



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

MANDATORY USE CONTRACT FOR: NATIONALLY STANDARDIZED ASSESSMENT (NSA) FOR COLLEGE READINESS FOR OHIO HIGH SCHOOL 11TH GRADE STUDENTS

CONTRACT NUMBER: CSP901816

EFFECTIVE DATES: 06/10/16 TO 06/30/17

The Department of Administrative Services has accepted Proposals submitted in response to Request for Proposal (RFP) No. CSP901816 that opened on September 16, 2015. 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 Requirements 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 Requirements Contract is available to the Ohio Department of Education as applicable.

The agency is eligible to make purchases of the contracted services in any amount and at any time as determined by the agency. The State makes no representation or guarantee that department will purchase the volume of services as advertised in the Request for Proposal.

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

www.ohio.gov/procure

ACT: AGREED MUTUALLY AGREED-UPON EXCEPTIONS AND CLARIFICATIONS

1. Section 5.3.2 Record Keeping: The second paragraph of the Record Keeping section is not applicable to this contract.

Audit. ACT will maintain financial records in a manner that permits ACT to comply with the audit requirements of any eventual agreement. Any such audit may be performed be upon 10 days prior written notice to ACT, be conducted at State's expense at ACT's national headquarters in Iowa City, Iowa, be conducted under the supervision of an ACT employee, and be limited to documents that directly evidence the prices set forth in the invoices.

2. Section 5.3.2 Insurance: The requirement for Commercial Automobile Liability insurance is not applicable to this contract.
3. Section 5.3.2 Replacement Personnel: following paragraph be deleted from this section: Should the State reject both proposed candidates for any legal reason other than their failure to meet the minimum qualifications identified in the RFP, then such rejection may be deemed a termination for convenience. ACT further requests that the sole reason for removal of personnel be failure to meet reasonable and relevant qualifications for provision of the work.
4. Section 5.3.2 Contract Noncompliance. Add the following language: ACT is willing to negotiate the appropriate remedies in the event of breach.
5. Section 5.3.2. Changes. ADD THIS language: ACT respectfully requests that changes to the Contract be possible only by mutual agreement and by a writing signed by both parties.
6. Section 5.3.3 Ownership of Deliverables. The solution offered pursuant to this RFP is ACT's preexisting licensed works. Such materials are not works made for hire, and ACT accordingly retains all right and interest in any such products, as well as to the data generated from the use of such products.
7. Section 5.3.3. License in Commercial Material. ACT believes that its standard Terms and Conditions for its off-the-shelf products appended as Exhibits hereto are more appropriate to its products than this provision of the Contract. ACT therefore requests that, if its Terms and Conditions are incorporated into the Contract, this section be deleted. Alternatively, if ACT's Terms and Conditions are not incorporated, ACT requests that references to Commercial Software be deleted from this section, as they are inapplicable to its proposal.
8. Section 5.3.4
Software Warranties and Equipment Warranties are not applicable to this contract.

GENERAL EXCLUSION OF WARRANTIES. The State makes no warranties, express or implied, other than those express warranties contained in this contract. The contractor also makes no warranties of merchantability or fitness for a particular purpose except as follows: If the Contractor has been engaged under the scope of work in the RFP to design something to meet a particular need for the State, then the Contractor does warrant that the contractor's work will meet the stated purpose for that work. Disclaimer of warranties not specifically included in the Contract is mutual.

9. Contract shall include Information Security Policies effective 12/1/14.
10. ACT routinely releases national examinations from certain testing dates, which are announced in advance. Released examinations may be viewed by parents.
11. The ACT Interest Inventory includes questions which help ACT assess the validity and integrity of its assessments but primarily is used in connection with its voluntary Educational Opportunity Service (EOS), at no cost to students. Students who opt into this service (and who may opt out at any time) have their information available to approximately 2,100 eligible institutions (such as colleges, universities, scholarship organizations, and other educational programs who meet our guidelines for eligibility) in order for such institutions to recruit prospective students and to advise them of available opportunities. ACT allows these institutions to query our EOS database for student information based on data points selected (e.g., they can search to find all students in a certain geographic region who are graduating in a certain year and are interested in Engineering). Those students who have completed the Interest Inventory and meet the selected criteria will appear in that institutions' data file.

COLLEGE BOARD: MUTUALLY AGREED-UPON EXCEPTIONS AND CLARIFICATIONS

1. Contract shall include Information Security Policies effective 12/1/14.
2. The College Board routinely releases national examinations from certain testing dates, which are announced in advance. Released examinations may be viewed by parents.
3. The College Board's Student Data Questionnaire (SDQ) includes questions which help the College Board assess the validity and integrity of its assessments but primarily is used in connection with its voluntary Student Search Program, at no cost to students. Students who affirmatively opt into this service (and who may opt out at any time) have their information available to approximately 1500 eligible institutions (such as colleges, universities, scholarship organizations who meet our guidelines for eligibility) for license in order for such institutions to recruit prospective students and to advise them of available opportunities. Student Search allows these institutions to query our database to license student data which is responsive to the data points selected (e.g., they can search to find all female students in a certain geographic region who play a varsity sport and have expressed an interest in majoring in English). Those students who have responded to the applicable SDQ questions and meet the query will appear in that institutions' report. There is an abundance of information for students and families available online and in print.
4. **Limitation of Liability.** Contractor's liability for damages to State for any cause whatsoever, and regardless of the form of action, shall not exceed an amount equal to two times the aggregate contract price. As used in this clause, the term "aggregate contract price" means the total price for the initial term and all renewal terms of this Contract. The parties waive claims against each other for exemplary or punitive damages and special or consequential damages, including but not limited to lost profits, even if the parties have been advised, knew, or should have known of the possibility of such damages.
5. **Ownership of Deliverables/Data Use.** The parties acknowledge and agree that the College Board may use and disclose the data collected from the administration of the assessments consistent with its data usage policies, as may be amended from time to time, attached and incorporated into this agreement. The College Board's Guidelines for Release of Data, Guidelines on Uses of the College Board's Test Scores and Data, and SAT School Day Sample State Agreement are a part of this agreement.

In the last seven months, the College Board has entered into more than 10 substantial contracts with States and the largest school districts using College Board assessments for accountability purposes, where we have successfully negotiated provisions around data. Once the student develops a direct relationship with the College Board when taking an assessment, we use the information from student records for that student's college and career readiness. One example is sending colleges student scores, at the request of the student. We are happy to discuss the multitude of ways we use information in furthering educational purposes. We are not seeking to control how the State would use student assessment results for accountability, and we remain committed to transparency and preservation of student privacy/data security. We believe that we can provide alternative provisions to ensure that both the College Board's and the State's requirements are satisfied.

Description	Cost
Paper and Pencil Format: Cost to produce, deliver, administer, return and score student tests. OAKS Item Number: 29725	\$ 40.00 Per student
Computer-Based Format: Cost to produce, deliver, administer, return and score student tests. OAKS Item Number: 29726	\$ 40.00 Per student
Cost for Reports. The Contractor must produce the score reports. The Contractor must develop and deliver complete score reports and student file score report labels for the NSA and must deliver additional materials/reports for schools, districts, and parents upon request as optional services to districts/schools. The Contractor must provide technical reports for the NSA for the purpose of documenting statistical properties of the test, including validity and reliability evidence based on test results of all students test for all administrations. The Contractor must conduct and deliver reports supporting validity for the NSA with the purpose of documenting evidence that supports valid inferences based on test results of all students tested for all administrations. OAKS ITEM NUMBER: 29727	\$ 70,805 Per year

CONTRACTOR INDEX

CONTRACTOR AND TERMS:

102679
 ACT Inc.
 500 ACT Drive
 Iowa City, IA 52243

CONTRACT NO.: CSP901816-1

TERMS: Net 30

CONTRACTOR'S CONTACT:
 Victoria Thompson-Campbell

Telephone: (319) 321-9709
 E-Mail: Victoria.campbell@act.org

Description	Cost
Paper and Pencil Format: Cost to produce, deliver, administer, return and score student tests. OAKS ITEM NUMBER (NO ESSAY): 29728 OAKS ITEM NUMBER (WITH ESSAY): 29729	\$ 36.35 Per student \$ 46.33 Per student With Optional Essay
Computer-Based Format: Cost to produce, deliver, administer, return and score student tests. OAKS ITEM NUMBER (NO ESSAY): 29730 OAKS ITEM NUMBER (WITH ESSAY): 29731	\$ 36.35 Per student \$ 46.33 Per student With Optional Essay
Cost for Reports. The Contractor must produce the score reports. The Contractor must develop and deliver complete score reports and student file score report labels for the NSA and must deliver additional materials/reports for schools, districts, and parents upon request as optional services to districts/schools. The Contractor must provide technical reports for the NSA for the purpose of documenting statistical properties of the test, including validity and reliability evidence based on test results of all students test for all administrations. The Contractor must conduct and deliver reports supporting validity for the NSA with the purpose of documenting evidence that supports valid inferences based on test results of all students tested for all administrations.	\$ 0.00 Per year

CONTRACTOR INDEX

CONTRACTOR AND TERMS:

136594
 The College Board.
 250 Vesey Street
 New York, NY 10281

CONTRACT NO.: CSP901816-2

TERMS: Net 30

CONTRACTOR'S CONTACT:

Leslie Ware

Telephone: (212) 520-8667
 E-Mail: lware@collegeboard.org