REQUEST FOR RESUMES (RFR)

RFP NUMBER: **EDUD201204300**

DATE ISSUED: **August 18, 2011**

ELIGIBILITY: **Open to All Providers**

The State of Ohio Department of Education is requesting Resumes for:

TITLE: Opapp Math Coach 1

INQUIRY PERIOD BEGINS: **August 19, 2011**

INQUIRY PERIOD ENDS: **September 8, 2011**

RESUME DUE DATE: **September 30, 2011 Time: 5:00 PM**

RESUME REVIEW DATE: **October 7, 2011**

ESTIMATED AWARD DATE: **October 21, 2011**

Section 1: Background

The purpose of the Ohio Performance Assessment Pilot Project (OPAPP) is to develop and pilot test performance tasks designed for elementary and high school students and aligned to the Common Core State Standards in English Language Arts (ELA) and Mathematics as well as to the New Revised State Standards in Science, Social Studies and Career-Technical Pathways. The intended outcome of the pilot is to develop a suite of field-tested performance tasks that could be used in classrooms for both formative and summative purposes, and to train cohorts of teachers to develop tasks, provide feedback to students based on task performance, score student responses to summative tasks and train others to score summative tasks.

This application form will be used by individuals who wish to participate in this project as coaches. In this form, applicant coaches will be asked to demonstrate their experience and expertise with performance assessment and coaching teachers. Submitted applications will undergo a review process.

Section 2: Objectives

The Ohio Performance Assessment Project is designed support the development and implementation of performance tasks. The project will include:

• Piloting performance tasks designed for formative and summative assessment (the learning-assessment dyad system);

• Piloting an online delivery system for the tasks and student work;
• Piloting a scoring system that uses teachers as scorers and allows for high reliability of assigned scores.
• Preparing and piloting a state and regional moderation panel for the purposes of training teachers to score student work reliably.

Section 3: Overview of the Scope of Work

Participating coaches must:
1. Commit to professional development and training throughout the project for the chosen subject area between August 2011 and June 2013.
2. Commit to making regular school visits and submitting monthly reports to the Ohio Department of Education (ODE).
3. Agree to collaboratively create common curriculum-driven performance tasks and participate in the piloting of them in elementary school (Grades 3-5) classrooms for the chosen subject area through the 2014 academic year.
4. Agree to participate in the project's evaluation, which will require participation in surveys and interviews as well as possibly being filmed while doing work for this project.

The application form on pages 3 through 8 below includes a table and a timeline showing the commitment for professional development and other activities.

Section 4: Contractor Qualifications

All applicants must answer the questions posed in Section 5 of this Request for Resumes.
Applications also must include all of the following:
1. A complete Curriculum Vitae, including information about licensure, past employment, current employment and experience with performance assessment, formative assessment and scoring of state tests.
2. Letters of support from at least three professional sources.

Section 5: Special Work Information

Coaches will be required to attend and participate in all professional development and scoring sessions. Coaches will also be required to visit the schools to which they are assigned and meet with teachers on a regular basis (at least monthly). Coaches will report monthly on their activities and communicate frequently with the OPAPP Associate Director. Additionally, coaches may be involved in planning and delivering professional development sessions.

Applicants should submit, along with their resumes and three reference letters, responses to each of the on pages 5 through 8 below.

Ohio Performance Assessment Pilot Project Coach Application

In the table below, the program for the different cohorts is outlined.

	2011-2012		2012-2013		2013-2014	
	Fall 2011	Sp 2012	Fall 2012	Sp 2013	Fall 2013	Sp 2014
Cohort 3		12 Elementary Pilot Sites: ELA, Mathematics, Science, Social Studies				
		• PD	• PD • TI • Scoring	• PD • TI • TD • Scoring	• PD • TI • TD • Scoring	• TI • Scoring

TI=Task implementation, PD= Professional Development, TD=Task Development

Teachers will engage in common professional development sessions where they will work in partnership with coaches, educators from Ohio's colleges and universities and selected vendor(s). Training topics include the development of performance tasks and the use of scoring rubrics to guide feedback to students. After a semester of professional development where teachers practice using student work and a rubric to guide feedback to the student, school teams will implement learning tasks developed by the vendor(s). While implementing the tasks, teachers will still participate in professional development focused on developing and maintaining a classroom culture that is conducive to learning performance tasks, helping teachers understand how to integrate the tasks into their curriculum and troubleshoot issues during implementation. Additionally, teachers in the program will be trained to score and administer the assessment tasks. A scoring session for the assessment tasks will occur at the end of the second semester of the program.

During the second year (both semesters) of the pilot each cohort will be involved in **writing** performance tasks, in addition to continuing to pilot tasks that were developed the previous semester. The professional development will continue with a focus on writing tasks, aligning content and matching tasks to the generalized rubric (for learning tasks) or writing task-specific rubrics (for assessment tasks). Scoring sessions for the assessment tasks will be held near the end of each semester. In the last semester of the pilot, teachers will be finishing up piloting tasks they have written. Scoring sessions will be held at the end of the semester.

Years 2 and 3 of the pilot will include the option of extra professional development sessions for those who are interested in becoming members of the regional moderation panels. These panels will be set up throughout Ohio to support teacher training for scoring assessment tasks which will be part of the assessment system in school year 2014-2015. The professional development for moderation panelists will include how to train scorers.

I. Key Dates for Cohort 3 (Elementary School Cohort)

August 1, 2011	Performance Assessment Pilot Program Application Released
September 30, 2011	Applications Due
October 2011	Applications Scored
October 30, 2011	Notification of Accepted Applicants
January – June 2012	Professional Development and Training Sessions
January 2012	Pre-piloting Professional Development
September 2012 – May 2013	First year of Moderation Panel Training Professional Development (open to participants)
September 2012 – June 2013	Piloting of Performance Tasks, Professional Development – Scoring Performance Tasks, Scoring Sessions
January 2013 – December 2013	Professional Development on Writing Performance Tasks, Teachers Writing Performance Tasks
September 2013 – June 2014	Piloting Teacher-Developed Tasks, Scoring Sessions
August 2013-May 2014	Second year of Moderation Panel Training Professional Development (open to participants)

All inquires should be directed to:

Lauren Monowar-Jones
25 South Front Street, MS 507
Columbus, OH 43215
Phone: (614) 728-1759
Fax: (614) 995-5568
Email: Lauren.Monowar-Jones@ode.state.oh.us

Ohio Performance Assessment Pilot Project Application

Mathematics – 4th Grade

1. Student work scenario. **(25 Points)**

   A student reads the question below. The student's response is shown below.

   What is the student's thinking?

   What does the student understand?

   What is the student's misunderstanding demonstrated by this response?

   How would you engage this student to address their misunderstanding?

Question:

List the first nine multiples of 7.

Student Response:

14, 21, 28, 35, 42, 49, 56, 63, 70

2. A teacher you are working with, Mark, is implementing a performance task in his classroom, but the students don't seem engaged. He reads them the instructions for what they are supposed to do and then asks them to work in their assigned groups. As he goes around the room to monitor the group work, he notices that not all the students are focused on the task. Some are confused about how to begin the task. Some groups are dividing themselves into teams of data gatherers and researches. Other groups are talking about a TV show they saw last night.

At the end of the day, Mark talks with you about what he observed and expresses concern, but seems at a loss about how to proceed with the task.

In the space below, please describe how you would respond to Mark as his coach.
(25 Points)

3. You are leading a scorer training session with a group of teachers. You have given them time to read and score three benchmarked papers (consensus papers that have been used since the task was first field-tested). One teacher begins to point out a problem with one of the benchmarked papers. The teacher thinks that the student demonstrated knowledge that was not credited. When you look at what the student wrote, you see that the teacher is reading more meaning into what the student wrote than is actually on the paper. The argument is beginning to convince other teachers in the training session that the benchmarked paper was scored incorrectly. What do you do? **(25 Points)**

Section 6: Submission Information

Proposals must reference the RFP/RFQ/RFR number above and should be submitted:
Either by email to:

Name: Lauren Monowar-Jones

Email Address: Lauren.Monowar-Jones@ode.state.oh.us

Please also email a copy to:

Name: Amadu Sankoh, Agency Procurement Officer

Email Address: Amadu.sankoh@ode.state.oh.us

OR by Regular mail to:

Name: Lauren V. Monowar-Jones

Address: Ohio Department of Education
Office of Assessment
25 South Front Street, Mail Stop 507
Columbus, Ohio 43215

Please also mail a copy to:
Amadu Sankoh, Agency Procurement Officer
25 South Front Street, Mail Stop G
Columbus, OH 43215

Do Not Write Below this Line – Vendor Guidance Only

Proposal Format (For Vendor Response)

Signed Cover Letter (Required – as acceptance of all the terms of this RFP/RFQ/RFR)

Standard Affirmation and Disclosure Form (Required)

By the signature affixed to this response, the Bidder/Offeror affirms, understands and will abide by the requirements of **Executive Order 2010-09S** issued by Ohio Governor Ted Strickland. If awarded a contract, the Bidder/Offeror becomes the Contractor and affirms that both the Contractor and any of its subcontractors shall perform no services requested under this Contract outside of the United States. The Executive Order is attached and is available at the following website: (http://www.governor.ohio.gov/Default.aspx?tabid=1495).

The Bidder/Offeror shall provide all the name(s) and location(s) where services under this Contract will be performed in the spaces provided below or by attachment. Failure to provide this information as part of the response will deem the Bidder/Offeror not responsive and no further consideration will be given to the response. Bidder/Offeror's offering will not be considered. If the Bidder/Offeror will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces.

1. Principal location of business of Contractor:

_____ _____

(Address) (City, State, Zip)

Name/Principal location of business of subcontractor(s):

_____ _____
(Name) (Address, City, State, Zip)

_____ _____
(Name) (Address, City, State, Zip)

2. Location where services will be performed by Contractor:

_____ _____
(Address) (City, State, Zip)

Name/Location where services will be performed by subcontractor(s):

_____ _____
(Name) (Address, City, State, Zip)

_____ _____
(Name) (Address, City, State, Zip)

3. Location where state data will be stored, accessed, tested, maintained or backed-up, by Contractor:

_____ _____
(Address) (Address, City, State, Zip)

Name/Location(s) where state data will be stored, accessed, tested, maintained or backed-up by Sub-contractor(s):

_____ _____
(Name) (Address, City, State, Zip)

_____ _____
(Name) (Address, City, State, Zip)

_____ _____
(Name) (Address, City, State, Zip)

4. Location where services to be performed will be changed or shifted by Contractor:

_____ _____
(Address) (Address, City, State, Zip)

Name/Location(s) where services will be changed or shifted to be performed by subcontractor(s):

_____ _____
(Name) (Address, City, State, Zip)

(Name)	(Address, City, State, Zip)
(Name)	(Address, City, State, Zip)

OTHER IMPORTANT INFORMATION FOR VENDORS:

The State may reject any Proposals or unsolicited Proposal amendments that are received after the deadline. An offeror that mails its Proposal must allow for adequate mailing time to ensure its timely receipt. Offerors must also allow for potential delays due to increased security. The State may reject late Proposals regardless of the cause for the delay.

The State may reject any Proposal if the offeror takes exception to the terms and conditions of this RFP/RFQ/RFR, fails to comply with the procedure for participating in the RFP/RFQ/RFR process, or the offeror's Proposal fails to meet any requirement of this RFP/RFQ/RFR. The State may also reject any Proposal that it believes is not in its interests to accept and may decide not to do business with any of the offerors responding to this RFP/RFQ/RFR.

By submitting a Proposal, the offeror acknowledges that it has read this RFP, understands it, and agrees to be bound by its requirements. The State is not responsible for the accuracy of any information regarding this RFP/RFQ/RFR that was gathered through a source different from the inquiry process described in this RFP/RFQ/RFR.

The State will not be liable for any costs incurred by any offeror in responding to this RFP/RFQ/RFR, even if the State does not award a contract through this process. The State may decide not to award a contract for the work. The State may also cancel this RFP/RFQ/RFR and contract for the work through some other process or by issuing another RFP/RFQ/RFR.

Ohio Revised Code (ORC) Section 9.24 prohibits the State from awarding a contract to any offeror(s) against whom the Auditor of State of Ohio has issued a finding for recovery if the finding for recovery is "unresolved" at the time of award. By submitting a proposal, the offeror warrants that it is not now, and will not become subject to an "unresolved" finding for recovery under ORC 9.24, prior to the award of any contract arising out of this RFP/RFQ/RFR, without notifying the Agency of such finding.

The successful offeror(s) will be required to enter into a contract with the Ohio Department of Education upon reaching agreement on terms and conditions for such contract prior to providing any services to the Department. The provisions of such contract are not valid and enforceable until the availability of funds is certified by and approved by the Office of Budget and Management, in accordance with Chapters 126.07 and 131.33 of the Ohio Revised Code. The Department is not obligated to pay for services performed prior to such OBM certification.

All proposals and other materials submitted will become the property of the State and may be returned only at the option of the State. Proprietary information should not be included in a proposal or supporting materials because the State will have the right to use any materials or ideas submitted in any proposal without compensation to the offeror. Additionally, all proposals will be open to the public after a contract has been awarded. The State will retain all proposals, or copies of the proposals, as part of the contract file for at least three years. After the retention period, the State may return, destroy, or otherwise dispose of the proposals or copies of the same.

The following is a sample contract which shall be signed between the Department and the selected vendor:

CONTRACT FOR PERSONAL SERVICES

I. AGENCY AND VENDOR INFORMATION

This agreement is made by and between the State of Ohio, Department of Education, 25 S. Front Street, Columbus, OH 43215, hereinafter termed the "Department" and Contractor Name**,** Street address Suite #, City, State, Zip Code, and **OAKS Vendor ID** 0000000000, hereinafter termed the "Contractor."

II. SERVICES, DISCLOSURE OF LOCATION OF SERVICES AND DATA

The Contractor agrees to provide the following services at Street address Suite #, City, State, Zip Code, Country; and state Data applicable to this contract will be maintained or made available at (Street address Suite #, City, State, Zip Code, Country/ no state Data is applicable to this contract):
Enter detailed services to be provided by the vendor here

During the performance of this contract, the Contractor shall not change the location(s) of the country where services are performed, or change the location(s) of the country where the data are maintained or made available without prior written approval of the Department, if applicable.

III. EFFECTIVE DATE

This contract is effective beginning upon approval by the Controlling Board / or July 1, 2XXX and ends on June 30, 2XXX. The provisions of this contract are not valid and enforceable until the availability of funds is certified by and approved by the Office of Budget and Management, in accordance with Chapters 126.07 and 131.33 of the Ohio Revised Code. The Department is not obligated to pay for services performed prior to such OBM certification.

IV. TERMINATION, SUSPENSION, REDUCTION OF SCOPE OF WORK, AND REMIDIES

1. Contract Termination. If Contractor fails to perform any one of its obligations under this Contract, it will be in default and the Department may terminate this Contract in accordance with this section. The termination will be effective on the date delineated by the Department.

a. Termination for Default. If Contractor's default is unable to be cured in a reasonable time, the Department may terminate the Contract by written notice to the Contractor.

b. Termination for Unremedied Default. If Contractor's default may be cured within a reasonable time, the Department will provide written notice to Contractor specifying the default and the time within which Contractor must correct the default. If Contractor fails to cure the specified default within the time required, the Department may terminate the Contract.

c. Termination for Persistent Default. The Department may terminate this Contract by written notice to Contractor for defaults that are cured, but are persistent. "Persistent" means three or more defaults. After the Department has notified Contractor of its third default, the Department may terminate this Contract without providing Contractor with an opportunity to cure, if Contractor defaults for a fourth time. The four defaults are not required to be related to each other in any way.

d. Termination for Endangered Performance. The Department may terminate this Contract by written notice to the Contractor if the Department determines that the performance of the Contract is endangered through no fault of the Department.

e. Termination for Financial Instability. The Department may terminate this Contract by written notice to the Contractor if a petition in bankruptcy or similar proceeding has been filed by or against the Contractor.

f. Termination for Delinquency, Violation of Law. The Department may terminate this Contract by written notice, if it determines that Contractor is delinquent in its payment of federal, Department or local taxes, workers' compensation, insurance premiums, unemployment compensation contributions, child support, court costs or any other obligation owed to a Department agency or political subdivision. The Department also may cancel this Contract, if it determines that Contractor has violated any law during the performance of this Contract. However, the Department may not terminate this Contract if the Contractor has entered into a repayment agreement with which the Contractor is current.

g. Termination for Subcontractor Default. The Department may terminate this Contract for the default of the Contractor or any of its subcontractors. The Contractor will be solely responsible for satisfying any claims of its subcontractors for any suspension or termination and will indemnify the Department for any liability to them.

Subcontractors will hold the Department harmless for any damage caused to them from a suspension or termination. The subcontractors will look solely to the Contractor for any compensation to which they may be entitled.

h. Termination for Failure to Retain Certification. Pursuant to section §125.081 of the Revised Code, the Department may set aside a bid for supplies or services for participation only by minority business enterprises (MBE's) as certified by the Department of Ohio, Equal Opportunity Coordinator. After award of the Contract, it is the responsibility of the MBE Contractor to maintain certification as a MBE. If the Contractor fails to renew its certification and/or is de-certified by the Department of Ohio, Equal Opportunity Coordinator, the Department may immediately cancel the Contract.

i. Termination for Convenience. The Department may terminate this Contract for its convenience after issuing written notice to the Contractor. If the termination is for the convenience of the Department, the Contractor will be entitled to compensation for any Deliverable that the Contractor has delivered before the termination. Such compensation will be the Contractor's exclusive remedy in the case of termination for convenience and will be available to the Contractor only after the Contractor has submitted a proper invoice for such, with the invoice reflecting the amount determined by the Department to be owing to the Contractor.

j. Termination for Loss of Funding. This contract may be terminated immediately in the event there is a loss of funding, or upon discovery of non-compliance with any applicable Federal or Department laws, rules or regulations, and a notice specifying the reasons for termination shall be sent as soon as possible after the termination to the persons signing this contract. Upon receipt of the notice of cancellation or termination, the Contractor shall take all necessary and appropriate action to avoid the incurrence of additional costs by the Contractor or sub-Contractors. The Department shall be obligated to pay in accordance with the terms of this contract for only those services rendered

under the contract prior to the Contractor's receipt of the notice of termination or cancellation, less any amounts already paid for such services and less any damages that may be assessed by the Department for Contractor's nonperformance or unsatisfactory performance under the contract.

k. Reduction of Scope of Work. The Department reserves the right to reduce the outstanding balance of this contract in accordance with reduction in the scope of work or funding or both. Written notice of such reduction including the dollar amount of the reduction and the specific activities being cancelled shall be sent or otherwise delivered to the persons signing this contract.

l. Termination, Effectiveness, Contractor Responsibilities. The notice of termination whether for cause or without cause will be effective as soon as Contractor receives it. Upon receipt of the notice of termination, Contractor will immediately cease all work on the Project, if applicable, and refuse any additional orders and take all steps necessary to minimize the costs the Contractor will incur related to this Contract. The Contractor will immediately prepare a report and deliver it to the Department. The report must detail either the work completed at the time of termination or the orders received and not processed prior to termination, and if applicable, the percentage of the Project's completion, estimated time for delivery of all orders received prior to termination, any costs incurred by the Contractor in doing the Project to date and any deliverables completed or partially completed but not delivered to the Department at the time of termination. Any and all work, whether completed or not, will be delivered to the Department along with the specified report. However, if delivery in that manner would not be in the Department's interest, then the Contractor will propose a suitable alternate form of delivery.

2. Contract Suspension. If Contractor fails to perform any one of its obligations under this Contract, it will be in default and the Department may suspend rather than terminate this Contract where the Department believes that doing so would better serve its interest.

In the case of a suspension for the Department's convenience, the amount of compensation due to the Contractor for work performed before the suspension will be determined in the same manner as provided in this section for termination for the Department's convenience or the Contractor may be entitled to compensation for work performed before the suspension, less any damage to the Department resulting from the Contractor's breach of this Contract or other fault.

The notice of suspension, whether with or without cause will be effective immediately on the Contractor's receipt of the notice. The Contractor will immediately prepare a report and deliver it to the Department as is required in the case of termination.

3. Contract Remedies:

a. Actual Damages. Contractor is liable to the Department of Ohio for all actual and direct damages caused by Contractor's default. The Department may buy substitute supplies or services, from a third party, for those that were to be provided by Contractor. The Department may recover the costs associated with acquiring substitute supplies or services, less any expenses or costs saved by Contractor's default, from Contractor.

b. Liquidated Damages. If actual and direct damages are uncertain or difficult to determine, the Department may recover liquidated damages in the amount of 1% of the value of the order, deliverable or milestone that is the subject of the default, for every day that the default is not cured by the Contractor.

c. Deduction of Damages from Contract Price. The Department may deduct all or any part of the damages resulting from Contractor's default from any part of the price still due on the contract, upon prior written notice to being issued to the Contractor by the Department.

V. COMPENSATION

In recognition of these services, the Department agrees to pay the Contractor a lump sum of $00,000.00 upon completion or $00.00 per hour or per deliverable completed as detailed above, not to exceed $00,000.00 for services. Travel expenses shall not be reimbursed under this contract pursuant to Ohio Administrative Code, OAC 126-1-02(G). The total amount of the contract shall not exceed $00,000.00 in FY XXXX and $00,000.00 in FY XXXX.

VI. INVOICING, PAYMENT AND OTHER PROVISIONS

Payment shall be made upon the submission of an invoice approved by Department employee coordinating this service. Invoices shall include itemization of services by date services were provided, number of hours worked or deliverables completed, the rate per hour or the price per deliverable completed, and the amount due. The final invoice under this contract will be submitted by the Contractor to the Department no later than forty-five (45) days after the Contract expiration date or after the end of each state fiscal year, if the contract is in effect for multiple years.

VII. UNRESOLVED FINDINGS FOR RECOVERY

The Department shall not award a contract for goods, services, or construction, paid for in whole or in part with State funds, to any Contractor against whom a finding for recovery has been issued by the auditor of state, if the finding for recovery is unresolved, pursuant to the provisions of § 9.24 of the Ohio Revised Code. Contractor warrants that it is not subject to an "unresolved" finding for recovery under O.R.C. § 9.24. If the warranty is deemed to be false, the contract is void *ab initio* and the Contractor must immediately repay to the State any funds paid under this contract. If the Contractor does have any unresolved finding(s) for recovery subsequent to the award of this contract, the Contractor must immediately notify the Department of such finding(s).

VIII (A): DECLARATION OF MATERIAL ASSISTANCE (DMA)

The Department shall not conduct business with, provide funding to, receive more than $100,000 of funding from any person, company, affiliated group, or organization, or any person who has a controlling interest in a company, affiliated group, or organization unless that person, company, affiliated group, or organization completes the Precertification of Declaration of Material Assistance/Non-assistance (DMA), pursuant to § 2909 of the Ohio Revised Code. The DMA precertification may be completed online through the Ohio Business Gateway website, http://obg.ohio.gov. If you are unable to complete the precertification forms electronically, please complete the forms sent to you by the Department and return them to us for processing. The DMA form is used to identify whether a current or future Contractor has provided material assistance to an organization listed on the Terrorist Exclusion List (TEL), as published by the U.S. Department of State through the Ohio Department of Public Safety. Ohio Revised Code § 2909 requires the Department to provide a copy of the DMA form, along with the TEL, to any entity that is not pre-

certified prior to doing business with, provide funding to, or receiving funding from that entity. A "yes" answer or the Contractor's failure to answer any question on the DMA form constitutes a positive response, thus rendering the contract with the Department null and void. If the Contractor takes future action that would result in an answer of "yes" to a question on the DMA form, the Contractor shall immediately notify the Department of such action.

VIII (B): SUSPENSIONS AND DEBARMENTS

State agencies are prohibited from awarding a contract for supplies or services, funded in whole or in part with federal and/or state funds, to a business or person who appears on any debarment list. Current lists include but are not limited to the: (1) Federal List of Excluded Parties Listing System, located at http://epls.arnet.gov/, (2) Ohio Department of Transportation Debarred List, Located at http://dot.state.oh.us, or (3) DAS Debarment List, located at www.ohio.gov/procure. If the Contractor appears on any of these debarment lists or other lists established by a Federal, State, or local government agency subsequent to the award of this contract, the Contractor shall immediately notify the Department of such development(s).

IX. DISCRIMINATION AND AFFIRMATIVE ACTION PLAN

The Department does not discriminate on the basis of race, color, national origin, sex, religion, age, or disability on employment or in providing services. The Contractor agrees to abide by State and applicable Federal nondiscriminatory policies while performing services under this contract, including Ohio Revised Code § 125.111(B), which provides that "all" Contractors from whom the state or any of its political subdivisions make purchases shall have a written affirmative action program for the employment and effective utilization of economically disadvantaged persons, as referred to in division (E) (1) of Section 122.71 of the Revised Code. Annually, each such Contractor shall file a description of the affirmative action program and a progress report on its implementation with the equal employment opportunity office of the Department of administrative services. Accordingly, the Contractor has submitted an affirmative Action Program Verification Form to the Equal Opportunity Division located at http://eodreporting.oit.ohio.gov/searchAffirmativeAction.aspx to comply with the affirmative action requirements pursuant to the Ohio Revised Code § 125.111(B).

X. PURCHASE, USE OR TRANSFER OF ILLEGAL SUBSTANCES

The Contractor certifies that while working on state property, the Contractor will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way pursuant to § 123:1-76-12 of the Ohio Administrative Code.

XI. CONTRACTOR RELATIONSHIP TO AGENCY

The Contractor will not be considered as an employee of the state of Ohio or the Department for all purposes, including but not limited to the application of the Fair Labor Standards Act, Social Security Act, Federal Unemployment Tax Act, Federal Insurance Contribution Act, the provisions of the Internal Revenue Code, Ohio tax law, workers' compensation law and unemployment insurance law.

XII. WORKER'S COMPENSATION COVERAGE

The Contractor is not entitled to Worker's Compensation or other employee benefits offered by the Department. It is strongly advised that the Contractor obtain independent Worker's Compensation coverage. The Department will not be held liable for injuries received while working because of the negligence of the Contractor or third party.

XIII. INDEPENDENT ENTERPRISE

The Contractor agrees that it is a separate and independent enterprise from the state and from the Department. The Contractor has a full opportunity to find other business and has made an investment in its business. This contract is not to be construed as creating any joint employment relationship between the Contractor and the Department or the State of Ohio.

XIV. OHIO ETHICS LAW

The Contractor certifies that, if the Contractor is a member of any other state agency, an employee or elected official of any other governmental body or a former employee of the state of Ohio, the acceptance of this contract will not violate the provisions of the Ethics law pursuant to § 102 of the Ohio Revised Code.

In accordance with Executive Order 2007-01S, Vendor or Grantee, by signature on this document, certifies that it: (1) has reviewed and understands Executive Order 2007-01S, (2) has reviewed and understands the Ohio ethics and conflict of interest laws; and (3) will take no action inconsistent with those laws and this order. The Contractor understands that failure to comply with Executive Order 2007-01S is, in itself grounds for termination of this contract or grant and may result in the loss of other contracts or grants with the State of Ohio.

The Contractor hereby certifies that all applicable parties listed in Division (I)(3) or (J)(3) of Ohio Revised Code § 3517.13 are in full compliance with Divisions (I)(1) and (J)(1) of Ohio Revised Code § 3517.13.

XV. EXPENDITURE OF PUBLIC FUNDS FOR OFFSHORE SERVICES: REQUIREMENTS, TERMINATION, SANCTION, DAMAGES

The Contractor affirms that it has read and understands Executive Order 2010-09S issued by Ohio Governor Ted Strickland and shall abide by those requirements in the performance of this Contract, and shall perform no services required under this Contract outside of the United States. The Executive Order is provided as an attachment and also is available at the following website: (http://www.governor.ohio.gov/Default.aspx?tabid=1495).

The Contractor also affirms, understands, and agrees to immediately notify the State of any change or shift in the location(s) of services performed by the Contractor or its subcontractors under this Contract, and no services shall be changed or shifted to a location(s) that are outside of the United States.

If Contractor or any of its subcontractors perform services under this Contract outside of the United States, the performance of such services shall be treated as a material breach of the Contract. The State is not obligated to pay and shall not pay for such services. If Contractor or any of its subcontractors perform any such services, Contractor shall immediately return to the State all funds paid for those services. The State may also recover from the Contractor all costs associated with any corrective action the State may undertake, including but not limited to an audit or a risk analysis, as a result of the Contractor performing services outside the United States.

The State may, at any time after the breach, terminate the Contract, upon written notice to the Contractor. The State may recover all accounting, administrative, legal and other expenses reasonably necessary for the preparation of the termination of the Contract and costs associated with the acquisition of substitute services from a third party.

If the State determines that actual and direct damages are uncertain or difficult to ascertain, the State in its sole discretion may recover a payment of liquidated damages in the amount of at least **ten percent** of the value of the Contract.

The State, in its sole discretion, may provide written notice to Contractor of a breach and permit the Contractor to cure the breach. Such cure period shall be no longer than 21 calendar days. During the cure period, the State may buy substitute services from a third party and recover from the Contractor any costs associated with acquiring those substitute services.

Notwithstanding the State permitting a period of time to cure the breach or the Contractor's cure of the breach, the State does not waive any of its rights and remedies provided the State in this Contract, including but not limited to recovery of funds paid for services the Contractor performed outside of the United States, costs associated with corrective action, or liquidated damages.

XVI. ASSIGNMENT OF RIGHTS

Neither this contract, nor any rights, duties nor obligations described herein shall be assigned by the Contractor without the prior express written consent of the Department.

XVII. APPLICABLE LAWS

The terms and conditions of this contract shall be construed in accordance with the applicable laws and rules of the State of Ohio and the United States, and only Ohio courts shall have jurisdiction over any action or proceeding concerning this contract and/or performance thereunder.

In Witness whereof, the parties have caused this agreement to be executed

Signature: _____ Date: _____

Contractor Name

Contractor

Signature: _____ Date: _____

Stan W. Heffner
Superintendent of Public Instruction