

TOOELE COUNTY CORPORATION  
 CONTRACT # 11-12-16

VENDOR VC0000146346  
 COMMODITY CODE 95239

Funding Source: State of Utah  
 Unemployment Insurance Special  
 Administrative Funds

Interagency Agreement  
 Between  
 UTAH DEPARTMENT OF WORKFORCE SERVICES  
 And  
 TOOELE COUNTY ECONOMIC DEVELOPMENT

**Funds for Tooele County Business Expansion and Recruitment (BEAR) Program**

This Agreement is entered into by and between the **UTAH DEPARTMENT OF WORKFORCE SERVICES**, herein referred to as "Department" or "DWS" and **TOOELE COUNTY ECONOMIC DEVELOPMENT** herein referred to as "Contractor." Both agencies shall be referred to herein collectively as the "Parties."

Now therefore, the parties agree to the following:

**1. General Purpose of Agreement**

Contractor shall survey certain employers and collect, enter and manage employer data in a specialize database.

**2. Background**

Tooele County Economic Development (Contractor) operates the Business Expansion and Recruitment (BEAR) program. BEAR is designed to network with service agencies and educational institutions to proactively serve the local business community. One of the most important aspects of Tooele County's economic development is the expansion and retention of its existing businesses.

BEAR is a team of professionals who work to provide solutions to everyday business concerns for the sustainability, expansion and success of Tooele County businesses. The program utilizes VISTA volunteers to contact and obtain information from businesses. The volunteers listen and learn from business owners to obtain clear directives of what their needs are and provide appropriate resources to address the issue identified. Proactively building strong relationships with business owners provides the foundation for strategically allocating resources to growth-oriented companies that want to enhance their workforce, adopt new technologies, increase profitability and compete globally.

BEAR collects over 100 pieces of data during a visit with a business. Some examples of information collected are contacts, hiring plans, product lines, skills required, annual sales and industry challenges.

The data collected is entered in the Executive Pulse Business Intelligence software system (Pulse). BEAR utilizes Pulse to:

- manage and track all interactions with key employers;
- communicate and collaborate with partner organizations;
- monitor service delivery for maximum reliability;

- utilize reports to turn data into knowledge and intelligence.

The Pulse system allows Tooele County to forward referrals to appropriate agencies such as the Small Business Development Center, DWS, and Economic Development specialists. All agencies that are a part of the BEAR program, including DWS, can access the database.

**1. Period of Performance**

This Agreement shall commence on **October 1, 2011** and end **June 30, 2012**, with the option to renew for three (3) additional one-year periods, contingent on funding availability and the agreement of both parties. This Agreement shall remain in effect unless terminated sooner in accordance with the terms and conditions herein.

**2. Funding Source**

This Agreement is funded by State of Utah Unemployment Insurance Special Administrative Funds.

**3. Allocation and Payment of Funds**

The Department shall reimburse Contractor for not more than **\$10,000.00** for services provided in accordance with the terms and conditions of this Agreement. Funds paid to the Contractor under this Agreement may only be used for the purpose(s) specified herein. For Billing and Payment terms, see Attachment A – “Interagency Standard Terms and Conditions,” paragraph 17. For Budget, see Attachment C – “Budget.”

**4. Attachments**

- a. Attachment A – Interagency Standard Terms and Conditions
- b. Attachment B – Scope of Work
- c. Attachment C - Budget

**5. Ratification Statement**

It is understood and agreed that the effective date of this Agreement is the date of commencement of services as provided in paragraph 3, “Period of Performance”, and that any and all appropriate costs within budget incurred by the Contractor between said effective date and the date on which this Agreement is fully executed are hereby approved and ratified for payment.

**6. Contacts**

Contractor

Nicole Cline, Director  
Tooele County Economic  
Development  
47 South Main Street  
Tooele, UT 84074  
435-843-4792  
ncline@co.tooele.ut.us

Department

Sara Hudgins  
DWS Operations Program Specialist  
1385 South State Street  
Salt Lake City, UT 84115  
shudgins@utah.gov

**SIGNATURE AND ACKNOWLEDGEMENT:**

By Signing below, the following officials acknowledge that they understand and agree to all of the terms and responsibilities set forth herein and cause this Agreement to be executed

ATTEST: TOOELE COUNTY

Colleen S. Johnson 12-20-11  
Colleen S. Johnson, Chair Date  
Commissioner

J. Bruce Clegg 12-20-11  
J. Bruce Clegg Date  
Commissioner

Jerry Hurst 12/20/11  
Jerry Hurst Date  
Commissioner



ATTEST:

ATTEST: UTAH DEPARTMENT OF WORKFORCE SERVICES

Kristen Cox 1/11/12  
Kristen Cox, Executive Director Date

CONTRACT RECEIVED AND  
PROCESSED BY  
DIVISION OF FINANCE

JAN 20 2012

Division of Finance

## ATTACHMENT A

### INTERAGENCY STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in Sections 63-56-1 and 35A-1-104, UCA 1953 as amended, Utah State Procurement Regulations (UAC Section R33), and related statutes that permit the State to purchase certain specified services, and other approved purchases for DEPARTMENT.
2. **CITING DEPARTMENT IN ADVERTISING:** CONTRACTOR agrees to give credit to DEPARTMENT for funding in all written and verbal advertising or discussion of this program such as brochures, flyers, informational materials, talk shows, etc. All formal advertising or public information programs will be coordinated with Public Information Officer for DEPARTMENT.
3. **IMPOSITION OF FEES:** CONTRACTOR will not impose any fees upon clients provided services under this Contract except as authorized by DEPARTMENT.
4. **CODE OF CONDUCT (Attached if Applicable):** CONTRACTOR agrees to follow and enforce DEPARTMENT'S Code of Conduct, Utah Administrative Code, R982-601-101 et seq. CONTRACTOR agrees that each of its employees or volunteers receive a copy of the Code of Conduct. A signed statement by each employee or volunteer to this effect must be in employee's/volunteer's file subject to inspection and review by DEPARTMENT monitors.
5. **HUMAN SUBJECTS RESEARCH:** CONTRACTOR shall not conduct research involving employees of DEPARTMENT or individuals receiving services (whether direct or contracted) without prior approval from the DEPARTMENT. If approval is given, CONTRACTOR will obtain institutional review board (IRB) approval prior to engaging in human subjects research activities. CONTRACTOR will provide certification of IRB approval upon request.
6. **DRUG-FREE WORKPLACE:** CONTRACTOR agrees to abide by DEPARTMENT'S drug-free workplace policies while performing services under this contract.
7. **INDEMNITY CLAUSE:** Both parties to this Contract are governmental entities as defined by the Utah Governmental Immunity Act, Utah Code Ann. §§ 63 G-7-101 to - 904 (2009). Consistent with the terms of this Act, it is mutually agreed that each party is responsible and liable for its own wrongful or negligent acts that it commits or which are committed by its agents, officials, or employees. Neither party waives any defenses otherwise available under the Governmental Immunity Act.
8. **LICENSING AND STANDARD COMPLIANCE:** By signing this agreement CONTRACTOR acknowledges that it currently meets all applicable licensing or other standards required by federal and state laws or regulations and ordinances of the city/county in which services and/or care is provided and will continue to comply

with such licensing or other applicable standards and ordinances for the duration of this contract period. Failure to secure or maintain a license shall support a basis for cancellation of this Contract. CONTRACTOR acknowledges that it is responsible for familiarizing itself with these laws and regulations, and complying with all of them.

9. **COMPLIANCE WITH GENERALLY APPLICABLE STATE AND FEDERAL LAWS:**

- a. As noted in this Contract, CONTRACTOR is required to comply with all anti-discrimination and drug-free workplace laws, and all laws governing research involving human subjects. If CONTRACTOR is receiving federal funds under this Contract the following federal laws may apply: Equal Opportunity Employer Executive Order, the Davis-Bacon Act, the Hatch Act, the Copeland "Anti-Kickback" Act, the Fair Labor Standards Act, the Contract Work Hours and Safety Standards Act, the Clean Air Act, the Federal Water Pollution Control Act, the Byrd Anti-Lobbying Amendment, and the Debarment and Suspension Executive Orders. CONTRACTOR shall comply with these laws and regulations to the extent they apply to the subject matter of this Contract.
- b. **Equal Opportunity Clause.** CONTRACTOR agrees to abide by the Equal Opportunity provisions of Section 188 of the Workforce Investment Act of 1998 (WIA) 29 CFR Part 37, which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIA Title I-financially assisted program or activity:

Title VII of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, and national origin;

Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;

The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age;

And Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in education programs.

If applicable, CONTRACTOR will provide an explanation of the client's rights and protections under 29 CFR Part 37. CONTRACTOR will also provide a copy of DEPARTMENT'S Equal Opportunity Notice (English or Spanish version, DWS 09-15E-0900NCR or 09-15S-0201 respectively) to the client and maintain a copy in the client file.

10. **SEPARABILITY CLAUSE:** A declaration by any court, or other binding legal source, that any provision of this agreement is illegal and void shall not affect the legality and enforceability of any other provisions of this agreement, unless said provisions are mutually dependent.

11. **RECORDS ADMINISTRATION:** CONTRACTOR shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to CONTRACTOR for costs authorized by this contract. These records shall be retained by CONTRACTOR for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. CONTRACTOR shall maintain books, records, documents and other evidence.

12. **CONTRACTOR ASSIGNMENT AND SUBCONTRACTORS:**

a. **Assignment.** Notwithstanding DEPARTMENT'S right to assign the rights or duties hereunder, CONTRACTOR agrees and understands that this Contract is based on the reputation of CONTRACTOR, and this Contract may not be assigned by CONTRACTOR without the written consent of DEPARTMENT. Any assignment by CONTRACTOR without DEPARTMENT'S written consent shall be wholly void.

b. **Subcontractors.** As used in this Contract, the term "subcontractor" means an individual or entity that has entered into an agreement with the original CONTRACTOR to perform services or provide goods, which the original CONTRACTOR is responsible for under the terms of this Contract. Additionally, the term "subcontractor" also refers to individuals or entities that have entered into agreements with any subcontractor if: (1) those individuals or entities have agreed to perform all or most of the subcontractor's duties under this Contract; or (2) federal law requires this Contract to apply to such individuals or entities. If CONTRACTOR enters into subcontracts the following provisions apply:

(1) **Duties of Subcontractors:** Regardless of whether a particular provision in this Contract mentions subcontractors, a subcontractor must comply with all provisions of this Contract including the state procurement requirements, insurance requirements and the fiscal and program requirements. CONTRACTOR retains full responsibility for Contract compliance, whether the services are provided directly or by a subcontractor.

(2) **Provisions Required in Subcontracts:** If CONTRACTOR enters into any subcontracts with other individuals or entities and pays those individuals or entities for such goods or services with federal or state funds, CONTRACTOR must include provisions in its subcontracts regarding the federal and state laws identified in this Contract, if applicable ("Contractor's Compliance with Applicable Laws; Cost Accounting Principles and Financial Reports,") as well as other laws and contract provisions identified in 45 C.F.R. §92.36(i).

13. **MONITORING:** DEPARTMENT shall have the right to monitor CONTRACTOR'S performance regarding all services purchased under this Contract. Monitoring of CONTRACTOR'S performance shall be at the complete discretion of DEPARTMENT which will rely on the criteria set forth in this Contract, including the goals, service

objectives and methods described in "Scope of Work" and any special conditions and "Performance Measures" and CONTRACTOR'S fiscal operations. Monitoring may include both announced and unannounced visits. Monitoring will take place during normal business hours.

**Client or Contract Staff Satisfaction Surveys.** CONTRACTOR understands that DEPARTMENT is committed to providing customer-oriented services, and that DEPARTMENT often conducts customer-satisfaction surveys as a part of monitoring. CONTRACTOR therefore agrees to cooperate with all DEPARTMENT-initiated customer feedback.

14. **CONTRACT RENEWAL:** Renewal of contract will be solely at the discretion of DEPARTMENT.
15. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment executed by the parties hereto, and attached to the original signed copy of the contract.
16. **CONTRACT TERMINATION:**
  - a. **Termination for Cause.** This contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. The DEPARTMENT will give the CONTRACTOR only one opportunity to correct and cease the violations.
  - b. **Immediate Termination.** If CONTRACTOR creates or is likely to create a risk of harm to the clients served under this Contract, or if any other provision of this Contract (including any provision in the attachments) allows DEPARTMENT to terminate the Contract immediately for a violation of that provision, DEPARTMENT may terminate this Contract immediately by notifying CONTRACTOR in writing. The DEPARTMENT may also terminate this contract immediately for fraud, misrepresentation, misappropriation, and/or mismanagement as determined by the DEPARTMENT.
  - c. **No Cause Termination.** This Contract may be terminated without cause, in advance of the specified expiration date, by either party, upon sixty (60) days prior written notice being given the other party. Upon termination of this Contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
  - d. **Termination Fund-out.** CONTRACTOR acknowledges that DEPARTMENT cannot contract for the payment of funds not yet provided by the Federal Government or appropriated by the Utah State Legislature and DEPARTMENT cannot guarantee funding under this Contract since it may be altered by an act of the Federal Government or the Utah State Legislature occurring before the

expiration of this Contract. Therefore, in the event that DEPARTMENT fails to receive appropriations then DEPARTMENT may, by giving at least 60 days advance written notice, terminate this Contract. DEPARTMENT will reimburse CONTRACTOR for services performed up through the date of cancellation.

e. **Attorneys' Fees and Costs.** If either party seeks to enforce this Contract upon a breach by the other party, or if one party seeks to defend itself against liability arising from the negligence of the other party, the prevailing party shall receive from the unsuccessful party all court costs and its reasonable attorneys' fees, regardless of whether such fees are incurred in connection with litigation.

f. **Remedies for Contractor's Violation.**

1. In the event this Contract is terminated as a result of a default by CONTRACTOR, DEPARTMENT may procure or otherwise obtain, upon such terms and conditions as DEPARTMENT deems appropriate, services similar to those terminated, and CONTRACTOR shall be liable to DEPARTMENT for any damages arising there from, including attorneys' fees and excess costs incurred by DEPARTMENT in obtaining similar services.

2. CONTRACTOR acknowledges that if CONTRACTOR violates the terms of this Contract, DEPARTMENT is entitled to avail itself of all available legal, equitable and statutory remedies including, but not limited to, money damages, injunctive relief and debarment as allowed by state and federal law.

17. **BILLINGS AND PAYMENTS:** Payments to CONTRACTOR will be made by DEPARTMENT upon receipt of a quarterly itemized billing for authorized service(s) provided and supported by information contained in reimbursement forms supplied by DEPARTMENT. Billings and claims for services must be received within thirty (30) days after the last date of service for the period billed or at the contract's date of termination or payment may be delayed or denied. DEPARTMENT must receive billings for services for the month of June no later than July 20<sup>th</sup> due to the DEPARTMENT'S fiscal year end. Billings submitted after this date may be denied.

DEPARTMENT will not allow claims for services furnished by CONTRACTOR, which are not specifically authorized by this contract.

18. **PAYMENT RATES (Does Not Apply to Contracts With Department Of Workforce Services Set Rates):** Initial payment rates for negotiated contracts may be calculated based on actual expenditures for prior period, available budget and changes in the type or quality of service. The rates may be adjusted up or down during the Contract term in accordance with prior paid actual costs or a review of current costs verified

by audit or fiscal review. Such a rate adjustment may be retroactive to the beginning of the Contract. Rates for contracts awarded as a result of the competitive bidding process will not be changed during the Contract term.

19. **PAYMENT WITHHOLDING:** CONTRACTOR agrees that the reporting and record keeping requirements specified in this Contract are a material element of performance and that if, in the opinion of DEPARTMENT, CONTRACTOR'S record keeping practices and/or reporting to DEPARTMENT are not conducted in a timely and satisfactory manner, DEPARTMENT may withhold part or all payments under this or any other Contract until such deficiencies have been remedied. In the event of the payment(s) being withheld, DEPARTMENT agrees to notify CONTRACTOR of the deficiencies that must be corrected in order to bring about the release of withheld payment.
20. **OVERPAYMENT/AUDIT EXCEPTIONS/DISALLOWANCES:** CONTRACTOR agrees that if during or subsequent to the Contract CPA audit or DEPARTMENT determines that payments were incorrectly reported or paid, DEPARTMENT may amend the Contract and adjust the payments. In Contracts, which include a budget, CONTRACTOR expenditures to be eligible for reimbursement must be adequately documented. CONTRACTOR will, upon written request, immediately refund any overpayments determined by audit and for which payment has been made to CONTRACTOR, to DEPARTMENT. CONTRACTOR further agrees that DEPARTMENT shall have the right to withhold any or all subsequent payments under this or other contracts with CONTRACTOR until recoupment of overpayment is made.
21. **REDUCTION OF FUNDS:** The maximum amount authorized by this Contract shall be reduced or Contract terminated if required by federal/state law, regulation, action or if there is significant under-utilization of funds, provided CONTRACTOR shall be reimbursed for all services performed in accordance with this Contract prior to date of reduction or termination. If funds are reduced, there will be a comparable reduction in amount of the services to be given by CONTRACTOR. The DEPARTMENT will give CONTRACTOR thirty (30) days notice of reduction.
22. **PRICE REDUCTION FOR INCORRECT PRICING DATA:** If any price, including profit or fee, negotiated in connection with this Contract, or any cost reimbursable under this Contract was increased by any significant sum because CONTRACTOR furnished cost or pricing data (e.g., salary schedules, reports of prior period costs, etc.) which was not accurate, complete and current, the price or cost shall be reduced accordingly. The Contract may be modified in writing as necessary to reflect such reduction, and amounts overpaid shall be subjected to overpayment assessments. Any action DEPARTMENT may take in reference to such price reduction shall be independent of, and not be prejudicial to, DEPARTMENT'S right to terminate this Contract.
23. **GRIEVANCE PROCEDURE:** In the event of a discrimination complaint or grievance, CONTRACTOR will instruct recipients to contact DEPARTMENT'S Equal Opportunity

Officer/Customer Relations office at (801) 526-4390 or 1-800-331-4341, or in writing to DEPARTMENT at:

Equal Opportunity/Customer Relations

Department of Workforce Services

P.O. Box 45249

Salt Lake City, UT 84145-0249

Individuals with speech and/or hearing impairments may call: State Relay @ 1-800-346-4128.

For all other grievances CONTRACTOR agrees to establish a system in which recipients of the purchased services may present grievances about the operation of the program as it pertains to and affects said recipient. CONTRACTOR will advise recipients of their right to present grievances concerning denial or exclusion from the program, or operation of the program, and of their right to a review of the instance by DEPARTMENT. CONTRACTOR will advise applicants in writing of rights and procedures to appeal. In the event of a grievance, CONTRACTOR will notify DEPARTMENT of the grievance and its disposition of the matter. If no resolution is reached with CONTRACTOR, the grievance will be forwarded to DEPARTMENT for processing through DEPARTMENT'S Administrative Process.

24. **PROTECTION AND USE OF CLIENT RECORDS:** The use or disclosure by any party of any information concerning a client for any purpose not directly connected with the administration of DEPARTMENT'S or CONTRACTOR'S responsibilities with respect to services purchased under this agreement is prohibited except on written consent of the client, their attorney, or responsible parent or guardian. CONTRACTOR will be required to sign DEPARTMENT'S disclosure statement.

25. **DEPARTMENT COST PRINCIPLES FOR COST REIMBURSEMENT CONTRACTS:**

a. Federal Cost Principles determine allowable costs in DEPARTMENT contracts. They can be found in circulars published by the Federal Office of Management and Budgets ("OMB"). CONTRACTOR may locate the Federal Cost Principles applicable to its organization at the Internet web site:

**OMB Circulars:** <http://www.whitehouse.gov/omb/circulars/index.html>

b. Additional Cost Principles.

Compensation For Personal Services:

(1) In addition to the cost principles in the federal circulars concerning compensation for personal services, the following cost principles also apply:

- (a) The portion of time a person devotes to a program should be disclosed in the budget as a percent of 40 hours per week.
- (b) Employees who are compensated from one or more contracts, or from programmatic functions must maintain time reports, which reflect the distribution of their activities.
- (c) For persons occupying any managerial position (administration or program management), total work time from all work, including outside employment and participation in other entities, must be disclosed. If total work time exceeds 40 hours and CONTRACTOR wants reimbursement for the time devoted to DEPARTMENT programs over 40 hours, the following two conditions must be met:
  - (i) A perpetual time record must be maintained, and
  - (ii) Prior written approval must be obtained from DEPARTMENT'S Finance-Contracting Division

(2) Compensation for Personal Expenses: DEPARTMENT will not reimburse CONTRACTOR for personal expenses. For example, spouse travel when the travel costs of the spouse are unrelated to the business activity, telecommunications and cell phones for personal use, undocumented car allowances, payments for both actual costs of meals and payments for per diem on the same day, and business lunches (not connected with training).

(a) **Third-Party Reimbursement And Program Income.** CONTRACTOR is required to pursue reimbursement from all other sources of funding available for services performed under this Contract. Other sources of funding include, but are not limited to, third party reimbursements and program income. In no instance shall any combination of other sources of funding and billings to DEPARTMENT be greater than "necessary and reasonable costs to perform the services" as supported by audited financial records. Collections over and above audited costs shall be refunded to Department Of Workforce Services.

26. **ADMINISTRATIVE EXPENDITURES:** DEPARTMENT will reimburse CONTRACTOR for actual administrative or indirect costs (Category I) up to 10% of the total program and capital (Category III & II) costs as negotiated in the attached budget.

**Attachment B**  
**Scope of Work**

**Contractor Responsibilities**

1. Schedule and complete 400 on-site visits to Tooele County employers during the term of this Agreement.
2. Collect, enter and manage employer data in the Executive Pulse system.
3. Assign personnel with experience in surveying and data processing to the program.
4. Provide training and access for DWS staff on the Executive Pulse system, including custom reports.
5. The surveyor shall visit the employer, obtain responses to at least 80% of the questionnaire and enter the data into the Executive Pulse within three working days.
6. The BEAR supervisor shall verify that the survey data collected and entered for each business is complete and accurate before submitting invoices to DWS.
7. Contractor shall provide DWS with a monthly list of businesses that completed BEAR surveys.
8. Contractor shall complete and enter 400 surveys in the database during the agreement period, October 1, 2011 through June 30, 2012.

**DWS Responsibilities**

1. Participate as a member of the BEAR program by providing workforce information and support for employment programs in Tooele County.
2. Provide Contractor a monthly list of employers for BEAR specialist to contact.
3. Follow up with businesses that request additional information about DWS services.
4. Train BEAR specialists on DWS programs that are a part of the survey.
5. Provide a \$25 payment for each employer survey completed by BEAR specialists, as approved by DWS.

**Eligibility Requirements**

Those business eligible to be targeted are targeted industries targeted industries in Toole County such as but not limited to: logistics, healthcare, life sciences, high tech, financial, and manufacturing.

