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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

June 3, 2024

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 MetaMetrics, Inc. (VC#334729) Durham, NC, in an amount not to exceed \$190,000, to provide the use of Lexile® reader measures and Quantile® measures for mathematics for the NH State Assessment System effective upon Governor and Council approval through June 30, 2025. 100% Federal Funds.

Funds are available in the following account for Fiscal Year 2025 as follows:

06-56-56-567010-30590000 Assessment & Accountability

Fiscal Year	Class/Account	Class Title	Total Amount
2025	102-500731	Contracts for Program Services	\$190,000

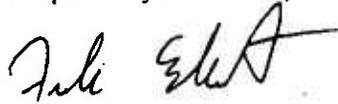
EXPLANATION

The Department is requesting a **sole source** contract because MetaMetrics, Inc. is the exclusive provider of and owns the registered trademarks to the Lexile® reader measures and Quantile® measures for mathematics. These measurements and scores are derived from the New Hampshire Statewide Assessment System (NHSAS) results for interim and summative assessments. The scores are utilized to provide student reading level and mathematical level information in an easy to understand and accessible format for parents and teachers. Parents and teachers can use these scores to select appropriate books and individualized instructional materials that are available online and through their local town or school library. In order for parents to better understand and support their child's education, the New Hampshire Department of Education (NHED) would like to continue to include Lexile® and Quantile® scores on the

His Excellency, Governor Christopher T. Sununu
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NHSAS Individual Student Reports that are available at the conclusion of an interim or summative assessment. Parents will continue to be able to access appropriately leveled reading and mathematics materials for their children. These materials are available nation-wide through libraries and published book sources. As a component of this contract, in-person and online trainings for parents, teachers, librarians, and schools are provided.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Frank Edelblut". The signature is written in a cursive style with a long horizontal stroke at the end.

Frank Edelblut
Commissioner of Education

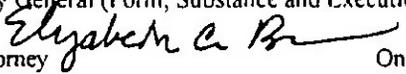
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

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 MetaMetrics, Inc. (VC#334729)		1.4 Contractor Address 800 Taylor Street, Suite 102 Durham, NC 27701	
1.5 Contractor Phone Number (919) 547-3400	1.6 Account Unit and Class See Exhibit C	1.7 Completion Date 06/30/2025	1.8 Price Limitation \$190,000.00
1.9 Contracting Officer for State Agency Dr. Nathaniel Greene		1.10 State Agency Telephone Number (603) 573-6556	
1.11 Contractor Signature  Date: 06/05/2024		1.12 Name and Title of Contractor Signatory John Williams, CFO	
1.13 State Agency Signature  Date: 6/24/2024		1.14 Name and Title of State Agency Signatory Frank Edelblut, Commissioner	
1.15 Approval by the N.H. Department of Administration, Division of Personnel <i>(if applicable)</i> By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) <i>(if applicable)</i> By: Elizabeth Brown, Attorney  On: 6/24/2024			
1.17 Approval by the Governor and Executive Council <i>(if applicable)</i> 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.

EXHIBIT A
Special Provisions

Additional Exhibits D-G

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

In performing its obligations under this Agreement, the contractor may gain access to Confidential Information of the State. Confidential Information includes any and all information owned or managed by the State of NH - created, received from or on behalf of any Agency of the State or accessed in the course of performing contracted Services - of which collection, disclosure, protection, and disposition is governed by state or federal law or regulation. This information includes but is not limited to Protected Health Information (PHI), Personally Identifiable Information (PII), Personal Financial Information (PFI), Social Security Numbers (SSN), Family Educational Rights and Privacy Act (FERPA), and or other sensitive and Confidential Information. The contractor shall not use the Confidential Information developed or obtained during the performance of, or acquired, or developed by reason of the Agreement, except as directly connected to and necessary for the performance of the Agreement. The contractor shall maintain the confidentiality of and protect from unauthorized use, disclosure, publication, and reproduction (collectively "release"), all Confidential Information.

The terms outlined in the P-37 General Provisions are modified as set forth below:

Provision 9, Termination, is updated with the following addition:

9. TERMINATION – in addition to 9.1 and 9.2 of the P-37, add:

9.3 Term and Termination. This Agreement shall become effective on the Effective Date and shall remain in effect for an initial term ending June 30, 2025. It is understood and agreed between the parties that the payment of compensation specified in this agreement, its continuation or renewal or extension thereof, is dependent upon and subject to the appropriation of funds to, and allocation by, NHED for the purpose set forth in this Agreement. Should funds not be appropriated or allocated, this Agreement shall immediately be terminated. NHED shall not be liable to Contractor for damages of any kind as a result of such termination.

EXHIBIT A
Special Provisions
Continued

9.3.1 Return of Confidential Information. Upon the termination or expiration of this Agreement, notwithstanding the provisions of subsection 1, the receiving party will return and or destroy all the Confidential Information delivered or disclosed to the receiving party, this shall include all copies whether electronic or physical in existence thereof at any time made by the receiving party.

9.3.2 Notwithstanding the above, Contractor will be permitted to retain one copy of any content or material that NHED provided to Contractor for the sole purposes of assigning a Lexile measure or Quantile measure to such content or material. Contractor agrees that such retained Confidential Information will not be disclosed or used in violation of this Agreement. For the avoidance of doubt, nothing in this Agreement requires the return or destruction of reports containing Lexile measures or Quantile measures generated by NHED (i) prior to expiration or termination of this Agreement; or (ii) as permitted under Section 10.1.

9.3.3 Lexile and Quantile Marks. Upon the expiration or termination of this Agreement, NHED shall, notwithstanding the provisions of subsection 9.3, promptly discontinue all use of the Lexile and Quantile Marks and cease all distributions of materials and papers upon which the Lexile and Quantile Marks appear; provided, however, that subject to the terms and conditions of this Agreement, NHED shall have the right to retain such materials as are necessary to fulfill any obligations for accountability purposes.

9.3.4 The Lexile Framework for Reading; LEXILE. Upon the expiration or termination of this Agreement, NHED shall, notwithstanding the provisions of subsection 9.3, cease to convert scale scores to LEXILE measures or otherwise report scale scores in using the LEXILE scale that matches students to instructional content on the LEXILE scale in any direct or derivative application.

9.3.5 The Quantile Framework for Mathematics; QUANTILE. Upon the expiration or termination of this Agreement, NHED shall, notwithstanding the provisions of subsection 9.3, cease to convert scale scores to QUANTILE measures or otherwise report scale scores in using the QUANTILE scale that matches students to instructional content of the QUANTILE scale in any direct or derivative application.

METAMETRICS TERMS AND CONDITIONS

OWNERSHIP

Lexile Marks: The term "Lexile Marks" shall mean the following registered trademarks owned by MetaMetrics: LEXILE® (U.S. Reg. No. 3,969,306), LEXILE® (and design) (U.S. Reg. No. 2,706,910), and LEXILE FRAMEWORK® (U.S. Reg. Nos. 2,180,729 and 2,180,702). NHED acknowledges and agrees that MetaMetrics retains all rights in and to the Lexile Marks and that all goodwill arising from NHED's use thereof as permitted hereunder will inure to the benefit of MetaMetrics.

Quantile Marks: The term "Quantile Marks" shall mean the following registered trademarks owned by MetaMetrics: QUANTILE® (U.S. Reg. No. 3,066,329), QUANTILE® (and design)

EXHIBIT A
Special Provisions
Continued

(U.S. Reg. No. 3; 074,413), and QUANTILE FRAMEWORK® (U.S. Reg. No. 2,605,046). NHED acknowledges and agrees that MetaMetrics retains all rights in and to the Quantile Marks and that all goodwill arising from NHED's use thereof as permitted hereunder will inure to the benefit of MetaMetrics.

PROPERTY RIGHTS

Use of Lexile and Quantile Marks/Measures

MetaMetrics hereby grants to NHED a limited, non-exclusive, non-transferable license, without the right to sublicense, to use Lexile reading measures and Quantile measures, including displaying said measures on individual reports, as well as on any aggregated reports for each student in grades 3-8 and 11. NHED agrees to display Lexile and Quantile Marks on said reports and shall clearly indicate MetaMetrics' ownership of the Lexile and Quantile Marks according to the terms and conditions of MetaMetrics' Branding Guidelines which are available on MetaMetrics' website and updated from time to time: <http://www.metametricsinc.com/branding-guidelines/>. MetaMetrics reserves the right to request samples of literature, packages, labels, and advertising using the Lexile and Quantile Marks prepared by or for NHED and intended to be used by NHED. NHED undertakes, when using the Lexile and Quantile Marks hereunder, to comply with all applicable laws pertaining to such use.

Use of MetaMetrics Intellectual Property

MetaMetrics hereby grants to NHED a limited, non-exclusive, non-transferable license, without the right to sublicense, and right to use the MetaMetrics Intellectual Property listed in Attachment A ("List of MetaMetrics Intellectual Property"), during the term of this contract. Regarding the conversion tables which convert a scale score to a Lexile reading measure or Quantile measure, the following uses are specifically prohibited during and after the term of this contract: a) NHED shall not make publicly available the conversion tables; b) NHED shall not create new or derivative scales using the conversion tables, and for which said new scales are marketed and used as an equivalent substitute for a Lexile reading measure or Quantile measure; and c) NHED shall not use the conversion tables to rebrand and relabel the Lexile reading measure or Quantile Measure as a different measure. Nothing contained herein shall be construed as granting NHED any right, title, or interest in or to MetaMetrics' Intellectual Property. Further, the following uses are approved for the Interims: a) given that the Independent College and Career Ready (ICCR) English language arts (ELA)/mathematics interim assessments are on the same scales as the ICCR ELA/mathematics summative assessments, NHED may add the use of Lexile reader measures and Quantile measures from the ICCR interim assessments; and b) the interpretation of Lexile reader and Quantile mathematics measures should be relative to the ICCR ELA/mathematics interim administration protocols. Please refer to the ICCR Lexile and Quantile linking study reports for appropriate uses and caveats of the measures. NHED acknowledges and agrees that it shall have no right, either during the term of this contract or at any time thereafter, to acquire MetaMetrics' Intellectual Property from MetaMetrics by reason of the use of such intellectual property in any manner. NHED agrees that it will not attempt to patent, copyright, or register or use for its own benefit or that of a third party, or aid any third party in attempting to patent, copyright, or register or use, any MetaMetrics Intellectual Property which may, in the reasonable opinion of MetaMetrics' counsel, be inconsistent with the terms of this contract. With regard to trademarks,

EXHIBIT A
Special Provisions
Continued

the above prohibitions shall extend to any trademark that is, in the opinion of MetaMetrics, confusingly similar to any trademark that is part of MetaMetrics' Intellectual Property or the trade name of MetaMetrics. NHED acknowledges MetaMetrics' exclusive ownership of, and title to, MetaMetrics' Intellectual Property world-wide and the goodwill associated therewith will belong to and inure solely to the benefit of MetaMetrics. NHED obligations under this section shall survive any termination of the license granted hereunder.

Obligation to Provide Notice of Infringement

NHED is not responsible for identifying instances of unauthorized use of the Lexile and Quantile Marks by third parties; however, NHED agrees to take reasonable steps to notify MetaMetrics if any such unauthorized use comes to their attention. In no event shall NHED be liable for any damages for its failure to identify or report potential infringement by third parties. MetaMetrics shall have the sole right and discretion to bring an action for infringement, unfair competition, or any other appropriate proceeding, against any such third party, and any proceeds from such proceedings shall be the sole property of MetaMetrics.

In the event of a conflict between MetaMetrics Terms and Condition and Exhibit G, Exhibit G shall control.

**EXHIBIT B
Scope of Work**

MetaMetrics shall grant the use of Lexile reading and Quantile measures to the New Hampshire Department of Education (NHED) for students in grades 3 – 8 and 11. In addition, MetaMetrics offers the below Implementation Supports that NHED can elect to use at no cost. NHED must inform MetaMetrics of any implementation supports that NHED wishes to have MetaMetrics provide.

MetaMetrics® No Cost Implementation Supports for NHED

School Year 2024/2025

As part of New Hampshire’s annual licensing agreement to use Lexile® reading measures and Quantile® mathematics measures, the following implementation supports are available upon request at no cost and offered throughout the contracted school year.

Implementation Toolkit

These implementation supports are also meant to complement and serve as an extension of the Lexile & Quantile State Implementation Toolkit. To access the toolkit, the following website can be used: metametricsinc.com/state-toolkit.

Implementation Support

MetaMetrics® offers a variety of support including professional learning and informational videos for educators and other stakeholders. These offerings help to expand knowledge of Lexile reading measures and Quantile mathematics measures and the understanding of how these measures can be utilized to facilitate student learning and growth both in the classroom and at home.

FORMAT	DESCRIPTION
SEA Asynchronous Learning Modules	Module 1 - Overview of the Lexile® Framework Module 2 - Overview of the Quantile® Framework Module 3 - Access and Utilizing Lexile® & Quantile® Hub Module 4 - Managing Multiple Measures Follow-up Q & A sessions provided, additional topics may be covered upon request.
Face-to-Face Meetings	Annual onsite or virtual kickoff planning meeting for new state partners. Annual review meeting for existing state partners.
Support for Educators	Digital Library - Containing professional learning and informational videos providing instruction on the Lexile® and Quantile® Frameworks and the tools in the Lexile® & Quantile® Hub.
State Conference/Event	MetaMetrics® is available to support the NHED annual state-sponsored conference or event as availability permits.

Please note: Webinar or In-person, district-level professional learning is not included in the services listed above but may be available upon request.

EXHIBIT B
Scope of Work
Continued

Lexile & Quantile Tools and Resources

MetaMetrics® provides access to the following tools and resources so that educators, families, and students can utilize Lexile reading measures and Quantile mathematics measures.

A Variety of Lexile & Quantile Tools Available

Many online tools for Lexile reading measures and Quantile mathematics measures are available through the Lexile® & Quantile® Hub. As part of the licensing agreement to use Lexile reading measures and Quantile mathematics measures, educators in the partner state receive Premium access to the Hub and the full functionality of each of its tools at no cost.

Communications and Outreach Support

- ***Suggested Language for State Specific Lexile & Quantile Web Content***
MetaMetrics provides a draft of text content for your State Education Administration (SEA) website to explain Lexile reading measures and Quantile mathematics measures, free tools and resources, and their use both in the classroom and at home. Once the content is finalized and approved, MetaMetrics also works with the webmaster or designee to post the content to the SEA's website.
- ***Suggested Language for Outreach Messaging***
MetaMetrics provides a variety of draft messaging for email/newsletter campaigns and social media to help you communicate with educators and parents about the value and utility of Lexile reading measures and Quantile mathematics measures.
- ***Lexile/Quantile Information for State Score Reports***
MetaMetrics collaborates with states and their contractors to provide language and/ or individualized, student instructional information on state score reports.
- ***Language for State Assessment RFPs***
MetaMetrics is a sole source to states that choose to use and report Lexile reading measures and Quantile mathematics measures from their state assessment systems. To ensure continuity in use and reporting, MetaMetrics makes available a collection of state RFPs that have mandated Lexile reading measures and Quantile mathematics measures through this procurement process.

- ***Language for Outreach to Publishers of Textbooks and Instructional Materials***

MetaMetrics offers example language that states and/or local districts can use to request that publisher materials be encouraged or required to submit Lexile reading measures and Quantile mathematics measures for books and materials being considered for adoption.

Lexile and Quantile Support Team

The MetaMetrics team will provide ongoing communication with the State as thought partners for strategic planning and implementation purposes. This support is intended to inform state policy decisions as well as promote the use of the Lexile and Quantile measures among various stakeholders for improved student achievement.

**EXHIBIT C
Method of Payment**

(Budget through June 30, 2025)

License Fee for the use of Lexile & Quantile Measures for Grades 3-8 and 11 including support services elected by New Hampshire Department of Education pursuant to Exhibit B	\$190,000
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Limitation on Price: In no case shall the total budget exceed the price limitation of \$190,000.

Funding Source: Funds are available in the following account for Fiscal Year 2025 as follows:

06-56-56-567010-30590000 Assessment & Accountability

Fiscal Year	Class/Account	Class Title	Total Amount
2025	102-500731	Contracts for Program Services	\$190,000

Method of Payment: The New Hampshire Department of Education shall pay to Contractor an annual license fee of \$190,000 in one installment. The payment shall be invoiced July 1, 2024, upon approval of this contract by the New Hampshire Governor and Executive Council and paid within thirty (30) days of receipt of the invoice. The invoices shall be submitted electronically to:

DEAR@doe.nh.gov

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.

Revised 6-5-21

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.

Revised 6-5-21

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 Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. 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.

Revised 6-5-21

EXHIBIT G

Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the NHED.

Any discovery or invention that arises during the course of the contract shall be reported to the NHED. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

Confidentiality

All Written and oral information and materials disclosed or provided by the NHED under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the NHED and its partners, must remain the exclusive property of the NHED.

Confidential information means all data and information related to the business and operation of the NHED, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the NHED, financial information, partner information (including the identity of NHED partners), Contractor and supplier information, (including the identity of NHED Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the NHED to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the NHED or subcontracted with the Contractor.

Ownership of Intellectual Property

The NHED shall retain ownership of all source data and other intellectual property of the NHED provided to the Contractor in order to complete the services of this agreement. As well the NHED will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the NHED.

Revised 6-5-21

**ATTACHMENT A
LIST OF CONTRACTOR INTELLECTUAL PROPERTY**

Lexile Framework for Reading name
Lexile Framework for Reading logo
Lexile Framework for Reading tagline
Lexile Framework for Reading measure
Lexile Framework for Reading Map
Lexile Framework for Reading scale
Lexile Framework for Reading scoring conversion procedures
CAI ICCR to Lexile Conversion Table and Linking Equation
MetaMetrics, Inc. name
MetaMetrics, Inc. logo
MetaMetrics, Inc. tagline
Quantile Framework for Mathematics name
Quantile Framework for Mathematics logo
Quantile Framework for Mathematics tagline
Quantile Framework for Mathematics Map
Quantile Framework for Mathematics measure
Quantile Framework for Mathematics scale
Quantile Framework for Mathematics scoring conversion procedures
CAI ICCR to Quantile Conversion Table and Linking Equation
The Lexile and Quantile Hub (See Exhibit B)
Tools within the Lexile and Quantile Hub (See Exhibit B)
Lexile and Quantile Resources (See Exhibit B)

CERTIFICATE OF ATTESTATION

Corporation

I, Brad Baumgartner, hereby certify that I am the duly appointed Secretary of
(Name of Clerk of Corporation)

MetaMetrics, Inc. I hereby certify that John Williams
(Corporation Name) (Name of Contract Signatory)

Chief Financial Officer is duly authorized to execute contracts on behalf of
(Title of Contract Signatory)

MetaMetrics, Inc. and may bind the company thereby.
(Corporation Name)

I hereby certify that said authority has not been amended or repealed and remains in full force and effect as of the date of the contract to which this certificate is attached. This authority **remains valid for thirty (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 above currently occupy the position(s) indicated and that they have full authority to bind the corporation. To the extent that there are any limits on the authority of any listed individual to bind the corporation in contracts with the State of New Hampshire, all such limitations are expressly stated herein.

DATED: 06/05/2024 ATTEST: Brad M Baumgartner Chief Executive Officer
Brad M Baumgartner (Jun 5, 2024 12:13 EDT)
(Signature of Clerk of Corporation) (Title of Clerk of Corporation)

State of New Hampshire

Department of State

CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that METAMETRICS, INC. is a North Carolina Profit Corporation registered to transact business in New Hampshire on September 25, 2020. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 852201

Certificate Number: 0006657641



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 3rd day of April A.D. 2024.

A handwritten signature in black ink, appearing to read "D. Scanlan", is written over a faint circular stamp.

David M. Scanlan
Secretary of State

