

STATE OF OHIO  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
GENERAL SERVICES DIVISION  
OFFICE OF PROCUREMENT SERVICES  
4200 SURFACE ROAD, COLUMBUS, OH 43228-1395

**REQUIREMENTS CONTRACT: THE DEVELOPMENT, SCORING, AND REPORTING OF AN ALGEBRA II END-OF-COURSE EXAM**

CONTRACT No.: CSP902107

EFFECTIVE DATES: 03/23/07 to 06/30/11  
Renewal through August 31, 2011

The Department of Administrative Services has accepted Proposals submitted in response to Request for Proposal (RFP) No. CSP902107 that opened on November 22, 2006. The evaluation of the Proposal responses has been completed. The Offeror listed herein has been determined to be the highest ranking Offeror and has been awarded a Contract for the services listed. The respective Proposal response including, Contract Terms & Conditions, any Proposal amendment, special Contract Terms & Conditions, specifications, pricing schedules and any attachments incorporated by reference and accepted by DAS become a part of this Services Contract.

This Contract is effective beginning and ending on the dates noted above unless, prior to the expiration date, the Contract is renewed, terminated, or cancelled in accordance with the Contract Terms and Conditions.

This Contract is available to the Ohio Department of Education as a multi-state cooperative Contract with 15 consortium states (Participating States) which currently include: Arkansas, Arizona, Florida, Hawaii, Indiana, Kentucky, Maryland, Massachusetts, Minnesota, New Jersey, North Carolina, Ohio, Pennsylvania, Rhode Island and Washington. Additional Participating States may be added to this multi-state cooperative Contract by means of an Amendment to this Contract.

Consortium states are eligible to make purchases of the contracted services in any amount and at any time as determined by the individual State(s). The State(s) makes no representation or guarantee that departments will purchase the volume of services as advertised in the Request for Proposal.

Questions regarding this and/or the Contract may be directed to:

Dana L. King, CPPB  
dana.king@das.state.oh.us

This Contract and any Amendments thereto are available from the DAS Web site at the following address:

[www.ohio.gov/procure](http://www.ohio.gov/procure)

\* Indicates a change in the Contract expiration date effective May 16, 2011.

**Mutually agreed upon Clarifications and Modifications – The Development, Scoring, and Reporting of an Algebra II End-Of-Course Exam.** This section gives only a summary of the Project Requirements. All Participating States will issue a purchase order to purchase the Exam and related services covered by this Contract.

1. The general Terms and Conditions for the Contract are contained in Attachment Three of the RFP for Project. The Contract consists of:
  - a. The original RFP and any addendums.
  - b. The documents and materials incorporated by reference in the RFP.
  - c. The Contactor's Proposals, as amended, clarified, and accepted by the State.
  - d. The documents and materials incorporated by reference in the Offeror's Proposal and subsequent accepted clarifications.
  - e. Any related amendments issued subsequent to Contract award.
2. The Participating States and the Contractor shall notify the DAS, Office of Procurement Services within ten (10) business days in the event of a change in personnel, financial, or contact information.
3. The American Diploma Project (ADP) Algebra II End-of-Course Exam represents a unique venture in large-scale performance assessment. The Participating States and the Contractor seek, through this approach, to address multiple challenges simultaneously:
  - a. A common, rigorous test administered to a large number of students who are situated in multiple jurisdictions that have unique operational requirements.
  - b. The need for rapid scoring turn-around when tests are used for grade or graduation determination.
  - c. Result reporting suitable for higher education purposes (i.e., placement in credit-bearing courses, as well as secondary school program improvement and comparison).
4. Ohio Ethics Laws and Political Contributions. The Contractor is currently in compliance and will continue to adhere to the requirements of the Ohio ethics laws, Ohio Revised Code Section §102.04. Further, the Contractor affirms that, as applicable to the Contractor, all personal and business associates are in compliance with Chapter 3517 of the Revised Code regarding limitations on political contributions and shall remain in compliance for the duration of the Contract and with all applicable provisions that extend beyond the expiration of the Contract. Additional Terms and Conditions, according to each of the Participating States, are set forth in the RFP.
- \* 5. The Contractor shall take all reasonable actions necessary to work with the Participating States to recruit participants for the Fall 2007 and February 2008 Field Tests. ~~As an incentive to participate in the field test, teachers will receive an electronic report summarizing the performance of their students on the field test. They will also receive a one-year subscription to the Family Education Network.~~ The Contractor (Pearson) shall also work with the CDT and Participating States to develop a contingency plan for moving forward if the field testing volumes are not obtainable. These plans may include decreasing the number of field test forms administered or delaying the implementation of the Exam. A decision will be made by July 1, 2007 regarding the need to proceed with a contingency plan for the October 2007 field test, and by November 1, 2007 for the February 2008 field test. Incentives for participation in the Algebra II field test for October 2007 and February 2008 field test shall be a Professional Development Scoring CD or a one-year on-line subscription to PAserious Algebra I. There are no incentives for Algebra I field test participation, as outlined in Supplement One.
- \*\* 6. Field Test Plan. The following tests will be administered (for Algebra II only) during the field test window of October 1-5, 2007:
  - a. Core, paper (multiple-choice and open-ended)
  - b. Modules, paper (multiple-choice and open-ended)
  - c. Core, on-line (multiple-choice and open ended)
  - d. Modules, on-line (multiple-choice and open ended)

\* Indicates a mutual agreement by all parties to change incentives effective April 25, 2008.

\*\* Indicates clarification of field testing dates specific to Algebra II effective April 25, 2008.

- \* 7. The Core and Module on-line, open-ended items will be field tested (for Algebra II only) in February of 2008. This plan provides the following:
- a. Paper-based operational tests shall be available on-time for the May 2008 administration.
  - b. On-line testing shall be available for the Spring 2009 administration.
  - c. Adequate time is provided for the development of the needed on-line open-ended items that will enhance the Exam.
  - d. Adding a field test in February will allow greater participation by the schools than a May field test would allow, given States existing assessment commitments at the end of the school year.
  - \*\* e. The Participating States have no intent to use the Modules (Data and Statistics, Iterative Processes, Probability, Trigonometry, Matrices, Conics, and Logarithms) for the spring 2008 administration.
  - \*\* f. Paper and Pencil Modules. The Contractor shall take module items from the fall field test through the data review process, but may cease work on the development of future module items. It remains the Contractor's intent to provide both paper and on-line modules when the Participating States require their usage. In the event one (1) or more Participating States wish to use Modules during an administration period after spring 2008, then those states shall provide the Contractor with notice by July 1 prior to the start of the school year in which the modules will be used (i.e., July 1, 2008 for the December 2008/January 2009 or May 2009 administration). If the states request less than 10,000 module test booklets of one (1) type for a given administration, then the Contractor and the Participating States will need to renegotiate the price of the modules.
  - \*\* g. For the February 2008 field field-test administration, no module items will be included, except for in the comparability study forms. For the December 2008/January 2009 administration, no modules will be available on-line to states, districts, or schools. The Contractor shall build a long-term plan with the CDT for deciding when and how modules should be available on-line for operational testing, should the CDT decide to use the modules. This plan shall include a process for conducting field testing of on-line module items. A stand-alone field test of on-line module items is not included in the scope of the Contract. The Contractor and the Participating States shall renegotiate the price of the modules if less than 5,000 module tests of one (1) type for a given administration are required for on-line testing.

\* Indicates clarification of field testing dates specific to Algebra II only effective April 25, 2008.

\*\* Indicates changes to module requirements effective April 25, 2008.

- \* 8. Meetings. The following table (Table A) below reflects the Algebra II meeting schedule. The Contractor shall cover travel, labor, honorarium, and/or substitute teacher pay expenses, except as provided in paragraph 31. The chart reflects updates that have been made to the Meeting charts. Educators may include teachers, content specialists, or higher education representatives as determined by the CDT. The Storyboard Review and On-line User Acceptance meetings will be conducted in conjunction with other meetings and are not listed separately. The Item Review and Item Reconciliation Meetings have been combined. The duration of Item Review and Item Reconciliation meetings will be double for any meetings including module items. No additional costs shall be incurred by the states. Meeting locations may be changed if requested by the CDT within 30 days after the execution of this document and upon agreement of all parties, or no later than three (3) months prior to the meeting if a suitable meeting facility in the designated location is not available for the meeting.

All CDT Planning Meeting agendas shall be presented to the CDT members and Achieve by the Contractor at least fourteen (14) days before the meeting, and that the CDT members and Achieve shall recommend changes or additions at least seven (7) days before the meeting. Upon receipt of all recommended edits, the agenda shall be finalized by the Contractor and shall not be changed unless by the agreement of all parties.

**TABLE A**

Meeting Description	Timeframe	# of Days	Maximum # of Participants	Location
<b>* Item Review &amp; Reconciliation</b>				
	April 28-May 1, 2007	4	31 Educators 5 CDT 3 Achieve 5 Pearson 2 Questar	Philadelphia, PA
	May 2-5, 2007	4	31 Educators 6 CDT 3 Achieve 5 Pearson 2 Questar	Philadelphia, PA
	August 7-10, 2007	4	41 Educators 8 CDT 1 Achieve 4 Pearson 1 Questar	Philadelphia, PA
	August 14-17, 2007	4	47 Educators 10 CDT 3 Achieve 5 Pearson 1 Questar	Philadelphia, PA
	April 22-24, 2008	3	22 Educators 1 CDT/Participating State 3 Achieve 4 Pearson 1 Questar	Chicago, IL
	April 2009	3	22 Educators 1 CDT/Participating State 3 Achieve 4 Pearson 1 Questar	Philadelphia, PA
	April 2010	3	22 Educators 1 CDT/Participating State 3 Achieve 4 Pearson 1 Questar	Philadelphia, PA

\* Indicates the identification of Table A; meeting dates/topics shall be revised; specifies meeting agenda preparation protocol; and includes changes required by the addition of Algebra I components effective April 25, 2008.

<b>* Data Review</b>				
	January 9-11, 2008	3	16 Educators 7 CDT 3 Achieve 6 Pearson	Washington, D.C.
	May 21, 2008	1	22 Educators 1 CDT/Participating State 3 Achieve 4 Pearson	Chicago, IL
	September 17-19, 2008	3	22 Educators 1 CDT/Participating State 3 Achieve 4 Pearson	Chicago, IL
	September 2009	3	22 Educators 1 CDT/Participating State 3 Achieve 4 Pearson	Chicago, IL
	September 2010	3	22 Educators 1 CDT/Participating State 3 Achieve 4 Pearson	Chicago, IL
<b>* Planning Meetings</b>				
	5/24/07-5/25/07	1.5	11 CDT 3 Achieve 10 Pearson	Boston, MA
	9/12/08-9/13/07	1.5	16 CDT 1 Achieve 9 Pearson	Chicago, IL
	11/6/07-11/7/07	1.5	17 CDT 3 Achieve 10 Pearson	Washington, D.C.
	2/27/08-2/28/08	1.5	Up to 2 CDT/state 3 Achieve 10 Pearson	Phoenix, AZ
	July 2008	1.5	Up to 2 CDT/state 4 Achieve 10 Pearson	Chicago, IL
	October 2008	1.5	Up to 2 CDT/state 4 Achieve 10 Pearson	Chicago, IL
	January 2009	1.5	Up to 2 CDT/state 4 Achieve 10 Pearson	Dallas, TX
	October 2009	1.5	Up to 2 CDT/state 4 Achieve 10 Pearson	Chicago, IL
	January 2010	1.5	Up to 2 CDT/state 4 Achieve 10 Pearson	Dallas, TX
	October 2010	1.5	Up to 2 CDT/state 4 Achieve 10 Pearson	Chicago, IL
	January 2011	1.5	Up to 2 CDT/state 4 Achieve 10 Pearson	Dallas, TX

\* Indicates meeting dates/topics revisions and includes changes required by the addition of Algebra I components effective April 25, 2008.

<b>* Research Alliance</b>				
	11/5-07-11/6/07	1.5	8 Members 5 CDT 5 Achieve 8 Pearson	Washington, D.C.
	3/12/08	1	13 Members 1 CDT/state 4 Achieve 6 Pearson	Washington, D.C.
	Q4 2008	1	13 Members 1 CDT/state 4 Achieve 6 Pearson	Washington, D.C.
	Q2 2009	1	13 Members 1 CDT/state 4 Achieve 6 Pearson	Washington, D.C.
	Q4 2009	1	13 Members 1 CDT/state 4 Achieve 6 Pearson	Washington, D.C.
	Q2 2010	1	13 Members 1 CDT/state 4 Achieve 6 Pearson	Washington, D.C.
	Q4 2010	1	13 Members 1 CDT/state 4 Achieve 6 Pearson	Washington, D.C.
	Q 2 2011	1	13 Members 1 CDT/state 4 Achieve 6 Pearson	Washington, D.C.
<b>* Anchor Committee Meeting</b>				
(Standard Setting has been deferred until after the spring 2009 administration)				
	August 2008	2.5	18 Educators 1 CDT/state 4 Achieve 6 Pearson	Chicago, IL
<b>* Standard Setting</b>				
	July/August 2009	3	22 Educators 1 CDT/state 4 Achieve 6 Pearson	Chicago, IL

\* Indicates meeting dates/topics revisions and includes changes required by the addition of Algebra I components effective April 25, 2008.

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* Rangefinding				
	10/29/087-11/2/07	4.5	27 Educators 6 CDT 1 Achieve 14 Pearson	Atlanta, GA
	3/3/08-3/6/08	4	1 Educator/Participating State 4 Higher Education 3 Achieve 10 Pearson	Dallas, TX
	June 2008	4	1 Educator/Participating State (up to 18 total) 1 CDT/state 4 Achieve 7 Pearson	Atlanta, GA or Dallas, TX
	June 2009	4	1 Educator/Participating State (up to 18 total) 1 CDT/state 4 Achieve 7 Pearson	Atlanta, GA or Dallas, TX
	June 2010	4	1 Educator/Participating State (up to 18 total) 1 CDT/state 4 Achieve 7 Pearson	Atlanta, GA or Dallas, TX

\*\* Note: The Participating States have agreed to defer standard setting and reporting scale scores with associated performance levels until after the spring 2009 administration. As a result, the standard setting meeting previously scheduled for July 2008 will be postponed until July 2009. However, an additional meeting and deliverables are required to provide the CDT with performance level anchoring following the spring 2008 administration. Performance level descriptions will be available Spring 2009. Reports for the spring 2008 and fall 2008 administrations will include percent correct scores. Scale scores will not be available for these administrations. Reports for the spring 2009 administration and subsequent administrations will include scale scores.

\*\* 9. Other Key Dates (for Algebra II only).

Milestone	Projected Date(s)
Fall 2007 Field Test	10/1/07-10/5/07
Winter 2008 Field Test	2/11/08-2/15/08
End-of-spring 2008 Operational Test (paper only)	5/1/08 – 6/13/08
End-of-fall 2008 Operational Test (paper only)	12/8 through 19, 2008 and 1/12 through 23, 2009
End-of-spring 2009 Operational Test (paper and on-line)	5/1/09-6/12/09
End-of-fall 2009 Operational Test (paper only)	12/1 through 15, 2009 and 1/11 through 1/22, 2010
End-of-spring 2010 Operational Test (paper and on-line)	5/5/10-6/2/10

10. Liquidated Damages. The Participating States have the option of collecting liquidated damages from the Contractor for default. The deliverables/activities subject to liquidated damages are defined herein and shall supersede liquidated damages language provided in the RFP, the Proposal, and/or provisions contained in Task/Purchase Orders for the Participating States.

\* Indicates meeting dates/topics revisions and includes changes required by the addition of Algebra I components effective April 25, 2008 and repagination of pages 7 – 54 to this Contract effective October 30, 2009.

\*\* Indicates a change to the Standard Setting and Reporting Project Requirements and clarifications for information/submission requirements effective October 2009 (previous clarifications published on April 25, 2008).

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11. Information to be provided. Delivery dates for materials, the test administration dates and forecast by the Participating State, or by the Participating District within a state, for how many students will test by administration for the upcoming school year is to be provided to the Contractor on July 1 of each contracted year. Any delay in providing this information may impact the schedule and delivery dates. The Contractor and the Participating State shall in good faith agree to reach mutually acceptable delivery dates. In order to produce score reports for each student, the Participating States or Districts must supply the Contractor with the following minimum demographic data for each student: first name, last name, gender, and date of birth. Failure to provide this information may result in Contractors inability to produce a score report for a student. Any liquidated damages would be subject to the revised delivery dates. Participating States shall ensure required information is provided in a timely manner. Each Participating State shall provide point of contact information to the Contractor, Achieve, Inc., and the Ohio DAS, Office of Procurement Services

12. Default. The Contractor shall make those deliveries, meet those milestones, and complete the Project within the mutually agreed upon times. If the Contractor does not meet those dates, the Contractor shall be in default, and the State may terminate this Contract under the termination provision contained within the Request for Proposal (RFP). The Participating State(s) may also have certain obligations to meet. If the Participating State(s) agrees that the Contractor's failure to meet the delivery, milestone, or completion dates is due in whole or in part to the Participating State's failure to meet its own obligations in a timely fashion, then the Contractor shall not be in default, and the delivery, milestone, and completion dates affected by the Participating State's failure to perform shall be extended as required by the Contractor to compensate for the Participating State's delay but no less than the same amount of time as the Participating State's delay. The Contractor may not rely on this provision unless the Contractor has in good faith exerted all professional management skill to avoid an extension and has given the Participating State(s) meaningful written notice of the Participating State's failure to meet its obligations within five (5) business days of the Contractor's realization that the Participating State's delay shall affect the Project. The notice to the Participating State(s) shall be directed at making the Participating State(s) aware of its delay and the impact of its delay. It shall be sent to the Agency Project Representative and the Ohio DAS Procurement Representative. In the event that a default event occurs for a given Participating State, assertion of Liquidated Damages shall be at that State's discretion.

13. Milestones. The following events are considered default events which would be subject to liquidated damages:

- a. Distribution of test administration materials to enable the test administration on the date provided by the Participating State(s).
- b. Provide test results with complete and accurate information to the districts and schools by the date agreed upon with the Participating State(s).
- c. The actual events relating to the development of the test are developed at Contractor's cost and in which they will own, therefore should be excluded from liquidated damages. These events are based on Contractor's development schedules and its ability to adjust the timelines as seen fit. The Contractor shall be responsible for developing the test according to the State's standards, conducting validity studies, and including CDT and educators.

\*\* d. Any milestone event for the state of Hawaii shall be extended by three (3) business days, and delivery of services by the Contractor within the extended period shall not constitute a default.

14. Liquidated Damages will be assessed to the extent that a Participating State(s) is impacted by any Deliverable that is not delivered on or before the date established in the schedule and corresponding delivery dates. The total liquidated damages paid to any impacted Participating State shall not exceed the amount the impacted Participating State would have paid Contractor under the Task Order for that Test Administration. Subject to the foregoing, Liquidated Damages shall not exceed \$2,000 per day per impacted Participating State. Cumulative Liquidated Damages shall not exceed \$50,000 per day for all of the impacted Participating States.

\* Indicates minimum demographic information to be provided by the Participating States to the Contractor and repagination of pages 7 – 54 to this Contract effective October 30, 2009.

\*\* Indicates the addition of paragraph 13.d. to include language specific to the state of Hawaii effective April 25, 2008.

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- \*\* 15. On-line testing capacity for multiple states during the designated testing window. On-line testing shall first be available in December 2008. On-line testing for Algebra I and Algebra II shall only be available for the end of spring test windows, and will not be available for the end of fall administration until such time as the on-line testing quantity for the spring window reaches a threshold of 25,000 testers. On-line testing for Algebra II will not extend beyond 1 form, 1 version until at least 25,000 testers have taken the on-line test during a single administration. On-line testing for Algebra I will become available once at least 10,000 on-line testers are projected for a spring administration. Only 1 form, 1 version of the Algebra I exam will be available until we reach at least 25,000 on-line tests for a single administration. The thresholds provided in this paragraph are required to allow for sufficient field testing of items for on-line administration and form development.

Scalability and system capacity have been primary considerations in developing the Assessment Network from its inception. Consideration of these critical issues was made during the design and selection of hardware/software infrastructure, during system architectural design, and while designing individual modules. The Contractor shall constantly evaluate system architecture and toolsets to plan for the forecasted requirements of our customers.

The Contractor demonstrates the capacity to support on-line testing for multiple states during the peak testing window. Because the Assessment Network is a modular and scalable system, there is no maximum capacity. Additional servers shall be added to function as Web servers, report servers, and application servers by dropping them in to respond to increased demand for on-line testing, whether within existing Participating States or supporting additional states. In addition, the hardware shall be scaled horizontally by adding new machines at each tier (Web, application, and database) as required. At any time the system shall be scaled-up to meet additional on-line testing demands. By conducting regular performance tests that simulate true system usage patterns, the Contractor understands the scalability of the overall host application and shall proactively plan infrastructure accordingly.

16. The Contractor shall have overall responsibility for managing and planning execution of the tasks, including involvement of the American Diploma Project (ADP) Participating States and the Coordination and Direction Team (CDT). The CDT will be coordinated by the CDT Coordinator, an Achieve, Inc. staff member, who will also be the Contractor's primary point of contact.

- \*\*\* 17. The Contractor shall develop items and test forms consistent with the specifications and processes provided. Specifications (ADP Algebra II Content Standards) were modified by the Participating States and/or Achieve, Inc. throughout the period of time provided for in the Contract for item development and review. Final content standards were provided by the Participating States in October. A realignment study was conducted to verify that items developed aligned with the revised specifications and standards. Any additional changes to specifications or standards shall not be incorporated into the items or forms by the Contractor, without a contract modification to address potential schedule and cost impacts.

- \*\*\* 18. The Contractor shall produce test materials, including test and answer booklets, as well as special version formats (i.e., large-print, Braille, audio, and Spanish versions). The Participating States and Contractor agree that effective with the spring 2009 administration the answer document, header, pre-id layout, and organizational file for the respective Algebra I and II End of Course Exams shall be used for each Spring administration for the remainder of the Contract term. The Algebra II test form creation plan for the remainder of the Contract term shall be as follows:

<b>Administration</b>	<b>Main Paper</b>	<b>Breach Paper</b>	<b>Paper Volume</b>	<b>Online</b>	<b>Online Volume</b>
<b>Spring 2008</b>	<b>A</b>	<b>B</b>	<b>Actual 93k</b>		
<b>Fall 2008</b>	<b>C</b>	<b>D</b>	<b>Actual 4k</b>		
<b>Spring 2009</b>	<b>E</b>	<b>F</b>	<b>Est. 104-117k</b>	<b>E1</b>	<b>Est. 8k</b>
<b>Fall 2009</b>	<b>C*</b>	<b>F</b>			
<b>Spring 2010</b>	<b>E</b>	<b>F</b>		<b>E1</b>	
<b>Fall 2010</b>	<b>C*</b>	<b>F</b>			
<b>Spring 2011</b>	<b>G</b>	<b>F</b>		<b>G1</b>	

Form C\* - After the Fall 2008 administration form C will be modified for future administrations to reflect decrease in open-ended items.

- \* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009.  
 \*\* Indicates clarifications for on-line testing specifications effective October 2009 (previous clarifications made effective April 25, 2008).  
 \*\*\* Indicates a modification to production requirements effective October 2009 (previous clarifications on the development of special test versions effective April 25, 2008).

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Development of special versions shall be produced only if required in volume forecasting information that is provided to the Contractor by July 1 of each year. One (1) operational form per year of the special version formats is required, if format requirement is identified.

The Participating States have indicated that they will not need Spanish version formats of testing materials for the spring 2008 administration, and have agreed that the Contractor is not required to produce such versions for the spring 2008 administration. In the event a Participating State(s) requires production of a Spanish version in subsequent administrations, the Participating State(s) must provide notice to The Contractor by July 1 prior to the school year in which the forms will be used (i.e., July 1, 2008 for the December 2008/January 2009 or May 2009 administration). If the state requests less than 5,000 Spanish test booklets for a given administration, the Contractor and the Participating States will need to renegotiate the price of the Spanish version.

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19. The Contractor shall coordinate administration of the Algebra II End-of-Course Exam with each ordering Participating State (or district if applicable), within the timeframes provided in the Contract. The Participating State (or district if applicable) shall assist with Contractor's efforts to recover any materials which are not returned to Contractor after administration of the Exam.

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20. The Contractor shall score and report exam results. The Contractor shall manage and facilitate the range finding meetings. ~~Nine (9) teachers and one (1) representative from Achieve, Inc. shall participate in each range finding committee meeting.~~ Participant counts are detailed in Table A of this Contract. The Contractor shall provide honorarium or substitute pay and travel costs for the teachers.

21. The Contractor shall provide technical support services, including developing performance levels and cut scores, and conduct validity studies, including studies that determine the predictive validity of the test for placing students into credit-bearing vs. remedial courses; developing policies, practices, and procedures for ensuring confidentiality, integrity, and security of education records, consistent with the Family Educational Rights and Privacy Act (FERPA) (20 USC § 1232(g) 34 CFR Part 99); the Individuals with Disabilities Act (IDEA) (20 USC § 1400 et seq.), State laws and regulations governing education records, access to state records, privacy and data breaches, and applicable policies of the school, district, or state education agency.

22. The Contractor shall encrypt all education records shared across any public network (i.e., the internet) using as a standard an internationally-recognized standard-setting organization, such as ANSI or IEEE. The baseline requirement for encryption is 128-bit using the public key/private key infrastructure. The data encryption requirements are intended to protect the privacy of the education records that the Contractor will share, during the course of performing the Contract. The purpose is to assure compliance with the Family Educational Rights and Privacy Act (FERPA) and state data breach laws. See 34 C.F.R. § 99.35(b). FERPA requires methods that are "reasonable and appropriate to the circumstances in which the information or records are maintained."

To further protect the data generated, processed, and stored by the Contractor:

- a. The storage of personal student data on any local machine is prohibited.
- b. Contractor staff must access data through the same application front-end that the customer uses, or use an approved and licensed client product to access the database.
- c. All layers of the environment must reside on separate systems, including the Web servers, application servers, and database servers.
- d. Stringent network-layer controls must be used to segregate this environment from all other Contractor environments. These include physically separate networks, as well as logical access controls that limit those that have access to the network segment and host.

The Contractor shall maintain specific security solutions for education records at each level of the information maintenance process: acquisition, storage, transport. Adequate technological protections contemplate server-side security, including but not limited to, administrator access control, firewalls, intrusion detection software, antivirus, regular software patch updates, and retaining adequate IT security personnel.

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23. The Contractor shall provide ancillary materials to support the Exam, such as administration manuals and interpretation and information guides. In spring 2009 a Test Administrator Training Video will be available for download at no charge to the States. Training materials such as a Training Video CD, Regional Test Administrator Workshops, and On-line, Self-Paced Training are available as state options, for an additional cost, as described in the Cost Summary information.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009.

\*\* Indicates clarifications for test administration procedures effective October 30, 2009.

\*\*\* Indicates a modification to range finding ancillary requirements effective October 30, 2009.

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24. The Contractor shall provide comprehensive student performance data to Achieve, Inc. about the performance of students on the assessment across the Participating States in the form of a file that does not contain personally identifiable information, such as:
- a. The student's names.
  - b. The name of the student's parent or other family member(s).
  - c. The address of the student or student's family.
  - d. A personal identifier, such as the student's Social Security Number or student number.
  - e. A list of personal characteristics that would make the student's identity easily traceable.
  - f. Other information that would make the student's identity easily traceable.
- \*\*  
25. The Contractor shall provide the Exam and related services in an on-line format for Participating States to purchase for each spring exam administration as an option. Upon meeting the threshold requirements established in paragraph 15, an on-line exam will become available for fall administration. Special versions of the on-line test are not required (e.g., Large print, Braille, Spanish, audio). Requirements for special on-line forms will be negotiated with the Contractor as an amendment to the Contract.
26. The Contractor shall engage in activities to establish and enhance credibility with postsecondary institutions and to promote use of the ADP Algebra II Exam results for placement purposes.
- \*\*  
27. The Contractor shall work with each Participating State to obtain the names and contact information for educator committee members at least five (5) weeks before each meeting. The Contractor shall work with Achieve to obtain committee member names and contact information for higher education representatives within this timeframe as well. ~~Within two (2) weeks of Contract award, each Participating State shall provide the Contractor with a list of potential committee members that can participate in 2007 meetings that require educator participation (e.g., April Item Review). Each state shall provide the names of 4-5 teachers and 3-4 professors. The Contractor shall work with that combined list to ensure a broad cross section of representation within high school and postsecondary education and experience in Algebra II and the seven (7) modules. As needed, the Contractor shall follow up with the States if additional representation is required. Participating States shall update the list each year. Achieve, Inc. may also provide names of potential participants. The CDT may choose to have final approval of the individuals appointed to any committee.~~
28. CDT members are not required to attend every committee meeting. However, at least one (1) member from the CDT or Achieve Inc. shall be present at each committee meeting to ensure that decisions that are made reflect the goals of the Program. For example, at the first Item Review Meeting, scheduled for April 2007, at least one (1) CDT/Achieve representative should be available to meet with the Contractor for each of the four (4) concurrent committee meetings.
- \*\*\*  
29. Travel and labor expenses include those incurred by Pearson and QUESTAR (the subcontractor) representatives. For example, five (5) representatives from Pearson and four (4) representatives from QUESTAR will attend committee meetings for the Item Review scheduled for April 2007. The Contract costs include labor and travel costs (airfare, hotel, food, car rental) for these employees for that meeting.
- \*\*\*\*  
30. In preparation for the CDT meetings, the Contractor shall coordinate with the CDT to ensure that the proposed location, agenda, and participants are acceptable. Pearson and QUESTAR will facilitate all meetings and document meeting discussion, such as revisions that are suggested during Item Review meetings. At least one (1) member of the Contractor's ADP Assessment team will be present for the duration of all meetings to answer any general questions participants, the CDT or Achieve, Inc. may have, and to manage the logistics of the meeting.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009.

\*\* Indicates clarifications for test administration procedures effective October 30, 2009.

\*\*\* Indicates a change in the Subcontractor's business name from BETA to QUESTAR.

\*\*\*\* Indicates a modification to CDT selection team process and participant process effective October 30, 2009.

\*

- \*\* 31. The Contractor shall manage the travel arrangements for each CDT meeting participant, including transportation and lodging accommodations held after March 2007. Achieve, Inc. shall manage the arrangements for the March 2007 meeting. The Contractor shall cover travel expenses and honorarium and/or substitute teacher pay. All other travel and labor expenses, such as those incurred by Achieve, Inc. and the CDT will be the participant's expense.

The provision is for the Contractor to manage the travel arrangements for each CDT meeting participant, including transportation and lodging accommodations for meetings held after March 2007. The parties agree that CDT members may book their travel and reserve lodging through the Contractor's established process for each meeting provided that the CDT member is a committee member and not an observer. For example, for rangefinding CDT transportation and lodging would be covered for the CDT representative only if the CDT member was the one (1) allowed content specialist/educator for the state. In those cases that the CDT member is an observer versus a committee member, travel and lodging is the responsibility of the CDT member and will not be managed or paid for by the Contractor. For the CDT Planning Meetings, Achieve has agreed to pay for one (1) member per state to attend the Planning Meetings. Therefore, one (1) CDT member per state may book their travel and lodging through The Contractor for the CDT Planning Meetings. The Contractor will in turn invoice Achieve for these expenses. Should more than one (1) CDT representative from a state attend a Planning Meeting, transportation arrangements are the responsibility of the CDT member and should not be arranged through the Contractor. The additional CDT members may request that The Contractor reserve lodging with the understanding that they are responsible for payment, including presenting a credit card upon check-in. The maximum number of attendees per meeting will be enforced, as identified in Table A of this Contract.

32. The Contractor shall provide a summary document of the discussions in the CDT meetings and conference calls, including any action items, to all Participating States. These shall be documented by the Contractor following the meeting or conference calls and sent to the CDT membership.

- \*\*\* 33. A single calculator policy (Updated in September 2009 – see item # 44) shall be adhered to by all Participating States. The core test will be administered in two (2) sessions. For the first session students will not use a calculator. For the second session students will be allowed to use a calculator. Calculators will be allowed for each of the seven (7) optional modules. The calculator policy published as part of this document shall be the source of calculator usage policy. Additional details of this policy may be refined as part of the work of the CDT, and published as an amendment to this Contract.

34. The Contractor shall negotiate a License Agreement with Achieve, Inc. under which the Contractor shall make copies of the Exam available to Achieve, Inc. for such purposes as research and validity or alignment studies.

- \*\*\*\* 35. The Research Alliance will include up to 25 members per year. Membership will include up to two (2) individuals from Pearson, nine (9) state or CDT members, one (1) Achieve Inc. representative, and 13 others, such as state or national measurement experts, contractors, professors, or college admissions/placement officers. Reimbursement for time and travel, and 40 hours of consulting time per year for the two (2) Pearson and 13 other members is included. The CDT/state and Achieve, Inc. representatives will cover their own costs, including travel and lodging, for participating in any meetings. The Contractor shall cover reimbursement for time, travel and lodging, and up to 40 hours of consulting per year for up to 13 Research Alliance members. Table A of the Contract identifies the maximum number of attendees at each Research Alliance meeting. Research Alliance members participating on the Algebra II Project shall also serve as the Research Alliance members for the Algebra I Project.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009.

\*\* Indicates clarification on travel and meeting cost specifications effective October 30, 2009 (previous modifications were made effective April 25, 2008).

\*\*\* Indicates the change from a draft calculator policy to a final effective September 2009. The previous policy was approved in November 2007 and published April 25, 2008.

\*\*\*\* Indicates clarification of Research Alliance reimbursement specifications effective October 30, 2009 (previous modifications were made effective April 25, 2008).

\*

36. The Contractor shall own the test and all items. If the State decides not to extend or renew the Contract with the Contractor, a Contract amendment will be issued so that the Contractor can assist the subsequent Contractor during the Contract transition. No items, tests, or systems will be transferred from Pearson to the subsequent Contractor.

\*\*

37. The Contractor shall concurrently provide each individual State with itemized invoice for their initial volume order, within 30 days after an order for assessment materials or optional services has been placed with the Contractor. In the event the Participating State shall place a subsequent order, the Contractor shall send a second invoice for all supplemental orders placed by the Participating State 30 days after the last day of test administration.

\*\*

38. The Participating States shall pay monthly invoices within 30 days of receipt unless otherwise specified.

39. The Contractor shall provide the DAS Office of Procurement updated insurance forms on an annual basis, or as appropriate when changes go into effect.

40. The Contractor shall provide the Ohio DAS, Office of Procurement Services and Achieve, Inc. with an annual Technical Report. The report will include the number and type of tests and optional services purchased during the previous year by state and test administration.

\*\*\*

41. Estimated dates. Proposed upcoming test administration dates are as follows:

a. The 2008 Algebra II End-of-Course Exam End-of-Fall Exam shall be administered December 8 – 19, 2008 and January 12 – 23, 2009 (a split administration window). Initial orders for the End-of-Fall Exam shall be submitted by close of business on Friday, October 24, 2008.

b. The Spring 2009 Algebra I and Algebra II End-of-Course Exams shall be administered May 1 – June 12, 2009. The deadline for submitting initial orders for the Spring 2009 Exam(s) is Friday, February 26, 2009. The window for entering orders for the Spring 2009 exam is February 2 through February 26 of 2009. The price for each of the Exams will be set on February 27, 2009 (nine [9] weeks before the Exam) based on the volumes ordered for each Exam (Algebra II or Algebra I).

c. The End of Fall 2009 Algebra I and Algebra II End of Course Exam shall be administered December 1 – December 15, 2009 and January 11 – 22, 2010. All future End-of-Fall administrations shall be administered beginning the first business day in December and continue for the following ten business days and then again the second Monday in January and continue for the following ten (10) business days.

d. The End of Spring 2010 Algebra I and Algebra II End of Course Exam shall be administered May 5, 2010 - June 2, 2010. All future spring administrations of the exams shall be scheduled annually by the CDT and Pearson with the intent to administer during a four (4) week period, rather than a six (6) week period.

e. States/districts/schools may enter additional orders after the identified deadlines; pricing however shall be based on the volume ordered nine (9) weeks prior to each administration.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009.

\*\* Indicates change in payment language effective October 30, 2009 (previous modifications effective April 25, 2008).

\*\*\* Indicates the identification of upcoming test administrations and clarification on volume pricing deadlines effective October 30, 2009 (previous clarifications effective January 21, 2009).

42. Information for the Participating States is provided below:

<p>a. Arkansas Department of Education        ATTN: Associate Director, Curriculum,        Assessment, and Research        #4 State Capitol Mall, Room 106A        Little Rock, AR 72201        Telephone: 501-682-4558</p>	<p>b. Arizona Department of Education        ATTN: Deputy Associate Superintendent        Standards Development and Assessment        1535 W Jefferson St.        Phoenix, AZ 85007        Phone: 602-364-1164</p>
<p>c. Florida Department of Education        Director, Computer-Based Testing        325 West Gaines Street, Suite 401        Tallahassee, FL 32399        Telephone: 850-245-0513</p>	<p>d. Hawaii Department of Education        ATTN: Administrator, Student Assessment Section        3430 Leahi Ave., Bldg. D        Honolulu, HI 96815        Telephone: 808-394-1300</p>
<p>e. Indiana Department of Education        ATTN: Assistant Superintendent        151 West Ohio St.        Room 229 State House        Indianapolis, IN 46204-2798        Telephone: 317-232-9050</p>	<p>f. Kentucky Department of Education        Office of Assessment &amp; Accountability        ATTN: Director of Assessment        500 Mero Street, 18<sup>th</sup> Floor        Frankfort, KY 40601        Telephone: 502-564-4394, ext. 4124</p>
<p>g. Maryland State Department of Education        ATTN: Deputy Superintendent        200 West Baltimore St.        Baltimore, MD 21201        Telephone: 410-767-0473</p>	<p>h. Massachusetts Department of Education        ATTN: Director of Student Assessment        350 Main St.        Malden, MA 02148        Telephone: 781-338-3650</p>
<p>i. Minnesota Department of Education        ATTN: Director Division of Research &amp;        Assessment        1500 Hwy 36 West        Roseville, MN 55113        Telephone: 651-582-1611</p>	<p>j. New Jersey Department of Education        ATTN: Manager of Evaluation and Assessment        P.O. Box 500        Trenton, NJ 08625-0500        Telephone: 609-984-7761</p>
<p>k. North Carolina State Board of Education        ATTN: Director of Accountability Services        6314 Mail Service Center        Raleigh, NC 27699-6314        Telephone: 919-807-3770</p>	<p>l. Ohio Department of Education        Center for Curriculum Assessment        ATTN: Associate Superintendent of Curriculum and        Assessment        25 South Front Street, Mail Stop 601        Columbus, OH 43215-4183        Telephone: 614-728-4510</p>
<p>m. Pennsylvania Department of Education        Office of the Secretary        Pennsylvania Department of Education        333 Market Street        Harrisburg, PA 17126        Telephone: 717.525.5746</p>	<p>n. Rhode Island Department of Education        ATTN: Coordinator – State Assessment Program        255 Westminster St.        Providence, RI 02903        Telephone: 401-222-8492</p>
<p>o. Washington Department of Education        Office of Superintendent of Public Instruction        600 Washington St. SE        Olympia, WA 98504-7200        Telephone: 360-725-6434</p>	

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009.

\*\* Indicates the addition of and/or updated point of contact information effective October 30, 2009 (previous updates effective January 21, 2009, April 25, 2008 and February 14, 2008).

- \*\* 43. Below is a chart that contains non-binding estimates provided by states regarding the anticipated number of students who will take the EOCs:

**ALGEBRA II**

State	Estimated Participation		
	Spring '08	SY '08-'09	SY '09-10
Arizona	20,000	20,000	20,000
Arkansas	25,000	25,000	25,000
Florida	N/A	15,000	TBD
Hawaii	7,400	7,400	7,400
Indiana	15,000	15,000	15,000
Kentucky	20,000	35,000	40,000
Maryland	45,000	45,000	45,000
Minnesota	1,000	1,000	1,000
Massachusetts	40,000	44,000	44,000
New Jersey	5,000	10,000	15,000
North Carolina	1,050	1,050	1,050
Ohio	25,000	25,000	25,000
Pennsylvania	16,000	16,500	17,300
Rhode Island	TBD	TBD	TBD
Washington	TBD	TBD	TBD
<b>Total</b>	<b>220,450</b>	<b>259,950</b>	<b>255,750</b>

Note: Tests in Rhode Island will be ordered through the State by individual districts.

**ADP Algebra II End-of-Course Exam - Spring 2008**

Actual Participation Counts as of March 25, 2008

State	Spring 2008 Counts
Arizona	0
Arkansas	25,592
Florida	N/A
Hawaii	8,077
Indiana	4,472
Kentucky	2,521
Maryland	0
Massachusetts	0
Minnesota	231
New Jersey	11,637
North Carolina	722
Ohio	43,711
Pennsylvania	10,223
Rhode Island	1,648
Washington	0
<b>Total</b>	<b>108,834</b>

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009.

\*\* Indicates updated participation counts for the EOCs effective October 30, 2009.

\*

\*\*

**ADP Algebra I & II End-of-Course Exam - Spring 2009**

Actual Participation Counts as of February 27, 2009

State	Spring 2009 Algebra II Paper Counts	Spring 2009 Algebra II Online Counts	Spring 2009 Algebra I Paper Counts
Arizona	0	0	0
Arkansas	26,884	0	0
Florida	N/A	0	0
Hawaii	7,287	0	0
Indiana	36,509	13,833	0
Kentucky	1,617	0	610
Maryland	2304	0	0
Massachusetts	0	5,000	0
Minnesota	0	0	9
New Jersey	11,697	122	28,258
North Carolina	3102	0	0
Ohio	0	0	0
Pennsylvania	8,645	0	0
Rhode Island	472	0	2,719
Washington	0	0	0
<b>Total</b>	<b>98,517</b>	<b>18,955</b>	<b>31,596</b>
Total Algebra II	117,472		
Total Algebra I	31,596		

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred April 25, 2008 and February 14, 2008).

\*\* Indicates the addition of actual usage reporting figures for the Algebra II EOC, and anticipated utilization for the Algebra I EOC effective April 25, 2008 and the addition of anticipated utilization for the state of Florida effective January 21, 2009.

\*

\*\*

### ALGEBRA I

Algebra I Estimate of test takers	Spring 2009	End-of-Fall 2009	Spring 2010	End-of-Fall 2010	Spring 2011	End-of-Fall 2011
Florida	N/A	N/A	N/A	N/A	N/A	N/A
Hawaii <sup>1</sup>	0		8000	500	8000	500
Indiana	TBD	TBD	TBD	TBD	TBD	TBD
Kentucky <sup>2</sup>	0	0	0	0	0	0
Minnesota	1,000		1,000		1,000	
New Jersey	40,000	45,000	45,000	50,000	50,000	50,000
Ohio	55,000	10,000	55,000	10,000	55,000	10,000
Pennsylvania	75,000	0	75,000	0	75,000	0
<b>Total</b>	<b>171,000</b>	<b>55,000</b>	<b>184,000</b>	<b>60,500</b>	<b>189,000</b>	<b>60,500</b>

1. Hawaii is not going to be ready to administer the Algebra I EOC Exam to students until Spring 2010  
 2. Kentucky is unsure of their participation level in the Algebra I EOC Exam, estimates are not available at this time.

\*\* 44. Approximations of the number of students taking the Algebra II test in a computer based format are represented in the chart below. Utilization predictions for Algebra I are not available at this time.

### ALGEBRA II ON-LINE ADMINISTRATION

\*\*\*

State	Estimated Participation		
	'08	SY '08-'09	SY '09-10
Arizona	20,000	20,000	20,000
Arkansas	N/A	N/A	N/A
Florida	N/A	15,000	TBD
Hawaii	TBD	TBD	TBD
Indiana	15,000	15,000	15,000
Kentucky	5,000	17,500	30,000
Maryland	10,000	10,000	10,000
Massachusetts	N/A	N/A	N/A
Minnesota	500	500	500
New Jersey	N/A	N/A	N/A
North Carolina	TBD	TBD	TBD
Ohio	N/A	N/A	N/A
Pennsylvania	N/A	N/A	N/A
Rhode Island	N/A	N/A	N/A
Washington	TBD	TBD	TBD

\*\* (Note: No on-line testing for Algebra II will be conducted until the 2008 – 2009 SY. On-line testing for all subsequent administrations of Algebra I or Algebra II will be available during the spring testing window only, until such time as the threshold requirements provided in paragraph 15 have been met.)

\* Indicates repagination the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred April 25, 2008 and February 14, 2008) and the addition of requirements for the state of Florida effective January 21, 2009.

\*\* Indicates the clarification of on-line EOC administration specific to Algebra II effective April 25, 2008.

\*\*\* Indicates the removal of on-line test administration requirement for 2008, and the removal of on-line test administration requirements for Kentucky effective April 25, 2008, the addition of anticipated utilization for Florida effective January 21, 2009, and on-line test administration process for subsequent administrations effective October 30, 2009.

\*

- \* 45. DRAFT ADP Algebra End-of-Course Exam Calculator Policy (Updated August 2008). The ADP Algebra End-of-Course Exams will both be administered in two sessions. One session will be completed by students without the use of a calculator. The other session will be completed by students using a calculator. A graphing calculator is highly recommended, although not required. Students should use their calculator on a regular basis so that they become adept at using the calculator that they plan to use during the test.

The test is designed so that some but not all questions on the calculator portion of the test require the use of a calculator. It is important that students learn to assess for themselves whether or not a calculator would be helpful. Students should be able to solve test problems in multiple ways, with and without a calculator.

The following policy provides guidance on the use of calculators during the administration of the calculator session of the ADP Exams.

Types of Calculators. The following types of calculators are permitted for use:

- a. Graphing calculators (highly recommended)
- b. Scientific calculators
- c. Four-function calculators

The following calculator functionalities ARE NOT PERMITTED for use on the ADP Algebra End-of-Course Exams:

- a. Calculators with built-in computer algebra systems or dynamic algebra systems
- b. Handheld or laptop computers
- c. Pocket organizers
- d. Calculators built into cellular phones or other electronic communication devices
- e. Calculators that have pen input/stylus-driven devices
- f. Calculators requiring access to an electrical outlet
- g. Calculators that make noises of any kind that cannot be noise disabled (except for students needing special accommodations)
- h. Calculators that use a QWERTY keyboard
- i. Calculators that use paper tape

The following calculators are samples of calculators with the above functionalities that ARE NOT PERMITTED for use on the ADP Algebra End-of-Course Exams:

- a. Texas Instruments: All model numbers that begin with TI-89 or TI-92; Voyage 200; TI-Nspire CAS
- b. Hewlett-Packard: hp 48gII and all model numbers that begin with HP 40g, HP 49g, or HP 50g
- c. Casio: Algebra FX 2.0, ClassPad 300, and all model numbers that begin with CFX-9970G
- d. This list is not exhaustive and non-listed calculators should be checked for the stated prohibited functionalities.

Texas Instruments TI-Nspire calculators without CAS are allowed only in the following two (2) cases:

- a. With the TI-84 Plus keypad; or
- b. With the Nspire keypad using operating system 1.7 or higher with both "Limit geometry functions" and "Disable function grab and move" invoked in Press-to-Test mode.

Test Proctor Responsibility. Proctors are required to check calculators before the exam and clear the memory, including any stored programs and applications, on all calculators both before and after the exam. Please be advised that the clearing of the calculator memory may permanently delete stored programs or applications. Students should be told prior to the test day to store all data and software they wish to save on a computer or a calculator not being used for the test.

Proctors are required to disallow the use of any of the above types of calculators. Substitute calculators may be provided in the event that a student's calculator is disallowed and the proctor has approved calculators available. Calculators may not be shared, and communication between individual student calculators is prohibited during the exam. Students using a calculator with a raised display or a display where the numbers are one inch in height or larger will be seated at the discretion of the proctor.

Please be aware that each state might have laws regarding a student's IEP or 504 plan that will supersede this calculator policy. Please check with your state's Department of Education for specific policy or laws.

\* Indicates repagination the repagination of pages 7 – 54 to this Contract and modification of the calculator policy effective October 30, 2009 (previous modifications effective April 25, 2008).

\*

46. Attachment One, Part One of the original RFP/Contract Document shall be removed from this portion of the Contract and placed at the end of the contract, immediately following Cost Summary and Contractor Index information.

\*\* 47. The CDT Coordinator role, as defined and detailed in the RFP and Proposal, shall be filled by an Achieve, Inc. staff member. .

48. Contract amendment issues shall be administered by Ohio DAS as indicated on page 1 of the Contract. ODAS and Achieve, Inc. shall strive to maintain open communications to facilitate and ensure Program success. Individual Participating States shall direct questions and communications through Achieve, Inc. to ensure all history with regard to Program components is captured and handled in a standardized manner.

\*\*\*

49. It should be noted that Amendment 3, shall serve as the mechanism to add Algebra I components as an additional related EOC Exam. The Scope of Work for the Algebra I components shall be comparable to the Algebra II EOC Exam, which a new and separate specification for the Algebra I Exam content. The Algebra I EOC Exam shall be based on the ADP Algebra I EOC Standards as drafted by Achieve, Inc. with the content leads of interested states. Supplement One to this Contract contains specific requirements related to the Algebra I component.

\*\*\*\*

50. Starting with the spring 2010 administration, the Contractor will be able to use a pre-equated scoring model based on the form usage in item #18 and Supplement One for Algebra I. A sample rolling schedule for the rapid reporting is outlined below. Both Algebra I and II will follow this schedule. For administrations following spring 2010, The Contractor will use field-test statistics to pre-equate. As indicated in the proposal, The Contractor shall plan for a maximum scoring capacity of 25,000 tests per day.

Description	Dates
Test administration window	May 5 - June 2
Receipt of materials for scoring at Pearson	May 10 - June 7
Score open-ended items	May 7 – June 18
PDFs of school roster (scaled score) available online (16 calendar days after receipt)	May 24 – June 23
PDFs of Student Score Reports, Rosters and Summaries available online (16 calendar days from receipt of complete state)	May 24 –June 23
Hard copies of student reports delivered to schools/districts (21 calendar days from receipt of complete state)	May 27 - June 28

Two (2) expedited reporting options are available at additional cost, see Table 2 on page18. The Participating State(s) must provide notice of their intention to purchase one of the expedited reporting options to the Contractor by July 1 prior to the school year in which the expedited reporting option will be used (i.e. July 1, 2010 for December 2010/January 2011 or May 2011 administration)

\*\*\*\*

51. The Time Commitment table for the Contractor's staff, as identified in Section 10 of Pearson's November 2006 proposal shall be replace with the most recent versions

\* Indicates repagination the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred April 25, 2008 and February 14, 2008).

\*\* Indicates modified language identifying the need to document position responsibilities effective October 30, 2009 (previous modifications effective April 25, 2008).

\*\*\* Indicates the reference to Algebra I components being added by means of Amendment 3 and specifically identified in Supplement One to the Contract effective April 25, 2008.

\*\*\*\* Indicates clarification for utilization of a pre-equated scoring model as well as reference to an updated time and commitment tables for the ADP EOC team effective October 30, 2009.

\*  
 \*\*

Oaks Item ID: 3823 - The Development, Scoring, and Reporting of an Algebra II End-of-Course Exam - Contractor: Pearson Educational Measurement (Pearson)

\*\* The price for a given administration will be determined nine (9) weeks prior to the administration when initial orders are due. At that time, the price per exam based upon the volume of the initial orders for the administration will be communicated to the Participating States by the Contractor. All initial orders and subsequent orders will be invoiced at the price determined after the initial orders are received, regardless of whether or not the quantity of additional orders would have been substantial enough to change the volume pricing bracket applicable for the administration.

\*\*\* **COST/PRICING SUMMARY TABLE 1-A – ALGEBRA II EOC EXAM PRICE PER EXAM AND PROPOSED VOLUME DISCOUNT**

NUMBER OF TESTS ORDERED	SPRING 2008
	PRICE (\$)
*Less than 100,000	\$25.56
100,000 – 149,999	\$20.56
150,000 – 199,999	\$19.08
200,000 – 249,999	\$17.56
250,000 – 299,999	\$16.56
300,000 and greater	\$15.56

\*\*\* **COST/PRICING SUMMARY TABLE 1-B – ALGEBRA I EOC EXAM & ALGEBRA II EOC PRICE PER EXAM AND PROPOSED VOLUME DISCOUNT**

NUMBER OF TESTS ORDERED	PRICE BEGINNING DECEMBER 2009 - 2011	***2012 - 2013***
	PRICE (\$)	PRICE (\$)
Less than 100,000	\$26.06	\$23.56
100,000 – 149,999	\$21.06	\$17.96
150,000 – 199,999	\$19.58	\$15.94
200,000 – 249,999	\$18.06	\$14.17
250,000 – 299,999	\$17.06	\$13.05
300,000 and greater	\$16.06	\$11.97

NOTE: All prices and quoted costs shall be reflected in U. S. Dollars. Contractor's "Not-to-Exceed Fixed Price"

\* Indicates repagination the repagination of pages 7 – 54 to this Contract effective October 30, 2009 repagination (previous repagination occurred on April 25 and February 14 in 2008.)

\*\* Indicates volume pricing language effective April 25, 2008 and price determination timeline change from 12 weeks to nine (9) weeks prior to test administration effective January 21, 2009.

\*\*\* Indicates the removal and replacement of Table 1 with Tables 1-A and 1-B effective April 25, 2008.

- \* The "Number of Tests Ordered" refers to the volumes ordered for each EOC individually, and the volume discounts do not apply to aggregate numbers of exams ordered for both (Algebra I and Algebra II) exams. The price is based on the total number of paper and on-line tests ordered for a given administration, 9 weeks prior to the administration when participation counts are due to The Contractor. On-line tests shall also include an additional \$4.49 charge. (See the following table with optional service pricing). Additional orders placed after the cut-off date are invoiced at the same rate, but the volume from the additional orders does not lower the price determined nine (9) weeks prior to the administration.

Administration of Algebra I in combination or conjunction with Algebra II, when ordered simultaneously by a Participating State will not result in a discount at this time. The Contractor shall explore this option with the CDT once testing volumes are established.

**COST/PRICING SUMMARY TABLE 2 - ADDITIONAL COST FOR OPTIONAL AND ENHANCED FEATURES/SERVICES  
ORDERED FOR ALGEBRA I OR ALGEBRA II EOC EXAMS**  
(Cost applicable to each EOC Exam separately, not aggregately)

DESCRIPTION	ADDITIONAL COST PER TEST
Scoring and reporting of the entire test on an expedited basis (within one [1] week).	\$3.99**
Scoring and reporting of the entire test on an expedited basis (within two [2] weeks).	\$0.49**
Scoring and reporting of only the multiple choice responses on an expedited basis (remaining test items scored in a more extended time period).	\$0.00
On-line test administration.	\$4.49
Data and Statistics Module.	\$7.49
Iterative Processes Module.	\$7.49
Probability Module.	\$7.49
Trigonometry Module.	\$7.49
Matrices Module.	\$7.49
Conics Module.	\$7.49
Logarithms Module.	\$7.49
Administration, scoring, and reporting of non-English language versions of the Exam (Spanish).	\$9.99
Administration, scoring, and reporting of Braille versions of the Exam.	\$9.99
Administration, scoring, and reporting of audio versions of the Exam.	\$9.99

NOTE: Modules were not created for the Algebra I EOC Exam.

- \*\* The Participating State(s) must provide notice of their intention to purchase one of the expedited reporting options to the Contractor by July 1 prior to the school year in which the expedited reporting option will be used (i.e., July 1, 2010 for December 2010/January 2011 or May 2011 administration).

TRAINING OPTIONS	ADDITIONAL COST
Test Administrator Training Video	\$15.00 per CD, plus shipping
Regional Test Administrator Training Workshop	\$48,610 per workshop (up to 100 participants)
On-line Self-paced Training	\$92.66 per use for a one-year subscription

- \* Indicates repagination the repagination of pages 7 – 54 to this Contract effective October 30, 2009 repagination (previous repagination occurred on April 25 and February 14 in 2008).
- \*\* Indicates volume pricing language and participant requirements effective October 30, 2009 and price determination timeline change from 12 weeks to nine (9) weeks prior to test administration effective January 21, 2009 (previous clarifications effective April 25, 2009).

CONTRACTOR INDEX

\* CONTRACTOR AND TERMS:

99498  
NCS Pearson, Inc.  
2510 North Dodge St.  
Iowa City, IA 52245

CONTRACT NO.: CSP902107-1 (08/31/11)

TERMS: Net 30 Days

CONTRACTOR'S CONTACT(S):

Shilpi Niyogi  
Vice President, National Services  
2510 North Dodge St  
Iowa City, IA 52245

Telephone: 202-434-0975  
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PAYMENT ADDRESS:

NCS Pearson, Inc.  
13036 Collections Center Dr.  
Chicago, IL 60693

\* Indicates an extension in the Contract expiration date to allow for final reporting requirements to be met.

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## **SUPPLEMENT ONE ALGEBRA I PROJECT REQUIREMENTS**

- \* Indicates repagination the repagination of pages 7 – 54 to this Contract effective October 30, 2009 repagination (previous repagination occurred on April 25 and February 14 in 2008).
- \*\* Indicates the addition of Supplement One (Algebra I EOC Exam) effective April 25, 2008.

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**SUPPLEMENT ONE  
 ALGEBRA I PROJECT REQUIREMENTS**

1. Item development for the Algebra I End-of-Course Exam will be similar in nature to the development of the Algebra II End-of-Course Exam. Developing all new items for the Algebra I End-of-Course Exam shall facilitate efforts to produce a broad diversity of items that are based directly on the ADP Algebra I content, and that are specifically intended to be administered via paper and on-line testing modes. This Exam will consist only of a core test, with no optional modules, which is consistent with the draft ADP Algebra I standards.
2. The Contractor (Pearson) and its subcontractor, Questar, will share responsibility for developing the Algebra I End-of-Course Exam items. The development model will be similar to that used for the Algebra II program. The Contractor will develop constructed-response items and provide oversight and management for the entire item development process. Questar will develop the multiple-choice items and provide additional support as needed.
3. Using the Algebra II End-of Course Exam design and assumptions outlined in this response, the Contractor's psychometricians and content specialists will work together to determine the test design and blueprint specifications for Algebra I. As soon as practical after the Algebra I contract amendment is finalized, test specifications for the content and cognitive aspects of the assessments shall be developed and shared with the CDT for approval. The Contractor shall develop and use analytic item-specific rubrics for the Algebra I constructed-response items, unless a change is approved to the Algebra II rubrics. At that time the Contractor shall work with the CDT to apply a consistent change to the Algebra I rubrics for any new items. It is anticipated that a draft of the test specifications and blueprint will be available to the CDT within a month of the standards being final, and month later to have them finalized.
4. The practice test shall be developed following the same processes used to develop and review other Algebra I items.
5. In the event the enrollment volumes for the field tests are lower than planned, the Contractor will make a recommendation to the CDT regarding reducing the number of field-test forms and/or cancelling the field-test administration. No decisions regarding the number of forms or cancelation of the field-test shall be finalized until the Contractor has discussed the matter with the CDT.
6. For the remainder of the Contract term, the Algebra I test form creation plan shall be as follows:

<b>Administration</b>	<b>Main Paper</b>	<b>Breach Paper</b>	<b>Paper Volume</b>	<b>Online</b>	<b>Online Volume</b>
<b>Spring 2009</b>	<b>A</b>	<b>B</b>	<b>Est. 30-50k</b>		
<b>Fall 2009</b>	<b>C</b>	<b>B</b>			
<b>Spring 2010</b>	<b>A</b>	<b>B</b>		<b>A1</b>	
<b>Fall 2010</b>	<b>C</b>	<b>B</b>			
<b>Spring 2011</b>	<b>D</b>	<b>B</b>		<b>D1</b>	

7. For the Algebra I End-of-Course Exam, The Contractor proposes a maximum of 53 test items. 40 multiple choice, five (5) short answer, and two (2) extended response items would count towards a student's score; four (4) multiple choice plus one (1) extended response or two (2) short answer will be embedded field test items and will not count towards any student's score. The estimated time for the Algebra I EOC shall be 60 minutes per session.
8. In order to meet the minimum sample sizes for paper and on-line testing, states will need to require some or all of their eligible students to participate in the field test. Incentives offered for the Algebra II End-of-Course Exam field test played a marginal role in recruiting and retaining field test volumes. Because the best results were achieved in those states that required some participation in the field testing, field-test incentives are not included in the plan for the Algebra I stand-alone field test this fall.
9. Commitments from each state, in terms of total number of students that will participate in the fall field test, are due to the Contractor by July 1, 2008, along with estimated spring 2009 Algebra I volumes, and 2008-2009 Algebra II volumes. If minimum field test volumes for each mode cannot be committed to by the participating states by July 1, 2008, the number of paper and/or on-line field forms will be reduced to the level where the Contractor shall be able to obtain response rates of approximately 1,000 students per form. Additional standalone field testing is not included in this bid (such as the February 2008 Algebra II standalone field test) should states have difficulty recruiting sufficient on-line volume for the fall 2008 field test.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

\*\* Indicates the addition of Supplement One (Algebra I EOC Exam) effective April 25, 2008 and additional clarification language effective October 30, 2009.

10. Based on insight gained from fall 2007 Algebra II field test, it appears that there may be more interest in the paper field test than needed to yield 1,000 responses per form. Therefore, up to 50,000 students testing on paper and 30,000 students testing on-line for the fall 2008 Algebra I field test shall be allowed. Participation in excess of these volumes is not included in the pricing and would be in excess of allowance and outside of the current pricing structure.

11. The Contractor shall provide the same types of testing materials and ancillary materials for the Algebra I End-of-Course Exam as provided for the Algebra II End-of-Course Exam. These materials include:

\*\*

- a. Non-scannable test booklets.
- b. Scannable school header sheets.
- c. Scannable answer documents.
- d. Special versions of the test (large print, Braille, and audio) (available for an additional cost).
- e. Spanish version of the test (if sufficient volumes indicated on July 1 by participating states)(available for an additional cost).
- f. Test administration manual.
- g. Student pre-ID labels.
- h. Return labels.
- i. Score interpretation guide.
- j. Sample items (released form, with linking items redacted; There is no future planned release of Algebra I or II items at this time due to low testing volumes).

In addition, a full-length practice test will be released prior to the first operational administration in the form of a PDF posted to a Contractor (Pearson) Web site that allows public access.

12. The following optional materials and services may be provided at an additional cost:

- a. Test Administrator Training Video CD
- b. Regional Test Administrator Training Workshop
- c. On-line Self-Paced Training

13. Printing specifications for the Algebra I operational test booklet and answer document are provided in the following table.

Printing Specifications for ADP Algebra I End-of-Course Test Booklet and Answer Document	Exam	
	Test Booklet	Answer Document
<b>Number of Forms Per School Year:</b>	3 (1 main for end-of-fall, 1 main for end-of-spring, and 1 breach form for the year)	1
<b>Type of Test Booklet:</b>	Non-scannable	Scannable
<b>Pages:</b>	Self cover booklet Saddle stitched 50# offset One (1) color plus black	.166 (6x6) layout 60# Mark Reflex® paper Matching lithocode One (1) color plus black
<b>Finished Size:</b>	8 ½ "x 11"	8 ½ "x 11"
<b>Number of Pages:</b>	32	16
<b>Quantity:</b>	Amount ordered plus 5% school and 10% overage per district	Amount ordered plus 5% school and 10% overage per district
<b>Packaging:</b>	Shrink-wrapped packages of 5's and 10's	Shrink-wrapped packages of 5's and 10's

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

\*\* Indicates additional clarification language effective October 30, 2009.

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- \*\* 14. The ADP Algebra I and Algebra II End-of-Course Exams are being administered during the same four-week window twice each year (end-of-fall and end-of-spring). Because Algebra I is a proposed amendment to the Algebra II contract, the Algebra II CDT shall dictate the testing windows.
- The Algebra II CDT shall finalize the two (2), four-week windows by March 1 each year—one (1) for end-of-fall and one (1) for end-of-spring for the following school year.
  - Participating states shall provide The Contractor with their Algebra I and II End-Of-Course-Exam test administration dates by July 1 each year, as well as forecasted volumes by administration.
  - The Contractor shall provide the CDT with a list of participating states and corresponding testing dates and volume forecasts by August 1 each year, assuming the previous deadline has been met.
  - The Participating States shall provide the Contractor with an organizational file that can be loaded into PearsonAccess by August 1 of each year. Note, the organizational file layout shall be the same for both Algebra I and Algebra II. Effective with the spring 2009 administration the organizational file layout shall remain unchanged for the remainder of the contract. The organizational file shall be loaded into PearsonAccess, where schools/districts can enter enrollment/participation counts and order test materials.
  - At least nine (9) weeks before each administration, schools/districts shall enter enrollment/participation counts into the PearsonAccess Web site. These initial orders shall establish the basis for printing and shipping test materials. The Web site shall also be used for schools/districts to enter additional orders after the initial order process cut-off.
  - At least five (5) weeks before each administration, schools/districts shall upload their pre-identification file to the PearsonAccess Web site, or the information can be manually entered into PearsonAccess. Note: The pre-ID file layout shall be the same for both Algebra I and Algebra II. Effective with the spring 2009 administration the pre-ID file layout shall remain unchanged for the remainder of the contract.
  - In an effort to tighten security, and provide predictability regarding the return of testing materials, each school shall be required to provide The Contractor with the specific dates (within a 5 day window) that the school plans to administer the assessment during each four week testing window. This information will be requested at the time the school submits Pre-ID information or organizational files.
  - The Contractor shall package and ship test materials to schools or package materials by school and ship to the district. States must select one (1) option (delivery to school or district) for both Algebra I and II. Materials will arrive in the schools/districts at least one (1) week prior to the beginning of their testing window. Algebra I and Algebra II testing materials will be boxed and shipped separately—and should be returned in separate boxes to the Contractor.
  - Testing materials must be returned to The Contractor as quickly as possible after the test administration, but no more than one (1) week after the test is administered. The Contractor shall provide a missing booklet report and ask for the schools, districts, and the CDT's participation in returning all missing secure documents.
15. The Contractor shall follow the same processes used for Algebra II image scanning and multiple choice scoring for the Algebra I End-of-Course Exam. To provide meaningful data after the first operational assessment (spring 2009) we will conduct post equating and standard setting. The potential to move to pre-equating in subsequent years is something that will be discussed with the CDT. Starting with the 2010 administration, and based on the planned form usage outlined herein, field test statistics will be used for pre-equating.
- ~~16. Psychometric support for the ADP Algebra I End-of-Course Exam will be similar in scope and depth to the support provided for the ADP Algebra II End-of-Course Exam.~~
17. Annual technical report. The Contractor will produce an annual Technical Report to provide evidence of the technical quality of the Algebra I Exam. We will model the design of this technical report on the report we create for the Algebra II Exam.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

\*\* Indicates volume pricing determination timeline change from 12 weeks prior to test administration to nine (9) weeks prior to test administration effective January 21, 2009 and additional items of clarification effective October 30, 2009.

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18. The following reports and data deliverables will be provided following each operational administration of the ADP Algebra I End-of-Course Exam.

- School Roster
- Student/Guardian Report
- Summary Report
- Data Files

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The reports and data file layouts will be designed to resemble as closely as possible the design of the ADP Algebra II End-of-Course Exam reports and data files. The Student/Guardian Report is the only printed report for the program. All electronic deliverables will be available to authorized users on-line via the PearsonAccess website by August 25 each year. The student/guardian reports will arrive in schools/districts by August 29 each year. See item #49 in first part of contract for reporting dates for spring 2010 and beyond. Each state may choose between shipping test materials and reports to schools or districts. Whichever location (school or district) a state selects, will be used for distributing test materials and reports. Each report is further described below.

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School Roster. The School Roster is an electronic report posted as a PDF to the secure PearsonAccess Web site; the same Web site school personnel will use to perform other Algebra I End-of-Course Exam administrative duties, such as ordering test materials and submitting pre-identification files. Reports will be accessible only by authorized users, so an educator can only see students in his or her school. The roster shall be available on August 25 when following a post-equating model. See item #49 in first part of contract for reporting dates for spring 2010 and beyond.

The roster will list all students within a school, by class, for which we have received a test and are reporting a score. Information for each student will include:

- ~~Multiple choice scale scores~~
- ~~Constructed response scale scores~~
- ~~Total scale score~~
- ~~Proficiency level~~
- ~~Score information at the strand level~~

\*\*

While it is possible for the roster to be updated and posted daily throughout the scoring window and for the Contractor to report multiple-choice scores (raw percent correct) to schools as soon as they become available, the CDT has decided not to report multiple-choice results separately from constructed response or total results, for both Algebra I and II EOC Exams. However, there may be options for schools to receive their school roster earlier for subsequent administrations if the Participating States elect to move to a pre-equating model. Starting with the 2010 administration, based on the planned form usage outlined herein, field test statistics will be used for pre-equating.

Student/Guardian Report. Two (2) copies of the Student/Guardian Report shall be provided for each student assessed. One (1) copy of the Interpretive Guide shall be provided for each student assessed. The report shall be printed on both sides of an 8 ½" x 11" report form. The front of the report shall include a bar chart comparing a student's overall percent correct score on the Exam with the average score of his or her school and with the average score of his or her district. The front page may also be used to provide parents with background information about the Exam. The back page of the report shall include a bar chart illustrating a student's performance on each of the four (4) ADP Algebra I strands, and shall provide a brief description of each content strand. Additionally, an electronic copy of the Student/Guardian Report will be available electronically on PearsonAccess. See item #49 in first part of contract for reporting dates for spring 2010 and beyond.

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Summary Report. Electronic copies of reports containing summary results for the school, district, and state level shall be provided as a PDF on the secure PearsonAccess Web site no later than August 25 each year. The reports shall provide the same type of data contained within the final School Roster, but at a summary level and not at the student level. See item #49 in first part of contract for reporting dates for spring 2010 and beyond.

Data Files. Electronic databases (flat files) at the school, district, and state levels containing the information in the reports shall also be available via the PearsonAccess Web site at that time. Achieve shall be provided with access to the aggregate data, including state files and reports, so that it may begin its cross-state comparison reporting.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

\*\* Indicates a modification to data and report deliverables effective October 30, 2009.

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19. Standard setting for Algebra I shall be conducted in the summer of 2009 following the first operational administration. The Contractor shall work with Achieve and the Participating States to set, define, and fine-tune the achievement levels that shall indicate students' proficiency status based on their performance on the Algebra I End-of-Course Exam.
  20. The Contractor shall conduct research to support the validity of the Algebra I Exam and related research as appropriate and feasible. The Contractor has specifically budgeted 480 hours per year in the first three (3) years of the Contract for contractor research staff for research studies and 280 hours in the last year of the Contract.
  21. The Contractor shall use the same on-line test delivery system to administer both the ADP Algebra I and the ADP Algebra II End-of-Course Exam. One (1) set of Algebra I multiple-choice items shall be developed. This same set of items shall be administered for paper and on-line.
  22. The October 2008 stand-alone field test shall include both on-line and paper modes. A subset of the multiple-choice items developed for paper shall be field tested on-line. Assuming that a minimum of 1,000 responses per on-line form is required, at least 19,000 students need to participate in the on-line field test in October 2008. The number of on-line forms shall be reduced on July 1, 2008 if the states are unable to commit to these volumes. Furthermore, if the volumes provided at that time or before the field test are significantly less than what is required, the Contractor reserves the right to cancel the field test and renegotiate the requirements for providing an on-line version of the Exam.

\*\*

The Contractor shall provide two (2) operational forms per year for the 2009-2010 and the 2010-2011 school years. The number of forms per year is consistent with the paper version of the Exam, however for paper there is also a breach form that shall be held in reserve each year, in case it is required.

No special versions of the on-line forms are proposed (e.g., Spanish, audio). This is consistent with the plan for Algebra II. Options for on-line accommodations will be discussed. These options have cost implications which will need to be considered by the states as well. At present, the Contractor recommends that whatever on-line accommodation options the CDT selects for Algebra II, that those same types of on-line accommodations are also selected for Algebra I.

23. The Contractor will send a single invoice, with separate line items, to any State or District ordering the Algebra I and Algebra II EOC Exams. Any State or District that wishes to receive separate invoices for the exams may make such request known to the Contractor.
24. The Contractor shall develop a valid and reliable procedure for annual analysis and reporting of Algebra I Exam results across the multiple states in which the tests have been administered. The Contractor has specifically budgeted 120 hours of research staff time each year for designing and producing cross-state comparability reports.
25. Algebra I Major Tasks:
  - a. Fall 2008 Algebra I Field Test: Item Development; Paper-and-Pencil Test Development; On-line Test Development; Materials Production; Enrollment and Student Pre-ID (Paper and On-line); Packaging and Distribution; Material Pick Up; Processing and Scoring; Data Review.
  - b. Spring 2009 Algebra I Operational Test Construction: Item Development (embedded field test items); Test Form Alignment; Main and Breach Test Form Built and Reviewed; On-line Form Built and Reviewed; Full-Length Practice Test Completion.

\* Indicates repagination the repagination of pages 7 – 54 to this Contract effective October 30, 2009 repagination (previous repagination occurred on April 25 and February 14 in 2008).

\*\* Indicates a modification to data and report deliverables effective October 30, 2009.

26. The table below lists proposed meetings for the ADP Algebra I End-of-Course Exam. These meetings are comparable to those specified in the Contract for the Algebra II End-of-Course Exam. An additional meeting has been planned for March 7, 2009 to discuss the status and next steps for the ADP Algebra I standards.

Timeframe	Maximum Number of Participants						Location
	# of Days	CDT	Achieve	Pearson	Other	Total	
<b>CDT Planning Meetings</b> (Note: Pearson shall pay for the CDT travel for the April 2008 meeting, in lieu of the cancelled March 2008 Content Meeting.)							
April 2008	2	1	4	9	N/A	27	Chicago, IL
July 2008	1	14	4	9	N/A	27	Chicago, IL
October 2008	1	14	4	9	N/A	27	Chicago, IL
January 2009	1	14	4	9	N/A	27	Dallas, TX
October 2009	1	15	4	9	N/A	28	Chicago, IL
January 2010	1	15	4	9	N/A	28	Dallas, TX
October 2010	1	15	4	9	N/A	28	Chicago, IL
January 2011	1	15	4	9	N/A	28	Dallas, TX
<b>Research Alliance</b>							
Q4 2008	1	7	4	6	13	30	Washington, D.C.
Q2 2009	1	7	4	6	13	30	Washington, D.C.
Q4 2009	1	7	4	6	13	30	Washington, D.C.
Q2 2010	1	7	4	6	13	30	Washington, D.C.
Q4 2010	1	7	4	6	13	30	Washington, D.C.
Q2 2011	1	7	4	6	13	30	Washington, D.C.
<b>Item Review</b>							
May 5-8, 2008	4	N/A	4	4	18	26	Philadelphia, PA
Aug 11-14, 2008	4	N/A	4	4	18	26	Philadelphia, PA
April 2009	4	N/A	4	4	18	26	Philadelphia, PA

\* Indicates a modified Timeframe table and the repagination of pages 7 – 54 to this Contract effective October 15, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

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<b>Item Reconciliation</b>							
May 9, 2008	.5	N/A	4	4	2	10	Philadelphia, PA
Aug 15, 2008	.5	N/A	4	4	2	10	Philadelphia, PA
April 2009	.5	N/A	4	4	2	10	Philadelphia, PA
April 2010	.5	N/A	4	4	2	10	Philadelphia, PA
<b>Galley Proof Review</b>							
July 1-3, 2008	4	N/A	2	4	2	8	Austin, TX
October 2008	4	N/A	2	4	2	8	Austin, TX
June 2009	4	N/A	2	4	2	8	Austin, TX
June 2010	4	N/A	2	4	2	8	Austin, TX
<b>Data Review</b>							
Jan 7-9, 2009	3	N/A	4	6	18	28	Chicago, IL
Sept 2009	2	N/A	4	6	18	28	Chicago, IL
Sept 2010	2	N/A	4	6	18	28	Chicago, IL
<b>Rangefinding</b>							
Oct 27-31, 2008	4.5	N/A	4	15	60	79	Atlanta, GA
June 2009	4	N/A	4	11	40	55	Atlanta, GA
June 2010	4	N/A	4	7	20	31	Atlanta, GA
<b>Standard Setting</b>							
July 2009	3	7	4	6	18	35	Chicago, IL

ADP Algebra I End-of-Course Exam Proposed Meetings.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

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27. To maintain continuity between the Algebra I and Algebra II programs, the Contractor shall cover the same types of meeting expenses for both programs. Expenses covered by the Contractor shall include:
- a. Labor, travel, and lodging for contractor employees - Based on the number of Pearson representatives planned for each meeting.
  - b. Honorarium or substitute reimbursement, travel, and lodging for committee members – The expense paid by Contractor is based on the number of committee members planned for each meeting, as designated in the chart found in paragraph 25 in the “other” column. However, the Contractor will not pay honorarium for lead state content members and CDT members for such committee meetings, but will be responsible for travel and lodging for lead state content members and CDT members. Honorarium or substitute reimbursement will be offered at the rate of \$200 per meeting day, except for the Research Alliance committee members which are paid \$800 per meeting day. A \$50 per day travel per diem is offered for all meeting and travel days. This is to cover the expense of evening meals and other incidental expenses. Travel and lodging must be booked through The Contractor and its travel agency. In addition to the \$50 per day travel per diem, parking costs will be reimbursed with receipt and mileage will be reimbursed at the current federal mileage rate.
  - c. Meeting room(s) - Based on the maximum number of participants per meeting.
  - d. Food and beverage - Based on the maximum number of participants per meeting. Includes breakfast, lunch, and beverages.
  - e. Meeting materials - Based on the maximum number of participants per meeting.

Algebra I CDT Planning Meetings are costed and proposed as occurring the day before or the day after the Algebra II CDT Planning Meeting, with the exception of the April 2008 stand-alone Algebra I CDT Planning Meeting. Because all but one (1) of the Algebra I CDT Planning Meetings is scheduled for the day before or the day after an Algebra II Planning Meeting, at the same location, this will reduce the amount of travel time and travel costs for all participants, whenever the same CDT members is able to represent both Algebra I and Algebra II.

Following each Algebra II meeting, the Contractor has invoiced Achieve for its portion of the lodging and travel (Achieve staff and up to one (1) member per state for CDT Planning Meetings). CDT members not paid for by Achieve must present a credit card upon check-in at the hotel to cover the expense of their lodging. CDT members not covered under Achieve's policy should not book their travel through the Contractor's travel agency.

Meeting locations (cities) have been designated for all Algebra I meetings. The Planning Meetings and Research Alliance Meetings shall be held the day before or after the Algebra II meetings. Expectations for the coordination of meetings such as suggested timelines and communication method required arrangements (e.g., travel, lodging, meals, etc) will be the same as currently in place for Algebra II.

28. The additional scope of work associated with the ADP Algebra I End-of-Course Exam shall be supported by new staff members. Vice President of National Services at Pearson, shall provide management oversight for the program at Pearson. Cathy White will remain as the single point of contact for individual CDT members for the Algebra I & II program. Ms. Jeri Frank, Program Manager, will support Ms. White with the administration of both exams. As the programs grow, the Contractor shall continue to evaluate staffing.

- \* Indicates the modification of language related to expense reimbursement and scope of work requirements and the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

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**SUPPLEMENT TWO**  
**ATTACHMENT ONE: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS**  
**PART TWO: SPECIAL PROVISIONS**

- \* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).
- \*\* Indicates the identification of Attachment One, Part Two as Supplement Two of the Contract effective April 25, 2008.

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**SUPPLEMENT TWO**  
**ATTACHMENT ONE: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS**  
**PART TWO: SPECIAL PROVISIONS**

**The Offeror's Fee Structure.** Contractors are to follow state of Ohio observed holidays and work schedules unless otherwise agreed to between the Contractor and the Agency. The State will not make payment for time charged to vacation, sick leave or other paid leave of absence, holidays, training or staff development of Offeror's personnel or other non-work related activity.

\*\*\* ~~The Contract award will be on a fixed price schedule. The Invoice billing period will be monthly.~~ Invoicing will be based upon pricing schedules as listed in Tables 1 and 2 of this Contract.

**Reimbursable Expenses.** None.

**Bill to Address.** Information for the state of Ohio is as follows:

Ohio Department of Education  
Center for Curriculum and Assessment  
ATTN: Associate Superintendent of Curriculum and Assessment  
25 South Front Street, Mail Stop 601  
Columbus, OH 43230-4183

All invoices must contain the information represented in Paragraph O (Cost Control, Payment, and Record Keeping) of Attachment One, Part One.

**Default.** Any default by the Contractor or one (1) of its subcontractors shall be treated as a default by the Contractor and all of its subcontractors. The Contractor shall be solely responsible for satisfying any claims of its subcontractors for any suspension or termination and shall indemnify the State for any liability to them. Subcontractors shall hold the State harmless for any damage caused to them from a suspension or termination. They shall look solely to the Contractor for any compensation to which they may be entitled.

The State has the option of collecting actual direct or liquidated damages from the Contractor for any default. For each instance of default, the State shall provide the Contractor with estimates of the actual direct damages sustained due to the default. The State may deduct all or any part of the actual or liquidated damages resulting from the Contractor's default from any part of the price still due on the Contract, with prior written notice to the Contractor.

Events of default include, but are not limited to, the following:

- a. Failure by Contractor to complete any development work including, but not limited to, finalize development and validation of items, and related analyses.
- b. Failure by the Contractor to develop and produce required test forms prior to scheduled administration dates by the date agreed to by the Contractor and the Project Management Team.
- c. Failure by Contractor to deliver and collect test administration materials and any ancillary materials (student, staff, and parent descriptive documents) by dates agreed to by Contractor and the Project Management Team.
- d. Failure by Contractor to score student exams correctly and on time.
- e. Failure by Contractor to produce and ship all required reports with complete and accurate information by the date agreed to by the Contractor and the Project Management Team to districts and schools.
- f. Failure by Contractor to provide required validity studies.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

\*\* Indicates the identification of Attachment One, Part Two as Supplement Two of the Contract effective April 25, 2008.

\*\*\* Indicates change in fee structure language effective April 25, 2008.

\* **Fines.** Fines of \$50,000 per day shall be imposed for any Deliverable and Task that is not delivered on or before the date established in the ORC or the Contract awarded pursuant to this RFP in addition to the default penalties. These include but are not limited to the test administration dates and the reporting dates.

**State-Specific Terms and Conditions.** The Participating States may each place orders for Exams with the Contractor pursuant to the Contract awarded under this RFP. The purchase and financial obligation of each Participating State are limited to the orders placed by that state.

In addition to the terms and conditions of the Contract entered into between the Contractor and the State of Ohio as a result of this RFP, orders placed by other Participating States will be subject to the special terms and conditions set forth in the following parts of this Attachment. In the event of any conflict between the general terms and conditions in other parts of the RFP and resulting Contract, and the special terms and conditions relating to individual Participating States, the special terms and conditions that follow shall govern.

The construction and effect of any order placed against the Contract will be governed by and construed in accordance with the laws of the Participating State. Venue for any claim, dispute, or action concerning an order placed against the Contract shall be in the Participating State placing that order.

Prices proposed by the Contractor are understood to be exclusive of state sales and federal excise taxes. Where a state is not exempt from sales taxes on sales within its state, the Contractor shall add the sales taxes on its billing invoice as a separate entry.

\*\* Special Project Requirements for the other Participating States are addressed in Attachment One, Part Two, Parts A – O.

#### **ATTACHMENT ONE: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS PART TWO - A: SPECIAL PROVISIONS - STATE OF ARKANSAS**

\*\*\* **Test Coordinator/Point of Contact.** ~~The test coordinator/point of contact and payment information for Exams ordered by and administered in the State of Arkansas will be specified in its purchase order for Exams and related items under the Contract.~~ With regard to issuance and administration of orders placed under the Contract by the state of Arkansas, the Contractor should communicate with and take direction from the following:

Arkansas Department of Education  
ATTN: Associate Director, Curriculum,  
Assessment, and Research  
#4 State Capitol Mall, Room 106A  
Little Rock, AR 72201  
Telephone: 501-682-4558  
e-mail: [gayle.potter@arkansas.gov](mailto:gayle.potter@arkansas.gov)

At present, Arkansas intends to use the test as an end of course exam that all students must pass to graduate.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

\*\* Indicates the addition of Attachment One, Part Two, Part O (Florida Special Provisions) effective January 21, 2009.

\*\*\* Indicates the addition of and/or updated point of contact information effective April 25, 2008.

**ATTACHMENT ONE: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS  
PART TWO - B: SPECIAL PROVISIONS - STATE OF INDIANA**

**Test Coordinator/Point of contact.** With regard to issuance and administration of orders placed under the Contract by the state of Indiana, the Contractor should communicate with and take direction from the following:

Wes Bruce, Assistant Superintendent  
Indiana Department of Education  
Room 229 State House  
Indianapolis, IN 46204-2798  
Telephone: 317-232-9050  
Fax: 317-233-2196  
E-Mail: wbruce@doe.state.in.gov

**Funding Cancellation.** When the Director of the Office of Management and Budget makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

**Disputes.**

- A. Should any disputes arise with respect to this Contract, the Contractor and the state of Indiana agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
- B. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the state of Indiana or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim within ten (10) working days following notification in writing by either party of the existence of a dispute, then the following procedure shall apply:
  1. The parties agree to resolve such matters through submission of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Contractor and the state of Indiana within ten (10) working days after presentation of such dispute for action. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration or mediation for a determination, or otherwise the dispute may be submitted to an Indiana court of competent jurisdiction.
  2. The state of Indiana may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the state of Indiana to the Contractor of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for Contractor to terminate this Contract, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

**Telephone Solicitation.** As required by IC 5-22-3-7, the Contractor and any principals of the Contractor certify that (A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of (i) IC 24-4.7 [Telephone Solicitation Of Consumers], (ii) IC 24-5-12 [Telephone Solicitations] , or (iii) IC 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) the Contractor will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

**ATTACHMENT ONE: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS  
PART TWO- C: SPECIAL PROVISIONS - COMMONWEALTH OF KENTUCKY**

\*  
**\*\* Test Coordinator/Point of Contact.** With regard to issuance and administration of orders placed under the Contract by Kentucky, the Contractor should communicate with and take direction from the following:

Ken Draut, Associate Commissioner  
Office of Assessment & Accountability  
Kentucky Department of Education  
500 Mero Street, 18<sup>th</sup> Floor  
Frankfort, KY 40601

**Anticipated Exam Use.** The Commonwealth of Kentucky has 234 high schools across 167 districts. The estimated number of students expected to take Algebra II and the Exam are: 2008—20,000; 2009—35,000; 2010—40,000. The estimated number of students expected to need accommodations in connection with those exams are: 2008—2400; 2009—4200; 2010—4800.

**Payment.** The Commonwealth of Kentucky will make payment within 30 working days of receipt of Contractor's invoice or of acceptance of goods and/or services in accordance with KRS 45.453 and KRS 45.454.

Payments are predicated upon successful completion and acceptance of the described work, services, supplies, or commodities, and delivery of the required documentation. Invoices for payment shall be submitted to the Agency Contact Person:

Johnette Cotton, Staff Assistant  
Office of Assessment & Accountability  
Kentucky Department of Education  
500 Mero Street, 18<sup>th</sup> Floor  
Frankfort, KY 40601

**Dispute Resolution.** Any Order placed pursuant to this Contract by the Commonwealth of Kentucky is subject to the laws of the Commonwealth of Kentucky and where applicable Federal law. Any litigation with respect to orders placed pursuant to this Contract by the Commonwealth of Kentucky shall be brought in state or federal court in Franklin County, Kentucky.

**State Student Identification Number File.** All Kentucky public school students have a state-assigned student identification number (SSID). The database of SSID's and other key student demographic and biographic information is maintained by the Kentucky Department of Education (KDE). KDE shall provide the Contractor with an electronic file with student level records including SSID, student identification information (name, date of birth, gender, grade, etc.) and limited district and school data for all registered Kentucky public school students. KDE and the Contractor will develop the data format jointly with the expectation that the file shall have only 10 to 20 variables.

**Test Coordination.** Each Kentucky district has a District Assessment Coordinator (DAC), usually a central office staff person, that is responsible for coordinating state required testing at the local level and for meeting the testing deadlines set by KDE. DAC's are responsible for ordering, receiving and identifying building personnel to administer the test, as well as identifying personnel to return testing materials. End-of-Course testing materials should be boxed by school location and sent to each DAC prior to testing for distribution to the participating schools; the DAC will collect the materials at the conclusion of testing and return for scoring.

**Reporting.** In addition to the base reporting referenced in the RFP for school, district, and state reports, Kentucky requires individual student reports that can be shared with the test taker and parent/guardian.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

\*\* Indicates the addition of and/or updated point of contact information effective April 25, 2008.

**ATTACHMENT ONE: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS  
PART TWO -D: SPECIAL PROVISIONS - STATE OF MARYLAND**

- \* \* **Test Coordinator/Point of Contact.** With regard to issuance and administration of orders placed under the Contract by Maryland, the Contractor should communicate with and take direction from the following:  
~~The test coordinator/point of contact and payment information for Exams ordered by and administered in the Commonwealth of Massachusetts will be specified in its purchase order for Exams and related items under the Contract.~~

Maryland State Department of Education  
ATTN: Deputy Superintendent  
200 West Baltimore St.  
Baltimore, MD 21201  
Telephone: 410-767-0473  
e-mail: [rpfeiffer@msde.state.md.us](mailto:rpfeiffer@msde.state.md.us)

**ATTACHMENT ONE: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS  
PART TWO-E: SPECIAL PROVISIONS - COMMONWEALTH OF MASSACHUSETTS**

- \* \* **Test Coordinator/Point of Contact.** With regard to issuance and administration of orders placed under the Contract by Massachusetts, the Contractor should communicate with and take direction from the following:  
~~The test coordinator/point of contact and payment information for Exams ordered by and administered in the Commonwealth of Massachusetts will be specified in its purchase order for Exams and related items under the Contract.~~

Katherine (Kit) Viator

Massachusetts will contact the winning Offeror to complete forms specific to the Commonwealth prior to ordering Exams and other materials.

The Algebra II opportunity will be numbered as: 07SSSKV1 on the Comm-PASS system. To locate this opportunity, (once posted to Comm-PASS) Offerors/Contractors will need to follow these instructions:

<http://www.comm-pass.com>

Click on Search

Click on Search for a Solicitation

Type in 07SSSKV1 in the Document Number box and click on search. A link will appear on the top of the screen: There are 1 Solicitation(s) found that match your search criteria (Click on the link) When at the next screen (Solicitation Search Results) click on the glasses under view.

Once this solicitation has been awarded, a Contract will be posted. To locate this on Comm-PASS interested parties will need to follow these instructions:

<http://www.comm-pass.com>

Click on Search

Click on Search for a Contract

Type in 07SSSKV1 in the Document Number box and click on search Click on link that appears at the top of the screen: There are 1 Contract(s) found that match your search criteria. When at the next screen (Contract Search Results) click on the glasses under view Click on the vendor tab and all the vendors on the contract are listed. To get their contact information click on the glasses under view.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

\*\* Indicates the addition of and/or updated point of contact information effective April 25, 2008

**ATTACHMENT ONE: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS  
PART TWO - F: SPECIAL PROVISIONS - STATE OF NEW JERSEY**

**Test Coordinator/Point of Contact.** With regard to issuance and administration of orders placed under the Contract by New Jersey, the Contractor should communicate with and take direction from the following:

Tim Peters, Manager  
Office of Evaluation and Assessment  
New Jersey Department of Education  
P.O. Box 500  
Trenton, NJ 08625-0500  
(609) 984-7761  
E-mail: [Timothy.peters@doe.state.nj.us](mailto:Timothy.peters@doe.state.nj.us)

Payment information for Exams ordered by and administered in the state of New Jersey will be specified in its purchase order for Exams and related items under the Contract.

**ATTACHMENT ONE: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS  
PART TWO- G: SPECIAL PROVISIONS - STATE OF OHIO**

**Test Coordinator/Point of Contact.** With regard to issuance and administration of orders placed under the Contract by Ohio, the Contractor should communicate with and take direction from the following:

Ohio Department of Education  
Center for Curriculum Assessment  
ATTN: Associate Superintendent of Curriculum and Assessment  
25 South Front Street, Mail Stop 601  
Columbus, OH 43215-4183  
[stan.heffner@ode.state.oh.us](mailto:stan.heffner@ode.state.oh.us)

Ohio will abide by the Contract's General Terms and Conditions as provided in Attachment Three of this RFP.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

**ATTACHMENT ONE: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS  
PART TWO - H: SPECIAL PROVISIONS -COMMONWEALTH OF PENNSYLVANIA**

**\*\* Test Coordinator/Point of Contact.** With regard to issuance and administration of orders placed under the Contract by Pennsylvania, the Contractor should communicate with and take direction from the following:

Rich Maraschiello  
Office of the Secretary  
Pennsylvania Department of Education  
333 Market Street  
Harrisburg, PA 17126-00333  
(717) 525-5746  
E-mail: [c-rmarasch@state.pa.us](mailto:c-rmarasch@state.pa.us)

Pennsylvania currently plans to use the test in selected low performing school districts.

**Payment.** The Contractor will be required to secure an SAP vendor identification number in order to facilitate payments for orders placed by Pennsylvania under the awarded Contract.

The Commonwealth's obligations under this Contract are dependent upon the appropriation and availability of funds for the Contract purpose.

**Disputes.** In the event of a controversy or claim arising from this Agreement, said controversy or claim shall be resolved consistent with the procedures set forth in Chapter 17 of the Commonwealth Procurement Code, 62 Pa.C.S.A. §§ 1701-1726 (P.L. 358 of 1998).

**Nondiscrimination/Sexual Harassment.** In connection with any orders placed under the Contract by the Commonwealth of Pennsylvania, the Contractor agrees as follows:

1. In the hiring of any employees for the manufacture of supplies, the performance of any work or service, or any other activity required under this Agreement or any subcontract, the Contractor or any person or entity acting on behalf of the Contractor or subcontractor, shall not by reason of gender, race, creed, or color discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
2. Neither the Contractor, nor any person or entity on its behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under this Agreement on account of gender, race, creed, or color.
3. The Contractor and any person or entity on its behalf, shall establish and maintain a written sexual harassment policy and shall inform its employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
4. The Contractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the Agreement relates.
5. The Contractor and any person or entity on its behalf shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the Department of General Services' Bureau of Agreement Administration and Business Development for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the Department of General Services' Bureau of Agreement Administration and Business Development.
6. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

\*\* Indicates the addition of and/or updated point of contact information effective October 30, 2009 (previous modifications made effective April 25, 2008).

- \*  
7. The Commonwealth may cancel or terminate this Agreement, and all money due or to become due under this Agreement may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause.

**Contractor responsibility.** The Contractor certifies, for itself and all its subcontractors, that as of the date of its execution of this Proposal/Contract, that neither the Contractor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Proposal, a written explanation of why such certification cannot be made.

1. The Contractor also certifies, that as of the date of its execution of this Proposal/Contract, it has no tax liabilities or other Commonwealth obligations.
2. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 30 days of the date of suspension or debarment.
3. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
4. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth, which results in the suspension or debarment of the Contractor. Such costs shall include but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
5. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the internet at <http://www.dgs.state.pa.us> or contacting the:

Department of General Services  
Office of Chief Counsel  
603 North Office Building  
Harrisburg, PA 17125  
Telephone: (717) 783-6472  
Fax No: (717) 787-9138

**Americans with Disabilities Act.**

1. Pursuant to federal regulations promulgated under the authority of *The Americans With Disabilities Act*, 28 C.F.R. § 35.101, *et seq.*, the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Agreement or from activities provided for under this Agreement on the basis of the disability. As a condition of accepting this Agreement, the Contractor agrees to comply with the *General Prohibitions Against Discrimination*, 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of *The Americans With Disabilities Act* which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.
2. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of Paragraph 1 of this Appendix.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

\* **Offset.** The Commonwealth may set off the amount of any state tax liability or other debt of the Contractor or its subsidiaries that is owed to the Commonwealth and not being contested on appeal against any payments due the Contractor under this or any other agreement with the Commonwealth.

**Integrity.** In compliance with the Integrity Provisions, Contractor agrees to the following:

1. Definitions

- a. Confidential information means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical or illegal advantage to another desiring to contract with the Commonwealth.
  - b. Consent means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, Bid, Proposal, or Contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this agreement.
  - c. Contractor means the individual or entity that has entered into this agreement with the Commonwealth, including directors, officers, partners, managers, key employees, and owners of more than a 5 percent interest.
  - d. Financial interest means:
    - (1) Ownership of more than a five (5) percent interest in any business.
    - (2) Holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.
  - e. Gratuity means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.
2. The Contractor shall maintain the highest standards of integrity in the performance of this agreement and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the Commonwealth.
  3. The Contractor shall not disclose to others any confidential information gained by virtue of this agreement.
  4. The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the Commonwealth.
  5. The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, give or agree to promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the Commonwealth.
  6. Except with the consent of the Commonwealth, neither the Contractor nor anyone in privity with him shall accept or agree to accept from, or give or agree to give to any person, any gratuity from any person in connection with the performance of work under this agreement except as provided therein.
  7. Except with the consent of the Commonwealth, the Contractor shall not have a financial interest in any other Contractor, subcontractor, or supplier providing services, labor, or material on this Project.
  8. The Contractor, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the Commonwealth in writing.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

- \*
9. The Contractor, by execution of this agreement and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that he has not violated any of these provisions.
  10. The Contractor, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, shall provide, or if appropriate, promptly make available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to the Contractor's integrity or responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents or files of any type or form, which refer to or concern this agreement. Such information shall be retained by the Contractor for a period of three (3) years beyond the termination of the agreement unless otherwise provided by law.
  11. For violation of any of the above provisions, the Commonwealth may terminate this and any other agreement with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another Contractor to complete performance hereunder, and debar and suspend the Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

**ATTACHMENT ONE: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS  
PART TWO - I: SPECIAL PROVISIONS – STATE OF RHODE ISLAND**

- \*\* **Test Coordinator/Point of Contact.** With regard to issuance and administration of orders placed under the Contract by Rhode Island, the Contractor should communicate with and take direction from the following:

Van Yidana  
Director, Office of Assessment and Accountability  
Rhode Island Department of Education  
255 Westminster St.  
Providence, RI 02921  
(401) 222-8488

Unlike other states, exams such as those being procured under this RFP are purchased by individual school districts in Rhode Island. The Contractor shall fulfill orders for Exams from school districts within Rhode Island to the same extent and on the same basis as if they had been ordered by Rhode Island as a Participating States.

The state of Rhode Island plans to encourage individual school districts in Rhode Island to order the Exam.

**ATTACHMENT ONE: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS  
PART TWO - J: SPECIAL PROVISIONS - STATE OF ARIZONA**

**Technical and Programmatic Contact:**  
Roberta Alley  
Deputy Associate Superintendent  
Standards Development and Assessment  
1535 W Jefferson St  
Phoenix, AZ 85007  
Phone: 602-364-1164  
E-mail: Roberta.Alley@azed.gov

**Contract Administration Contact:**  
Brian D. Ball  
Sr. Procurement Specialist  
Contracts Management Unit, Bin 37  
1535 W Jefferson St  
Phoenix, AZ 85007  
Phone: 602-542-4254  
E-mail: brian.ball@azed.gov

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

\*\* Indicates the addition of and/or updated point of contact information effective October 30, 2009 (previous update effective April 25, 2008).

\* **Payment.** The state of Arizona will make payment within 30 working days upon receipt of invoices approved by the Deputy Associate Superintendent, Standards Development and Assessment.

**Invoices shall be sent to:**

Arizona Department of Education  
Accounting, Bin #1  
1535 W Jefferson St.  
Phoenix, AZ 85007

**Disputes.** In event of controversy or claim arising from this agreement, said controversy or claim shall be resolved consistent with the procedures set forth in Chapter Nine of the Arizona Procurement code, A.R.S. § 41-2635.

**Insurance Requirements.** The insurance secured pursuant to Attachment Three, Part Two, shall include or be indorsed to include as covered parties: The state of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

**Availability of funds for the next fiscal year.** Funds may not presently be available for performance under this Agreement beyond the current fiscal year. No legal liability on the part of the state of Arizona for any payment may arise under this Agreement beyond the current fiscal year until funds are made available for performance of this Agreement. The state of Arizona shall make reasonable efforts to secure such funds.

**Cancellation for conflict of interest.** Pursuant to Arizona Revised Statute section 38-511, the state of Arizona may cancel this Agreement within three (3) years after Agreement execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the State of Arizona is or becomes at any time while the Agreement or an extension of the Agreement is in effect an employee of or a consultant to any other party to this Agreement with respect to the subject matter of the Agreement. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Agreement as provided in A.R.S. section 38-511.

**Non-discrimination.** The Contractor shall comply with Arizona State Executive Order No. 99-4 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

**Records.** Under Arizona Revised Statute sections 35-214 and 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other records ("records") relating to the acquisition and performance of the Agreement for a period of five years after the completion of the Agreement. All records shall be subject to inspection and audit by the state of Arizona at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

**Third party antitrust violations.** The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

**ATTACHMENT ONE: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS  
PART TWO - K: SPECIAL PROVISIONS - STATE OF HAWAII**

**Test Coordinator/Point of Contact.** With regard to matters related to coordination and direction of test development and administration for the state of Hawaii, the Contractor should communicate with and take direction from the following:

Patricia Reiss, Test Development Specialist, Student Assessment Section  
Hawaii Department of Education  
3430 Leahi Ave., Bldg. D  
Honolulu, HI 96815  
Telephone: 808-394-1300  
E-mail: Patricia\_Reiss/SAS/HIDOE@notes.k12.hi.us

**Coordination of Services by the State.** The head of the purchasing agency ("HOPA"), (which term includes the designee of the HOPA), shall coordinate the services to be provided by the Contractor in order to complete the performance required in the Contract. The Contractor shall maintain communications with HOPA at all stages of the Contractor's work, and submit to HOPA for resolution any questions which may arise as to the performance of this Contract. "Purchasing agency" as used in these General Conditions means and includes any governmental body which is authorized under chapter 103D, HRS, or its implementing rules and procedures, or by way of delegation, to enter into contracts for the procurement of goods or services or both.

**ATTACHMENT ONE: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS  
PART TWO - L: SPECIAL PROVISIONS - STATE OF MINNESOTA**

**Test Coordinator/Point of Contact.** With regard to matters related to coordination and direction of test development and administration, the Contractor should communicate with and take direction from the following:

Dirk Mattson, Director  
Division of Research & Assessment  
Minnesota Department of Education  
1500 Hwy 36 West  
Roseville, MN 55113  
(651) 582-1611  
E-mail: dirk.mattson@state.mn.us

Exams procured under this RFP will be purchased by individual school districts in Minnesota, rather than by the State of Minnesota. The Contractor shall fulfill orders for Exams from school districts within Minnesota to the same extent and on the same basis as if they had been ordered by Minnesota as a Participating State.

Terms and conditions of purchase, to the extent inconsistent with those elsewhere in the Contract, as well as provisions relating to payment and dispute resolution, will be included with the purchase orders for Exams issued by individual Minnesota school districts.

**Disputes.** Any order placed pursuant to this Contract by the State of Minnesota or its school districts is subject to the laws of the State of Minnesota and, where applicable, federal law. Any litigation with respect to orders placed pursuant to this Contract by the State of Minnesota shall be brought in state or federal court in Ramsey County, Minnesota.

**Funding cancellation.** Pursuant to Minn. Stat. § 16C.08, subd. 5, if the commissioner determines that further performance under the contract would not serve agency purposes, the commissioner may unilaterally terminate the contract prior to completion, upon payment of just compensation.

**Anticipated exam use.** The State of Minnesota has 233 high schools across 336 districts.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

\*\* Indicates a change to Special Provisions for the state of Hawaii effective April 25, 2008 and an update to point of contact information effective October 30, 2009.

**ATTACHMENT ONE: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS  
PART TWO- M: SPECIAL PROVISIONS - STATE OF NORTH CAROLINA**

**Test Coordinator and Point of Contact.** The test coordinator for North Carolina State Board of Education (NCSBE) shall be:

Louis M. (Lou) Fabrizio, Ph.D.  
Director, Division of Accountability Services  
NC Department of Public Instruction  
6314 Mail Service Center  
Raleigh, NC 27699-6314  
Telephone: 919-807-3770  
Fax: 919-807-3772  
E-mail: [Lfabrizio@dpi.state.nc.us](mailto:Lfabrizio@dpi.state.nc.us)

The Contract Administrator contracts or purchase orders for Exams ordered by NCSBE and administered in the State of North Carolina will be:

Chuck Clements, Section Chief  
Purchasing and Contracts  
NC Department of Public Instruction  
6314 Mail Service Center  
Raleigh, NC 27699-6308  
Telephone: 919-807-3661  
Fax: 919-807-3660  
E-mail: [CClements@dpi.state.nc.us](mailto:CClements@dpi.state.nc.us)

**Purpose of Exam and Estimated Size of Order.** NCSBE intends to offer the Exam on a voluntary basis as an assessment of student knowledge of Algebra II. NCSBE will specify the exact number of Exams and ancillary materials and related services in its purchase order. At present, NCSBE expects to order 1050 Exams and related test administration, scoring, reporting and ancillary materials.

**Governing Law, Forum Selection.** All orders for Exams issued hereunder shall be governed by the laws of North Carolina. In instances of disputes that do not arise from or are not related to an NCSBE order, then this Contract shall be governed by the laws of the state of Ohio. For disputes that arise from or are related to an NCSBE order, jurisdiction and venue for any disputes shall lie exclusively with in the North Carolina General Court of Justice, Superior Court Division for Wake County, North Carolina. In accordance with N.C. Gen. Stat. § 22B-3, in instances of disputes to which the State of North Carolina or NCSBE is a party but do not arise from or are not related to an NCSBE order, then jurisdiction and venue for such a dispute may be brought in either the appropriate court in Franklin County, Ohio, or in the North Carolina General Court of Justice, Superior Court Division for Wake County, North Carolina.

**Method of Payment.** The Contractor shall submit an invoice or invoices according to the payment schedule set forth in this agreement. Invoices shall be billed to the Payables Section, North Carolina Department of Public Instruction, but directed to the Contract Administrator, as identified herein, for approval of payment. Payment shall be made within 30 days upon receipt by the Payables Section of a requisition for payment from the Contract Administrator confirming that the Contractor has satisfactorily completed the work required under this Contract and evidenced by said invoices.

**No Penalties or Interest.** NCSBE shall not be liable for any interest or penalties on any late payments.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

**Electronic Procurement.**

1. Purchasing of Exams and ancillary materials shall be conducted through the Statewide E-Procurement Service. The State's third party agent shall serve as the Supplier Manager for this E-Procurement Service. Contractor agrees at all times to maintain the confidentiality of its user name and password for the Statewide E-Procurement Services. If a Contractor is a corporation, partnership or other legal entity, then the Contractor may authorize its employees to use its password. Contractor shall be responsible for all activity and all charges for such employees. Contractor agrees not to permit a third party to use the Statewide E-Procurement Services through its account. If there is a breach of security through the Contractor's account, Contractor shall immediately change its password and notify the Supplier Manager of the security breach by e-mail. Contractor shall cooperate with the state and the Supplier Manager to mitigate and correct any security breach.
2. The Contractor shall provide supplier information, contract pricing and other product related information requested by the State or the Supplier Manager. This information shall include such information as Contractor name, SKU, brand/manufacturer, product name and a brief description, unit of measure, price, and other similar information properly requested by the State of the Supplier Manager to facilitate purchasing from the Contract. This information shall be posted by the Contractor in the format provided by the Supplier Manager, or as otherwise provided in a template or format required by the State. No costs or expenses associated with providing this information shall be charged to the State, its agents (including Supplier Manager) or State approved users of the contract. For the purposes of this Contract, the Contractor warrants that it is authorized and empowered to and hereby grants the State and the Supplier Manager the right and license to reproduce and display Contractor's trademarks, service marks, logos, trade dress or other branding designation that identifies the goods available under the Contract. The Supplier Manager shall create and maintain, with Contractor's timely assistance, Web-based placement of Contract information, where appropriate, that includes the Contract items distributed by the Contractor within the appropriate contract categories. The State shall provide any price adjustment/product modification information that it has approved during the course of the Contract, to the Supplier Manager immediately upon such change. If the Contractor is not the manufacturer, then it shall be the Contractor's responsibility to obtain authorization from the manufacturer to comply with the provisions of this Contract, including any appropriate intellectual property rights of the manufacturer. If the Contractor is the manufacturer, then the manufacturer shall only authorize dealers, outlets, distributors, value added resellers, etc. (together, "Authorized Resellers") within their network that can comply with the provisions of this contract.

**Subcontractor Approval.** The Contractor shall not transfer any interest in this agreement or subcontract any of the work to be performed by Contractor without the prior written approval of NCSBE Contract Administrator, unless such arrangement was specified in Ohio Contract No. CSP902107.

**Outsourcing.** Any Contractor or subcontractor providing call or contact center services to NCSBE or the intended beneficiaries of this Contract shall disclose to inbound callers the location from which the call or contact center services are being provided. If, after award of a contract, the Contractor wishes to outsource any portion of the work to a location outside the United States, prior written approval must be obtained from the NCSBE for the Contract. The Contractor must give notice to the NCSBE of any relocation of the Contractor, employees of the Contractor, subcontractors of the Contractor, or other persons performing services under this Contract outside of the United States.

**Time is of the Essence, Late Delivery, Back Order.** Time is of the essence in the performance of this Contract. The Contractor shall advise the Contract Administrator immediately upon determining that any Deliverable will not, or may not, be delivered at the time or place specified. Together with such notice, the Contractor shall state the projected delivery time and date. In the event the delay projected by Contractor is unsatisfactory, the Contractor agrees to pay the Agency the liquidated damages specified in the Contract.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

\* **Availability of Funds.** Any and all payments to Contractor are expressly contingent upon and subject to the appropriation, allocation, and availability of funds to the Agency for the purposes set forth in this Contract. If this Contract or any Purchase Order issued hereunder is funded in whole or in part by federal funds, the Agency's performance and payment shall be subject to and contingent upon the continuing availability of said federal funds for the purposes of the Contract or Purchase Order. If the term of this Contract extends into fiscal years subsequent to that in which it is approved, such continuation of the Contract, is expressly contingent upon the appropriation, allocation and availability of funds by the N.C. Legislature for the purposes set forth in the Contract. If funds to effect payment are not available, the Agency will provide written notification to Contractor. If the Contract is terminated under this paragraph, the Contractor agrees to take back any affected Deliverables and software not yet delivered under this Contract, terminate any services supplied to the Agency under this Contract, and relieve the Agency of any further obligation thereof. The State shall remit payment for Deliverables and services accepted prior to the date of the aforesaid notice in conformance with the payment terms.

**Insurance Coverage.** During the term of the Contract, the Contractor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Contract as represented in the original RFP.

**Access to Persons and Records.** Pursuant to N.C. General Statute 147-64.7, the Agency, the State Auditor, appropriate federal officials, and their respective authorized employees or agents are authorized to examine all books, records, and accounts of the Contractor insofar as they relate to transactions with any department, board, officer, commission, institution, or other Agency of the State of North Carolina pursuant to the performance of this Contract or to costs charged to this Contract. The Contractor shall retain any such books, records, and accounts for a minimum of three (3) years after the completion of this Contract. Additional audit or reporting requirements may be required by any Agency, if in the Agency's opinion, such requirement is imposed by federal or state law or regulation.

**Dispute Resolution.** The Parties agree that it is in their mutual interest to resolve disputes informally. A claim by the Contractor shall be submitted in writing to the Contract Administrator for decision. A claim by the State shall be submitted in writing to the Contractor's Contract Administrator for decision. The Parties shall negotiate in good faith and use all reasonable efforts to resolve such dispute(s). During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under this Contract. If a dispute cannot be resolved between the Parties within 30 days after delivery of notice, either Party may elect to exercise any other remedies available under this Contract, or at law. This term shall not constitute an agreement by either party to mediate or arbitrate any dispute.

**Public Records and Confidentiality.** Pursuant to N.C.G.S. 132-1, all documents regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions are deemed public records and it is the policy of North Carolina that the people may obtain copies of public records and public information free or at minimal cost unless otherwise specifically provided by law.

1. The State may maintain the confidentiality of certain types of information described in N.C. Gen. Stat. §132-1 et. seq. Such information may include trade secrets defined by N.C. Gen. Stat. §66-152 and other information exempted from the Public Records Act pursuant to N.C. Gen. Stat. §132-1.2. Contractor may designate appropriate portions of its response as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by marking the top and bottom of pages containing confidential information with a legend in boldface type "CONFIDENTIAL". By so marking any page, the Contractor warrants that it has formed a good faith opinion, having received such necessary or proper review by counsel and other knowledgeable advisors, that the portions marked confidential meet the requirements of the Rules and Statutes set forth above.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

However, under no circumstances shall price information be designated as confidential. The State may serve as custodian of Contractor's confidential information and not as an arbiter of claims against Contractor's assertion of confidentiality. If an action is brought pursuant to N.C. Gen. Stat. §132-9 to compel the State to disclose information marked confidential, the Contractor agrees that it will intervene in the action through its counsel and participate in defending the State, including any public official(s) or public employee(s). The Contractor agrees that it shall hold the State and any official(s) and individual(s) harmless from any and all damages, costs, and attorneys' fees awarded against the State in the action. The State agrees to promptly notify the Contractor in writing of any action seeking to compel the disclosure of Contractor's confidential information. The State shall have the right, at its option and expense, to participate in the defense of the action through its counsel. The State shall have no liability to Contractor with respect to the disclosure of Contractor's confidential information ordered by a court of competent jurisdiction pursuant to N.C. Gen. Stat. §132-9 or other applicable law.

2. Care of Information: Contractor agrees to use commercial best efforts to safeguard and protect any data, documents, files, and other materials received from the State or the Agency during performance of any contractual obligation from loss, destruction or erasure.
3. Contractor warrants that all its employees and any approved third party Contractors or subcontractors are subject to a non-disclosure and confidentiality agreement enforceable in North Carolina. Contractor will, upon request of the State, verify and produce true copies of any such agreements. Production of such agreements by Contractor may be made subject to applicable confidentiality, non-disclosure or privacy laws; provided that Contractor produces satisfactory evidence supporting exclusion of such agreements from disclosure under the N.C. Public Records laws in NCGS §132-1 et. seq. The State may, in its sole discretion, provide a non-disclosure and confidentiality agreement satisfactory to the State for Contractor's execution. The State may exercise its rights under this subparagraph as necessary or proper, in its discretion, to comply with applicable security regulations or statutes including, but not limited to 26 USC 6103 and IRS Publication 1075, (Tax Information Security Guidelines for Federal, State, and Local Agencies), HIPAA, 42 USC 1320(d) (Health Insurance Portability and Accountability Act), any implementing regulations in the Code of Federal Regulations, and any future regulations imposed upon the Office of Information Technology Services or the N.C. Department of Revenue pursuant to future statutory or regulatory requirements.
4. Nondisclosure: Contractor agrees and specifically warrants that it, its officers, directors, principals and employees, and any subcontractors, shall hold all information received during performance of this Contract in the strictest confidence and shall not disclose the same to any third party without the express written approval of the State .

**Family Educational Rights & Privacy Act.** Student educational records are subject to 20 U.S.C. 1232g, Family Rights and Privacy Act (FERPA) and are not disclosable except in very limited circumstances. The contractor will ensure that every employee responsible for carrying out the terms of this contract is aware of the confidentiality requirements of federal law. In addition, every such employee must sign a confidentiality acknowledgement that indicates that he or she understands the legal requirements for confidentiality. The contractor is responsible for the actions of its employee and must take all precautions necessary to ensure that no violations occur. Finally, access to personally identifiable student education information will be limited to those employees who must have access to it in order to perform their responsibilities pursuant to this contract.

**Certifications of Noncollusion and Eligibility to Contract.** Contractor certifies that its offer was submitted competitively and without collusion (G.S. 143-54), that none of its officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and that it is not an ineligible Contractor as set forth in G.S. 143-59.1. False certification is a Class I felony and contracts entered into in violation of those proscriptions are void. The Contractor further certifies that it is qualified to contract with the State of North Carolina and has not been debarred from contracting with the State of North Carolina.

**Severability.** No condition in this Contract shall be construed to limit the enforceability of any other condition herein. In the event any term or condition contained in, or made a part of this document by reference, is negated or vacated for any reason whatsoever all other provisions shall remain fully valid and enforceable.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

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**ATTACHMENT ONE: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS  
PART TWO- N: SPECIAL PROVISIONS - STATE OF WASHINGTON**

**\*\* Point of Contact Information.**

Washington Department of Education  
Office of Superintendent of Public Instruction  
ATTN.: Michael Middleton  
600 Washington Street SE  
PO Box 47200  
Olympia, WA 98504-7200  
(360) 725-6434

**Committee Participant List:**

Anton Jackson will also serve as a point of contact for Washington

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

\*\* Indicates the addition of Special Provisions for the state of Washington effective February 14, 2008 and an update to point of contact information effective October 30, 2009.

**ATTACHMENT ONE: PROJECT REQUIREMENTS AND SPECIAL PROVISIONS  
PART TWO- O: SPECIAL PROVISIONS - STATE OF FLORIDA**

**Test Coordinator and Point(s) of Contact.** The test coordinator for the Florida Department of Education (FDOE) shall be:

Cornelia Orr, Ph.D.  
Assistant Deputy Commissioner of Accountability, Research, and Measurement  
Office of Assessment  
Florida Department of Education  
325 West Gaines Street, Suite 414  
Tallahassee, Florida 32399-0400

The Contract Administrator for the FDOE shall be:

LynnAnn Tabelaing  
Director, Computer Based Testing  
Office of Assessment  
Florida Department of Education  
325 West Gaines Street, Suite 401  
Tallahassee, Florida 32399-0400

**Orders for Exams.** At least nine (9) weeks prior to the administration, the Department will provide the Contractor the number of students to be tested in each participating district. At that time, the price per exam based upon the volume of the initial orders for the administration will be communicated to the Participating States by the Contractor. All initial orders and subsequent orders will be invoiced at the price determined after the initial orders are received. The cost for Florida students to participate will be paid by the Department. However, if no order is placed with Contractor nine (9) weeks prior to test administration, the Department will have no financial obligation or liability to Contractor, unless otherwise agreed upon by the parties in writing.

**Invoicing and Expenses.** Pursuant to Section 287.058(1), Florida Statutes ("F.S.):

- a. Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.
- b. Travel expenses will be reimbursed only if expressly authorized by the terms of the Contract. Bills for any travel expenses shall be submitted in accordance with s. 112.061, F.S.
- c. The Department may unilaterally Cancel this Agreement pursuant to the terms contained in Contract No.: CSP902107, if the Contractor refuses to allow access by members of the public to all documents, papers, letters and materials made or received in conjunction with the Contract that are subject to Chapter 119, F.S., and are not exempt from public inspection by 119.071, F.S., or by other provisions of general or special law.
- d. To complete performance under this Contract, all services must be performed and/or goods received on or before the date(s) specified in the Contract. However, payment is not conditioned upon complete performance.
- f. Renewals and pricing shall be considered pursuant to the terms contained in Contract No.: CSP902107 and contingent on satisfactory performance evaluations by the Participating States and subject to the availability of funds.
- g. Florida may withdraw from this Agreement at any time and for any reasons, provided that, upon such withdrawal, such State shall not issue any additional task orders under the Contract for the Exam.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

\*\* Indicates the addition of Special Provisions for the state of Florida effective January 21, 2009 and a modification to exam ordering and invoicing for the state of Florida effective October 30, 2009.

- h. The Contractor shall prepare an invoice for the amount due and mail it to the Department of Education Comptroller pursuant to the terms of this Contract. The invoice shall set forth details sufficient for a proper pre-audit and post-audit including, where applicable, the products and services delivered and completion dates. Upon receipt of the invoice, the Department of Education Comptroller will request confirmation from the Contract Manager that the payment is due. Upon receipt of the Contract Manager's approval, the Department of Education Comptroller shall process each invoice in accordance with the provisions of s. 215.422, F.S.
- i. Contractor agrees to submit invoice pursuant to the terms contained in Contract No. CSP902107.
- j. Section 215.422, F.S., provides that agencies have five (5) working days to inspect and approve goods and services, unless bid specifications or the Contract specifies otherwise. With the exception of payments to health care providers for hospital, medical, or other health care services, if payment is not available within forty (40) days, measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved, a separate interest penalty set by the Comptroller pursuant to s. 55.03, F.S., will be due and payable in addition to the invoice amount. To obtain the applicable interest rate, please contact the Department's Fiscal s. at 850/245-0401 or Purchasing Office at 850/245-0483. Payments to health care providers for hospitals, medical, or other health care services, shall be made not more than thirty-five (35) days from the date of eligibility for payment is determined, and the daily interest rate is .02740 percent. Invoices returned to a vendor due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to the agency. A Vendor Ombudsman, whose duties include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a State Agency, may be contacted at 866/352-3776 or by calling the Chief Financial Officer's Hotline, 800/342-2762.
- k. As used in this Contract, the term "Deliverable" refers to tangible "commodities", as defined in s. 287.012(5), F.S., which the Contractor provides pursuant to the Contract and to reports or other tangible or documentary evidence which demonstrate that the Contractor has performed the services required by the Contract. The following provisions govern Deliverables, as applicable:
  - 1) Each Deliverable must be physically delivered to the Department's Contract Manager, or to a person designated by the Contract Manager. If delivery is made to a designee, the Contractor shall give written notice to the Contract Manager of the delivery. A Deliverable is not received until the Contract Manager has physical control of deliveries or has written notice that the designee has physical control.
  - 2) In each case in which the approval of a Deliverable is dependent upon tests being conducted by the Department or Contractor, independently or jointly, the Department's inspection and approval of the Deliverable shall not be subject to the five (5) day provision in s. 215.422, F.S., but shall be governed by the terms and conditions of any acceptance testing plan, until approved in accordance with the plan.
  - 3) The Department's inspection, including testing when applicable, shall determine whether or not the Deliverables appear to be in compliance with the Contract. The Contractor shall be notified in writing of any apparent deficiency. The written notice shall detail the specific action required by the Contractor to correct the deficiency. The Contractor shall timely correct such deficiency and resubmit the deliverable for acceptance.
- l. The Contractor represents and agrees that information submitted in support of its requests for payment is the basis of payment and is true and accurate to the best of knowledge of the responsible signatory. A violation of this provision shall subject the violator to the provisions of s. 68.082, F.S., pertaining to false claims against the State, and/or s. 837.06, F.S., pertaining to false official statements.
- m. The state of Florida's fiscal year comprises July 1 through June 30. The Department's and State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature. If the Legislature fails to make the necessary appropriation, the Department will determine if there are other unencumbered funds which are available and which can be lawfully expended to pay for the Department's obligations hereunder. If the Department determines that there are no such funds, the Department shall promptly notify the Contractor. The giving of notice shall be deemed to have cancelled this Contract by mutual consent, with the date of notice being the date of cancellation.
- n. Notwithstanding anything to the contrary contained in the Contract, Contractor warrants that all commodities, as defined in s. 287.012, F.S., shall meet the specifications of the Contract and shall be merchantable and fit for the particular purposes intended by the Contract.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 and a modification to invoicing language for the state of Florida pursuant to the terms of this Contract (previous repagination occurred on April 25 and February 14 in 2008).

\* **Copyrights.** The Contractor further warrants that as to each Deliverable produced pursuant to this Contract, Contractor's production of the Deliverable, and the Department's use of the Deliverable, will not infringe on the copyrights of any third party. This provision applies to each work of authorship in which copyrights subsist pursuant to 17 U.S.C. Sections 102-105 and to each exclusive right established in 17 U.S.C. Section 106. In furtherance of this provision the Contractor additionally warrants that:

- a. As to each work of software or other "information technology", as defined in s. 287.012(15), F.S., in which copyrights subsist, the Contractor has acquired the rights by conveyance or license to any third party software or other information technology, which was used to produce the Deliverable;
- b. As to each image and sound recording incorporated into a Deliverable, the Contractor has acquired the necessary rights, releases, and waivers from the person whose image or sound is included, or from the holder of the copyrights subsisting in the literary, musical, dramatic, pantomime, choreographic, pictorial, graphic, sculptural, motion pictures, audiovisual work or sound recording from which the included image or sound recording was taken.

**Confidential Information.** The Contractor further warrants that the Contractor shall not disclose to any third party, without the express, prior, written approval of the Department, any personally identifiable information about any student. This applies to information which came from any record or report of a Florida public education institution or from any education record which is subject to the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g. The terms "record a report" and "student" shall have the meanings prescribed in s. 1002.22(2)(c) and (d), F.S. The term "educational record" shall have the meaning prescribed in 20 U.S.C. Section 1232g(a)(4).

**Lobbying.** Pursuant to Sections 11.062 and 216.347, F.S., no funds awarded under this Contract may be used for the purpose of lobbying the Legislature, the judicial branch, or a State agency.

**Access to Records by Government Agencies.** The Contractor shall grant access to all records pertaining to the Contract to the Department's Inspector General, General Counsel and other agency representatives, the State Auditor General, the Office of Program Policy and Government Accountability, and the Chief Financial Officer.

**Assignments and Subcontracting.** The Contractor may not assign or subcontract all or any portion of this Contract without the advance written consent of the Department. However, in all cases in which the Contractor, with the advance written consent of the Department, assigns or subcontracts, all or any portion of the Contract:

- a. The Contractor shall monitor the subcontractor or assignee and establish controls to avoid or mitigate risks identified by the Department or the Contractor; and
- b. The Contractor shall allow the Department to monitor subcontractor or assignee activity and compliance, and the Contractor shall require the subcontractor or assignee to promptly submit to the Department, at the Department's request, complete and accurate documentation pertaining to the subcontract or the Contract.

**Contract Manager.** The Contractor shall coordinate with and assist the Department's Contract Manager in the performance of the latter's responsibilities, which include without limitation:

- a. Monitoring the activities of the Contractor.
- b. Receiving and reviewing the reports of the Contractor to determine whether the objectives of the Contract are being accomplished.
- c. Receiving and reviewing the invoices for payment of funds to assure that the requirements of the Contract have been met and that payment is appropriate.
- d. Evaluating the process used by the Contractor to monitor the activities of any subcontractor or assignee.
- e. Accessing, directly, the subcontractors and assignees, as the Contract Manager deems necessary.

**Compliance with Laws.** In addition, the Contractor shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and authority; including, but not limited to, the Americans with Disabilities Act and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, disability, marital status, or veteran's status.

**State Purchasing Approval.** This agreement and the Department's obligations hereunder are contingent upon the State of Florida, Department of Management Services, approving the Department entering into the agreement between Ohio and the Contractor. The Department shall immediately notify the Contractor when such approval is obtained.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

**Miscellaneous Provisions.**

- a. The Department and the Contractor waive application of the principle of contract construction that ambiguities are to be construed against a contract's drafter, and agree that this Contract is their joint product.
- b. The Department and the Contractor acknowledge that they have had their respective attorneys review and approve this Contract or that they have had the opportunity to do so.
- c. This Contract, as to any claims involving the State of Florida, shall be governed by the laws of the State of Florida, and venue for purposes of any action brought to enforce or construe the Contract shall lie in Leon County, Florida.
- d. Failure of the Department to declare any default immediately upon the occurrence or knowledge thereof, or delay in taking any action in connection therewith, does not waive such default. The Department shall have the right to declare any such default at any time and take such action as might be lawful or authorized under the Contract, at law, or in equity. No Department waiver of any term, provision, condition or covenant of the Contract shall be deemed to imply or constitute a further Department waiver of any other term, provision, condition or covenant of the Contract, and no payment by the Department shall be deemed a waiver of any default under the Contract.
- e. Time is of the essence with regard to each and every obligation of the Contractor contained in the Contract. Each such obligation is deemed material, and a breach of any such obligation (including a breach resulting from the untimely performance thereof) shall constitute a material breach.
- f. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017, F.S., for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.
- g. The employment of unauthorized aliens by any contractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the contract.
- h. The Contractor hereby certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

\* Indicates the repagination of pages 7 – 54 to this Contract effective October 30, 2009 (previous repagination occurred on April 25 and February 14 in 2008).

SUMMARY OF AMENDMENTS

AMENDMENT NUMBER	REVISION DATE	DESCRIPTION
6	05/16/11	This Amendment is issued to advise that this Contract will expire on 8/31/11, and indicate a two (2) month extension to the Contract from 07/01/11 through 08/31/11 to allow for final reporting requirements to be met.
5	10/30/09	This Amendment is issued to: Add anticipated utilization and Special Provisions for the state of Florida. Indicate repagination of pages 7 – 54 of this Contract. Modify meeting dates. Modify standards setting, reporting, submission, and production requirements. Update changes to test administration procedures and protocol(s). Update changes to the on-line test administration details. Modify CDT selection team process and participant process as well as Research Alliance participant reimbursement specifications. Update the subcontractor's business name from BETA to QUESTAR. Modify the calculator policy. Provide clarification and modifications on the volume pricing determination timeline from 12 weeks before test administration to nine (9) weeks before test administration. Modify the Spring testing window to a four (4) week period. Change the Participating State(s) point of contact information. Update the Algebra I and II forms creation and use plan. Modify the item release plan. Require participating schools/states to select a specific five (5) day test administration period within the prescribed national four (4) week window. Change the Contractor's point of contact information.
4	10/31/08	This Amendment is issued to add the state of Florida as the 15 <sup>th</sup> Participating State, and change Contractor point of contact information.
3	04/25/08	This Amendment is issued to: Modify incentives for field testing. Provide clarification on requirements specific to Algebra II. Modify Algebra II Module requirements. Identify Table A. Modify Standard Setting and Reporting Requirements. Clarify information/submission requirements. Clarify on-line testing requirements. Add Milestone language specific to the state of Hawaii. Modify CDT Coordinator role responsibility. Modify language for test development, test forms, and special test version requirements. Clarify protocol and participation specifications for Program meetings. Clarify travel, meeting cost and Research Alliance reimbursement specifications. Publish a final version of the Calculator Policy (November 2007). Modify payment language. Provide actual utilization and anticipated utilization statistics for the Algebra I End-of-Course (EOC) Exam. Add Algebra I EOC Exam requirements as an additional related EOC Exam as Supplement One to the Contract. Modify pricing structure and replace Table 1 with Tables 1-A and 1-B. Update Participating State (s) point of contact information. Provide updated contractor point of contact information. Modify fee structure and invoicing language. Identify Attachment One, Part Two (Special Provisions) as Supplement Two of the Contract. Modify the state of Hawaii's Special Provisions. Indicate repagination and provide a republished Contract due to the resulting repagination.
2	02/14/08	This Amendment is issued to add the states of Hawaii, Minnesota, North Carolina, and Washington; update contact information; redefine the CDT Coordinator Role; modify the Special Provisions clause(s); and indicate repagination as a result of the Contract modifications.
1	12/20/07	This Amendment is issued to add the state of Arizona as a Participating State; to modify and clarify Contract requirements reached by mutual agreement between parties; and indicate repagination as a result of the Contract modifications.

\* Indicates the modification of the Summary of Amendments table effective May 16, 2011.