



English Language Proficiency Assessment for the 21st Century
(ELPA21)

Oregon Enhanced Assessment Grant

Request for Proposals for Website Design, Development, and Maintenance

Council of Chief State School Officers
October 2013

To comply with Public Law 112-74, "Consolidated Appropriations Act, 2012", Division F—DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2012, Title V—General Provisions, Sec. 505, December 23, 2011: 100% of the ELPA21 project is financed with Federal money; the Federal funds for ELPA21 total \$6,273,320; and 0% of this project is financed by non-governmental sources. The contents of this document were developed under a grant from the U.S. Department of Education. However, those contents do not necessarily represent the policy of the U.S. Department of Education and you should not assume endorsement by the Federal government.

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1.0. GENERAL INFORMATION

1.1 Purpose

This Request for Proposals (RFP) is issued by the Standards, Assessments, and Accountability initiative at the Council of Chief State School Officers (herein referred to as the Council), for the purpose of designing, developing, hosting, and maintaining a website for the English Language Proficiency Assessment for the 21st Century (ELPA21).

1.2 Background

The ELPA21 Enhanced Assessment Grant (EAG) Project is a federally funded enhanced assessment system designed to measure the performance of English language learners as they progress through their K-12 education and achieve college and career readiness. This assessment system will be built on and will support best practices in accessibility and validity of assessments for students working toward English language proficiency. Designed for the consortium states by these states and other assessment and English language learning experts, ELPA21 will include strategies for test design, administration, scoring, and reporting that provide students, parents, teachers, administrators, and communities the current and relevant information they need to best support every student as they work toward achieving English language proficiency in support of the college- and career-ready standards in English language arts and mathematics and the Next Generation Science Standards.

The ELPA21 Consortium consists of 11 states that have committed to assisting in the development of the ELPA21 system and its operational use: Arkansas, Florida, Iowa, Kansas, Louisiana, Nebraska, Ohio, Oregon, South Carolina, Washington, and West Virginia. Oregon Department of Education is in the role of lead state and grant recipient. The Council acts as project management partner. All elements of the ELPA21 system will be piloted in Spring 2014, with a field test in 2015-2016, and full operational rollout for the 2016-17 school year.

CCSSO has utilized the services of WestEd and Understanding Language of Stanford University to develop a new set of English Language Proficiency (ELP) standards which was completed in September 2013. The ELP standards highlight and amplify the *critical language, knowledge about language, and skills using language* in the common core state standards necessary for English language learners to be successful in schools.

1.3 Scope of Services

Attachment I details the scope of services and deliverables or desired results that the Council requires of the Contractor.

2.0 ADMINISTRATIVE INFORMATION

2.1 Expected Time Period for Contract

The period of the contract resulting from this RFP is expected to last four (4) years and is tentatively scheduled to begin on or about ***November 1, 2013***, and to continue through ***December 2016***. The Council reserves the right to award and fund any or all activities of this project based upon the availability of funds. The successful proposer should be prepared to begin work according to the time and payment schedule proposed by the Council.

2.2 RFP Coordinator

Written questions must be directed, via email, to the RFP Coordinator listed below.

2.3 Proposer Inquiries

The Council will consider written proposer inquiries regarding RFP requirements or Scope of Services before the date specified in the Calendar of Events. The Council reserves the right to modify the RFP should a change be identified that is in the best interest of the consortium states.

The RFP coordinator for this project is Cat Still, Program Director for ELPA21. To be considered, written inquiries and requests for clarification of the content of this RFP must be received via e-mail at Cat.Still@ccsso.org by 2:00 p.m. ET on the date specified in the Calendar of Events. Any and all questions directed to the RFP Coordinator will be deemed to require an official response. Official responses to each of the questions presented by the proposers will be sent via email to all proposers by the date specified in the calendar of events.

Only Cat Still has the authority to officially respond to proposer's questions on behalf of the Council. Any communications from any other individuals are not binding to the Council.

2.4 Calendar of Events

<u>Event</u>	<u>Date</u>
Release RFP	October 11, 2013
Deadline for receiving proposer inquiries	October 18, 2013
Responses to proposer inquiries due	October 28, 2013
Proposal submission deadline	November 8, 2013
Announce award of "Successful Proposer"	November 15, 2013
Execute contract	November 27, 2013

NOTE: The Council reserves the right to amend and/or change this calendar of events/schedule of RFP activities, as it deems necessary.

2.5 Definitions and Acronyms

Contractor	Any person, organization, or company having a contract with the Council
CCSSO; the Council	Council of Chief State School Officers
ELPA21	English Language Proficiency Assessment for the 21 st Century
ELP standards	English Language Proficiency standards
Shall, Will, Must:	Denote a mandatory requirement
Should, Can, May:	Denote a preference, not a mandatory requirement

3.0 PROPOSAL INFORMATION

3.1 Proposal Response Location

Proposers who are interested in providing professional services under this RFP should submit a proposal containing the information specified in Section 4.0. The fully completed proposal with original signatures by an authorized representative must be received in hard copy (printed) and email versions by the RFP Coordinator designated above by the deadline date specified in the Calendar of Events.

It is solely the responsibility of each proposer to assure that their proposal is delivered at the specified place and prior to the deadline for submission. Proposals, which for any reason are not so delivered, will not be considered for purposes of this RFP.

3.2 Desirable Qualifications of Proposer

It is highly desirable that Proposers of this RFP meet the following qualifications:

- The proposers have prior experience in working on projects similar in size, scope, and function to the proposed contract.
- The proposer's staff has the necessary experience and background with nonprofit organization websites including design, hosting, and maintenance.

3.3 Determination of Responsibility

The Council must find that the proposer:

- Has adequate financial resources for performance, or has the ability to obtain such resources as required during performance.
- Has the necessary experience, organization, qualifications, facilities, and skills, or has the ability to obtain them.
- Is able to comply with the proposed or required time of delivery or performance schedule.
- Has a satisfactory record of integrity, judgment, and performance.

Proposers should ensure that their proposals contain sufficient information for the Council to make its determination by presenting acceptable evidence of the above to perform the services called for by the contract.

3.4 RFP Addenda

The Council reserves the right to change the calendar of events or revise any part of the RFP by issuing an addendum to the RFP at any time.

3.5 Proposal Rejection

Issuance of this RFP in no way constitutes a commitment by the Council to award a contract. The Council reserves the right to accept or reject, in whole or part, all proposals submitted and/or cancel this announcement if it is determined to be in the ELPA21 consortium's best interest.

3.6 Withdrawal and Re-submission of Proposal

A proposer may withdraw a proposal that has been submitted at any time up to the date and time the proposal is due. To accomplish this, a written request signed by the authorized representative of the proposer must be submitted to the RFP Coordinator.

3.7 Subcontracting Information

The Council shall have a single prime contractor as the result of any contract negotiation, and that prime contractor shall be responsible for all deliverables referenced in the RFP or proposal. This general requirement notwithstanding, proposers may enter into subcontractor arrangements; however, they should acknowledge in their proposal total responsibility for the entire contract.

If the proposer intends to subcontract for portions of the work, the proposer should include specific designations of the tasks to be performed by the subcontractor. Information required of the proposer under the terms of this RFP is also required for each subcontractor.

Unless provided for in the contract with the Council, the prime contractor shall not contract with any other party for furnishing any of the work and professional services herein contracted for without the express written approval of the Council.

3.8 Ownership of Proposal

All materials submitted in response to this request become the property of the Council. Selection or rejection of a proposal does not affect this right.

3.9 Proprietary Information

Only information which is in the nature of legitimate trade secrets or non-published financial data may be deemed proprietary or confidential. Any proposal marked as confidential or proprietary in its entirety may be rejected without further consideration or recourse.

3.10 Cost of Preparing Proposals

The Council is not liable for any costs incurred by prospective proposers prior to issuance of or entering into a contract. Costs associated with developing the proposal and any other expenses incurred by the proposer in responding to this RFP are entirely the responsibility of the proposer, and shall not be reimbursed in any manner by the Council.

3.11 Errors and Omissions in Proposal

The Council will not be liable for any errors in proposals and reserves the right to make corrections or amendments due to minor errors identified in proposals. The Council, at its option, has the right to request clarification or additional information from the proposers.

3.12 Contract Award and Execution

The Council reserves the right to enter into a Contract without further discussion of the proposal submitted based on the initial offer received. The Council reserves the right to contract for all or a partial list of services offered in the proposal.

The RFP and proposal of the selected proposer will become part of any contract initiated by the Council.

The selected proposer will be expected to enter into a contract which is substantially the same as the sample contract included in Attachment IV. In no event is a Proposer to submit its own standard contract terms and conditions as a response to this RFP. The Proposer should submit with their proposal any exceptions or exact contract deviations that their firm wishes to negotiate. Negotiations may begin with the announcement of the selected proposer.

If the contract negotiation period exceeds 14 calendar days or if the selected Proposer fails to sign the final contract within 5 business days of delivery of it, the Council may elect to cancel the award and award the contract to the next-highest-ranked Proposer.

4.0 RESPONSE INSTRUCTIONS

4.1 Proposal Submission

Two printed copies of the proposal must be received on or before **2:00 p.m. ET** on the date specified in the Calendar of Events. Additionally, one PDF file of the proposal must be received by the 2:00 p.m. ET deadline at the email address specified below. Proposers should allow sufficient delivery time to ensure receipt of their printed and digital proposals by the time specified. The mailed proposal package must be delivered at the proposer's expense to:

Cat Still c/o Dr. Fen Chou
Program Director for ELPA21
Council of Chief State School Officers
One Massachusetts Ave. NW. Suite 700
Washington, DC 20001
Phone: (202) 336-7000
Email: cat.still@ccsso.org

It is solely the responsibility of each proposer to assure that their proposal is delivered at the specified place and prior to the deadline for submission. Proposals received after the submission deadline will not be considered.

4.2 Proposal Format

The Council requests that **two** printed copies of the proposal be submitted to the RFP Coordinator, Cat Still, at the CCSSO mailing address provided above. At least one copy of the proposal shall contain original signatures; that copy should be clearly marked or differentiated from the other copies of the proposal. This copy will be retained for incorporation by reference in any contract resulting from this RFP.

The proposal must be signed by those company officials or agents duly authorized to sign proposals or contracts on behalf of the organization. A certified copy of a board resolution granting such authority should be submitted.

4.3 Cover Letter

A cover letter should be submitted on the proposer's official business letterhead explaining the intent of the proposer.

4.4 Proposal Format

Proposer should submit a proposal as specified in Attachment II which shall include enough information to satisfy evaluators that the Proposer has the appropriate experience and qualifications to perform the scope of services as described herein. Proposer should respond to all areas requested.

4.5 Certification Statement

The proposer must sign and submit the Certification Statement shown in Attachment III.

5.0 EVALUATION AND SELECTION

5.1 Evaluation Team

The evaluation of proposals will be accomplished by an evaluation team, to be designated by the Council, which will determine the proposal most advantageous to the Council.

5.2 Administrative and Mandatory Screening

All proposals will be reviewed to determine compliance with administrative and mandatory requirements as specified in the RFP. Proposals found not to be in compliance will be rejected from further consideration.

5.3 Evaluation and Review

The purpose of the RFP process is to secure the contractor most capable of providing the services specified in this document. Selection of the contractor will be made solely on the basis of the most responsive proposal submitted by a qualified proposer that satisfies all services and products described in this RFP. The Council reserves the right to award a contract based upon initial offers received. Proposals submitted should follow the format in Attachment II.

The criteria for the evaluation process will be weighted as follows:

- | | |
|--|-----|
| A. Corporate Qualifications and Management Support | 15% |
| B. Experience | 15% |
| C. Technical Requirements/Approach and Methodology | 40% |
| D. Cost | 30% |

A. Corporate Qualifications and Management Support

This refers to the capability of the organization to perform the work requested in the RFP. This includes whether the organization has sufficient resources to work within the time constraints while maintaining desired performance levels and the level of competence of their professional personnel who will be assigned to the job by the proposer. Qualifications of professional personnel will be judged on the basis of experience and education with particular reference to prior experience on projects of a similar nature.

B. Experience

This refers to the proposer's previous successful experience with at least one similar website development, design, and maintenance project. This also refers to all current

contracts, a schedule of due dates of critical activities related to each contractual agreement.

C. Compliance with the Technical Requirements of the RFP/Approach and Methodology

A proposal consisting of repetition of the RFP only will not be a satisfactory indicator of the proposer's grasp of the complexity of the project. Each proposal will be evaluated on (1) the proposer's understanding of the nature and scope of the work involved and (2) the proposer's procedures, with an emphasis on the techniques proposed for executing each task, the sequencing of tasks, and the methods used for quality control. The proposal should reflect compliance with all activities and procedures requested in the RFP.

D. Cost

The grand total proposed cost will be evaluated for the purpose of selecting the successful proposer.

The cost information submitted with each proposal will be evaluated with a standard formula: $CS = (LPC / PC * 30)$ where CS = Computed Score for Proposer, LPC = Lowest Proposed Grand Total Cost of all proposals, and PC= Proposed Grand Total Cost.

5.4 Announcement of Contractor

The Evaluation Team will compile the scores and make a recommendation to the ELPA21 Executive Board on the basis of highest score. The award of a contract is subject to the approval of the Executive Board.

The Council will notify the successful proposer and proceed to negotiate terms for final contract. Unsuccessful proposers will be notified in by email accordingly.

ATTACHMENT I

ELPA21 WEBSITE SCOPE OF SERVICES

FUNCTIONAL AND TECHNICAL REQUIREMENTS

1.1 Overview & Purpose

ELPA21.org will represent online the English Language Proficiency Assessment for the 21st Century (ELPA21), a group, or consortia, of 11 state departments of education working together to develop an assessment system for public school students learning — and being assessed as they learn — the English language. This website will not house the assessment system itself; the purpose of ELPA21.org is to provide general, public information about the testing system and its development. There are two public websites serving a similar purpose for federally-funded assessment consortia — <http://www.smarterbalanced.org/> and <http://www.parcconline.org/about-parcc>.

ELPA21.org must be easily accessible and navigated by state departments of education and school and district staff including assessment directors and school and district staff assessing English language learners — this will be the primary audience for the site. The website will additionally provide information on ELPA21 to students, parents, communities, school boards, press and media, and other nonprofit organizations to learn about the assessment system, how it works (or will work), and where we are in the process of developing, testing, and rolling out the final assessment system. It will also provide a timeline and information to potential assessment vendors and companies. Additionally, it will highlight the need and options for sustainability of this project once the grant funding has expired (i.e., funders and policymakers).

To summarize our site users

- We anticipate 200 visitors a month and a significant increase in visitors as the assessment system milestones are reached.
- Our target audience will need to be able to
 - Access content through different information-finding methods including
 - Search for information via internal search engine
 - Browse information via primary menu and navigation
 - Download documents
 - Register to access the private document library
 - Look up information on event calendar
 - Log in to the private document library
 - Opt-in to receive the newsletter
 - Contact us via phone or email address
- Registered members will have a password protected log in and will be able to upload, download, and categorize documents in the private library. We anticipate a maximum of 50 users.
- Site administrators (3) will need to be able to
 - Manage the contact list data
 - Receive an alert when contact information is submitted
 - Manage the calendar and timeline
 - Manage publicly available PDFs
 - Create additional pages

- Edit pages
- Upload images, files, and hyperlinks
- Manage document meta data

1.2 *Tasks and Services*

Major tasks and services for this project shall include

Tasks	Services
Hosting and Environment	ELPA21.org domain is registered under Network Solutions. Vendor will review and recommend hosting solutions through December 31, 2016, with an option to extend. In addition, vendor will recommend and set up stage and live environments for the website.
Maintenance	We expect approximately 10 hours of support per month, and availability of support at any time (weekend, 24 hours). Support to include troubleshooting; effecting minor changes to the design of the website and effecting minor changes to the software and/or database comprised in the Website at the direction of CCSSO (e.g., creation of a simple survey and corresponding data collection).
Planning	Vendor will solicit and implement stakeholder input; define functional requirements; and ensure alignment with overview and purpose of the site.
Information Architecture (IA)	Provide industry guidance on website IA and user experience.
Design	Vendor will provide design services to support ELPA21 in ensuring the website is branded, aesthetically pleasing, and intuitively designed.
Development	Vendor to recommend and implement scripting language, and open source CMS platform and document library for website. Regarding the CMS platform, vendor will present recommendations on two to three open source or third party licensed providers along with rationale for recommendation and costs.
Analytics	Vendor will implement Google Analytics tracking on the website to enable CCSSO to evaluate website traffic and usage.
Training	After the website has been launched, CCSSO will require training from vendor on the CMS platform implemented.

1.3 *Requirements for the ELPA21 Website*

Below are the requirements for the new ELPA21 website: hosting, user interface design, content, website features, CMS, and analytics. For each line item, please describe your approach in your proposal. If you are able to provide a requirement or you prefer a variation or alternate approach to a requirement listed, please include in your proposal.

Table 1: Hosting, Environment and Maintenance

Description
<ul style="list-style-type: none"> ● Include 10 ELPA21.org email addresses ● Set up hosting for EPLA21.org through December 31, 2016. Hosting package should accommodate 200 visitors per month with anticipated increase in number of users with light data and email usage. ● Set up stage and live production environments. ● Maintenance support to include 120 hours annually or approximately 10 hours a month.

- Maintenance includes support for server technology, uptime, security, available storage, and load balancing as needed. This will probably be minimal as website will have a modest amount of traffic in the first year and will not be application or data heavy.
- Any future features that include more complex functionality or application development will be defined under a separate contract between CCSSO and vendor.

Table 2: User Interface Design

Description
<ul style="list-style-type: none"> • Deliver sitemap and wireframes for 5 to 10 templates: <ul style="list-style-type: none"> ○ Homepage ○ Resources section (PDFs, hyperlinks to reports, WebEx recordings, videos) ○ Event calendar section ○ Contact form ○ Register form ○ Document library ○ General template ○ Email newsletter • Visual designs must reflect ELPA21 CCSSO brand (including Style Guide and logo) and core values • Provide three creative directions for CCSSO to choose from • Provide page designs for each template identified above

Table 3: Content

Description
<ul style="list-style-type: none"> • All initial content to be provided by CCSSO in Word documents for the vendor to upload to the site. • Minimal copywriting will be required for <ul style="list-style-type: none"> ○ Menu or navigation nomenclature ○ Headers and subheaders ○ Calls-to-action • Basic search engine copywriting including: <ul style="list-style-type: none"> ○ Title and meta data descriptions ○ Editing existing copy for keywords

Table 4: Website Features

Description
<ul style="list-style-type: none"> • Member section with a login from home page of ELPA21.org <ul style="list-style-type: none"> ○ This would be login/password protected and link to a private document library <ul style="list-style-type: none"> ▪ Users would be able to upload and download documents ▪ Users would need to be approved by site Administrator(s) <ul style="list-style-type: none"> • Access would be approved by the site Administrator(s) for state education agency staff and ELPA21 consultants and vendors ○ Collect profile information about these users including opt in/out information for newsletter/mailings

<ul style="list-style-type: none"> • Email newsletter integration <ul style="list-style-type: none"> ○ Provide suggestions for design and integration ○ Include feature for sending formatted newsletter to contacts accumulated through the website (i.e., ConstantContact/MailChimp) ○ Ability to reuse content across the site, for example pull information recently posted on the ELPA21 website into a newsletter
<ul style="list-style-type: none"> • Contact Us web form to collect comments, questions, and other information <ul style="list-style-type: none"> ○ Include option to sign up for newsletter ○ Collect contact information ○ Information collected will be housed in a database ○ Notify select Administrator(s) when a contact form has been submitted
<ul style="list-style-type: none"> • Include 10 ELPA21.org email addresses (also in Table 1)

Table 5: Content Management System (CMS)

Description
<ul style="list-style-type: none"> • Above web features to be managed through a content management platform. • Recommend a content management system (CMS) solution that provides a simple means of managing information (document and website content) for the site. The solution may either be custom built by developer, open source or licensed – please provide three recommendations for CCSSO to choose from, initial set up fees and recurring fees as well as rationale behind each. <ul style="list-style-type: none"> ○ Ability to easily upload images, attach PDF files to website pages, and add hyperlinks to pages ○ Ability to spell and grammar check content ○ Ability to easily edit, add, and remove text ○ Easily create new pages using CSS ○ Ability to manage documents and document metadata including title, description, posted date, expiration date ○ Newsletter integration (see Table 4 above) ○ Event calendar ○ News section (updatable with hyperlinks) ○ Social media feed — hashtag references to EPLA21 to appear on the site with prior approval ○ A method of sharing content from the site via a variety of social media platforms • CMS must support at least 2 to 3 different administrator permission levels (to be defined during project)

Table 6: Analytics

Description
<ul style="list-style-type: none"> • Implement Google Analytics as appropriate for a nonprofit website of this size and accessibility • Set up Google Analytics custom reporting and/or funnel reporting

1.4 Deliverables

Table 1 lists the required deliverables and timelines for the contract year. The dates shown below may be adjusted at the mutual consent of the Council and the contractor.

Table 1: Schedule of Major Deliverables

Date	Activity	Milestone #
By December 13, 2013	<ul style="list-style-type: none"> • All hands kick-off meeting hosted by vendor 	1
December 20, 2013 or sooner	<ul style="list-style-type: none"> • Present hosting, CMS, digital library recommendations and costs to the Council • Present information architecture • Present 3 sets of visual designs to the Council based on Section 1.4 below • • Confirm website host, CMS, and digital library provider selections and costs • Sign off on Requirements Document 	2
January 31, 2014 or sooner	<ul style="list-style-type: none"> • Finalize design • Develop website and implement CMS • Website content incorporated into CMS • Quality assurance testing • Beta made available to the Council for user acceptance testing 	3
February 14, 2014 or sooner	<ul style="list-style-type: none"> • Respond and resolve issues discovered during beta testing • Website publicly released/live including password protected digital library 	4
March 2014-December 2016	<ul style="list-style-type: none"> • Continued response to and resolution of identified issues • Monitor website analytics (See Section 1.4 below) • • Conduct website maintenance • Modifications to site based on user feedback 	5

1.5 Project Requirements

The contractor will designate a team of professional individuals to work on or manage each project. The responsibilities for the management team shall include:

- Working with the Council to plan and schedule all activities and deliverables;
- Receiving approval from the Council for any change to the scope of work;

- Monitoring and reporting the progress of each project;
- Managing conference calls for reporting the progress and issues for each activity;
- Managing and reporting progress on all deliverables;
- Recording the results of discussions, and clarifying the issues and next steps in meeting minutes;
- Ensuring all deliverables are on schedule;
- Informing the Council of any personnel changes; and
- Ensuring every processing step is completed on time with 100% accuracy.

Quality Assurance. Error-free production shall be required and shall be the final responsibility of the contractor.

Key Personnel. The ELPA21 Program Director from CCSSO will provide oversight of the activities conducted under the contract. The ELPA21 Program Director will be the principal point of contact on behalf of the Council concerning the contractor's performance under the contract.

Please describe the members of the team that will work on this project. Include resumes and sample work for each member. Suggested positions include

- **Project Manager:** This position should oversee and monitor the planning, scheduling, progress, and quality of the work.
- **Website Development Leader:** This position should oversee and monitor scheduling, coordination, and quality control of the website development activities.

These designated individuals for this contract are referred to hereafter as "key personnel."

The contractor will work with the Council to ensure that work for the Council is given the highest priority. Staff members from the Council will be assigned to monitor this contract under the supervision of CCSSO's Assessment Program Director.

ATTACHMENT II

PROPOSAL INFORMATION

1. *Executive Summary*

This section should serve to introduce the purpose and scope of the proposal. It should include administrative information including, at a minimum, response date, proposer contact name and phone number, and the stipulation that the proposal is valid for a time period of 160 days from the date of submission. This section should also include a summary of the proposer's qualifications and ability to meet the Council's overall requirements.

It should include a positive statement of compliance with the contract terms. If the proposer cannot comply with any of the contract terms, an explanation of each exception should be supplied. The proposer should address the specific language in Attachment IV and submit whatever exceptions or exact contract modifications that their firm may seek to the sample contract. While final wording will be resolved during contract negotiations, the intent of the provisions will not be substantially altered.

2. *Corporate Qualifications and Management Support*

The proposer should give a brief description of their company, including a brief history, corporate structure and organization, number of years in business, and copies of their latest financial statement, preferably audited. This information will be kept confidential and will be destroyed at the end of the selection process.

The proposer should provide detailed information regarding its ability to perform the work requested in this RFP. The proposer should discuss its resources that will be available to work on this project in order to meet time restraints and desired performance levels. The proposer should describe the qualifications and experience of the key personnel who will be assigned to this project.

Resumes of key personnel assigned to the project should be included in the proposal. The proposal should provide a breakdown of hours based on the type of work (i.e., design, development) and explain the administrative commitment to this project in terms of approximate work hours. A chart with each name, number of hours per contract year, position title, and main job responsibilities should be included in the proposal.

3. *Experience*

This section should provide a detailed discussion of the proposer's prior experience in working on projects similar in size, scope, and function to the proposed contract. Proposers should describe their experience in other states or in corporate/governmental entities of comparable size and diversity with references from entities, including names and telephone numbers of those references.

The proposer should provide detailed information about its experience with at least one similar project that has been successfully completed by the proposer.

Customer references (name, title, company name, address, and telephone number) should be provided for the cited projects.

4. *Compliance with the Technical Requirements of the RFP/Approach and Methodology*

This section should provide detailed information about the proposer's understanding of the nature of the project and how the proposal will best meet the needs of the Council. Specifically, the proposer should:

- Define his/her functional approach in providing the services and in identifying the subtasks within the five milestones that are necessary to meet requirements.
- Describe the approach to Project Management and Quality Assurance.
- Provide a proposed Project Work Plan that reflects the approach and methodology, tasks and services to be performed, deliverables, timetables, and staffing. The plan should reflect the most cost-effective and efficient means of accomplishing the services and tasks in the RFP. The timetable should show completion dates that reflect the proposer's ability to meet critical deadlines.
 - Include a statement that all materials developed for this project will be the property of the ELPA21 Consortium.
 - Include the plan for client review of deliverables and the process for resolution of issues.
 - Include your approach to website maintenance such as recommended schedule, response time, and system update releases.
- Provide two to three case studies of projects that are similar to this initiative and industry (education, non-profit, non-commerce). The case studies should include how you approached planning and strategy, the solution, success metrics applied and results. At least one of those case studies should include an approach to site search corresponding result or impact. Include creative design examples and/or links to live websites.

5. *Cost Information*

- The proposer shall provide a total cost for each milestone listed in Attachment I. The proposer shall provide a total cost for each milestone, as well as a Grand Total Cost for all five milestones. The total costs shall include all project expenses.
- Pricing may be included for any additional subtasks that the proposer believes are necessary to provide services in the RFP.

ATTACHMENT III

CERTIFICATION STATEMENT

The undersigned hereby acknowledges she/he has read and understands all requirements and specifications of the Request for Proposals (RFP), including attachments.

OFFICIAL CONTACT. The Council requests that the Proposer designate one person to receive all documents and the method in which the documents are best delivered. Identify the Contact name and fill in the information below: (Print Clearly):

Date: _____ Official Contact Name: _____

A. E-mail Address: _____

B. Facsimile Number with area code: (_____) _____

C. US Mail Address: _____

Proposer certifies that the above information is true and grants permission to the Council to contact the above named person or otherwise verify the information provided.

By its submission of this proposal and authorized signature below, Proposer certifies that:

- (1) The information contained in its response to this RFP is accurate;
- (2) Proposer complies with each of the mandatory requirements listed in the RFP and will meet or exceed the functional and technical requirements specified therein;
- (3) Proposer accepts the procedures, evaluation criteria, mandatory contract terms and conditions, and all other administrative requirements set forth in this RFP.
- (4) Proposer's quote is valid for at least one year from the date of proposer's signature below;
- (5) Proposer understands that if selected as the successful proposer, he/she will have five (5) business days from the date of delivery of final contract in which to complete contract negotiations, if any, and execute the final contract document.

Authorized Signature: _____

Typed or Printed Name: _____

Title: _____

Company Name: _____

Address: _____

City: _____ State: _____ Zip: _____

SIGNATURE of Proposer's Authorized Representative

DATE

ATTACHMENT IV: CONTRACT FOR SUBCONTRACTOR SERVICE

(FEDERAL FUNDING – COMPANY VERSION)

THIS CONTRACT FOR SUBCONTRACTOR SERVICE (the “Contract”) is made as of this _____, day of _____, 200__ (the “Effective Date”) by and between the Council of Chief State School Officers, Inc., a nonprofit organization, with its principal place of business at One Massachusetts Avenue, N.W., Suite 700, Washington, D.C. 20001 (“the Council”) and _____, a _____ [*specify State in which contractor is incorporated or organized*] _____ [*specify corporation/nonprofit organization/other form of legal entity*] with its principal place of business at _____ (“the Subcontractor”).

WHEREAS, the Council desires to engage the Subcontractor to perform the services described in this Contract in connection with ELPA21 _____, which is to be financed in whole or in part by a grant, cooperative agreement or procurement contract from the _____ (with the appropriate auditing agency of such agency, the "Federal Agency"), said grant, cooperative agreement or procurement contract being evidenced by an agreement dated _____ and identified as _____ (the "Federal Agreement"); and

WHEREAS, the Subcontractor is skilled in the provision of such services and desires to provide such services to the Council in connection with the Project;

NOW THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. DESCRIPTION OF WORK

1.1 **Performance of Services.** The Subcontractor agrees to perform the services set forth in the Statement of Work attached to this Contract as **Exhibit 1** (which is incorporated herein and made a part hereof) (“Services”) for the Project in accordance with the Statement of Work, this Contract and as further identified [*in writing*] by the Executive Director of the Council (“Executive Director”) or authorized agent. (As used in this Contract, the “Statement of Work” shall mean the Statement of Work attached to this Contract as **Exhibit 1** and any revisions or modifications approved by the Council pursuant to this Agreement; and the "authorized agent" shall mean that person designated by the Executive Director in writing to be the person executing this Contract on behalf of the Council.) In the event of a conflict between any provisions of this Contract and the Statement of Work, the Statement of Work will control.

1.2 **Consultation and Changes.** The Subcontractor agrees to consult with [_____] weekly concerning the progress of the Project. The Council shall have the right, in its sole discretion, to provide direction to the Subcontractor during the course of the Project and to request revisions or modifications to any aspect of the Project during the course of the Project. If such revision or modification will materially increase the Subcontractor’s costs, the Subcontractor will inform the Council in writing of the associated increase and will not be required to proceed and shall not proceed with the revision or modification until the Executive Director or authorized agent has approved the additional costs or any required price adjustment

in writing. Changes, including any increase or decrease in the amount of the Subcontractor's compensation that are mutually agreed upon by the Council and the Subcontractor, shall be incorporated in written amendments to this Contract in accordance with Section 15.7.

1.3 Review and Coordination. To ensure adequate review and evaluation of the work and proper coordination among the parties and the Federal Agency, the Subcontractor shall keep the Council fully informed concerning the progress of the Services to be performed under this Contract. The Council may require the Subcontractor to meet with designated officials of the Council and the Federal Agency from time to time to review the work. The Council shall give the Subcontractor reasonable prior notice of not less than 15 days of such a review meeting.

1.4 The Subcontractor's Personnel. The Subcontractor represents that it has, or will secure at its own expense, all personnel required in performing the Services under this Contract. Such personnel shall not be employees of the Council, nor shall such personnel have been employees of the Council during any time within the twelve (12)-month period immediately prior to the date of this Contract, except with the prior written consent of the Executive Director or authorized agent. Further, the Subcontractor agrees that no personnel shall be involved in any way with the performance of this Contract, without the express prior written approval of the Executive Director or authorized agent. The Subcontractor agrees that it shall be solely responsible for compensation due its personnel for performing the Services under this Contract.

1.5 Approval of Subcontracts. The Subcontractor shall not subcontract any of the work or services to be performed under this Contract without the prior written approval of the Executive Director or authorized agent. If the Council authorizes such subcontracting, the Subcontractor shall submit all subcontract documents to the Executive Director or authorized agent for review and written approval prior to the execution of such subcontract. Further, if requested by the Executive Director or authorized agent, the Subcontractor shall provide the Council with such documentation as the Executive Director or authorized agent shall require regarding the method the Subcontractor used in selecting its subcontractor. The Subcontractor acknowledges that the Services to be performed under this Contract are financed solely or partly through Federal funds, and the selection of subcontractors is governed by regulations requiring competition between potential subcontractors or adequate justification for sole source selection. The Subcontractor agrees to abide by such regulations in its selection procedure.

1.6 Data To Be Furnished to the Subcontractor. The Council shall furnish to the Subcontractor without charge all information, data reports, records and maps that are existing, readily available and reasonably necessary, as determined by the Executive Director or authorized agent in his or her sole discretion, for the performance by the Subcontractor of the Services required by this Contract. The Council, its agents and employees shall cooperate with the Subcontractor in the performance of the Subcontractor's duties under this Contract. All information, data reports, records and maps to be provided by the Council shall be as specified in the Statement of Work.

1.7 Liability Insurance. The Subcontractor will maintain adequate insurance to protect the Subcontractor from the following: (a) claims under workers compensation and state disability acts; (b) claims for damages because of bodily injury, sickness, disease or death that arise out of any act or omission of the Subcontractor; (c) claims for damages because of injury to or destruction of tangible or intangible property, including loss of use resulting therefrom, that

arise out of any act or omission of the Subcontractor; and (d) any other claims that could arise out of or result from the Services and/or this Contract.

2. COMPENSATION AND PAYMENT

2.1 Type. The Council shall compensate the Subcontractor for its performance of the Services on a firm-fixed-price basis in accordance with the applicable provisions of Section 2.2 or Section 2.3 below.

2.2 Firm-Fixed-Price. The following provisions of this Section 2.2 apply if Section 2.1 above specifies payment on a firm-fixed-price basis.

2.2.1 The Council agrees to pay the Subcontractor the firm-fixed-price sum of _____ (U.S.) Dollars (\$_____). It is understood and agreed by the Subcontractor and the Council that the firm-fixed-price sum set forth above is inclusive of any and all remuneration to which the Subcontractor shall be entitled for performance of the Services and, except as the parties may otherwise agree pursuant to Section 1.2 above or Section 15.9 below, the Subcontractor shall not receive any payment or other benefits whatsoever for performance of the Services in addition to or in lieu of such sum.

2.2.2 The Council will make payment of the Subcontractor's invoice for amounts payable under this Contract after the Subcontractor has completed all work, including all required reports and deliverables, and the Executive Director [*or authorized agent*] has accepted the work in his or her sole discretion. Upon completion and acceptance by the Council of the work, including receipt of any final written submission of the Subcontractor, the Council shall pay the Subcontractor a sum equal to the amount of the final invoice.

2.3 Invoice Address. The Subcontractor shall send all invoices for amounts payable under this Contract to the person and address identified below:

2.4 Payment and Disputed Charges. The Council shall pay undisputed charges when such payments are due. The Council may withhold payment of charges if it in good faith disputes them or reasonably requires information from the Subcontractor to verify that the amounts are properly charged.

2.5 Maintenance of Records. The Subcontractor shall maintain all books, documents, papers, cost records, accounting records and other records pertinent to this Contract and shall make such material available to the Council and the Federal Agency at all reasonable times during the period of the Contract, and for three years after the date of final payment under the Contract; provided that, if any litigation, claim or audit is commenced related to the Project prior

to the expiration of the three-year period, the Contractor shall retain the records until all litigation, claims or audit findings related to the records have been resolved and final action taken. The Subcontractor shall include the provisions of this paragraph in any subcontract executed in connection with this Project.

3. **REPORTS.** The Subcontractor shall furnish the Council with weekly progress reports and such other information as may be required by the Federal Agency. The Subcontractor shall furnish such report on a day of the week that the subcontractor designates, and reports will occur no more than seven calendar days apart. In addition, the Subcontractor will provide a final written report, due _____, fully and completely detailing the use of subcontract funds (including salaries, travel, supplies, etc.) and the Project activities and accomplishments. In the event that any aspect of the Project is not complete, the report shall also indicate what work is incomplete, the circumstances causing the work to be incomplete, and the progress made toward the goals of the Project as outlined in the Statement of Work.

4. **INSPECTIONS.** Authorized representatives of the Council and the Federal Agency may at all reasonable times review and inspect the Project activities and data collected pursuant to this Contract to determine whether the Subcontractor is performing the Services in accordance with the terms of this Contract. The Subcontractor shall make available to authorized representatives of the Council and the Federal Agency for inspection, review and copying at all reasonable times all reports, drawings, studies, specifications, estimates, maps, computations and other materials or documents prepared by or for the Subcontractor pursuant to this Contract. The Council's approval and acceptance of such material shall not relieve the Subcontractor of its professional obligation to correct, at its expense, any errors found in the work.

5. **INTELLECTUAL PROPERTY RIGHTS**

5.1 **Rights in Documents, Materials and Data Produced.** The Subcontractor agrees that all ideas, discoveries, inventions, works and materials, including but not limited to reports, drawings, studies, specifications, estimates, maps, computations, systems, computer programs, methods, logic and other data, sound recordings, graphic representations, correspondence, books, magazines and periodicals, and any other materials created, developed, conceived, reduced to practice or purchased under this Contract or that result from or relate to the Services performed by or on behalf of the Subcontractor (collectively, the "Works and Materials") shall be delivered to and become and remain the property of the Council immediately upon termination or completion of the applicable work. The Council shall have the right to use the Works and Materials without restriction or limitation and without compensation to the Subcontractor other than that provided for in this Contract. All Works and Materials produced under this Contract are "works made for hire" created for the Council and shall be the exclusive property of the Council. No Works and Materials produced in whole or in part under this Contract shall be the subject of an application for copyright or patent by or on behalf of the Subcontractor or its subcontractors or employees. To the extent that any of the Works and Materials are not "works made for hire," the Subcontractor hereby irrevocably assigns to the Council all of the Subcontractor's right, title and interest in and to the Works and Materials, including all copyrights, patent rights, and other intellectual or proprietary rights. If the work to be performed under this Contract is financed in whole or in part by Federal funds, the Subcontractor acknowledges that matters regarding the rights to Works and Materials generated by or arising out of this Contract may be subject to certain regulations issued by the Federal Agency. The Subcontractor may obtain information regarding such regulations upon written request to the

Executive Director or authorized agent. The Subcontractor agrees: (a) to disclose promptly in writing to the Council all Works and Materials; and (b) to cooperate with and assist the Council to apply for, and to execute any and all documents reasonably necessary to obtain, any patent, copyright, trademark or other statutory protection for and/or preserve the Council's rights in the Works and Materials as the Council deems appropriate. These obligations to disclose, assist, and execute will survive any expiration or termination of this Contract.

5.2 Identification of Documents. All reports, maps and other documents completed as a part of this Contract shall bear on the title page of such report, map or document, the following legend: "Prepared by _____ for submission under contract with the Council of Chief State School Officers. The preparation of this (insert either report, map or document, as appropriate) was financed by funds provided by (insert name of the Federal Agency and an identification of the Federal Agreement)." The date (month and year) in which the document was prepared shall also be shown. A proper copyright notice in the Council's name shall also be included on the title page.

5.3 Publication and Publicity. The Subcontractor shall not present publicly, publish, or make available to any third party articles, papers, bulletins, reports or other material reporting the plans, progress, analysis or results and findings of the work conducted under this Contract without prior written approval of the Executive Director or authorized agent. If the Subcontractor obtains the written approval of the Executive Director or authorized agent, the Subcontractor shall include the following disclaimer in any material reporting the plans, progress, analysis or results and findings of the work conducted under this Contract: "Publication of this document shall not be construed as endorsement of the views expressed in it by the Council of Chief State School Officers or any federal agency." The Subcontractor shall also include any specific acknowledgement or disclaimer that the Federal Agency may require in the Federal Agreement or other instructions.

5.4 General. The provisions of this Section 5 shall take precedence over any conflicting provision of this Contract, including any provision incorporated by reference, and shall survive the expiration or earlier termination of this Contract.

6. TERM AND TERMINATION

6.1 Term. The Services of the Subcontractor shall commence on the Effective Date and shall be undertaken and pursued in such sequence as to assure their expeditious completion and as may be required in the Statement of Work. The Subcontractor shall complete all Services required under this Contract on or before _____. Time is of the essence in performance of the Services under this Contract.

6.2 Termination of the Contract for Cause. If through any cause, the Subcontractor shall fail to fulfill in a timely and proper manner, as determined by the Executive Director or authorized agent in his or her sole discretion, its obligations under this Contract, or if the Subcontractor has violated or shall violate any of the covenants, agreements, representations or stipulations of this Contract, the Council shall have the right to terminate this Contract by giving written notice to the Subcontractor of such termination and specifying the effective date of such termination. In such event, all finished or unfinished Works and Materials collected or produced under this Contract (as more fully described in Section 5.1 hereof) shall become the property of the Council, and the Subcontractor shall be entitled to receive just and equitable compensation

for any satisfactory work completed on such Works and Materials. The foregoing notwithstanding, the Subcontractor shall not be relieved of liability to the Council by virtue of any breach of this Contract by the Subcontractor, and the Council may withhold any payments to the Subcontractor for the purpose of set-off for damages caused by the Subcontractor's breach, until such time as the exact amount of damages due to the Council from the Subcontractor is determined. Upon determination of the exact amount of damages, the Council shall pay to the Subcontractor the amount of payments withheld that exceeds the amount of damages.

6.3 Termination for Convenience. The Council may terminate this Contract at any time by giving written notice to the Subcontractor of such termination and specifying the effective date thereof, at least *[five (5)]* calendar days before the effective date of such termination or such earlier time consistent with the effective date of a termination, cancellation or non-renewal of the Federal Agreement by the Federal Agency. In that event, all finished or unfinished Works and Materials produced or collected under this Contract (as more fully described in Section 5.1 above) shall become the property of the Council. If the Council terminates this Contract as provided in this Section 6.3, the Council will pay the Subcontractor either (a) an amount that bears the same ratio to the total compensation to be paid to the Subcontractor under this Contract as the Services actually performed prior to the termination of this Contract bear to the total services to be performed by the Subcontractor under this Contract, less payments of compensation previously made; provided, however, that if the Subcontractor has performed less than sixty percent (60%) of the Services covered by this Contract by the effective date of such termination, the Council shall reimburse the Subcontractor (in addition to the foregoing payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this Contract) that the Subcontractor incurred prior to the effective date of such termination and that are directly attributable to the uncompleted portion of the Services covered by this Contract; or (b) if payment under this Contract is on a cost reimbursement basis, the actual expenses incurred by the Subcontractor prior to the effective date of such termination, as authorized in **Exhibit 2** and as in accord with Section 12.3 below. Notwithstanding the foregoing, if the Council terminates this Contract for cause, the provisions of Section 6.2 of this Contract shall govern.

6.4 Events Upon Termination. The Subcontractor shall submit to the Council all Works and Materials (whether finished or still works in progress) and Confidential Information of the Council within ten (10) business days after the termination or expiration of this Contract.

7. **CONFIDENTIALITY.** During the course of the Subcontractor's performance of the Services, the Subcontractor may be given access to or acquire information (in hardcopy, electronic and/or any other form) that relates to the Council's past, present, and future research, development, business activities, products, services, and technical knowledge and that the Council identifies as confidential or by its nature the Subcontractor should know is confidential ("Confidential Information"). The Confidential Information of the Council shall also be deemed to include the Works and Materials. In connection with such Confidential Information, the Contractor shall comply with the following provisions:

7.1 The Subcontractor may use Confidential Information of the Council only in connection with the Services;

7.2 The Subcontractor agrees to protect the confidentiality of the Confidential Information of the Council in the same manner that it protects the confidentiality of its own

proprietary and confidential information of like kind, but in no event shall the Subcontractor exercise less than reasonable care in protecting such Confidential Information. The Subcontractor shall restrict access to Confidential Information of the Council to the Subcontractor's personnel engaged in a use permitted by this Contract;

7.3 The Subcontractor may not copy, reproduce, transfer, or disclose to any third party Confidential Information of the Council without the Council's prior written consent; and

7.4 The Subcontractor shall return or destroy (as directed by the Executive Director or authorized agent) all Confidential Information made available under this Contract, including copies of such Confidential Information, upon the first to occur of (a) completion of the Services or (b) request by the Council. In accordance with Section 6.4, upon the termination or expiration of this Contract, the Subcontractor will submit to the Council any Confidential Information of the Council that the Subcontractor has not previously returned or destroyed pursuant to this Section 7.4.

8. ADDITIONAL REPRESENTATIONS AND WARRANTIES. The Subcontractor represents and warrants to the Council that: (a) the Subcontractor shall perform the Services in a professional and workmanlike manner consistent with the highest industry standards, and the Subcontractor shall reperform at no cost, expense, or charge to the Council any of the Services that are not in compliance with this warranty; (b) all employees and subcontractors (if any) of the Subcontractor that perform the Services shall have assigned to the Subcontractor in writing all of their right, title and interest, including all patent rights, copyrights and other intellectual property rights, in and to any and all work performed by such employees and subcontractors in performance of the Services; (c) all employees and subcontractors (if any) of the Subcontractor that have access to Confidential Information of the Council shall have agreed with the Subcontractor in writing to confidentiality obligations as least as stringent as set forth in this Contract; (d) any and all Works and Materials shall be original works of authorship of the Subcontractor (and its employees and subcontractors) and shall not be subject to any limitation or restriction on their use or assignment of any kind; (e) the Subcontractor is duly organized, validly existing and in good standing under the laws of _____ [*specify Subcontractor's State of incorporation or organization*] and is duly authorized to enter into this Contract; and (f) entering into this Contract shall not violate or cause the breach of any other agreement entered into by the Subcontractor.

9. INDEMNIFICATION. The Subcontractor hereby agrees to indemnify, defend, save and hold harmless the Council, its officers, directors, committee members, employees and authorized representatives from and against any and all claims, demands, damages, liabilities, costs or expenses (including attorneys' or other professionals' fees) that arise out of or are related to (a) the breach of any representation or warranty set forth in Section 8 above, (b) the breach of the confidentiality obligations set forth in Section 7 above, or (c) any actual or alleged act, omission, fault or negligence, whether active or passive, of the Subcontractor [*or of its subcontractor(s)*] or of any one acting under the Subcontractor's direction or control or on its behalf, arising out of or relating to this Contract or relating to the Services provided by the Subcontractor under this Contract. [*The Subcontractor shall require each subcontractor to indemnify and hold harmless the Council, its officers, directors, committee members, employees and authorized representatives in the manner provided above for the Subcontractor's indemnification of the Council.*]

10. LIMITATION OF LIABILITY. IN NO EVENT SHALL THE COUNCIL BE LIABLE TO THE SUBCONTRACTOR OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES OF ANY KIND, WHETHER ARISING IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF THE COUNCIL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11. ADDITIONAL COMPLIANCE WITH REQUIREMENTS OF THE FEDERAL AGENCY.

11.1 The Subcontractor acknowledges that the Council expects this Contract to be funded in whole or in part by funding that the Council expects to receive from the Federal Agency. The Subcontractor shall be bound by and comply with all laws and regulations applicable to the performance of the Services and the applicable terms and conditions of the Federal Agreement (including those incorporated by reference therein). The Federal Agreement is attached hereto as **Exhibit 3**, incorporated herein, and made a part hereof.

11.2 The Subcontractor shall also comply with the applicable provisions set forth in Appendix A to OMB Circular A-110, including the statutes, regulations, and other requirements referenced therein. The pertinent provisions of Appendix A are attached to this Contract as **Exhibit 4**, incorporated herein, and made a part hereof. In addition, the Subcontractor represents that it has reviewed, signed and provided to the Council a copy of the Certification Regarding Lobbying; Debarment, Suspension and Responsibility Matters; and Drug-Free Workplace Requirements, which is attached to this Contract as **Exhibit 5**, incorporated herein, and made a part hereof.

11.3 If the Council is to compensate the Subcontractor on a basis other than a firm-fixed-price basis, the Council shall pay the Subcontractor only those costs that the Subcontractor incurred and that are deemed allowable, allocable and reasonable under the applicable Federal cost principles. The applicable Federal cost principles are set forth in OMB Circular A-122 (applicable to nonprofit institutions other than education institutions, hospitals or organizations named in OMB Circular A-122 as not subject to that circular), OMB Circular A-21 (applicable to institutions of higher education), Appendix E to 45 C.F.R. Part 74 (applicable to hospitals), or 48 C.F.R. Part 31 (applicable to commercial for-profit organizations other than a hospital or educational institution). The Subcontractor shall refund any sum of money that the Council or the Federal Agency determines not to have been incurred or to be an unallowable, unallocable or unreasonable cost under the applicable cost principles. Notwithstanding any other provision of this Contract, payment to the Subcontractor does not affect the right of the Council to disallow costs and recover funds on the basis of a later audit or other review, nor does it affect the Subcontractor's obligation to return any funds due as a result of later disallowances. The Subcontractor shall include terms similar to the terms contained in this Section 11.3 in any subcontracts and subagreements that provide for compensation on a basis other than a firm-fixed-price basis.

11.4 Pursuant to OMB Circular A-110 §___.48(d), the Council, the Federal Agency, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the Subcontractor that are directly pertinent to this Contract for the purpose of making audits, examinations, excerpts and transcriptions.

11.5 For the applicable clauses and provisions contained in the Federal Agreement, including any clauses from the Federal Acquisition Regulation or the agency supplement thereto ("FAR"), the terms "Government" and "Contracting Officer" or "Grants Officer" shall mean the "Council" and the Council's point of contact for this Contract, respectively, except as otherwise stated or where the context otherwise requires. In addition, the terms "Contractor", "Grantee" and "Recipient" shall mean the "Subcontractor", except as otherwise stated or where the context otherwise requires. In determining where such substitutions are or are not required by the context of the particular clause or provision in question, the interpretation will be adopted that best preserves the parties' mutual intention that their respective rights and obligations as between each other are to be coextensive with and equivalent to the rights and obligations existing as between the Federal Agency and the Council with respect to the Project, unless indicated otherwise.

12. INTERESTS OF THE PARTIES

12.1 Interest of the Subcontractor. The Subcontractor covenants that neither the Subcontractor, nor anyone now or hereafter controlled by the Subcontractor, controlling the Subcontractor, or under common control with the Subcontractor, nor their agents, employees or subcontractors, presently has an interest, nor shall acquire an interest, direct or indirect, that would conflict in any manner or degree with the performance of its service under this Contract, or that would prevent, or tend to prevent, the satisfactory performance of the Subcontractor's services under this Contract in an impartial manner. In the performance of this Contract, the Subcontractor shall not employ any person having any such interest as a agent, subcontractor, or otherwise. If the Subcontractor contemplates taking some action that may constitute a violation of this Section 12.1, the Subcontractor shall request in writing the advice of the Executive Director, and if the Executive Director shall notify the Subcontractor in writing that the Subcontractor's contemplated action will not constitute a violation of this Section 12.1, then the Subcontractor shall be authorized to take such action without being in violation of this Section.

12.2 Interest of Members of the Council and Others. No director, officer, member or employee of the Council ("Council representative") who exercises any function or responsibilities in the review or approval of the Project or any component part of the Project, or who has a member of his or her household or immediate family who exercise such function or responsibility ("relative"), shall participate in any decision relating to this Contract that affects the personal interests of such relative or the interest of any corporation, partnership or association in which such Council representative or relative is, directly or indirectly, interested; nor shall any such Council representative [*or relative*] have any interest, direct or indirect, in this Contract or the proceeds arising therefrom.

13. OFFICIALS NOT TO BENEFIT. No member of or delegate to the Congress of the United States of America, resident commissioner or employee of the United States Government shall be admitted to any share or part of this Contract or to any benefits that arise herefrom.

14. MISCELLANEOUS PROVISIONS

14.1 Independent Contractors. The parties are independent contractors with respect to each other, and nothing in this Contract shall, for federal, state or local tax purposes or for any purpose whatsoever, create any employer-employee relationship, association, partnership, joint

venture or agency relationship between the parties. All persons employed in connection with the Subcontractor's performance under this Contract shall, as between the Council and the Subcontractor, be the Subcontractor's employees. Accordingly, the Subcontractor shall have sole responsibility for the payment of all compensation to the Subcontractor's employees [**and subcontractors**] for the performance of the Services under this Contract, and all required federal, state and local taxes, workers compensation and other similar taxes or insurance on all payments made to the Subcontractor pursuant to this Contract. The Subcontractor will not be eligible for any benefits that the Council has or may grant to its employees, including, but not limited to, participation in any pension or profit sharing plans, unemployment insurance, life insurance, medical insurance, disability or other insurance, or fringe benefits of any kind. In addition, the Subcontractor shall pay all amounts due for materials and disbursements in connection with the Subcontractor's performance under this Contract. Neither party has any right or authority to assume or to create any obligation or responsibility on behalf of the other party. Both parties agree that the Subcontractor has sole and exclusive control over the manner and means utilized in performing the Services under this Contract.

[14.2 Force Majeure. Either party may terminate or suspend its obligations under this Contract if such obligations are delayed, prevented or rendered impossible or impractical by any of the following events to the extent such event is beyond the reasonable control of the party whose performance is prevented or rendered impossible or impractical: fire, flood, earthquake, civil commotion, insurrection, Act of God, labor disputes, strikes, curtailment of transportation facilities, war, shortage or inability to obtain material, supplies or utilities, economic factors that would make it impossible for the party to perform its obligations, any law, ordinance, rule or regulation that becomes effective after the date of the execution of this Contract, or other emergency making it inadvisable, illegal or impossible to perform its obligations hereunder. In any such event the nonperforming party shall provide written notice to the other of termination under this provision. The nonperforming party shall not be liable to the other party for delay or failure to perform its obligations, except there shall be a pro rata reduction in the consideration that would otherwise be payable or due under this Contract.]

14.3. Assignability. The Subcontractor shall not assign, sublet or transfer all or any portion of its interest or delegate its duties in this Contract without the prior written approval of the Executive Director or authorized agent.

14.4 Applicable Law. This Contract shall be deemed to have been executed and performed in the District of Columbia, and all questions of interpretation and construction shall be construed by the laws of such jurisdiction.

14.5 Notices. All notices required under this Contract shall be considered given when deposited in the U.S. mail, certified, return receipt requested, or other receipted method of delivery, addressed to the respective parties as follows:

The Council: Adam Petermann
Budget Director, ELPA21
Council of Chief State School Officers
One Massachusetts Avenue, NW
Suite 700
Washington, D.C. 20001

The Subcontractor: _____

14.6 Survival of Rights and Obligations. The following provisions shall survive the expiration or termination for any reason of this Contract: Sections 2.3, 3, 4, 5, 6.4, 7, 8, 9, 10, 11, and 14.

14.7. Entire Agreement. This Contract represents the entire agreement of the parties and supersedes any other understanding of the parties concerning the subject matter herein. There are no other representations, covenants, arrangements, or understandings, either written or oral, between the parties relating to the subject matter that are not fully expressed herein or have been relied upon in entering into this Contract. This Contract may be modified only by the written agreement of both parties.

14.8. Severability. All provisions of this Contract shall be severable, and no provision shall be affected by the invalidity of any other provision to the extent that such invalidity does not also render such other provision invalid. In the event of invalidity of a provision, this Contract shall be interpreted and enforced as if all provisions thereby rendered invalid were not contained in this Contract. If any provision of this Contract shall be susceptible of two interpretations, one of which would render the provision to be valid, such provision shall be deemed to have the meaning that would cause it to be valid.

14.9 Waiver and Modification. The waiver of a breach of any of the terms of this Contract or of any default under this Contract shall not be deemed a waiver of any subsequent breach or default, whether of the same or similar nature, and shall not in any way affect the other terms of this Contract. No waiver or modification shall be valid or binding unless in writing and signed by the waiving party.

14.10 Headings Not Controlling. Headings used in this Contract are for reference purposes only and shall not be deemed to be part of this Contract.

14.11 Counterparts. This Contract may be executed in two or more counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same document.

IN WITNESS WHEREOF, the parties have executed this Contract by their duly authorized representatives as of the day and year first above written.

[THE SUBCONTRACTOR'S FULL NAME]:

By: _____

Title: _____

Federal ID Number: _____

COUNCIL OF CHIEF STATE SCHOOL OFFICERS, INC.

By: _____

Title: _____

SAMPLE

EXHIBIT 1

STATEMENT OF WORK

[Provide detailed description of Services, including any applicable dates for delivery of segments of the Project.]

[Include all details of the Services and/or attach proposal from the Subcontractor.]

SAMPLE

EXHIBIT 2

SUBCONTRACTOR'S LINE-ITEM BUDGET

[required only for cost-reimbursement contracts]

SAMPLE

EXHIBIT 3

FEDERAL AGREEMENT

[Attach copy of Federal Agreement or terms of Federal Agreement applicable to Contract with Subcontractor]

SAMPLE

EXHIBIT 4

Appendix A to OMB Circular A-110—Contract Provisions

The Subcontractor shall comply with the applicable provisions of the statutes, regulations and other requirements referenced in the following clauses:

1. *Equal Employment Opportunity*-All contracts must contain a provision requiring compliance with E.O. 11246-Equal Employment Opportunity, as amended by E.O. 11375-Amending Executive Order 11246 Relating to Equal Employment Opportunity, and as supplemented by regulations at 41 CFR Part 60-Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.

2. *Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)*-All contracts and subgrants in excess of \$2,000 for construction or repair awarded by recipients and subrecipients must include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR Part 3-Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

3. *Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)*-When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR Part 5-Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

4. *Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)*-Where applicable, all contracts awarded by recipients in excess of \$2,000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers must include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR Part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in

the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. *Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.)*, as amended-Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to ED and the Regional Office of the Environmental Protection Agency (EPA).

6. *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)*-Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. The disclosures are forwarded from tier to tier up to the recipient.

7. *Debarment and Suspension (E.O. 12549 and E.O. 12689)*-No contract may be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O. 12549 and E.O. 12689-Debarment and Suspension. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold must provide the required certification regarding its exclusion status and that of its principal employees.

EXHIBIT 5

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

The Subcontractor should refer to the regulations cited below to determine the certification to which they are required to attest. The Subcontractor should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, New Restrictions on Lobbying, and 34 CFR Part 85, Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants), or such similar and regulations adopted by the Federal Agency. The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Council determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the Subcontractor certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, Disclosure Form to Report Lobbying, in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110-

A. The Subcontractor certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of

embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the Subcontractor is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The Subcontractor certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about-

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

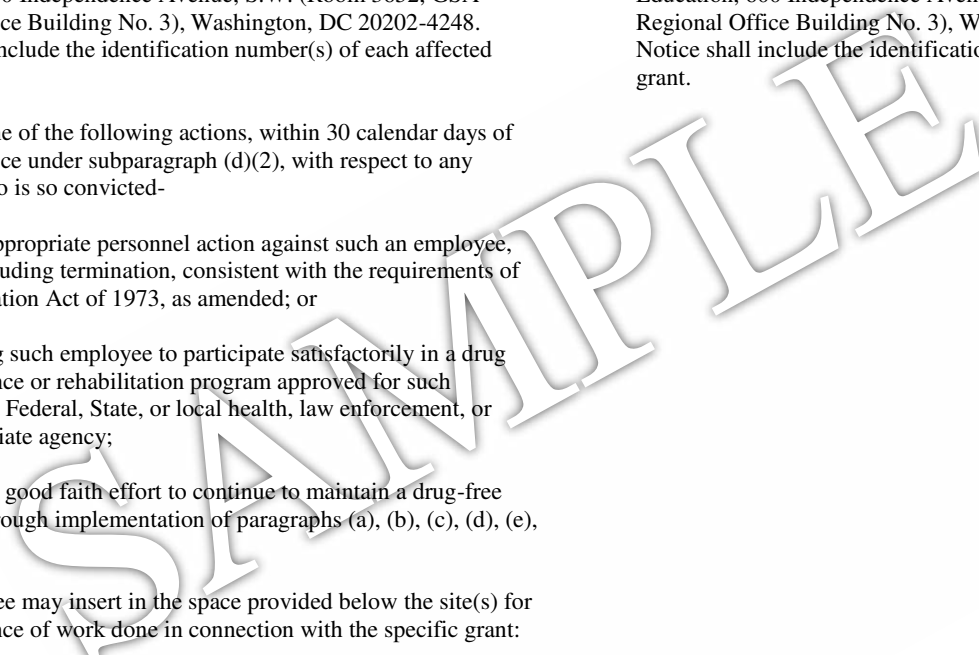
Place of Performance (Street address, city, county, state, zip code)

**DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 600 Independence Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.



Check if there are workplaces on file that are not identified here.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF SUBCONTRACTOR	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

SAMPLE