

STATE OF NEW MEXICO

New Mexico Public Education Department
Assessment and Accountability Division

New Mexico Standards Based Assessment RFP



REQUEST FOR PROPOSALS

RFP# 30-924-00-15355

Hanna Skandera

Secretary-Designate of Education

**300 Don Gaspar Ave., Room 122
Santa Fe, New Mexico 87501**

Issue Date: 10/19/2012

New Mexico Public Education Department

Assessment and Accountability Division

Dr. Pete Goldschmidt
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Deputy Director of Assessment and Accountability

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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The State of New Mexico's Public Education Department (PED) is requesting proposals for the development and statewide implementation of standards based assessments used to measure student academic achievement and meet federal and state accountability requirements and state high school exit requirements.

The purpose of this Request for Proposals (RFP) is to select a qualified Offeror to develop and implement the New Mexico Standards Based Assessments (SBA), the High School Graduation Assessment (SBA/HSGA), and the New Mexico High School Competency Exam (NMHSCE). The student assessments are administered to all district schools, charter schools, State educational institutions, and a subset of U.S. Bureau of Indian Education schools (SBA for students requiring accommodations) in New Mexico. It is anticipated for each operational administration that SBA in English will be administered to 26,000 students in grade 3; 25,500 students in grade 4; 25,500 students in grade 5; 24,500 students in grade 6; 24,500 students in grade 7; 24,500 students in grade 8; 24,500 students in grade 10; and 22,000 students in grade 11. It is anticipated for each operational administration that SBA in Spanish will be administered to 1,850 students in grade 3; 1,400 students in grade 4; 900 students in grade 5; 400 students in grade 6; 500 students in grade 7; and 500 students in grade 8; 400 students in grade 10; 300 students in grade 11. It is anticipated for each operational administration that SBA materials in Braille will be administered to 30 students across grades 3 through 8, 10 and 11. It is anticipated for each operational administration that the English SBA in large print will be administered to 120 students across grades 3 through 8, 10 and 11. It is anticipated for each operational administration that the Spanish SBA in large print will be administered to 6 students across grades 3 through 8, 10 and 11.

B. VISION

The Elementary and Secondary Education Act (ESEA/NCLB) and §22-2C-4, NMSA 1978 require the Public Education Department (PED) to maintain a statewide student assessment system that is aligned with the state academic content and performance standards and that measures student academic achievement and supports the State's A-F School Rating System (Schools Ratings Act, §22-2E-1 to 22-2E-4, NMSA 1978). The existing contract for these services expires on June 30, 2013. The RFP provides accountability assessments in Reading and Math in grades 3-8 and high school; in Science in grades 4, 7, and 11; and in writing in grades 3, 5, and 8 in 2014. The RFP also provides for continued development and implementation of the SBA in Science in grades 4, 7, and 11 to meet accountability participation requirements in Science through spring 2016.

New Mexico is a member of the Partnership for Assessment of Readiness for College and Careers (PARCC) and plans to administer next generation assessments statewide in English Language Arts and Mathematics in spring 2015. The RFP provides a contingency to administer the SBA in Reading and Math in 2015 in the event that the PARCC assessment is not available in spring 2015 and 2016.

The high school SBA, which is administered in grade 10 (second year of high school-H2), in Reading and Math, is a measure of individual student growth that is used for the A-F School Rating System, and scores count for high school exit (SBA/High School Graduation Assessment). The SBA/HSGA is administered in grade 11 (third year of high school-H3), in Reading, Math, and

Science for accountability, and scores in Reading and Math are counted for high school exit if the student did not pass the H2 test. Students who do not pass the H2 and H3 tests may retest in Reading, Math, and Science in the fall of their senior year (H4). Students who do not pass the H4 SBA/HSGA may submit an alternate demonstration of competency (ADC) to meet high school exit requirements in Reading, Math, and Science. No SBA/HSGA retests are available after the H4 test. This RFP provides for SBA/HSGA testing through spring 2014. The PED anticipates that scores from the PARCC assessments will be applied to high school exit requirements starting in 2015.

A rapidly decreasing cohort of students already exited from high school will retest on the New Mexico High School Competency Exam (NMHSCE) through winter 2016. The NMHSCE is replaced by the SBA/HSGA as the State high school exit exam, except for students who are still subject to statute §22-13-1.1, (K), NMSA 1978, which provides NMHSCE retests for five years after a student's exit from high school.

New Mexico's transition to Common Core State Standards (CCSS) is underway, and redesigned assessments are an important part of the transition outlined below.

In 2013, Grade 3 Standards Based Assessment Bridges to CCSS. The Grade 3 SBA in Reading and Math will be redesigned to emphasize CCSS as much as possible using items in the SBA bank that also align with New Mexico content standards. A redesigned Grade 3 SBA will be provided in English and Spanish. The 2013 SBA in grades 4 through 8 and high school will still be aligned with New Mexico standards. Newly developed CCSS items will be included for field testing in the 2013 SBA for all tested grades. Administration of the Grade 3 SBA will parallel CCSS professional development and instruction in kindergarten through third grade in 2012-2013. CCSS training and instruction for grades four through 12 will begin the following year.

In 2014, Standards Based Assessment in All Tested Grades Bridge to CCSS. The 2014 SBA in all tested grades will contain dually aligned items from the bank and 2013 CCSS field test items.

New Mexico will continue to score student performance on the New Mexico standards through 2014 for measuring student growth for the A-F School Rating System. Performance on CCSS items will be reported separately at the state, district, and school levels using measures such as number and percent points possible. CCSS reporting will provide aggregate baseline information for schools to transition to PARCC assessments that will be fully aligned with CCSS in 2015.

New Mexico plans to administer the SBA and HSGA as computer-based assessments in 2014 as part of the transition to next generation assessments in 2015. Districts lacking adequate technology resources for computer-based administration will be provided pencil-and-paper versions of the assessments.

C. SUMMARY SCOPE OF WORK

The Contractor shall provide all materials and services necessary for development, production, scoring, and reporting of the New Mexico Standards Based Assessments (SBA) and the New Mexico High School Graduation Assessment (HSGA), the statewide standards based assessments and the comprehensive standards based high school graduation assessment, respectively. The Contractor shall provide the SBA and HSGA as a computer-based administration and in hardcopy format. Districts shall select the mode of administration that meets their needs, administering the hardcopy assessment as an accommodation or to "opt out" if they lack the technology resources to support a computer-based administration. The Contractor shall provide the SBA as the ESEA

accountability assessment in English, Spanish, Braille, and Large Print for grades 3 through 8, 10 and 11. The grade 11 SBA and the grade 10 SBA are identical in Reading and Math. The grade 11 SBA also includes science for accountability participation. The grade 11 SBA also serves as the New Mexico High School Graduation Assessment (HSGA; same assessments administered to second through fourth year high school students; student cohorts labeled H2 through H4, respectively). The HSGA is administered in spring to H2 and H3 students. It is also administered as a retest to H4 students in fall. The Contractor shall develop and implement the SBA/HSGA for operational administration in school years 2013-2014 through 2016-2017 as specified in the detailed scope of work.

The Contractor shall provide the materials and services necessary for the production of test answer documents, scoring of multiple choice items and extended response items, and reporting of the New Mexico High School Competency Exam (NMHSCE), the State's former high school graduation assessment now only administered as a retest in reading, writing composition, language arts, mathematics, science, and social studies to students exited from high school. The NMHSCE was replaced by the HSGA as the State's graduation assessment in 2010. Therefore, the NMHSCE shall only be administered as a retest in the fall and winter of school years 2013-2014, 2014-2015, and 2015-2016.

D. SCOPE OF PROCUREMENT

The scope of procurement shall encompass the defined Scope of Work that is detailed in Appendix B of this RFP. The Contract is scheduled to begin on January 1, 2013, or the date upon receipt of all required State approvals, whichever is later for a term of four years. The contract may not be extended under any circumstances to exceed a total of four (4) years in duration. This procurement will result in a single source award.

E. PROCUREMENT MANAGER

The agency has designated a Procurement Manager who is responsible for the conduct of this procurement whose name, address, and telephone number are listed below:

Dr. Tom Dauphinee
Deputy Director
New Mexico Public Education Department
Assessment and Accountability Division
300 Don Gaspar Ave., Room 122
Santa Fe, New Mexico 87501-2786
Office: (505) 827-6528
Fax (505) 827-6616
tom.dauphinee@state.nm.us

All deliveries via express carrier should be addressed as follows:

Dr. Tom Dauphinee
C/O Eric Sanchez
State Purchasing Division
1100 St. Francis Drive, Room 2016
Santa Fe, New Mexico 87505

Any inquiries or request regarding this procurement should be submitted to the Procurement Manager in writing. Offerors may contact **ONLY** the Procurement Manager regarding the procurement. Other state employees do not have the authority to respond on behalf of the Agency.
(1)

F. DEFINITION OF TERMINOLOGY

This section contains definitions that are used throughout this procurement document, including appropriate abbreviations.

“**Agency**” means the New Mexico Public Education Department.

“**Assessment Form**” means one of several alternate and comparable presentations of a single set of operational assessment items in a test booklet.

“**Assessment Version**” means a set of core operational assessment items encompassing all content areas.

“**Close of Business**” means 5:00 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.

“**Contract**” means any agreement for the procurement of items of tangible personal property, services or construction derived from an ITB or RFP.

“**Contract Manager**” means the individual selected by the Agency to monitor and manage all aspects of the contract resulting from this RFP.

“**Contractor**” means an employer contracting with the State of New Mexico, which employer has, had, or anticipates having six (6) or more employees who worked, are working, or are expected to work an average of at least twenty hours per week over a six-month period, with said six month period being at any time during the year prior to seeking the contract(s) with the State, or any time during the term of the contract(s) with the State;

“**Deliverable**” means any measurable, tangible, verifiable outcome, result, or item that must be produced to complete a project or part of a project.

“**Department of Information Technology**” means the New Mexico Department of Information Technology which is responsible for operating the data center and all communications related items.

“**Desirable**” The terms “may,” “can,” “should,” “preferably,” or “prefers” identify a desirable or discretionary item or factor (as opposed to “mandatory”).

“Determination” means the written documentation of a decision of a procurement manager including findings of fact supporting a decision. A determination becomes part of the procurement file to which it pertains.

“DFA” means the Department of Finance and Administration for the State of New Mexico.

“DFA/CRB” means the Contracts Review Board of the Department of Finance and Administration for the State of New Mexico.

“District” means a grouping of public schools, including charter schools and other public schools within New Mexico school districts.

“Employer” means any for-profit or not-for-profit business, regardless of location, that employs one or more persons that qualify as a “New Mexico Employee”. (See below.) Such definition does not include governmental entities.

“Evaluation Committee” means a body appointed by the Agency management to perform the evaluation of Offeror proposals.

“Evaluation Committee Report” means a report prepared by the Procurement Manager and the Evaluation Committee for submission to the State Purchasing Agent for contract award that contains all written determinations resulting from the conduct of a procurement requiring the evaluation of competitive sealed proposals.

“Finalist” is defined as an Offeror who meets all the mandatory specifications of the Request for Proposal and whose score on evaluation factors is sufficiently high to qualify that Offeror for further consideration by the Evaluation Committee.

“Mandatory” The terms “must,” “shall,” “will,” “is required,” identify a mandatory item or factor (as opposed to “desirable”). Failure to meet a mandatory item or factor will result in the rejection of the Offeror’s proposal.

“Milestone” means a significant event in a project, usually the completion of a major deliverable.

“New Mexico Employee” means any resident of the State of New Mexico, performing the majority of their work within the State of New Mexico, for any employer regardless of the location of the employer’s office or offices.

“Offer” means to make available to all New Mexico employees, without unreasonable restriction, enrollment in one or more health coverage plans and to actively seek and encourage participation in order to achieve the goals of the Executive Order. This could include State publicly financed public health coverage programs such as *Insure New Mexico!*

“Offeror” is any person, corporation, or partnership who chooses to submit a proposal.

“Priority Standard” means a content standard or composite of content standards that is preeminent for the purpose of assessment.

“Procurement Manager” means the person or designee authorized by the Agency to manage or administer a procurement requiring the evaluation of competitive sealed proposals.

“**Request for Proposals**” or “RFP” means all documents, including those attached or incorporated by reference, used for soliciting proposals.

“**Requirements**” are obligatory and mean the system functions that are related to the organization’s goals and business opportunities. Requirements are defined by the project team and are usually prioritized.

“**Responsive Offer or Responsive Proposal**” means an offer or proposal that conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to, price, quality, quantity or delivery requirements.

“**Responsible Offeror**” means an Offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources production, or service facilities, personnel, service reputation, and experience are adequate to make satisfactory delivery of the services or items of tangible personal property described in the proposal.

“**Scale Drift**” means the introduction of error into scale scores when multiple forms of assessments are developed without being equated across all possible forms. That is, form a is equated with form b, and form b is equated with form c; however, form a is not equated with form c, and differences in form a and c scale scores are observed.

“**Solicited and Awarded**” means an ITB or RFP was made available to the general public, through any means, after January 1, 2008 AND the contract(s) sought as a result of that solicitation was/were awarded after January 1, 2008.

“**Solicitations**” means ITBs and RFPs.

“**State (the State)**” means the State of New Mexico.

“**State Educational Institutions**” means New Mexico’s School for the Deaf, School for the Visually Impaired, and Juvenile Justice Schools that are State funded, which are not members of a public school district.

“**State Purchasing Agent**” or “SPA” means the purchasing agent for the State of New Mexico or a designated representative.

G. BACKGROUND INFORMATION

When the existing contract for the SBA expires, the PED will own two operational cores of SBA items for Reading, Writing, Mathematics, and Science in English and Spanish. The operational cores represent the operational SBA and a breach SBA that could be administered in the same year should a significant breach in test security occur.

The New Mexico High School Competency Exam was first administered to grade 10 students in school year 1987-1988. Public high school students have been required to pass in all of the NMHSCE’s six content areas (reading, writing composition, language arts, mathematics, science, and social studies) to receive a New Mexico high school diploma. Students who do not pass any part of the NMHSCE may retest in the fall for an additional five years after exiting from high school. The NMHSCE is administered in English, Spanish, and Braille.

Since 2006, the implementation of the NMHSCE has been administered by the Contractor for the SBA under license with the original Contractor. Four operational forms in English and four writing prompts are available. One operational NMHSCE form is available in Spanish. The forms are writing prompts that are rotated for administration from year to year. The PED owns approximately 90% of the NMHSCE items, and the winning Offeror shall acquire rights to use the remaining items and test materials by entering a license agreement with the original Contractor, CTB/McGraw-Hill.

The New Mexico Statewide Assessment Program encompasses three assessment systems that are not included in this RFP. The New Mexico Alternate Performance Assessment (NMAPA) is the PED's alternate assessment based on alternate achievement standards. The NMAPA is administered to qualifying students in grades 3 through 12+ with significant cognitive disabilities. The NMAPA is the alternate assessment for high school graduation. The ACCESS for ELLs Assessment is New Mexico's state wide English language proficiency assessment in kindergarten through grade 12. Statewide formative assessments in English Language Arts and Math in grades 4 through 10 are also outside the scope of this RFP.

H. PROCUREMENT LIBRARY

The PED has established an Internet Procurement Library. Offerors are encouraged to review the material contained in the Procurement Library by selecting the link provided below. You may obtain an electronic version of this RFP document through your own Internet connection at:

<http://ped.state.nm.us/ped/rfps.html>

or by contacting the Procurement Manager.

The library contains information listed below:

1. New Mexico State Purchasing Division includes links to Procurement Regulations and Request for Proposal – RFP instructions: <http://www.generalservices.state.nm.us/spd/>
2. SBA and HSGA materials listed below are available on the SBA web page under their respective headings:
<http://www.ped.state.nm.us/AssessmentAccountability/AssessmentEvaluation/SBA/index.html>
 - a. SBA Technical Reports
 - b. Assessment Frameworks (based on NM Academic Content Standards)
 - c. Assessment Blueprints (public versions)
 - d. Performance Level Descriptors
 - e. Scale Score Cuts
 - f. Directions for Administration
 - g. Test Coordinator's Manual
 - h. Math Reference Sheets
 - i. Spanish Glossaries
 - j. SBA Answer Booklet Biogrid
 - k. SBA Released Items
 - l. SBA Practice Tests
 - m. Points Earned Structure of the SBA Writing Assessment
 - n. Writing Genres for the SBA
 - o. Standards IIB and IIC Rubrics

- p. Scoring Conference Handouts
3. Other SBA and HSGA documents listed below are on the Assessment and Evaluation web page:
<http://www.ped.state.nm.us/AssessmentAccountability/AssessmentEvaluation/index.html>
- a. Common Core SBA Assessment Frameworks
 - b. SBA Administration Schedules 2013
 - c. Opportunity to Learn Survey
 - d. SBA Standard Setting Report
 - e. SBA Scale Score Conversion Tables
 - f. 2011 Bridge Study
 - g. High School Exit Exam Requirements
 - h. Clarification of New SBA Standards
 - i. Advances in New Mexico Assessment and Accountability System
4. NMHSCE materials listed below are available on the NMHSCE web page under their respective headings:
<http://www.ped.state.nm.us/AssessmentAccountability/AssessmentEvaluation/NMHSCE/dl10/High%20School%20Graduation%20Assessment%20Timeline.pdf>
- a. Test Coordinator's Manual
 - b. Directions for Administering
 - c. 2010-2011 Technical Report
 - d. NMHSCE Domain Specifications
5. NM Content Standards, Benchmarks, and Performance Standards:
<http://www.ped.state.nm.us/standards/>
6. NM Common Core State Standards Resource Page:
<http://newmexicocommoncore.org/>
7. Information on A-F School Grading System on the School Grades web page under their respective headings:
<http://webapp2.ped.state.nm.us/SchoolData/SchoolGrading.aspx>
- a. Information Modules
 - b. FAQ
 - c. Technical Guide
8. Information on Alternate Demonstration of Competency:
<http://www.ped.state.nm.us/ped/adc/ADC2012Memo.pdf>
<http://www.ped.state.nm.us/ped/adc/ADC2012.pdf>
9. Regulation regarding the A-F School Grading System (6.19.8 NMAC):
<http://www.nmcpr.state.nm.us/nmac/parts/title06/06.019.0008.htm>
10. SBA Proficiency Rates
<http://www.ped.state.nm.us/AssessmentAccountability/AcademicGrowth/NMSBA.html>

11. NM NCLB Waiver:

<http://ped.state.nm.us/skandera/waiver/index.html>

II. PROCUREMENT CONDITIONS

This section of the RFP contains the schedule for the procurement and describes the major procurement events as well as the conditions governing the procurement.

A. SEQUENCE OF EVENTS

The Procurement Manager will make every effort to adhere to the following schedule:

	<u>Action</u>	<u>Responsibility</u>	<u>Date</u>
1.	Issue of RFP	Agency State Purchasing	10/19/2012
2.	Pre-Proposal Conference	Agency Potential Offerors	10/31/2012
3.	Distribution List Response	Potential Offerors	10/31/2012
4.	Deadline To Submit Additional Questions	Potential Offerors	11/2/2012
5.	Response to Written Questions/RFP Amendments	Agency	11/5/2012
6.	Submission of Proposal	Offerors	11/14/2012
7.	Proposal Evaluation	Evaluation Committee	11/14/2012 to 11/20/2012
8.	Selection of Finalists (Notification Letter)	Evaluation Committee	11/26/2012
9.	Best and Final Offers from Finalists	Offerors	11/29/2012
10.	Oral Presentation and/or Product Demonstrations by Finalists	Offerors	12/6/2012
11.	Finalize Contract	Agency Offeror	1/3/2013
12.	Contract Award	State Purchasing Agent	3/7/2013
13.	Protest Deadline	Offerors	Per 13-1-172

B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events shown in Section II, Paragraph A.

1. Issue of RFP

This RFP is being issued by 10 AM MT on the date specified in the Sequence of Events by the Agency and the State Purchasing Division of the General Services Department.

Additional copies of the RFP can be obtained from the Purchasing Division web site at www.generalservices.state.nm.us/spd.

2. Pre-Proposal Conference

October 31, 2012 – 9:30 AM-1100 AM MT

Mabry Hall
New Mexico Public Education Department
300 Don Gaspar Ave.
Santa Fe, New Mexico 87501-2786

3. Distribution List Response

Potential Offerors should hand deliver or return by hand, facsimile, or email the “Acknowledgement of Receipt of Request for Proposals Form” that accompanies this document (Appendix A) to have their organization placed on the procurement distribution list. This form should be signed by an authorized representative of the organization, dated, and hand delivered or emailed by close of business on the date specified in the Sequence of Events to the procurement manager.

The procurement distribution list will be used for the distribution of written responses to questions and any RFP amendments.

Failure to return this form shall constitute a presumption of receipt and rejection of the RFP, and the potential Offeror’s organization name shall not appear on the distribution list.

4. Deadline to Submit Additional Questions

Potential Offerors may submit additional written questions as to the intent or clarity of this RFP until close of business on the date specified in the Sequence of Events. All written questions must be hand delivered, sent by facsimile, or emailed to the Procurement Manager (see Section I, Paragraph E).

5. Response to Written Questions/RFP Amendments

Written responses to written questions and any RFP amendments will be distributed by close of business on the date specified in the Sequence of Events, to all potential Offerors whose organization name appears on the procurement distribution list. An Acknowledgement of Receipt Form will accompany the distribution package. The form should be signed by the Offeror’s representative, dated, and hand delivered or emailed by the date indicated thereon.

The procurement distribution list will be used for the distribution of written responses to questions and any RFP amendments.

Failure to return this form shall constitute a presumption of receipt and rejection of the RFP, and the potential Offeror’s organization name shall not appear on the distribution list.

Additional written requests for clarification of distributed answers and/or amendments must be received by the Procurement Manager no later than seven (7) days after the answers and amendments were issued.

6. Submission of Proposals

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 3:00 PM MOUNTAIN TIME ON THE DATE SPECIFIED IN THE SEQUENCE OF EVENTS. Proposals received after this deadline will not be accepted. The date and time will be recorded on each proposal. Proposals must be addressed and hand delivered to the Procurement Manager at the address listed in Section I, Paragraph E. Proposals must be sealed and labeled on the outside of the package to clearly indicate a response to the "Assessment" Request for Proposals. Proposals submitted by facsimile or email will not be accepted.

A public log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to §13-1-116 NMSA 1978, the contents of any proposal shall not be disclosed to competing Offerors prior to contract award.

7. Proposal Evaluation

The evaluation of proposals will be performed by an evaluation committee appointed by Agency management. The evaluation process will take place the dates specified in the Sequence of Events. During this time, the Procurement Manager may, at his option, initiate discussion with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals, but proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

8. Selection of Finalists

The Evaluation Committee will select and the Procurement Manager will notify the finalist Offerors on the date specified in the Sequence of Events. Only finalists will be invited to participate in the subsequent steps of the procurement. The schedule for the oral presentations/demonstrations will be determined at this time.

9. Best and Final Offers From Finalists

Finalist Offerors may be asked to deliver revisions to their proposals by hand for the purpose of obtaining best and final offers by the date specified in the Sequence of Events NO LATER THAN 3:00 PM MOUNTAIN TIME. Best and final offers may be clarified and amended at the finalist Offeror's oral presentation/demonstration.

10. Oral Presentation/Demonstration by Finalists

Finalist Offerors will be required to present their proposals and respond to Evaluation Committee questions on the date specified in the Sequence of Events. The Agency reserves the right to extend the time at its sole discretion. All oral presentations will be held at a time and location in Santa Fe, New Mexico to be announced. Finalist Offerors will be limited to a presentation of duration not more than two hours. Finalist Offerors will be limited to a presentation of duration not more than 2 hours.

11. Finalize Contract

The contract will be finalized with the most advantageous Offeror by the date specified in the Sequence of Events. In the event that mutually agreeable terms cannot be reached within the time specified, the Agency reserves the right to finalize a contract with the next most advantageous Offeror without undertaking a new procurement process or to cancel the award.

12. Contract Award

After review of the Evaluation Committee Report, the recommendation of the Agency management, and the signed contract, the State Purchasing Agent will award the contract.

This contract shall be awarded to the Offeror whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP. The most advantageous proposal may or may not have received the most points.

13. Protest Deadline

Any protest by an Offeror must be timely and in conformance with §13-1-172 NMSA 1978 and applicable procurement regulations. The fifteen (15)-day protest period for responsive Offerors shall begin on the day following the contract. Protests must be written and must include the name and address of the protestor and the request for proposals number. It must also contain a statement of grounds for protest including appropriate supporting exhibits, and it must specify the ruling requested from the State Purchasing Agent. The protest must be delivered to the State Purchasing Agent.

**Mr. Lawrence Maxwell
State Purchasing Agent & Director
Joseph M. Montoya State Building, Room 2016
1100 St. Francis Drive
Santa Fe, New Mexico 87505**

**Mailing Address: P.O. Drawer 26110
Santa Fe, NM 87502-0110**

Protests received after the deadline will not be accepted.

C. CONDITIONS GOVERNING THE PROCUREMENT

This procurement will be conducted in accordance with the State Purchasing Agent's procurement code regulations, 1.4.1 NMAC. Conditions governing the procurement are specified in this section.

1. Acceptance of Conditions Governing the Procurement

Offerors must indicate their acceptance of the Conditions Governing the Procurement in the letter of transmittal. Please note that submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

2. Incurring Cost

Any cost incurred by the Offeror in preparation, transmittal, presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror.

Any cost incurred by the Offeror for set up and demonstration of the proposed equipment and/or system shall be borne solely by the Offeror.

3. Prime Contractor Responsibility

Any contract that may result from the RFP shall specify that the prime Contractor is solely responsible for fulfillment of the contract with the Agency. The Agency will make contract payments only to the prime Contractor.

4. Subcontractors

Use of subcontractors must be clearly explained in the proposal, and major subcontractors must be identified by name. The prime Contractor shall be wholly responsible for the entire performance whether or not subcontractors are used.

5. Amended Proposals

An Offeror may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. The Agency personnel will not merge, collate, or assemble proposal materials.

6. Offeror's Rights to Withdraw Proposal

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Offeror must submit a written withdrawal request signed by the Offeror's duly authorized representative addressed to the Procurement Manager.

The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

7. Proposal Offer Firm

Responses to this RFP, including proposal prices, will be considered firm for one hundred twenty (120) days after the due date for receipt of proposals or ninety (90) days after receipt of a best and final offer if one is submitted.

8. Disclosure of Proposal Contents

The proposals will be kept confidential until a contract is awarded. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for the material that is proprietary or confidential. The Procurement Manager will not disclose or make public any pages of a proposal on which the Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements.

Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspections of the non-confidential portion of the proposal. Confidential data are normally restricted to confidential financial information concerning the Offeror's organization and data that qualify as a trade secret in accordance with the Uniform Trade Secrets Act [§57-3A-1 to 57-3A-7 NMSA 1978] or student education records (sample reports containing real student test scores) that are protected by the Family Education Rights and Privacy Act (FERPA; 20 U.S.C. §1232g and 34 CFR §99). The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, the State Purchasing Agent shall examine the Offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

9. No Obligation

The procurement in no manner obligates the State of New Mexico or any of its agencies to the eventual rental, lease, purchase, etc., of any equipment, software, or services offered until a valid written contract is awarded and approved by appropriate authorities (including the DoIT, State Purchasing Division, DFA/CRB and Federal authorities).

10. Termination

This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when the Agency determines such action to be in the best interest of the State of New Mexico.

11. Sufficient Appropriation

Any contract awarded as a result of the RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such termination will be effected by sending written notice to the Contractor. The Agency's decision as to whether sufficient appropriations and authorizations are available will be accepted by the Contractor as final.

12. Legal Review

The Agency requires that all Offerors agree to be bound by the General Requirements contained in this RFP. Any Offeror concerns must be promptly brought to the attention of the Procurement Manager.

13. Governing Law

This procurement and any agreement with Offerors that may result shall be governed by the laws of the State of New Mexico.

14. Basis for Proposal

Only information supplied by the Agency in writing through the Procurement Manager or in this RFP should be used as the basis for the preparation of Offeror proposals.

15. Contract Terms and Conditions

The contract between the Agency and a Contractor will follow the format specified by the Agency and contain the terms and conditions set forth in Appendix B, "Agreement Terms and Conditions." The Agency reserves the right to negotiate Agreement Terms and Conditions, Scope of Work, and costs with a successful Offeror. The contents of this RFP, as revised and/or supplemented, and the successful Offeror's proposal will be incorporated into and become part of the contract.

If an Offeror objects to any of the Agreement Terms and Conditions, that Offeror must propose specific alternative language in an addendum to the Letter of Transmittal. The Agency may or may not accept the alternative language. General references to the Offeror's terms and conditions or attempts at complete substitutions are not acceptable to the Agency and will result in disqualification of the Offeror's proposal.

Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

16. Offeror's Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions that they expect to have included in a contract negotiated with the agency.

17. Contract Deviations

Any additional terms and conditions that may be the subject of negotiation will be discussed only between the Agency and the selected Offeror and shall not be deemed an opportunity to amend the Offeror's proposal.

18. Offeror Qualifications

The Evaluation Committee may make such investigations as necessary to determine the ability of the Offeror to adhere to the requirements specified within this RFP. The Evaluation committee will reject the proposal of any Offeror who is not a responsible Offeror or fails to submit a responsive offer as defined in §13-1-83 and §13-1-85 NMSA 1978.

19. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities. The Evaluation Committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals fail to meet the same mandatory requirements and/or doing so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

20. Change in Contractor Representatives

The agency reserves the right to require a change in Contractor representatives if the assigned representatives are not, in the opinion of the Agency, meeting its needs adequately.

21. Notice

The Procurement Code, §13-1-28 through §13-1-199 NMSA, imposes civil and misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

22. Agency Rights

The Agency reserves the right to accept all or a portion of an Offeror's proposal including the right to purchase software or services from SPA approved price agreements.

23. Right to Publish

Throughout the duration of this procurement process and contract term, potential Offerors, Offerors, and Contractors must secure from the Agency written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement or the subsequent contract. Failure to adhere to this requirement may result in disqualification of the Offeror's proposal or termination of the contract.

24. Ownership of Proposals

All documents submitted in response to the RFP shall be available to be picked up by the Offerors after the expiration of the protest period with the following exception. Two complete copies of all proposals including the Best and Final Offer, if one was submitted, shall be placed into the procurement file. Those documents will become the property of the Agency and the State of New Mexico.

25. Confidentiality

Any confidential information provided to, or developed by, the Contractor in the performance of the contract resulting from this RFP shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Agency.

The Contractor(s) agree to protect the confidentiality of all confidential information and not to publish or disclose such information to any third party without the procuring Agency's written permission.

26. Electronic Mail Address Required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence. (See also Section II.B.5, Response to Written Questions/RFP Amendments).

27. Use of Electronic Versions of this RFP

This RFP is being made available by electronic means. If accepted by such means, the Offeror acknowledges and accepts full responsibility to insure that no changes are made to the RFP. In the event of conflict between a version of the RFP in the Offeror's possession and the version maintained by the SPA, the version maintained by the SPA shall govern.

28. Pay Equity Reporting Requirements

“If the OFFEROR has ten (10) or more employees OR eight (8) or more employees in the same job classification, OFFEROR must complete and submit the required reporting form (PE10-249 or PE250, depending on their size at the time) if they are awarded a contract.

“For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, OFFEROR must also agree to complete and submit the required form annually within thirty (30) calendar days of the annual bid or proposal submittal anniversary date and, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract.

“Should OFFEROR not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, offer must agree to provide the required report within ninety (90) calendar days of meeting or exceeding the size requirement.

“OFFEROR must also agree to levy these reporting requirements on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. OFFEROR must further agree that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, offer will submit the required report, for each such subcontractor, within ninety (90) calendar days of that subcontractor meeting or exceeding the size requirement.”

29. Disclosure Regarding Responsibility

Any prospective Bidder/ OFFEROR (hereafter OFFEROR) and/or any of its Principals who seek to enter into a contract greater than twenty thousand dollars (\$20,000.00) with any State Agency or local public body for professional services, tangible personal property, services or construction agree to disclose whether they, or any principal of their company:

- A. Are presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body.
- B. Have within a three-year period preceding this offer, been convicted of or had 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) contract or subcontract; violation of Federal or State antitrust statutes related to the submission of offers; or commission in any Federal or State jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property.
- C. Are presently indicted for, or otherwise criminally or civilly charged by any (Federal State or local) government entity with, commission of any of the offenses enumerated in paragraph B of

this disclosure.

- D. Have, preceding this offer, been notified of any delinquent Federal or State taxes in an amount that exceeds \$3,000.00 of which the liability remains unsatisfied.
1. Taxes are considered delinquent if both of the following criteria apply:
 - a. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
 - b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
- E. Have within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal or State agency or local public body.

“Principal”, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.

The OFFEROR shall provide immediate written notice to the Procurement Manager or Buyer if, at any time prior to contract award, the OFFEROR learns that its disclosure was erroneous when submitting or became erroneous by reason of changed circumstances.

A disclosure that any of the items in this requirement exist will not necessarily result in withholding an award under this solicitation. However, the disclosure will be considered in the determination of the OFFEROR’S responsibility. Failure of the OFFEROR to furnish a disclosure or provide additional information as requested will render the OFFEROR nonresponsive.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of an OFFEROR is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts. If during the performance of the contract, the contractor is indicted for or otherwise criminally or civilly charged by any government entity (Federal, State or local) with commission of any offenses named in this document, the contractor must provide immediate written notice to the Procurement Manager or Buyer. If it is later determined that the OFFEROR knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the State Purchasing Agent or Central Purchasing Officer may terminate the involved contract for cause. Still further the State Purchasing Agent or Central Purchasing Officer may suspend or debar the contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the State Purchasing Agent or Central Purchasing Officer.

30. New Mexico Employees Health Coverage

1. For all contracts solicited and awarded on or after January 1, 2008: If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to:
 - (a) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2008 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed one million dollars or;
 - (b) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2009 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$500,000 dollars or
 - (c) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.
2. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) decline health insurance due to other health insurance coverage already in place; or (c) decline health insurance for other reasons. These records are subject to review and audit by a representative of the state.
3. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information <http://insurenemexico.state.nm.us/>.
4. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000, \$500,000 or \$1,000,000.

31. Campaign Contribution Disclosure Form

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form (See Appendix F) as a part of their proposal. This requirement applies regardless whether a covered contribution was made or not for the positions of Governor and Lieutenant Governor. Failure to complete and return the form will result in disqualification.

III. PROPOSAL FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

An Offeror must submit only one proposal per offer.

B. NUMBER OF COPIES

Offerors must deliver:

- a. One (1) original hardcopy (containing original signatures and marked “Original Copy”) with one PDF copy on flash drive (scan of material in all binders), and;
- b. Seven (7) identical hardcopies of Binder 1 (Identification and Summary);
- c. Seven (7) identical hardcopies of Binder 2 (Cost Proposal and Terms and Conditions), and;
- d. Seven (7) identical hardcopies of Binder 3 (supporting technical documentation) to the location specified in Section I, Paragraph E on or before the closing date and time for receipt of proposals.

C. PROPOSAL FORMAT

All proposals must be typewritten on standard 8 ½ x 11 paper (larger paper is permissible for charts, spreadsheets, etc.) and placed within binders with tabs delineating each section. Responses to Scope of Work Requirements in Appendix B must be provided using a deliverables based format required by the Agency Terms and Conditions in Appendix C and shown below (Deliverable Number 1). Every deliverable must be described by naming the deliverable in the table format shown below. Every deliverable must be numbered and named. The date of completion of a deliverable is given with the cost, including gross receipts task, if applicable. Each task is divided into subtasks and described.

Deliverable Number 1 **[Insert Name of Deliverable]**

Deliverable One		Due Date	Compensation
[Insert Name of Deliverable]		[Insert Date this deliverable is due]	[Insert \$ Amount to complete this deliverable, plus GRT,if applicable]
Task Item	Sub Tasks	Description	
[Insert Name of Task or tasks to be performed for each deliverable.]	Sub 1 (through however many subtasks are needed to accomplish Task 1 which leads to the number of Tasks needed to accomplish Deliverable 1.	<p>[Insert Description] Please use active verbs to identify tasks and subtasks to be performed by the vendor; due dates for the tasks and/or subtasks should be included as a means of assisting the Agency and Contractor to monitor contract progress. Compensation amounts for tasks and/or subtasks can be identified here. The total amount paid for all tasks and/or subtasks performed under this deliverable should be consistent with the Compensation due for total delivery of the Deliverable. The contractor will bill the agency per deliverable, so language that is clear will assist the agency and contractor in determining if the deliverable was met for payment purposes.</p>	

1. Proposal Organization

The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence specified below.

Binder #1

- a) Letter of transmittal
- b) Table of contents
- c) Response to mandatory requirements (check-marked table)
- d) Corporate references
- e) Offeror staff references
- f) Financial and corporate stability of Offeror
- g) NM Employees Health Coverage Form
- h) Campaign Contribution Disclosure Form
- i) Offeror’s amended Agreement of Terms and Conditions (optional)

Binder #2

- j) Table of contents
 - k) Summary of proposed services and deliverables
 - l) Response to Scope of Work, Standards Based Assessment Project (Appendix B).
- Every deliverable should be listed in the tabular format specified above.
- m) NM DoIT Security Questionnaire.
 - n) Corporate experience
 - o) Offeror staff experience

p) Cost Proposal (Cost Response Form)

Binder #3 (Optional)

- q) Table of contents
- r) Other Supporting Material

Within each section of their proposal, Offerors should address the items in the order in which they appear in this RFP. All forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal. All discussion of proposed costs, rates, or expenses must occur only in Binder 1 with the cost response form.

Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

The proposal summary may be included by Offerors to provide the Evaluation Committee with an overview of the technical and business features of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Offeror's proposal.

2. **Letter of Transmittal** - Each proposal must be accompanied by a letter of transmittal. The letter of transmittal MUST:
- a. Identify the submitting organization;
 - b. Identify the name, title, telephone and fax numbers, and e-mail address of the person authorized by the organization to contractually obligate the organization;
 - c. Identify the name, title, telephone and fax numbers, and e-mail address of the person authorized to negotiate a contract on behalf of the organization;
 - d. Identify the names, titles, telephone and fax numbers, and e-mail addresses of persons to be contacted for clarification of the proposal;
 - e. Explicitly state acceptance of the Conditions Governing the Procurement specified in Section II, Paragraph C.1;
 - f. Acknowledge receipt of any and all amendments to this RFP; and,
 - g. Be signed by the person authorized to contractually obligate the organization.

IV. MANDATORY REQUIREMENTS

<u>Standards Based Assessment RFP</u>		
List of Mandatory Requirements:	YES	NO
1) Offerors must submit only one proposal per offer.		
2) Offerors must deliver one (1) original hardcopy (containing original signatures and marked "Original Copy") with one PDF copy on flash drive (scanned material in all binders), and;		
3) Offerors must deliver seven (7) identical hardcopies of Binder 1 (Identification and Summary);		
4) Offerors must deliver seven (7) identical hardcopies of Binder 2 (Cost Proposal and Terms and Conditions), and;		
5) Offerors must deliver seven (7) identical hardcopies of Binder 3 (supporting technical documentation) to the location specified in Section I, Paragraph E on or before the closing date and time for receipt of proposals.		
6) All proposals must be typewritten on standard 8 ½ x 11 paper (larger paper is permissible for charts, spreadsheets, etc.) and placed within binders with tabs delineating each section. Deliverables must be listed in the specified tabular format.		
7) The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated below:		
8) Binder #1 <ul style="list-style-type: none"> a) Letter of transmittal b) Table of contents c) Response to mandatory requirements (check-marked table) d) Corporate references e) Offeror staff references f) Financial and corporate stability of Offeror g) NM Employees Health Coverage Form h) Campaign Contribution Disclosure Form i) Offeror's amended Agreement of Terms and Conditions (optional) 		
9) Binder #2 <ul style="list-style-type: none"> j) Table of contents k) Summary of proposed services and deliverables l) Response to Scope of Work, Standards Based Assessment Project (Appendix B). Every deliverable should be listed in the tabular format specified above. m) NM DoIT Security Questionnaire. n) Corporate experience o) Offeror staff experience p) Cost Proposal (Cost Response Form) 		
10) Binder #3 (Optional) <ul style="list-style-type: none"> q) Table of contents r) Other Supporting Material 		
11) Letter of Transmittal - Each proposal must be accompanied by a letter of transmittal. The letter of transmittal MUST:		

<ul style="list-style-type: none"> a. Identify the submitting organization; b. Identify the name, title, telephone and fax numbers, and e-mail address of the person authorized by the organization to contractually obligate the organization; c. Identify the name, title, telephone and fax numbers, and e-mail address of the person authorized to negotiate a contract on behalf of the organization; d. Identify the names, titles, telephone and fax numbers, and e-mail addresses of persons to be contacted for clarification of the proposal; e. <u>Explicitly</u> state acceptance of the Conditions Governing the Procurement specified in Section II, Paragraph C.1; f. Acknowledge receipt of any and all amendments to this RFP; and, g. Be signed by the person authorized to contractually obligate the organization. 		
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1. Response to Scope of Work, SBA Project

Offerors must respond to the requirements in the Scope of Work (Appendix B). The response to each requirement should begin with a verbatim statement of the corresponding section in the Scope of Work associated with an evaluation factor and sub-factor. The Scoring Schema (Section V of the RFP) states the corresponding citation in the Scope of Work in parentheses.

2. Corporate Experience

Offerors must submit a statement of relevant corporate experience within the last five (5) years, including the corporate experience of major subcontractors in this project. Specifically, the proposal must describe the Offeror's experience in developing and implementing paper-and-pencil and computer-based large-scale summative academic achievement assessments that have passed per review of the U.S. Education Department of Education and high school graduation assessments in English, Spanish, large print, and Braille.

In this Section, the Offeror shall provide the following information (referencing the subsections in sequence) to evidence the Offeror's experience in delivering services such as those sought under this RFP:

- a. A brief statement of how long the Offeror has been performing similar services to those sought under this RFP.
- b. A description of the experience, technical knowledge, and resources (including subcontractors) used to deliver services such as those sought under this RFP.
- c. The dates of service.
- d. A brief description of the services provided.
- e. A statement of why the Offeror believes said engagements are relevant to this procurement.
- f. A list, if any of all current contractual relationships and those completed within the last five years. The listing should include the contract number, contract term, and procuring State agency for each reference.

3. Corporate References

Offerors must submit three (3) corporate references from clients who have received services like those proposed for this project, especially those projects that have occurred within the past five (5) years. Offers that propose to use Subcontractors for significant portions of the scope of work must include three (3) external references for each major Subcontractor. Each reference must include the name of the organization, address, name of a contact person, telephone number and email address of the contact person, and the date and description of services provided. The Agency cannot serve as a reference for this RFP.

Note: The Offeror is responsible for verifying contact information and ensuring that references are authorized to disclose information about Contractor performance. The Agency is not obligated to correct contact information or attempt additional contacts if information is

incorrect. Inaccurate information or a rejection by a reference could result in a zero score for a reference.

4. Financial and Corporate Stability of Offeror

Offerors must submit copies of their organization's most recent independently audited financial statements, as well as those for the preceding three (3) years. The financial statement submitted must be solely for the Offeror, unless a parent entity is also committing to back financially the Offeror in performance of the contract, in which case the financial statements of the parent entity must also be provided.

The submissions must include the audit opinion, the balance sheet, and statements of income, retained earnings, cash flows, and the notes to the financial statements. If independently audited financial statements do not exist for the Offeror, the Offeror shall state the reason and instead submit sufficient information to enable the Evaluation Committee to determine the financial stability of the Offeror. This information is required to determine an organization's capacity to operate when compensation occurs at infrequent intervals.

Offerors must also submit information regarding any mergers, acquisitions, or sales of the Offeror or subcontracting companies within the last ten years, or if any are pending or being negotiated and if so, an explanation of potential impacts on the project in this RFP.

Offerors must provide a statement regarding pending litigation against the Offeror. If such litigation exists, a legal counsel's opinion must be provided regarding potential impairments of the Offeror's performance of requirements in this RFP.

Offerors must also provide a statement regarding legal convictions, guilty pleas, or *nolo contendere* plea to any felony by the Offeror and its employees, agents, independent Contractors, or subcontractors. The statement must explain facts relevant to the project in this RFP.

Offerors must include a statement of their intention and evidence of ability to procure and maintain a Performance Bond throughout the duration of the contract. The Performance Bond shall insure the Contractor's performance under the contract.

5. Offeror Staff Experience

The Offeror must describe Contractor and Subcontractor personnel required to complete the Contractor responsibilities described in this RFP (Please see RFP Terms and Conditions, Appendix B). The Contractor is not to presume or propose the use of Agency staff to conduct any substantive work pursuant to the scope of work specified in this RFP, except as is specifically stated therein.

The Contractor must commit a cohesive, dedicated, highly skilled core team of key personnel to perform the work of this project. At a minimum, this core team is to include a Senior Project Director, Project Manager, Content Managers, Data Manager, Scoring Manager, Psychometrician, and Project Assistants. These are minimum requirements for the Core Team and they do not prohibit the Contractor from including additional personnel for a larger team.

In this section of the Proposal, the Offeror must define its proposed core team. Offerors must submit a Project organization chart and resumes for all proposed Core Team members. The organization chart must include the title, name and percent of full-time commitment to the Project for each

proposed individual with a brief description of the individual's proposed responsibilities. Resumes should thoroughly describe each proposed staff member's training, skills, and experience relevant to their proposed responsibilities in the Project. The Proposal must demonstrate experience related to projects of the same type and scope as the one in this RFP.

6. Offeror Staff References

Offerors must submit three (3) references from clients who have received services like those proposed for this project for each Core Team member proposed for this project. Each reference must include the name of the organization, address, name of a contact person, telephone number and email address of the contact person, and the date and description of services provided. Staff references from other staff within the Offeror's organization (or parent organization) will not be accepted. Further, the Agency cannot serve as a reference for Offeror staff. Such references will not be contacted and the Offeror shall receive no credit for such references.

Note: The Offeror is responsible for verifying contact information and ensuring that references are authorized to disclose information about staff performance. The Agency is not obligated to correct contact information or attempt additional contacts if information is incorrect. Inaccurate information or a rejection by a reference could result in a zero score for a reference.

7. Cost Proposal

The Offeror's proposal must provide a detailed report of costs for the SBA, HSGA, and NMHSCE, as specified in the Cost Response Form (Appendix D). The Scope of Work (Appendix B) represents the deliverables required by the PED pursuant to full funding of the Project. Separate costs are specified for delivering the SBA and HSGA for paper-and-pencil administration, computer-based administration, and both paper-and-pencil and computer-based administrations. Total costs for the PED, School Districts, and the PED and School Districts combined must correspond to specifications in the Scope of Work. Offerors must provide costs for each of the major deliverables specified in the Cost Response Form. Under the Contract, the PED shall compensate the Contractor for the cost of deliverables specified in the Scope of Work that are associated with assessment development, professional development of test administrators and teachers, the Technical Report, and project management. Under the Contract, the school districts, charter schools, State educational institutions, and U.S. Bureau of Indian Education schools (if they participate in the assessment program) shall compensate the Contractor for the cost of deliverables specified in the Scope of Work that are associated with production, distribution, and collection of assessment materials; assessment scoring; production and distribution of assessment reports; and production and distribution of assessment data. Offerors must separately provide costs to be paid by the PED and costs to be paid by the school districts, charter schools, State educational institutions, and U.S. Bureau of Indian Education schools on the Cost Response Form. The Offeror must also provide two types of costs to be paid by the school districts and schools: the cost per student per test ordered and the estimated statewide cost to the school districts and schools based on the number of test orders estimated in the Scope of Work.

8. Oral Presentation

If selected as a finalist, the Offeror must provide the Evaluation Committee the opportunity to interview all proposed core staff during an oral presentation at a date, time, and place set by the Procurement Manager. The proposed Core Team members shall present the Offeror's proposal to the Evaluation Committee.

9. New Mexico Employees Health Coverage Form

The Offeror must agree with the terms and submit a signed New Mexico Employees Health Coverage Form with the submittal of their proposal. (See Appendix E)

10. Campaign Contributions Disclosure Form

The Offeror must submit a completed Campaign Disclosure Contribution Form signed by the person authorized to contractually obligate the organization. (See Appendix F)

11. NM DoIT Security Questionnaire

The Offeror must submit a completed NM DoIT Security Questionnaire. (See Appendix G)

V. RESPONSE EVALUATION

A. EVALUATION POINT SCHEMA

The following proposal evaluation factors for the Standards Based Assessment RFP and points assigned to each factor. Only finalist Offerors will receive points for an oral presentation and demonstration.

SBA RFP EVALUATION POINT SUMMARY TABLE

	TOTAL Possible	ACTUAL Score	TOTAL Score
OFFEROR: _____			
Date: ____/____/____			
PROJECT PLAN PREPARATION (40 Points)			
Plan Quality	25		
Thoroughness	15		
TOTAL: PROJECT PREPARATION	40		
METHODOLOGY (375 Points)			
SBA Development and Implementation	315		
NMHSCE	60		
TOTAL: METHODOLOGY	375		
CORPORATE EXPERIENCE (75 Points) (Note: This applies to Contractor and all sub-Contractors)			
TOTAL: CORPORATE EXPERIENCE	75		
KEY PERSONNEL EXPERIENCE (75 Points) (Note: This applies to Contractor and all sub-Contractors)			
TOTAL: KEY PERSONNEL EXPERIENCE	75		
CORPORATE REFERENCES (30 Points) (Note: Three corporate references for similar work are needed for Contractor/sub-Contractor)			
TOTAL: CORPORATE REFERENCES	30		
KEY PERSONNEL REFERENCES (30 Points) (Note: Three references for each key personnel performing similar work are needed)			
TOTAL: KEY PERSONNEL REFERENCES	30		
PRESENTATION (50 Points)			
TOTAL: PRESENTATION	50		
COST (325 Points)			
TOTAL: COST	325		
GRAND TOTAL	1,000		

B. EVALUATION FACTORS AND SUBFACTORS

Points will be awarded to the following factors and sub factors:

1. Project Plan Preparation (40 points)

1.1. Plan Quality (25 points)

1.1.1. How well does the project plan conform to specified RFP format requirements? (5 points)

1.1.2. Is the project plan well organized? (5 points)

1.1.3. How well does the plan use a variety of techniques such as narrative, tables, graphics, and charts to effectively communicate? (5 points)

1.1.4. Is the project plan error free? (5 points)

1.1.5. Is the project plan user friendly by using non-technical language, providing concise summaries, and providing tools to quickly locate information? (5 points)

1.2. Thoroughness (15 points)

1.2.1. Is the project plan rigorous, comprehensive, and complete in satisfying the project's requirements?

1.2.1.1. How well does the plan appear to use Contractor and Agency resources effectively? (5 points)

1.2.1.2. How well does the plan address professional assessment and U.S Department of Education technical standards? (5 points)

1.2.1.3. How well does the plan describe project timelines? (5 points)

2. Methodology (375 points)

2.1. SBA and HSGA Development and Implementation (310 points)

2.1.1. Is the description of development and implementation activities detailed and comprehensive?

2.1.1.1. How well does the plan address the configuration of the SBA regarding multiple choice and constructed response items, item refresh rate, and item release rate? (10 points; Location in Scope of Work: Ia)

2.1.1.2. How well does the plan describe procedures used to align the SBA with standards, benchmarks, and performance standards? (10 points; Ia)

2.1.1.3. How well does the plan describe procedures used to develop two operational versions of the SBA? (10 points; Ia, 7)

2.1.1.4. How well does the plan describe procedures used to develop SBA accommodations and address principles of universal design? (10 points; Ia)

2.1.1.5. How well does the plan describe procedures used for reviewing SBA item content, bias, and quality? (5 points; Ig, h)

2.1.1.6. How well does the plan describe procedures used to demonstrate SBA reliability and validity? (10 points; Iq, 8)

2.1.1.7. How well does the plan describe procedures and deliverables designed to assist the Agency in managing SBA development and

implementation? (5 points; Ir)

- 2.1.1.8. How well does the plan describe procedures used to link SBA scores across administrations, grade levels, and Contractors? (20 points; In, 3 and In, 6)
- 2.1.1.9. How well does the plan describe the test material deliverables for each SBA content area and grade level in English, Spanish, large print, and Braille? (10 points; Im)
- 2.1.1.10. How well does the plan describe the SBA materials ordering system for school districts and schools? (5 points; Im, 2)
- 2.1.1.11. How well does the plan describe SBA deliverables to assist the school districts and schools with receiving, distribution, and returning test materials? (20 points; Im)
- 2.1.1.12. How well does the plan describe procedures used to collect and manage student enrollment data for SBA Pre-ID labels? (5 points; Im, 7-8)
- 2.1.1.13. How well does the plan describe SBA administration manual deliverables? (5 points; Im, 9-10)
- 2.1.1.14. How well does the plan describe SBA standard setting procedures? (10 points; In, 3)
- 2.1.1.15. How well does the plan describe procedures for scoring the SBA (5 points; In),
- 2.1.1.16. How well does the plan describe procedures used for SBA range finding? (5 points; In)
- 2.1.1.17. How well does the plan describe procedures for analyzing student SBA Response patterns associated with cheating? (10 points; In, 7)
- 2.1.1.18. How well does the plan describe SBA report deliverables? (10 points; Io)
- 2.1.1.19. How well does the plan describe the SBA Biodata file and integration of the corrected data into reporting procedures? (10 points; Ip)
- 2.1.1.20. How well does the plan describe the SBA Student Test file in user-friendly formats? (10 points; Ip, 2)
- 2.1.1.21. How well does the plan describe the deployment of the annual SBA Scoring Conference? (5 points; Iq, 5)
- 2.1.1.22. How well does the plan describe the deployment of the annual SBA Post Test Workshops? (5 points; IIq, 6)
- 2.1.1.23. How well does the plan describe the collaboration for the District Test Coordinator Training Meetings? (5 points; Iq, 7)
- 2.1.1.24. How well does the plan describe the production and distribution of a practice test? (5 points; Il)
- 2.1.1.25. How well does the plan describe the SBA Technical Report and necessary research to meet the technical requirements of the U.S. Department of Education? (10 points; Iq, 8)
- 2.1.1.26. How well does the plan describe procedures for invoicing the Agency, school districts and schools for SBA deliverables? (5 points; Im and III)

- 2.1.1.27. How well does the plan describe physical security, including video surveillance, of Offeror host hardware for implementing computer-based assessments? (5 points; I, II, and Im, and Appendix G)
- 2.1.1.28. How well does the plan describe findings and improvements of Offeror host network and application security for implementing computer-based assessments based on a security evaluation, preferably done by an independent entity? (5 points; I, II, and Im, and Appendix G)
- 2.1.1.29. How well does the plan describe staff access (who and what are their roles) to Offeror host network and applications for implementing computer-based assessments and measures to secure the network and applications? (5 points; I, II, and Im, and Appendix G)
- 2.1.1.30. How well does the plan describe user access to Offeror host network and applications for implementing computer-based assessments and measures to secure the network and applications? (5 points; I, II, and Im, and Appendix G)
- 2.1.1.31. How well does the plan describe the encryption solution employed by Offeror to secure data for implementing or test scores reported from computer-based assessments on the Internet? (5 points; I, II, and Im, and Appendix G)
- 2.1.1.32. How well does the plan describe procedures for continuous detection of intrusions into Offeror host network and applications for implementing computer-based assessments? (5 points; I, II, and Im, and Appendix G)
- 2.1.1.33. How well does the plan describe maintenance of a firewall for Offeror host network and applications for implementing computer-based assessments? (5 points; I, II, and Im, and Appendix G)
- 2.1.1.34. How well does the plan describe ongoing monitoring of security equipment logs for implementing computer-based assessments? (5 points; I, II, and Im, and Appendix G)
- 2.1.1.35. How well does the plan describe user login procedures for implementing computer-based assessments? (5 points; I, II, and Im, and Appendix G)
- 2.1.1.36. How well does the plan describe an integrated, comprehensive strategy for securely implementing computer-based assessments in New Mexico? (5 points; I, II, and Im, and Appendix G)
- 2.1.1.37. How well does the plan describe procedures to produce the Opportunity to Learn Survey and collect responses? (5 points; Ib).
- 2.1.1.38. How well does the plan describe hosting of the Agency's computer-based testing in the United States? (5 points; II, Im, and IIc, and Appendix G)
- 2.1.1.39. How well does the plan describe the scope of work in a deliverables-based format required by Agency Terms and Conditions? (5 points; Section II-C Proposal Format and Organization and Appendix D)

2.2. NMHSCE Development and Implementation (60 points)

- 2.2.1 Is the description of development and implementation activities detailed and comprehensive?
 - 2.1.1.1 How well does the plan describe procedures for implementation of existing forms of the NMHSCE? (5 points; IIa, 1)
 - 2.2.1.2 How well does the plan describe Contractor responsibilities for acquiring permissions and licensed use of items? (5 points; IIa, 1)

- 2.2.1.3 How well does the plan describe the test material deliverables for each NMHSCE content area in English, Spanish, large print, and Braille? (10 points; IIa,1-2)
- 2.2.1.4 How well does the plan describe the NMHSCE materials ordering system for school districts and schools? (5 points; IIa, 2)
- 2.2.1.5. How well does the plan describe the NMHSCE deliverables to assist the school districts and schools with receiving, distribution, and returning test materials? (5 points; IIa, 2)
- 2.2.1.6. How well does the plan describe NMHSCE administration manual deliverables? (5 points; IIa, 5-6)
- 2.2.1.7. How well does the plan describe procedures for scoring the NMHSCE (5 points; IIb)
- 2.2.1.8. How well does the plan describe NMHSCE report deliverables? (5 points; IIc)
- 2.2.1.9. How well does the plan describe the NMHSCE test data files? (5 points; IIc, 5)
- 2.2.1.10. How well does the plan describe procedures for invoicing the Agency, school districts and schools for NMHSCE deliverables? (5 points; IIc)
- 2.2.1.11. How well does the plan describe procedures used to develop HSCE accommodations and address the principles of universal design? (5 points; IIa, 1)

3.1. Corporate Experience (75 points)

- 3.1.1. How well does the Offeror document the organization's experience with development and implementation of large scale summative assessments in similar contracts? (15 points)
- 3.1.2. How well does the Offeror document the organization's experience with development and implementation of comprehensive high school graduation assessments in similar contracts? (15 points)
- 3.1.3. How well does the Offeror document the organization's experience with development and implementation of summative and high school graduation assessments in Spanish, large print, and Braille? (15 points)
- 3.1.4. How well does the Offeror demonstrate the ability to produce quality assessment deliverables by providing product samples? (15 points)
- 3.1.5. How well does the Offeror demonstrate sufficient financial stability to execute the assessment project? (15 points)

4.1. Key Personnel (75 points)

- 4.1.1. How well does the Offeror document the experience of the proposed project director? (15 points)
- 4.1.2. How well does the Offeror document the experience of the proposed project manager? (15 points)
- 4.1.3. How well does the Offeror document the experience of the lead content manager? (15 points)
- 4.1.4. How well does the Offeror document the experience of the proposed psychometrician? (15 points)
- 4.1.5. How well does the Offeror demonstrate commitment of sufficient full time management and staff resources to meet project requirements? (15 points)

- 5.1. Corporate References (30 points)
- 6.1. Key Personnel References (30 points)
- 7.1. Presentation (50 points)
 - 7.1.1. How well did the presentation demonstrate a comprehensive understanding of the project's requirements? (10 points)
 - 7.1.2. Was the presentation well prepared, clear, and well communicated? (10 points)
 - 7.1.3. Did the presentation demonstrate an effective use of Contractor and agency resources? (10 points)
 - 7.1.4. Did the presentation describe development and implementation activities throughout the duration of the contract? (10 points)
 - 7.1.5. Was the Offeror responsive to the evaluation committee's questions? (10 points)
- 8.1. Cost (325 points)

C. EVALUATION PROCESS

The evaluation process will follow the steps listed below:

1. All Offeror proposals will be reviewed for compliance with the mandatory requirements stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Procurement Manager may contact the Offeror for clarification of the response as specified in Section B-8.
3. The Evaluation Committee may use other sources of information to perform the evaluation.
4. Responsive proposals will be evaluated on the factors in Section V that have been assigned a point value. The responsible Offeror's with the highest scores will be selected as finalist Offeror's based upon the proposals submitted. Finalist Offeror's who are asked or choose to submit revised proposals for the purpose of obtaining best and final offers will have their points recalculated accordingly. Points awarded from the oral presentations will be added to the previously assigned points to attain final scores. The responsible Offeror whose proposal is most advantageous to the Agency, taking into consideration the evaluation factors in Section V, will be recommended for contract award. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

APPENDIX A

REQUEST FOR PROPOSALS
ACKNOWLEDGEMENT OF RECEIPT FORM

**REQUEST FOR PROPOSALS
ACKNOWLEDGEMENT OF RECEIPT FORM**

In acknowledgement of receipt of this Request for Proposals, the undersigned agrees that he/she has received a complete copy, beginning with the title page and table of contents, and ending with Appendix F.

The acknowledgement of receipt must be signed and returned to the Procurement Manager no later than close of business on 8/2/2012. Only potential Offerors who elect to return the completed form with the intention of submitting a proposal will receive copies of all Offeror questions and the Agency's written responses to those questions as well as RFP amendments, if any are issued.

ORGANIZATION: _____

REPRESENTED BY: _____

TITLE: _____ **PHONE NO.:** _____

E-MAIL: _____ **FAX NO.:** _____

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP CODE:** _____

This contact will receive all correspondence related to this RFP.

Organization DOES/DOES NOT (circle one) intend to respond to this Request for Proposals.

SIGNATURE: _____ **DATE:** _____

Return to:
Dr. Tom Dauphinee, Deputy Director New
Mexico Public Education Department
Assessment and Accountability Division
300 Don Gaspar Ave., Room 122
Santa Fe, New Mexico 87501-2786
Office: (505) 827-6528
Fax (505) 827-6616
tom.dauphinee@state.nm.us

APPENDIX B

SCOPE OF WORK, STANDARDS BASED ASSESSMENT PROJECT

SCOPE OF WORK

Standards Based Assessment Project

I. Standards Based Assessment and High School Graduation Assessment. The Contractor shall provide all materials and services necessary for development, production, scoring, and reporting of the New Mexico Standards Based Assessments (SBA) and the New Mexico High School Graduation Assessment (HSGA), the state wide standards based assessments and the comprehensive standards based high school graduation assessment, respectively. The Contractor shall provide the SBA and HSGA as a computer-based administration and in hardcopy format. Districts shall select the mode of administration that meets their needs, administering the hardcopy assessment as an accommodation or to “opt out” if they lack the technology resources to support a computer-based administration. The Contractor shall provide the SBA as the ESEA accountability assessment in English, Spanish, Braille, and Large Print for grades 3 through 8, 10 and 11. The grade 11 SBA and the grade 10 SBA are identical in Reading and Math. The grade 11 SBA also includes science for accountability participation. The grade 11 SBA also serves as the New Mexico High School Graduation Assessment (HSGA; same assessments administered to second through fourth year high school students; student cohorts labeled H2 through H4, respectively). The HSGA is administered in spring to H2 and H3 students. It is also administered as a retest to H4 students in fall. The Contractor shall develop and implement the SBA for operational administration in school years 2013-2014 through 2016-2017 as specified in the tables below. The Contractor shall develop and implement the SBA in Reading, Math, and Writing, in school years 2014-2015, 2015-2016, and 2016-2017 in the event that a statewide assessment provided by a consortium is unavailable. The Contractor will provide assessments in the table cells marked with a “C” (Contingency Test) in the event that they are unavailable from a consortium.

Standards Based Assessments (Spring Administration)															
	2014					2015					2016				
Grade	Reading	Math	Science	Writing	Social Studies	Reading	Math	Science	Writing	Social Studies	Reading	Math	Science	Writing	Social Studies
3	v	v		v		C	C		C		C	C		C	
4	v	v	v			C	C	v			C	C	v		
5	v	v		v		C	C		C		C	C		C	
6	v	v				C	C				C	C			
7	v	v	v			C	C	v			C	C	v		
8	v	v		v		C	C		C		C	C		C	
H2	v	v				C	C				C	C			
H3	v	v	v			C	C	v			C	C	v		

High School Graduation Assessment (Fall Administration)																					
		2013					2014					2015					2016				
Grade		Reading	Math	Science	Writing	Social Studies	Reading	Math	Science	Writing	Social Studies	Reading	Math	Science	Writing	Social Studies	Reading	Math	Science	Writing	Social Studies
H4		V	V	V			V	V	V			C	C	V			C	C	V		

A. Develop the Standards Based Assessment and High School Graduation Assessment. The Contractor shall provide the following services and materials associated with the development of the SBA and HSGA.

(1) The Contractor shall develop an SBA and HSGA consisting of selected response and constructed response items [both short answer (2 point items) and extended response (either 3 or 4 point items)]. The composition of the SBA and HSGA shall be approximately 80% multiple-choice items and 20% constructed response items. Approximately 60% of the score points shall be assigned to multiple-choice items and 40% shall be assigned to constructed response items. The Contractor shall also apportion score points for Depth of Knowledge levels to maintain consistency from year to year.

The Contractor shall design a fall 2013 HSGA retest in English and Spanish language versions that are aligned with New Mexico Content Standards using items in the Agency’s SBA item bank. The Contractor shall develop a fall 2013 retest in Reading, Math, and Science that is refreshed using items in the Agency’s bank to a degree to be determined by the Agency.

(2) The Contractor shall design a spring 2014 SBA that is aligned with New Mexico Content Standards for accountability reporting and critical Common Core State Standards (CCSS) identified in the Agency’s English Language Arts/Literacy Assessment Frameworks and Mathematics Assessment Frameworks in Grades 3-8 and 11 (SBA/CCSS Assessment Frameworks) for limited CCSS reporting using items in the Agency’s SBA item bank. The spring 2014 SBA in Science shall align with New Mexico academic content standards using items in the Agency’s SBA item bank. The spring 2014 SBA shall include science field test items developed by the prior SBA Contractor.

The Contractor shall design a fall 2014 HSGA retest in Reading, Math, and Science that is aligned with New Mexico Content using items in the Agency’s SBA item bank. The Contractor shall develop a fall 2014 retest that is refreshed using items from the Agency’s bank to a degree to be determined by the Agency.

The Contractor shall develop new items in Science for content and bias reviews in summer of 2014 and field testing in spring 2015.

(3) The Contractor shall design a spring 2015 SBA in Science that is aligned with New Mexico Content Standards using items in the Agency’s SBA item bank and 2014 field test items. In the event that a consortium does not deliver a CCSS assessment in Reading and Math for statewide administration, the Contractor shall develop a spring 2015 SBA that also includes Reading and Math that is aligned with New Mexico Content Standards for accountability reporting and critical Common Core State Standards (CCSS) identified in the Agency’s English Language Arts/Literacy Assessment Frameworks and Mathematics Assessment Frameworks in Grades 3-8 and 11 (SBA/CCSS Assessment Frameworks) for limited CCSS reporting using items in the Agency’s SBA item bank.

The Contractor shall develop new items in Science for content and bias reviews in summer of 2015 and field testing in spring 2016.

In the event that a consortium does not deliver a CCSS assessment in Reading and Math for statewide administration, the Contractor shall develop a fall 2015 HSGA retest in Reading, Math, and Science that is aligned with New Mexico Content Standards in the Agency's SBA item bank. The Contractor shall develop a fall 2015 retest that is refreshed using items from the Agency's bank to a degree to be determined by the Agency.

- (4)** The Contractor shall design a spring 2016 SBA in Science that is aligned with New Mexico Content Standards using items in the Agency's SBA item bank and 2015 field test items. The spring 2016 SBA shall include science field test items.

In the event that a consortium does not deliver a CCSS assessment in Reading and Math for statewide administration, the Contractor shall develop a fall 2016 HSGA retest in Reading, Math, and Science that is aligned with New Mexico Content Standards in the Agency's SBA item bank. The Contractor shall develop a fall 2016 retest that is refreshed using items from the Agency's bank to a degree to be determined by the Agency.

- (5)** In Fiscal Year 2014, 2015, and 2016, the Contractor shall develop a sufficient number of items to support the annual refreshment of 25% of the operational items in Science that shall be administered in the 2015 and 2016 SBA under this Agreement and in the 2017 SBA under a future Agreement.

Beginning in Fiscal Year 2016, the Contractor shall release 25% of the operational items in Science. The Contractor shall use a random selection process for identifying release items. Anchor papers for released constructed response items shall also be released. The Contractor shall only release operational SBA/HSGA items and shall not release items identified as unacceptable in quality by review committees or the Agency. The Contractor shall provide released items and anchor papers to the Agency in a format specified by the Agency. The Contractor shall release items and anchor papers no later than August 15 of each year that this Agreement is in effect.

The Contractor shall field test sufficient numbers of items in each grade level and content area of the SBA to support the implementation of at least two forms. The Contractor shall embed field test items in the operational administration of the SBA for field testing such that items of similar format or number of response options shall be grouped to improve the flow of the assessment administration.

- (6)** The Contractor shall be solely responsible for acquiring permission to use non-fiction and literature reading passages in assessment items, including location of authors and publishers, acquisition of written permission to reprint passages, and payment of royalties during the term of this Agreement.

- (7)** The Contractor shall develop two operational versions of the SBA in English and Spanish such that one version shall be used for operational administrations and the second version shall be held in reserve, ready for immediate implementation in the same year, in the event that the first version is compromised by a major security breach. The second version shall contain a sufficient number of the operational items from the first version to enable equating of the versions in all content areas. The Contractor shall document the procedures and results of the equating process in the Standards Based Assessment Technical Report. An event that warrants implementation of the breach form will require special allocation of funds for production, distribution, scoring, and reporting. Therefore, the production, distribution, scoring, and reporting of the breach form shall not occur until directed by the Agency.

- B. Produce and Distribute the New Mexico Opportunity to Learn Survey.** The Contractor shall produce and distribute the New Mexico Opportunity to Learn Survey for online and paper and pencil administration (included in the test booklet and answer document). The Survey queries students about their teachers' use of certain effective instructional practices. The Survey shall be administered to students in the first session of the SBA.

The Agency shall produce 10 multiple-choice survey questions in English for administration to students in grades 3 through 5. The Agency shall also produce a set of 10 survey questions in English for administration to middle school (grades 6 through 8) and high school students taking the SBA.

The Contractor shall produce and distribute the Survey in English, Spanish, Large Print, and Braille, whichever is appropriate for each student.

The Contractor shall include directions for administration of the Student Opportunity to Learn Survey Questions in the Directions for Administration Manual with directions for administration in English and Spanish, describing all necessary procedures for the valid administration of the survey questions at each grade level.

The Contractor shall scan and capture all responses to the Student Opportunity to Learn Survey Questions. The Contractor shall not analyze and summarize student survey responses in any aggregate report.

The Contractor shall include responses to individual Student Opportunity to Learn Survey Questions in the SBA Student Test Data File that is distributed to the Agency. The Contractor shall not distribute student survey responses to school districts or schools.

- C. Develop a Style Guide. The Contractor shall develop a Style Guide that delineates word usage, syntax, punctuation, format, and related conventions to be consistently used in item development, test results reporting, administration manuals, and professional development materials in all languages and versions of documents in the SBA/HSGA Project. The Agency and Contractor shall collaborate on the development of the Style Guide. The Agency shall annually review, edit, and approve the Style Guide by a date determined between the Agency and the Contractor.
- D. Develop a Glossary of Terms in Spanish. The Contractor shall develop a Glossary of Terms in Spanish. The Glossary shall provide the English transadaptation for select Spanish terms in the science and mathematics assessments.
- E. Produce a Math Reference Sheet. The Contractor shall produce a Math Reference Sheet for grades 6 through 8 and a Math Reference Sheet for high school containing computational formulas for the SBA in Math.
- F. Prepare Test Specifications (Elaborated Test Blueprints). Under the Agency's direction, the Contractor shall annually prepare test specifications (Elaborated Test Blueprints) describing the composition of the SBA and HSGA in each grade level and content area. The Blueprints shall define the percentage of total SBA points by content area, alignment dimension (depth of knowledge, range of knowledge, categorical concurrence, and balance of representation), and grade that shall be dedicated to each benchmark or reporting category by type of item. That is, the test specifications shall delineate the percentage of SBA points that shall be dedicated to multiple choice items, to short answer items, and to extended response items for the first reporting category in Reading in grade 3, for example. The content and format of test specifications shall be determined between the Agency and the Contractor and shall be documented in writing no later than 60 calendar days following the effective date of this Agreement. The Agency shall review and approve the Elaborated Test Blueprints prior to release.
- G. Conduct Reviews of Newly Developed Items. The Contractor shall conduct annual reviews of newly developed items using committees of New Mexico teachers and Agency assessment and content experts to evaluate newly developed items. The Agency shall specify the number of participants in the review (typically 8 district and charter school representatives per content area and grade level and 3 PED members). The Contractor shall conduct meetings to review (1) item construction quality, alignment with state content and Common Core grade level expectations; (2) item bias. Members of the committees shall be selected to represent

the full diversity of gender, race/ethnic, and cultural subgroups in New Mexico. The Contractor shall manage all logistics for review meetings including planning, notification and recruitment, registration for the meeting, hotel accommodations, and processing orders for participant paid meals; administering per diem (hotel and mileage; mileage shall be paid at the State's rate in effect at the time the meeting is held) for participants and all necessary Agency staff based more than 50 miles from the meeting, providing a \$135 honorarium to every district and school participant (during school breaks) or providing payment to the school to hire a substitute teacher (during school session); meeting rooms, equipment, and materials; produce and distribute continuing education certificates for all school and district participants. The Contractor may arrange recovery of cancellation fees from registrants who fail to provide sufficient notice of cancellation to enable the Contractor to process cancellations for hotel accommodations and food. The location of the meeting in New Mexico shall be determined by mutual agreement between the Contractor and the Agency. The Contractor shall obtain the Agency's approval of all agendas prior to conducting meetings. The Agency and Contractor shall collaborate in the development of review committee guidelines. The Contractor shall revise or replace assessment items deemed unacceptable based on committee recommendations.

- H. Conduct a Data Review of Field Test Items. The Contractor shall conduct a data review of field test items using committees of New Mexico teachers and Agency assessment and content experts to evaluate items in each content area, beginning with field test items from the spring 2013 administration under the prior contract. The Agency shall specify the number of participants in the review (typically 8 district and charter school representatives per content area and grade level and 3 PED members). The Contractor shall conduct meetings to evaluate item quality based on information about psychometric properties. Members of the committees shall be selected to represent the full diversity of gender, race/ethnic, program (Bilingual Education and Special Education) and cultural subgroups in New Mexico. The Contractor shall manage all logistics for review meetings including planning, notification and recruitment, registration for the meeting, hotel accommodations, and processing orders for participant paid meals; administering per diem (hotel and mileage; mileage shall be paid at the State's rate in effect at the time the meeting is held) for participants and all necessary Agency staff based more than 50 miles from the meeting, providing a \$135 honorarium to every district and school participant (during school breaks) or providing payment to the school to hire a substitute teacher (during school session); meeting rooms, equipment, and materials; produce and distribute continuing education certificates for all school and district participants. The Contractor may arrange recovery of cancellation fees from registrants who fail to provide sufficient notice of cancellation to enable the Contractor to process cancellations for hotel accommodations and food. The location of the meeting in New Mexico shall be determined by mutual agreement between the Contractor and the Agency. The Contractor shall obtain the Agency's approval of all agendas prior to conducting meetings. The Agency and Contractor shall collaborate in the development of review committee guidelines. The Contractor shall replace assessment items deemed unacceptable based on committee recommendations using items in the Agency's item bank.
- I. Implement Procedures for Linking Scores. The Contractor shall implement procedures for linking scores from year to year for the SBA and HSGA developed and implemented under this Agreement and with the SBA and HSGA developed and implemented by the Preceding Contractor. The Contractor shall document the procedures and results of the linking process in the Standards Based Assessment Technical Report.
- J. Design and Maintain Item Bank. The Contractor shall design and maintain an MS Excel spreadsheet containing the following information on all SBA items: Item inventory number,

type of item, item content, scoring key, permissioned item, content area, psychometric properties (e.g. point biserial correlation, reliability coefficient, DIF statistics, difficulty statistics), membership and item location in form booklets, implementation status of item (e.g. operational, field test, released), and year(s) item was operational. The Contractor shall annually provide the Agency an up-to-date copy of the spreadsheet by a date to be determined by the Agency and Contractor.

K. Provide Secure Transfer Protocol. The Contractor shall provide materials for the Agency's review using a secure data transfer protocol. If hardcopy materials must be reviewed by the Agency, the Contractor shall be solely responsible for the cost of shipping, if any, to and from the Agency.

L. Transition Management of Computer-based Testing. The Contractor shall implement a secure system hosted in the United States for delivering the SBA by computer to school districts. The system shall enable school districts to administer the test from a secure network installation or from a secure internet connection, depending on available local technology resources. The Contractor shall at a minimum either provide an electronic registration system that accesses the NMPED Unique-ID Web Service to validate student IDs.

The Contractor shall provide technical support as needed to Local Education Agencies (LEAs) so LEAs can install and test the computer-based assessment system in every school district, charter school, State educational institution, and U.S. BIE school (if they choose to participate in the assessment) that elects to administer the computer-based assessment. The installation and testing period shall begin no later than eight weeks prior to the opening of the test administration window to provide LEAs and the Contractor ample time to identify and remedy technology issues.

The Contractor shall provide online practice tests using items released under this Agreement in each grade in English and Spanish to school districts, charter schools, State educational institutions, and U.S. BIE schools at least six months prior to the opening of the spring testing window. At a minimum, the practice test shall include directions for students and teachers on navigating the computer-based assessment, responding to items, using available aids, returning to a certain question and changing a response.

The Contractor shall certify the integrity and security of a computer-based SBA installation in every school district, charter school, State educational institution, and U.S. BIE school (if they choose to participate in the assessment) that elects to administer the computer-based assessment and has the necessary resources.

M. Produce, Distribute, and Collect SBA and HSGA Materials. The Contractor shall provide the following services and materials associated with the production and distribution/administration of the SBA and HSGA retest in English, Spanish, Braille, and large print.

(1) The Contractor shall implement a computer-based SBA and HSGA using the same items used in the hardcopy versions. The computer-based versions shall administer and score SBA multiple choice items and collect written responses to short and extended response for online automated scoring whenever possible and online hand scoring whenever necessary.

(2) The Contractor shall produce reusable test booklets using a one-ink grayscale format. Test booklets shall have a two-color cover, while the contents shall display text in black and shall display all graphics using one-ink grayscale. The Contractor shall produce multiple forms of test booklets, including a different order of field test items, for each form. The Contractor shall provide lined spaces on the front cover of test booklets to record the following handwritten information: Student Last Name and Student First

Name. The Agency shall review, edit, and approve test booklets prior to production. The format of large print test materials shall conform to American Printing House standards. The Contractor shall print a unique scannable code on each test booklet to enable school districts and schools to inventory test booklets at the district and school levels and for verifying distribution and receipt by the Contractor with a portable scanner.

The Contractor shall produce and deliver test booklets in quantities sufficient to fulfill orders by school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools (if they choose to participate in the assessment) plus a 10% overage for each grade to address additional enrollments. The Contractor shall make available an automated internet-based system that enables school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools (if they choose to participate in the assessment) to submit orders for SBA materials in English, Spanish, Braille, and large print. The Contractor shall fulfill orders to any district/school combination, as specified by the District Test Coordinator and the School Test Coordinator. The Agency shall provide the Contractor a list of test coordinators who are certified by completing Test Coordinator Training. Only test coordinators approved by the Agency shall be granted access to the Contractor's automated test materials ordering system. The Contractor shall provide a printed confirmation that shall include materials and quantities ordered, time and date of the order, and name of the individual submitting the order in the form of a purchase order. The purchase order produced by the online ordering system shall be a legally binding document from the ordering school district or school. If the school district or school is not authorized to use said purchase order as a legally binding document, that school district or school shall issue a legally binding purchase order to the Contractor simultaneously with their online order.

The Contractor shall establish procedures to ensure the timely delivery of test materials. All test materials as ordered by the school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools (if they choose to participate in the assessment) shall be received error free (i.e. no production errors and accurate and complete fulfillment of order) no later than 21 calendar days prior to the beginning of the test administration window for test materials ordered with a legally binding purchase order received by the Contractor 52 calendar days prior to the beginning of said test administration window. Failure to meet that standard in production and delivery of all assessment materials to any school district, charter school, State educational institutions, U.S. Bureau of Indian Education schools (if they choose to participate in the assessment) shall result in a penalty of \$2,500 per day for the first five days, and increasing to \$5,000 per day thereafter (including weekends) until the correct materials are received.

- (3)** The Contractor shall provide guidance materials and technical support to prepare school districts, charter schools, State educational institutions, and U.S. Bureau of Indian Education schools (if they choose to participate in the assessment program) to establish information technology systems with sufficient capacity to successfully administer the computer-based SBA. The Contractor shall also provide guidance materials and technical support to prepare school districts, charter schools, and State and each testing window by providing a protocol and tools to equip technical staff and test coordinators to set up and verify the operability of computer hardware, software, and internet connectivity necessary for computer-based administration without technical errors that might invalidate test scores and compromise test security. The Contractor shall provide technical support through a dedicated helpdesk that shall operate during New Mexico regular business hours starting no later than three months prior to the SBA first testing window and extending one week after the testing window for the SBA. After this first administration, the dedicated helpdesk shall operate during New Mexico regular business

hours starting no later than one month prior to the SBA and HSGA testing window and extending one week after the testing window.

- (4) The SBA shall be administered statewide for a period of 14 calendar days beginning no sooner than March 17, 2014. An additional five calendar days (April 4, 2014) shall be provided for administration of make-up testing and packing and picking up for return shipment. School districts and schools shall package and return all used and unused SBA materials except for those items retained for make-up testing, on the specified statewide primary pick-up date. Any materials retained for make-up testing shall be packaged and returned to the Contractor on the specified secondary pick-up date.

The HSGA shall be administered statewide as a retest for a period of 5 calendar days beginning no sooner than September 23, 2013. An additional 5 calendar days (October 2, 2013) shall be provided for administration of make-up testing and packing for return shipment. The start and end dates of the fall administration shall be determined by the Agency.

- (5) Students shall meet State assessment requirements for graduation by achieving a passing composite score based on a student's highest scores in Reading and Math from second, third, and fourth year test administrations. The composite score shall be enclosed by a 95 percent confidence interval. The Agency shall deliver a data file to the Contractor containing composite high school exit exam scores from the SBA/HSGA.

- (6) The Contractor shall directly invoice the school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools (if they choose to participate in the assessment) in an amount not to exceed \$x.00 [Amount to be determined from winning bid] for each grade 3 through 8 and high school SBA printed booklet actually ordered or computer-based test administered in 2014; not to exceed \$x.00 [Amount to be determined from winning bid] for each HSGA booklet ordered or computer-based test administered in fall 2013. The cost for each SBA booklet ordered in large print and Braille shall be the same as the cost for non accommodated test booklets. The Contractor shall receive such compensation for print production (not including production of overage materials), distribution, and collection of test materials; and scoring and reporting of student, school, and district test results. It is anticipated for each operational administration that SBA in English will be administered to 26,000 students in grade 3; 25,500 students in grade 4; 25,500 students in grade 5; 24,500 students in grade 6; 24,500 students in grade 7; 24,500 students in grade 8; 24,500 students in grade 10; and 22,000 students in grade 11. If U.S. Bureau of Indian Education schools participate in the assessment. It is anticipated for each operational administration that SBA in Spanish will be administered to 1,850 students in grade 3; 1,400 students in grade 4; 900 students in grade 5; 400 students in grade 6; 500 students in grade 7; and 500 students in grade 8; 400 students in grade 10; 300 students in grade 11. It is anticipated for each operational administration that SBA materials in Braille will be administered to 30 students across grades 3 through 8, 10 and 11. It is anticipated for each operational administration that English SBA in large print will be administered to 120 students across grades 3 through 8, 10 and 11. It is anticipated for each operational administration that Spanish SBA in large print will be administered to 6 students across grades 3 through 8, 10 and 11. The estimated total cost to school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools (if they choose to participate in the assessment) will be \$x.00 [Amount to be determined from winning bid] in fiscal years 2014, 2015, 2016, and 2017.

It is anticipated that administrations of the HSGA retest shall be an estimated 35% of the number ordered for the spring administration for third year high school students. The estimated total cost to school districts, charter schools, State educational institutions, U.S.

Bureau of Indian Education schools (if they choose to participate in the assessment) will be \$x.00 [Amount to be determined from winning bid] in fiscal year 2014, 2015, 2016, and 2017.

The estimates do not represent a guaranteed number of print orders placed, tests administered, or total revenue generated from orders placed, and neither the Agency nor the School Districts, charter schools, State educational Institutions, U.S. Bureau of Indian Education schools (if they choose to participate in the assessment) shall be obligated financially or otherwise by these estimates.

- (7)** The Contractor shall provide a web-based platform for collecting and verifying SBA and HSGA Demographic Data from the Agency's database, including the following information about each student and test administration: Student Last Name, Student First Name, Student Middle Initial, State Student ID Number, NASIS ID Number (BIE students), Date of Birth, Gender, School Location Code, District Code, Test Completion Status, and Accommodations Administered. Preference for an SBA/HSGA Student Report to Parents in Spanish. Specifications for the Biogrid format, data codes, and coding rules shall be determined through consultation between the Agency and the Contractor. The Contractor shall annually review the Biogrid with the Agency to incorporate changes in format and data fields requested by the Agency. The Agency shall approve the Biogrids prior to production.

The Contractor shall produce SBA and HSGA Demographic Data Sheets (Biogrids) for paper and pencil administration of the SBA and HSGA to record on bubble sheets the following information about each student and test administration: Student Last Name, Student First Name, Student Middle Initial, State Student ID Number, NASIS ID Number (BIE students), Date of Birth, Gender, Test Completion Status, and Accommodations Administered. Preference for an SBA/HSGA Student Report to Parents in Spanish. Specifications for the Biogrid format, data codes, and coding rules shall be determined through consultation between the Agency and the Contractor. The Contractor shall annually review the Biogrid with the Agency to incorporate changes in format and data fields requested by the Agency. The Agency shall approve the Biogrids prior to production.

- (8)** The Contractor shall implement a process for collecting student enrollment data containing information on student demographics and program membership from the Agency. The Agency shall provide the student enrollment data file to the Contractor at least 35 calendar days prior to the opening of the test administration window. The Contractor shall produce adhesive labels (Pre-ID Labels) for paper and pencil administrations containing information from the student enrollment data file to be affixed to the Biogrid. The content and format of Pre-ID Labels shall be determined through consultation between the Agency and the Contractor. The Contractor shall produce a Pre-ID Roster of Students, providing information such as the following on each student with a Pre-ID Label: School Location Code, District Code, Student Last Name, Student First Name, Student Middle Initial, State Student ID Number, NASIS ID Number (BIE students), Date of Birth, Gender, Ethnicity, Program Membership (Students with Disabilities, Eligibility for FRLP, and ELL Status). The Contractor shall deliver Pre-ID Labels and the Pre-ID Roster of Students to school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools (if they choose to participate in the assessment) with test materials.

- (9)** The Contractor shall produce a Test Coordinator's Manual describing all necessary procedures for secure handling of the SBA and HSGA in print and computer-based versions, including: Calendar of important dates, vendor and PED contact information, test security guidelines, general instructions and test information, test design and item

information, recommendation for test scheduling, testing sessions and interruptions, invalidating tests, voiding tests, roles and responsibilities, preparing for testing, receiving test materials, distributing test materials, special requirements for large-print and Braille forms, preparing materials for return, PED approved test administration schedules, and necessary forms. The Agency shall review, edit, and approve the District Test Coordinator's Manual prior to production. The Contractor shall produce and distribute one hard copy of the Test Coordinator's Manual to each school district, charter school, State educational institution, U.S. Bureau of Indian Education School, and the Agency. The Contractor shall also produce and deliver to the Agency a copy of the District Test Coordinator's Manual in PDF format for posting on the PED website. The Contractor shall provide one copy of the District Test Coordinator's Manual to each participant at District Test Coordinator's Training Meetings.

(10) The Contractor shall produce a Directions for Administration manual in English, with directions for administration in print and computer-based versions in English and Spanish, describing all necessary procedures for valid and secure administration of the SBA and HSGA at each grade level, general directions for administering, preliminary planning, testing and environmental considerations, test schedule, make-up testing, absences, test booklet forms, list of materials needed by session, administrations and modifications, special requirements for administering in large-print and Braille, typed responses, specific directions for administering, completing test booklets, script to be read to all students at start of testing, Student Survey, detailed directions for each session of each content area, completing information on the Biogrid, rules for use of pre-ID labels, and necessary forms. The Contractor shall revise the Directions for Administration Manual annually to incorporate changes in procedures and assessment content, or to incorporate improvements recommended by the Agency, school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools (if they choose to participate in the assessment). The Agency shall review, edit, and approve the Directions for Administration manual prior to production. The Contractor shall produce and distribute to school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools (if they choose to participate in the assessment) one copy of the Directions for Administration manual for every 25 test booklets ordered or computer-based assessments to be administered. The Contractor shall deliver the Directions for Administration Manual for all grade levels to each district school, charter school, State educational institution, U.S. Bureau of Indian Education school no later than 42 calendar days prior to the opening of the test administration window. The Contractor shall produce and deliver to the Agency a copy of the Directions for Administration manual in PDF format to be posted on the PED website. The Contractor shall provide one copy of a representative grade level of the Directions for Administration Manual to each participant at District Test Coordinator's Training Meetings.

(11) The Contractor shall implement procedures for collecting and separating scoreable and nonscoreable (unused and damaged test materials) SBA and HSGA materials received from school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools (if they choose to participate in the assessment). The Contractor's collection procedures shall include the capability to track unreturned test materials and delayed receipt of test materials at the Contractor's test processing site. The Contractor shall provide a daily report to the Agency regarding returning test materials during the last week of the test administration window and the week following the end of the test administration window. The report shall include the following information: school, school district, number of test materials ordered, number of test materials returned, inventory list of test materials not returned (unique booklet barcode number) by

school, reason for late return of materials, name of contact, phone number of contact, date and time materials pick up requested, date and time of materials picked up, date and time of materials delivered to Contractor. The Contractor shall contact school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools (if they choose to participate in the assessment) to facilitate the return of materials and ensure pickup of 100% of the test materials by 5:00 PM MT on April 4, 2014.

(12) The Contractor shall provide materials for the Agency's review using a secure data transfer protocol. If hardcopy materials must be reviewed by the Agency, the Contractor shall be solely responsible for the cost of shipping, if any, to and from the Agency.

N. Scoring SBA and HSGA. The Contractor shall provide the following services and materials associated with the scoring of the SBA and HSGA in reading and mathematics in grades 3 through 8 and high school; science in grades 4, 7 and 11; and writing in grades 3, 5, and 8: The Contractor shall score all returned and scoreable printed SBA and HSGA and all computer-based administrations of the SBA and HSGA.

(1) The Contractor shall retain scoreable SBA/HSGA test materials for a period of one year from the last day of the test administration from which they were collected, and retain non scoreable SB and HSGA test materials for a period of six months from the last day of the Test Administration from which they were collected. The Contractor shall retain electronic copies of returned SBA and HSGA test materials for the full term of this Agreement.

The Contractor shall hand score open-ended assessment items from operational SBAs using rubrics, scoring guides, and training sets provided by the Agency. The Agency shall review, edit, and approve all hand scoring rubrics, scoring guides, and training sets prior to implementation.

The Contractor shall implement comprehensive quality assurance procedures to ensure a high level of accuracy and reliability by scorers. The Agency and the Contractor shall develop a comprehensive scoring monitoring and test security plan that addresses the unique circumstances of distributed online scorers residing in other states. The Contractor shall monitor scorers in training, requiring that they achieve at least a 70% exact match with scores of an expert scorer in order to be selected to live score the SBA and HSGA. The Contractor's monitoring procedures during training and live scoring shall include the use of calibration sets, analysis of inter-rater reliabilities, and monitoring of scoring drift. The Contractor shall implement a back reading process such that 2 percent of each reader's daily scoring output shall be scored by a second, independent scorer to monitor inter-rater reliability. Any scorer that fails to meet performance criteria shall be placed under close supervision to diagnose performance issues, identify remedies, and provide retraining. If it is determined that a scorer needs to be retrained, the Contractor shall recover all papers scored by that individual within the preceding two business days and redistribute them for rescoring. The Contractor shall release from SBA/HSGA scoring responsibilities any scorer who does not achieve at least a 70% exact match with scores of an expert scorer as a result of supervision and retraining. The Agency shall review, edit, and approve the Contractor's quality assurance procedures for scoring prior to implementation. The Contractor shall prepare an annual Scoring Summary Report of the inter-rater reliabilities in each content area, grade, and type of scorer (on site scorers and online distributed scorers), number of on-site scorers, number of online distributed scorers, number of experienced scorers at the beginning and end of the scoring season (scored 250 SBA/HSGA responses or more), number of retrained scorers during the scoring season by type of scorer, number of released scorers during the scoring season by type of scorer. The Contractor shall provide the Scoring Summary Report to the Agency no later than July 1 of each year that this Agreement is in effect.

Whether on-site or distributed scoring processes are implemented, the Contractor shall not employ scorers residing in New Mexico for the SBA or HSGA.

The Contractor's scorers shall review responses to all constructed response items for evidence of student thoughts or behavior that might represent the student's potential risk of harm to self or others. The Contractor shall establish procedures for immediately copying such responses and transmitting them through a secure and confidential means to the District Test Coordinator along with the student's name, State Student ID Number, Date of Birth, and School Name. The Contractor shall also provide a report to the Agency with the student's name, State Student ID Number, School Name, and date of transmission to the District Test Coordinator.

- (2)** The Contractor shall rescore the SBA and HSGA for an entire school district, charter school, State educational institution, or U.S. Bureau of Indian Education school in the event that a significant concern arises about the accuracy of student test scores. The Agency shall establish a procedure for receiving and evaluating requests for rescoring submitted by school districts and schools, and shall request that the Contractor rescore assessments. If the Agency determines that such a scoring error was produced by the Contractor, the Contractor shall correct the error in all deliverables and shall not invoice the Agency, school districts, or schools for rescoring, reproducing and redistributing corrected deliverables. If the Agency determines that the error, such as a test administration or data coding error was produced by a school district or school, the Contractor shall provide to the school district, school, and the Agency a cost estimate for rescoring, reproducing, and redistributing corrected deliverables. If the school or school district accepts the costs, the Contractor shall invoice the school district or school directly for said costs.
- (3)** The Contractor shall implement procedures and conduct a standard setting meeting to evaluate the consistency of cut scores in each content area and grade level between the SBA implemented by the Preceding Contractor and the SBA and HSGA implemented under this Scope of Work. The evaluation shall also consider the consistency in cut scores across grade levels. The same performance standards shall apply to the SBA in English and Spanish. The Contractor shall conduct the standard setting meeting consisting of New Mexico teachers and content experts and members of the Governor's Assessment and Accountability Advisory Council (AAAC). The Agency shall specify the number of participants (typically 8 district representatives per content area and grade level and 3 PED members). The Contractor shall manage all logistics for meetings including planning, notification and recruitment, registration for the meeting, hotel accommodations, and processing orders for participant paid meals; administering per diem (hotel and mileage; mileage shall be paid at the State's rate in effect at the time the meeting is held) for participants and all necessary Agency staff based more than 50 miles from the meeting, providing a \$135 honorarium to every district and school participant (during school breaks) or providing payment to the school to hire a substitute teacher (during school session); meeting rooms, equipment, and materials; produce and distribute continuing education certificates for all school and district participants. The Contractor may arrange recovery of cancellation fees from registrants who fail to provide sufficient notice of cancellation to enable the Contractor to process cancellations for hotel accommodations and food. The location of the meeting in New Mexico shall be determined by mutual agreement between the Contractor and the Agency. The Contractor shall obtain the Agency's approval of all agendas prior to conducting the meeting. The Contractor shall implement adjustment procedures, if necessary, with the participation of the Agency. The Contractor shall provide a table of raw scores, cut scores, and percentage of students in each performance level to the Agency. The Secretary of

Education shall review, edit, and approve cut score adjustments prior to implementation. The Contractor shall apply SBA performance standards to the HSGA.

(4) The Contractor shall maintain the existing vertically moderated scale that ranges from 0 to 80, and a score of 40 represents Proficient performance. The first digit of the scale score identifies the grade level. For example, scale scores for grade 3 range from 300 to 380. The placement of SBA performance levels for Nearing Proficiency and Advanced on the vertically moderated scale varies slightly from grade to grade. The Writing assessment only has two performance levels, Nearing Proficiency and Proficient. Proficient performance is also located at scale score 40 for Writing.

The Contractor shall conduct a study to maintain the vertically moderated scale implemented under the prior contract for equating SBA and HSGA scores from year to year and across grades 3 through 8 and high school for each content area assessed. The Contractor shall submit an annual report of the Contractor's vertical scaling maintenance activities and scaling statistics by content area and grade. The Contractor shall include information about the study in the Standards Based Assessment Technical Report.

(5) The Contractor shall study the effect of administration mode (computer-based or hardcopy) on test scores by ESEA subgroup in order to determine comparability. In the event that a mode effect is discovered, the Contractor shall recommend possible remedies.

(6) The Contractor shall link scales of the SBA/HSGA in English in reading in grades 3 through 8 and in high school Lexile scores. Once the relationship between SBA/HSGA scores in reading and Lexile scores is established, the Contractor shall determine a Lexile for each student completing the SBA and HSGA in reading.

(7) The Contractor shall analyze student response patterns on SBA and HSGA computer-based administrations to identify possible instances of collusion (e.g., item and answer copying and sharing, test administrator coaching, teacher previewing and instruction on test items), cheating (looking at others' answers, using crib notes, memorizing test answers), pirating (stealing test items by memorization or technology). The contractor shall use a variety of analytic approaches to detect unusual or improbable response patterns such as shifts in performance from one section of a test to another section, answers difficult items while missing an easy item, dramatic changes in performance from one year to the next, loss of item discrimination from one year to the next, response latency, correlation between item difficulty and response latency. The Contractor shall report aberrant response pattern indicators to the Agency with accompanying statistical probabilities and flag variables to highlight extreme rates at the state, district, school, and grade within school levels in reading, math, and science. The Contractor shall produce a Response Pattern Report that shall include at a minimum such information as District Code, District Name, School Code, School Name, Tested Grade, aberrant response indicators, statistical probability, and content area. The Contractor shall deliver the SBA and HSGA Response Pattern Report no later than May 16, 2014.

(8) The Contractor shall provide materials for the Agency's review using a secure data transfer protocol. If hardcopy materials must be reviewed by the Agency, the Contractor shall be solely responsible for the cost of shipping, if any, to and from the Agency.

O. Web-based Reporting of SBA and HSGA Test Score Results. The Contractor shall implement a password protected, web-based reporting system that they host in the United States that includes functionality for static reporting of SBA and HSGA test score results.

(1) The online reporting system shall consist of static reports that will house PDF reports and student results data files. Student Reports for Parents and Student Results Labels shall be printed and shipped to districts as well as provided in the online system. The online reporting system shall also provide data export functionality, including student test data,

in PDF, Excel and CSV file formats. The online reporting system shall only be available to individuals that are authorized to view personally identifiable educational information under the Family Educational Rights and Privacy Act.

The Contractor shall deliver to School Districts, Charter Schools, State Educational Institutions, U.S. Bureau of Indian Education Schools (if they participate in the assessment), and the Agency paper copies of the following reports:

- a. 1 paper copy of Student Results Labels
- b. 2 paper copies of the SBA Student Report for Parents (grades 3-8).

The Contractor shall produce and distribute a student test data file from the spring operational administration of the SBA no later than 5:00 PM MT on May 9, 2014.

The Contractor shall post online reports and student test data from the spring 2014 administration of the SBA and SBA/HSGA to school districts, charter schools, State educational institutions, and U.S. BIE schools (if they choose to participate in the assessment) no later than 5:00 PM MT on May 19, 2014.

The Contractor shall produce and ship hardcopy reports from the spring administration of the SBA and SBA/HSGA to school districts, charter schools, State educational institutions, U.S. BIE schools (if they choose to participate in the assessment) no later than 5:00 PM MT on June 4, 2014.

Online SBA and HSGA reports shall include the following:

- (2) SBA and HSGA Roster Reports.** The Contractor shall report SBA results in the form of an alphabetized list [Student Roster Report -- SCHOOL LEVEL] - of all students in a school by grade level to school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools (if they choose to participate in the assessment). The Student Roster Report shall include information by grade level in each content area tested such as student scale score, proficiency range, performance level achieved, Lexile score, student demographic and program membership information such as Student Last Name, Student First Name, Student Middle Initial, State Student ID Number, Date of Birth, Test Language (English, Spanish), Program Membership (Students with Disabilities, Gifted, Title 1, Migrant, Bilingual Ed), Gender, Ethnicity, Economically Disadvantaged (District Use – A=Eligibility for FRLP), Full Academic Year Status (school and district), and ELL Status (included in ELL subgroup for accountability). The Student Roster Report for high school shall include student test scores on the HSGA from applicable administrations of the HSGA. The Contractor shall link student scores across administrations of the HSGA using State Student ID Number. HSGA results shall include proficiency range, student scale score, composite score in reading and math based on best scores of record, 95% confidence interval encompassing best scores of record, indicator that the student was passed or was not passed. The SBA and HSGA Roster Reports shall be exportable in an Excel file to school districts and schools. The format and content of the SBA and HSGA Student Roster Report shall be determined through consultation between the Agency and the Contractor. The format and content of the Student Roster Report shall be documented in writing no later than 90 days following the effective date of this Agreement. The Contractor shall prominently label each page of the report with the literal text, “CONFIDENTIAL INFORMATION FOR USE ONLY BY AUTHORIZED SCHOOL PERSONNEL.” The Agency shall review, edit, and approve the SBA Student Roster Report prior to production. The Contractor shall report [District Report of Schools -- DISTRICT LEVEL] - aggregate school SBA and HSGA results in the form of an alphabetized list of all schools in a district. The District Summary Roster shall include information for each grade level by content area such as number of students with valid scores, average scale score and percent of students scoring in each proficiency level (No Score, Beginning Step, Nearing Proficient, Proficient, and Advanced), average

raw score points by reporting category, and corresponding overall district and state level results; HSGA composite score in reading and math based on best scores of record, 95% confidence interval encompassing best scores of record, number and percent students passed. The format and content of the District Report of Schools shall be determined through consultation between the Agency and the Contractor. The format and content of the District Report of Schools shall be documented in writing no later than 90 days following the effective date of this Agreement. The Agency shall review, edit, and approve the District Summary Report prior to production. The Contractor shall deliver one PDF copy of every SBA Roster Report on flash drive to the Agency.

(3) SBA and HSGA District Summary Roster. The Contractor shall report SBA and HSGA results in the form of an alphabetized list of all schools within a district by content area and grade level to school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools (if they choose to participate in the assessment). The District Summary Roster shall include information School Code, average scale score and percent of students scoring Proficient and Advanced. The format and content of the District Summary Roster shall be determined through consultation between the Agency and the Contractor. The format and content of the District Summary Roster shall be documented in writing no later than 90 days following the effective date of this Agreement. The Agency shall review, edit, and approve the District Summary Roster prior to production. The Contractor shall deliver one PDF copy of every SBA District Summary Roster Report on flash drive to the Agency.

(4) SBA Performance by Subgroup Categories Report. The Contractor shall report aggregate SBA results for each content area by grade level and subgroup within a district [DISTRICT LEVEL] and a school [SCHOOL LEVEL]. The SBA Performance by Subgroup Category Report shall include information such as number of students tested, number of valid scores, average scale score, percent of students by performance level (No Score, Beginning Steps, Nearing Proficiency, Proficient, and Advanced), percent of students scoring proficient and advanced, percent students scoring proficient and advanced at district level, percent students proficient and advanced state level. The SBA Performance by Subgroup Category Report shall provide statistics by subgroups such as Gender, Ethnicity, Educational Program [Students with Disabilities-Not Gifted and Non-Special Education/Non-Gifted], Title 1, Migrant, Bilingual Education, Economics (Eligibility for FRLP), and ELL Status (Current ELL, Exited 1 Year, Exited 2 Years, Exited 3+ Years, Never ELL). The SBA Performance by Subgroup Category Report shall be produced in two formats, Confidential and Non-Confidential. The Confidential report shall report statistics for all categories, regardless of student count. The Non-Confidential report shall block statistics for categories based on fewer than 10 students. The Contractor shall prominently label each page of the report with the literal, The Confidential report shall be prominently labeled, “CONFIDENTIAL INFORMATION FOR USE ONLY BY AUTHORIZED SCHOOL PERSONNEL.” The format and content of the SBA Performance by Subgroup Category Report shall be determined through consultation between the Agency and the Contractor. The format and content of the SBA Performance by Subgroup Category Report shall be documented in writing no later than 90 days following the effective date of this Agreement. The Agency shall review, edit, and approve the SBA Performance by Subgroup Category Report prior to production. The Contractor shall deliver one PDF copy of every school and district’s SBA Performance by Subgroup Category Report on flash drive to the Agency.

(5) SBA and HSGA Student Results Labels. The Contractor shall produce adhesive Student Results Labels with individual student SBA score information to be easily stored in the student’s cumulative folder. The Results Labels shall report the following information on

individual students from the student test data file: Test Date, Student Name, Date of Birth, Grade, Student ID, Gender, Performance Level and Scaled Score by subject area for every content area tested. If the student is identified during test scoring as not meeting attemptedness requirements for the content area, the literal for the corresponding attemptedness indicator shall be displayed on the label. If any value for Test Completion Code other than 0 (Tested All Sessions) is recorded for the student, the literal for the test completion code shall be displayed on the label. High school Student Results Labels shall also include composite score in reading and math based on best scores of record, 95% confidence interval encompassing best scores of record, indicator that the student was passed or was not passed.

- (6) SBA Item Plot Report.** The Contractor shall report aggregate SBA results within a school [SCHOOL LEVEL], district [DISTRICT LEVEL], and the state [STATE LEVEL] at the standards, benchmarks, and grade level expectations levels [tested areas] by grade level; and SBA results disaggregated by NCLB subgroup by grade. The SBA Item Plot Report shall include information such as total number of raw score points possible across multiple choice, short answer, and open ended items; separately for multiple choice, short answer, open ended items, and short answer and open ended items combined information such as number of items, number of raw score points possible, and average raw score points earned; for short answer and open ended items combined, information such as number of raw score points possible, and average raw score points earned; at the state for short answer and open ended items combined, information such as, average raw score points earned. The format and content of the SBA Item Plot Report shall be determined through consultation between the Agency and the Contractor. The format and content of the SBA Item Plot Report shall be documented in writing no later than 90 days following the effective date of this Agreement. The Agency shall review, edit, and approve the SBA Item Plot Report prior to production. The Contractor shall deliver one PDF copy of the state and every school and district's SBA Item Plot Report on flash drive to the Agency.
- (7) SBA Student Report to Parents (Teachers).** The Contractor shall report individual student SBA results by content area. The SBA Student Report to Parents shall include information separately for each content area, scale score and scale score range based on standard error of measurement in bar chart format, summary of aggregate student performance in each level at the school, district, and state levels, content area specific descriptor of performance level, a brief description of what a child knows and can do in the performance level achieved and the next higher level, a tabular summary of the student's performance at the reporting category level (person to group based prediction), with symbols indicating whether the student is weaker, on track, or stronger; an explanation of the student assessment requirements, definitions, and guidelines for interpreting test score results; Reading Lexile score, interpretive information regarding the purpose of Lexile scores and book recommendations appropriate for the child, The Student Report to Parents shall be determined through consultation between the Agency and the Contractor. The format and content of the SBA Student Report to Parents shall be documented in writing no later than 90 days following the effective date of this Agreement. The Agency shall annually review, edit, and approve the SBA Student Report to Parents prior to programming production. The Contractor shall provide the report in English and Spanish, based on the Preference for an SBA Student Report to Parents in Spanish marked yes on the SBA Biogrid. A parallel document, the Student Report for Teachers, so labeled and with the same content, shall be published online.
- (8) SBA Common Core Group Report.** The Contractor shall report aggregate student performance in reading and math each grade level at the school, district, and state levels. The report shall be modeled after the SBA Item Plot Report with clusters of CCSS

combined into reporting categories and shall display information such as the number and percent of points and points possible. The Contractor shall publish the SBA Common Core Group Report online.

(9) Interpretive Guide to SBA Reports for Schools. The Contractor shall produce an Interpretive Guide to SBA Reports for Schools that provides assessment definitions, guidelines for interpreting test score results, and brief summaries of the content of test score reports and distribution and format. The format and content of the Interpretive Guide to SBA Reports for Schools shall be documented in writing no later than 120 days following the effective date of this Agreement. The Agency shall review, edit, and approve the Interpretive Guide to SBA Reports for Schools prior to production. The Contractor shall deliver the Interpretive Guide to SBA Reports for Schools no later than June 15 of each year that this Agreement is in effect.

(10) The hardcopy and digital formats of district, school and student score reports based on the operational administrations of the SBA shall be delivered with no Contractor production errors to the school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools (if they choose to participate in the assessment) by the deadlines specified herein. Failure to meet delivery deadlines and the accuracy standard for the district, school and student score reports shall result in a penalty of \$2,500 per day for the first five days, and increasing to \$5,000 per day thereafter (including weekends and holidays) until correct reports are received.

The Contractor shall provide materials for the Agency's review using a secure data transfer protocol. If hardcopy materials must be reviewed by the Agency, the Contractor shall be solely responsible for the cost of shipping, if any, to and from the Agency.

P. Produce and Distribute SBA and HSGA Data. The Contractor shall provide the following services and materials associated with the production and distribution of SBA and HSGA data files:

(1) SBA and HSGA Biodata Files. The Contractor shall produce a data file containing individual student information on program membership and demographics extracted from scanned Pre-ID Labels and Biogrids obtained from the operational administration of the SBA prior to scoring in spring administration of the SBA and the fall administration of the HSGA. The Contractor shall deliver the data to the Agency for the Biodata Review, which is the Agency's data validation process for accountability calculations. The Biodata File shall include information such as Reporting District Code, Reporting School Code, FAY District Code, FAY School Code, State Student ID Number, NASIS ID Number, Student Last Name, Student First Name, Student Middle Initial, Birth Date, Ethnicity, Gender, Tested Grade, Test Document ID Number, Math Form, Reading Form, Writing Form, Science Form, Test Language, Spanish Parent Report Indicator, Scanning Image Number, Test Date, SPED (Not Gifted), Gifted, 504 Plan, Title I, Migrant, New Arrival, Bilingual Ed., ELL Status, District Use Only (FRLP), Braille Indicator; and in each content area, the Test Completion Status. The format, content, and business rules for updating codes of the Biodata File shall be determined in consultation between the Agency and the Contractor. The format, content, and business rules of the Biodata File shall be documented in writing no later than 120 days following the effective date of this Agreement. The Agency shall annually review, edit, and approve the layout for the Biodata File prior to the opening of the test ordering window. During the Agency's Biodata Review, the Contractor shall provide research and technical support services such as imaging and evaluating score documents to assist the Agency in resolving apparent data and test administration errors associated with multiple test records per student. The Contractor shall deliver the HSGA Biodata File to the Agency no later than 5:00 PM MT on October 24, 2013. The Agency shall return the updated HSGA Biodata

File to the Contractor no later than 5:00 PM MT on October 31, 2013. The Contractor shall deliver the SBA Biodata File to the Agency no later than 5:00 PM MT on April 18, 2014. The Agency shall return the updated SBA Biodata File to the Contractor no later than 5:00 PM MT on April 28, 2014.

The Contractor shall deliver an SBA Biodata File with no Contractor production errors to the Agency by the deadline specified herein. Failure to meet delivery deadlines and the data accuracy standards for the SBA Biodata File shall result in a penalty of \$2,500 per day for the first five days, and increasing to \$5,000 per day thereafter (including weekends and holidays) until a correct Biodata File is received.

The Contractor shall provide materials for the Agency's review using a secure data transfer protocol. If hardcopy materials must be reviewed by the Agency, the Contractor shall be solely responsible for the cost of shipping, if any, to and from the Agency.

(2) SBA and HSGA Student Test Data. The Contractor shall produce a data file containing individual student SBA and HSGA scores by content area, incorporating program membership and demographic information obtained from the Agency's Biodata Review. The Student Test Data File shall include information such as Reporting District Code, Reporting School Code, FAY District Code, FAY School Code, State Student ID Number, NASIS ID Number, Student Last Name, Student First Name, Student Middle Initial, Birth Date, Ethnicity, Gender, Tested Grade, Test Document ID Number, Math Form, Reading Form, Writing Form, Science Form, Test Language, Spanish Parent Report Indicator, Scanning Image Number, Test Date, SPED (Not Gifted), Gifted, 504 Plan, Title I, Migrant, New Arrival, Bilingual Ed., ELL Status, District Use Only (FRLP), Braille Indicator; and in each content area, the Test Completion Status, Number MC Items with Responses, ELL Accommodation, SWD or 504 Plan Accommodation, Raw Score, Scale Score, Performance Level, Lexile Score, Standard Error of Measurement (SEM), Scale Score w/SEM Lower Bound, Scale Score w/SEM Upper Bound, and Raw Scores for each of the Content Area Reporting Categories. The data file provided to the Agency shall include individual student responses to individual SBA and HSGA items. The format and content of the SBA and HSGA Student Test Data File shall be determined in consultation between the Agency and the Contractor. The format and content of the SBA Student Test Data File shall be documented in writing no later than 120 days following the effective date of this Agreement. The Agency shall review, edit, and approve the layout for the SBA and HSGA Student Test Data File prior to the opening of the test ordering window. The Contractor shall produce and distribute the SBA and HSGA Student Test Data File containing records of all students administered the state operational administration. The Contractor shall deliver the SBA and HSGA Student Test Data to the Agency using a secure digital information transfer protocol associated with the Online Reporting System. The Contractor shall deliver a student test data file with no Contractor production errors to the school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools (if they choose to participate in the assessment), and the Agency by the deadline specified herein. The Contractor shall deliver a student test data file containing only test scores of students enrolled in a U.S. Bureau of Education school to the U.S. Bureau of Education Office in New Mexico. The Contractor shall deliver the HSGA Student Test Data File to the Agency no later than 5:00 PM MT on November 21, 2013. The Contractor shall deliver the SBA Student Test Data File to the Agency no later than 5:00 PM MT on May 9, 2014. Failure to meet delivery deadlines and data accuracy requirements for the SBA Student Test Data shall result in a penalty of \$2,500 per day for the first five days, and increasing to \$5,000 per day thereafter (including weekends and holidays) until a correct data file is received.

(3) HSGA Student Test Data. The Contractor shall produce a data file that shall also contain the student's composite score in reading and math based on best scores of record, 95% confidence interval encompassing best scores of record, and an indicator that the student was passed or was not passed.

The Contractor shall provide materials for the Agency's review using a secure data transfer protocol. If hardcopy materials must be reviewed by the Agency, the Contractor shall be solely responsible for the cost of shipping, if any, to and from the Agency.

Q. Professional Development for the Standards Based Assessment/New Mexico High School Graduation Assessment: The Contractor shall provide the following services and materials associated with the production and presentation of SBA/HSGA professional development events for school districts and schools:

The Contractor shall provide live and recorded web-based training modules to school districts on the following topics:

(1) Local District Computer-Based Assessment Orientation/Transition Planning, including definition of necessary hardware, software, and room space resources compared to typical uses; selection of a technology model matched to district needs and resources, needed technical support and test administration staff; and selection of test delivery devices. The Agency shall review and approve the agenda for the Orientation/Transition training module no later than 14 days following the effective date of this Agreement. The Contractor shall deliver online training module on Local District Orientation/Transition to districts and schools no later than May 3, 2013.

(2) Local District Computer-Based Assessment Implementation, including technology setup and maintenance, reallocation of technical support and test administration staff; establishing test security procedures; conducting pilot tests of hardware and software; student training, and communication of transition to district staff, students, and parents; monitoring transition progress. The Agency shall review and approve the agenda for the Assessment Implementation training module no later than May 3, 2013. The Contractor shall deliver online training module on Local District Implementation to districts and schools no later than September 15, 2013.

(3) Local District Computer-Based Assessment Administration, including description of roles and responsibilities associated with computer-based testing; operation of system and administration of online test, management of system security and test administration security; computer-based test accommodations, test administration times, results scoring and reporting. The Agency shall review and approve the agenda for the Assessment Administration training module no later than December 15, 2013. The Contractor shall deliver online training module on Local District Administration to districts and schools no later than February 1, 2014.

(4) The Contractor shall provide two follow up teleconferences to each training module no later than 7 calendar days after delivery of training modules.

(5) SBA/HSGA Scoring Conference. The Contractor shall conduct an annual SBA/HSGA Scoring Conference to educate teachers in grades 3 through 8 and high school on the scoring process development and for constructed response items in Reading, Math, Science, and Writing. The Contractor shall present the Scoring Conference using a web-based platform to enable statewide on-demand teacher participation. The online Conference shall include, at a minimum, the following features, presentation of scoring process, including use of rubrics and anchor papers and demonstration by examples; a blog for participants to discuss issues related to scoring materials and the process; conference materials organized in folders for an agenda, sample items, rubrics, anchor papers, and other materials; practice items that are not demonstrated in the presentation; a registration site for participants to record identifying information, including name,

professional role, school, district, content area, grades taught, and number of years teaching experience, and a survey for participants to provide feedback to the Contractor and Agency.

The Conference and all associated files and links, including a video recording of the presentation, shall be posted on the Contractor's webpage for New Mexico teachers.

The Contractor shall provide a list of all participants to the Agency at four month intervals throughout the year.

The Contractor shall provide a summary of participant responses to the survey no later than four months after posting conference materials on the internet.

(6) SBA/HSGA Post Test Workshops. The Contractor shall conduct annual SBA/HSGA Post Test Workshops in collaboration with the Agency to instruct New Mexico public school teachers in interpreting results from the prior administration of the SBA/HSGA. Six regional and one U.S. Bureau of Indian Education SBA/HSGA Post Test Workshops shall be scheduled each fall that this Agreement is in effect. The Agency and the Contractor shall collaborate in presenting training information for the Post Test Workshops. The date and the agenda of the SBA/HSGA Post Test Workshops shall be determined through consultation between the Contractor and the Agency. Each SBA/HSGA Post Test Workshops shall register no more than 50 district or school level instructional leaders at each location. The Contractor shall manage all logistics for meetings including planning, notification and recruitment, registration for the meeting, hotel accommodations, and processing orders for participant paid meals; administering per diem (hotel and mileage; mileage shall be paid at the State's rate in effect at the time the meeting is held) for participants and all necessary Agency staff based more than 50 miles from the meeting, providing a \$135 honorarium to every district and school participant (during school breaks) or providing payment to the school to hire a substitute teacher (during school session); meeting rooms, equipment, and materials; produce and distribute continuing education certificates for all school and district participants. The Contractor may arrange recovery of cancellation fees from registrants who fail to provide sufficient notice of cancellation to enable the Contractor to process cancellations for hotel accommodations and food. The location of the Post Test Workshops in New Mexico shall be determined by mutual agreement between the Contractor and the Agency. The Contractor shall obtain the Agency's approval of the agenda prior to the SBA/HSGA Post Test Workshops.

(7) District Test Coordinator Training Meetings (Pre Test Workshops). The Contractor shall collaborate with the Agency in presenting training information in both early fall and January for District Test Coordinators at District Test Coordinator Training Meetings (Pre Test Workshops) on topics such as ordering and paying for SBA and High School Graduation Assessment (HSGA) test materials; printing and distribution of Pre-ID Labels; printing and distribution of test materials; collection, repackaging and returning SBA and HSGA test materials; use of administration manuals; and requesting assistance from the Contractor's help desk. The agenda for the Contractor's training topics shall be determined through consultation between the Contractor and the Agency. Pre Test Workshops shall be held in no more than four locations across New Mexico plus a U.S. Bureau of Indian Education presentation.

The Contractor shall provide materials for the Agency's review using a secure data transfer protocol. If hardcopy materials must be reviewed by the Agency, the Contractor shall be solely responsible for the cost of shipping, if any, to and from the Agency.

(8) Standards Based Assessments Technical Report: The Contractor shall produce a technical report in 2014 that, at a minimum, fulfills the requirements listed in Section 4 of the US Education Department Peer Review Notes on Technical Quality of Assessments. These

requirements include a summary of the design of the assessment (test specifications, item types, description of test design in all content areas), test development process (item development, test translation procedures, item reviews, item editing, item selection, operational test draft review), test administration procedures (responsibility for administration, participation requirements and documentation, administrator training, test security and administration irregularities, administration window, service center), procedures and evidence of validity, consistency between structure of assessment and academic content standards, statistical relationships between test scores and student characteristics, documentation of standard setting process; procedures and evidence of reliability, including analysis at the subgroup level, consistency of student classification at the cut points, evidence of generalizability for all relevant sources, such as group variability (i.e. standard error of measurement and conditional standard error of measurement), reliability (reliability and standard errors of measurement, subgroup reliability, reporting subcategory reliability, reliability of performance level categorization, and inter-rater consistency); classical item analysis (classical difficulty and discrimination indices, DIF analysis for ethnicity groups, ELLs, SWDs, and FRLPs; dimensionality analysis); tables of total points and total items by grade and content area at the standards, benchmark, and grade level expectations level; procedures for improving test quality, including refreshment of items; and scoring (machine scored items, scoring location and staff, person scored items, reader recruitment and qualifications, methodology for scoring polytomous items, reader training, leadership training, quality control monitoring), and scaling procedures (item response theory, item response theory results, equating, equating for transadapted tests, equating for independently developed tests, achievement standards, reported scores). The Standards Based Technical report shall also contain information about administration of the High School Graduation Assessment including average scale score, number and percent of students scoring in each performance level (passed and not passed) by program membership and demographic subgroup at the district level and state level; number and percent students passed using best composite score and 95% confidence interval; cumulative percent of students passing across administrations using best composite score and 95% confidence interval) by program membership and demographic subgroup at the district level and state level by number of HSGA administrations. The content and format of the Standards Based Assessments Technical Report shall be based on consultation between the Agency and the Contractor and shall be documented in writing no later than 150 days following the effective date of this agreement. The technical report shall be delivered to the Agency no later than August 15, 2014. Failure to meet the Agency's requirements for a complete and timely technical report shall result in a penalty of \$10,000 being assessed against the Contractor at the Agency's discretion.

The Contractor shall provide materials for the Agency's review using a secure data transfer protocol. If hardcopy materials must be reviewed by the Agency, the Contractor shall be solely responsible for the cost of shipping, if any, to and from the Agency.

R) Standards Based Assessment Project Management. The Contractor shall provide a management plan to the Agency, specifying the business processes for implementation and termination of the Standards Based Assessment Project under the terms of this Agreement. The management plan shall include such information as the Contractor staffing plan, updated resumes of Contractor staff assigned to the SBA/HSGA Project, Contractor organizational chart, timeline and activities to be completed by the Contractor and the Agency, specifications of all deliverables, delineation of deliverable review processes, including Agency and Contractor review activities and timelines; delineation of processes for development and production of assessment items, test materials ordering, test materials manufacture, test materials distribution and collection,

scanning, scoring products, scanning, data files, and billing; detailed business rules for scanning, scoring (calculations, rounding rules), and reporting, data coding; description of quality assurance procedures for all deliverables; project milestones, process improvement strategies and action plans by deliverable; elaborated test blueprints for each content area by grade; style guides for English and Spanish assessments; mock up of test booklet covers, Biogrids, data file layouts, Pre-ID Labels, and SBA/HSGA score reports. The Agency shall review and approve the management plan prior to implementation.

- (1) The Contractor's key staff shall conduct meetings with the Agency by telephone at least once every two weeks, depending on project requirements, and an initiation meeting to plan implementation of the SBA and HSGA. Meeting will be held in person when certain circumstances that require participation by a group of school district representatives. The frequency of meetings and agendas shall be determined through consultation between the Agency and the Contractor. The Contractor shall provide a summary of meeting proceedings, including action steps, assignments, and Contractor and Agency due dates following each meeting.
- (2) The Contractor shall notify the Agency of any addition, loss, or removal of key staff assigned to the Standards Based Assessment Project. The Contractor shall provide the resume of any person selected for permanent assignment to the Standards Based Assessments Project to the Agency at least 30 calendar days prior to the final selection date. The Agency shall review and approve the selection of key staff prior to permanent assignment to the Standards Based Assessments Project.
- (3) The Contractor shall notify the Agency in writing of any work outside the scope of the contract that is needed to meet the State's requirements for the SBA. The Contractor shall describe the proposed scope of the work, purpose, associated costs, and timeline for completion and invoicing. The Contractor shall notify the Agency at least 45 days prior to the anticipated commencement of work. The Agency shall evaluate the change in the scope of work, and if it accepts the terms and conditions of the proposed scope of work, shall prepare a contract amendment. The Contractor shall not commence work associated with a change of scope, until a contract amendment that is signed by both parties and approved by the Department of Finance and Administration is delivered to the Contractor with a State Purchase Order. Only in an emergency, shall the Agency seek the authorization of the Department of Finance and Administration to commence work under a retroactive contract amendment.
- (4) The Contractor shall adhere to consistent SBA/HSGA pricing levels established by this Agreement throughout its term, only adjusting costs for contract amendments using the Consumer Price Index, but not exceeding annual increases of 3 percent, for any deliverables procured for the Agency, school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools (if they choose to participate in the assessment) through an amendment to this Agreement.
- (5) Penalties assessed against the Contractor pursuant to the terms of the Agreement shall not exceed \$150,000 during any fiscal year while the Agreement is in effect. Any penalties assessed pursuant to the terms of the Agreement are not exclusive and do not waive the State's other legal rights and remedies caused by the Contractor's default/breach of the Agreement.
- (6) The Contractor shall procure a performance bond in an amount not less than \$500,000 in 2013-2014, not less than \$250,000 in 2014-2015, and not less than \$250,000 in 2015-2016. The performance bond shall be effective throughout the term of this Agreement.
- (7) Prior to the expiration of this Agreement on the date specified herein, the Contractor shall transfer ownership to the Agency the following SBA/HSGA deliverables: two operational versions of the SBA/HSGA in English and Spanish, all custom-developed items, banked

items, items purchased from other providers and selected for use in the SBA/HSGA, all items in both operational versions of the SBA/HSGA; all scoring rubrics, scoring guides, training sets, and anchor papers for constructed response items; psychometric deliverables; and all reports, District Test Coordinator Manuals, Directions for Administration Manuals, formats and templates.

II. New Mexico High School Competency Exam

A. Implement High School Competency Exam. The Contractor shall provide the materials and services necessary for the production of test answer documents, scoring of multiple choice items and extended response items, and reporting of the New Mexico High School Competency Exam (NMHSCE), the State's former high school graduation assessment now only administered as a retest in reading, writing composition, language arts, mathematics, science, and social studies to students exited from high school. The NMHSCE was replaced by the HSGA as the State's graduation assessment in 2010. Therefore, the NMHSCE shall only be administered as a retest in the fall and winter of school years 2013-2014, 2014-2015, and 2015-2016.

(1) The Contractor shall provide the following services and materials associated with the development of the NMHSCE:

The NMHSCE was developed and administered by CTB/McGraw-Hill from school year 1986-1987 through school year 2005-2006. Beginning in school year 2006-2007, Harcourt Assessment, Inc., which later became NCS Pearson, developed test materials based on items and test booklets developed by CTB/McGraw-Hill. Measured Progress managed the NMHSCE from fall 2009 through spring 2013. Under Measured Progress, certain forms were selected for administration and anchor papers and scoring training materials were developed. The Agency owns approximately 90% of the NMHSCE items. The Contractor shall be solely responsible for all fees associated with the said license agreement. The Contractor shall acquire rights to use the remaining items and test materials by entering a license agreement with CTB/McGraw-Hill, and be responsible for all fees associated with the said license agreement.

The Contractor shall develop and implement procedures for maintaining economical costs for school districts and the Agency when production quantities are substantially reduced (e.g., pre-production and storage of large quantities).

The Contractor shall implement the forms of the NMHSCE now in use in Spanish, English, and Braille. Four English language forms are developed and are rotated for administration in the fall, and one Spanish language form is in use. The Contractor and Agency shall determine the order of rotation of forms.

The Contractor shall be solely responsible for acquiring permission to use nonfiction and literature reading passages, including location of authors and publishers, acquisition of written permission, and payment of royalties.

The Contractor shall provide materials for the Agency's review using a secure data transfer protocol. If hardcopy materials must be reviewed by the Agency, the Contractor shall be solely responsible for the cost of shipping, if any, to and from the Agency.

(2) Produce, Distribute, and Collect High School Competency Exam Materials. The Agency and Contractor shall provide the following services and materials associated with the production and distribution of the NMHSCE as specified below:

The Contractor shall produce test booklets, DTC and DFA manuals for posting on the Agency's website. The Agency shall design, print, and ship test booklets to the school districts, charter schools, State education institutions, U.S. BIE Schools. The Contractor shall produce reusable black and white NMHSCE test booklets for paper and pencil

administration using a separate answer document. Test booklets for a single form of the NMHSCE shall be produced in English, Spanish, large print (as needed), and Braille (as needed) for each operational administration. The Contractor shall produce test booklets that contain assessments for all content areas to include Reading, Language Arts, Math, Science and Social Studies, and Writing Composition in a single booklet. Statute requires that students that do not achieve a passing score in all six content areas shall be required to retest areas not passed until a passing score in all six areas is achieved. The Contractor shall produce large print test materials in a format that shall conform to American Printing House standards.

The Contractor shall provide lined spaces on the front cover of NMHSCE test booklets to record the following handwritten information: Student Last Name, Student First Name, Student Middle Initial, and State Student ID Number, and. The Agency shall review, edit, and approve NMHSCE test booklets prior to production.

The Contractor shall print a unique scannable code on each test booklet to enable school districts and schools to inventory test booklets at the district and school levels.

The Contractor shall produce and deliver NMHSCE test booklets in quantities sufficient to fulfill orders by school districts, charter schools, State education institutions, U.S.

Bureau of Indian Education schools (if they participate in the High School Competency Exam under this Agreement) plus a 10% overage to address additional enrollments. The Contractor shall make available an automated internet-based system that enables school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools to submit orders for NMHSCE materials in English, Spanish, large print, and Braille. The Agency shall provide the Contractor a list of test coordinators who are certified by completing Test Coordinator Training. Only test coordinators listed by the Agency shall be granted access to the Contractor's automated test materials ordering system. The Contractor shall provide a printed confirmation that shall include materials and quantities ordered, time and date of the order, and name of the individual submitting the order in the form of a purchase order. The Contractor shall recognize the purchase order produced by the online ordering system as a legally binding document from the ordering school district or school. If the school district or school is not authorized to use said purchase order as a legally binding document, that school district or school shall issue a legally binding purchase order to the Contractor simultaneously with their online order.

The Contractor shall establish procedures to ensure the timely delivery of NMHSCE test materials. All test materials as ordered by the school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools shall be delivered error free (i.e. no production errors and accurate and complete fulfillment of order) no later than 10 business days prior to the beginning of the test administration window for test materials ordered with a legally binding purchase order received by the Contractor 52 calendar days prior to the beginning of such test administration window. Failure to meet that standard in production and delivery of all assessment materials to any school district, charter school, State educational institutions, U.S. Bureau of Indian Education schools shall result in a penalty of \$2,500 per day for the first five days, and increasing to \$5,000 per day thereafter (including weekends and holidays) until correct materials are received. The fall NMHSCE shall be administered statewide as a retest for a period of 14 calendar days beginning no sooner than September 23, 2013. An additional 5 calendar days (October 9, 2013) shall be provided for packing for return shipment. The start and end dates of the fall administration of the NMHSCE in 2014 and 2015 shall be determined by the Agency.

The winter NMHSCE shall be administered statewide as a retest for a period of 14

calendar days beginning no sooner than January 6, 2014. An additional 5 calendar days (January 22, 2014) for packing for return shipment. The start and end dates of the winter administration of the NMHSCE in 2015 and 2016 shall be determined by the Agency.

- (3) The Contractor shall directly invoice the school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools in an amount not to exceed **\$00.00** [Amount to be determined from winning bid] for each NMHSCE booklet actually ordered in school years school years 2013-2014, 2014-2015, and 2015-2016. The cost for each NMHSCE booklet ordered shall not change due to an increase or decrease in student enrollment. The cost for each NMHSCE booklet ordered in large print and Braille shall be the same as the cost for non accommodated test booklets. The Contractor shall receive such compensation for production (not including production of overage materials), distribution, and collection of test materials; and scoring and reporting of student, school, and district test results. The number of students that will be retested on the NMHSCE in fall 2013 is undetermined. The number tested in winter 2011 was 3,664; the last semester enrolled grade 12 students retested. The number ordered in fall 2011 was 1,928 (1,800 English; 125 Spanish; 1 Braille; and 2 English Large Print), the first fall administration only for exited students. The number ordered in winter 2012 was 1,163 (1,100 English; 60 Spanish; 1 Braille; and 2 English Large Print), the first winter administration only for exited students. Ordered quantities of the NMHSCE in Braille and large print are small in number and vary from year to year. Therefore, the Agency and Contractor shall develop a method for determining the number of NMHSCE Braille and large print materials needed each year. The number of students retesting on the NMHSCE is expected to decrease each administration. The estimates do not represent a guaranteed number of orders placed or total revenue generated from orders placed, and neither the Agency nor the school districts, charter schools, State education institutions, U.S. Bureau of Indian Education schools shall be obligated financially or otherwise by these estimates.
- (4) The Contractor shall produce NMHSCE Answer Documents/Demographic Data Sheets (NMHSCE Biogrid) to record in pencil (bubble sheets) student responses to selected response items and information such as the following about each student and test administration: School Name, District Name, Student Last Name, Student First Name, Student Middle Initial, State Student ID Number, Enrollment Grade Level, Preference for an NMHSCE Student Report to Parents in Spanish, Program Membership (ELL Standardized, Bilingual Program, Special Ed. Standardized, Migrant, FRLP), Gender, Ethnicity. Specifications for the NMHSCE Biogrid format, data codes, and coding rules shall be determined through consultation between the Agency and the Contractor. The Agency shall approve the NMHSCE Biogrid prior to programming production.
- (5) The Contractor shall produce a NMHSCE Test Coordinator's Manual that describes all necessary procedures for secure handling of the NMHSCE, including: Test Security Guidelines, General Instructions and Test Information, Roles and Responsibilities, Before Testing preparations, Special Requirements for Large Print and Braille Versions of the Test Forms, and Preparing Materials for Return, Returning Test Materials. The Agency shall review, edit, and approve the Test Coordinator's Manual prior to production. The Contractor shall produce and distribute one hard copy of the Test Coordinator's Manual to each school district, charter school, State educational institution, U.S. Bureau of Indian Education School, and the Agency. The Contractor shall also produce and deliver to the Agency a copy of the Test Coordinator's Manual in PDF format for posting on the PED website. The Agency shall review, edit, and approve the NMHSCE Test Administrator's Manual prior to production.
- (6) The Contractor shall produce a NMHSCE Directions for Administering (DFA) manual

with directions for administering in English and Spanish describing all necessary procedures for the valid administration of the NMHSCE with accommodations and without accommodations; directions for administration in English and Spanish for each content area; General Directions for Administering, including, who is to be tested, preparation for the NMHSCE, test security guidelines, security and test takers' rights, reporting a test irregularity or a breach of security, important information about NMHSCE scoring or answer documents and cut score application, preparation by the test administrator, materials, scheduling, preparing test participants, environmental considerations, test booklet distribution, and after testing; Specific Directions for Administering, including directions for completing answer document Biogrids, test directions for administering the Writing Composition test, general test directions, test directions for administering reading, test directions for administering language arts, test directions for administering mathematics, test directions for administering science, and test directions for administering social studies. The Agency shall review, edit, and approve the NMHSCE Test Administrator's Manual prior to production. The Contractor shall produce the NMHSCE Test Administrator's Manual in PDF format to post on the Agency's website.

The Contractor shall provide materials for the Agency's review using a secure data transfer protocol. If hardcopy materials must be reviewed by the Agency, the Contractor shall be solely responsible for the cost of shipping, if any, to and from the Agency.

B. Score High School Competency Exam. The Contractor shall provide the following services and materials associated with the scoring of the NMHSCE in reading, writing composition (holistic scoring only), language arts, mathematics, science, and social studies:

The Contractor shall implement procedures for collecting and separating scoreable and nonscoreable (unused and damaged test materials) NMHSCE materials from school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools. The Contractor's collection procedures shall include the capability to track unreturned test materials and delayed return receipt of test materials at the Contractor's test processing site. The Contractor shall contact school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools to facilitate the return of materials and ensure 100% delivery to the Contractor no later than 5 calendar days after the close of the test administration window.

The Contractor shall score all returned and scoreable NMHSCE answer documents or test booklets.

The Contractor shall retain scoreable NMHSCE test materials for a period of one year from the last day of the test administration from which they were collected, and retain nonscoreable NMHSCE test materials for a period of six months from the last day of the Test Administration from when they were collected. The Contractor shall retain electronic copies of NMHSCE test materials for the full term of this Agreement.

The Contractor shall score student performance on the NMHSCE as passed or not passed.

The Contractor shall hand score open-ended assessment items using rubrics, scoring guides, and training sets provided by the Agency.

The Contractor shall merge student test scores from the NMHSCE in Writing Comprehension scored by the Agency into the data record for each student's other NMHSCE content area scores.

The Contractor shall implement comprehensive quality assurance procedures to ensure a high level of accuracy and reliability by scorers. The Agency and the Contractor shall develop a comprehensive scoring monitoring and test security plan that addresses the unique circumstances of distributed online scorers residing in New Mexico and in other states. The Contractor shall monitor scorers in training, requiring that they achieve at least a 70% exact

match with scores of an expert scorer in order to be selected to live score the NMHSCE. The Contractor's monitoring procedures during training and live scoring shall include the use of calibration sets, analysis of inter-rater reliabilities, and monitoring for scoring drift. The Contractor shall implement a back reading process such that 2 percent of each reader's daily scoring output shall be scored by a second, independent scorer to monitor inter-rater reliability. The Contractor shall not double score writing composition. Any scorer that fails to meet performance criteria shall be placed under close supervision to diagnose performance issues, identify remedies, and provide retraining. If it is determined that a scorer needs to be retrained, the Contractor shall recover all papers scored by that individual within the preceding two business days and redistribute them for rescoring. The Contractor shall release from NMHSCE scoring responsibilities any scorer who does not achieve at least a 70% exact match with scores of an expert scorer as a result of supervision and retraining. The Agency shall review, edit, and approve the Contractor's quality assurance procedures for scoring prior to implementation.

The Contractor's scorers shall review responses to all constructed response items for evidence of student thoughts or behavior that might represent the student's potential risk of harm to self or others. The Contractor shall establish procedures for immediately copying such responses and transmitting them through a secure and confidential means to the District Test Coordinator, along with the student's name, State Student ID Number, Date of Birth, and School Name. The Contractor shall also provide a report to the Agency with the student's name, State Student ID Number, Date of Birth, School Name, and date of transmission to the District Test Coordinator.

The Contractor shall score achievement using two levels of performance (passed and not passed) on the NMHSCE in reading, writing composition, language arts, mathematics, science, and social studies. The Contractor shall use scoring rules provided by the Agency.

The Contractor shall provide materials for the Agency's review using a secure data transfer protocol. If hardcopy materials must be reviewed by the Agency, the Contractor shall be solely responsible for the cost of shipping, if any, to and from the Agency.

C. Web-based Reporting of NMHSCE Test Score Results. The Contractor shall provide the following services and materials associated with reporting results of the operational NMHSCE in reading, writing composition, language arts, mathematics, science, and social studies. The Contractor shall produce NMHSCE reports with a distinctive appearance that is differentiated from SBA reports and HSGA reports. The Contractor shall implement a password protected, web-based reporting system that includes functionality for static reporting of NMHSCE test score results. The Contractor shall host and manage the web-based reporting system in the United States.

The online reporting system shall consist of static reports that will house PDF reports and student results data files. Student Reports for Parents and Student Results Labels shall be printed and shipped to districts as well as provided in the online system. The online reporting system shall also provide data export functionality, including student test data, in PDF, Excel and CSV file formats. The online reporting system shall only be available to individuals that are authorized to view personally identifiable educational information under the Family Educational Rights and Privacy Act.

(1) The Contractor shall deliver to School Districts, Charter Schools, State Educational Institutions, and U.S. Bureau of Indian Education Schools (if they choose to participate in the assessment) paper copies of the following reports:

- a) 1 paper copy of Student Results Labels
- b) 2 paper copies of the Student Report for Parents.

The Contractor shall produce and distribute a student test data file from the fall 2013 NMHSCE no later than 5:00 PM MT on November 13, 2013.

The Contractor shall post online reports and student test data from the fall 2013 NMHSCE to school districts, charter schools, State educational institutions, and US. BIE schools (if they choose to participate in the assessment) no later than 5:00 PM MT on November 26, 2013.

The Contractor shall produce and ship hardcopy reports from the fall 2013 NMHSCE to school districts, charter schools, State educational institutions, U.S. BIE schools (if they choose to participate in the assessment) no later than 5:00 PM MT on December 12, 2013.

Deadlines for reporting fall 2014 and 2015 NMHSCE test shall be determined by the Agency and Contractor.

The Contractor shall produce and distribute a student test data file from the winter 2014 NMHSCE no later than 5:00 PM MT on March 6, 2014.

The Contractor shall post online reports and student test data from the winter 2014 NMHSCE to school districts, charter schools, State educational institutions, and US. BIE schools (if they choose to participate in the assessment) no later than 5:00 PM MT on March 18, 2014.

The Contractor shall produce and ship hardcopy reports from the winter 2014 NMHSCE to school districts, charter schools, State educational institutions, U.S. BIE schools (if they choose to participate in the assessment) no later than 5:00 PM MT on April 3, 2014.

Deadlines for reporting winter 2015 and 2016 NMHSCE test shall be determined by the Agency and Contractor.

Online NMHSCE reports shall include the following:

- (2) NMHSCE Counselor's Report. The Contractor shall report NMHSCE content area and overall results in the form of an alphabetized list of all students in a school. The NMHSCE Counselor's Report shall include information such as scale score, an indicator that the student was passed or was not passed in each content area tested, a count of the number of content areas passed, and a data field serving as an indicator that the student either met or did not meet the State graduation requirement by passing the NMHSCE in all six content areas; student demographic information such as Student Last Name, Student First Name, Student Middle Initial, State Student ID Number, and Date of Birth. The format and content of the Counselor's Report shall be determined through consultation between the Agency and the Contractor. The format and content of the Counselor's Report shall be documented in writing no later than 90 days following the effective date of this Agreement. The Contractor shall prominently label each page of the report with the literal, "CONFIDENTIAL INFORMATION FOR USE ONLY BY AUTHORIZED SCHOOL PERSONNEL." The Contractor shall deliver two hard copies and one PDF copy on CD of the Counselor's Report to school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools. The Contractor shall deliver one PDF copy of every NMHSCE Counselor's Report on CD to the Agency. The Agency and the Contractor shall determine the delivery dates of reports for the spring and fall administrations of the NMHSCE.
- (3) NMHSCE Student Report. The Contractor shall report individual student NMHSCE results by content area. The NMHSCE Student Report to Parents shall include information at the content area level such as required passing scale score, scale score, a passed/not passed indicator, percent correct by sub domain within content area, and number of performance assessment items correct out of number of performance assessment items; student demographic information such as Student Last Name, Student First Name, Student Middle Initial, State Student ID Number, and Date of Birth. The NMHSCE Student Report shall be presented in both English and Spanish (in parentheses and subtext). The format and content of the NMHSCE Student Report shall be

determined through consultation between the Agency and the Contractor. The format and content of the NMHSCE Student Report shall be documented in writing no later than 90 days following the effective date of this Agreement. The Contractor shall deliver two hard copies for each student tested in the school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools. The Agency and the Contractor shall determine the delivery dates of reports for the spring and fall administrations of the NMHSCE.

- (4) NMHSCE Student Record Labels. The Contractor shall produce adhesive Student Record Labels for individual student NMHSCE score information to be easily stored in the student's cumulative folder. The Student Record Labels shall report the following information on individual students from the student test data file: School Name, School District Name, Test Date, Student Name, Date of Birth, Grade, Student ID, Gender, Scaled Score and holistic score by content area, passed/not passed indicator, and an indicator (passed/not passed) for the State's graduation requirement of six areas.

The hard and digital copies of district, school and student score reports based on the operational administrations of the NMHSCE shall be delivered with no Contractor production errors to the school districts, charter schools, state supported schools, U.S. Bureau of Indian Education schools, and the Agency by the deadlines specified herein. Failure to meet delivery deadlines and the accuracy standard for the district, school and student score reports shall result in a penalty of \$2,500 per day for the first five days, and increasing to \$5,000 per day thereafter (including weekends and holidays) until correct reports are received.

The Contractor shall provide materials for the Agency's review using a secure data transfer protocol. If hardcopy materials must be reviewed by the Agency, the Contractor shall be solely responsible for the cost of shipping, if any, to and from the Agency.

- (5) Produce and Distribute High School Competency Exam Data Files. The Contractor shall provide the following services and materials associated with reporting student test scores and aggregate test results of the operational NMHSCE in reading, writing composition, language arts, mathematics, science, and social studies. The Contractor shall provide the following NMHSCE data files:

- a) NMHSCE Student Test Data. The Contractor shall produce a data file containing individual student NMHSCE scores by content area, incorporating program membership and demographic information obtained from the Biogrid, NMHSCE fall or spring Biodata Review. The NMHSCE Student Test Data File shall include information such as District Code, District Name, School Code, School Name, School Type, State Student ID Number, Enrollment Grade Level, Student Last Name, Student First Name, Student Middle Initial, Birth Date, Race/Ethnicity, Gender, Test Document ID Number, Test Form, Test Language, Modified Administration, Spanish Parent Report Indicator, Scanning Image Number, Test Date, SPED (Not Gifted), Gifted, 504 Plan, Title I, Migrant, New Arrival, Bilingual Ed., ELL Status, District Use Only (FRLP), Braille Indicator; ELL with Accommodation, SPED with Accommodation, Migrant, Season, Year; in each content areas, Scale Score, Pass/Fail Designator; in each sub domain (Reading--Respond to Text, Literature/Culture, Locate/Use Information, Recognize Propaganda, Language Arts, Write for Purposes, Conventions of Correctness, Locate/Use Information; Mathematics--Mathematical Ability, Problem Solving, Math Communication, Math Reasoning; Science--Energy, Structure and Scale, Systems/Interactions, Research and Study Skills, Process Skills, Real-World Problems, Environment, Balance and Change, Decision Making, Lab Practices; Social Studies--Cultural Understanding, Historical Connections, Geographic Understanding, Sociopolitical Understanding, US/NM History, Economic

Literacy, Principles of Democracy, Citizenship) Objective Percent Correct; Writing Scores--Writing Checklist, Writing Process, Organization, Topic Development, Paragraph Construction, Structure, Spelling, Depth of Development, Holistic Score, Writing Condition Code; Writing Analytic Scores--Sentence Formation, Mechanics, Word Usage, Development; and Individual item responses, individual item scores. An indicator that the student was passed or was not passed in each content area tested, a count of the number of content areas passed, and a data field serving as an indicator that the student either met or did not meet the State graduation requirement for assessment by passing or not passing the NMHSCE in all six areas. The format and content of the NMHSCE Student Test Data File shall be determined in consultation between the Agency and the Contractor. The format and content of the NMHSCE Student Test Data File shall be documented in writing no later than 120 days following the effective date of this Agreement. The Agency shall annually review, edit, and approve the layout for the Student Test Data File prior to the opening of the test ordering window. The Contractor shall deliver the NMHSCE Student Test Data File to the Agency using a secure digital information transfer protocol no later than 45 calendar days after the close of the test administration window. Failure to meet delivery deadlines and data accuracy requirements for the NMHSCE Student Test Data and Summary Data Files shall result in a penalty of \$2,500 per day for the first five days, and increasing to \$5,000 per day thereafter (including weekends and holidays) until a correct data file is received.

- b) NMHSCE Statistical Report: The Contractor shall produce an annual statistical report that contains information about administrations of the New Mexico High School Competency Exam including average scale score, number, and percent of students scoring in each performance level (passed and not passed) by program membership and demographic subgroup at the district level and state level; cumulative percent of students scoring in each performance level (passed and not passed) by program membership and demographic subgroup at the district level and state level by number of NMHSCE administrations; number and percent of students and meeting the State assessment graduation requirement of passing all six content areas by program membership and demographic subgroup at the district level and state level; cumulative percent of students and meeting the State assessment graduation requirement of passing all six content areas by program membership and demographic subgroup at the district level and state level by number of NMHSCE administrations. The content and format of the NMHSCE Statistical Report shall be based on consultation between the Agency and the Contractor and shall be documented in writing no later than 150 days following the effective date of this agreement. The technical report shall be delivered to the Agency no later than September 1 of each year that this Agreement is in effect. Failure to meet the Agency's requirements for a complete and timely technical report shall result in a penalty of \$5,000 being assessed against the Contractor at the Agency's discretion.

The Contractor shall provide materials for the Agency's review using a secure data transfer protocol. If hardcopy materials must be reviewed by the Agency, the Contractor shall be solely responsible for the cost of shipping, if any, to and from the Agency.

- c) High School Competency Exam Project Management. The Contractor shall provide an annual management plan to the Agency, specifying the business processes for the implementation and termination of the High School Competency Exam Project under the terms of this Agreement. The management plan shall include such information as the Contractor staffing plan, updated resumes of staff assigned to the NMHSCE

Project, organizational chart, timeline and activities to be completed by the Contractor and the Agency, specifications of all deliverables, delineation of deliverable review processes; delineation of procedures for test materials ordering, test materials manufacture, test materials distribution and collection, scanning, scoring products, data files, and billing; business rules for scanning, scoring, and reporting, data coding; description of quality assurance procedures for all deliverables; indicators of development and production performance, process improvement strategies and action plans by deliverable; test blueprints for each content area by grade; style guides for English and Spanish assessments; mock up of test booklet covers, Demographic Data Sheets, data file layouts, and NMHSCE score reports. The Agency shall review and approve the management plan prior to implementation.

The Contractor's key staff shall conduct meetings with the Agency by telephone or in person at least once every two weeks at the beginning of the project, and as needed later in the project, depending on project requirements, an initiation meeting, and an annual meeting to plan the development and implementation of the NMHSCE. The frequency and location of meetings, and agendas shall be determined through consultation between the Agency and the Contractor. The Contractor shall provide a summary of meeting proceedings, including action steps, assignments, and Contractor and Agency due dates.

The Contractor shall notify the Agency of any addition, loss, or removal of key staff assigned to the High School Competency Exam Project. The Contractor shall provide the Agency the resume of any person selected for permanent assignment to the High School Competency Exam Project. The Agency shall review and approve the selection of key staff prior to permanent assignment to the High School Competency Exam Project.

The Contractor shall notify the Agency in writing of any work outside the scope of the contract that is needed to meet the State's requirements for the NMHSCE. The Contractor shall describe the proposed scope of the work, purpose, associated costs, and timeline for completion and invoicing. The Contractor shall notify the Agency at least 45 days prior to the anticipated commencement of work. The Agency shall evaluate the change in the scope of work, and if it accepts the terms and conditions of the proposed scope of work, shall prepare a contract amendment. The Contractor shall not commence work associated with a change of scope, until a contract amendment that is signed by both parties and approved by the Department of Finance and Administration is delivered to the Contractor with a State Purchase Order. Only in an emergency, shall the Agency seek the authorization of the Department of Finance and Administration to commence work under a retroactive contract amendment.

The Contractor shall adhere to NMHSCE pricing established by this Agreement, adjusting costs using the Consumer Price Index, but not exceeding annual increases of 3 percent, for any deliverables procured for the Agency, school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools through an amendment to this Agreement.

Prior to the expiration of this Agreement on the date specified herein, the Contractor shall transfer ownership to the Agency the following NMHSCE deliverables: all scoring rubrics, scoring guides, and training sets, and anchor papers for constructed response items; psychometric deliverables; and all reports, test administration manuals, formats and templates. The Contractor shall begin coordinating the transfer of ownership of NMHSCE deliverables six months prior to the expiration date of this Agreement.

The Contractor shall invoice the Agency four times each year in March, May, September, and December for services completed and satisfactorily performed for Assessment Development, Professional Development for the Assessments, the Technical Report, and Project Management. The invoice shall display the total cost for all deliverables and costs for each of the deliverable categories of Assessment Development, Professional Development for the Assessments, the Technical Report, and Project Management for each assessment separately. The Contractor shall invoice the school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools twice each year in November and April for the production, distribution and collection of test materials; and scoring and reporting of student, school, and district test results.

III. Early Termination of SBA/HSGA Agreement.

In the event that this Agreement is terminated prior to the expiration date specified herein, the Contractor shall provide to the Agency and the Succeeding Contractor the following: all test items in the SBA/HSGA item bank; all scoring rubrics, scoring guides, and training sets, and anchor papers for constructed response items; and psychometric deliverables, test blueprints, and tables of total points and total items by content area and grade level, as applicable on the date of termination.

The said deliverables in section 1(a) of this Scope of Work shall be provided to the Agency and the Succeeding Contractor within two weeks of the termination of this Agreement in formats specified by the Agency and the Succeeding Contractor. The licensed test deliverables shall only be implemented by the Agency and the Succeeding Contractor in the continuing SBA/HSGA. The license shall continue for a period of two years or through the termination date specified herein, whichever comes first. Neither the Succeeding Contractor nor the Agency shall incur any costs from the Contractor for said license or transfer of SBA/HSGA deliverables.

In the event of early termination of the Agreement, the Agency shall compensate the Contractor for services satisfactorily performed and deliverables completed according to the specifications stated herein up to the date that the Agency directs the Contractor in writing to cease work on the Project.

The Contractor shall invoice the Agency four times a year in March, May, September, and December for services completed and satisfactorily performed for Assessment Development, Professional Development for the Assessments, the Technical Report, and Project Management. The invoice shall display the total cost for all deliverables and costs for each of the deliverable categories of Assessment Development, Professional Development for the Assessments, the Technical Report, and Project Management for each assessment separately. The Contractor shall invoice the school districts, charter schools, State educational institutions, U.S. Bureau of Indian Education schools (if they choose to participate in the assessment) twice each year in November and May for the production, distribution and collection of test materials; and scoring and reporting of student, school, and district test results.

APPENDIXC

AGENCY TERMS AND CONDITIONS

STATE TEMPLATE FOR IT PROFESSIONAL SERVICES CONTRACTS

Should the offeror be selected they will provide a Scope of Work that is Deliverables based as shown in the attached IT Contract Template.

State of New Mexico

[Insert Agency Name]

Information Technology
Agreement

Contract No. **[REDACTED]**

THIS Information Technology Agreement (“Agreement”) is made by and between the State of New Mexico, **[Insert Agency Name]**, hereinafter referred to as the “Procuring Agency” and **[Insert Contractor Name]**, hereinafter referred to as the “Contractor” and collectively referred to as the “Parties”.

WHEREAS, pursuant to the Procurement Code, NMSA 1978 13-1-28 *et. seq.*; and Procurement Code Regulations, NMAC 1.4.1 *et. seq.*; the Contractor has held itself out as expert in implementing the Scope of Work as contained herein and the Procuring Agency has selected the Contractor as the offeror most advantageous to the State of New Mexico; and

WHEREAS, all terms and conditions of the **[CHOICE #1 - choose one of the following based on the procurement method: [RFP] [SOLE SOURCE]** and the Contractor’s response to such document(s) are incorporated herein by reference; and

[CHOICE #2 - Insert this language only if purchasing off a Statewide Price Agreement]

WHEREAS, this Agreement is issued against the state price agreement, SPD **[Insert Price Agreement Number and Name]**, established and maintained by the New Mexico State Purchasing Division of the General Services Department; and

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

ARTICLE 1 – DEFINITIONS

- A. “Acceptance” shall mean the approval, after Quality Assurance, of all Deliverables by an executive level representative (“Executive Level Representative”) of the Procuring Agency.
- B. “Change Request” shall mean the document utilized to request changes or revisions in the Scope of Work.
- C. “Chief Information Officer (“CIO”)” shall mean the Secretary/CIO of the Department of Information Technology for the State of New Mexico or designated representative.
- D. “Deliverable” shall mean any verifiable outcome, result, service or product that must be delivered, developed, performed or produced by the Contractor as defined by the Scope of Work.
- E. “DoIT” shall mean the Department of Information Technology.
- F. “DFA” shall mean the Department of Finance and Administration; “DFA/CRB” shall mean the Department of Finance and Administration, Contracts Review Bureau.
- G. “Escrow” shall mean a legal document (such as the software source code) delivered by the contractor into the hands of a third party, to be held by that party until the performance of a condition is accepted; in the event contractor fails to perform, the grantee agency receives the legal document, in this case, source code.
- H. “Enhancement” means any modification or addition that, when made or added to the program, materially changes its or their utility, efficiency, functional capability, or application, but does not constitute solely an Error Correction. After conferring with Procuring Agency, an Enhancement may be identified as minor or major.
- I. “Executive Level Representative” shall mean the individual empowered with the authority to represent and make decisions on behalf of the Procuring Agency’s executives.

- J. “Know How” shall mean all technical information, data and knowledge including, but not limited to, all documents, computer storage devices, drawings, flow charts, plans, proposals, records, notes, memoranda, manuals and other tangible items containing, relating or causing the enablement of any Intellectual Property developed under this Agreement.
- K. “Intellectual Property” shall mean any and all proprietary information developed pursuant to the terms of this Agreement.
- L. “Independent Verification and Validation (“IV&V”)” shall mean the process of evaluating a project and the project’s product to determine compliance with specified requirements and the process of determining whether the products of a given development phase fulfill the requirements established during the previous stage, both of which are performed by an entity independent of the Procuring Agency.
- M. “Payment Invoice” shall mean a detailed, certified and written request for payment of services rendered from the Contractor to the Procuring Agency. Payment Invoice(s) must contain the fixed price Deliverable cost and identify the Deliverable for which the invoice is submitted.
- N. “Performance Bond” shall mean a surety bond which guarantees that the contractor will fully perform the contract and guarantees against breach of contract.
- O. “Project” shall mean a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project approval is given by the Executive Level Representative and verified by the agency CIO to the DoIT. If applicable, under the terms of this Agreement the Project is **[Insert Name of Project, if applicable; otherwise delete sentence]**.
- P. “Project Manager” shall mean a qualified person from the Procuring Agency responsible for all aspects of the Project or the administration of this Agreement. Under the terms of this Agreement, the Project Manager shall be **[Insert Name]** or designated representative.
- Q. “Quality Assurance” shall mean a planned and systematic pattern of all actions necessary to provide adequate confidence that a Deliverable conforms to established requirements, customer needs, and user expectations.
- R. “State Purchasing Agent (SPA)” - shall mean the State Purchasing Agent for the State of New Mexico or designated representative.
- S. “State Purchasing Division (SPD)” - shall mean the State Purchasing Division of the General Services Department for the State of New Mexico.

ARTICLE 2 – SCOPE OF WORK

- A. Scope of Work. The Contractor shall perform the work as outlined in **Exhibit A**, attached hereto and incorporated herein by reference.
- B. Performance Measures. Contractor shall substantially perform the Performance Measures set forth in Exhibit A. In the event the Contractor fails to obtain the results described in Exhibit A, the Procuring Agency may provide written notice to the Contractor of the default and specify a reasonable period of time in which the Contractor shall advise the Procuring Agency of specific steps it will take to achieve these results and the proposed timetable for implementation. Nothing in this Section shall be construed to prevent the Procuring Agency from exercising its rights pursuant to **Article 6**.
- C. Schedule. The due dates, as set forth in Exhibit A, shall not be altered or waived by the Procuring Agency without prior written approval, through the Change Management process, as defined in **Article 14**.
- D. License. **[CHOICE #1 - insert if software license is required]** Contractor hereby grants Procuring Agency a **[CHOICE #2- if a perpetual license is required, use the following language]** non-exclusive, irrevocable, perpetual license to use, modify, and copy the **[Insert name of software and patent number if applicable]** software as defined in Article 2 and Exhibit A.

[CHOICE #3- if the license is required for the term of the Agreement, use the following language] non-exclusive, irrevocable, license to use, modify, and copy the [Insert name of software and patent number if applicable] software and any and all updates, corrections and revisions as defined in Article 2 and Exhibit A, for the term of this Agreement.

The right to copy the software is limited to the following purposes: archival, backup and training. All archival and backup copies of the software are subject to the provisions of this Agreement, and all titles, patent numbers, trademarks, copyright and other restricted rights notices shall be reproduced on any such copies.

1) Contractor agrees to maintain, at contractor's own expense, a copy of the software source code to be kept by an escrow agent and to list the Procuring Agency as an authorized recipient of this source code. The source code shall be in magnetic form on media specified by the Procuring Agency. The escrow agent shall be responsible for storage and safekeeping of the magnetic media. Contractor shall replace the magnetic media no less frequently than every six (6) months to ensure readability and to preserve the software at the current revision level. Included with the media shall be all associated documentation which will allow the Procuring Agency to top load, compile and maintain the software in the event of a breach.

2) If the Contractor ceases to do business or ceases to support this Project or Agreement and it does not make adequate provision for continued support of the licensed software it provided the Agency; or, if this Agreement is terminated, or if the Contractor breaches this Agreement, the Contractor shall make available to the Procuring Agency: 1) the latest available licensed software program source code and related documentation meant for the licensed software provided or developed under this Agreement by the Contractor and listed as part of the purchase system; 2) the source code and compiler/utilities necessary to maintain the system; and, 3) related documentation for software developed by third parties to the extent that the Contractor is authorized to disclose such software. In such circumstances, Procuring Agency shall have an unlimited right to use, modify and copy the source code and documentation.

ARTICLE 3 - COMPENSATION

A. Compensation Schedule. The Procuring Agency shall pay to the Contractor based upon fixed prices for each Deliverable, per the schedule outlined in Exhibit A, **less retainage as identified in Paragraph D.**

B. Payment. The total compensation under this Agreement shall not exceed [Insert Dollar Amount] [CHOICE #1- either use "excluding New Mexico gross receipts taxes" OR "including New Mexico gross receipts tax"]. [CHOICE #2 - Insert next sentence if using price agreement] Contractor hereby agrees to perform work at or below the published maximum rates of the price agreement as follows:

[Insert professional service category and define rates]

Payment shall be made upon Acceptance of each Deliverable and upon the receipt and acceptance of a detailed, certified Payment Invoice. Payment will be made to the Contractor's designated mailing address. In accordance with Section 13-1-158 NMSA 1978, payment shall be tendered to the Contractor within thirty (30) days of the date of written certification of Acceptance. All Payment Invoices MUST BE received by the Procuring Agency no later than fifteen (15) days after the termination of this Agreement. Payment Invoices received after such date WILL NOT BE PAID.

C. Taxes.

[CHOICE #3- Delete language of this provision and replace with N/A if a Contract is between two public entities.]

[CHOICE #4 - Use either: " The Contractor shall be reimbursed by the Procuring Agency for applicable New Mexico gross receipts taxes, excluding interest or penalties assessed on the Contractor by any authority" or "The

Contractor **shall not** be reimbursed by the Procuring Agency for applicable New Mexico gross receipts taxes, nor interest or penalties assessed on the Contractor by any authority".] The payment of taxes for any money received under this Agreement shall be the Contractor's sole responsibility and should be reported under the Contractor's Federal and State tax identification number(s).

Contractor and any and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall require all subcontractors to hold the Procuring Agency harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal and/or state and local laws and regulations and any other costs, including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

D. Retainage. The Procuring Agency shall retain **twenty percent (20%)** of the fixed-price Deliverable cost for each Deliverable that is the subject of this Agreement as security for full performance under the terms of this Agreement. All amounts retained shall be released to the Contractor upon Acceptance of the final Deliverable.

E. Performance Bond. [CHOICE #5- Insert this provision if the amount of the contract exceeds \$1Million or, if the contract is for custom developed software/application or Commercial Off the Shelf (COTS) software with greater than 20% modification/enhancement] Contractor shall execute and deliver to Procuring Agency, contemporaneously with the execution of this Agreement, a performance bond in the amount of [Insert Total Amount of agreed upon Bond for this Agreement] in the name of the Procuring Agency. The bond shall be in effect for the duration of this Agreement and any renewals thereof. The required bond shall be conditioned upon and for the full performance, Acceptance and actual fulfillment of each and every Deliverable, term, condition, provision, and obligation of the Contractor and its officers and employees arising under this Agreement. The Procuring Agency's right to recover from the bond shall include all costs and damages associated with the transfer of services provided under this Agreement to another contractor or to the State of New Mexico as a result of Contractor's failure to perform.

ARTICLE 4 – ACCEPTANCE

A. Submission. Upon completion of agreed upon Deliverables as set forth in Article 2 and Exhibit A, Contractor shall submit a Payment Invoice with the Deliverable, or description of the Deliverable, to the Project Manager. Each Payment Invoice shall be for the fixed Deliverable price as set forth in Article 2 and Exhibit A, **less twenty percent (20%) retainage**.

B. Acceptance. In accord with Section 13-1-158 NMSA 1978, the Executive Level Representative shall determine if the Deliverable provided meets specifications. No payment shall be made for any Deliverable until the individual Deliverable that is the subject of the Payment Invoice has been **Accepted**, in writing, by the Executive Level Representative. In order to Accept the Deliverable, the Executive Level Representative, in conjunction with the Project Manager, will assess the Quality Assurance level of the Deliverable and determine, at a minimum, that the Deliverable:

- 1.) Complies with the Deliverable requirements as defined in Article 2 and Exhibit A;
- 2.) Complies with the terms and conditions of the [CHOICE #1- [RFP] [Price Agreement]][Sole Source];
- 3.) Meets the performance measures for the Deliverable(s) and this Agreement;
- 4.) Meets or exceeds the generally accepted industry standards and procedures for the Deliverable(s); and
- 5.) Complies with all the requirements of this Agreement.

If the Deliverable is deemed Acceptable under Quality Assurance by the Executive Level Representative or designee, the Executive Level Representative will notify the Contractor of Acceptance, in writing, within fifteen (15) business days from the date the Executive Level Representative receives the Deliverable(s) and accompanying Payment Invoice.

C. Rejection. Unless the Executive Level Representative gives notice of rejection within the fifteen (15) day business day Acceptance period, the Deliverable will be deemed to have been accepted. If the Deliverable is deemed unacceptable under Quality Assurance, fifteen (15) days from the date the Executive Level

Representative receives the Deliverable(s) and accompanying Payment Invoice, the Executive Level Representative will send a consolidated set of comments indicating issues, unacceptable items, and/or requested revisions accompanying the rejection. Upon rejection and receipt of comments, the Contractor will have ten (10) business days to resubmit the Deliverable to the Executive Level Representative with all appropriate corrections or modifications made and/or addressed. The Executive Level Representative will again determine whether the Deliverable(s) is Acceptable under Quality Assurance and provide a written determination within fifteen (15) business days of receipt of the revised or amended Deliverable. If the Deliverable is once again deemed unacceptable under Quality Assurance and thus rejected, the Contractor will be required to provide a remediation plan that shall include a timeline for corrective action acceptable to the Executive Level Representative. The Contractor shall also be subject to all damages and remedies attributable to the late delivery of the Deliverable under the terms of this Agreement and available at law or equity. In the event that a Deliverable must be resubmitted more than twice for Acceptance, the Contractor shall be deemed as in breach of this Agreement. The Procuring Agency may seek any and all damages and remedies available under the terms of this Agreement and available at law or equity. Additionally, the Procuring Agency may terminate this Agreement.

ARTICLE 5 – TERM

[CHOICE #1- If the agreement is based on a state price agreement and is for professional services *only* OR it is for a combination of professional services and tangible property/services, use the following language] THIS AGREEMENT SHALL NEITHER BE EFFECTIVE NOR BINDING UNTIL APPROVED BY THE DoIT AND DFA/CRB. This Agreement shall terminate on **[Insert Termination Date]**, unless terminated pursuant to Article 6. The term of this Agreement, including all extensions, shall not exceed one calendar year.

[CHOICE #2- If the agreement is based on a state price agreement and is only for tangible property and/or services, use the following language] THIS AGREEMENT SHALL NEITHER BE EFFECTIVE NOR BINDING UNTIL APPROVED BY THE DoIT. This Agreement shall terminate on **[Insert Termination Date]**, unless terminated pursuant to Article 6. The term of this Agreement including all extensions shall not exceed one calendar year.

[CHOICE #3- If the agreement is NOT based on a state price agreement and is for professional services only, use the following language] THIS AGREEMENT SHALL NEITHER BE EFFECTIVE NOR BINDING UNTIL APPROVED BY THE DoIT AND DFA/CRB. This Agreement shall terminate on **[Insert Termination Date]**, unless terminated pursuant to Article 6. No contract term, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

[CHOICE #4- If the agreement is NOT based on a state price agreement and is for only tangible property and *does not include* professional services, use the following language] THIS AGREEMENT SHALL NEITHER BE EFFECTIVE NOR BINDING UNTIL APPROVED BY THE DoIT AND THE STATE PURCHASING AGENT. This Agreement shall terminate on **[Insert Termination Date]**, unless terminated pursuant to Article 6. No contract term, including extensions and renewals, shall exceed four years if the Agreement is less than \$25,000 or exceed eight years if the Agreement exceeds \$25,000 as set forth in Section 13-1-150 NMSA 1978.

[CHOICE #5- If the agreement is NOT based on a state price agreement and is for *both* professional services and tangible property/services, use the following language] THIS AGREEMENT SHALL NEITHER BE EFFECTIVE NOR BINDING UNTIL APPROVED BY THE DoIT, THE STATE PURCHASING AGENT, AND DFA/CRB. This Agreement shall terminate on **[Insert Termination Date]**, unless terminated pursuant to Article 6. No contract term, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

ARTICLE 6 – TERMINATION

This Agreement may be terminated as follows:

A. General. By the either Party upon written notice to be delivered to the other party not less than ten (10) business days prior to the intended date of termination.

B. Appropriations. By the Procuring Agency, if required by changes in State or federal law, or because of court order, or because of insufficient appropriations made available by the United States Congress and/or the New Mexico State Legislature for the performance of this Agreement. The Procuring Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Procuring Agency terminates this Agreement pursuant to this subsection, the Procuring Agency shall provide the Contractor written notice of such termination at least fifteen (15) business days prior to the effective date of the termination.

C. Obligations and Waiver. By termination pursuant to this Article, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. THIS ARTICLE IS NOT EXCLUSIVE AND DOES NOT CONSTITUTE A WAIVER OF ANY OTHER LEGAL RIGHTS AND REMEDIES AFFORDED THE PROCURING AGENCY AND THE STATE OF NEW MEXICO CAUSED BY THE CONTRACTOR'S DEFAULT OR BREACH OF THIS AGREEMENT.

ARTICLE 7 – TERMINATION MANAGEMENT

A. Contractor. In the event this Agreement is terminated for any reason, or upon expiration, and in addition to all other rights to property set forth in this Agreement, the Contractor shall:

- 1.) Transfer, deliver, and/or make readily available to the Procuring Agency property in which the Procuring Agency has a financial interest and any and all data, Know How, Intellectual Property, inventions or property of the Procuring Agency;
- 2.) Incur no further financial obligations for materials, services, or facilities under the Agreement without prior written approval of the Procuring Agency;
- 3.) Terminate all purchase orders or procurements and any subcontractors and cease all work, except as the Procuring Agency may direct, for orderly completion and transition;
- 4.) Take such action as the Procuring Agency may direct, for the protection and preservation of all property and all records related to and required by this Agreement;
- 5.) Agree that the Procuring Agency is not liable for any costs arising out of termination and that the Procuring Agency is liable only for costs of Deliverables Accepted prior to the termination of the Agreement;
- 6.) Cooperate fully in the closeout or transition of any activities to permit continuity in the administration of Procuring Agency programs;
- 7.) In the event that this Agreement is terminated due to the Contractor's course of performance, negligence or willful misconduct and that course of performance, negligence, or willful misconduct results in reductions in the Procuring Agency's receipt of program funds from any governmental agency, the Contractor shall remit to the Procuring Agency the full amount of the reduction;
- 8.) Should this Agreement terminate due to the Contractor's default, the Contractor shall reimburse the Procuring Agency for all costs arising from hiring new contractor/subcontractors at potentially higher rates and for other costs incurred;
- 9.) In the event this Agreement is terminated for any reason, or upon its expiration, the Contractor shall assist and cooperate with the Procuring Agency in the orderly and timely transfer of files, computer software, documentation, system turnover plan, Know How, Intellectual Property and other materials, whether provided by the Procuring Agency or created by the Contractor under this Agreement, to the

Procuring Agency, including but not limited to, user manuals with complete documentation, functional technical descriptions of each program and data flow diagrams. At the request of the Project Manager, the Contractor shall provide to the Procuring Agency a copy of the most recent versions of all files, software, Know How, Intellectual Property and documentation, whether provided by the Procuring Agency or created by the Contractor under this Agreement.

B. Procuring Agency. In the event this Agreement is terminated for any reason, or upon expiration, and in addition to all other rights to property set forth in this Agreement, the Procuring Agency shall 1) Retain ownership of all work products and documentation created pursuant to this Agreement; and 2) Pay the Contractor all amounts due for services Accepted prior to the effective date of such termination or expiration.

ARTICLE 8 – INDEMNIFICATION

A. General. The Contractor shall defend, indemnify and hold harmless the Procuring Agency, the State of New Mexico and its employees from all actions, proceedings, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable, but no later than two (2) days after it receives notice thereof, notify, by certified mail, the legal counsel of the Procuring Agency, the Risk Management Division of the New Mexico General Services Department, and the DoIT.

[**CHOICE #1** Delete language above and insert the following language *ONLY* if a contract is between two public entities] Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act.

B. The indemnification obligation under this Agreement shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor, and shall survive the termination of this Agreement. Money due or to become due to the Contractor under this Agreement may be retained by the Procuring Agency, as necessary, to satisfy any outstanding claim that the Procuring Agency may have against the Contractor. [**CHOICE #2** – if the contract is between two public entities delete this Paragraph B.].

ARTICLE 9 – INTELLECTUAL PROPERTY

[**CHOICE #1** - Delete the language of this Article (not the heading) and replace with "Not Applicable" IF only purchasing IT hardware/equipment]

A. Ownership.

[**CHOICE #2** - Use this provision if Agency is to own the Intellectual Property] Any and all Intellectual Property, including but not limited to copyright, patentable inventions, patents, trademarks, trade names, service marks, and/or trade secrets created or conceived pursuant to, or as a result of, performance of this Agreement, shall be work made for hire and the Procuring Agency shall be considered the creator and owner of such Intellectual Property. Any and all Know How created or conceived pursuant to, or as a result of, performance of this Agreement, shall be work made for hire and the Procuring Agency shall be considered the creator and owner of such Know How. The Procuring Agency shall own the entire right, title and interest to the Intellectual Property and Know How worldwide, and, other than in the performance of this Agreement, the Contractor, subcontractor(s), officers, agents and assigns shall not make use of, or disclose the Intellectual Property and Know

How to any entity or person outside of the Procuring Agency without the express written authorization of the Procuring Agency. Contractor shall notify the Procuring Agency, within fifteen (15) business days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure that ownership of the Intellectual Property vests in the Procuring Agency and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the Procuring Agency. If, by judgment of a court of competent jurisdiction, Intellectual Property, Know How, or Know How Rights are not deemed to be created or owned by the Procuring Agency, Contractor hereby acknowledges and agrees to grant to the Procuring Agency and the State of New Mexico, a perpetual, non-exclusive, royalty free license to reproduce, publish, use, copy and modify the Intellectual Property and Know How.

[CHOICE #3- Delete above language and insert the following provision if Contractor is to own the IP] Contractor hereby acknowledges and grants to the Procuring Agency a perpetual, non-exclusive, royalty free license to reproduce, publish, use, copy and modify the Intellectual Property and Know How created or conceived pursuant to, or as a result of, performance of this Agreement.

ARTICLE 10 – INTELLECTUAL PROPERTY INDEMNIFICATION

A. Intellectual Property Indemnification. The Contractor shall defend, at its own expense, the Procuring Agency, the State of New Mexico and/or any other State of New Mexico body against any claim that any product or service provided under this Agreement infringes any patent, copyright or trademark, and shall pay all costs, damages and attorneys fees that may be awarded as a result of such claim. In addition, if any third party obtains a judgment against the Procuring Agency based upon Contractor’s trade secret infringement relating to any product or services provided under this Agreement, the Contractor agrees to reimburse the Procuring Agency for all costs, attorneys’ fees and the amount of the judgment. To qualify for such defense and/or payment, the Procuring Agency shall:

- 1.) Give the Contractor written notice, within forty-eight (48) hours, of its notification of any claim;
- 2.) Work with the Contractor to control the defense and settlement of the claim, as allowed under the law; and
- 3.) Cooperate with the Contractor, in a reasonable manner, to facilitate the defense or settlement of the claim.

B. Procuring Agency Rights. If any product or service becomes, or in the Contractor’s opinion is likely to become, the subject of a claim of infringement, the Contractor shall, at its sole expense:

- 1.) Provide the Procuring Agency the right to continue using the product or service and fully indemnify the Procuring Agency against all claims that may arise out of the Procuring Agency’s use of the product or service;
- 2.) Replace or modify the product or service so that it becomes non-infringing; or
- 3.) Accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor’s obligation will be void as to any product or service modified by the Procuring Agency to the extent such modification is the cause of the claim.

ARTICLE 11 - WARRANTIES

A. General. The Contractor hereby expressly warrants the Deliverables as being correct and compliant with the terms of this Agreement, Contractor’s official published specification and technical specifications of this Agreement and all generally accepted industry standards. This warranty encompasses correction of defective Deliverables and revision of the same, as necessary, including deficiencies found during testing, implementation, or post-implementation phases.

B. Software. [CHOICE #1- use only if purchasing or developing software] The Contractor warrants that any software or other products delivered under this Agreement shall comply with the terms of this Agreement, Contractor's official published specification(s) and technical specifications of this Agreement and all generally accepted industry standards. The Contractor further warrants that the software provided under this Agreement will meet the applicable specifications for [CHOICE #2 - INSERT # of years - recommend 6mo.-2yrs.] years after Acceptance by the Executive Level Representative and implementation by the Procuring Agency. If the software fails to meet the applicable specifications during the warranty period, the Contractor will correct the deficiencies, at no additional cost to the Procuring Agency, so that the software meets the applicable specifications.

ARTICLE 12 – CONTRACTOR PERSONNEL

A. Key Personnel. Contractor's key personnel shall not be diverted from this Agreement without the prior written approval of the Procuring Agency. Key personnel are those individuals considered by the Procuring Agency to be mandatory to the work to be performed under this Agreement. Key personnel shall be:

[Insert Contractor Staff Name(s)]

B. Personnel Changes. Replacement of any personnel shall be made with personnel of equal ability, experience, and qualification and shall be approved by the Procuring Agency. For all personnel, the Procuring Agency reserves the right to require submission of their resumes prior to approval. If the number of Contractor's personnel assigned to the Project is reduced for any reason, Contractor shall, within ten (10) business days of the reduction, replace with the same or greater number of personnel with equal ability, experience, and qualifications, subject to Procuring Agency approval. The Procuring Agency, in its sole discretion, may approve additional time beyond the ten (10) business days for replacement of personnel. The Contractor shall include status reports of its efforts and progress in finding replacements and the effect of the absence of the personnel on the progress of the project. The Contractor shall also make interim arrangements to assure that the project progress is not affected by the loss of personnel. The Procuring Agency reserves the right to require a change in Contractor's personnel if the assigned personnel are not, in the sole opinion of the Procuring Agency, meeting the Procuring Agency's expectations.

ARTICLE 13 – STATUS OF CONTRACTOR

[CHOICE #1- Delete the language of this Article (not the heading) and replace with "Not Applicable" if only purchasing IT hardware/equipment]

A. Independent Contractor. The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of the State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are personally reportable by it for income tax purposes as self-employment or business income and are reportable for self-employment tax.

B. Subject of Proceedings. Contractor warrants that neither the Contractor nor any officer, stockholder, director or employee of the Contractor, is presently subject to any litigation or administrative proceeding before any court or administrative body which would have an adverse effect on the Contractor's ability to perform under this Agreement; nor, to the best knowledge of the Contractor, is any such litigation or proceeding presently threatened against it or any of its officers, stockholders, directors or employees. If any such proceeding is initiated or threatened during the term of this Agreement, the Contractor shall immediately disclose such fact to the Procuring Agency.

ARTICLE 14 - CHANGE MANAGEMENT

A. Changes. Contractor may only make changes or revisions within the Scope of Work as defined by Article 2 and Exhibit A after receipt of written approval by the Executive Level Representative. Such change may only be made to Tasks or Sub-Task as defined in the Exhibit A. Under no circumstance shall such change affect the:

- 1) Deliverable requirements;
- 2) Compensation due under the terms of this Agreement; or
- 3) Due Date of any Deliverable, as outlined in Exhibit A.

B. Change Request Process. In the event that circumstances warrant a change to accomplish the Scope of Work as described above, a Change Request shall be submitted that meets the following criteria: 1) The Project Manager shall draft a written Change Request for Executive Level Representative review and approval to include: the name of the person requesting the change, a summary of the required change, the start date for the change, the reason and necessity for change, the urgency level for the change, the elements to be altered, the impact of the change, the staffing plan associated with the change, the impact on the schedule for implementing the change, the cost impact, the risk assessment and a recommended approach to the change, and 2) The Executive Level Representative shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) working days of receipt of the Change Request. All decisions made by the Executive Level Representative are final. Change requests, once approved, become a part of the contract and become binding as a part of the original contract.

ARTICLE 15 – INDEPENDENT VERIFICATION AND VALIDATION

If Independent Validation and Verification (“IV&V”) services are used or required to be used for the Project associated with this Agreement, the Contractor hereby agrees to cooperate with the IV&V vendor. Such cooperation shall include, but is not limited to: 1) Providing project documentation; 2) Allowing the IV&V vendor to sit in on project meetings; and 3) Supplying the IV&V vendor with any other material as directed by the Project Manager.

ARTICLE 16 – DEFAULT/BREACH

In case of default and/or breach by the Contractor, for any reason whatsoever, the Procuring Agency and the State of New Mexico may procure the goods or services from another source and hold the Contractor responsible for any resulting excess costs and/or damages, including but not limited to, direct damages, indirect damages, consequential damages, special damages and the Agency and the State of New Mexico may also seek all other remedies under the terms of this Agreement and under law or equity.

ARTICLE 17 – EQUITABLE REMEDIES

Contractor acknowledges that its failure to comply with any provision of this Agreement will cause the Procuring Agency irrevocable harm and that a remedy at law for such a failure would be an inadequate remedy for the Procuring Agency, and the Contractor consents to the Procuring Agency’s obtaining from a court of competent jurisdiction, specific performance, or injunction, or any other equitable relief in order to enforce such compliance. Procuring Agency’s rights to obtain equitable relief pursuant to this Agreement shall be in addition to, and not in lieu of, any other remedy that Procuring Agency may have under applicable law, including, but not limited to, monetary damages.

ARTICLE 18 - LIABILITY

Contractor shall be liable for damages arising out of injury to persons and/or damage to real or tangible personal property before or after Acceptance, delivery, installation and use of the equipment, either at the Contractor’s site or the Procuring Agency’s place of business, provided that the injury or damage was caused by the fault or negligence of the Contractor or defect of the equipment or installation. Contractor shall not be liable for damages arising out of, or caused by, alterations to the equipment (other than alterations performed or caused by Contractor’s officers, employees or agents) made by the Procuring Agency or for losses occasioned by the Procuring Agency’s fault or negligence. Nothing in this Agreement shall limit the Contractor’s liability, if any, to third parties and employees of the Procuring Agency or the State of New Mexico, or any remedy that may exist

under law or equity in the event a defect in the manufacture of the equipment, or the negligent acts or omissions of the Contractor, its officers, employees, or agents, is the cause of injury to such person.

ARTICLE 19 – ASSIGNMENT

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of this Agreement's approval authorities.

ARTICLE 20 – SUBCONTRACTING

The Contractor shall not subcontract any portion of this Agreement without the prior written approval of the Procuring Agency. No such subcontracting shall relieve the Contractor from its obligations and liabilities under this Agreement, nor shall any subcontracting obligate payment from the Procuring Agency.

ARTICLE 21 – RELEASE

The Contractor's acceptance of final payment of the amount due under this Agreement shall operate as a release of the Procuring Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the State of New Mexico unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

ARTICLE 22 – CONFIDENTIALITY

Any confidential information provided to the contractor by the agency or, developed by the Contractor based on information provided by the agency in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Procuring Agency. Upon termination of this Agreement, Contractor shall deliver all confidential material in its possession to the Procuring Agency within thirty (30) business days of such termination. Contractor acknowledges that failure to deliver such confidential information to the Procuring Agency will result in direct, special and incidental damages.

ARTICLE 23 – CONFLICT OF INTEREST

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Contractor certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer, state employee or former state employee have been followed.

ARTICLE 24 - RECORDS AND AUDIT

The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature and cost of services rendered during this Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Procuring Agency, CIO, SPA, and DFA. The Procuring Agency shall have the right to audit billings both before and after payment. Payment for services under this Agreement shall not foreclose the right of the Procuring Agency to recover excessive or illegal payments.

ARTICLE 25 - AMENDMENT

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the Parties hereto. No amendment shall be effective or binding unless approved by all of the approval authorities.

ARTICLE 26 – NEW MEXICO EMPLOYEES HEALTH COVERAGE

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

B. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: <http://insurenwexico.state.nm.us/>.

D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); Contractor agrees these requirements shall apply the first day of the second month after the offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000, \$500,000 or \$1,000,000, depending on the dollar value threshold in effect at that time.

ARTICLE 27 --- EMPLOYEE PAY EQUITY REPORTING

A. Contractor agrees if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this contract, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. If contractor has (250) or more employees contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first. Should contractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor agrees to provide the required report within ninety (90) days of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter.

B. Contractor also agrees to levy this requirement on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor will submit the required report, for each such subcontractor, within ninety (90) days of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement applies even though contractor itself may not meet the size requirement for reporting and be required to report itself.

C. Notwithstanding the foregoing, if this Contract was procured pursuant to a solicitation, and if Contractor has already submitted the required report accompanying their response to such solicitation, the report does not need to be re-submitted with this Agreement.

ARTICLE 28 - MERGER, SCOPE, ORDER OF PRECEDENCE

A. Severable. The provisions of this Agreement are severable, and if for any reason, a clause, sentence or paragraph of this Agreement is determined to be invalid by a court or agency or commission having jurisdiction over the subject matter hereof, such invalidity shall not affect other provisions of this Agreement, which can be given effect without the invalid provision.

B. Merger/Scope/Order. This Agreement incorporates any and all agreements, covenants and understandings between the Parties concerning the subject matter hereof, and all such agreements, covenants and understanding have been merged into this Agreement. No prior agreement or understanding, verbal or otherwise, of the Parties or their agents or assignees shall be valid or enforceable unless embodied in this Agreement.

ARTICLE 29 – NOTICES

All deliveries, notices, requests, demands or other communications provided for or required by this Agreement shall be in writing and shall be deemed to have been given when sent by registered or certified mail (return receipt requested), when sent by overnight carrier, or upon telephone confirmation by Contractor to the sender of receipt of a facsimile communication that is followed by a mailed hard copy from the sender. Notices shall be addressed as follows:

For PROCURING AGENCY

[Insert Name of Individual, Position and Agency Name, Telephone Number]

[Insert Agency mailing address]

For CONTRACTOR

[Insert Name of Individual, Position]

[Insert Address]

Any change to the Notice individual or the address, shall be effective only in writing.

ARTICLE 30– GENERAL PROVISIONS

A. Civil and Criminal Penalties. The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

B. Equal Opportunity Compliance. The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

C. Workers Compensation. The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Procuring Agency.

D. Applicable Law. The laws of the State of New Mexico shall govern this Agreement. Venue shall be proper only in a New Mexico court of competent jurisdiction in the county where the Procuring Agency's main office is located. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all such lawsuits.

E. Waiver. A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless expressed and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

F. Headings. Any and all headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement. Numbered or lettered provisions, sections and subsections contained herein, refer only to provisions, sections and subsections of this Agreement unless otherwise expressly stated.

ARTICLE 31 - SURVIVAL

The Articles entitled Intellectual Property, Intellectual Property Ownership, Confidentiality, and Warranties shall survive the expiration or termination of this Agreement. Software License and Software Escrow agreements and other unexpired agreements entered into in conjunction with this Agreement shall survive the expiration or termination of this Agreement.

ARTICLE 32 – TIME

Calculation of Time. Any time period herein calculated by reference to "days" means calendar days; provided, however, that if the last day for a given act falls on a Saturday, Sunday, or a holiday as observed by the State of New Mexico, the day for such act shall be the first day following that is not a Saturday, Sunday, or such observed holiday.

ARTICLE 33 – FORCE MAJEURE

Neither party shall be liable in damages or have any right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party who performance is affected.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

By: _____ Date: _____
[Insert Agency Cabinet Secretary Name]
Secretary of [Insert Agency Name]

By: _____ Date: _____
[Insert Contractor Name]
[Insert Title and Company Name]

By: _____ Date: _____
[Insert Agency CIO Name]
Chief Information Officer for [Insert Agency Name]

Approved for legal sufficiency:

By: _____ Date: _____
[Insert Agency General Counsel Name]
[Insert Agency Name] General Counsel

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department of the State of New Mexico to pay gross receipts and compensating taxes:

CRS ID Number: _____

By: _____ Date: _____
Taxation & Revenue Department

Approved as to information technology contractual specifications and compliance with the Department of Information Technology Act, Laws 2007, Chapter 290 and any and all Executive Orders relating to Information Technology issued by the Governor of the State of New Mexico:

By: _____ Date: _____
Darryl Ackley, Secretary and State CIO
Department of Information Technology

This Agreement has been approved by the SPA:

By: _____ Date: _____
Purchasing Agent for the State of New Mexico

OR

This Agreement has been approved by the DFA Contracts Review Bureau:

By: _____ Date: _____
DFA Contracts Review Bureau

EXHIBIT A – SCOPE OF WORK

I. Performance Measures [Performance Measures are not required for a purchase of ONLY IT hardware and/or Equipment - in such cases, delete the language (except the heading) and replace with "N/A"]

A. Goals. [Insert Performance Measures, i.e., expected achievements of the project, such as to save money, reduce costs, increase efficiency.] [Attach a copy of a page or portion of the relevant page from the Agency’s Strategic Plan that connects the professional services contract to the goals, objectives, activities, outputs and outcomes of the Agency’s Strategic Plan.] [Performance Measures in the Scope of Work shall contain measurable goals and objectives that are linked to the performance measures of the Agency’s Strategic Plan: Example: Goal: Assist the Agency in reducing... or Assist the Agency in increasing... or Assist the Agency in ... some other service [insert blank]

B. Objectives. [Example: To assist the agency in [reducing or increasing or providing Service [insert blank] by [blank] percent or by a certain time]

C. Activities. [Insert the services the Contractor is expected to perform to accomplish the identified goals and objectives, including an evaluation of the process and the proposed outcome. The Agency should also provide efficiency measures that relate efforts to output of services provided].

II. Scope of Work

The following sections describe the required tasks and subtasks to be performed by the Contractor for each Deliverable under the terms of this Agreement. The Contractor must perform each task and/or subtask, but is not limited to performing only the identified task or sub tasks in a given project area. The Parties hereby agree that the Deliverables are the controlling items and that the Contractor’s obligation is to perform and deliver the Deliverable as described in the following Sections. [Although only two Deliverables are listed below, they are in place for example purposes only. Agencies may identify as many Deliverables, with attendant Tasks and Subtasks, as needed to accomplish the project goals and objectives.]

A. Deliverable Number 1 [Insert Name of Deliverable]

<u>Deliverable One</u>		<u>Due Date</u>	<u>Compensation</u>
[Insert Name of Deliverable]		[Insert Date this deliverable is due]	[Insert \$ Amount to complete this deliverable, plus GRT,if applicable]
Task Item	Sub Tasks	Description	

<p>[Insert Name of Task or tasks to be performed for each deliverable.</p>	<p>Sub 1 (through however many subtasks are needed to accomplish Task 1 which leads to the number of Tasks needed to accomplish Deliverable 1.</p>	<p>[Insert Description] Please use active verbs to identify tasks and subtasks to be performed by the vendor; due dates for the tasks and/or subtasks should be included as a means of assisting the Agency and Contractor to monitor contract progress. Compensation amounts for tasks and/or subtasks can be identified here. The total amount paid for all tasks and/or subtasks performed under this deliverable should be consistent with the Compensation due for total delivery of the Deliverable. The contractor will bill the agency per deliverable, so language that is clear will assist the agency and contractor in determining if the deliverable was met for payment purposes.</p>
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B. Deliverable Number 2 [Insert Name of Deliverable]

<u>Deliverable Two</u>	<u>Due Date</u>	<u>Compensation</u>
<p>[Insert Name of Deliverable]</p>	<p>[Insert Date deliverable is due]</p>	<p>[Insert \$ Amount for this deliverable, including GRT, if appropriate]</p>

Task Item	Sub Tasks	Description
<p>[Insert Name of Task or tasks to be performed for each deliverable]</p>	<p>Sub 1 through however many subtasks are needed to accomplish Task 1 through the number of Tasks needed to accomplish Deliverable 1.</p>	<p>[Insert Description] Please use active verbs to identify tasks and subtasks to be performed by the vendor; due dates for the tasks and/or subtasks should be included as a means of assisting the Agency and Contractor to monitor contract progress. Compensation amounts for tasks and/or subtasks can be identified here. The total amount paid for all tasks and/or subtasks performed under this deliverable should be consistent with the Compensation due for total delivery of the Deliverable.</p>

APPENDIXD

COST RESPONSE FORM

Offeror:

Standards Based Assessment and High School Graduation Assessment

	FY13 Costs	FY14 Costs	FY15 Costs	FY16 Costs	FY17 Costs	LINE TOTAL
PED COSTS						
SBA and HSGA Development						
In Reading, Math, and Science (Total Costs for Paper and Pencil Alone)						
In Writing (Total Costs for Paper and Pencil Alone)						
In Reading, Math, and Science (Total Costs for Computer-Based Alone)						
In Writing (Total Costs for Computer-Based Alone)						
In Reading, Math, and Science (Total Costs for Paper and Pencil and Computer-Based Available)						
In Writing (Total Costs for Paper and Pencil and Computer-Based Available)						
Item Writing and Test Design (Breakout Analysis)						
Item Quality, Bias, and Data Reviews (Breakout Analysis)						
Standard Setting (Breakout Analysis)						
Student Response Analysis (Breakout Analysis)						
SBA Studies and Technical Report (Breakout Analysis)						
Professional Development Events for School Districts (Breakout Analysis)						
In Reading, Math, Science, and Writing (Total Costs for Paper and Pencil and Computer-Based Available)						

Standards Based Assessment and High School Graduation Assessment

	FY13 Costs	FY14 Costs	FY15 Costs	FY16 Costs	FY17 Costs	LINE TOTAL
DISTRICT COSTS						
SBA and HSGA Production, Distribution, Scoring, & Reporting						
Estimated Extended Costs for Production & Distribution in Reading, Math, and Science (Total Costs for Paper and Pencil Alone)						
Estimated Extended Costs for Production & Distribution in Reading, Math, and Science (Total Costs for Computer-Based Alone)						
Estimated Extended Costs for Production & Distribution in Reading, Math, and Science (Total Costs for Paper and Pencil and Computer-Based Available)						
Estimated Extended Costs for Production & Distribution in Writing (Total Costs for Paper and Pencil Alone)						
Estimated Extended Costs for Production & Distribution in Writing (Total Costs for Computer-Based Alone)						
Estimated Extended Costs for Production & Distribution in Writing (Paper and Pencil and Computer-Based Available)						
Estimated Extended Costs for Scoring and Reporting in Reading, Math, and Science (Total Costs for Paper and Pencil Alone)						
Estimated Extended Costs for Scoring and Reporting in Reporting in Reading, Math, and Science (Total Costs for Computer-Based Alone)						
Estimated Extended Costs for Scoring and Reporting in Reading, Math, and Science (Total Costs for Paper and Pencil and Computer-Based Available)						
Estimated Extended Costs for Scoring and Reporting in Writing (Total Costs for Paper and Pencil Alone)						
Estimated Extended Costs for Scoring and Reporting in Writing (Total Costs for Computer-Based Alone)						

Estimated Extended Costs for Scoring and Reporting in Writing (Paper and Pencil and Computer-Based Available)						
Student N-Count						
DISTRICT COST PER STUDENT (Production, Distribution, Scoring, & Reporting- Paper and Pencil and Computer-Based Available)						
Estimated Extended Costs for Production, Distribution, Scoring & Reporting in Reading, Math, Writing, & Science (Total Costs for Paper and Pencil and Computer-Based Available)						
PED & DISTRICT COSTS COMBINED						
SBA & HSGA Development, Production, Distribution, Scoring, & Reporting						
Total Costs for Development, Production, Distribution, Scoring & Reporting in Reading, Math, Writing, & Science (Paper and Pencil and Computer-Based Available)						

New Mexico High School Competency Exam

	FY13 Costs	FY14 Costs	FY15 Costs	FY16 Costs	FY17 Costs	LINE TOTAL
PED COSTS						
Test Development						
DISTRICT COSTS						
Student N-Count						
Estimated Extended Costs for NMHSCE Production, Distribution, Scoring, & Reporting						
SBA PROJECT PED & DISTRICT COSTS COMBINED (SBA/HSGA & NMHSCE)						
Estimated Total Costs for SBA/HSGA Paper and Pencil and Computer-Based Available & NMHSCE Paper and Pencil (Combine Above Subtotals)						

APPENDIXE

NEW MEXICO EMPLOYEES HEALTH COVERAGE FORM

New Mexico Employees Health Coverage Form

1. For all contracts solicited and awarded on or after January 1, 2008: If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to:
 - (a) Have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2008 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed one million dollars or;
 - (b) Have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2009 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$500,000 dollars or
 - (c) Have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.
2. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) decline health insurance due to other health insurance coverage already in place; or (c) decline health insurance for other reasons. These records are subject to review and audit by a representative of the state.
3. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information <http://insurenwmxico.state.nm.us/>.
4. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000, \$500,000 or \$1,000,000.

Signature of Offeror: _____ Date_____

APPENDIX F

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to Chapter 81, Laws of 2006, any prospective contractor seeking to enter into a contract with any state agency or local public body must file this form with that state agency or local public body. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

“Applicable public official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

“Campaign Contribution” means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official’s behalf for the purpose of electing the official to either statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

“Contract” means any agreement for the procurement of items of tangible personal property, services, professional services, or construction.

“Family member” means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

“Pendency of the procurement process” means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

“Person” means any corporation, partnership, individual, joint venture, association or any other private legal entity.

“Prospective contractor” means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

“Representative of a prospective contractor” means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By:

Relation to Prospective Contractor:

Name of Applicable Public Official:

Date Contribution(s) Made:

Amount(s) of Contribution(s)

Nature of Contribution(s)

Purpose of Contribution(s)

(The above fields are unlimited in size)

Signature

Date

Title (position)

—OR—

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE to an applicable public official by me, a family member or representative.

Signature

Date

Title (position)

APPENDIX G

NM DoIT SECURITY QUESTIONNAIRE

NM DoIT SECURITY QUESTIONNAIRE

Prepared by: DoIT Office of Security
Version 1.1



HOSTING IN U.S.

The Offeror must state an assurance that they will adhere to the policy that data must be hosted in the United States.

SECURITY

The Offeror must respond to the following questions regarding security:

1.) What are your security requirements?

2.) Physical Security:

- Do you have physical security for the hardware of this project?
- Do you have access control and video surveillance included in your security solution?
- Who is responsible for physical security? If yes please explain in detail your physical security.

3.) Cyber Security:

- Has your network undergone an independent security assessment? If yes did it include application security?
- Who will have access to this application?
- Will users need to logon with a username and password for security purposes? Explain authorization solution.
- Will your data be accessed from the Internet? If so what is your encryption solution?

Is any of the following sensitive personal information collected or stored in the database or presented to users?
(Please check all that apply)

	Collected from user	Stored in database	Presented to users
First and last name			
Date of birth			
Address			

Social Security Number			
Driver License Number			
Credit/debit card number			
Checking/savings account number			
Account number			
Password			

4.) Do you maintain and administer intrusion detection?

5.) Do you maintain and administer a firewall? If not who does?

6.) Do you monitor and review security equipment logs?

7.) Please elaborate in detail your approach to cyber security.