

COMMONWEALTH OF KENTUCKY
EDUCATION AND WORKFORCE DEVELOPMENT CABINET
DEPARTMENT OF WORKFORCE INVESTMENT
OFFICE OF EMPLOYMENT AND TRAINING

AND

BLUEGRASS AREA DEVELOPMENT DISTRICT

AND

LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT

EXCHANGE OF INFORMATION AGREEMENT

THIS AGREEMENT made and entered into as of the 15 day of November 2014, by and between the COMMONWEALTH OF KENTUCKY, EDUCATION AND WORKFORCE DEVELOPMENT CABINET, DEPARTMENT OF WORKFORCE INVESTMENT, OFFICE OF EMPLOYMENT AND TRAINING (hereinafter referred to as the "OET") and the BLUEGRASS AREA DEVELOPMENT DISTRICT (hereinafter referred to as the "BGADD") and the LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT (hereinafter referred to as the "BGADD contractor"), is for use of the Employ Kentucky Operating System.

WITNESSETH THAT:

WHEREAS, simplified access to services and benefits available through state and local agencies to citizens of the Commonwealth involves a multi-agency approach for the acquisition and sharing of information concerning the individual's employment, training, health and human needs; and

WHEREAS, in order to accomplish this in an efficient manner through the Employ Kentucky Operating System, it is necessary that an individual (hereinafter referred to as the "customer") provide voluntary and informed consent to disclosure of information retained in the Employ Kentucky Operating System as may be necessary for the BGADD and the BGADD contractor staff to determine the customer's and/or their family's eligibility for services and benefits. The customer shall be informed that the information provided by him or her shall be kept confidential and accessed only by designated staff using the Employ Kentucky Operating System for assessment purposes and service plan development by service providers and case managers only.

THEREFORE, the BGADD and the BGADD contractor agree as follows:

- (1) Authorized staff from the BGADD and the BGADD contractor shall assist the customer in entering their information that will be retained in the system and thereafter shared through the Employ Kentucky Operating System.

- (2) Authorized staff from the BGADD and the BGADD contractor shall be responsible for obtaining the customer's consent either by way of written signature or by electronic means that clearly indicates the customer's consent to abide by the terms and conditions set forth on the "Self-Registration Consent" page in the Employ Kentucky Operating System.
- (3) The BGADD and the BGADD contractor shall obtain from each and every customer a signed release form authorizing the BGADD and the BGADD contractor to process or release their information.
- (4) The BGADD contractor is a legal entity that is authorized to do business in the Commonwealth of Kentucky. The BGADD contractor is in good standing and is listed as active with the Kentucky Secretary of State.
- (5) The BGADD contractor has a direct, tangible and legitimate interest in the BGADD and the BGADD contractor(s) being served.
- (6) The BGADD and the BGADD contractor shall be responsible for the timeliness, quality and accuracy of all information or data either enters into the Employ Kentucky Operating System.
- (7) The BGADD and the BGADD contractor agree to indemnify OET and its employees from any and all loss, claims, expenses, actions, causes of action, costs, damages, and obligations, arising from any and all acts of the BGADD and the BGADD contractor, its agents, employees, licensees, or invitees that result in injury to persons, corporations, partnerships, or any other entity. Also, they shall indemnify OET and its employees from any and all liability, loss, or damage that OET may suffer resulting therefrom. Provided, however, in the event the BGADD or the BGADD contractor is a state agency or subcontracts for services with a state agency subject to the jurisdiction of the Board of Claims pursuant to KRS 44.070 through KRS 44.160, the state agency's tort liability may be limited to an award from the Board of Claims up to the jurisdictional amount. In the event the BGADD and the BGADD contractor are legally prohibited from entering into an indemnity agreement, the BGADD and the BGADD contractor shall hold OET and its employees harmless from any and all loss, claims, expenses, actions, causes of action, costs, damages, and obligations arising from any and all acts of the BGADD and the BGADD contractor, its agents, employees, licensees, invitees, or participants that result in injury to persons, damage to property or loss arising from performance of this agreement, as those injuries, damages or losses relate to any persons, corporations, partnerships, or any other entity from any and all liability, loss or damage.
- (8) The BGADD certifies the BGADD contractor is authorized to act on behalf of the individuals being served.
- (9) The BGADD agrees to immediately notify OET, in writing, when its contract with the BGADD contractor ends or is cancelled.
- (10) Authorized staff from the BGADD and the BGADD contractor shall reimburse the OET for any and all costs incurred by the OET in providing

data, including any new developmental costs associated with furnishing the data.

- (11) The BGADD and the BGADD contractor shall specifically designate staff members who are authorized to access the Employ Kentucky Operating System information.

Said authorized personnel shall:

- (a) Be provided, and agree to adhere to the applicable laws and regulations governing applications for services and disclosure of information, including, but not limited to:

KRS 434.840 through KRS 434.860
KRS 194.250
KRS 151B.280
KRS 341.190(3)
KRS 160.700 through KRS 160.990
787 KAR 2:020
20 U.S.C.A. §1232g
34 C.F.R. §361.38
KRS 341.990(11)
20 C.F.R. § 617.57
20 C.F.R. § 603, Subpart B
20 U.S.C.A. § 9274
CIO-072
CIO-083
Self Registration Consent Page

- (b) Execute a security agreement assuring the confidentiality of the information and its use directly related to assisting the customer in obtaining services and benefits.
- (c) The BGADD and the BGADD contractor shall provide the OET with a list of individuals from the BGADD and the BGADD contractor who are authorized to access the Employ Kentucky Operating System data. Said list shall be updated immediately upon the addition or deletion of a name from a prior list.

- (12) The BGADD and the BGADD contractor shall provide to the OET a written copy of their internal security safeguards to ensure that information obtained from the OET shall be protected against unauthorized access or disclosure. At a minimum, said safeguards shall include but not be limited to the following:

- (a) The information shall be used by the BGADD and the BGADD contractor only for the purpose(s) identified in this agreement;

- (b) The information shall be stored in a place physically secure from access by unauthorized persons;
- (c) Information in electronic format, such as magnetic tapes or discs, shall be stored and processed in such a way that unauthorized persons cannot retrieve the information by means of computer, remote terminal or other means;
- (d) Precautions shall be taken to ensure that only authorized personnel are given access to on-line files; and
 - (1) The BGADD and the BGADD contractor shall instruct all personnel with access to the information regarding the confidential nature of the information, including all confidentiality requirements in the relevant state or federal statutes or regulations.
 - (2) The heads of the BGADD and the BGADD contractor shall sign before a Notary Public an acknowledgement, attached hereto and incorporated herein as Attachments A and B on behalf of the entire entity that it will adhere to all the confidentiality statutes, regulations, rules, requirements, and procedures regarding information concerning individual customers or applicants or former customers or applicants; that all of its personnel having access to any disclosed information concerning individual customers or applicants or former customers or applicants have been instructed of all the applicable confidentiality statutes, regulations, rules, requirements and procedures, including but not limited to KRS 434.840 through KRS 434.860, KRS 194.250, KRS 151B.280, KRS 341.190(3), KRS 160.700 through KRS 160.990, 787 KAR 2:020, 20 U.S.C.A. §1232g, 34 C.F.R. §361.38, KRS 341.990(11), 20 C.F.R. § 617.57, 20 C.F.R. § 603, Subpart B, 20 U.S.C.A. § 9274, CIO-072, CIO-083 and this agreement, and the sanctions set forth in KRS 341.990(11) for the unauthorized disclosure of information concerning individual customers or applicants or former customers or applicants; and that any infraction of the confidentiality statutes, regulations, rules, requirements or procedures shall be fully and promptly reported, in writing, to the Executive Director of the OET.
 - (3) Violations of the statutory confidentiality provisions stated herein shall result in immediate termination of this agreement.
 - (4) The BGADD and the BGADD contractor assure the confidentiality of the information or records received or to which access is provided.

- (5) The BGADD and the BGADD contractor shall not redisclose any information.
- (6) The BGADD and the BGADD contractor shall permit the OET to make unannounced inspections to ensure that the requirements of the laws are being met.
- (e) Effective January 1, 2015, the BGADD and the BGADD contractor shall comply with all applicable requirements in KRS 61.931 to 61.934 to implement, maintain and update security, breach investigation and notification procedures and practices, including taking any appropriate corrective action, to protect and safeguard the information entered and retained in the Employ Kentucky Operating System against any unauthorized access, use, modification, disclosure, manipulation or destruction. The BGADD and the BGADD contractor shall be jointly and severally liable for all notification and investigation costs due to a security breach of information entered and retained in the Employ Kentucky Operating System provided to the BGADD or the BGADD contractor under this agreement.
- (13) Staff of the BGADD and the BGADD contractor shall implement policies and procedures to ensure confidentiality of information.
- (14) No party to this agreement shall discriminate with regard to race, color, creed, national origin, religion, sex, age, or disability in employment, administration and access to this program.
- (15) This Agreement shall commence upon execution. The term of this agreement will be from November 15, 2014 through September 30, 2015. However, any party may cancel this agreement at any time upon thirty (30) days written notice to the other party, or immediately for cause.
- (16) The terms and conditions of this agreement may be amended by mutual written consent of the parties.
- (17) All questions as to the execution, validity, interpretation, and performance of this Agreement shall be governed by the laws of the Commonwealth of Kentucky. Furthermore, the parties hereto agree that any legal action, which is brought on the basis of this agreement, shall be filed in the Franklin Circuit Court of the Commonwealth of Kentucky.

COMMONWEALTH OF KENTUCKY
EDUCATION AND WORKFORCE DEVELOPMENT CABINET

BY: 

11/20/14

Buddy Hoskinson, Executive Director
Office of Employment and Training

DATE

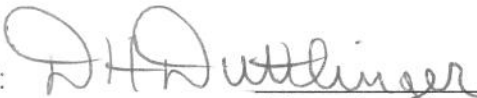
EXAMINED AS TO FORM AND LEGALITY:



Attorney, Office of Legal and Legislative Services

11/5/14
DATE

BLUEGRASS AREA DEVELOPMENT DISTRICT

BY: 

i, Executive Director
Bluegrass Area Development District

1-13-15
DATE

BGADD CONTRACTOR

BY: _____
Jim Gray, Authorized Representative
Lexington Fayette Urban County Government

DATE

Title

ACKNOWLEDGMENT FOR BGADD

I, David Duttlinger, am an authorized representative of Bluegrass Area Development District. I hereby acknowledge on behalf of the stated agency that it will adhere to all the confidentiality statutes, regulations, rules, requirements and procedures regarding information concerning individual customers or applicants or former customers or applicants; that all of its personnel having access to any disclosed information concerning individual customers or applicants or former customers or applicants have been instructed of all the confidentiality statutes, regulations, rules, requirements and procedures, including but not limited to KRS 434.840 through KRS 434.860, KRS 194.250, KRS 151B.280, KRS 341.190(3), KRS 160.700 through KRS 160.990, 787 KAR 2:020, 20 U.S.C.A. §1232g, 34 C.F.R. §361.38, KRS 341.990(11), 20 C.F.R. § 617.57, 20 C.F.R. § 603, Subpart B, 20 U.S.C.A. § 9274, CIO-072, CIO-083 and this agreement, and the sanctions set forth in KRS 341.990(11) for the unauthorized disclosure of information concerning individual customers or applicants or former customers or applicants; and that any infraction of the confidentiality statutes, regulations, rules, requirements or procedures shall be fully and promptly reported, in writing, to the Executive Director of the Office of Employment and Training, 275 East Main Street, 2-CD Floor, Frankfort, Kentucky 40621.

David Duttlinger
Authorized Representative

Executive Director
Title

1-14-15
Date

The foregoing Acknowledgment was subscribed, sworn to and acknowledged by Kimberly A. Fry as an authorized representative of Bluegrass Area Dev. District duly authorized to execute this instrument this 14th day of January, 20 15.

Kimberly A. Fry
Notary Public

My Commission Expires: June 5, 2014

ATTACHMENT A

ACKNOWLEDGMENT FOR BGADD CONTRACTOR

I, _____, am an authorized representative of _____ . I hereby acknowledge on behalf of the stated agency that it will adhere to all the confidentiality statutes, regulations, rules, requirements and procedures regarding information concerning individual customers or applicants or former customers or applicants; that all of its personnel having access to any disclosed information concerning individual customers or applicants or former customers or applicants have been instructed of all the confidentiality statutes, regulations, rules, requirements and procedures, including but not limited to KRS 434.840 through KRS 434.860, KRS 194.250, KRS 151B.280, KRS 341.190(3), KRS 160.700 through KRS 160.990, 787 KAR 2:020, 20 U.S.C.A. §1232g, 34 C.F.R. §361.38, KRS 341.990(11), 20 C.F.R. § 617.57, 20 C.F.R. § 603, Subpart B, 20 U.S.C.A. § 9274, CIO-072, CIO-083 and this agreement, and the sanctions set forth in KRS 341.990(11) for the unauthorized disclosure of information concerning individual customers or applicants or former customers or applicants; and that any infraction of the confidentiality statutes, regulations, rules, requirements or procedures shall be fully and promptly reported, in writing, to the Executive Director of the Office of Employment and Training, 275 East Main Street, 2-CD Floor, Frankfort, Kentucky 40621.

Authorized Representative

Title

Date

The foregoing Acknowledgment was subscribed, sworn to and acknowledged by _____ as an authorized representative of _____ duly authorized to execute this instrument this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

ATTACHMENT B