agreement.

#### **License Fee**

9. The license fee for this Agreement will consist of an annual maintenance, update and support fee of **\$93,972.00** USD, which will be billed at **\$7,831.00** per month.
10. The license fee includes application hosting within the SFWIB's data center.

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#### **Limitation of Liability**

11. The Software is provided by the Vendor and accepted by the SFWIB "as is." The Vendor will not be liable for any general, special, incidental or consequential damages including, but not limited to, loss of production, loss of profits, loss of revenue, loss of data, or any other business or economic disadvantage suffered by the SFWIB arising out of the use or failure to use the Software.
12. The Vendor makes no warranty expressed or implied regarding the fitness of the Software for a particular purpose or that the Software will be suitable or appropriate for the specific requirements of the SFWIB.
13. The Vendor does not warrant that use of the Software will be uninterrupted or error-free. The SFWIB accepts that software in general is prone to bugs and flaws within an acceptable level as determined in the industry.

#### **Warrants and Representations**

14. The Vendor warrants and represents that it is the copyright holder of the Software. The Vendor warrants and represents that granting the license to use this Software is not in violation of any other agreement, copyright or applicable statute.

#### **Acceptance**

15. All terms, conditions and obligations of this Agreement will be deemed to be accepted by the SFWIB ("Acceptance") upon execution of this Agreement.

#### **User Support**

16. The SFWIB will be entitled to two years of phone support available 9:00 am - 5:00 pm Monday - Friday, excluding holidays, at no additional cost.

### **Term**

17. Upon the SFWIB's acceptance of equipment, the term of this Agreement will commence on **July 1, 2017** and expire no later than **June 30, 2018**.
  18. The SFWIB may, in the SFWIB's sole discretion, renew this Agreement for up to two (2) additional one (1) year performance periods contingent upon satisfactory performance and availability of funding to the SFWIB upon such terms and conditions as agreed to by both parties in writing.
  19. At the end of the term, the SFWIB will retain all rights to customer documents and associated metadata.
  20. Continual support and update services can be purchased on a year to year basis (billed per month) for the current support fee detailed within the "License Fee" area or this agreement.
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### **Termination**

21. This Agreement will be terminated and the License forfeited where the SFWIB has failed to comply with any of the terms of this Agreement or is in breach of this Agreement. On termination of this Agreement for any reason, the SFWIB will promptly destroy the Software or return the Software to the Vendor.

### **Force Majeure**

22. The Vendor will be free of liability to the SFWIB where the Vendor is prevented from executing its obligations under this Agreement in whole or in part due to Force Majeure, such as earthquake, typhoon, flood, fire, and war or any other unforeseen and uncontrollable event where the Vendor has taken any and all appropriate action to mitigate such an event.

### **Additional Terms**

23. If the SFWIB elects not to renew update, support and maintenance term, the ATLAS system will continue to operate with the features and content current at time of service discontinuation. If the application is hosted by Vendor then it will be moved to an environment of the SFWIB choosing.
24. After discontinuation of update, support and maintenance service, Vendor will be released from duties in their entirety as related to the continued update, support and maintenance portions of the agreement.

## Insurance

25. The Contractor shall provide the SFWIB, prior to the execution of this Agreement, Certificates of Insurance or written verification (binders) required under this section or as determined by the SFWIB. Such insurance policies shall be in the amounts indicated below:
- A. Commercial General Liability Insurance \$1,000,000 aggregate; this insurance shall be secured on a comprehensive basis to include contingent liability in an amount that ensures that the Contractor is protected against any suits. The SFWIB shall be the **certificate holder** and also be named as an **additional party insured** with respect to this coverage.
  - B. Worker's Compensation Insurance coverage shall be secured for all persons employed by the Contractor in an amount that is consistent with Chapter 440 of the Florida Statutes.
26. All insurance certificates and policies secured by the Contractor shall be issued by companies authorized to perform such functions under the laws of the State of Florida.
27. All insurance certificates shall list the SFWIB as "**Certificate Holder**" in the following manner:
- South Florida Workforce Investment Board  
7300 Corporate Center Drive, Suite 500  
Miami, Florida 33126-1234
28. The Contractor shall be responsible for assuring that the insurance certificates required in conjunction with this Agreement remain in force for the duration of the effective term of this Agreement. If insurance certificates are scheduled to expire during the effective term, the Contractor shall be responsible for submitting new or renewed insurance certificates to the SFWIB prior to expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the effective term, the SFWIB may suspend the Agreement until such time as the new or renewed certificates are received by the SFWIB in the manner prescribed herein; provided, however, that this suspended period does not exceed ten (10) calendar days. Thereafter, the SFWIB may, in its sole discretion, terminate this Agreement.
29. Provision of insurance by the Contractor, in no instance, shall be deemed to be a release, limitation, or waiver of any claim, cause of action or assessment that the SFWIB may have against the Contractor for any liability of any nature or of any kind related to performance under this Contract or otherwise.

### **Indemnification**

30. Notwithstanding any other provision within this Agreement, the **Vendor** shall indemnify and hold harmless the **SFWIB** and its officers, employees, agents, servants, agencies and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the **SFWIB** and its officers, employees, agents, servants, agencies or instrumentalities may incur as a result of any and all claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the **Vendor** or the **Vendor's** officers, employees, agents, servants, partners, principals or subcontractors. The **Vendor** shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the **SFWIB**, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The **Vendor** expressly understands and agrees that any insurance policies required by this Agreement or otherwise provided by the **Vendor** shall in no way limit the responsibility to indemnify, keep and save harmless and defend the **SFWIB** and its officers, employees, agents, servants, agencies and instrumentalities as herein provided.
31. The **SFWIB** shall indemnify and hold harmless **Vendor**, its officers, employees, agents, servants, agencies and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which **Vendor** and its officers, employees, agents, servants, agencies or instrumentalities may incur as a result of any and all claims, demands, suits, causes of action or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the **SFWIB** or the **SFWIB's** officers, employees, agents, servants, partners, principals or subcontractors. The **SFWIB** shall pay all claims and losses of any kind in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of **Vendor**, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Provided, however, this indemnification shall only be to the extent and within the limitations of Section 768.28 Florida Statutes, subject to the provisions of that statute whereby the **SFWIB** shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$200,000, or any claim or judgment or portions thereof, which, when totaled with all other claims or judgments paid by the **SFWIB** arising out of the same incident or occurrence which exceeds the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the **SFWIB** or the **SFWIB's** officers, employees, servants, agents, partners, principals or subcontractors.
32. Term of Indemnification. The provisions of this indemnification shall survive the expiration of this Agreement and shall terminate upon the expiration of the applicable statute of limitation.

### **Governing Law**

33. The Parties to this Agreement submit to the jurisdiction of the courts of the State of Florida for the enforcement of this Agreement or any arbitration award or decision arising from this Agreement. This Agreement will be enforced or construed according to the laws of the State of Florida. Venue for any action arising from this agreement shall be in Miami-Dade County in the Eleventh Judicial Circuit of Florida.

### **Miscellaneous**

34. This Agreement can only be modified in writing signed by both the Vendor and the SFWIB.
35. This Agreement does not create or imply any relationship in agency or partnership between the Vendor and the SFWIB.
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36. Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine gender include the feminine gender and vice versa. Words in the neuter gender include the masculine gender and the feminine gender and vice versa.
37. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, it is the parties' intent that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable and the remainder of the provisions of this Agreement will in no way be affected, impaired or invalidated as a result
38. This Agreement contains the entire agreement between the parties and includes all prior negotiations, correspondence, conversations, agreements, purchase orders, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document except those expressed in the SFWIB Purchase Order, General Terms and Conditions and agreed to by both parties. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.
39. This Agreement and the terms and conditions contained in this Agreement apply to and are binding upon the Vendor's successors and assigns.
40. This Agreement does not create any intended or unintended third party beneficiaries.
41. The Contractor assures that it is currently in compliance with, and shall maintain and ensure its compliance, as applicable, with federal, state, and local laws, which includes, but is not limited to, adherence to IRS rules and regulations requiring timely filing of tax

returns and payment of payroll taxes, as applicable, throughout the term of this Agreement.

42. The requirements of “the Specific Appropriation 2006, and associated proviso, of the 2011 General Appropriation Act, section 445.007, Florida Statutes” set forth in **Attachment 1 (CareerSource Florida State and Local Workforce Development Board Contracting Conflict of Interest Policy)** attached hereto are incorporated herein by this reference and Contractor agrees to comply with the same. The Contractor shall provide a completed **Disclosure and Certification of Conflict of Interest in a Contract, Attachment 2.**

### **ASSURANCES AND CERTIFICATIONS**

43. The South Florida Workforce Investment Board (**SFWIB**) will not enter into an Agreement where **CTS** has failed to accept the **ASSURANCES AND CERTIFICATIONS** contained in this section. In performing its responsibilities under this Agreement, ~~CTS hereby certifies and assures that it will fully comply with the following:~~

- a) **Certification Regarding Debarment, Suspension and Other Responsibility Matters (29 CFR Part 98)**
- b) **Certification Regarding Lobbying (29 CFR Part 93)**
- c) **Certification Regarding Drug-Free Workplace Requirements (29 CFR Part 94)**
- d) **Non-discrimination and Equal Opportunity Assurances (29 CFR Part 38)**
- e) **Certification Regarding Public Entity Crimes (section 287.133, Florida Statutes)**
- f) **Sarbanes-Oxley Act of 2002**
- g) **Association of Community Organizations for Reform Now (ACORN) Funding Restrictions Assurance (Pub. L. 111-117)**
- h) **Discriminatory Vendor List**

By signing the agreement, **CTS** is providing the above assurances and certifications as detailed below:

- a) **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTION.**

As required by the regulation implementing EO No. 12549 and 12689, Debarment and Suspension, 29 CFR 98, **CTS** certifies to the best of **CTS**'s knowledge and belief, to the following:

**CTS** is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department, Agency or Subcontractor;

**CTS** has not, within a three-year period preceding this application/proposal/contract,

been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or Agreement under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

CTS is not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph B.2 of this certification; and

CTS has not, within three-year period preceding this application/proposal/contract, had one or more public transactions (Federal, State, or local) terminated for cause or default.

CTS shall comply with the language of the certification with regards to CTS's Subcontractors. CTS shall ensure and require the same certification from its Subcontractor(s), which shall be forwarded to the SFWIB along with the request to subcontract as required by this solicitation/Contract.

Where CTS is unable to certify to any of the statements in this certification, CTS shall submit an explanation to the SFWIB attached to this form.

**b) CERTIFICATION REGARDING LOBBYING.**

CTS certifies, to the best of CTS's knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of a CTS, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

CTS shall require that the language of this certification be included in the award documents for "all" sub-awards at all tiers (including subcontracts, subgrants and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose the same accordingly.



This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by the Byrd Anti-Lobbying Amendment Section 1352, Title 31, U.S. Code. 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.

**c) CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS.**

CTS assures and guarantees that CTS shall comply with the Federal Drug Free Workplace Act of 1988, its implementing regulations codified at 29 CFR 94, subpart F, and the Drug-Free Workplace Rules established by the Florida Worker's Compensation Commission.

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**d) NON-DISCRIMINATION AND EQUAL OPPORTUNITY ASSURANCES**

As a condition to the award of financial assistance from the Department of Labor under Title I of the Workforce Innovation and Opportunity Act, CTS assures that CTS has the ability to comply fully with the non-discrimination and equal opportunity provisions of the following laws and will remain in compliance for the duration of the award of federal financial assistance:

1. Section 188 of the Workforce Innovation and Opportunity Act (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth and related medical conditions, transgender status and gender identity, gender expression or sex stereotyping) (except as otherwise permitted under title IV of the Education Amendments of 1972), national origin (including limited English Proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I - financially assisted program or activity;
2. Title VI of the Civil Rights Act of 1964 (42 U.S.C 2000d et seq.), as amended, which prohibits discrimination on the bases of race, color and national origin;
3. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, which prohibits discrimination against qualified individuals with disabilities;
4. The Age Discrimination Act of 1975 (42 U.S.C. 6101), as amended, which prohibits discrimination on the basis of age;
5. Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), as amended, which prohibits discrimination on the basis of sex in educational programs;

6. Section 654 of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9849), as amended, which prohibits discrimination on the basis of race, creed, color, national origin, sex, handicapping condition, political affiliation or beliefs;
  7. Titles I (42 U.S.C. 12111 et seq.), II (42 U.S.C. 12131 et seq.), and III (42 U.S.C. 12181 et seq.) of the Americans with Disabilities Act of 1990, as amended, which prohibit discrimination on the basis of disability, respectively, by: (a) private employers, state and local governments, employment agencies and labor unions that employ 15 or more employees; (b) state and local government entities (“public entities”) and requires public entities to provide persons with disabilities an equal opportunity to benefit from their programs, services and activities; and (c) places of public accommodations and mandates that places of public accommodations and commercial facilities be designed, constructed, and altered in compliance with specific accessibility standards.
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8. Executive Order (EO) No. 11246, “Equal Employment Opportunity” as amended by EO No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and as supplemented by regulations at 41CFR Part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor”; and in Department of Labor regulation 29 CFR Parts 33 and 37 as well as 45 CFR Part 80; and Part 92, if applicable; and
  9. Chapter 11A of the Code of Miami-Dade County, Florida which, among other things, prohibits discrimination in employment and places of public accommodations on the basis of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, actual or perceived status as a victim of domestic violence, dating violence and stalking, gender identity, gender expression, or sexual orientation.

CTS also assures that CTS will comply with 29 CFR Part 38 and all other regulations implementing the laws listed above. This assurance applies to CTS’s operation of the WIOA Title I – financially assisted program or activity and to all agreements CTS makes to carry out the WIOA Title I – financially assisted program or activity. CTS understands the United States has the right to seek judicial enforcement of this assurance.

e) **CERTIFICATION REGARDING PUBLIC ENTITY CRIMES, SECTION 287.133 F.S**

CTS hereby certifies that neither CTS, nor any person or affiliate of CTS, has been convicted of a Public Entity Crime as defined in section 287.133 F.S., nor placed on the convicted vendor list.

CTS understands and agrees that CTS is required to inform the SFWIB immediately

upon any change in circumstances regarding this status.

**f) SARBANES-OXLEY ACT OF 2002**

It is the policy of the SFWIB to comply with the requirements of the Sarbanes-Oxley Act of 2002, Sections 1102 and 1107, set forth by the Act, the United States Code Title 18, Sections 1512 and 1513, as amended, and the requirements of the Workforce Board. By signing below, CTS assures that CTS will comply with the Sarbanes-Oxley Act provisions as set forth below:

**Provisions of the Act – Title X1 – Corporate Fraud Accountability**

**Section 1102 – Tampering with a record or otherwise impeding an official proceeding** – “Whoever corruptly: 1) alters, destroys, mutilates, or conceals a record, document or other object, or attempts to do so, with the intent to impair the object’s integrity or availability for use in an official proceeding 2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both”.

**Section 1107 – Retaliation against Informants** – “Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both”.

**g) ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW (ACORN) FUNDING RESTRICTIONS ASSURANCE (Pub. L. 111-117)**

As a condition of a contract, CTS assures that CTS will comply fully with the federal funding restrictions pertaining to ACORN and its subsidiaries per the Consolidated Appropriations Act, 2010, Division E, Section 511 (Pub. L. 111-117). The Continuing Appropriation Act, 2011, Section 101 and 103 (Pub. L. 111-242), provides that appropriations made under Pub. L. 111-117 are available under the conditions provided by Pub. L. 111-117.

**h) DISCRIMINATORY VENDOR LIST**

CTS shall disclose to the SFWIB if CTS appears on the discriminatory vendor list. An entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134, F.S. may not:

1. Submit a bid on a contract to provide any goods or services to a public entity;
2. Submit a bid on a contract with a public entity for the construction or repair of a public building or public work;

3. Submit bids on leases of real property to a public entity; or
4. Be awarded or perform as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity; or transact business with any public entity.

**Notices**

44. All notices to the parties under this Agreement are to be provided at the following addresses, or at such addresses as may be later provided in writing:

- a) Ryman, Inc. DBA: Complete Technology Solutions  
8328 Balm St., Weeki Wachee, Florida 34613
- b) South Florida Workforce Investment Board  
7300 Corporate Center Drive, Suite 500, Miami, Florida 33126-1234

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**Authority To Execute Agreement**

45. Each person executing this Agreement represents and warrants that he or she is duly authorized and has full legal authority to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on the other party and enforceable in accordance with its terms.

BY SIGNING BELOW, CTS CERTIFIES AND ASSURES THAT CTS WILL FULLY COMPLY WITH THE APPLICABLE ASSURANCE OUTLINED IN PART 43 sections A THROUGH H, ABOVE.

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IN WITNESS HEREOF THE PARTIES HERETO HAVE CAUSED TO BE EXECUTED BELOW THE SIGNATURES OF THE AUTHORIZED REPRESENTATIVES OF THE PARTIES HERETO WHO ARE FULLY AND DULY AUTHORIZED TO EXECUTE THIS AGREEMENT ON BEHALF OF THE RESPECTIVE PARTIES HERETO:


AUTHORIZED SIGNATURE FOR: **Ryman, Inc.**

PROGRAM ENTITLED: **Software License Agreement**

INDEX CODE: **81715**

CFDA: **WIOA AD 17.258; WIOA DW 17.278; WIOA RR: 17.278; TANF 93.558; FSET: 10.561; UC/REA/RESEA 17.225; RET 93.584; VET DVOP 17.801; VET LVER 17.801; TAA 17.245; Wagner Peyser 17.207; Wagner Peyser Incentives 17.207; Military Family Employment Program 17.207; WIA Incentives 17.258, 17.259, 17.278**

BY:



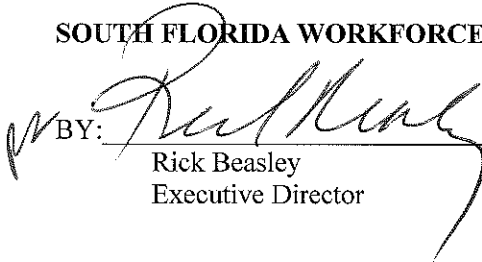
Christina Ryman  
President  
Ryman, Inc.

Date

8-11-17

**SOUTH FLORIDA WORKFORCE INVESTMENT BOARD**

BY:



Rick Beasley  
Executive Director

Date

9/29/17



## STATE AND LOCAL WORKFORCE DEVELOPMENT BOARD CONTRACTING CONFLICT OF INTEREST POLICY

### BACKGROUND

The following policy was established in accordance with proviso language for Specific Appropriation 2214 of the 2010 General Appropriations Act and the 2010 Appropriations Implementation Bill and continued in accordance with Specific Appropriation 2006 of the 2011 General Appropriations Act.

The proviso language for Specific Appropriation 2006 prohibited the use of state or federal funds by a regional workforce board ~~for any contract exceeding \$25,000 between a regional workforce board~~ and a member of that board that has any relationship with the contracting vendor, unless the contract has been reviewed by the Agency for Workforce Innovation and [CareerSource Florida, Inc. (CSF)] The proviso language was incorporated into and made a part of this policy.

This policy was modified in 2011 to prohibit a contract between local workforce development boards (local) and their board members or other persons or entities that may benefit financially from a contract (as defined in paragraph I(g) below), providing four exemptions to the prohibition to allow the workforce boards to provide statutorily-mandated services.

This policy was again modified in 2012 to comply with the Legislature's adoption of Chapter 2012-29, Laws of Florida, requiring contracts under \$25,000 to be reported to CSF and requiring that contracts with relatives of workforce board employees be approved by a two-thirds vote and go through the review and approval process.

The policy currently complies with section 445.007(1) and (11), Florida Statutes.

### POLICY

#### I) Definitions

For the purposes of this policy, the following definitions apply:

- a) "Board" means one of Florida's 24 local boards or CSF.
- b) "Contract" means a written agreement funded by state or federal funds, to which a local board or CSF is one of the parties. It includes the initial contract and all amendments, renewals or extensions. For the purposes of this policy, "contract" includes the proposed contract. This term does not include:

- i) Retail purchases for which no written contract is executed;
  - ii) The purchase of utility services for use by a board;
  - iii) Staff employment contracts (other than contracts with members of a board or relatives of board members); and,
  - iv) Membership fees and sponsorships to professional organizations.
- c) "Entire board" means the complete membership of the board at the time a contract is submitted to a vote. It includes board members who have a relationship with the contracting vendor and who therefore must abstain on the vote on the contract. Membership of the board includes non-voting members.
- d) "Quorum" means that minimum number of members of the board required to be present for the board to transact business as established by the board's bylaws (or, in the absence of bylaws, as has otherwise been established by the board.)
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- e) "When a quorum has been established" means the contemporaneous meeting of a sufficient number of members to constitute a quorum, in person and/or through accepted electronic means.
- f) "has any relationship with the contracting vendor" means the member is an owner or a principal of the vendor, or a principal of the vendor has retained the member, or the parent organization or subsidiary of a corporate principal of the vendor has retained the member or a member's known relative or member's business associate is an owner of the vendor. For purposes of this policy, vendor, contractor and sub recipient are the same.
- g) "benefit financially from a contract" means the special private financial gain to a member, a special private financial gain to any principal who retains the member, the special private financial gain of the parent organization or subsidiary of a corporate principal who retains the member or the special private financial gain to any member's relative or business associate or to a board employee or a board employee's relative and such benefit is not remote or speculative. "Personally benefit financially" means a special private financial gain to a member only.
- h) "Owner" means any ownership interest in a privately owned contracting entity or a majority interest in a publicly held contracting entity.
- i) "Principal of a contractor" means an owner or high-level management employee with decision-making authority.
- j) "Employee" means a person employed full-time by a local board working in a managerial or supervisory capacity or who has direct contract management or direct fiscal involvement with the contract being voted on by a board.

- k) "Relative" is defined as "father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law." Section 12.3143(1)(c), Florida Statutes.
- l) "Utility services" include telephone, cable, electricity, water, gas, waste and sewage services, and other similar services.
- m) "Federal, state or other governmental workforce programs" means Incumbent Worker Training (section.445.003(3)(a)(3), F.S.), Quick Response Training (Section 288.047, Florida Statutes), Employed Worker Training, On the Job Training, customized training and other career center training provider services.

## **II) Prohibition Against a Board Contracting with its Board Members**

No board (CSF or a local board) shall enter into a contract with its board members, with organizations represented by its board members or with entities in which its board members have a relationship with the contracting vendor.

At a board's discretion, the following may be exempted from the above paragraph:

- a) A contract with an agency (as defined in section 112.312(2), Florida Statutes, including, but not limited to, those statutorily required to be board members) when said agency is represented by a board member and said member does not personally benefit financially from such contracts.
- b) A contract with a board member or a vendor (when a board member has any relationship with the contracting vendor) in which the contract relates to that member's appointment to the board under section 107(a)(2), Public Law 113-128, Workforce Innovation and Opportunity Act of 2014 (WIOA).
- c) A contract with a board member receiving a grant for workforce services under federal, state or other governmental workforce programs.
- d) A contract between a board and a board member which is not exempted under paragraphs II(a), II(b) or II(c) in which the board documents exceptional circumstances and/or need and the board member does not personally benefit financially from the contract. Based upon criteria developed by CSF, DEO shall review the board's documentation and assure compliance.
- e) Each contract that is exempted from the general prohibition in paragraph II must meet the requirements set forth in paragraph III below, including, but not limited to, the requirements of the criteria established in the "conflict of interest" provisions under section 101(f), Workforce Innovation and Opportunity Act of 2014. However, since section 445.007(11), FS requires CSF to perform the review and approval process pertaining to local board contracts, CSF contracts shall not be subject those provisions of this policy pertaining to review and approval processes.



### III) Requirements of Section 445.007, Florida Statutes

A board must comply with all requirements of section 445.007, Florida Statutes, prior to contracting with a board member or other person or entity who could benefit financially from a contract (as defined in paragraph I(g) above). These requirements are:

- a) All contracts between a board and a board member or other person or entity who may benefit financially from a contract (as defined in paragraph I(g) above) must be approved by a two-thirds vote of the board when a quorum has been established and the approval of such contracts shall not be delegated to staff or committees.
- b) The fact that a board member or other person or entity could benefit financially from a contract (as defined in paragraph I(g) above) must be disclosed in a board meeting and must be recorded in the minutes of said meeting before a vote is taken. The board member's absence from the meeting does not relieve the board from the disclosure and two-thirds vote requirements. All other known conflicts must be disclosed before a vote can take place. If a board member or employee discovers a conflict of interest after the vote, then the conflict must be disclosed in a procedure consistent with section 112.3143(4)(b), Florida Statutes. Board members who could benefit financially from the contract or who have any relationship with the contracting vendor (as defined in paragraph I(f) above) must abstain from voting on the contract. A board member's designee cannot vote in the place of a board member who is required to abstain.
- c) Board contracts equal to or greater than \$25,000 shall not be executed prior to the written approval of CSF.
- d) A board must submit all contracts equal to or greater than \$25,000 with board members or other persons or entities who could benefit financially from the contract to DEO along with documentation, as specified by this policy, demonstrating compliance with section 445.007, Florida Statutes.
- e) A contract of less than \$25,000 between a local board and a member of that board or between a relative of a board member or of an employee of the board is not required to have the prior approval of CSF, but must be approved by a two-thirds vote of the board, once a quorum is established and after full disclosure, with the member's abstention and must be reported to DEO and CSF within 30 days after approval.
- f) Contracts with a board member or other persons or entities who could benefit financially from the contract (as defined in paragraph I(g) above) in which the board will receive monies or other compensation (such as a board member paying rent to the board or paying for board services) are exempt from this policy.
- g) The term "contract" includes the initial contract and all amendments, renewals, or extensions. Renewals or extensions of contracts with a board member or persons or entities who could benefit financially from said contract must be approved under the

same procedure as original contracts. Any amendments to a contract that could benefit financially a board member or another person or entity (as defined in paragraph I(g) above) must be approved under the same procedure as if the amendment were an original contract. Any amendments that do not benefit financially a board member or other person or entity (as defined in paragraph I(g) above) may be approved by a regular majority vote when there is a quorum according to board rules and/or bylaws.

- h) All other requirements of section 445.007, Florida Statutes, must be met. For example, a board member must continue to disclose any conflict of interest in a manner that is consistent with the procedures outlined in section 112.3143, Florida Statutes.
- i) To comply with the requirements of section 445.007, Florida Statutes, a board's policy shall advise and require board employees to disclose known conflicts of interest and notify the board of any contracts which may benefit them personally or their relatives. To comply with the requirements of section 445.007, Florida Statutes, a board's policy shall advise and require all parties to a contract to disclose all known conflicts of interest and notify the board of all board members or other persons or entities known to benefit financially from the contract (as defined in paragraph I(g) above).
- j) A contract that is initially subject to the requirements of section 445.007, Florida Statutes, due to a board member's, an employee's, an employee's relative's, or another person's or an entity's conflicts of interest at the time of approving the contract is not subject to these procedures after the departure of the member from the board membership, the departure of the employee from the board's employment or other actions have removed the conflicts of interest.
- k) The above requirements do not eliminate or diminish a board's obligations to comply with the "conflict of interest" provisions under section 101(f), Public Law 113-128, (WIOA).

#### **IV) Review Criteria**

Contracts equal to or greater than \$25,000 with a board member or other person or entity who could benefit financially from the contract (as defined in paragraph I(g) above) must be reviewed by DEO to ensure that these requirements have been met:

- a) The contract met one or more of the exemptions to the prohibition under paragraph II;
- b) The board approved the contract with a two-thirds vote when a quorum was established;
- c) Board members who could benefit financially from the contract or board members who have any relationship with the contracting vendor disclosed any such conflicts prior to the board vote on the contract; and,

- d) Board members who could benefit financially from the contract or board members who have any relationship with the contracting vendor abstained from voting.

**V) Required Documentation**

For each contract equal to or greater than \$25,000, a board must electronically submit, after the board's approval of the contract, a completed contract information form certified by the board chair or vice chair as correct and true to [WorkforceContract.Review@deo.myflorida.com](mailto:WorkforceContract.Review@deo.myflorida.com) containing the following information:

- a) Identification of all parties to the contract;
- b) Description of goods and services to be procured;
- c) Value of the contract, contract renewal or contract extension;
- d) Contract term including starting date and ending date;

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- e) Contract number or identifying information, if any;
- f) Identification of board member or employee whose conflict of interest required the board's approval of the contract by a two-thirds vote;
- g) The nature of the conflict of interest in the contract;
- h) A certified board membership roster listing all members on the board at the time of the vote on the approval of the contract with a vote tally indicating attendance or absence at the meeting and, for those in attendance, the affirmative and negative votes and abstentions for each member;
- i) Dated and executed conflict of interest forms, which are consistent with the procedures outlined in section 112.3143, Florida Statutes, submitted at or before the board meeting in which the vote took place, for board members who have any relationship with the contracting vendor (as defined in paragraph I(f) above); and,
- j) Other information as specified on the contract information form.

DEO and CSF will review this documentation to ensure compliance with the statutory requirements listed in paragraph III above. Failure to timely provide all required documentation or failure to complete the form shall result in immediate disapproval of the contract and require resubmission of documentation and form. DEO will electronically submit in writing to CSF, within five (5) business days of receiving all of the required documentation, its recommendation of whether the statutory requirements were met. CSF will then electronically transmit in writing within three (3) business days after receipt of DEO's written recommendation its approval or disapproval.

The board may not execute the contract until CSF approves the contract. However, the contract must be executed and performance begun within a reasonable time following approval. Seeking "blanket" approval for potential future contracts with board members is not within the spirit of the policy and all such attempts shall be denied.

#### **VI) Request for Review When Contract Approval Is Denied**

A party to the contract may request a review of CSF's disapproval of a contract. Strict compliance with the following procedures is required:

- a) The request for review must be in writing, must state specific grounds for review and must provide all information required for review of the stated grounds. Failure to state specific grounds may be cause for denial of the request without further review.
- b) The request for review must be received by CSF not later than ten (10) calendar days from the date of CSF's denial. The request may be submitted electronically to CSF's administrative entity for contract review, the Department of Economic Opportunity (DEO), through the email address WorkforceContract.Review@deo.myflorida.com or directly to CSF by any other means of delivery, i.e. mail service, hand delivery, facsimile, etc.. Any request for review that is not received by CSF or DEO within this timeframe will be rejected without further consideration.
- c) Within seven (7) calendar days of receipt, the CSF President or designee will issue a final decision on the request for review. The Chair of the CSF Board of Directors or its Board of Directors may direct the President to present such reviews to the Executive Committee. No review under this policy will be presented to the CSF Board of Directors unless, at the discretion of the Chair, such full board review is deemed to be necessary.

#### **VII) Effective Dates of Policy**

- a) These modifications shall be in effect upon CSF's adoption at its May 17, 2017, Board of Directors meeting.



**DISCLOSURE AND CERTIFICATION OF  
CONFLICT OF INTEREST IN A CONTRACT**

I, \_\_\_\_\_, a board member / an employee of the board (circle one) hereby disclose that:

I, myself / my employer / my business / my organization/ OR "Other" (describe) \_\_\_\_\_  
(circle one or more) could benefit financially from the contract described below:

Local Workforce Development Board: CareerSource South Florida

Contractor Name & Address: Rynn, Inc DBA Complete Technology Solutions

Contractor Contact Phone Number: 352-540-0060

Description or Nature of Contract: Software

Description of Financial Benefit\*: N/A

For purposes of the above contract the following disclosures are made:

The contractor's principals\*\*/owners\*\*\*: (check one)

have no relative who is a member of the board; OR  
 have a relative who is a member of the board, whose name is: \_\_\_\_\_

The contractor's principals\*\*/owners\*\*\*  is  is not (check one) a member of the board. If applicable, the principal's/owner's name is: \_\_\_\_\_

CRynn  
Signature of Board Member/Employee

Christie Rynn  
Print Name

8-11-17  
Date

\* "Benefit financially from a contract" means the special private financial gain to a member, a special private financial gain to any principal which retains the member, the special private financial gain of the parent organization or subsidiary of a corporate principal which retains the member or the special private financial gain to any member's relatives or business associate or to a board employee and such benefit is not remote or speculative.

\*\* "Principal" means an owner or high-level management employee with decision-making authority.

\*\*\* "Owner" means a person having any ownership interest in the contractor.

NOTICE: CONFLICTS OF INTEREST REGARDING BOARD MEMBERS AND BOARD EMPLOYEES MUST BE DISCLOSED PRIOR TO THE BOARD'S VOTING TO APPROVE THE CONTRACT; BOARD MEMBERS WHO BENEFIT FINANCIALLY OR WHO HAVE A RELATIONSHIP WITH THE CONTRACTING VENDOR MUST ABSTAIN FROM THE VOTE, AND THE CONTRACT MUST BE APPROVED BY A TWO-THIRDS VOTE OF THE BOARD WHEN A QUORUM HAS BEEN ESTABLISHED. COMPLETION OF THIS FORM DOES NOT IN ANY WAY SUPERCEDE OR SUBSTITUTE FOR COMPLIANCE WITH CONFLICT OF INTEREST DISCLOSURE REQUIREMENTS OF SECTION 112.3143, F.S. OR SECTION 101(f), WIOA.