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Frank Edelblut
Commissioner

Christine M. Brennan
Deputy Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
25 Hall Street
Concord, NH 03301

August 28, 2023

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the New Hampshire Department of Education to enter into a **sole source** contract with the Board of Regents of the University of Wisconsin System, through its University of Wisconsin-Madison's Wisconsin Center for Education Research, (VC#169353), Madison, WI in the amount of \$1,153,418.25, to administer the Assessing Comprehension and Communication in English State-to-State for English language proficiency test for all English language learners, effective upon Governor and Council approval through June 30, 2028. 100% Education Trust Fund.

Funds to support this request are available in the account titled Education Trust Fund in FY24-FY25 and are anticipated to be available in FY26-FY28 upon the availability and continued appropriation of funds in the future operating budget with the authority to adjust encumbrances amongst fiscal years within the price limitation through the Budget Office without further Governor and Council approval if needed and justified.

<u>Account</u>	<u>FY24</u>	<u>FY25</u>	<u>FY26</u>	<u>FY27</u>	<u>FY28</u>	<u>Total</u>
06-56-56-560040-30430000-612-500942 State Testing	\$190,302.25	\$201,787.00	\$235,080.00	\$248,316.00	\$277,933.00	\$1,153,418.25

EXPLANATION

The New Hampshire Department of Education (NHED) is requesting that this be approved as a **sole source** contract because the Board of Regents of the University of Wisconsin System, through its University of Wisconsin-Madison's Wisconsin Center for Education Research (WCER) is the sole provider of an assessment that accounts for and aligns with the New Hampshire Academic Standards. WCER is also the sole provider of the World-Class Instructional Design and Assessment (WIDA)

His Excellency, Governor Christopher T. Sununu
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Consortium, the only assessment consortium that allows member states, including New Hampshire, to determine the level of proficiency necessary to classify a student as a former English language learner. In addition, the WIDA Consortium is the sole provider of any single assessment package for all students in grades K-12, while offering multiple levels of difficulty. New Hampshire has been a member of the WIDA Consortium along with 36 other states and territories since 2004.

By way of background, the *Every Student Succeeds Act (ESSA)* requires local education agencies (LEAs) to provide an annual assessment of English language proficiency to all students who have limited English language proficiency in schools served by the State Educational Agency (SEA). By administering the Assessing Comprehension and Communication in English State-to-State (ACCESS) for English language learners (ELLs) through the WIDA Consortium and WCER, New Hampshire will meet this requirement and continue to receive the following: discounts on screeners, tests, and other assessment materials; shared resources; and high-quality assessment at a reasonable price to the state.

Respectfully submitted,



Frank Edelblut
Commissioner of Education



STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY
27 Hazen Dr., Concord, NH 03301
Fax: 603-271-1516 TDD Access: 1-800-735-2964
www.nh.gov/doit

Denis Goulet
Commissioner

August 2, 2023

Frank Edelblut, Commissioner
Department of Education
State of New Hampshire
101 Pleasant Street
Concord, NH 03301

Dear Commissioner Edelblut:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a sole source contract with the World-Class Instructional Design and Assessment Consortium (WIDA Consortium) at Wisconsin-Madison's Wisconsin Center for Education Research (WCER), as described below and referenced as DoIT No. 2023-095.

The purpose of this request is to administer the Assessing Comprehension and Communication in English State-to-State (ACCESS) for English language proficiency test for all English language learners (ELLs).

The Total Price Limitation will be \$1,153,418.25, effective upon Governor and Council approval through June 30, 2028.

A copy of this letter must accompany the Department of Education's submission to the Governor and Executive Council for approval.

Sincerely,

Denis Goulet

DG/ik
DoIT #2023-095

cc: Tim DePalo, IT Manager

FORM NUMBER P-37 (version 2/23/2023)

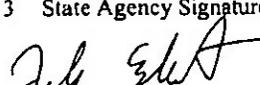
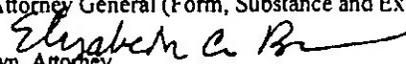
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name New Hampshire Department of Education (NHED)		1.2 State Agency Address 25 Hall Street Concord, NH 03301	
1.3 Contractor Name Board of Regents of the University of Wisconsin System, through its University of Wisconsin-Madison's Wisconsin Center for Education Research		1.4 Contractor Address 1025 West Johnson Street, Suite 785 Madison, Wisconsin 53706	
1.5 Contractor Phone Number 608-263-4210	1.6 Account Unit and Class See Exhibit C	1.7 Completion Date June 30, 2028	1.8 Price Limitation \$1,153,418.25
1.9 Contracting Officer for State Agency Nathaniel Greene, Administrator		1.10 State Agency Telephone Number 603-271-5252	
1.11 Contractor Signature  Vasanthi Pillai (Aug 8, 2023 13:40 CDT)		1.12 Name and Title of Contractor Signatory Vasanthi Pillai, Managing Officer, Office of Research and Sponsored Programs	
1.13 State Agency Signature  Date: 9/6/2023		1.14 Name and Title of State Agency Signatory Frank Edelblut, Commissioner of Education	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: Elizabeth Brown, Attorney  On: 9/6/2023			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance

hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4. The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

10. PROPERTY OWNERSHIP/DISCLOSURE.

10.1 As used in this Agreement, the word "Property" shall mean all data, information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any Property which has been received from the State, or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

11. **CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. **INDEMNIFICATION.** The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

19. CHOICE OF LAW AND FORUM.

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

20. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

21. THIRD PARTIES. This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

22. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

23. SPECIAL PROVISIONS. Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

24. FURTHER ASSURANCES. The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

25. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

26. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

Index of WIDA Contract Documents

- I. State of New Hampshire Standard Contract Terms and Conditions - FORM NUMBER P-37 (version 2/23/2023)
- II. Exhibits to FORM NUMBER P-37
 - A. Exhibit A – Special Provisions
 1. Federal Certification
 2. Confidentiality
 3. P37 Modifications (Provision & Title)
 - a. Provision 4 – Conditional Nature of Agreement
 - b. Provision 5 – Contract Price/Price Limitation/Payment
 - c. Provision 6 – Compliance by Contractor with Laws and Regulations/Equal Opportunity
 - d. Provision 8 – Event of Default/Remedies
 - e. Provision 9 – Termination
 - f. Provision 10 – Property Ownership/Disclosure
 - g. Provision 12 – Assignment/Delegation/Subcontracts
 - h. Provision 13 – Indemnification
 - i. Provision 14 – Insurance
 - j. Provision 15 – Workers' Compensation
 - k. Provision 16 – Waiver of Breach
 - l. Provision 19 – Choice of Law and Forum
 4. WIDA Memorandum of Understanding
 - a. Schedule A – Statement and Performance of Work
 - b. Schedule B – Invoice and Payment
 - c. Schedule C – Education Records Release and Data Use Agreement
 - d. Schedule D – WIDA Consortium Board
 - e. Schedule E – ACCESS for ELLs State Student Response Data File
 - f. Schedule F – WIDA Consortium Employee Confidentiality Agreement
 - g. Schedule G – WCER Standard Security Policies and Procedures
 - B. Exhibit B – Scope of Work
 - C. Exhibit C – Method of Payment
 - D. Exhibit D – Contractor Obligations
 - E. Exhibit E – Federal Debarment and Suspension
 - F. Exhibit F – Anti-Lobbying
 - G. Exhibit G – Data Protection

Definitions

ACCESS	Assessing Comprehension and Communication in English State-to-State
CPU	Central Processing Unit
CSC	Client Services Center
DOIT	Department of Information Technology
DRC	Data Recognition Corporation
ELD	English Language Development
ELL	English Language Learners
ESSA	Every Student Succeeds Act
FERPA	Family Education Rights and Privacy Act
FIPS	Federal Information Processing Standard
FTP	File Transfer Protocol
IES	Institute of Education Sciences
ISO	International Organization for Standardization
IT	Information Technology
LEA	Local Educational Agencies
MOU	Memorandum of Understanding
NCES	National Center for Education Statistics
NHED	New Hampshire Department of Education
NIST	National Institute of Standards and Technology
PDSR	Printing, Distribution, Scoring, and Reporting
PII	Personally Identifiable Information
PL	Professional Learning
PSI	Potential Security Incident
RAM	Random Access Memory
RDP	Remote Desktop Protocol
SANS	SysAdmin, Audit, Network & Security
SEA	State Educational Agency
SLDS	State Longitudinal Data System
SOC	System and Organization Controls
SRS	State Relation Specialist
SSH	Secure Shell
TA	Technical Assistance
UW	University of Wisconsin
UW-CIO	UW-Madison Chief Information Officer
VPN	Virtual Private Network
WCER	Wisconsin Center for Education Research
WIDA	World-Class Instructional Design and Assessment Consortium

EXHIBIT A
Special Provisions

Federal Certification 2 CFR 200.415

Required certifications include: (a) To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the non-Federal entity, which reads as follows:

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)

Confidential Information

Unless otherwise required by law, WCER will exercise reasonable effort to maintain in confidence proprietary information disclosed or submitted to WCER by the State that is designated in writing as confidential information at the time of disclosure ("Confidential Information"). Confidential Information does not include information which:

- a. is generally available in the public domain or becomes available to the public through no act of the Contractor; or
- b. is independently known prior to receipt thereof or is discovered independently by an employee of the Contractor who had no access to the information supplied by the District under this Agreement; or
- c. is made available to the Contractor as a matter of lawful right by a third party.

WCER retains the right to refuse to accept any such information, which is not considered essential to the completion of work under this agreement. The obligations of the WCER under this paragraph shall survive and continue for one (1) year after this Agreement ends.

If Contractor becomes legally compelled to disclose any Confidential Data (whether by judicial or administrative order, applicable law, rule or regulation, or otherwise), then Contractor shall provide prompt notice thereof to State in order that State can assess its right to seek a protective order or injunctive relief; provided, however, that Contractor will use all reasonable efforts to maintain the confidentiality of Confidential Information. If a protective order or other remedy is not obtained prior to when any legally compelled disclosure is required, Contractor will only disclose that portion of Confidential Information that it is legally required to disclose.

The parties acknowledge that the unauthorized access to or dissemination of student records is prohibited under state and federal law. In order to protect the privacy of students and parents, and to prevent the disclosure of New Hampshire's Confidential Information, the parties agree to enter into the Education Record Release and Data Sharing Agreement attached as Schedule C to this Agreement.

P-37 Modifications (Provision & Title)

1. **Provision 4. CONDITIONAL NATURE OF AGREEMENT is deleted and replaced with:**

WCER acknowledges that State may suspend or terminate this Contract upon providing notice of discontinuation of governmental funding. The State shall not be responsible for

EXHIBIT A
Special Provisions
Continued

any non-cancellable costs incurred by the Contractor more than ten (10) days following receipt of notice of discontinuation of funding.

2. Provisions 5.3 and 5.4 under **CONTRACT PRICE/PRICE LIMITATION/ PAYMENT** are deleted.

3. Provision 6.1 under **COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY** is deleted.

4. Provision 6.4 under **COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY** is deleted and replaced with the following:

Upon reasonable request, the Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

5. Provision 6 **COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY** is amended to include:

6.5 Contractor and its subcontractors shall comply with Federal and State of Wisconsin nondiscrimination laws, including the Wisconsin Fair Employment Act and similar Federal law.

6. Provisions 8.2.2 and 8.2.3 under **EVENT OF DEFAULT/REMEDIES** are deleted

7. Provision 9 **TERMINATION** is deleted and replaced with:

Provisions for early termination are set forth in the Contract Appendix A. WIDA Consortium MOU **TERMINATION** section.

8. Provision 10.2 under **PROPERTY OWNERSHIP/DISCLOSURE** is deleted and replaced with the following:

All data and any Property which has been received from the State under this Agreement shall be the property of the State and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9. Provision 10.3 under **PROPERTY OWNERSHIP/DISCLOSURE**, is hereby deleted and replaced with the following:

Each party acknowledges that both parties are subject to their state's respective open records laws. The parties shall not inhibit each other from seeking an injunction to prevent the release of their respective confidential information and test questions for academic examination.

Contractor acknowledges that state is disclosing school records of pupils ("State Data") to Contractor in order to perform services under this agreement. Contractor's use of State Data is subject to the confidentiality obligations contained in the Student Records Release and Data Use Agreement Section of this Agreement. Disclosure of State Data is strictly

EXHIBIT A
Special Provisions
Continued

prohibited without prior written approval of the State, except as expressly permitted in this Agreement.

10. Provision 10 PROPERTY OWNERSHIP/DISCLOSURE is amended to include:

10.4 The State acknowledges that Contractor is the copyright owner of the secure, unpublished ACCESS for ELLs test (the "Test") as defined in 37 C.F.R. § 202.20(b) (4). The test is used as test questions for academic examination and Contractor treats the Test as constituting valuable and proprietary trade secret. The Test also includes related technical and training documents. Contractor maintains the Test as confidential and secure.

11. Provisions 12.3 and 12.4 under ASSIGNMENT/DELEGATION/SUBCONTRACTS are deleted and replaced with the following:

12.3 STATE acknowledges that WCER has selected Data Recognition Corporation to provide the annual printing, distribution, scoring and reporting (the "PDSR CONTRACTOR") of the ACCESS for ELLs assessments. WCER obtained the PDSR CONTRACTOR through an open competitive bidding process, proposal no.22-5116 dated February 22, 2021, (the "PDSR Contractor RFP").

12.4 STATE acknowledges that only subcontractors of WCER that directly provide services to STATE, as part of the Core Package, are covered by the provisions of this MOU. WCER shall obtain all subcontractors in accordance with State of Wisconsin and University of Wisconsin procurement laws and rules. In light of the preceding, STATE further acknowledges that due to the multistate nature of the WIDA Consortium, i.e., WCER providing the same services to multiple states, it is not practical or economically feasible to require WCER's subcontractors to meet each of the WIDA Consortium member state's specific subcontractor requirements. Any specific requirements that STATE may place on WCER's subcontractors that goes beyond State of Wisconsin and University of Wisconsin procurement laws and rules may result in additional costs to STATE.

12. Provision 13 INDEMNIFICATION is deleted and replaced with the following:

13.1 The State of Wisconsin is self-funded for State liability purposes. The State's Self-Funded Liability Program provides coverage against claims made as the result of the negligent acts of University officers, employees, and agents. The State's liability protection is afforded under Wisconsin Statute 895.46 (1) and extends to all employees in the course and scope of their duties.

13.2 Neither party shall be liable for the acts and omissions of the other.

13.3 STATE acknowledges that WCER is a research center/sub-unit of the University of Wisconsin System and therefore, is an agency of the State of Wisconsin Government. Nothing in this agreement shall be construed as waiving the sovereign immunity of the State of New Hampshire or the State of Wisconsin.

13. Provision 14 INSURANCE is deleted and replaced with the following:

The State of Wisconsin is self-funded for State liability purposes. The State's Self-Funded Liability Program provides coverage against claims made as the result of the negligent acts of University officers, employees, and agents. The State's liability protection is afforded under Wisconsin Statute 895.46 (1) and extends to all employees in the course and scope of their duties.

Neither party shall be liable for the acts and omissions of the other.

EXHIBIT A
Special Provisions
Continued

14. Provision 15 WORKERS' COMPENSATION is deleted and replaced with the following:

Contractor represents that to the best of its knowledge, it has no New Hampshire employees and therefore is exempt from the requirements of NH RSA chapter 281-A. Contractor shall comply with State of Wisconsin Workers' Compensation laws.

15. Provision 16 WAIVER OF BREACH is deleted and replaced with the following:

No failure by the State or the Contractor to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State or the Contractor to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the State or the Contractor

16. Provision 19 CHOICE OF LAW AND FORUM is deleted.

Memorandum of Understanding with WIDA Consortium, the terms of which are incorporated by reference herein, follows.

EXHIBIT A
Special Provisions
Continued

WIDA Memorandum of Understanding

This Memorandum of Understanding (MOU) is between the New Hampshire Department of Education ("STATE") and the Board of Regents of the University of Wisconsin System, on behalf of the University of Wisconsin-Madison's Wisconsin Center for Education Research ("WCER").

WCER is the organizational home of the WIDA Consortium ("WIDA"), a multi-state coalition of state educational agencies (SEAs) that acts in collaboration to research, design and implement a standards-based educational system that promotes equitable educational opportunities for English learners in pre-kindergarten through grade twelve. The WIDA English Language Development Standards form the base of this system. The WIDA English Language Development Standards include the four recognized domains of speaking, listening, reading, and writing, and are based on the academic language content of K-12 students. SEAs join the WIDA Consortium to obtain the WIDA Consortium Core Package for use by SEAs and local educational agencies (LEAs) within each of their states (see Schedule D, WIDA Consortium Board for definition of "Core Package").

Title I and Title III of the Federal Elementary and Secondary Education Act (currently enacted as The Every Student Succeeds Act of 2015 or "ESSA") establish Federally-supported education programs and activities related to English language instruction, acquisition and achievement; require local educational agencies and institutions to evaluate and report the biennial progress made by English learners; and require SEAs to develop accountability models for English learners that relate to these students' development and attainment of English proficiency while meeting challenging State academic content and student academic achievement standards.

WCER, on behalf of WIDA, offers an annual academic assessment of English proficiency as part of the Core Package under the brand name ACCESS for ELLs. ACCESS for ELLs is designed to assess the progress of students in attaining English proficiency, including students' level of comprehension in the four recognized domains of speaking, listening, reading, and writing. ACCESS for ELLs is aligned with the WIDA English Language Development Standards.

STATE has adopted ACCESS for ELLs for its plan to meet STATE's and New Hampshire's LEAs' Title I and III requirements.

STATE wishes to become a WIDA Consortium member in order to access the Core Package, including the annual administration of ACCESS for ELLs and related services of WCER, and WCER, as holder of the intellectual property rights to the Core Package and having obtained a vendor to provide the operational administration of ACCESS for ELLs, wishes to provide STATE with the intellectual property licenses, assessment administration and related services of the Core Package.

The Parties therefore agree as follows:

TERM

The terms set forth within this MOU are hereby in effect from the effective date of this agreement through June 30, 2028.

EXHIBIT A
Special Provisions
Continued

STATE WIDA CONSORTIUM MEMBERSHIP

STATE shall be a WIDA Consortium Member as a result of approving/adopting (and purchasing) the Core Package for purposes consistent with this MOU. Consequently, STATE is entitled to one seat on the WIDA Consortium Board and to participate in WIDA Consortium Board activities. The operation and expectations of the WIDA Consortium Board is set forth in Schedule D–WIDA Consortium Board.

LEA PROCUREMENT OF RELATED SERVICES

Where applicable, any LEA subject to STATE's oversight shall be entitled to the same rights and benefits granted to STATE in this MOU. WCER will offer any LEA in New Hampshire services related to the use and implementation of the Core Package ("WIDA Services") under the same or similar terms of this MOU. Because the expense and time associated with negotiating a contract with every LEA for the provision of WIDA Services is cost prohibitive, WCER will only negotiate contracts with LEAs in very limited circumstances. LEA and WCER may change the scope of work, program terms and payment terms as mutually agreed upon in writing and signed by WCER and LEA. WCER will not accept any terms and conditions that LEA may attach or incorporate into any purchase orders issued by LEA in relation to the provision of WIDA services.

STATEMENT AND PERFORMANCE OF WORK, INVOICE AND PAYMENT

For performance of the services described in the attached Schedule A–Statement and Performance of Work, STATE shall pay WCER the compensation provided for in Schedule B–Invoice and Payment.

STATE acknowledges that the performance of work requires accurate submission of data files by LEAs and/or STATE. If an LEA and/or STATE submits a data file or student information containing errors or omissions that require additional work/cost in order to proceed with the administration of an assessment under this agreement, then the parties shall mutually determine to take one of the following courses of action:

1. The LEA and/or STATE shall correct the data file or student information; or
2. The LEA and/or STATE shall request WCER to correct the data file or student information, where STATE shall pay the cost incurred by WCER to correct the data file or student information as set forth in Schedule B – Invoice and Payment.

WCER shall have no obligation to provide test administration services to an LEA and/or STATE if the parties cannot mutually determine a course of action to remedy the LEA and/or STATE errors/omissions.

ASSESSMENT PROCEDURES AND SEA OBLIGATIONS

STATE shall establish and implement or cause LEAs to implement, consistent with this MOU, the necessary procedures and policies to administer the annual ACCESS for ELLs assessment in New Hampshire, including policies and procedures to maintain the security and secure nature of the ACCESS for ELLs assessment within New Hampshire. STATE acknowledges that timely administration of ACCESS for ELLs requires adherence to administration procedures by LEA personnel. STATE shall cooperate and provide assistance to WCER in any dispute that it may have with a LEA in New Hampshire related to the provision of services under this MOU.

EXHIBIT A
Special Provisions
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STATE shall determine if nonpublic schools in New Hampshire are permitted to administer any or all of the WIDA Core Package assessments under the terms of this MOU. If STATE permits nonpublic schools to administer any or all of the WIDA Core Package assessments, either directly or in coordination with LEAs; STATE shall establish and implement or cause nonpublic schools to implement, consistent with this MOU, the necessary procedures and policies to administer these assessments in New Hampshire, including policies and procedures to maintain the security and secure nature of the permitted WIDA Core Package assessments within New Hampshire. To the extent authorized by law, STATE shall cooperate and provide assistance to WCER in any dispute that it may have with a nonpublic school in New Hampshire related to the provision of services under this MOU.

INTELLECTUAL PROPERTY OWNERSHIP AND LICENSE

WCER and the Board of Regents of the University of Wisconsin System, on behalf of WIDA, own the copyrights of all works covered under this agreement (collectively the "WIDA Works"). This agreement does not convey any exclusive rights, title or interest in or to the WIDA Works to STATE. Because WCER makes these materials available to all WIDA Consortium member states, STATE shall not take any actions that would limit or restrict access to the materials by other states or otherwise adversely affect the proprietary nature of the WIDA Works.

Unless otherwise expressed in writing, STATE shall retain all rights in training and other materials developed by STATE.

The WIDA Works includes the following:

1. ACCESS for ELLs English language proficiency test ("ACCESS for ELLs"), including online and paper-based versions and Alternate ACCESS for ELLs;
2. WIDA English language proficiency placement test (the "WIDA Screener Online") and the WIDA Screener for Kindergarten;
3. WIDA English Language Development Standards and Resource Guide ("WIDA ELD Standards"), including Essential Actions, WIDA Can Do Descriptors by grade level cluster, individual figures, tables and charts from the Resource Guide and future ELD Standards, Can Do Descriptors and Resource Guide editions;
4. WIDA Spanish Language Development Standards; and WIDA Spanish Language Arts Framework (collectively, "WIDA Language Standards");
5. WIDA Facilitator Toolkit ("WIDA Facilitator Toolkit") or other comparable resource, including ACCESS for ELLs administration training materials;
6. WIDA Consortium professional learning materials ("WIDA PL Materials"); and
7. ACCESS for ELLs technical documents and research reports.

WCER hereby grants STATE the right to use the WIDA Works for State of New Hampshire educational purposes within the State of New Hampshire only and subject to the following conditions:

STATE's license to use the ACCESS for ELLs is subject to the payment of the required fees set forth in Schedule B—Invoice and Payment of this MOU and shall remain in effect as long as STATE elects to use the ACCESS for ELLs for State of New Hampshire educational purposes. STATE acknowledges that ACCESS for ELLs is a secure test, as that term is defined in 37 C.F.R. § 202.13. STATE shall implement statewide policies and procedures to ensure that the security of the test is maintained. STATE shall immediately notify

EXHIBIT A
Special Provisions
Continued

WCER if it learns of any breach or threatened breach of test security. WCER will print and distribute the ACCESS for ELLs for STATE in accordance with the Statement and Performance of Work schedule of this MOU. The ACCESS for ELLs shall not be copied, modified, distributed or displayed, including electronic storage or retrieval, in any manner without express written permission from WCER and the appropriate security measures in place.

STATE's license to use the WIDA Screener Online grades 1-12 is not subject to any additional fee above that of the Core Package fee, as determined by usage of the ACCESS for ELLs assessments, in accordance with the Payment Schedule in Schedule B—Invoice and Payment and shall remain in effect as long as STATE remains a WIDA Consortium Member. STATE, LEAs and individual schools in STATE's state may print and duplicate the appropriate downloadable WIDA Screener consumable forms for use by LEA or school staff as needed. WIDA Screener materials and resources shall not be modified or publicly displayed, including electronic storage or retrieval, in any manner without express written permission from WCER. WCER shall provide, as long as this contract is in effect, a version of the WIDA Screener Online that is not subject to any additional fee.

STATE's license to use the WIDA Screener for Kindergarten is not subject to any additional fee above that of the Core Package fee, as determined by usage of the ACCESS for ELLs assessments, in accordance with the Payment Schedule in Schedule B, and shall remain in effect as long as STATE remains a WIDA Consortium Member. WIDA Screener for Kindergarten is a semi-secure test, meaning it is made available from a password-protected secure website. WCER will make WIDA Screener for Kindergarten available electronically in PDF format. STATE, LEAs and individual schools in STATE's state may print and duplicate the WIDA Screener for Kindergarten for use by LEA or school staff as needed. The WIDA Screener for Kindergarten shall not be modified or publicly displayed, including electronic storage or retrieval, in any manner without express written permission from WCER. Notwithstanding the foregoing, WCER may phase out all support for the WIDA Screener for Kindergarten if/when it introduces a new version of the WIDA Screener for Kindergarten. WCER shall provide, as long as this contract is in effect, a version of the WIDA Screener for Kindergarten that is not subject to any additional fee.

STATE's license to use the WIDA ELD Standards is not subject to any additional fee above that of the Core Package fee, as determined by usage of the ACCESS for ELLs assessments, in accordance with the Payment Schedule in Schedule B, and shall remain in effect as long as STATE remains a WIDA Consortium Member. WCER will make the WIDA ELD Standards available electronically in PDF format from the WIDA Consortium website. WCER will publicly display and provide the WIDA ELD Standards for download free of charge for personal and educational purposes. Educational purposes shall include LEA and individual school/teacher use within the State of New Hampshire. This license does not include the right for STATE or any LEA within the State of New Hampshire to copy and distribute the WIDA ELD Standards beyond de minimis use (de minimis use is less than 100 copies per event, however, making copies for multiple planned events is not de minimis use). WCER will publish or license to publish full color bound copies of the WIDA ELD Standards and make available to STATE, LEAs and other educators within the State of New Hampshire at a lower WIDA Consortium member rate. The WIDA ELD Standards shall not be modified or publicly displayed for electronic storage and retrieval in any manner without express written permission from WCER. However, linking to the WIDA Consortium website and stating the free availability of the WIDA ELD Standards is encouraged. WCER will grant additional permissions upon request but STATE acknowledges that WCER may include additional reasonable restrictions for quality control purposes depending on the nature of the request.

EXHIBIT A
Special Provisions
Continued

STATE's license to use the WIDA Language Standards is not subject to any additional fee above that of the Core Package fee, as determined by usage of the ACCESS for ELLs assessments, in accordance with the Payment Schedule in Schedule B, and shall remain in effect as long as STATE remains a WIDA Consortium Member. For purpose of this license, STATE shall include any governmental agency of the State of New Hampshire. WCER will make the WIDA Language Standards available electronically in PDF format from the WIDA website. WCER will publicly display and provide the WIDA Language Standards for download free of charge for personal and educational purposes. Educational purposes shall include the following: LEA, individual school/teacher and non-profit agency use within the State of New Hampshire. This license does not include the right for STATE, LEAs or non-profit agencies within the State of New Hampshire to copy and distribute the WIDA Language Standards beyond de minimis use (de minimis use is less than 100 copies per event, however, making copies for multiple planned events is not de minimis use). WCER will publish or license to publish full color bound copies of the WIDA Language Standards and make available to STATE, LEAs, non-profits and other educators within the State of New Hampshire at a lower WIDA Consortium member rate. The WIDA Language Standards shall not be modified or publicly displayed for electronic storage and retrieval in any manner without express written permission from WCER or except in accordance with published guidelines issued by WIDA. However, linking to the WIDA website and stating the free availability of the WIDA Language Standards is encouraged. WCER will grant additional permissions upon request but STATE acknowledges that WCER may include additional reasonable restrictions for quality control purposes depending on the nature of the request.

STATE's license to use the WIDA Facilitator Toolkit is not subject to any additional fee above that of the Core Package fee, as determined by usage of the ACCESS for ELLs assessments, in accordance with the Payment Schedule in Schedule B, and shall remain in effect as long as STATE remains a WIDA Consortium Member. WCER will make the WIDA Facilitator Toolkit or a comparable resource available electronically from the password-protected section of the WIDA Consortium website. STATE and New Hampshire's LEAs may use the WIDA Facilitator Toolkit and its individual components for STATE and LEA in-service training purposes. STATE and LEAs may modify individual components of the WIDA Facilitator Toolkit only in accordance with WCER provided user guidelines. STATE and LEAs shall not publicly distribute or display, including electronic storage or retrieval, any training materials from the WIDA Facilitator Toolkit, unless specifically permitted by WCER user guidelines or WCER.

STATE's license to use the WIDA PL Materials is not subject to any additional fee above that of the Core Package fee, as determined by usage of the ACCESS for ELLs assessments, in accordance with the Payment Schedule in Schedule B, and shall remain in effect as long as STATE remains a WIDA Consortium Member. WCER will make the WIDA PL Materials available electronically to STATE prior to any WIDA-facilitated professional learning or to STATE's educators via the WIDA eLearning platform. STATE will be responsible for copying and distributing WIDA PL Materials to participants of STATE sponsored WIDA professional learning offerings. Except as provided by this paragraph, the WIDA PL Materials shall not be copied, modified, distributed or publicly displayed for electronic storage and retrieval in any manner by STATE without express written permission from WCER.

STATE's license to use the ACCESS for ELLs technical documents and research reports is not subject to any additional fee above that of the Core Package fee, as determined by usage of the ACCESS for ELLs assessments, in accordance with the Payment Schedule in Schedule B, and shall remain in effect as long as STATE remains a WIDA Consortium Member. WCER will make the ACCESS for ELLs technical documents and research reports available electronically to STATE on the WIDA website. All confidential and proprietary information will be removed from the ACCESS for ELLs technical documents and research reports that are posted in the public area of the WIDA Consortium website. STATE will receive an electronic copy of all

EXHIBIT A
Special Provisions
Continued

ACCESS for ELLs technical documents and research reports, including those documents and reports containing confidential and proprietary information. The ACCESS for ELLs technical documents and research reports shall not be modified and no documents or reports containing confidential and proprietary information shall be publicly displayed, including electronic storage and retrieval in any manner.

STATE shall remove as soon as practicable any WIDA Works that it publicly displays, including electronic storage and retrieval systems, that WCER determines, in its sole discretion, contain confidential or proprietary information.

WIDA, the WIDA Consortium logo, WIDA MODEL, WIDA Screener and ACCESS for ELLs are trademarks of the Board of Regents of the University of Wisconsin System (collectively the "WIDA Trademarks"). Any use of the WIDA Trademarks shall inure to the benefit of WCER. STATE acknowledges that WCER may, from time-to-time, issue trademark and copyright use guidelines and policies in order to maintain the proper use and integrity of the WIDA Trademarks and WIDA Works and the quality of WCER services and products. Current WIDA guidelines will be posted on the WIDA website or provided to STATE as applicable. STATE shall assist WCER in implementing any trademark and copyright use guidelines for all uses by STATE, New Hampshire's LEAs, and STATE Contractors (see below).

STATE may contract with third parties ("STATE Contractors") to provide services to LEAs and other educational agencies within the State of New Hampshire or organizations operating under the authority of STATE that STATE would otherwise provide ("In-service Activities"). Contracts for In-service Activities shall be limited to a set geographic territory set by STATE ("In-service Area") and shall not authorize the provision of any WCER, WIDA or WIDA Consortium service, unless STATE receives prior written authorization from WCER to do so. STATE Contractors may charge a fee to cover the cost of providing In-service Activities. However, STATE Contractors are prohibited from charging a greater fee to LEAs and other educational agencies outside of their In-service Area, if their In-service Area is smaller than the whole state territory.

SYSTEMS LICENSE SUPPORT AND MAINTENANCE

WCER shall and does hereby grant a license to the STATE and STATE's LEAs to fully access and use WCER's and PDSR CONTRACTOR's application systems for STATE's educational purposes consistent with the deliverables of this MOU, including: PDSR CONTRACTOR's assessment delivery, scoring, reporting, and test administration applications, WIDA's eLearning platform, WIDA's SEA Secure Portal application, and WIDA's Secure Portal application.

WCER shall provide, at no additional cost to STATE, all software upgrades, modifications, bug fixes, or other improvements in its software that it makes generally available to its WIDA Consortium members.

EDUCATION RECORD RELEASE AND DATA USE

The parties acknowledge that the unauthorized access to or dissemination of school student records is prohibited under state and federal law. The parties agree to the provisions of the *Education Record Release and Data Use Agreement* attached as Schedule C.

EXHIBIT A
Special Provisions
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CONFIDENTIAL INFORMATION

The parties acknowledge that all WIDA assessment and related technical information licensed under this MOU and all student information/educational records, as defined in paragraph 2 of Exhibit A, disclosed, collected or otherwise subject to this MOU are by their nature, confidential information of the respective disclosing party. The confidentiality requirements for the WIDA assessments are described in the Intellectual Property Ownership and License section (as set forth above). The confidentiality requirements for all student information/educational records are specified in the Education Record Release and Data Use Agreement (Schedule C).

In addition to WIDA assessments and student information/educational records, a party may need to make further confidential disclosures to the other to complete work or demonstrate compliance with this MOU or other requirements. All information disclosed by one party to the other under this paragraph that is designated in writing as "confidential" at the time of disclosure or if disclosed orally is designated in writing as "confidential" within fifteen (15) calendar days of disclosure is "Confidential Information." Any disclosure of Confidential Information shall also state the limited purpose for disclosing the Confidential Information to the receiving party and any specific handling instructions for the Confidential Information, for example, receiving party shall not make any copies of test booklets.

Confidential Information does not include information which: (a) was known by the receiving party prior to receipt from the disclosing party; (b) is generally available in the public domain or thereafter becomes available to the public through no act of the receiving party; (c) is independently discovered by an employee, agent, or representative of the receiving party who had no knowledge of the Confidential Information disclosed; (d) is made available to the receiving party as a matter of lawful right by a third party; or (e) is covered by the terms of the Education Record Release and Data Use Agreement (Schedule C).

The receiving party shall take steps as may be reasonably necessary or specified by the disclosing party to prevent disclosure of the Confidential Information to third parties, but shall apply at least the same level of security as is afforded to the receiving party's own confidential information.

The receiving party agrees to disclose Confidential Information only to their respective employees, agents, or representatives who have been determined to have a need to know and have been advised of their obligation to comply with the terms of this MOU. To the extent allowed by the law applicable to the receiving party, the receiving party will be liable for any breach of this agreement by any of its employees, agents, affiliates or representatives that receive access to the Confidential Information.

The receiving party shall only use the Confidential Information for the limited purpose for which it was disclosed by the disclosing party. Except for the limited purpose of the disclosure, the receiving party expressly acknowledges that it shall not obtain any right, title or interest in the disclosing party's Confidential Information. Nothing in this MOU shall be construed to grant the receiving party any license or other intellectual property rights in the disclosing party's Confidential Information.

The receiving party shall return, destroy, or clear (dependent on storage medium) the Confidential Information provided by the disclosing party upon termination of this MOU or as requested by the disclosing party.

The obligations of confidentiality shall survive and remain in full force after the termination of this MOU.

EXHIBIT A
Special Provisions
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DISCLAIMER

The parties acknowledge that the New Hampshire Legislature, the New Hampshire State Board of Education, STATE and the New Hampshire's LEAs set and implement the educational policy for New Hampshire, including, but not limited to, the determination of how STATE and New Hampshire's LEAs will meet New Hampshire's and the New Hampshire LEAs' federal requirements under ESSA.

THE WIDA WORKS AND RELATED SERVICES OFFERED UNDER THIS MOU WERE DEVELOPED AS PART OF THE NON-PROFIT RESEARCH AND EDUCATIONAL ACTIVITIES OF THE UNIVERSITY OF WISCONSIN-MADISON, AND ARE PROVIDED TO STATE AS PART OF THE UNIVERSITY'S MISSION OF OUTREACH AND SERVICE TO THE EDUCATIONAL COMMUNITY. THE UNIVERSITY HAS NO REASON TO BELIEVE THAT THE WIDA WORKS INFRINGE ON THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY, OR ARE UNFIT FOR THE PURPOSES DESCRIBED IN THIS MOU; HOWEVER, DUE TO THE NON-COMMERCIAL NATURE OF THE UNIVERSITY IT CAN NOT PROVIDE WARRANTIES FOR THE WIDA WORKS, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. Neither party shall be liable under this MOU for any special, consequential, indirect or incidental damages.

TERMINATION

The parties shall provide notice, in writing, of any failure to keep in force any of the terms and conditions of this MOU. The parties shall have the right to terminate this MOU without cause at any time during the term by giving sixty (60) days' notice in writing. Upon termination, WCER shall be paid for all services detailed in Schedule A—Statement and Performance of Work satisfactorily rendered up to the date of termination at a minimum the first payment due in Schedule B—Invoice and Payment. Notwithstanding termination, the provisions on intellectual property and confidentiality shall survive termination.

Each party shall notify the other party immediately upon receiving information at any time that lack of continued governmental funding or any other set of circumstances may prevent continuation of this project. WCER acknowledges that STATE may suspend or terminate this MOU upon providing notice of discontinuation of governmental funding.

LIABILITY PROTECTION AND HOLD HARMLESS

The State of Wisconsin is self-funded for State liability purposes. The State's Self-Funded Liability Program provides coverage against claims made as the result of the negligent acts of University officers, employees and agents. The State's liability protection is afforded under Wisconsin Statute 895.46 (1) and extends to all employees in the course and scope of their duties.

Neither party shall be liable for the acts and omissions of the other.

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FORCE MAJEURE

Neither party is responsible for any inability or failure to comply with the terms of this Agreement due to causes that are beyond its control and that occur without the negligence or malfeasance of such party. These causes include but are not restricted to: fire, storm, flood, earthquake, explosion, acts of the public enemy, war, rebellion, insurrection, mutiny, sabotage, epidemic, pandemic, quarantine restrictions, labor disputes, embargoes, acts of God, and acts of the United States or any other government—including the failure of any government to grant export or import licenses or permits.

PUBLICITY

WCER and STATE will mutually agree on any press releases or other publicity relating to this MOU. However, the parties agree that each party may use factual information regarding the existence and purpose of the relationship that is the subject of this MOU for legitimate business purposes, to satisfy any reporting and funding obligations, or as required by applicable law or regulation, without written permission from the other party. In any such statement, the relationship of the parties shall be accurately and appropriately described.

MISCELLANEOUS

In the event of a disagreement regarding the terms or implementation of this MOU, the parties agree to discuss their dispute in good faith and make best efforts to achieve a mutually agreed-upon resolution.

STATE acknowledges that WCER is a research center/sub-unit of the University of Wisconsin System and therefore, is an agency of the State of Wisconsin Government. Nothing in this agreement shall be construed as waiving the sovereign immunity of the State of New Hampshire or the State of Wisconsin.

WCER shall comply with all Federal and state laws. WCER and its subcontractors shall comply with Federal and State of Wisconsin non-discrimination laws, including the Wisconsin Fair Employment Act and similar Federal law.

WCER receives federal funds and is therefore subject to federal regulations regarding federal fund recipients. WCER certifies that it complies with all Federal funding certifications and assurances required by the U.S. Office of Management and Budget. WCER certifies that it and its principal officers are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government. WCER certifies that it is in compliance with the Federal Immigration Reform and Control Act and that it verifies the employment eligibility of all of its employees. Additional information on WCER's representations and certification can be obtained from the federal system for award management website under DUNS: 626535538.

This memorandum of understanding will become effective upon Governor and Council approval.

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Schedule A
Statement and Performance of Work

WCER shall provide the professional services and deliverables outlined in this Statement and Performance of Work as part of the Core Package and in support of STATE's license to use Core Package products (see Schedule D, WIDA Consortium Board for definition of "Core Package"). The professional services set forth below shall be performed: (i) using the requisite degree of skill, care and diligence; and (ii) in accordance with professional standards consistent with nationally recognized contractors performing similar professional services.

1. WCER shall provide and maintain the WIDA English Language Development Standards ("WIDA ELD Standards"). The WIDA ELD Standards provide a foundation for assessment, curriculum and instruction. This includes supporting work done to products and services including the ACCESS for ELLs assessment, resources supporting standards implementation at SEA and LEA levels, professional learning offerings and consortium-wide dissemination.
2. WCER shall provide English Language Proficiency assessments.
 - a) WCER shall develop, administer and score the ACCESS for ELLs assessment for 2023-24 and future testing years covered by this MOU in accordance with the following:
 - i) The assessment will be administered online and/or paper. State will document preferences in the State Profile prior to testing.
 - ii) WCER shall coordinate/oversee the PDSR CONTRACTOR. WCER shall ensure PDSR CONTRACTOR meets obligations.
 - iii) STATE shall determine each year, through consultation with the PDSR CONTRACTOR, the testing year window dates, e.g., test ordering, test delivery, test window, etc. STATE shall be responsible for informing New Hampshire's LEAs of the annual testing year window dates and the LEAs' corresponding task responsibilities, e.g., online ordering and corrections submissions.
 - iv) WCER shall provide a State Profile that establishes communication protocols, describes state policies, test delivery specifics, and any additional cost options per MOU. This State Profile will be shared with the WCER and PDSR CONTRACTOR Help Desks to ensure state-specific protocols are followed. The State Profile will be updated in collaboration with STATE. Printing, distribution, scoring, and reporting policies and procedures include the following:
 - (1) PDSR CONTRACTOR will provide a secure, web-based ordering system and administrative portal to facilitate the administration of ACCESS for ELLs and WIDA Screener Online.
 - (2) SEAs and/or LEAs will send student identification and demographic data via file upload through the administrative portal. PDSR CONTRACTOR will populate student testing sessions for students testing online, and produce Pre-ID labels for all students taking tests. Pre-ID labels will be packaged with the testing materials.
 - (3) Any submission of information for Pre-ID labels past the valid submission window will result in a late submission fee.
 - (4) PDSR CONTRACTOR will consult with STATE and share a preview of STATE specific ordering instructions in advance of LEA ordering to determine the appropriate file formats, ordering instructions and other related information.
 - (5) PDSR CONTRACTOR will provide test materials for ACCESS for ELLs Paper grades 1-12 and Kindergarten ACCESS for ELLs in large-print format upon request. Large-print materials shall be ordered following established ordering procedures. LEAs shall contact PDSR

EXHIBIT A
Special Provisions
Continued

CONTRACTOR as early as possible in the test ordering window to ensure on-time delivery of large-print materials.

- (6) PDSR Contractor will provide Human Reader Accommodation Script for ACCESS for ELLs Paper grades 1-12 upon request. LEAs shall contact PDSR CONTRACTOR as early as possible during the additional materials ordering window to ensure on-time delivery of Human Reader Accommodation Script.
- (7) PDSR CONTRACTOR will provide test materials for ACCESS for ELLs Paper grades 1-12 in braille format upon request and for a fee. Braille materials shall be ordered following established ordering procedures. LEAs shall contact PDSR CONTRACTOR as early as possible in the test ordering window to ensure on-time delivery of braille materials.
- (8) If a student requires additional accommodations, the LEA shall consult with their state to determine the appropriate assessment options, if any.
- (9) Through the administrative portal, PDSR CONTRACTOR will provide software downloads for the PDSR CONTRACTOR's secure browser, which will be used as the secure test administration platform for all students testing online.
- (10) PDSR CONTRACTOR will ship initial test materials to each LEA as designated. Individual school designations must be approved by WIDA and SEA and may incur an additional charge.
- (11) PDSR CONTRACTOR will use an approved vendor for distribution of print materials to LEAs. Materials will be shipped to arrive two (2) weeks prior to the opening of the assessment window in the state or another date if approved by WIDA and PDSR CONTRACTOR. Special arrangements can be made to provide material earlier to specific sites, if approved by WCER. Delivery of materials will be scheduled during regular school hours, 9:00 am to 3:00 pm in the appropriate time zone. PDSR CONTRACTOR will send email notifications to test coordinators when materials are shipped. All sites receiving materials will receive notification at least 24 hours before the materials are delivered. All shipments will be designated as "inside delivery required". Signatures of receipt will provide proof of delivery and allow PDSR CONTRACTOR, districts and schools to track all shipments. PDSR CONTRACTOR will provide all district- and school-specific return shipping labels and forms and will be responsible for all costs associated with the return of materials. STATE or LEAs shall ensure materials are secured once materials arrive.
- (12) LEAs will coordinate one (1) additional materials order for the testing year (if applicable) and PDSR CONTRACTOR will ship the order directly to the district within 3 days of order receipt. If overnight or two-day expedited shipping is needed by the district, then shipping charges may apply. Additional materials orders beyond the one (1) allowed may require approval from the SEA.
- (13) The PDSR CONTRACTOR may include an additional 15% of printed test booklets in its distribution to LEAs in order to accommodate fluctuations in ELL populations in larger districts. If the initial LEA order does not meet the minimum threshold, overage will not be shipped. In addition to the per student charge for the ACCESS for ELLs administration, STATE shall be responsible for actual printing and distribution costs of unused tests printed and distributed in excess of 120% of the number of actual students tested. STATE shall take steps to encourage accurate ordering by New Hampshire's LEAs in order to prevent over-ordering of test booklets.
- (14) WCER, through the PDSR CONTRACTOR, will use best efforts to provide error free printing, distribution, scoring and reporting of the ACCESS for ELLs assessment. WCER shall correct and provide replacement materials for any errors in printed test booklets that materially

EXHIBIT A
Special Provisions
Continued

affect the reliability or validity of the test at no cost to STATE and New Hampshire's LEAs. WCER shall issue an errata sheet for all errors that do not materially affect the reliability or validity of the test at no cost to STATE and New Hampshire's LEAs.

- (15) PDSR CONTRACTOR will scan student booklets to capture each student's test data. Booklets that cannot be scanned due to damage or extenuating circumstances will be reported to STATE.
- (16) PDSR CONTRACTOR will connect each student's data with a unique identification number.
- (17) Test scoring personnel will be overseen by the ACCESS for ELLs Scoring Director, housed at PDSR CONTRACTOR. All test materials will be identified and scored using the unique identification number assigned during test data capture. Twenty percent (20%) of all operational Speaking and Writing items will be blind double-scored and the Scoring Director will monitor scorers daily to ensure inter-rater reliability of seventy percent (70%) or higher.
- (18) PDSR CONTRACTOR shall provide electronic reports and data files to STATE and New Hampshire's LEAs via the administrative portal, and printed score reports, as described below.
- a. STATE will receive:
 - initial and final data in electronic format, including all demographic and student response data collected, raw, scale scores and proficiency levels are included in the file (State Student Response file)
 - State Frequency Report
 - b. STATE's LEAs will receive 1 copy of the following reports:
 - District Frequency Report
 - School Frequency Report
 - Student Roster Report
 - Individual Student Report (ISR)
 - c. Additional ISRs are available for a charge and will ship to same location as first ISR.
- (19) STATE or LEAs shall ensure all materials are secured before, during and after testing. Secure test materials, both complete and incomplete, must be returned to PDSR CONTRACTOR.
- (20) LEAs shall return tests to PDSR CONTRACTOR for scoring and reporting. Score reports will be available at the mutually agreed upon date.
- (21) A combined total of ten (10) General Data Corrections. Booklet Searches, Scoring Appeals, and/or Test Booklet Transcriptions are included in the price of the ACCESS for ELLs assessment.
- b) WCER shall provide and maintain WIDA Screener Online (grades 1-12) and WIDA Screener for Kindergarten assessments.
- i) WIDA Screener Online (grades 1-12) is included in the Core Package.
 - (1) WIDA Screener Online will be delivered by the PDSR CONTRACTOR.
 - (2) The PDSR CONTRACTOR's administrative portal shall be used by local educators to score student writing and speaking responses.

EXHIBIT A
Special Provisions
Continued

- (3) Score reports for WIDA Screener Online shall be available in the PDSR CONTRACTOR'S administrative portal.
 - (4) Select test materials for WIDA Screener Online must be downloaded and printed locally.
 - ii) WIDA Screener for Kindergarten is a paper-based, downloadable Screener assessment and is included in the Core Package.
 - iii) All WIDA Screener assessments shall be locally administered and scored.
3. WCER shall provide test administration training and professional learning services to STATE and STATE's LEAs in consultation with STATE.
- a) Test administration training
 - i) WCER shall provide separate training modules for online and paper-based assessments that are included in Core Package.
 - (1) All training modules will be delivered online from the password-protected area of the WIDA website. User accounts shall be set up according to STATE in consultation with WCER. User accounts will include training certification and test administrator security agreements.
 - (2) Paper-based administration: Everyone who administers the paper-based ACCESS for ELLs tests (Kindergarten, Alternate ACCESS, and Paper 1-12) and WIDA Screener for Kindergarten needs to take the applicable WIDA training and receive their training certification. Training certification for paper-based administration will require completion of all applicable training modules and passing all applicable quizzes. Certification through the paper-based administration training program shall produce an electronic record of those who have passed the online quizzes, and it shall provide a certificate to the test administrator completing the course.
 - (3) Online administration: Everyone who administers the online-based ACCESS for ELLs test and WIDA Screener Online needs to take the applicable WIDA training and receive their training certification. Training certification for online administration will require completion of all applicable training modules and passing all applicable quizzes. Certification through the online administration training program shall produce an electronic record of those who have passed the online quizzes, and it shall provide a certificate to the test administrator completing the course.
 - (4) Webinars for SEAs and LEAs: WCER shall provide a series of multi-state webinars. These webinars will be conducted live and recorded. Webinars will be archived on the secure portal.
 - (5) WCER shall provide STATE with a Facilitator's Toolkit that contains resources for local trainers to integrate into their trainings about WIDA assessments.
 - (6) WCER will provide STATE with Checklist(s) detailing ACCESS for ELLs administration procedures. WCER will collaborate with STATE to ensure that procedures are state-specific.

**EXHIBIT A
Special Provisions
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b) Professional Learning

- i) The parties shall cooperatively develop a plan for offering professional learning (PL) activities related to the administration of the ACCESS for ELLs assessment, its use and classroom implementation of the WIDA ELD Standards by New Hampshire educators. The activities shall be geared toward helping STATE and LEAs' meet their Title I and III requirements.
- ii) PL services for testing year 2023-24 and future testing years are included in the price of the Core Package. PL services are currently organized through PL Units which expire annually and cannot be rolled over from year to year. The number of PL units included in the price is ten (10) units and is subject to change based on the number of students tested in the previous testing year.

Current PL Unit Allocation	
Students Tested	PL Units
1-4,999	6 Units
5,000-24,999	10 Units
25,000-44,999	14 Units

- iii) WCER will provide electronic copies or access to all course materials for facilitated workshops to STATE. STATE shall be responsible for any participant registration and making and distributing all necessary hard copies of course materials, or providing online access for participants to print materials.
- iv) STATE is responsible for local expenses (e.g., rental of meeting space, participant per diem, and substitute teachers).
- v) STATE shall submit a purchase order to WCER to obtain additional professional learning services subject to availability.
- vi) If STATE cancels a jointly scheduled professional learning offering for which WCER has incurred non-cancelable costs, then STATE may either reimburse WCER for the incurred costs and reschedule the professional learning offering, or it may elect to relinquish the professional learning units altogether at no additional cost to STATE. The non-cancelable costs are as follows:

Time	Cancellation	Rescheduling
22-42 days prior to the event	\$500 + Travel costs + \$200 per Additional Day OR 1 Unit	50% of the total first day cancellation fees + additional day(s) cancelation fee OR 1 Unit
0-21 days prior to the event	\$2000 + Travel costs + \$700 per Additional Day OR Workshop Unit Cost	

EXHIBIT A
Special Provisions
Continued

- (1) No penalty will be incurred for professional learning offerings cancelled 43 days or more prior to the event.
 - (2) WIDA facilitators will make every effort to be on-site for workshops. In the event that WCER must cancel an event, STATE will receive an additional webinar in addition to rescheduling the workshop.
 - (3) Cancellations due to weather will be rescheduled at no charge within the same academic year.
 - vii) WCER will provide WIDA ELD Standards training and other instructional resources online.
 - viii) A minimum of 50% of PL Unit allocation must be delivered through a menu of e-Learning options. WCER reserves the right to require a minimum percentage of professional learning to be delivered via e-Learning.
4. WCER shall conduct evaluation services related to the development and maintenance of Core Package products and services, and shall provide support to STATE utilizing Core Package products and services.
- a) Evaluation Services
 - i) WCER shall conduct and provide evaluation services to meet US Department of Education designated Peer Review requirements for English language proficiency assessments and for English language development standards.
 - ii) Technical reports. WCER shall produce an annual technical report on the ACCESS for ELLs assessments that, at a minimum, fulfills federal requirements regarding the technical quality of English language proficiency assessments. The non-confidential technical report shall be made available for download on WIDA's website.
 - iii) Data Dashboard. WCER may create and provide STATE with access to a comprehensive, longitudinally-based, online dashboard application comprising of aggregate ACCESS for ELLs assessment information and data from other national databases in support of STATE's educational programs. The dashboard will only contain aggregate and/or de-identified data in accordance with Schedule C—Education Record Release and Data Use Agreement.
 - b) Support Activities
 - i) Technical assistance. Up to eight (8) hours of Technical Assistance (TA) per testing year are included in the price of the Core Package. The eight (8) hours of TA do not include any on-site visits. STATE may obtain additional TA hours as needed, and subject to availability, at the hourly rate in place at the time of ordering. STATE shall submit a purchase order to WCER to obtain additional TA hours. TA hours expire on June 30th of each testing year and cannot be rolled over from year to year. TA shall be coordinated with STATE's State Relations Specialist and shall consist of up to eight (8) total hours of agreed upon service for providing STATE with:
 - (1) Analysis and consultation concerning New Hampshire's ACCESS for ELLs test score data in relation to STATE's and New Hampshire's LEAs' requirements; and/or
 - (2) Review of and consultation regarding STATE's draft Peer Review submission for English language proficiency assessments; and/or
 - (3) Customized support for WIDA English language development standards adoption and/or roll-out.

EXHIBIT A
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Continued

- ii) Customer Support. WCER shall provide technical support to SEA personnel through a designated State Relation Specialist (SRS). The SRS will serve as primary point of contact to support STATE SEA personnel administering WCER products and services. WCER shall provide technical support to LEAs through two Customer Service centers:
 - (1) WCER's Client Services Center (CSC): The CSC shall be available to assist with registering for the online training programs, professional learning offerings, and troubleshooting technical difficulties related to WIDA online resources, as well as answering any ACCESS for ELLs and WIDA Screener related question. The CSC representatives shall be available during Central Time work hours. Hours and contact information can be found on the WIDA website.
 - (2) PDSR CONTRACTOR Help Desk: Technical questions concerning the test ordering platform or testing platform will be referred to the PDSR CONTRACTOR Help Desk. PDSR CONTRACTOR Help Desk shall be available to assist with the online administrative portal, materials ordering, and technology-related questions. THE PDSR Contract Help desk shall be supported by toll-free customer service representatives. Hours and contact information can be found on the WIDA website.
- 5. WCER shall provide an opportunity for STATE to participate in the WIDA Consortium Committee structure and to attend the annual WIDA Consortium Board Meeting as described in Schedule D, WIDA Consortium Board, of this MOU.

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Special Provisions
Continued**

**Schedule B
INVOICE AND PAYMENT**

PAYMENT SCHEDULE

The Core Package of professional services rendered in accordance with this MOU includes access to a comprehensive, integrated system of standards, professional learning, assessment, and supports. For simplicity, the number of students initiating each of the ACCESS for ELLs assessments is used as a proxy in the calculation to determine the payment due.

a. STATE agrees to pay the yearly costs for the Core Package using the following per assessment rates:

Testing Year	2023-24	2024-25	2025-26	2026-27	2027-28
1-12 Online Price	\$28.75	\$28.75	Not-to-Exceed \$32.00	Not-to-Exceed \$34.00	Not-to-Exceed \$36.00
1-12 Paper Price	\$30.75	\$30.75	Not-to-Exceed \$34.00	Not-to-Exceed \$36.00	Not-to-Exceed \$38.00
Kindergarten Price	\$30.75	\$30.75	Not-to-Exceed \$34.00	Not-to-Exceed \$36.00	Not-to-Exceed \$38.00
Alternate Price	\$141.25	\$141.25	Not-to-Exceed \$150.00	Not-to-Exceed \$165.00	Not-to-Exceed \$175.00
Braille Price	\$187.75	\$187.75	Not-to-Exceed \$220.00	Not-to-Exceed \$230.00	Not-to-Exceed \$240.00
Total Pop. Est.	5,559	5,948	6,364	6,364	6,810
1-12 Online Pop. Est.	4,979	5,328	5,701	5,701	6,100
1-12 Paper Pop. Est.	21	22	24	24	26
Kindergarten Pop. Est.	522	559	598	598	640
Alternate Pop. Est.	32	34	36	36	39
Braille Pop. Est.	5	5	5	5	5
1-12 Online Cost Est.	\$143,146.25	\$153,180.00	\$182,432.00	\$193,834.00	\$219,600.00
1-12 Paper Cost Est.	\$645.75	\$676.50	\$816.00	\$864.00	\$988.00
Kindergarten Cost Est.	\$16,051.50	\$17,189.25	\$20,332.00	\$21,528.00	\$24,320.00
Alternate Cost Est.	\$4,520.00	\$4,802.50	\$5,400.00	\$5,940.00	\$6,825.00

EXHIBIT A
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Braille Cost Est.	\$938.75	\$938.75	\$1,100.00	\$1,150.00	\$1,200.00
Contingency Charges	Not-to-Exceed \$25,000				
Total Cost Est.	\$190,302.25	\$201,787.00	\$235,080.00	\$248,316.00	\$277,933.00

1. For testing year 2023-24 and future years if more than 75,000 students are tested by STATE, WCER will discount the price associated with the online and/or paper test by \$1.50 for the number of students tested in excess of 75,000 students. Future volume price discounts will be announced when future pricing is determined.
 2. WCER shall invoice STATE \$100,000 in December of each year and STATE shall pay on or before 30 calendar days of invoice unless an alternate schedule is mutually agreed upon. This amount covers the delivered resources in the Core Package, as described in Schedule A, and the pre-operational costs incurred preparing for the delivery of the ACCESS for ELLs assessments. The amount of the December invoice is the annual minimum due under this contract and is independent of the final number of students tested.
 3. WCER shall invoice STATE for the balance, if any, of the cost in June or an agreed upon date, based on the actual number of students tested, upon completion and delivery of the annual test reports and STATE shall pay within 30 calendar days of invoice unless an alternate schedule is agreed upon.
- b. WCER will invoice STATE for the printing and distribution costs of unused tests ordered, printed and distributed in excess of 120% of the number of actual students tested and STATE shall pay within 30 calendar days. The test overage cost is \$3 per test for printing and distribution.
 - c. WCER will invoice STATE for the cost of General Data Corrections submitted past the valid submission window at \$100 per student, if STATE has surpassed the number of included combined General Data Corrections, Booklet Searches, Scoring Appeals and/or Transcription Requests and STATE shall pay the invoice within 30 calendar days.
 - d. WCER will invoice STATE for the cost of Scoring Appeals at \$200 per domain per student, if STATE has surpassed the number of included combined General Data Corrections, Booklet Searches, Scoring Appeals, and/or Transcription Requests and STATE shall pay within 30 calendar days.
 - e. WCER will invoice STATE for the cost of Booklet Searches at \$100 fee when the security barcode number is known, and a \$200 fee to each search request with NO security barcode number, or when the security barcode number provided is incorrect, if STATE has surpassed the number of included combined General Data Correction, Booklet Searches and/or Scoring Appeals and STATE shall pay within 30 calendar days.
 - f. WCER will invoice STATE for the cost of Transcription Requests at the rate of \$250 per student plus additional shipping fees if STATE has surpassed the number of included combined General Data Corrections, Booklet Searches, Scoring Appeals and/or Transcription Requests and STATE shall pay within 30 calendar days.

**EXHIBIT A
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- g. WCER will invoice STATE for the cost of Pre-ID labels if the submission of information is past the valid submission window for Pre-ID labels at \$5 per student and STATE shall pay within 30 calendar days.
- h. The hourly rate for additional TA will be determined at the time of purchase and is subject to an agreed upon statement of work.
- i. The rate for additional PL Units will be determined at the time of purchase based on current Consortium member state pricing and availability.
- j. The total amount due under this memorandum of understanding is outlined in Exhibit C.

STATE will pay the following fees in accordance with the conditions described in Schedule A and Schedule B and payable under Contingency Charges:

Item	Cost per
Data file or student information correction	Dependent on scope of work
Late submission of information for Pre-ID labels	\$5
General Data Corrections	\$100
Scoring Appeals	\$200
Booklet Searches w/code	\$100
Booklet Searches no/code	\$200
Transcription Requests	\$250
Actual printing and distribution costs for test overage	\$3
Charge for shipping to schools	Dependent on scope of shipping and agreed vendor at time
Hourly rate for TA	Dependent on scope of work
Other approved specification changes	Dependent on scope of work

MISCELLANEOUS

WCER may use up to 1.5% of the total contract amount to cover the cost of events and activities intended to further the WIDA Consortium's goals and objectives, which will be conducted in compliance with UW-Madison cost regulations and policies. Documentation for these expenses will be retained for three (3) years and will be available for review if requested.

STATE AUDIT

All records, regardless of physical form, and the accounting practices and procedures of WCER relevant to this contract are subject to examination by the New Hampshire State Auditor or the Auditor's designee. WCER will maintain all such records for at least three (3) years following completion of this contract.

TAXPAYER ID

WIDA's federal employer ID number is: 39-1805963

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Schedule C
EDUCATION RECORD RELEASE AND DATA USE AGREEMENT

This Education Record Release and Data Use Agreement ("Agreement") is between the New Hampshire Department of Education ("STATE") and The Board of Regents of the University of Wisconsin System, on behalf of the University of Wisconsin-Madison's Wisconsin Center for Education Research ("WCER").

Title I and Title III of the Federal Elementary and Secondary Education Act (currently enacted as The Every Student Succeeds Act of 2015 or "ESSA") establish Federally-supported education programs and activities related to English language instruction, acquisition and achievement; require local educational agencies and institutions to evaluate and report the progress made by English learners; and require SEAs to develop accountability models for English learners that relate to these students' development and attainment of English proficiency while meeting challenging State academic content and student academic achievement standards.

The Family Education Rights and Privacy Act ("FERPA") allows educational agencies and institutions to disclose personally identifiable information ("Confidential Data" or "PII") from the education records of students, without consent of students or parents, to authorized representatives of SEAs in order to evaluate and comply with these federal programs and legal requirements. 20 U.S.C. § 1232g(b)(1)(C) and (b)(3) and 34 C.F.R. § 99.31(a)(3) and § 99.35. To conform with state and federal requirements, WCER and its subcontractors are deemed to be authorized representatives of the STATE for the purposes of providing Evaluation Services as specified under this contract.

Concurrently with its entry into this Educational Record Release and Data Use Agreement, STATE and WCER are entering a Memorandum of Understanding ("MOU" or "Contract") to provide services relating to STATE's compliance with federal requirements under ESSA, including, but not limited to, the administration and scoring of the ACCESS for ELLs English language proficiency assessment ("Evaluation Services").

WCER wishes to obtain access to and collect personally identifiable information from the education records of students without the consent of the students or their parents during the performance of these Evaluation Services and STATE wishes to acquire these Evaluation Services, while protecting the privacy of students and parents within STATE.

The Parties therefore agree as follows:

I. Acknowledgment of Release of Confidential Data and Description of Use.

- A. The parties acknowledge that STATE is releasing Confidential Data to WCER for the purposes outlined in Section 3(H) below, and that the release of STATE Confidential Data to WCER is necessary for the completion of Evaluation Services. The personally identifiable information disclosed to and collected by WCER is attached to this Agreement as Schedule E. WCER shall notify STATE and STATE shall provide written consent, if approved, of any changes to the list of disclosed information necessary for the provision of Evaluation Services.

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- B. WCER will use PII from education records in order to facilitate the administration, scoring and reporting of individual student assessments and to connect student records from year to year in order to establish a longitudinal data set that can be used for the evaluation and federal compliance purposes described in this section. WCER will only use de-identified data and/or aggregated data for evaluation activities once student records are connected.
- C. WCER's use of STATE's Confidential Data is strictly limited to the uses specifically authorized under this Agreement. WCER acknowledges that misuse, unauthorized release or violation of the Prohibited Uses Section, below, of STATE's Confidential Data by WCER or its subcontractor(s), etc., or any other violation of this Agreement may be determined to be a material breach of the Agreement and grounds for termination.

2. Designation of Authority and STATE Access to System.

- A. STATE hereby designates WCER, its subcontractors, including Data Recognition Corporation, and ACCESS for ELLs quality assurance participants as authorized representatives of STATE with respect to the provision of Evaluation Services and, specifically, the use of personally identifiable information disclosed under this Agreement.
- B. WCER shall provide STATE and STATE's designated personnel with secure access to Confidential Data via WCER's procured assessment management system.
- C. WCER shall facilitate access to and correction of any factually inaccurate student information in response to an inquiry from an LEA or from the STATE. The STATE shall act as an intermediary on behalf of the LEA for any LEA inquiry.

3. Receiving Institution Obligations.

The undersigned receiving institution, WCER, agrees to abide by the following student privacy and information security requirements:

- A. WCER shall not share Confidential Data with anyone, except those employees of WCER, WCER's subcontractors, including Data Recognition Corporation, and ACCESS for ELLs quality assurance participants ("Authorized Users") that are directly involved and have a legitimate educational interest in providing Evaluation Services according to the terms of the Contract.
- B. WCER shall require all Authorized Users to comply with FERPA and other applicable state and federal student privacy law. WCER shall require and maintain confidentiality agreements with each Authorized User of Confidential Data. The terms of the Authorized User confidentiality agreements shall contain, at a minimum, the terms and conditions of this Agreement. A copy of the current WCER employee confidentiality agreement is attached to this agreement as Schedule F. WCER shall perform and cause its subcontractors to perform background checks on all of its employees and agents that are Authorized Users, prior to providing authorized access to Confidential Data. All background checks will be performed in accordance with the State of Wisconsin/University of Wisconsin background checks for employees and contractors.

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- C. WCER certifies that it has the capacity to restrict access to Confidential Data solely to Authorized Users and ensure that the Confidential Data is accessed only for the purposes described in this Agreement. WCER shall protect Confidential Data in a manner that does not permit personal identification of students and their parents by anyone except those bound by this Agreement and STATE. WCER and its subcontractors subject to this section shall maintain a comprehensive information security program that is reasonably designed to protect the security, privacy, confidentiality, and integrity of Confidential Data. A copy of WCER's Standard Security Policies and Procedures is attached to this Agreement as Schedule G. WCER shall notify STATE in accordance with the procedures in Schedule G if it learns of any of the following:
- i. A use of Confidential Data by anyone that is inconsistent with the terms of this Agreement or for a use not authorized under the Contract;
 - ii. A security breach to any system containing Confidential Data; or
 - iii. Any disclosure of Confidential Data to anyone other than an Authorized User or the STATE officials authorized to receive Confidential Data.

WCER shall cooperate and take all reasonable means prescribed by STATE to secure any breaches as soon as practicable.

- D. WCER shall not store, process or transfer Confidential Data outside the United States. WCER shall encrypt Confidential Data at rest and in transit using the current version of Federal Information Processing Standard ("FIPS") 140-2 validated encryption technologies.
- E. WCER shall not re-disclose Confidential Data to any other party without the prior consent of the parent or eligible student.
- F. WCER shall clear all Confidential Data within 45 days after it is no longer needed to perform the Evaluation Services described in this Agreement, upon STATE's request or upon termination of this Agreement, whichever occurs first or unless otherwise agreed upon in writing. WCER shall provide written verification of the data clearing to STATE within 45 days after the data is cleared. Prior to clearing, STATE may request a copy of all electronically stored Confidential Data retained by WCER or its subcontractor in accordance with the Transfer Protocol section below. "Clear" means to remove Confidential Data from WCER's systems, paper files, records, databases, and any other media regardless of format so that the Confidential Data is permanently irretrievable in the WCER's and Subcontractor's normal course of business, as that term is applied in the current version of National Institute of Standards and Technology ("NIST") Special Publication 800-88. WCER shall clear data in accordance with the current version NIST Special Publication 800-88.
- G. WCER shall permit STATE and/or STATE's designated auditor, at STATE's cost, to request an audit of PDSR CONTRACTOR's Data Security Practices relevant to this agreement, upon reasonable request and with PDSR CONTRACTOR approval, that it is complying with Data Security Policies and Procedures as defined and published by the PDSR CONTRACTOR and/or that it has cleared the data as verified.
- H. WCER shall collect and use these Confidential Data only for the purpose of assisting STATE to carry out an audit or evaluation of Federal and State supported education programs and to comply with the Federal legal requirements related to the activities outlined in the Contract, including but not limited to:
- i. Activities related to the development, administration, scoring and reporting of the annual

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- assessment of student English proficiency;
 - ii. Activities related to the evaluation of federally-supported education programs;
 - iii. Activities related to English language instruction, acquisition, assessment and achievement; and
 - iv. The development of accountability measures and models for English learner children that relate to these children's development and attainment of English proficiency while meeting challenging State academic content and student academic achievement standards.
- I. If STATE requests additional services for activities beyond the scope specified in Section H, above, but consistent with STATE's federal and state requirements, then WCER shall obtain prior written approval from STATE before accessing Confidential Data. Any Confidential Data collected by WCER under activities approved by STATE under this sub-section, which is not regularly collected within the scope of Section H, above, but is consistent with the activities of Section H, shall be subject to the terms and conditions of this Agreement.
- J. WCER shall obtain from the University of Wisconsin-Madison Institutional Review Board either approval or a determination of exemption for all research conducted using Confidential Data where required by law and/or University policy.
- K. If WCER becomes legally compelled to disclose any Confidential Data (whether by judicial or administrative order, applicable law, rule or regulation, or otherwise), then WCER shall provide prompt notice thereof to STATE in order that STATE can assess its right to seek a protective order or injunctive relief; provided, however, that WCER will use all reasonable efforts to maintain the confidentiality of Confidential Data. If a protective order or other remedy is not obtained prior to when any legally compelled disclosure is required, WCER will only disclose that portion of Confidential Data that it is legally required to disclose.

4. Prohibited Uses

- A. WCER shall not sell STATE's Confidential Data, use STATE's Confidential Data for purposes of targeted advertising to students or any party, or use STATE's Confidential Data to create a personal profile of a student other than supporting the Evaluation Services described in this Contract. "Targeted Advertising" means selecting and sending advertisements to a student based on information obtained or inferred over time from the student's online behavior, use of applications, or PII.
- B. WCER shall not use Confidential Data to measure, capture, record or analyze any biological characteristics that can be used for automated recognition of an individual. WCER shall not create or maintain any biometric records, as defined by FERPA, using PII disclosed, captured or received during the course of providing Evaluation Services to STATE.
- C. WCER shall contractually require any subcontractor that it discloses STATE's Confidential Data in accordance with this contract to comply with the requirements of this prohibited uses subsection.

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Special Provisions
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5. System Control Auditing.

WCER shall require Data Recognition Corporation to obtain annual systems audits, performed by an independent audit firm of Data Recognition Corporation's choosing, of its organization controls with respect to its handling of STATE's Confidential Data for the provision of assessment services, as described in the Contract. WCER shall review the results of the shared audit reports for sufficiency of controls over these services. DRC shall also provide certificates/letters of audit completion that WCER may share with STATE.

- A. The audit reports/certifications shall include summary or certifications of the various audits conducted (as applicable), from the following audit types:
 - NIST 800.53
 - ISO 27001 Audit
 - SOC 2 Type 1
- B. If the annual system audit report contains any findings in the Processing Environment that are deemed critical in nature by the assessor, those critical findings will be remediated within 90 days of the issuance of the report. Findings other than critical will be addressed in a timely manner according to their severity and impact of finding.
- C. The audit report shall include at least one audit type that ascertains the Processing Environment uses FIPS 140-2 encryption technologies to encrypt data at rest and data in motion and will report any findings if DRC is not appropriately using these technologies.
- D. The annual system audit report shall certify that an Annual Penetration test was conducted by DRC and evaluated by WCER such that the State is able to ascertain that a complete Penetration and Vulnerability Test has been completed.

6. Transparency Requirements

WCER shall provide transparency to STATE about its collection and use of PII for ACCESS for ELLs test administrations by posting the following information on its website:

- A. Contact information for an individual within WCER's organization that can provide information on or answer questions related to the use of PII by WCER and Data Recognition Corporation.
- B. An explanation of how the PII will be shared with Subcontractors or disclosed to any third party.
- C. The types of PII WCER collects, generates, or uses. This information must include all PII that is collected regardless of whether it is initially collected or ultimately held individually or in the aggregate.
- D. An explanation of the PII, an explanation of how the PII is used, and the learning purpose for which the PII is collected and used.
- E. WCER shall update this information on its website as necessary to maintain accuracy. WCER acknowledges that the STATE may post this information on its public website, in STATE's sole discretion.

EXHIBIT A
Special Provisions
Continued

F. WCER shall send the STATE a written notice that includes a clear explanation of the proposed changes prior to making a material change to the transparency information required by this section.

7. Use of Aggregate Data.

A. In order to provide Consortium level data and analysis to WIDA consortium member states, WCER will aggregate State of STATE data with all other WIDA Consortium member states.

B. WCER shall follow the recommended practices outlined in the IES-SLDS Technical Brief Statistical Methods for Protecting Personally Identifiable Information in Aggregate Reporting, December 2010, Brief 3 NCES 2011-603, including the use of a minimum of 10 students for the reporting subgroup size limitation in Aggregate Reporting.

8. Permission to Use Data.

STATE acknowledges that by entering this Agreement it is approving, in writing, of WCER's use of these Confidential Data within the scope of purposes outlined in this Agreement and Section 3(H), above.

9. Transfer Protocol.

The parties shall work cooperatively to determine a secure medium and method for the transfer of Confidential Data between each other. The party receiving Confidential Data shall confirm the transfer of Confidential Data and notify the transferring party as soon as practicable of any discrepancies between the actual data transferred and the data described in this Agreement.

10. Binding Effect and Assignability.

The rights and obligations of each party under this Agreement shall inure to the benefit of and shall be binding upon that party and its respective successors and assigns.

11. Severability.

Any provision of this Agreement that is declared invalid by a court of competent jurisdiction or by operation of law, shall not affect the validity or enforceability of any other provision of this Agreement.

12. Term.

The term of this Agreement shall be the same as the term of the MOU of even date herewith between STATE and WCER/University of Wisconsin for the development, administration and scoring of ACCESS for ELL's and other testing services,

EXHIBIT A
Special Provisions
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13. Data Custodians.

The following individuals are the designated data custodians for their respective entities with respect to this educational record release and data use agreement:

For WCER

WIDA Consortium – Data at rest/compliance uses
H. Gary Cook
Senior Director of Assessment
1025 W. Johnson St., MD#23
Madison, WI 53706
Phone: 608-890-0471
Email: hcook@wisc.edu

WIDA Consortium – Assessment operational uses
Xin (Grace) Li
Chief Assessment Officer
1025 W. Johnson St., MD#23
Madison, WI 53706
Email: grace.li@wisc.edu

For Data Recognition Corporation – Assessment platform vendor
Karen Jans
Sr. Director, Education Programs
13490 Bass Lake Road
Maple Grove, MN 55311
Phone: 763-268-2040
Email: kjans@datarecognitioncorp.com

The undersigned parties are in agreement to the terms set forth above.

The Board of Regents of the University of Wisconsin System, on behalf of the University of Wisconsin-Madison's Wisconsin Center for Education Research ("WCER")

Vasanthi Pillai
Vasanthi Pillai (Aug 3, 2023 11:40 CDT)

Vasanthi Pilla, Managing Officer, Office of Research and Sponsored Programs

Date 08/08/23

New Hampshire Department of Education

Frank Edelblut
Frank Edelblut, Commissioner of Education

Date 9/6/2023

EXHIBIT A
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Schedule D
WIDA CONSORTIUM BOARD

1. Purpose

- a. Advisory - The WIDA Consortium Board serves as an advisory board to the WIDA Consortium operational leadership. The WIDA Consortium leadership solicits input on and the WIDA Consortium Board offers guidance and support on the annual offering of WIDA's Core Package of educational services in consideration of recommendations made by WIDA or WIDA Subcommittees.
- b. Collaborative - The WIDA Consortium Board provides an organized opportunity for SEAs to associate and address common issues relating to English learners, the academic English language development of kindergarten through grade 12 students and other issues related to SEA and LEA requirements of Title I and III supporting ESSA.

2. Structure

- a. Board Member Appointment - Each WIDA Consortium Member should appoint one SEA representative to the WIDA Consortium Board. Wisconsin, Illinois and Florida are each entitled to appoint one additional representative to the WIDA Consortium Board.
- b. Term of WIDA Consortium Board Members - Each WIDA Consortium Board Member will serve until replaced by their respective SEA or until their SEA is no longer a WIDA Consortium Member.
- c. Removal of WIDA Consortium Board Members - WIDA Consortium Board Members may only be removed by their respective SEA. An SEA will appoint a successor member to the WIDA Consortium Board if that SEA removes its appointed member.
- d. Compensation - Members of the WIDA Consortium Board do not receive compensation.

3. Operations

- a. General - WCER, through the WIDA Consortium will facilitate the activities of the WIDA Consortium Board. WCER will provide the necessary personnel to serve as a liaison between the WIDA Consortium Board Members and the WIDA Consortium.
- b. Meetings - The WIDA Consortium will hold the following meetings:
 - i. Annual Meeting - WCER will conduct an annual gathering of the WIDA Consortium Board.
 - ii. Committee Meetings - WCER will conduct committee meetings of the WIDA Consortium Board as provided in 4.c. below, Committees.
 - iii. Special Meetings - WCER will conduct special meetings concerning the ongoing development and review of the annual offering of the Core Package of educational services as necessary. WCER may hold special meetings either in person or via

EXHIBIT A
Special Provisions
Continued

teleconference. Attendance at special meetings may be held to a limited number of WIDA Consortium Board Members. WCER will maintain meeting notes and provide meeting summaries to the WIDA Consortium participating Members after any WIDA Consortium Special meeting.

c. Communications

- i. General – WCER will provide the necessary infrastructure to facilitate the WIDA Consortium Board activities.
- ii. Meeting Summaries – WCER will maintain meeting notes and provide them to the WIDA Consortium Board Members after any WIDA Consortium Board meeting.

d. Costs

- i. General - WCER will pay the costs associated with operating the WIDA Consortium Board.
- ii. Travel Expenses - All travel expense reimbursements will be made in accordance with State of Wisconsin guidelines.
 - a. WCER will pay for/reimburse WIDA Consortium Board Members' travel expenses incurred in connection with attending a WIDA Annual Board meeting. If an SEA wants to bring *up to two additional people* to attend the WIDA Annual Board Meeting, that SEA is responsible for their travel expenses. In the first year an SEA becomes a WIDA Consortium Member, WCER will pay for/reimburse the travel costs of one additional person from that state to attend the WIDA Annual Board meeting.
 - b. WCER will pay for the travel expenses to in-person events for SEAs/educators participating on the WIDA Executive Committee and on any of the WIDA Subcommittees. Additionally, WIDA will pay travel expenses for SEAs/educators who are selected to participate in WIDA English language proficiency assessment and WIDA English language development standards in-person events. These events include reviews that are required for the validity and reliability of WIDA assessments and score results such as annual Content, Bias and Sensitivity, and Score Quality Control reviews. These events also include ad hoc events requiring member state and demographic representation across the WIDA Consortium to support Peer Review claims and to ensure opportunity for consortium member voice in establishing critical criteria and developing standards; an example of these kind of events is Standard Setting for Proficiency Level Cut Scores.

- e. Fiscal Impact - The activities of the WIDA Consortium Board will have no direct fiscal impact on individual WIDA Consortium Members without an additional written agreement between the individual WIDA Consortium members and WCER. If WIDA Consortium Board Members recommend and the WIDA Consortium adopts any changes to the Core

EXHIBIT A
Special Provisions
Continued

Package of educational services that affect the price of the Core Package, then no price change will take effect until the individual WIDA Consortium Members execute written agreements with WCER that reflect these changes.

4. **Activities**

- a. General - The activities of the WIDA Consortium Board include the following:
 - i. Attendance at the WIDA Annual Board meeting
 - ii. Participation on the WIDA Subcommittees, as appointed
 - iii. Participation at special meetings conducted by the WIDA Consortium
- b. WIDA Annual Board Meetings - WCER, through the WIDA Consortium, will coordinate the meetings of the WIDA Consortium Board.
 - i. Meeting Agendas - The WIDA Consortium will set the agendas for any WIDA Annual Board meetings.
 - ii. Meeting Activities
 1. Presentations - The WIDA Consortium will present updates on WIDA Consortium activities related to the implementation, research, and development of the Core Package.
 2. Discussion and Review Groups - The WIDA Consortium will facilitate discussion groups on targeted topics related to the implementation, research, and development of the Core Package. The discussion groups are an opportunity for WIDA Consortium Board Members to provide input to the WIDA Consortium and to interact and exchange ideas with other SEAs.
 3. Policy Orientation and Priority Setting - The WIDA Consortium may poll the WIDA Consortium Board in order to ascertain the position of WIDA Consortium Board Members on issues related to the policy orientation and priorities of the implementation, research and development of the Core Package. Each WIDA Consortium Board Member present will receive one vote. The votes will be recorded and taken into consideration by the WIDA Consortium.
- c. Committees
 - i. Executive Committee – The Executive Committee is a standing committee that meets to discuss issues that require cross-collaboration among subcommittees.
 1. Purpose - The purpose of the Executive Committee is to recommend, to advise, and comment on policy and priority issues related to the implementation, research, and development of the Core Package and provide recommendations to WIDA leadership.

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2. Makeup - Membership on the Executive Committee will consist of the following:
 - a. SEA representatives (one from each subcommittee with expertise in that area)
 - b. One LEA representative (appointed by the LEA Advisory Committee)
 - c. Three standing members (one Wisconsin Department of Public Instruction representative, one Illinois State Board of Education representative, and one Florida Department of Education representative)
 3. Term - Executive Committee members serve until they are no longer eligible to continue as an SEA lead on their subcommittee, excluding the three standing members.
 4. Meetings - The Executive Committee meets virtually and face-to-face each year. Face-to-face meetings include the WIDA Annual Board Meeting in June and one in the late fall. Virtual meetings are scheduled as needed or as replacement for face-to-face meetings:
- ii. Subcommittee organizational structure – WCER, through the WIDA Consortium, will form standing subcommittees for the purpose of vetting policy and priority issues related to the implementation, research, and development of the Core Package. Each subcommittee will focus on one main component of the Core Package and may collaborate with other subcommittees, as needed.
1. Standing subcommittees:
 - a. Accessibility, Accommodations, and Equity
 - b. Assessment-Development and Implementation
 - c. Communications and Customer Service
 - d. National Policy
 - e. Professional Learning
 - f. Research
 - g. Standards
 - h. Technology
 2. SEA Membership
 - a. Member states may have representation on up to four subcommittees, as appointed.
 - b. Each SEA representative may join no more than two subcommittees.
 - c. No more than one SEA representative per state may serve on a subcommittee.

EXHIBIT A
Special Provisions
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3. Membership process - SEA representatives interested in serving on a subcommittee complete and submit the Subcommittee Application during open enrollment. Notices are sent to members.
 4. Terms of subcommittee membership - Each SEA representative appointed to serve on a subcommittee will actively serve to the end of their appointed term based on subcommittee guidance.
 5. Compensation - Members serving on WIDA Subcommittees do not receive compensation.
 6. Communications - Notes from the WIDA Subcommittees will be made available to all WIDA Consortium members via a secure website. Information and updates will be shared through the established SEA Quarterly meetings schedule, in addition to standard communication channels.
- iii. LEA Advisory Committee – The LEA Advisory Committee is a standing committee comprised of local educational representatives from each of the regions.
1. Purpose - The purpose of the LEA Advisory Committee is to raise and vet policy and priority issues related to the implementation, research and development of the Core Package with respect to issues effecting local educational agencies.
 2. Makeup - Two LEAs per region, one representing Subgroup A and one representing Subgroup B, will be selected by their SEA. Regions are listed on the WIDA website at wida.wisc.edu/memberships/consortium.
 3. Term of membership – LEAs serve a two-year term on a staggered rotation as outlined in the WIDA Consortium Guide.
 4. Meetings – The LEA Advisory Committee meets regularly throughout the year via virtual conferencing platform. There may be additional opportunities to share feedback by independent review of materials and/or one-on-one discussions with various WIDA departmental members
- iv. Ad Hoc Committees – WIDA may form ad hoc committees as needed. The ad hoc committees meet to address a specific task or object and dissolve after completion or accomplishment of the assigned task or objective.

EXHIBIT A
Special Provisions
Continued

WIDA Consortium Definitions

1. Definitions.

- a. SEA – “SEA” means state educational agency and includes each state’s education Superintendent or Commissioner as specified in ESSA (Sec.8101.(49).
- b. LEA – “LEA” means local educational agency and includes any educational agency within a WIDA Consortium Member state subject to the requirements of Titles I and III of ESSA (Sec.8101.(30).
- c. WCER – “WCER” means Wisconsin Center for Education Research, which is a research center in the School of Education at the University of Wisconsin-Madison.
- d. WIDA Consortium – “WIDA Consortium” means the membership program within WIDA the operational unit of the Wisconsin Center for Education Research, which offers educational services related to English learners and academic English language development for pre-kindergarten through grade 12.
- e. WIDA Consortium Member – “WIDA Consortium Member” means any state educational agency that approves and/or purchases the Core Package of WIDA Consortium educational services to satisfy the state and local educational agencies requirements of Title I and Title III of the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act of 2015 (ESSA), which pertain to: the academic assessment of English learner students; the academic assessment of English language proficiency; the development and meeting of annual accountability measures for English learner students and the building and enhancement of capacity to offer programs that assist English learner students in obtaining academic English language proficiency.
- f. WIDA Consortium Board Member – “WIDA Consortium Board Member” means any person appointed to the WIDA Consortium Board according to the Board Member Appointment subsection
- g. WIDA Works – “WIDA Works is the umbrella of all WIDA Intellectual Property, including all products and services identified in the “Core Package”. WIDA products and services not identified in the “Core Package” are available for additional cost.
- h. Core Package – “Core Package” means the multi-state copyright licenses and related educational products and services offered by WCER under the name WIDA Consortium to WIDA Consortium Members, namely: limited copyright licenses to certain WIDA assessments, including ACCESS for ELLs, Alternate ACCESS for ELLs, the WIDA Screener Online and the downloadable version of WIDA Screener for Kindergarten, language development standards and resource guides, instructional and educator training/support materials; technical assistance and professional learning associated with implementing the WIDA ELD Standards; the printing, distributing, scoring and reporting of the ACCESS for ELLs and the Alternate ACCESS for ELLs English language tests; and educator and technical assistance and professional learning associated with administering and interpreting the

EXHIBIT A
Special Provisions
Continued

ACCESS for ELLs and the Alternate ACCESS for ELLs English language tests and test results. WIDA Consortium Members all receive the same Core Package of educational services. Individual member States may contract with WCER to obtain enhancements to the Core Package for additional charges, subject to availability.

Column Letter	Field #	Field Name Detail	Max # of Characters	Character Type	Valid Values	Example	Field Explanation	Updated for 2022-2023	Populated for DSA to districts
A	1	State Name Abbreviation	2	Alpha	Valid Values: all Multis will be denoted with asterisks (this is because of Paper Testing and the possibility of more than one bubble of the same character being marked) Left Justify all fields and blanks will be used to fill the field The hierarchy used for most of these fields is: 1-PreID Data; 2-WIDA AMS Data; 3-Bubbled Paper Test Booklet (Online Test would come from Pre-ID or WIDA AMS)	AK	2 Letter State Abbreviation		
B	2	District Name	50	Alpha	Possible values for each character in the string A-Z a-z 0-9 period "." parentheses "(" ")", hyphen/dash "-" apostrophe "'" at sign "@" colon ":" semicolon ";" ampersand "&" number sign "#" forward slash "/" Not accepted: commas, accents, tildes, nor any other special characters	District Name	District Name This is considered a "pass through" field and whatever is received as inputs will be displayed here.		
C	3	District Number	15	Alpha/Numeric	Possible values for each character in the string A-Z a-z 0-9	AL001	Unique District number identifying district within the state. Prepend the 2 letter State Name Abbreviation. Instructions on Field Lengths: The district numbers in your state must all be the same length. District Number must already exist in WIDA AMS. This is an identifier and not necessarily a numeric field. When returning Data Validations files, the district number must already exist; if not, the file will fail and the errored record will need to be corrected.		
D	4	School Name	50	Alpha	Possible values for each character in the string A-Z a-z 0-9 period "." parentheses "(" ")", hyphen/dash "-" apostrophe "'" at sign "@" colon ":" semicolon ";" ampersand "&" number sign "#" forward slash "/" Not accepted: commas, accents, tildes, nor any other special characters	School Name	School Name This is considered a "pass through" field and whatever is received as inputs will be displayed here.		
E	5	School Number	13	Alpha/Numeric	Possible values for each character in the string A-Z a-z 0-9	1001	Unique School number identifying school within the district. Instructions on Field Lengths: The School Numbers in your state must all be the same length. School Number must already exist in WIDA AMS. This is an identifier and not necessarily a numeric field. When returning Data Validations files, the school number must already exist; if not, the file will fail and the errored record will need to be corrected.		
F	6	Unique DRC Student ID	12	Numeric	0-9999999999	985615	Internal DRC StudentID May appear on multiple rows in a file. Records created from Uploads are odd IDs Records created from being manually entered into AMS are even IDs. Records created from the bubbles/test booklets should match back to a DRC Student ID that already exists (even or odd), but if they don't, the DRC Student ID will be odd - the same as an Upload		
G	7	Reported Record	2	Numeric	0-99		This is the numeric ranking of records for a student that determines what is on the Student Report. The Reported Record (1) is comprised of the 4 domains with the highest scale scores for this student. 1 = Reported Record 2-99 = Not Reported - Additional tested information for this student		
H	8	Student Last Name	100	Alpha	Possible values for each character in the string: A-Z a-z hyphen/dash "-" spaces apostrophe "'" Blank Not accepted: commas, accents, tildes, nor any other special characters, nor any other special characters	Brown	Student Last Name		
I	9	Student First Name	100	Alpha	Possible values for each character in the string: A-Z a-z hyphen/dash "-" spaces apostrophe "'" Blank Not accepted: commas, accents, tildes, nor any other special characters, nor any other special characters	Charlie	Student First Name		
J	10	Student Middle Name	100	Alpha	Possible values for each character in the string: A-Z a-z hyphen/dash "-" spaces apostrophe "'" Blank Not accepted: commas, accents, tildes, nor any other special characters, nor any other special characters		1 If the University of Wisconsin System and the Board of Regents of the University of Wisconsin System Student Middle Name		

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EXHIBIT A
Special Provisions
Continued

11	Birth Date	10	Date	MM/DD/YYYY, or Blank	01/12/2005	Student Birth Date		Y
12	Gender	1	Alpha	M, or Blank	M	Student Gender M = Male, F = Female		Y
13	State Student ID	15	Alpha/Numeric	Possible values for each character in the string A-Z, a-l, 0-9, or entire field could be Blank	0000067990	Unique Student ID value within a state - this must be unique when not blank Length does not need to be consistent within the state, but if the ID includes leading zeros, they must be included For matching, case will be insensitive.		Y
14	District Student ID	15	Alpha/Numeric	Possible values for each character in the string A-Z, a-l, 0-9, or entire field could be Blank	123456789	Unique Student ID value within a district. This is considered a "pass-through" field and whatever is received will be accepted. Length does not need to be consistent within the state, but if the ID includes leading zeros, they must be included.		Y
15	Grade	2	Numeric	00-12, or Blank	05	00 = Kindergarten Kindergarten through 12th grade Must contain leading zero for 01-09		Y
16	Ethnicity - Hispanic/Latino	1	Alpha	Paper and Online: Y or Blank	Y	Ethnicity of student Y = Yes Hispanic/Latino		Y
17	Race - American Indian/Alaskan Native	1	Alpha	Paper and Online: Y or Blank	Y	If student race is American Indian/Alaskan Native Y = Yes		Y
18	Race - Asian	1	Alpha	Paper and Online: Y or Blank	Y	If student race is Asian Y = Yes		Y
19	Race - Black/African American	1	Alpha	Paper and Online: Y or Blank	Y	If student race is Black/African American Y = Yes		Y
20	Race - Pacific Islander/Hawaiian	1	Alpha	Paper and Online: Y or Blank	Y	If student race is Pacific Islander/Hawaiian Y = Yes		Y
21	Race - White	1	Alpha	Paper and Online: Y or Blank	Y	If student race is White Y = Yes		Y
22	Native Language	4	Alpha/Numeric	Possible values for each character in a string A-Z, a-l, 0-9, space, or entire field could be Blank	112	Native Language of student Unique code identifying language for each state - This is a state defined field		Y
23	Date First Enrolled in US School	10	Date	MM/DD/YYYY, or Blank	09/30/2011	Date student first enrolled in a US School (regardless of country of origin) MM/DD/YYYY, (Must include slashes) or Blank		Y
24	Length of Time in LEP/ELL Program	2	Numeric	0-19, or Blank	0	Length of Time in LEP/ELL Program in a US School (regardless of country of origin) Valid values are 0-19. Represented in whole number of years by school year. Number of years that a student has been in a bilingual or ESOL program.		Y
25	Title III Status	1	Alpha	Y or Blank	Y	If the student has Title III Status Y = Yes		Y
26	Migrant	1	Alpha	Y or Blank	Y	If the student has Migrant Status Y = Yes Migrant		Y
27	IEP Status	1	Alpha	Y or Blank	Y	If the student has IEP Status Y = Yes		Y
28	504 Plan	1	Alpha	Y or Blank	Y	If the student has a 504 Plan Y = Yes		Y
29	Primary Disability	3	Alpha	AS, DB, DD, HI, ID, MD, OI, OHI, ED, SLD, SLI, TBI, VI, or Blank	AS	AS = Autism Spectrum Disorder, DB = Deaf-blindness, DD = Developmental Delay, HI = Hearing Impairment, including Deafness, ID = Intellectual Disability, MD = Multiple Disability, OI = Orthopedic Impairment, OHI = Other Health Impairment, ED = Emotional Disturbance, SLD = Specific Learning Disability, SLI = Speech or Language Impairment, TBI = Traumatic Brain Injury, VI = Visual Impairment, including Blindness, or Blank		Y
30	Secondary Disability	3	Alpha	AS, DB, DD, HI, ID, MD, OI, OHI, ED, SLD, SLI, TBI, VI, or Blank	TBI	AS = Autism Spectrum Disorder, DB = Deaf-blindness, DD = Developmental Delay, HI = Hearing Impairment, including Deafness, ID = Intellectual Disability, MD = Multiple Disability, OI = Orthopedic Impairment, OHI = Other Health Impairment, ED = Emotional Disturbance, SLD = Specific Learning Disability, SLI = Speech or Language Impairment, TBI = Traumatic Brain Injury, VI = Visual Impairment, including Blindness, or Blank		Y
31	LEP Classification	1	Alpha	EBL, MIBL, ETI, MNL, EEO, MEO, NSP, or Blank	MNL	EBL = EL Bilingual VBI = Mixed Bilingual ETI = EL Specific Transition Instruction MNL = Mixed Class with Native Language Support EEO = EL - specific with English-only support MEO = Mixed Class with English-only Support NSP = No Support Provided or Blank		Y
32	LTP - Parental Refusal	1	Alpha	Y or Blank	Y	Indicates if the student's parent has refused language services Y = Yes		Y

**EXHIBIT A
Special Provisions
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**Schedule E
ACCESS for ELLs State Student Response Data File**

Item ID	Item Name	Item Type	Item Length	Item Values	Item Format	Item Description	Item Code	Item Notes
34	Accommodation - MC	1	Alpha	or Blank		UEP - Optional Data This is considered a "pass through" field and whatever is received as inputs will be displayed here.		
35	Accommodation - RA	1	Alpha	or Blank		Manual control of stem audio (MC) Y = Yes		
36	Accommodation - ES	1	Alpha	or Blank		Repeat item audio (RA) Y = Yes		
37	Accommodation - LP	1	Alpha	or Blank		Extended speaking test response time (ES) Y = Yes		
38	Accommodation - BR	2	Alpha	or Blank		Large Print (LP) Y = Yes		
39	Accommodation - SD	1	Alpha	or Blank		Braille (BR) NC = Nemeth Contracted, NU = Nemeth Uncontracted, TC = Math/Science Contracted (formerly Technical) Technical Abbreviated (applicable to grades 6-12 only) TU = Math/Science Uncontracted (formerly Technical) Technical Abbreviated (applicable to grades 6-12 only) Y = "yes" was selected in WIDA AMS or bubbled in on the test booklet	Updated Braille name in Field Explanation	
40	Accommodation - IR	1	Alpha	or Blank		Interpreter signs 1es (directions in ASL) (SD) Y = Yes		
41	Accommodation - RP	1	Alpha	or Blank		In-Person Human Reader (IR) Y = Yes		
42	Accommodation - SP	1	Alpha	or Blank		Repeat In-Person Human Reader (RP) Y = Yes		
43	Accommodation - WD	1	Alpha	or Blank		Scribe (SP) Y = Yes		
44	Accommodation - PD	1	Alpha	or Blank		Word processor or similar keyboarding device to respond to test items (WD) Y = Yes		
45	Accommodation - NS	1	Alpha	or Blank		Student responds using a recording device, which is played back and transcribed by the student (PD) Y = Yes		
46	Accommodation - EM	1	Alpha	or Blank		Test may be administered in a non-school setting (NS) Y = Yes		
47	Student Type	1	Alpha	or P		Extended testing of a test domain over multiple days (EM) Y = Yes		
48	State Defined Optional Data	10	Alpha/Numeric	or entire field could be Blank		Student is N = Non-Public (Private), C = Charter, H = Homeschool, P = Public, or Blank (which defaults to Public)		
49	District Defined Optional Data	10	Alpha/Numeric	or entire field could be Blank		Possible values for each character in a string A-Z, a-z, 0-9, space, or entire field could be Blank		
50	Additional field to be used by a State if needed	50	Alpha/Numeric	or entire field could be Blank		State Designated Additional Data - Defined by State See State Provided Special Instructions This is considered a "pass-through" field and whatever is received as inputs will be displayed here.		
51	Proficiency Level - Listening	3	Alpha/Numeric	Blank		District Designated Additional Data (this may also be additional State Data) See State Provided Special Instructions This is considered a "pass-through" field and whatever is received as inputs will be displayed here.		
52	Proficiency Level - Reading	3	Alpha/Numeric	Blank		State Additional Data See State Provided Special Instructions This is considered a "pass-through" field and whatever is received as inputs will be displayed here.		
53	Proficiency Level - Speaking	3	Alpha/Numeric	Blank		Students Listening Proficiency Level for either Online or Paper NA = one of the four Do Not Scores Absent, Invalid, Declined, Exempted Special Eq/504 Always display to the tenth, e.g., 1.0 or 5.9 Blank = domain was not attempted for this record		
54	Proficiency Level - Writing	3	Alpha/Numeric	Blank		Students Reading Proficiency Level for either Online or Paper NA = one of the four Do Not Scores Absent, Invalid, Declined, Exempted Special Eq/504 Always display to the tenth, e.g., 1.0 or 5.9 Blank = domain was not attempted for this record		
55	Proficiency Level - Comprehension	3	Alpha/Numeric	Blank		Students Speaking Proficiency Level for either Online or Paper NA = one of the four Do Not Scores Absent, Invalid, Declined, Exempted Special Eq/504 Always display to the tenth, e.g., 1.0 or 5.9 Blank = domain was not attempted for this record		
56	Proficiency Level - Comprehension	3	Alpha/Numeric	Blank		Students Writing Proficiency Level for either Online or Paper NA = one of the four Do Not Scores Absent, Invalid, Declined, Exempted Special Eq/504 Always display to the tenth, e.g., 1.0 or 5.9 Blank = domain was not attempted for this record		
57	Proficiency Level - Comprehension	3	Alpha/Numeric	Blank		Students Comprehension Proficiency Level for either Online or Paper NA = one of the four Do Not Scores Absent, Invalid, Declined, Exempted Special Eq/504 Always display to the tenth, e.g., 1.0 or 5.9 Blank = Listening and/or Reading domains were not attempted for this record		
58	Proficiency Level - Comprehension	3	Alpha/Numeric	Blank		Students Literacy Proficiency Level for either Online or Paper NA = one of the four Do Not Scores Absent, Invalid, Declined, Exempted Special Eq/504 Always display to the tenth, e.g., 1.0 or 5.9 Blank = Reading and/or Writing domains were not attempted for this record		

CA	76	Confidence High Score - Listening	3	Numeric	100-600 NA Blank	600	High End of Score Confidence Range Students Scale Score - CSEM for Listening NA = one of the four Do Not Scores Blank = No Scale Score		
CA	77	Confidence Low Score - Reading	3	Numeric	100-600 NA Blank	100	Low End of Score Confidence Range Students Scale Score - CSEM for Reading NA = one of the four Do Not Scores Blank = No Scale Score		
CA	78	Confidence High Score - Reading	3	Numeric	100-600 NA Blank	600	High End of Score Confidence Range Students Scale Score - CSEM for Reading NA = one of the four Do Not Scores Blank = No Scale Score		
CA	79	Confidence Low Score - Speaking	3	Numeric	100-600 NA Blank	100	Low End of Score Confidence Range Students Scale Score - CSEM for Speaking NA = one of the four Do Not Scores Blank = No Scale Score		
CA	80	Confidence High Score - Speaking	3	Numeric	100-600 NA Blank	600	High End of Score Confidence Range Students Scale Score - CSEM for Speaking NA = one of the four Do Not Scores Blank = No Scale Score		
CA	81	Confidence Low Score - Writing	3	Numeric	100-600 NA Blank	100	Low End of Score Confidence Range Students Scale Score - CSEM for Writing NA = one of the four Do Not Scores Blank = No Scale Score		
CA	82	Confidence High Score - Writing	3	Numeric	100-600 NA Blank	600	High End of Score Confidence Range Students Scale Score - CSEM for Writing NA = one of the four Do Not Scores Blank = No Scale Score		
CA	83	Confidence Low Score - Comprehension	3	Numeric	100-600 NA Blank	100	Low End of Score Confidence Range Students Scale Score - SEM for Comprehension NA = one of the four Do Not Scores Blank = No Scale Score		
CA	84	Confidence High Score - Comprehension	3	Numeric	100-600 NA Blank	600	High End of Score Confidence Range Students Scale Score - SEM for Comprehension NA = one of the four Do Not Scores Blank = No Scale Score		
CA	85	Confidence Low Score - Literacy	3	Numeric	100-600 NA Blank	100	Low End of Score Confidence Range Students Scale Score - SEM for Literacy NA = one of the four Do Not Scores Blank = No Scale Score		
CA	86	Confidence High Score - Literacy	3	Numeric	100-600 NA Blank	600	High End of Score Confidence Range Students Scale Score - SEM for Literacy NA = one of the four Do Not Scores Blank = No Scale Score		
CA	87	Confidence Low Score - Oral	3	Numeric	100-600 NA Blank	100	Low End of Score Confidence Range Students Scale Score - SEM for Oral NA = one of the four Do Not Scores Blank = No Scale Score		
CA	88	Confidence High Score - Oral	3	Numeric	100-600 NA Blank	600	High End of Score Confidence Range Students Scale Score - SEM for Oral NA = one of the four Do Not Scores Blank = No Scale Score		
CA	89	Confidence Low Score - Overall	3	Numeric	100-600 NA Blank	100	Low End of Score Confidence Range Students Scale Score - SEM for Overall NA = one of the four Do Not Scores Blank = No Scale Score		
CA	90	Confidence High Score - Overall	3	Numeric	100-600 NA Blank	600	High End of Score Confidence Range Students Scale Score - SEM for Overall NA = one of the four Do Not Scores Blank = No Scale Score		
CA	91	Do Not Score Code - Listening	3	Alpha	ABS INV DEC SPD or Blank	ABS	Do Not Score Code was indicated in AMS or bubbled on booklet ABS = Absent INV = Invalid DEC DEC = Declined SPD = Deferred Special Education/504 Blank = Do Not Score Code Not Provided or Domain not taken		
CA	92	Do Not Score Code - Reading	3	Alpha	ABS INV DEC SPD or Blank	INV	Do Not Score Code was indicated in AMS or bubbled on booklet ABS = Absent INV = Invalid DEC DEC = Declined SPD = Deferred Special Education/504 Blank = Do Not Score Code Not Provided or Domain not taken		
CA	93	Do Not Score Code - Speaking	3	Alpha	ABS INV DEC SPD or Blank	DEC	Do Not Score Code was indicated in AMS or bubbled on booklet ABS = Absent INV = Invalid DEC DEC = Declined SPD = Deferred Special Education/504 Blank = Do Not Score Code Not Provided or Domain not taken		
CA	94	Do Not Score Code - Writing	3	Alpha	ABS INV DEC SPD or Blank	SPD	Do Not Score Code was indicated in AMS or bubbled on booklet ABS = Absent INV = Invalid DEC DEC = Declined SPD = Deferred Special Education/504 Blank = Do Not Score Code Not Provided or Domain not taken		
CA	95	Form Number	3	Numeric	601	601	Unique ACCESS Form Identifier This is the Series number (601)	Form number for Operational	
CA	96	Test Completion Date	10	Date	MM/DD/YYYY or Blank	03/30/2014	Date student completed testing in school: MM/DD/YYYY - 03/30/2014 (March 30, 2014) or 00/00/0000 = Blank The latest date of either the field on the front cover of the paper test or the date the student "completed" the online test for the final domain		
CA	97	Mode of Administration	11	Alpha	Online Paper or entire field can be Blank	Online	Students Mode of Administration Entire field Blank = Not taken		

Schedule E
ACCESS for ELLs State Student Response Data File

EXHIBIT A
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76	Mode of Administration - Reading	11	Alpha	Online Paper or entire field can be Blank	Online	Students Mode of Administration Entire field Blank = Not taken		
77	Mode of Administration - Speaking	11	Alpha	Online Paper or entire field can be Blank	Paper	Students Mode of Administration Entire field Blank = Not taken		
100	Mode of Administration - Writing	11	Alpha	Online Paper or entire field can be Blank	Online	Students Mode of Administration Entire field Blank = Not taken		
101	Mode of Response - Writing KB or HW	2	Alpha	KB or HW or entire field can be Blank	KB	Students Mode of Response for Writing KB = Keyboard HW = Handwriting Entire field Blank = Not taken and when Writing Status is Blank		
102	Reported Mode	6	Alpha	Online Paper Mixed	Mixed	If all tests were online = Online if all tests were paper = Paper If some tests were paper and some tests were online = Mixed		
103	Cluster - Listening	1	Numeric	Paper: 0, 1, 2, 3, 4, 6, 9, Blank Online: 1, 2, 4, 6, 9, Blank	2	This is the tested Grade Cluster of the Student Online: 1 = 1, 2-3 = 2, 4-5 = 4, 6-8 = 6, 9-12 = 9 Paper: Kindergarten = 0, 1 = 1, 2 = 2, 3 = 3, 4-5 = 4, 6-8 = 6, 9-12 = 9 Students should not be testing dual mode. Since the Speaking score sheet for Grades 2 and 3 is attached at the end of the Test Booklet for L, R and W, use the L, R, W cluster. Blank if the domain is not taken		
104	Cluster - Reading	1	Numeric	Paper: 0, 1, 2, 3, 4, 6, 9, Blank Online: 1, 2, 4, 6, 9, Blank	4	This is the tested Grade Cluster of the Student Online: 1 = 1, 2-3 = 2, 4-5 = 4, 6-8 = 6, 9-12 = 9 Paper: Kindergarten = 0, 1 = 1, 2 = 2, 3 = 3, 4-5 = 4, 6-8 = 6, 9-12 = 9 Students should not be testing dual mode. Since the Speaking score sheet for Grades 2 and 3 is attached at the end of the Test Booklet for L, R and W, use the L, R, W cluster. Blank if the domain is not taken		
105	Cluster - Speaking	1	Numeric	Paper: 0, 1, 2, 3, 4, 6, 9, Blank Online: 1, 2, 4, 6, 9, Blank	4	This is the tested Grade Cluster of the Student Online: 1 = 1, 2-3 = 2, 4-5 = 4, 6-8 = 6, 9-12 = 9 Paper: Kindergarten = 0, 1 = 1, 2 = 2, 3 = 3, 4-5 = 4, 6-8 = 6, 9-12 = 9 Students should not be testing dual mode. Since the Speaking score sheet for Grades 2 and 3 is attached at the end of the Test Booklet for L, R and W, use the L, R, W cluster. Blank if the domain is not taken		
106	Cluster - Writing	1	Numeric	Paper: 0, 1, 2, 3, 4, 6, 9, Blank Online: 1, 2, 4, 6, 9, Blank	9	This is the tested Grade Cluster of the Student Online: 1 = 1, 2-3 = 2, 4-5 = 4, 6-8 = 6, 9-12 = 9 Paper: Kindergarten = 0, 1 = 1, 2 = 2, 3 = 3, 4-5 = 4, 6-8 = 6, 9-12 = 9 Students should not be testing dual mode. Since the Speaking score sheet for Grades 2 and 3 is attached at the end of the Test Booklet for L, R and W, use the L, R, W cluster. Blank if the domain is not taken		
107	Test Information	2	Alpha/Numeric	Paper: A, BC, Blank Online: Blank Braille: BR	BC	Paper: A, BC, BR (student took Braille) or a dash (student took Kindergarten). Blank if the domain is not taken. This field captures paper test's static tier information from the test booklet/answer document of R, L, and W. Online: Blank		
108	Test Information	2	Alpha/Numeric	Paper: A, BC, Blank Online: Blank Braille: BR	BC	Paper: A, BC, BR (student took Braille) or a dash (student took Kindergarten). Blank if the domain is not taken. This field captures paper test's static tier information from the test booklet/answer document of R, L, and W. Online: Blank		
109	Test Information	2	Alpha/Numeric	Paper: A, BC, Blank Online: PA, A, BC, Blank Braille: BR	BC	Paper: A, BC, BR (student took Braille) or a dash (student took Kindergarten). This field captures paper test's static tier information from the test booklet/answer document of R, L, and W. Online: PA, A, BC Blank if the domain is not taken		
110	Tier - Writing	2	Alpha/Numeric	Paper: A, BC, Blank Online: A, BC, Blank Braille: BR	BC	Paper: A, BC, BR (student took Braille) or a dash (student took Kindergarten). This field captures paper test's static tier information from the test booklet/answer document of R, L, and W. Online: A, BC Blank if the domain is not taken		
111	Reported Tier	2	Alpha/Numeric	Paper and Online: A, BC or Blank		Combined value of Speaking and Writing tiers -- = Kindergarten Blank = the student only took Listening and Reading. Speaking Tier A = Writing Tier A = Reported Tier A Speaking Tier BC (paper, online) = Writing Tier BC = Reported Tier BC Speaking Tier BR = Writing Tier BR = Reported Tier BC For cases where Speaking and Writing Tier are not the same, the Reported Tier will be an average of the Speaking and Writing Tiers. For more details about Reported Tier, please see the Test Policy Handbook for State Education Agencies		

EXHIBIT A
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Continued

DM	112	Tier Selection Override - Speaking	Alpha	Grades 1-12: Paper: Blank Online: Y = Yes, Tier Selection Override was used Blank if no override Kindergarten: Blank	Indicates if Tier Selection Override was used Paper 1-12: Blank Online: Y = Yes, the Speaking Tier Selection was overwritten Kindergarten: Blank		
DM	113	Tier Selection Override - Writing	Alpha	Grades 1-12: Paper: Blank Online: Y Blank if no override Kindergarten: Blank	Indicates if Tier Selection Override was used Paper 1-12: Blank Online: Y = Yes, the Writing Tier Selection was overwritten Kindergarten: Blank		
DM	114	Domain Termination - Listening	Alpha	A, M, N, or Blank	A = Automatic (End of test window DRC terminates) M = Manual (User clicked "end incomplete domain" button in AAS) N = No domain termination Blank if domain was not taken for this record		
DM	115	Domain Termination - Reading	Alpha	A, M, N, or Blank	A = Automatic (End of test window DRC terminates) M = Manual (User clicked "end incomplete domain" button in AAS) N = No domain termination Blank if domain was not taken for this record		
DM	116	Domain Termination - Speaking	Alpha	A, M, N, or Blank	A = Automatic (End of test window DRC terminates) M = Manual (User clicked "end incomplete domain" button in AAS) N = No domain termination Blank if domain was not taken for this record		
DM	117	Domain Termination - Writing	Alpha	A, M, N, or Blank	A = Automatic (End of test window DRC terminates) M = Manual (User clicked "end incomplete domain" button in AAS) N = No domain termination Blank if domain was not taken for this record		
DM	118	Blank - Listening	Alpha	C = Complete P = Partially Complete Entire field can be blank = Not Taken or domain had a Do Not Score code	Online 1-12: C = Student has submitted a response for all scored items P = Student has submitted a response to at least one scored item, but not all scored items. Entire field blank = student did not submit a response for any scored item or a do not score code was entered for the domain. Paper 1-12: C = Student's booklet has all items with a bubbled response. P = Student's booklet has at least one item bubbled response, but not all items have bubbled responses. Entire field blank = Student's booklet has no bubbled responses or a do not score code was entered for the domain. Kindergarten: C = Student's booklet has at least one or more bubbled response. Entire field blank = Student's booklet has no bubbled responses or a do not score code was entered for the domain.		
DM	119	Blank - Reading	Alpha	C = Complete P = Partially Complete Entire field can be blank = Not Taken or domain had a Do Not Score code	Online 1-12: C = Student has submitted a response for all scored items P = Student has submitted a response to at least one scored item, but not all scored items. Entire field blank = student did not submit a response for any scored item or a do not score code was entered for the domain. Paper 1-12: C = Student's booklet has all items with a bubbled response. P = Student's booklet has at least one item bubbled response, but not all items have bubbled responses. Entire field blank = Student's booklet has no bubbled responses or a do not score code was entered for the domain. Kindergarten: C = Student's booklet has at least one or more bubbled response. Entire field blank = Student's booklet has no bubbled responses or a do not score code was entered for the domain.		
DM	120	Blank - Speaking	Alpha	C = Complete P = Partially Complete N = Not attempted Entire field can be blank = Not Taken or domain had a Do Not Score code	Online 1-12: C = Student has submitted a response for all scored items. P = Student has submitted a response to at least one scored item, but not all scored items. N = Student logged in to the domain, but did not submit a response to any scored item. Entire field blank = student did not submit a response for any scored item or a do not score code was entered for the domain. Paper 1-12: C = Student's booklet has all items with a bubbled response. P = Student's booklet has at least one item bubbled in, but not all items have bubbled filled in. Entire field blank = Student's booklet has no bubbled responses or a do not score code was entered for the domain. Kindergarten: C = Student's booklet has at least one or more bubbled responses. Entire field blank = Student's booklet has no bubbled responses or a do not score code was entered for the domain.		

EXHIBIT A
Special Provisions
Continued

02	121	Student Writing	100	<p>C = Complete P = Partially Complete N = Not Attempted Entire field can be blank = Not Taken or domain had a Do Not Score code</p>	<p>Online C = Student has submitted a visible response to all scored items. P = Student has submitted a visible response to at least one scored item, but not all scored items. N = Student logged in to the domain, but did not submit a visible response to any scored items. Entire field blank = student did not log in to Writing, HW student did not log in AND no booklet was received, or a do not score code was entered for the domain.</p> <p>Paper C = Student's booklet has a response for every scored item. P = Student's booklet has a response for at least one scored item but not for all scored items. N = Student's booklet has no scored responses. Entire field blank = Student's booklet has no bubbled responses or a do not score code was entered for the domain.</p> <p>Underutilized C = Student's booklet has at least one or more bubbled response. Entire field blank = Student's booklet has no bubbled responses or a do not score code was entered for the domain.</p>
02	122	Raw Responses - Listening	100	<p>Grades 1-12 Paper: 1, 2, 3, 4, 9, *, or space or entire field can be blank Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier A will have 10 responses. Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier BA and BC will have 21 responses Online: 1, 2, 3, 4, *, or space or entire field can be blank Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier A will have 10 responses. Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier BC will have 24 responses Kindergarten: Paper: 1, 2, 9, *, or space or entire field can be blank There will be 30 responses</p>	<p>Raw response = the field that was bubbled on paper/checked online Entire field blank if domain was not attempted.</p> <p>Paper Listening Raw Item Responses - Grades 1-12 9 = no answer was given * = Mult Space = no question Spaces will be used to fill the field</p> <p>Online Listening Raw Item Responses - Grades 1-12 * = Domain Termination Space = no question Spaces will be used to fill the field</p> <p>Kindergarten (Paper) Listening Raw Item Responses 1 = "Correct" was bubbled 2 = "Incorrect" was bubbled 9 = no answer was given * = Mult Space = no question Spaces will be used to fill the field</p>
02	123	Raw Responses - Reading	100	<p>Grades 1-12 Paper: 1, 2, 3, 4, 9, *, or space or entire field can be blank Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier A will have 24 responses. Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier BA and BC will have 27 responses Online: 1, 2, 3, 4, *, or space or entire field can be blank Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier A will have 24 responses. Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier BC will have 30 responses Kindergarten: Paper: 1, 2, 9, *, or space or entire field can be blank There will be 30 responses</p>	<p>Raw response = the field that was bubbled on paper/checked online Entire field blank if domain was not attempted.</p> <p>Paper Reading Raw Item Responses - Grades 1-12 9 = no answer was given * = Mult Space = no question Spaces will be used to fill the field</p> <p>Online Reading Raw Item Responses - Grades 1-12 * = Domain Termination Space = no question Spaces will be used to fill the field</p> <p>Kindergarten (Paper) Reading Raw Item Responses 1 = "Correct" was bubbled 2 = "Incorrect" was bubbled 9 = no answer was given * = Mult Space = no question Spaces will be used to fill the field</p>
07	124	Raw Responses - Speaking	100	<p>Grades 1-12 Paper: 1, 2, 3, 4, 5, 9, *, or space or entire field can be blank Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier A, BA and BC will have 6 responses Online: 1, 2, 3, 4, 5, 9, *, or space or entire field can be blank Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier Pre A will have 3 responses Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier A and BC will have 6 responses Kindergarten: 1, 2, 7, 9, *, or entire field can be blank There will be 10 responses</p>	<p>Paper 1-12 1 = "No Response" was bubbled 2 = "Attempted" was bubbled 3 = "Adequate" was bubbled 4 = "Strong" was bubbled 5 = "Exemplary" was bubbled 9 = no answer was bubbled * = Mult Entire field blank = No bubbled responses to any speaking item Spaces will be used to fill the field</p> <p>Online 1-12 B = Blank (the item was automatically scored or submit incomplete domain was used) A = Blank (the item was handscored as blank) F = Foreign Language I = Incomprehensible/insufficient E = Plagiarism Entire field blank = student does not log in to the domain Spaces will be used to fill the field</p> <p>Kindergarten 1 = "Approaches" was bubbled 2 = "Meets" was bubbled 7 = "7" was bubbled 9 = no answer was bubbled * = Mult Entire field blank = No bubbled responses to any speaking item</p>

EXHIBIT A
Special Provisions
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<p>125</p>	<p>Raw Task 1 - Writing</p>	<p>Alpha/Numeric</p>	<p>Paper: 1, 1+, 2, 2+, 3, 3+, 4, 4+, 5, 5+, 6, C, F, I, T, K, Q Online: 1, 1+, 2, 2+, 3, 3+, 4, 4+, 5, 5+, 6, B, C, F, I, T, K, Q or entire field can be Blank</p>	<p><u>Paper 1-12</u> 1, 1+, 2, 2+, 3, 3+, 4, 4+, 5, 5+, 6 = numeric ratings from handscoring C = Copy of Items F = Foreign Language I = Insufficient/Incomprehensible T = Off Topic K = Plagiarism Q = Blank (the item was handscored as blank)</p> <p><u>Online 1-12 (HW & K)</u> 1, 1+, 2, 2+, 3, 3+, 4, 4+, 5, 5+, 6 = numeric ratings from handscoring B = Blank (the item was automatically scored or submit incomplete domain was used, or HW booklet was not received) C = Copy of Items F = Foreign Language I = Insufficient/Incomprehensible T = Off Topic K = Plagiarism Q = Blank (the item was handscored as blank) Blank = KS student did not log in; HW student did not return a booklet</p>	
<p>125</p>	<p>Raw Task 1 - Writing</p>	<p>Alpha/Numeric</p>	<p>Paper: 1, 1+, 2, 2+, 3, 3+, 4, 4+, 5, 5+, 6, C, F, I, T, K, Q Online: 1, 1+, 2, 2+, 3, 3+, 4, 4+, 5, 5+, 6, B, C, F, I, T, K, Q or entire field can be Blank</p>	<p><u>Paper 1-12</u> 1, 1+, 2, 2+, 3, 3+, 4, 4+, 5, 5+, 6 = numeric ratings from handscoring C = Copy of Items F = Foreign Language I = Insufficient/Incomprehensible T = Off Topic K = Plagiarism Q = Blank (the item was handscored as blank)</p> <p><u>Online 1-12 (HW & K)</u> 1, 1+, 2, 2+, 3, 3+, 4, 4+, 5, 5+, 6 = numeric ratings from handscoring B = Blank (the item was automatically scored or submit incomplete domain was used, or HW booklet was not received) C = Copy of Items F = Foreign Language I = Insufficient/Incomprehensible T = Off Topic K = Plagiarism Q = Blank (the item was handscored as blank) Blank = KS student did not log in; HW student did not return a booklet</p>	

EXHIBIT A
Special Provisions
Continued

127	New Task 3 - Writing	100	Alpha/Numeric	<p>Paper: 1, 1+, 2, 2+, 3, 3+, 4, 4+, 5, 5+, 6, C, F, I, T, Q</p> <p>Online: 1, or entire field can be Blank</p>	<p><u>Paper 1-12</u> 1, 1+, 2, 2+, 3, 3+, 4, 4+, 5, 5+, 6 = numeric ratings from handscoring C = Copy of Items, F = Foreign Language, I = Insufficient/Incomprehensible T = Off Topic, Q = Magnarism Q = Blank (the item was handscored as blank)</p> <p><u>Online</u> X = This student's test form did not have a scored item for this task Blank = KB student did not log in; HW student did not return a booklet</p>		
128	New Task 3 - Writing	100	Alpha/Numeric	<p>Paper: 1, 1+, 2, 2+, 3, 3+, 4, 4+, 5, 5+, 6, C, F, I, T, Q</p> <p>Online: 1, or entire field can be Blank</p>	<p><u>Paper Grades 1-12</u> 1, 1+, 2, 2+, 3, 3+, 4, 4+, 5, 5+, 6 = numeric ratings from handscoring C = Copy of Items, F = Foreign Language, I = Insufficient/Incomprehensible T = Off Topic, Q = Magnarism Q = Blank (the item was handscored as blank)</p> <p><u>Paper other than Grade 1-Tier A</u> X = This student's test form did not have a scored item for this task</p> <p><u>Online</u> X = This student's test form did not have a scored item for this task Blank = KB student did not log in; HW student did not return a booklet</p>		
129	New Response - Writing	100	Numeric	<p>Possible values for each character in the string 0-9, * or entire field can be Blank</p>	<p>Writing Raw Item Responses Blanks will be used to fill the field = Blank or skipped = A,B,C</p>		
130	Scored Responses - Writing	100	Alpha/Numeric	<p>Paper and Online: 0, 1 or entire field can be Blank</p> <p>Paper: Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier A will have 18 responses, Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier BA and BC will have 21 responses</p> <p>Online: Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier A will have 18 responses, Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier BC will have 24 responses</p> <p>Kindergarten: There will be 30 responses</p>	<p>Entire field Blank if domain was not attempted.</p> <p>* Mult would be scored = 0 0 = incorrect 1 = Correct Blank = not attempted Padding with spaces</p>		
131	Scored Responses - Reading	100	Alpha/Numeric	<p>Paper and Online: 0, 1 or entire field can be Blank</p> <p>Paper: Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier A will have 24 responses, Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier BA and BC will have 27 responses</p> <p>Online: Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier A will have 24 responses, Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier BC will have 30 responses</p> <p>Kindergarten: There will be 30 responses</p>	<p>Entire field Blank if domain was not attempted.</p> <p>* Mult would be scored = 0 0 = incorrect 1 = Correct Blank = not attempted Padding with spaces</p>		
132	Scored Responses - Speaking	100	Numeric	<p>Grades 1-12 Paper and Online: 0, 1, 2, 3, 4 or entire field can be Blank</p> <p>Paper: Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier A, BA and BC will have 6 responses</p> <p>Online: Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier Pre-A will have 3 responses Grades 1, 2, 3, 4-5, 6-8, 9-12 Tier A and BC will have 6 responses</p> <p>Kindergarten Paper: 0, 1 There will be 10 responses</p>	<p><u>This is the point value of the item.</u></p> <p><u>Paper 1-12</u> <u>0 = "No Response" was bubbled, 9 = "Approached" was bubbled</u> <u>2 = "Adequate" was bubbled</u> <u>3 = "Strong" was bubbled</u> <u>4 = "Excellent" was bubbled</u> <u>Entire field is blank = no bubbled response to any speaking items</u></p> <p><u>Online 1-12</u> <u>0 = F, I, R, B, K</u> <u>1 = Attempted</u> <u>2 = Adequate</u> <u>3 = Strong</u> <u>4 = Excellent</u> <u>Entire field is blank = the student did not log in to the Speaking test.</u></p> <p><u>Kindergarten</u> <u>0 = "Approached" was bubbled, 7 = "Approached" was bubbled, 9 = 12</u> <u>Entire field is blank = no bubbled response to any speaking items</u></p>		

EXHIBIT A
Special Provisions
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133	Scored Task 1 - Writing	Writing	<p>Paper 1-12 D-9</p> <p>Online 1-12 D-9</p> <p>or entire field can be Blank</p>		<p>The value in this field (Writing Scored Response) is the points received for the Writing Rating (from field 67)</p> <p><u>Paper 1-12</u> D = C, F, I, T, K, Q 1= 1 2= 1+ 3= 2 4= 2+ 5= 3 6= 3+ 7= 4 8= 4+ 9= 5, 5+, 6 Blank = No booklet was received</p> <p><u>Online 1-12 (HW)</u> D = C, F, I, T, K, Q 1= 1 2= 1+ 3= 2 4= 2+ 5= 3 6= 3+ 7= 4 8= 4+ 9= 5, 5+, 6 Blank = student did not log in to</p> <p><u>Online 1-12 (RW)</u> D = C, F, I, T, K, Q 1= 1 2= 1+ 3= 2 4= 2+ 5= 3 6= 3+ 7= 4 8= 4+ 9= 5, 5+, 6 Blank = student did not return</p>	
134	Scored Task 2 - Writing	Writing	<p>Paper 1-12 D-9</p> <p>Online 1-12 D-9</p> <p>or entire field can be Blank</p>		<p>The value in this field (Writing Scored Response) is the points received for the Writing Rating (from field 68)</p> <p><u>Paper 1-12</u> D = C, F, I, T, K, Q 1= 1 2= 1+ 3= 2 4= 2+ 5= 3 6= 3+ 7= 4 8= 4+ 9= 5, 5+, 6 Blank = No booklet was received</p> <p><u>Online 1-12 (CB)</u> D = C, F, I, T, K, Q 1= 1 2= 1+ 3= 2 4= 2+ 5= 3 6= 3+ 7= 4 8= 4+ 9= 5, 5+, 6 Blank = student did not log in to</p> <p><u>Online 1-12 (RW)</u> D = C, F, I, T, K, Q 1= 1 2= 1+ 3= 2 4= 2+ 5= 3 6= 3+ 7= 4 8= 4+ 9= 5, 5+, 6 Blank = student did not</p>	
135	Scored Task 3 - Writing	Writing	<p>Paper 1-12 D-9</p> <p>Online 1-12 D-9</p> <p>or entire field can be Blank</p>		<p>The value in this field (Writing Scored Response) is the points received for the Writing Rating (from field 69)</p> <p><u>Paper 1-12</u> D = C, F, I, T, K, Q 1= 1 2= 1+ 3= 2+HW 4= 2+ 5= 3 6= 3+ 7= 4 8= 4+ 9= 5, 5+, 6</p> <p><u>Online</u> 1 = This student's test form did not have a scored item for this task Blank = EB student did not log in; HW student did not return a booklet</p>	

150	UPcode - Speaking	15	Alpha/Numeric	00000000000001-99999999999999 or Blank	99000121569	Factor Will be populated when receiving a student's test booklet Online Will be populated for submitted tests "99000" + DocumentID (seven digits)		
151	UPcode - Writing	15	Alpha/Numeric	00000000000001-99999999999999 or Blank	99000121569	Factor Will be populated when receiving a student's test booklet Online Will be populated for submitted tests "99000" + DocumentID (seven digits)		
152	Test Event ID - Listening	10	Numeric	Possible values for each character in a string: 0-9 or entire field can be Blank	1734	Factor Will be populated when receiving a student's test booklet Online Will be populated for submitted tests or a Placeholder was created no leading zeros, length can vary, Blank if no test was submitted		
153	Test Event ID - Reading	10	Numeric	Possible values for each character in a string: 0-9 or entire field can be Blank	5898	Factor Will be populated when receiving a student's test booklet Online Will be populated for submitted tests or a Placeholder was created no leading zeros, length can vary, Blank if no test was submitted		
154	Test Event ID - Speaking	10	Numeric	Possible values for each character in a string: 0-9 or entire field can be Blank	123895612	Factor Will be populated when receiving a student's test booklet Online Will be populated for submitted tests or a Placeholder was created no leading zeros, length can vary, Blank if no test was submitted		
155	Test Event ID - Writing	10	Numeric	Possible values for each character in a string: 0-9 or entire field can be Blank	325614	Factor Will be populated when receiving a student's test booklet Online Will be populated for submitted tests or a Placeholder was created no leading zeros, length can vary, Blank if no test was submitted		
156	Document Label Code - Listening	15	Alpha/Numeric	P596000000000, where X represents 0-9 L596000000000, where X represents 0-9 or Blank	1596856215	Students Document Label Code for Listening up to a 15 Alpha/Numeric code; starting with "P" or "L" for Paper; will be blank for Online		
157	Document Label Code - Reading	15	Alpha/Numeric	P596000000000, where X represents 0-9 L596000000000, where X represents 0-9 or Blank	1596856215	Students Document Label Code for Reading up to a 15 Alpha/Numeric code; starting with "P" or "L" for Paper; will be blank for Online		
158	Document Label Code - Speaking	15	Alpha/Numeric	P596000000000, where X represents 0-9 L596000000000, where X represents 0-9 or Blank	1596856215	Students Document Label Code for Speaking up to a 15 Alpha/Numeric code; starting with "P" or "L" for Paper; will be blank for Online		
159	Document Label Code - Writing	15	Alpha/Numeric	P596000000000, where X represents 0-9 L596000000000, where X represents 0-9 or Blank	1596856215	Students Document Label Code for Writing up to a 15 Alpha/Numeric code; starting with "P" or "L" for Paper; will be blank for Online		
160	Future Use 1	1	Alpha			Do Not Use		
161	Future Use 2	1	Alpha			Do Not Use		
162	Future Use 3	1	Alpha			Do Not Use		
163	Future Use 4	1	Alpha			Do Not Use		
164	Date/Time Stamp	16	Alpha/Numeric			DRC Use Only Date/Time when file was generated		
165	Unique Record ID	50	Alpha/Numeric			DRC Use Only Unique Record value derived by DRC		
166	DSR Updated	1	Alpha	Y or Blank		DRC Use Only Used for Late Returns and Correction SSR files A "Y" (yes) - will indicate if the student record is included in the "Affected DSR" for late returns or correction	New field to indicate in the SSR file if a student was included in a DSR for late returns or	

EXHIBIT A
Special Provisions
Continued



World-Class Instructional Design and Assessment
Wisconsin Center for Education Research (WCER)
University of Wisconsin-Madison
1025 West Johnson Street, MD #23
Madison, WI 53706

Schedule F
WIDA Consortium Employee Confidentiality Agreement

The purpose of this agreement is for employees of the Wisconsin Center for Education Research at the University of Wisconsin-Madison ("WCER") to understand and acknowledge their responsibilities to protect and safeguard the restricted use of confidential information to which they have access during their employment.

To perform the responsibilities of my job at WCER, I therefore agree as follows:

- a. I understand and acknowledge that "confidential information" includes the following:
 - Education records directly related to an individual student, which contain personally identifiable information;
 - Secure tests as defined by U.S. copyright law, 37 *CFR* 202.20(b)(4); and
 - Proprietary information of WCER, its employees, and certain third parties with which WCER enters contractual relations, the information, of which,
 - derives independent economic value, whether actual or potential, from not being generally known to the public;
 - is not readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and
 - is the subject of reasonable efforts by its owner to maintain its secrecy.
- b. I understand and acknowledge that "disclosure" means to permit access to or the release, transfer or other communication of confidential information to any party, by any means.
- c. I understand and acknowledge that because of my employment with WCER that I may have access to confidential information of WCER, its employees and third parties with which WCER enters contractual relations and that but for my employment with WCER, these parties would not disclose to me or authorize my use of their confidential information.
- d. I understand and acknowledge that the disclosure and maintenance of education records is subject to University of Wisconsin System policy, and state and federal student privacy laws; including the federal Family Educational Rights and Privacy Act; that the disclosure of secure tests and their related contents is subject to federal copyright law and state trade secret law; that the disclosure of proprietary information is subject to state trade secret law; and that my employer may enter agreements with third parties that include the obligation of maintaining the confidentiality of confidential information.

Updated and reviewed 3-23-2016

EXHIBIT A
Special Provisions
Continued

- e. During my employment and after the termination of my employment, I shall maintain the confidentiality of confidential information and will not reproduce or disclose the contents of any confidential information to any third party and will only use this confidential information as directed by WCER and solely for purposes authorized within the scope of my employment with WCER.
- f. I understand and acknowledge that unauthorized disclosure of confidential information could be highly damaging to WCER, its employees, third parties with which WCER enters contractual relations, and the students and parents of the students to whom this information belongs or pertains; and that disclosure of secure test materials to third parties could adversely affect the validity of the test items, results or the commercial value of the secure test materials.
- g. In order to maintain the confidentiality of confidential information:
- I shall take all reasonable precautions and follow all reasonable measures specified by WCER, including the WCER Standard Security Policies and Procedures, to protect confidential information in a manner that does not permit disclosure to anyone except those authorized to receive confidential information, including the safeguarding of WCER IT system passwords and identifications.
 - I shall not remove materials containing confidential information from WCER or WCER sanctioned servers unless authorized to do so.
 - I shall submit for review by appropriate personnel a copy of any report, article or public statement that concerns the use of confidential information prior to its dissemination in order to assure that no confidential information will be disclosed.
 - Upon termination of any project or as requested by my supervisor, I shall return any confidential information and copies to WCER; or, if I destroy any confidential information, either upon request by WCER or the owner of the information or as required by law, I shall create a written record certifying the destruction of the confidential information.
 - I shall notify my supervisor if:
 - I learn of any unauthorized or accidental disclosures of confidential information;
 - I am asked to disclose confidential information to a proposed recipient who I am unaware is authorized to receive the information; and
 - I have questions relating to what constitutes confidential information.
 - I shall notify WCER Technical Services as soon as I become aware of any potential security incidents, which are defined as follows:
 - Any deviations from or non-compliance with the WCER Standard Security Policies or Procedures; and
 - Any incidents of suspicious activities on WCER and University of Wisconsin- Madison computers, IT infrastructure and systems.
- h. I understand and acknowledge that WCER, any third parties with which WCER enters contractual relations, or any other party affected by a breach or threatened breach of this agreement by me will be entitled to injunctive and other equitable relief in addition to any available remedy of law. Any unauthorized use or disclosure of confidential information to unauthorized persons may be cause for disciplinary and legal action.

Updated and reviewed 3-23-2016

**EXHIBIT A
Special Provisions
Continued**

I have read this agreement and understand the condition of employment.

Signature of Employee

Date

Print Name

Supervisor

Date

Updated and reviewed 3-23-2016

Contract between the New Hampshire Department of Education and the Board of Regents of the University of Wisconsin System
on behalf of the University of Wisconsin-Madison's Wisconsin Center for Education Research

Contractor Initials VP

Date: 08/08/23

**EXHIBIT A
Special Provisions
Continued**

Schedule F

DRC Employee Confidentiality Agreement for ACCESS for ELLs

DRC and the University of Wisconsin-Madison have a contract to perform the Administration, Scoring and Reporting of ACCESS for ELLs 2.0 and ACCESS for ELLs Operational Assessments, dated September 4, 2015 ("Contract") for the WIDA Consortium for the Wisconsin Center for Educational Research which will involve access to and the use of DRC proprietary and confidential materials "Confidential Information", and to student education records from the member states that are subject to the Family Educational Rights and Privacy Act ["FERPA"], 20 U.S.C. 1232g, *et seq.* and its regulations and the Individuals with Disabilities Education Act, 20. Section 1231(g), *et seq.* [IDEA] all of which are "Personally Identifiable Information ("PII)". This obligation is covered by DRC's policy entitled "Confidentiality and Security of Information".

As a DRC participant on this contract, we ask you to indicate that you will agree to protect all data that is "Confidential Information" or "Personally Identifiable Information" from public disclosure, any use other than required in the Contract, or unauthorized release, and that all use of the Confidential Information will be strictly limited to meeting the requirements of the Contract. Your agreement also affirms your understanding of your obligations under the "Confidentiality and Security of Information" policy.

- 1) **Confidential Information** means any confidential, non-public, or proprietary data and materials, including but not limited to: test materials, test items, answer documents, scoring processes, and student information or records or any proprietary information relating to DRC's business, such as operation processes, customers, or financial information.
- 2) **Personally Identifiable Information** means any one or more of the following: student name, name of parent or family member, address, personal identifier such as the student's social security number, student number, or biometric record, and other indirect identifiers such as the student's date of birth, place of birth and mother's maiden name.

Agreed to by: _____

Name

Signature

Date

**EXHIBIT A
Special Provisions
Continued**

**Schedule G
WCER Standard Security Policies and Procedures**

CONFIDENTIAL

**EXHIBIT A
Special Provisions
Continued**

**EXHIBIT A
Special Provisions
Continued**

**EXHIBIT A
Special Provisions
Continued**

Contractor Initials: VP

Date: 08/08/23

EXHIBIT A
Special Provisions
Continued

Contract between the New Hampshire Department of Education and the Board of Regents of the University of Wisconsin System
on behalf of the University of Wisconsin-Madison's Wisconsin Center for Education Research

Contractor Initials: VP

**EXHIBIT A
Special Provisions
Continued**

**Schedule G
WCER/WIDA Secure Data Breach Policy**

CONFIDENTIAL

EXHIBIT A
Special Provisions
Continued

**EXHIBIT A
Special Provisions
Continued**

EXHIBIT B
Scope of Work

The Wisconsin Center for Education Research (WCER) shall provide the professional services and deliverables as outlined in the Exhibit A, WIDA Memorandum of Understanding, Schedule A, Statement and Performance of Work (pg. 19-25).

**EXHIBIT C
Method of Payment**

Payment Schedule

Payment for professional services rendered in accordance with this Agreement are outlined in Exhibit A, WIDA Memorandum of Understanding, Schedule B, Invoice and Payment (pg. 26-28).

Limitation on Price: Upon mutual agreement between the state contracting officer and the contractor, line items in this budget may be adjusted from one to another, but in no case shall the total budget, including any additional costs incurred, exceed the price limitation of \$1,153,418.25.

Funds to support this request are available in the account titled Education Trust Fund in FY24-FY25 and are anticipated to be available in FY26-FY28 upon the availability and continued appropriation of funds in the future operating budget with the authority to adjust encumbrances amongst fiscal years within the price limitation through the Budget Office without further Governor and Council approval if needed and justified.

<u>Account</u>	<u>FY24</u>	<u>FY25</u>	<u>FY26</u>	<u>FY27</u>	<u>FY28</u>	<u>Total</u>
06-56-56- 56004030430000-612- 500942 State Testing	\$190,302.25	\$201,787.00	\$235,080.00	\$248,316.00	\$277,933.00	\$1,153,418.25

Method of Payment: The method of payment is outlined in Exhibit A, WIDA Memorandum of Understanding, Schedule B, Invoice and Payment (pg. 26-28).

EXHIBIT D
Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address **administrative, contractual, or legal remedies** in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Breach

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

Environmental Protection

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.) The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

Procurement of Recovered Materials

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

EXHIBIT E
Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
 2. Does not have a proposed debarment pending;
 3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
 4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the NHED. The certification or explanation shall be considered in connection with the NHED's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the NHED if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

EXHIBIT F
Anti-Lobbying

The Contractor agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal Agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions.

<https://www.gsa.gov/forms-library/disclosure-lobbying-activities>

- c. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making and entering into this transaction imposed by Section 1352, Title 31 and U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- d. The NHED shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier Sub-Contractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

EXHIBIT G
Data Protection

1. **Data Protection:** Protection of personal privacy and data shall be an integral part of the business activities of the Contractor to ensure there is no inappropriate or unauthorized use of State information at any time. To this end, the Contractor shall safeguard the confidentiality, integrity and availability of State information and comply with the following conditions:
 - a. The Contractor shall implement and maintain appropriate administrative, technical, and organizational security measures to safeguard against unauthorized access, disclosure or theft of Personal Data and non-public information. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the Contractor applies to its own Personal Data and non-public data of similar kind.
 - b. All data obtained by the Contractor in the performance of this contract and all Personal Data shall be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the Contractor is responsible for encryption of the Personal Data.
 - c. Unless otherwise stipulated, the Contractor shall encrypt all non-public data at rest and in transit. The State shall identify data it deems as 'non-public' data to the Contractor. The level of protection and encryption for all non-public data shall be identified and made a part of this contract.
 - d. At no time shall any data or processes – that either belong to or are intended for the use of the State or its officers, agents or employees – be copied, disclosed or retained by the Contractor or any party related to the Contractor for subsequent use in any transaction that does not include the State.
 - e. The Contractor shall not use any information collected in connection with the service issued from this Contract for any purpose other than fulfilling the service.

2. **Data Location:** The Contractor shall provide its Services to the State and its end users solely from data centers within the Continental United States. All storage, processing and transmission of State data shall be restricted to information technology systems within the Continental United States. The Contractor shall not allow its personnel or sub-contractors to store State data on portable devices, including personal computers, except as specified and allowed by the contract, and then only on devices that are used and kept at its data centers within the Continental United States. The Contractor shall permit its personnel and Contractors to access State data remotely only to provide technical support and as specified or required by the contract.

3. **Security Incident Or Data Breach:** The Contractor shall inform the State of any confirmed Data Breach in accordance with Schedule C - Education Records Release and Data Use Agreement and Schedule G – WCER Standard Security Policies and Procedures.
 - a. **Incident Response:** the Contractor may need to communicate with outside parties regarding a security incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the Contract. Discussing security incidents with the State should be handled on an urgent as-needed basis, as part of the Contractor communication and mitigation processes as mutually agreed upon, defined by law or contained in the contract.
 - b. **Breach Reporting Requirements:** If the Contractor has actual knowledge of a confirmed data breach that affects the security of any State content that is subject to applicable data breach notification law, the Contractor shall (1) promptly notify the appropriate State identified contact within 24 hours or sooner, unless shorter time is

EXHIBIT G
Data Protection
Continued

required by applicable law, and (2) take commercially reasonable measures to address the data breach in a timely manner.

4. **Breach Responsibilities:** This section only applies when a Data Breach occurs with respect to State data within the possession or control of the Contractor and/or the third-party designee hosting the data as agreed upon by the Contractor and the State.
- a. The Contractor, unless stipulated otherwise, shall promptly notify the appropriate State identified contact within 24 hours or sooner by telephone, unless shorter time is required by applicable law, if it confirms that there is a Data Breach. If a Data Breach is confirmed, the Contractor shall:
 - i. cooperate with the State as reasonably requested by the State to investigate and resolve the Data Breach;
 - ii. promptly implement necessary remedial measures, if necessary; and
 - iii. document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.
 - b. If a Data Breach is a direct result of the Contractor's breach, Contractor may be held liable to the extent authorized by Wisconsin law.



Wisconsin Center for
Education Research
SCHOOL OF EDUCATION
UNIVERSITY OF WISCONSIN-MADISON

Certification of Signature Authority

August 7, 2023

The undersigned hereby certifies, as of the date of signing, that the following document has not been amended or repealed and remains in full force and effect as of the date of the contract to which this Authority is attached, and that Vasanthi Pillai has the authority to enter agreements for the Board of Regents of the University of Wisconsin System and the University of Wisconsin-Madison.

- University of Wisconsin-Madison Chancellor Memo dated July 19, 2023; re: Delegation of Signature Authority.

This Certification of Signature Authority is valid for 30 days. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person(s) listed in the Signature Authority currently occupy the position(s) indicated and that they have full authority to bind the corporation.

Brenda Egan

Signature

08/07/23

Date

Name: Brenda Egan

Title: Managing Officer

Wisconsin Center for Education Research

School of Education University of Wisconsin-Madison 1025 West Johnson Street Madison, Wisconsin 53706
608/263-4200 Fax: 608/263-6448 uw-wcer@education.wisc.edu wcer.wisc.edu

CERTIFICATE OF COVERAGE

STATE OF WISCONSIN

This is to certify that coverage described below is effective per the statutory authority referenced. This certificate is not a policy or a binder of insurance and does not in any way alter, amend or extend the coverage afforded by any reference herein. The coverage is subject to all terms and conditions of the statutory authority.

STATE AGENCY: Board of Regents of the University of Wisconsin System PO Box 8010 Madison, WI 53715	CAMPUS NAME: University of Wisconsin-Madison
	DATE ISSUED: March 8, 2023

KIND OF COVERAGE	XX	WI STATUTORY REFERENCES
Liability	XX	Sec. 895.46 (1) and 893.82
Automobile Liability		Sec. 895.46 (1) and 893.82
Worker's Compensation	XX	Ch. 102
Property	XX	Ch. 20.865 and 16.865

The entry of XX in this column means that the coverage is afforded per this certificate and the statute referenced.

DATES OF COVERAGE:	April 1, 2023 through June 30, 2028
DESCRIPTION OF COVERAGE:	Coverage as afforded by statutory references above for University of Wisconsin System officers, employees and agents while acting within the scope of their respective employment or agency for the University of Wisconsin-Madison specifically Wisconsin Center for Educational Research's (WCER) ACCESS for ELLs program. Worker's compensation coverage exclusively for authorized UW-Madison employees within scope of employment. Property coverage for UW-Madison owned or borrowed/loaned property. Coverage is continuous under the law.

ISSUED TO:

State of New Hampshire Dept of Education
 Bureau of Assessment and Accountability
 25 Hall Street
 Concord NH 03301

ISSUED BY:

Jeff Karcher, Director of Risk Management



Date: March 8, 2023