

Bloomboard, Inc. Statement of Agreement
CONTRACT
RFP#2013-01

This Agreement ("Agreement") is entered into as of May 6, 2013 ("Effective Date") and will end on July 15, 2015, by and between the State of Delaware, Department of Education, hereafter referred to as DDOE, and BloomBoard, Inc. hereafter referred to as BBI.

WHEREAS, DDOE desires to obtain a web-based solution to enable Delaware's schools and districts to manage educator evaluations, to include goal-setting and professional development linkages where appropriate; and

WHEREAS, BBI desires to provide such solution (the "Bloomboard Platform Services") to DDOE on the terms set forth below;

WHEREAS, DDOE and BBI represent and warrant that each party has full right, power and authority to enter into and perform under this Agreement;

FOR AND IN CONSIDERATION OF the premises and mutual agreements herein, DDOE and BBI agree as follows:

1. Services.

1.1 BBI shall perform for DDOE the services specified in the Appendices to this Agreement, attached hereto and made a part hereof, and in connection therewith, will provide the DDOE access to the online specialized learning management platform for professional development implementation, continuous coaching and teacher observation, as made available by BBI from time to time at apps.bloomboard.com or other designated web sites or IP addresses, through the use of BBI's proprietary software (including associated documentation made available to DDOE in written form or online) ("Bloomboard Platform Services").

1.2 Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) the Statement of Work and Payment Schedule attached hereto as Appendix A and Appendix B, (c) DDOE's request for proposals, attached hereto as Appendix C; and (d) BBI's response to the request for proposals, attached hereto as Appendix D; (e) BBI's Terms of Service and Terms of Conditions hereto attached as Appendix E. The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

1.3 DDOE may, at any time, by written order ("Change Order" or "Amendment"), make changes in the scope of this Agreement and in the services or work to be performed. No services for which additional compensation may be charged by BBI shall be furnished without the written authorization of DDOE. When DDOE desires any addition or deletion to the deliverables or a change in the Services to be provided under this Agreement, it shall notify BBI, who shall then submit to DDOE a "Change Order or Amendment" for approval authorizing said change. The Change Order or Amendment shall state whether the change shall cause an alteration in the price or the time required by BBI for any aspect of its performance under this Agreement. Pricing of changes shall be consistent with those established within this Agreement. The Change Order or Amendment must be accepted in writing by both parties before taking effect.

1.4 BBI will not be required to make changes to its scope of work that result in BBI's costs exceeding the current unencumbered budgeted appropriations for the services. Any claim of either party for an adjustment under Section 1 of this Agreement shall be asserted in the manner specified in the writing that authorizes the adjustment.

2. Payment for Services and Expenses.

2.1 The term of the initial contract shall be from May 6, 2013 through July 15, 2015.

2.2 DDOE will pay BBI for the Bloomboard Platform Services and the performance of services described in Appendix A, Statement of Work. The fee will be paid in accordance with the payment schedule attached hereto as part of Appendix B.

2.3 DDOE's obligation to pay BBI for the performance of services described in Appendix A, Statement of Work will not exceed the fixed fee amount of \$130,000. It is expressly understood that the work defined in the appendices to this Agreement must be completed by BBI and it shall be BBI's responsibility to ensure that hours and tasks are properly budgeted so that all services are completed for the agreed upon fixed fee. DDOE's total liability for all charges for services that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in DDOE's purchase order(s) to BBI.

2.4 BBI shall submit monthly invoices to DDOE in sufficient detail to support the services provided during the previous month. DDOE agrees to pay those

invoices within thirty (30) days of receipt. In the event DDOE disputes a portion of an invoice, DDOE agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide BBI a detailed statement of DDOE's position on the disputed portion of the invoice within thirty (30) days of receipt. DDOE's failure to pay any amount of an invoice that is not the subject of a good-faith dispute within thirty (30) days of receipt shall entitle BBI to charge interest on the overdue portion at no more than 1.0% per month or 12% per annum. All payments should be sent to BBI, 233 Addison Avenue, Palo Alto, CA 94301.

2.5 Unless provided otherwise in an Appendix, all expenses incurred in the performance of the services are to be paid by BBI. If an Appendix specifically provides for expense reimbursement, BBI shall be reimbursed only for reasonable expenses incurred by BBI in the performance of the services, including, but not necessarily limited to, travel and lodging expenses, communications charges, and computer time and supplies.

2.6 DDOE is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from any related deficiency, which may become due and payable as a consequence of this Agreement.

2.7 DDOE shall subtract from any payment made to BBI all damages, costs and expenses caused by BBI's negligence, resulting from or arising out of errors or omissions in BBI's work products that DDOE is entitled to as determined by the court, or as mutually agreed upon by the parties, or as determined via a mutually agreed upon process, which have not been previously paid to BBI.

2.8 Invoices shall be submitted to:

Michelle L. Kriss
Teacher & Leader Effectiveness Unit
Delaware Department of Education
401 Federal Street, Suite #2
Dover, DE 19901-3639

3. Responsibilities of BBI.

3.1 BBI shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by BBI, its subcontractors and its and their principals, officers, employees and agents under this Agreement. In performing the specified services, BBI shall follow practices

consistent with generally accepted professional and technical standards. BBI shall be responsible for ensuring that all services, products and deliverables furnished pursuant to this Agreement comply with the standards promulgated by the Department of Technology and Information ("DTI") published at <http://dti.delaware.gov/>, and as modified from time to time by DTI during the term of this Agreement; if such modification imposes significant additional obligations on BBI or substantially impacts BBI, BBI may terminate this Agreement upon written notice to DDOE. If any service, product or deliverable furnished pursuant to this Agreement does not conform with DTI standards, BBI shall, at its expense and option either (1) replace it with a conforming equivalent, or (2) modify it to conform with DTI standards. BBI shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to DDOE caused by BBI's failure to ensure compliance with DTI standards.

3.2 It shall be the duty of the BBI to assure that all products of its effort are technically sound and in conformance with all pertinent Federal, State and Local statutes, codes, ordinances, resolutions and other regulations. BBI will not produce a work product that violates or infringes on any copyright or patent rights. BBI shall, upon written notice from DDOE, and without additional compensation, correct or revise any errors or omissions in its work products.

3.3 Permitted or required approval by DDOE of any products or services furnished by BBI shall not in any way relieve BBI of responsibility for the professional and technical accuracy and adequacy of its work. DDOE's review, approval, acceptance, or payment for any of BBI's services herein shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and BBI shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to DDOE caused by BBI's performance or failure to perform under this Agreement.

3.4 BBI shall appoint a Project Manager who will manage the performance of services. All of the services specified by this Agreement shall be performed by the Project Manager, or by BBI's associates and employees under the personal supervision of the Project Manager. The positions anticipated include:

Project Team	Title	% of Project Involvement
Jason Lange BBI	CEO	4%

3.5 Designation of persons for each position is subject to review and approval

by DDOE. Should the staff need to be diverted off the project for what are now unforeseeable circumstances, BBI will notify DDOE immediately and work out a transition plan that is acceptable to both parties, as well as agree to an acceptable replacement plan to fill or complete the work assigned to this project staff position. Replacement staff persons are subject to review and approval by DDOE. If BBI fails to make a required replacement within 30 days, DDOE may terminate this Agreement for default. Upon receipt of written notice from DDOE that an employee of BBI is unsuitable to DDOE for good cause, BBI shall remove such employee from the performance of services and substitute in his/her place a suitable employee.

3.6 BBI shall furnish to DDOE's designated representative copies of all correspondence to regulatory agencies for review prior to mailing such correspondence.

3.7 BBI agrees that its officers and employees will cooperate with DDOE in the performance of services under this Agreement and will be available for consultation with DDOE at such reasonable times with advance notice as to not conflict with their other responsibilities.

3.8 BBI has or will retain such employees as it may need to perform the services required by this Agreement. Such employees shall not be employed by the State of Delaware or any other political subdivision of the State.

3.9 BBI will not use DDOE's name, either express or implied, in any of its advertising or sales materials without DDOE's express written consent.

3.10 The rights and remedies of DDOE provided for in this Agreement are in addition to any other rights and remedies provided by law.

4. Time Schedule.

4.1 A project schedule is included in Appendix A.

4.2 Any delay of services or change in sequence of tasks must be approved in writing by DDOE.

4.3 In the event that BBI fails to complete the project or any phase thereof within the time specified in the Contract, or with such additional time as may be granted in writing by DDOE, or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this Agreement or any extensions thereof, DDOE shall suspend the

payments scheduled as set forth in Appendix B.

5. State Responsibilities.

5.1 In connection with BBI's provision of the Services, DDOE shall perform those tasks and fulfill those responsibilities specified in the appropriate Appendices.

5.2 DDOE agrees that its officers and employees will cooperate with BBI in the performance of services under this Agreement and will be available for consultation with BBI at such reasonable times with advance notice as to not conflict with their other responsibilities.

5.3 The services performed by BBI under this Agreement shall be subject to review for compliance with the terms of this Agreement by DDOE's designated representatives. DDOE representatives may delegate any or all responsibilities under the Agreement to appropriate staff members, and shall so inform BBI by written notice before the effective date of each such delegation.

5.4 The review comments of DDOE's designated representatives may be reported in writing as needed to BBI. It is understood that DDOE's representatives' review comments do not relieve BBI from the responsibility for the professional and technical accuracy of all work delivered under this Agreement.

5.5 DDOE shall, without charge, furnish to or make available for examination or use by BBI as it may request, any data which DDOE has available, including as examples only and not as a limitation:

- a. Copies of reports, surveys, records, and other pertinent documents;
- b. Copies of previously prepared reports, job specifications, surveys, records, ordinances, codes, regulations, other document, and information related to the services specified by this Agreement.

BBI shall return any original data provided by DDOE.

5.6 DDOE shall assist BBI in obtaining data on documents from public officers or agencies and from private citizens and business firms whenever such material is necessary for the completion of the services specified by this Agreement.

5.7 BBI will not be responsible for accuracy of information or data supplied by DDOE or other sources to the extent such information or data would be relied

upon by a reasonably prudent contractor.

5.8 DDOE agrees not to use BBI's name, either express or implied, in any of its advertising or sales materials. BBI reserves the right to reuse the nonproprietary data and the analysis of industry-related information in its continuing analysis of the industries covered.

6. Work Product.

6.1 Except for the Retained IP (defined below), all materials, information, documents, and reports, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by BBI for DDOE relating to the services to be performed hereunder ("Work Product") shall become the property of DDOE and shall be delivered to DDOE's designated representative upon completion or termination of this Agreement, whichever comes first. BBI shall not be liable for damages, claims, and losses arising out of any reuse of any work products on any other project conducted by DDOE. DDOE shall have the right to reproduce all documentation supplied pursuant to this Agreement.

6.2 BBI retains all title and interest to (i) its trademarks, trade names, domain names and logos (including but not limited to BloomBoard, FormativeLearning and FormativeTeaching); (ii) the Bloomboard Platform Services, which include audio and visual information, documents, software, and other works of authorship, and other technology, hardware, products, processes, algorithms, user interfaces, know-how and other trade secrets, techniques, designs, inventions, and other tangible or intangible technical material or information used to provide the Bloomboard Platform Services, and all derivative works thereof("Retained IP").

6.3 In no event shall BBI be precluded from developing for itself, or for others, materials that are competitive with the Deliverables, irrespective of their similarity to the Deliverables. In addition, BBI shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques within the scope of its consulting practice that are used in the course of providing the services.

6.4 Notwithstanding anything to the contrary contained herein or in any attachment hereto, any and all intellectual property or other proprietary data owned by BBI prior to the effective date of this Agreement or developed outside the scope of this Agreement ("Preexisting Information") shall remain the exclusive property of BBI even if such Preexisting Information is embedded or otherwise incorporated into materials or products first produced as a result of

this Agreement or used to develop such materials or products. DDOE's rights under this section shall not apply to any Preexisting Information or any component thereof regardless of form or media.

6.5 License Grants. Subject to the terms and conditions of the Agreement, BBI grants DDOE and its Users a non-exclusive, non-transferable, non-sublicenseable right during the Service Term to access and use the Bloomboard Platform Service for the purpose for which it is made available to DDOE and otherwise in accordance with these Terms.

6.6 Restrictions. DDOE shall not (i) modify, copy or make derivative works based on the Bloomboard Platform Service; (ii) disassemble, reverse engineer, or decompile any of the Bloomboard Platform Service; or (iii) create Internet "links" to or from the Bloomboard Platform Service, or "frame" or "mirror" any of BBI's content which forms part of the Bloomboard Platform Service (other than on DDOE's own internal intranets).

6.7 Suggestions, Ideas and Feedback. BBI shall have the unrestricted right to use or act upon any suggestions, ideas, enhancement requests, feedback, recommendations, or other information provided by DDOE or any other party relating to the Service to the extent it does not constitute Confidential Information of DDOE.

7. Confidential Information.

To the extent permissible under 29 *Del. C.* § 10001, et seq., the parties to this Agreement shall preserve in strict confidence any information, reports or documents obtained, assembled or prepared in connection with the performance of this Agreement.

8. Warranty.

8.1 BBI warrants that its services will be performed in a good and workmanlike manner. BBI agrees to re-perform any work not in compliance with this warranty brought to its attention within a reasonable time after that work is performed, except for the Bloomboard Platform Services, which has its own remedy as set forth in the SLA. BBI warrants that the Bloomboard Platform Services will perform the functionalities set forth in the Statement of Work and meet the standards set forth in the Service Level Agreement ("SLA") which forms a part of the Statement of Work.

8.2 Third-party products within the scope of this Agreement are warranted

solely under the terms and conditions of the licenses or other agreements by which such products are governed. With respect to all third-party products and services purchased by BBI for DDOE in connection with the provision of the Services, BBI shall pass through or assign to DDOE the rights BBI obtains from the manufacturers and/or vendors of such products and services (including warranty and indemnification rights), all to the extent that such rights are assignable.

9. Indemnification; Limitation of Liability.

9.1 BBI shall indemnify and hold harmless the State, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of (A) the negligence or other wrongful conduct of the BBI, its agents or employees, or (B) BBI's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that (i) BBI shall have been notified promptly in writing by DDOE of any notice of such claim; and (ii) BBI shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.

9.2 If DDOE promptly notifies BBI in writing of a third party claim against DDOE that any Deliverable infringes a copyright or a trade secret of any third party, BBI will defend such claim at its expense and will pay any costs or damages that may be finally awarded against DDOE. BBI will not indemnify DDOE, however, if the claim of infringement is caused by (1) DDOE's misuse or modification of the Deliverable; (2) DDOE's failure to use corrections or enhancements made available by BBI; (3) DDOE's use of the Deliverable in combination with any product or information not owned or developed by BBI; (4) DDOE's distribution, marketing or use for the benefit of third parties of the Deliverable or (5) information, direction, specification or materials provided by DDOE or any third party. If any Deliverable is, or in BBI's opinion is likely to be, held to be infringing, BBI shall at its expense and option either (a) procure the right for DDOE to continue using it, (b) replace it with a non-infringing equivalent, (c) modify it to make it non-infringing. The foregoing remedies constitute DDOE's sole and exclusive remedies and BBI's entire liability with respect to infringement.

9.3 DDOE agrees that BBI's total liability to DDOE for any and all damages whatsoever arising out of or in any way related to this Agreement from any cause, including but not limited to contract liability or BBI negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed fees paid to BBI.

In no event shall BBI be liable for special, indirect, incidental, economic, consequential or punitive damages, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of software or any portion thereof regardless of the legal theory under which such damages are sought, and even if BBI has been advised of the likelihood of such damages.

10. Employees.

10.1 BBI has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by BBI in the performance of the services hereunder; provided, however, that it will, subject to scheduling and staffing considerations, attempt to honor DDOE's request for specific individuals.

10.2 Except as the other party expressly authorizes in writing in advance, neither party shall solicit, offer work to, employ, or contract with, whether as a partner, employee or independent contractor, directly or indirectly, any of the other party's Personnel during their participation in the services or during the twelve (12) months thereafter. For purposes of this Section 10.2, "Personnel" includes any individual or company a party employs as a partner, employee or independent contractor and with which a party comes into direct contact in the course of the services.

10.3 Possession of a Security Clearance, as issued by the Delaware Department of Public Safety, may be required of any employee of BBI who will be assigned to this project.

11. Independent Contractor.

11.1 It is understood that in the performance of the services herein provided for, BBI shall be, and is, an independent contractor, and is not an agent or employee of DDOE and shall furnish such services in its own manner and method except as required by this Agreement. BBI shall be solely responsible for, and shall indemnify, defend and save DDOE harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.

11.2 BBI acknowledges that BBI and any subcontractors, agents or employees employed by BBI shall not, under any circumstances, be considered employees

of DDOE, and that they shall not be entitled to any of the benefits or rights afforded employees of DDOE, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits. DDOE will not provide or pay for any liability or medical insurance, retirement contributions or any other benefits for or on behalf of DDOE or any of its officers, employees or other agents.

11.3 BBI shall be responsible for providing liability insurance for its personnel.

11.4 As an independent contractor, BBI has no authority to bind or commit DDOE. Nothing herein shall be deemed or construed to create a joint venture, partnership, fiduciary or agency relationship between the parties for any purpose.

12. Suspension. After the first twelve months from Effective Date:

12.1 DDOE may suspend performance under this Agreement for such period of time as DDOE, at its sole discretion, may prescribe by providing written notice to BBI at least 30 working days prior to the date on which DDOE wishes to suspend. Upon such suspension, DDOE shall pay BBI its compensation, based on the percentage of the project completed and earned until the effective date of suspension, less all previous payments. BBI shall not perform further work under this Agreement after the effective date of suspension. BBI shall not perform further work under this Agreement after the effective date of suspension until receipt of written notice from DDOE to resume performance.

12.2 In the event DDOE suspends performance by BBI for any cause other than the error or omission of BBI, for an aggregate period in excess of 30 days, BBI shall be entitled to terminate this Agreement, and be entitled to an equitable adjustment of the compensation payable to BBI under this Agreement to reimburse BBI for additional costs occasioned as a result of such suspension of performance by DDOE based on appropriated funds and approval by DDOE.

13. Termination.

13.1 This Agreement may be terminated in whole or in part by either party in the event of substantial failure of the other party to fulfill its obligations under this Agreement through no fault of the terminating party; but only after the other party is given:

- a. Not less than 30 calendar days written notice of intent to

- terminate; and
- b. An opportunity for consultation with the terminating party prior to termination and to cure the breach during the notice period.

13.2 This Agreement may be terminated in whole or in part by DDOE for its convenience after the first twelve months from Effective Date, but only after BBI is given:

- a. Not less than 30 calendar days written notice of intent to terminate; and
- b. An opportunity for consultation with DDOE prior to termination.

13.3 If termination for default is effected by DDOE, DDOE will pay BBI that portion of the compensation which has been earned as of the effective date of termination but:

- a. No amount shall be allowed for anticipated profit on performed or unperformed services or other work, and
- b. Any payment due to BBI at the time of termination may be adjusted to the extent of any additional costs occasioned to DDOE by reason of BBI's default.
- c. BBI will transfer to DDOE all DDOE Data via FTP, and DDOE is free to take the DDOE Data to another service provider for hosting, storage, or any other arrangement. In the event BBI shall cease conducting business, DDOE shall have the right to make an unsolicited offer of employment to any employees of BBI assigned to the performance of the Agreement, notwithstanding the provisions of Section 10.2.

13.4 If after termination for failure of BBI to fulfill contractual obligations it is determined that BBI has not so failed, the termination shall be deemed to have been effected for the convenience of DDOE, provided that the termination occurs after the first twelve months from the Effective Date of the Agreement.

13.5 The rights and remedies of DDOE and BBI provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.

13.6 Gratuities.

- 13.6.1 DDOE may, by written notice to BBI, terminate this Agreement if it is found after notice and hearing by DDOE that gratuities (in the

form of entertainment, gifts, or otherwise) were offered or given by BBI or any agent or representative of BBI to any officer or employee of DDOE with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this Agreement.

13.6.2 In the event this Agreement is terminated as provided in 13.6.1 hereof, DDOE shall be entitled to pursue the same remedies against BBI it could pursue in the event of a breach of this Agreement by BBI.

13.6.3 The rights and remedies of DDOE provided in Section 13.6 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

14. Severability.

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

15. Assignment; Subcontracts.

15.1 Any attempt by BBI to assign or otherwise transfer any interest in this Agreement without the prior written consent of DDOE shall be void. Such consent shall not be unreasonably withheld. In the event BBI requests DDOE's consent for BBI to assign this Agreement to the purchaser of all or substantially all of BBI's assets, DDOE will consent or reject such assignment within seven (7) calendar days. In the event DDOE rejects such assignment, this Agreement will automatically terminate on the 7th day after BBI's date of request.

15.2 Services specified by this Agreement shall not be subcontracted by BBI, without prior written approval of DDOE.

15.3 Approval by DDOE of BBI's request to subcontract or acceptance of or payment for subcontracted work by DDOE shall not in any way relieve BBI of

responsibility for the professional and technical accuracy and adequacy of the work. All subcontractors shall adhere to all applicable provisions of this Agreement.

15.4 BBI shall be and remain liable for all damages to DDOE caused by negligent performance or non-performance of work under this Agreement by BBI, its subcontractor or its sub-subcontractor.

15.5 The compensation due shall not be affected by DDOE's approval of the BBI's request to subcontract.

16. Force Majeure.

Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.

17. Non-Appropriation of Funds.

17.1 Validity and enforcement of this Agreement is subject to appropriations by the General Assembly of the specific funds necessary for contract performance. Should such funds not be so appropriated DDOE may immediately terminate this Agreement, and absent such action this Agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available, at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

17.2 Notwithstanding any other provisions of this Agreement, this Agreement shall terminate and DDOE's obligations under it shall be extinguished at the end of the fiscal year in which the State of Delaware fails to appropriate monies for the ensuing fiscal year sufficient for the payment of all amounts which will then become due.

18. State of Delaware Business License.

BBI and all subcontractors represent that they are properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* § 2301.

19. Complete Agreement.

19.1 This agreement and its Appendices shall constitute the entire agreement between DDOE and BBI with respect to the subject matter of this Agreement and

shall not be modified or changed without the express written consent of the parties. The provisions of this agreement supersede all prior oral and written quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement.

19.2 If the scope of any provision of this Agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the Agreement shall not thereby fail, but the scope of such provision shall be curtailed only to the extent necessary to conform to the law.

19.3 BBI may not order any product requiring a purchase order prior to DDOE's issuance of such order. Each Appendix, except as its terms otherwise expressly provide, shall be a complete statement of its subject matter and shall supplement and modify the terms and conditions of this Agreement for the purposes of that engagement only. No other agreements, representations, warranties or other matters, whether oral or written, shall be deemed to bind the parties hereto with respect to the subject matter hereof.

20. Miscellaneous Provisions.

20.1 In performance of this Agreement, BBI shall comply with all applicable federal, state and local laws, ordinances, codes and regulations. BBI shall solely bear the costs of permits and other relevant costs required in the performance of this Agreement.

20.2 Neither this Agreement nor any appendix may be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

20.3 The delay or failure by either party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

20.4 BBI covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. BBI further covenants, to its knowledge and ability, that in the performance of said

services no person having any such interest shall be employed.

20.5 BBI acknowledges that DDOE has an obligation to ensure that public funds are not used to subsidize private discrimination. BBI recognizes that if they refuse to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, DDOE may declare BBI in breach of the Agreement, terminate the Agreement, and designate BBI as non-responsible.

20.6 BBI warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, DDOE shall have the right to annul this contract without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

20.7 This Agreement was drafted with the joint participation of both parties and shall be construed neither against nor in favor of either, but rather in accordance with the fair meaning thereof.

20.8 BBI shall maintain all public records, as defined by 29 *Del. C.* § 502(7), relating to this Agreement and its deliverables for the time and in the manner specified by the Delaware Division of Archives, pursuant to the Delaware Public Records Law, 29 *Del. C.* Ch. 5. During the term of this Agreement, authorized representatives of DDOE may inspect or audit BBI's performance and records pertaining to this Agreement at the BBI business office during normal business hours.

21. Insurance.

21.1 BBI shall maintain the following insurance during the term of this Agreement:

- A. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, **and**
- B. Comprehensive General Liability - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate, **and**
- C. Medical/Professional Liability - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate; or
- D. Miscellaneous Errors and Omissions - \$1,000,000.00 per

occurrence/\$3,000,000 per aggregate, or

- E. Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.

21.2. BBI shall provide forty-five (45) days written notice of cancellation or material change of any policies.

21.3. Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the contract number stated herein, shall be filed with the State. The certificate holder is as follows:

Delaware Department of Education
401 Federal Street, Suite 2
Dover, DE 19901

21.4. In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.

22. Assignment of Antitrust Claims.

As consideration for the award and execution of this contract by the State, BBI hereby grants, conveys, sells, assigns, and transfers to DDOE all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, relating to the particular goods or services purchased or acquired by the State pursuant to this contract.

23. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. BBI consents to jurisdiction venue in the State of Delaware.

24. Notices.

Any and all notices required by the provisions of this Agreement shall be in writing and shall be mailed, certified or registered mail, return receipt requested.

All notices shall be sent to the following addresses:

CONTRACTOR: Jason Lange
CEO and President
Formative Learning, Inc. (dba. BloomBoard)
233 Addison Avenue, Palo Alto, CA 94301
Phone: 230-675-9848

DDOE: Karen Field Rogers
Associate Secretary, Financial Reform & Resource Mgmt.
Delaware Department of Education
John G. Townsend Building
401 Federal Street, Suite 2
Dover, DE 19901
Phone No. (302) 735-4040
Fax No. (302) 739-7768

DOE Certificated Staff coordinating activity:
Eric Niebrzydowski

Next Page for Signatures.

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

Formative Learning, Inc. (dba
BloomBoard)

Original on File

Jason Lange
CEO and Co-Founder

5/6/13
Date

Delaware Department of Education

Original on File

Karen Field Rogers
Associate Secretary, Financial Reform &
Resource Management

5/6/13
Date

Original on File

Initial Finance Director

Christopher N. Ruszkowski
Chief Officer, Teacher & Leader
Effectiveness Unit

5/2/2013
Date

Original on File

Initial Work Group
Director

Appendix A - Statement of Work (Bloomboard DPAS-II Online Platform)

A. Year 1 Rollout (May 2013 – August 2013)

1. Onboarding Implementation – begins upon execution of this Agreement and ends June 2013. Deliverables of the Onboarding Implementation are:

- a. Communication Plan – DDOE and BBI will determine single points of contact to manage onboarding implementation process
 - i. DDOE and BBI will plan for weekly progress update calls of no less than one hour per week to coordinate the implementation process
 - ii. DDOE will inform BBI of any necessary integration points with existing DDOE / Delaware technology infrastructure, if applicable
- b. Identification of Year 1 Schools – DDOE will select which LEAs and/or schools will participate in the Year 1 Rollout and coordinate introductions to Lead LEA contacts
- c. Year 1 Users – BBI will work with DDOE to coordinate the delivery/finalization of all Year 1 observation protocols, processes and user rosters/relationships
 - i. BBI will require two weeks of time to input all of the observation, rubric and user data into the system for the Year 1 Rollout accounts—this shall begin at the discretion of DDOE and is currently scheduled for May 6, 2013.

2. Training (May 2013 and as needed through July 2013)

- a. Definitive Training and Deployment Plan – DDOE and BBI will create an agreed upon training and rollout plan to include modality and schedules of initial implementation trainings—this plan shall be created no later than June 2013
- b. DDOE Leadership and Lead LEA Contacts Trainings – In-person trainings to be scheduled for mutually agreeable dates in July and/or August 2013
- c. Initial Principal and Teacher Trainings – online webinar-based trainings to be facilitated by BBI DDOE Support team to be scheduled with each Year 1 LEA
- d. Ongoing Training – online webinar-based trainings to be facilitated by BBI DDOE Support team to be scheduled at a mutually agreeable time, as necessary

3. Deployment and Support (Ongoing)

- a. Service Level Agreement – BBI agrees to provide service and support escalation as defined in the SLA, incorporated herein by reference
- b. Ongoing DDOE Support – BBI will provide ongoing customer support through our toll-free support line during regular business hours (9am – 8pm EST, Monday through Friday), as well as ongoing email support through the BloomBoard Help Desk
- c. Ongoing Progress Monitoring – DDOE and BBI will coordinate weekly check-in calls to monitor Year 1 Rollout implementation / progress and discuss relevant issues
- d. Data Monitoring – BBI will provide premium dashboard analytics to DDOE and Lead LEA contacts to monitor ongoing usage, observation status and implementation data

- i. BBI will work with DDOE to build any reporting dashboards that DDOE deems necessary and in accordance with the associated fee attributed to this service as defined in Appendix B.
 - 4. Focus Group Evaluation, Debrief, and Retrospective (June-July 2013)
 - a. Focus Group Evaluation and Debrief – DDOE and BBI will coordinate the delivery of surveys to Year 1 Rollout users to assess success and potential improvements of the Year 1 Rollout period
 - b. Adjustments and Refinements – DDOE and BBI will work to implement configuration and implementation changes as necessary—to be implemented no later than August 12, 2013.
 - i. Changes requiring additional engineering development will require DDOE to submit a Change Order as outlined below
- B. Year 2 Rollout (June 2013 – July 2014)
 - 1. Rollout Preparation (June 2013)
 - a. Integration Planning
 - i. DDOE will inform BBI of any necessary integration points with existing DDOE / Delaware technology infrastructure, if applicable
 - b. Component V Finalization
 - i. DDOE will work with BBI to determine core requirements for Component V, which will begin earlier in 2013 upon request of DDOE, and will submit a Change Request if requirements are outside of the scope of this Agreement
 - 2. Onboarding Implementation (June 2013 – August 2014)
 - a. Communication Plan
 - i. DDOE and BBI will plan for weekly progress update calls of no less than one hour per week to coordinate the implementation process
 - b. Identification of Year 2 Rollout Schools – DDOE will select which LEA and/or schools are to participate in the Year 2 Rollout and coordinate introductions to Lead LEA contacts—no later than July 3, 2013.
 - c. Pilot Users – BBI will work with DDOE to coordinate the delivery/finalization of all Year 2 Rollout observation protocols, processes and user rosters/relationships
 - i. BBI will require two weeks of time to input all of the observation, rubric and user data into the system for the Year 2 Rollout accounts-- this shall begin at the discretion of DDOE and is currently scheduled for July 3, 2013.
 - 3. Training (June 2013 – July 2013, and as needed through July 2014)
 - a. Definitive Training and Deployment Plan – DDOE and BBI will create an agreed upon training and rollout plan to include modality and schedules of initial implementation trainings
 - b. DDOE Leadership and Lead LEA Contacts Trainings – In-person trainings to be scheduled, if necessary, for a mutually agreeable date in fall 2013
 - c. Initial Principal and Teacher Trainings – online webinar-based trainings to be facilitated by BBI DDOE Support team to be schedule with each pilot LEA

- d. Ongoing Training – online webinar-based trainings to be facilitated by BBI DDOE Support team to be schedule at a mutually agreeable time, as necessary
- 4. Deployment and Support (Ongoing)
 - a. Service Level Agreement – BBI agrees to provide service and support escalation as defined in the SLA incorporated herein by reference
 - b. Ongoing DDOE Support – BBI will provide ongoing customer support through our toll-free support line during regular business hours, as well as ongoing email support through the BloomBoard Help Desk
 - c. Ongoing Progress Monitoring – DDOE and BBI will coordinate weekly check-in calls to monitor Pilot implementation / progress and discuss relevant issues
 - d. Data Monitoring – BBI will provide premium dashboard analytics to DDOE and Lead LEA contacts to monitor ongoing usage, observation status and implementation data
 - i. BBI will work with DDOE to build any reporting dashboards that DDOE feels are necessary
- 5. Debrief and Retrospective (July 2014)
 - a. Pilot Evaluation and Debrief – DDOE and BBI will coordinate the delivery of surveys to Year 2 Rollout users to assess success and potential improvements of the system
 - b. Adjustments and Refinements – DDOE and BBI will work to implement configuration and implementation changes as necessary
 - i. Changes requiring additional engineering development will require DDOE to submit a Change Order as outlined below
- C. Year 3 Rollout (May 2014 – June 2015)
 - Same as Year 2 Rollout – incorporating additional feedback from Year 2 Rollout users.

BBI Service Level Agreement (SLA) Addendum

Availability: BBI warrants the Service will be generally available 99.9% of the time, except as provided below. General availability will be calculated per calendar month, as follows:

$$\left[\left(\frac{\text{total} - \text{nonexcluded} - \text{excluded}}{\text{total} - \text{excluded}} \right) * 100 \right] \geq 99.9\%$$

Where:

- *total* constitutes the total number of minutes for the month
- *nonexcluded* constitutes unplanned downtime
- *excluded* constitutes the following:
 - Planned downtime, which shall be any period for which BBI gives 8 hours or more notice that the Service will be unavailable. BBI will use commercially reasonable efforts to insure that planned downtime falls outside normal business hours (6:00 AM to 6:00 PM, Pacific Time, Monday through Friday).
 - Any period of unavailability lasting 15 minutes or less.

For any partial calendar month during which DDOE subscribes to the Service, general availability will be calculated based on the entire calendar month, not just the portion for which DDOE subscribed. In addition, unavailability of some specific features or functions within the Service, while others remain available, shall not constitute unavailability of the Service.

In the event that in a monthly period, the general availability falls below the levels set forth below and DDOE notifies BBI in writing within 30 days from the end of such month, DDOE as its sole and exclusive remedy, will be entitled to a credit as set forth below. The service credit is determined by applying the indicated percentage to the dollar amount of fees valued for the monthly period (calculated by dividing the amount of the yearly payments set forth in Appendix B by the number of months applicable to such fees). The credit will be aggregated and applied to reduce fees due for the next renewal term, if any. In the event the Agreement is not renewed, the credit may be used towards purchases of BBI's products and/or services offered on Formativelearning.com.

Below	But not below	Adjustment
-------	---------------	------------

99.9	99.8	1.0%
99.8	99.7	2.0%
99.7	99.6	3.0%
99.6	99.5	4.0%
99.5	99.4	5.0%

99.4	99.3	6.0%
99.3	99.2	7.0%
99.2	99.1	8.0%
99.1	----	9.0%

The penalties specified in this “Penalties” section shall be the sole remedies available to DDOE for breach of this SLA Addendum.

Transaction Response Time. Transaction response time will be measured from the time that the request is received at BBI’s server to the time it has begun to stream out the response. Transaction response time for DDOE’s Users will be as good as transaction response time for BBI’s other customers and will be no worse than the transaction response time experienced by Users before this Agreement is put in place. Upon DDOE’s notice of a non-conforming transaction response time, FLT, as its sole and exclusive liability, will bring the transaction response time into conformance within 5 business days after receiving DDOE’s notice.

Support. This is BBI’s current Support Policy. During the term, BBI may change its Support Policy to enhance its support services to its customers generally; in such event, DDOE will be entitled to the terms of the then-current Support Policy.

1. Scope of Support Services. Support Services for the Products include:

- Email access to BBI Support staff for reporting Product issues and to obtain assistance in the use of the Products (“**Support**”).
- Updates to the Products, which may include enhancements and improvements to the presently existing functionality and error corrections (collectively, “**Updates**”).
- Release notes and/or other documentation updates generally published by BBI.

2. General Support Policies

2.1. Error Corrections. BBI shall provide corrections, workarounds, or the like in accordance with the warranties in the Agreement (“**Error Correction(s)**”). If issues result from web-browser incompatibilities, BBI will provide Error Corrections to support only the most current version of supported web browsers.

2.2. Support Contacts. BBI will provide Support Services to DDOE’s identified central points of contact for the receipt of Support Services (“**System Administrator(s)**”). DDOE shall limit System Administrators for the Product to eight or fewer employees.

2.3. Issue Prioritization. BBI will use reasonable efforts to respond to reported defects in adherence to the following table:

Priority/Definition	Response
Severity Level 1 – Priority 0 (P0)	

Defect causes data corruption or system unavailability or otherwise prevents meaningful use of the Service.	Initial response within four (4) business hours following receipt.
Severity Level 2 – Priority 1 (P1)	
Defect prevents use of a critical feature of the Service.	Initial response within twenty-four (24) business hours following receipt.
Severity Level 3 – Priority 2 (P2)	
Defect prevents reasonable use of a feature, but does not prevent meaningful use of the Service.	Initial response within one (1) business day following receipt.
Severity Level 4 – Priority 3 (P3)	
Enhancement request.	Initial response within one (1) business day following receipt.

2.4. Issue Resolution. Upon DDOE's notice of a non-conforming response or resolution time, BBI, as its sole and exclusive liability, will bring the resolution time into conformance within 5 business days after receiving DDOE's notice.

2.5. Interface Support. BBI shall provide modifications to BBI-provided interfaces to ensure compatibility with Error Corrections and Updates to the Service. Substantial changes to the third party software or service for which the interface was developed is not part of Support Services and may require payment of additional fees, charged at BBI's then-current rates.

3. DDOE Responsibilities. In addition to payment of Support fees and its obligations described in the Agreement, DDOE must adhere to the following in order to be entitled to receive Support Services:

3.1. System Administrators. Unless otherwise described elsewhere in the Agreement, DDOE must appoint system administrators. System administrators must possess sufficient operational knowledge to interface effectively with BBI support personnel, and must attend applicable Product operational training classes. If DDOE's designated system administrator(s) are not able or willing to act as an effective liaison with BBI support, BBI may request a new system administrator(s) be appointed, and DDOE shall use reasonable efforts to accommodate such a request.

3.2. Support Request Duties. In receiving Support, DDOE will provide, as applicable and at its expense, such reasonable assistance as BBI requests, including without limitation: (i) adequate staff, (ii) usable and relevant test and conversion data, and other information; and (iii) access to any third-party services or networks required for the complete functioning of the Product

Reporting and Claims: To file a claim under this SLA Addendum, DDOE must send an email to support@bloomboard.com with the following details:

- Billing information, including DDOE's name and billing address, billing contact and billing contact phone number.
- Downtime information detailing the dates and time periods for each instance of downtime during the relevant calendar quarter.
- An explanation of the claim made under this SLA Addendum, including any relevant calculations.

All claims will be verified against BBI's system records. Should any down periods submitted by DDOE be disputed, BBI will provide to DDOE a record of Service availability for the period in question. The record provided by BBI shall be the definitive record. BBI will only provide records of system availability in response to valid DDOE claims, or at its discretion.

Appendix B: Payment Schedule and Deliverables

Payment by the DDOE. DDOE agrees to compensate BBI a maximum of \$130,000 for the services described in this Agreement.

Payment Schedule. Payments will occur under three (3) separate sets of deliverables and BBI shall invoice the DDOE according to the following payment schedule:

1. Bloomboard Platform Services – \$130,000

a. On May 20, 2013 – Year 1 Rollout Payment – \$45,000

i. This payment encompasses the following:

1. **Hosting and Enterprise Usage:** Enterprise usage for the DDOE with support and total software maintenance. This license provides for the use of features within the Bloomboard Platform Services modules. Also includes all necessary bandwidth allocation, hosting and data management, off site backup services with SSL certificate access at multiple secured and load balanced data centers.
2. **Set-Up & Configuration:** Standard Setup Package to implement the functionality identified for initial production usage by DDOE. Includes: bulk upload of client data, user configuration, reporting requirements, assemble templates, user security configuration, setup secondary instance for testing and training instance.
3. **Training Services:** Participation in regularly scheduled online training session. Additionally three (3) in-person training days will be scheduled for May 2013 and/or June 2013.
4. **Data Analytics License:** includes utilization of the BloomBoard data dashboards, real-time analytics of DDOE Data, and the creation of custom reports. DDOE and Year 1 Rollout participating LEAs will receive 20 Data Analytics Licenses, depending on demand for Year 1 Rollout.
5. **Optional Video Observation / Content Hosting:** Includes ability to add videos to observation processes, annotate videos with time-stamped commentary, and curate internal content (including video observations) for alignment within the resource marketplace – additional fees may apply depending on volume

b. On July 1, 2013 – Year 2 Rollout Payment – \$50,000

i. This payment encompasses the following:

1. **Hosting and Enterprise Usage:** Enterprise usage for the DDOE with support and total software maintenance. This license provides for the use of features within the Bloomboard Platform Services modules. Also includes all necessary bandwidth allocation, hosting and data management, off site backup services with SSL certificate access at multiple secured and load balanced data centers.
2. **Set-Up, Configuration, Maintenance and Integration:** Standard Setup Package to implement the functionality identified for initial production usage by DDOE. Includes: bulk upload of client data, user configuration, reporting requirements, assemble templates, user security configuration, setup secondary instance for testing and training instance.
3. **Training Services:** Participation in regularly scheduled online training session. Additionally five (5) in-person training days will be schedule between June 2013 and July 2013.
4. **Data Analytics License:** includes utilization of the BloomBoard data dashboards, real-time analytics of DDOE Data, and the creation of custom reports. DDOE and Year 2 Rollout participating LEAs will receive thirty (30) Data Analytics Licenses.
5. **Optional Video Observation / Content Hosting:** Includes ability to add videos to observation processes, annotate videos with time-stamped commentary, and curate internal content (including video observations) for alignment within the resource marketplace – additional fees may apply depending on volume

c. On April 1, 2014 – Year 3 Rollout Payment – \$35,000

i. This payment encompasses the following:

1. **Hosting and Enterprise Usage:** Enterprise usage for the DDOE with support and total software maintenance. This license provides for the use of features within the Bloomboard Platform Services modules. Also includes all necessary bandwidth

allocation, hosting and data management, off site backup services with SSL certificate access at multiple secured and load balanced data centers.

2. **Set-Up, Configuration, Maintenance and Integration:** Standard Setup Package to implement the functionality identified for initial production usage by DDOE. Includes: bulk upload of client data, user configuration, reporting requirements, assemble templates, user security configuration, setup secondary instance for testing and training instance.
3. **Data Analytics License:** includes utilization of the BloomBoard data dashboards, real-time analytics of DDOE Data, and the creation of custom reports. DDOE and Year 2 Rollout participating LEAs will receive thirty (30) Data Analytics Licenses.
4. **Optional Video Observation / Content Hosting:** Includes ability to add videos to observation processes, annotate videos with time-stamped commentary, and curate internal content (including video observations) for alignment within the resource marketplace – additional fees may apply depending on volume

Appendix C
REQUEST FOR PROPOSALS (RFP) FOR PROFESSIONAL SERVICES
TO PROVIDE A TECHNOLOGY-BASED EDUCATOR EVALUATION
MANAGEMENT SYSTEM (DPAS-II)

ISSUED BY DELAWARE DEPARTMENT OF EDUCATION
RFP # DOE 2013-01

I. Overview

The State of Delaware Department of Education, (DDOE) seeks a vendor to provide a technology-based educator evaluation management system that creates an online platform for practitioners and educational administrators responsible for implementing the state's DPAS-II (Delaware Performance Appraisal System). This request for proposals ("RFP") is issued pursuant to 29 *Del. C.* §§ 6981 and 6982.

The proposed schedule of events subject to the RFP is outlined below:

Public Notice	Date: June 29, 2012
Cut-off Date for Questions:	Date: July 9, 2012
Deadline for Receipt of Proposals	Date: July 19, 2012
Notification of Award	Date: August 3, 2012

Each proposal must be accompanied by a transmittal letter which briefly summarizes the proposing firm's interest in providing the required professional services. The transmittal letter must also clearly state and justify any exceptions to the requirements of the RFP which the applicant may have taken in presenting the proposal. Furthermore, the transmittal letter must attest to the fact that no activity related to this proposal contract will take place outside of the United States. The State of Delaware reserves the right to deny any and all exceptions taken to the RFP requirements.

II. Scope of Services

A. BACKGROUND INFORMATION

Delaware's Department of Education is committed to promoting the highest quality education for every Delaware student by providing visionary leadership and superior service. Therefore, within the next four years, Delaware will challenge its local education agencies to work together to achieve the following goals:

- 60% proficiency on the National Assessment of Educational Progress (NAEP) on Grade 4 Math; 55% proficiency on Grade 4 Reading, Grade 8 Math and Grade 8 Reading by 2015.
- Racial (black-white and Hispanic-white) and income (low income-high income) achievement gaps that close by half on NAEP by 2015.
- A No Child Left Behind graduation rate of 90% for the class entering high school in 2014.
- A college enrollment rate of 70% by 2014.
- A college retention rate of 85% by 2014, as measured by the percent of college students who complete at least one year of college credits within two years.

As a Round 1 winner of Race to the Top (RTTT) federal funds, Delaware is now implementing its four-year plan to become the best performing school system in the country. The State will achieve rapid, significant gains in student achievement through a strategy that builds upon the State's strong infrastructure for reform, including a rigorous statewide educator evaluation system, a state-of-the-art longitudinal data system, a cutting edge, computer adaptive system of formative and summative assessments, and more rigorous college and career pathways for students.

Delaware Performance Appraisal System II (DPAS-II) Overview and Process

The Delaware Performance Appraisal System II (DPAS-II) is Delaware's statewide educator evaluation system. As a statewide system, DPAS-II establishes consistent educator and student performance expectations and outcomes across all schools. There are two versions of DPAS-II: DPAS-II for Teachers and DPAS-II for Specialists. A third version, DPAS-II for Administrators, has been developed and is being revised at-present. The three main purposes of DPAS-II are to ensure and support educators' professional growth, to ensure continuous improvement of student outcomes, and to ensure quality educators are working in every school building and classroom.

The two principle features of DPAS-II are its conceptual framework, including the rubrics and indicators of performance, and the evaluation process. The activities in each step of the process generate the data used in the appraisal. An outline of the DPAS-II process steps are listed here below:

- (1) Student Growth Measures Selection
- (2) Pre-Observation Form and Conference
- (3) Observation
- (4) Post-Observation Conference

- (5) Levels of Performance Ratings
- (6) Formative Feedback Documentation
- (7) Summative Evaluation Conference
- (8) Summative Evaluation Documentation
- (9) Improvement Plans
- (10) Challenge(s)

Here are the DPAS-II process steps in greater detail:

- (1) Student Growth Measures Selection – there are special procedures in place for the 2011-2012 school year and for upcoming school years (2012-2013 and beyond)
- (2) Pre-Observation Form and Conference – provides the evaluator with information about the upcoming observation that may not be directly observable, allowing teachers’ and specialists’ time to clarify what the evaluator will be observing. This can also include additional documents, such as, lesson plans, diagrams, pictures, reports, and/or artifacts of student work.
- (3) Observation – provides a view of the teacher or specialist practice where observable evidence is collected and used to assess performance.
- (4) Post-Observation Conference – when the teacher or specialist and evaluator discuss evidence collected during the observation. Components 1, 2, 3, and 4 are discussed with the use of rubrics.
- (5) Levels of Performance Ratings – these are determined at the Post-Observation Conference. The Component Rubrics are used to focus this discussion. The teacher or specialist and evaluator should reach a common understanding of the teacher’s or specialist’s performance during the observation.
- (6) Formative Feedback Documentation – occurs after the Post-Observation Conference. The Formative Feedback Form documents what was observed then discussed at the conference.
- (7) Summative Evaluation Conference – occurs at the end of the evaluation cycle. The evaluator shares overall impressions of a teacher’s or specialist’s practice based on previously shared evidence, as well as, a summary of the teacher’s or specialist’s performance as it relates to all five (5) components.
- (8) Summative Evaluation Documentation – includes the evaluator’s ratings of the teacher’s or specialist’s performance in each component and an overall rating.
- (9) Improvement Plans – developed, if needed, to help teachers and specialists focus on areas where they need extra assistance to improve their practice.
- (10) Challenge (s) – sometimes a teacher or specialist will disagree with his or her evaluator’s assessment. It is desirable to resolve the differences directly with the evaluator, if at all possible, prior to a formal challenge. If a resolution cannot be reached, the teacher or specialist may submit a written challenge to the evaluator’s supervisor.

To determine workflow and recommended timing, refer to the Appraisal Cycle charts in the guides listed below to determine who is responsible for completing specific activities in the DPAS-II process:

- *DPAS-II Guide for Teachers, Page 40*
<http://www.doe.k12.de.us/csa/dpasii/ti/DPASII TeachFullGuide.pdf>

- *DPAS-II Guide for Specialists, Page 27*
<http://www.doe.k12.de.us/csa/dpasii/specialist/DPASIIISpecFullGuide.pdf>

The Guides will also give an overview of a Novice Teacher/Specialist and an Experienced Teacher/Specialist. Each group has different requirements concerning the number of formative and summative evaluations.

B. OVERVIEW OF SERVICES REQUESTED

The Delaware Department of Education (DDOE) is currently seeking proposals from providers interested in providing a technology-based evaluation management system for the Delaware Performance Appraisal System I (DPAS-II). The following Request for Proposal (RFP) provides further details of this request and instructions for providers interested in responding:

Purpose of Request for Proposal (RFP)

The DDOE is seeking potential technology-based solutions to efficiently implement the DPAS-II (Delaware Performance Appraisal System II). The DPAS-II Evaluation Management System will collect, manage, store, search, compile, and report information related to the DPAS-II evaluation process.

Currently, the DPAS-II evaluation process is a paper-based system that requires original signatures and local storage of forms and artifacts from the evaluation. Official reporting from the LEAs to the State is done through the Evaluation Reporting System (ERS) with limited information concerning who was evaluated, when the evaluation took place, who conducted the evaluation, and/or the rating from the evaluation.

The intent of this RFP is to select a technology-based solution (likely a web-based solution) that will eventually eliminate the paper-based system and the associated storage concerns with an electronic system where information is entered through a Web interface, meets requirements of DPAS-II as defined in regulation and guides, and transfers pertinent information to ERS for state level reporting (or possibly takes the place of ERS). **The intent is to select one solution, but the State reserves the right to make multiple awards.**

The State of Delaware is in the process of identifying existing evaluation management systems for statewide teacher and specialist evaluations. The objective of the RFP is to evaluate approaches, tools, processes, and trainings that are effective in achieving this objective. Specifically, the State is considering online platforms that will provide a method of completing the required forms for teacher and specialist evaluations, store documents related to the observations and evaluation, and transfer required data to ERS (or possibly replace ERS). Although not part of this RFP, the solution should easily be expandable to include administrator evaluations in the future. The purpose of this RFP is to identify interested vendors and collect and review proposals regarding how vendors deliver, maintain, and price their model of evaluation management.

C. DPAS-II Evaluation Management System Overview

The DPAS-II Evaluation Management System will be an online system that tracks teacher and specialist DPAS-II evaluation processes with reporting capabilities at the state, district, and school levels. (Note: This RFP refers only to teacher and specialists evaluations, but will eventually need to include administrator evaluations as well.) The system will provide a method of collecting evidence, completing the required DPAS-II forms and storing physical artifacts for all formative feedback and summative evaluation documents, improvement plans, and challenges.

DPAS-II for Teachers supports professional growth by helping evaluators and teachers identify areas for growth and opportunities to enhance teachers' skills and knowledge through:

Self-assessment and reflection;

Working collaboratively with colleagues to improve curriculum, assessment, instruction, and other classroom practices; Conducting action research;

Designing and piloting new instructional programs or techniques; Analyzing student and school data to shape school programs and classroom instruction; and

- Other learning opportunities.

DPAS-II for Teachers supports continuous improvement of instructional practice and student outcomes by helping evaluators and teachers monitor professional growth and student improvement. Teaching is a complex and ever-changing profession requiring a teacher's commitment to continuously improve his or her practice and, in turn, student performance. Teachers need opportunities to try new tools, methods, and approaches for instruction. At the same time, these opportunities must be monitored to ensure that students are reaping the intended benefits.

DPAS-II for Teachers assures quality teachers in every classroom by helping evaluators and teachers select credible evidence about teacher performance. Evaluators use this evidence to make important decisions such as:

- Recognizing and rewarding effective practice;
- Recommending continued employment and/or career growth opportunities;
- Recommending strategies and/or activities that will enhance teacher effectiveness;
- Developing a plan to improve teacher performance; and
- Beginning dismissal proceedings.

DPAS-II for Specialists supports professional growth by helping evaluators and specialists identify areas for growth and opportunities to enhance specialists' skills and knowledge through:

- Self-assessment and reflection;
- Working collaboratively with colleagues;
- Conducting action research;
- Designing and piloting new programs or techniques;

- Analyzing student and school data to shape the school program; and
- Other learning opportunities.

DPAS-II for Specialists assures quality specialists in every school building by helping evaluators and specialists select credible evidence about specialist performance. Evaluators use this evidence to make important decisions such as:

- Recognizing and rewarding effective practice
- Recommending continued employment and/or career growth opportunities
- Recommending strategies and/or activities that will enhance specialist effectiveness
- Developing a plan to improve specialist performance
- Beginning dismissal proceedings

Currently, all LEAs statewide are required to evaluate teachers and specialists according to the DPAS-II. A special focus is on streamlining this system and making the evaluation process more transparent and seamless. **The intent of the DPAS-II Evaluation Management System is to create an electronic repository of all DPAS- II documentation by importing essential core information with a Web-based mechanism for entering evaluation data (by both evaluator and practitioner) with a computer, tablet, or hand-held device.**

Delaware LEA and School Data

Delaware's school system is made up of nineteen urban and rural school districts and 22 charter schools that represent a variety of large and small schools and a range of socio-economic groups. Five urban districts are located in New Castle County (northern Delaware), the most populated area of the state. Most of these districts have enrollments exceeding 10,000 students. The majority of the state's charter schools are also located in New Castle County. The remaining fourteen school districts are located in Kent and Sussex counties in the central and southern part of the state. Most of these districts are made up exclusively of small towns in rural and mostly high poverty areas. Most of these districts are smaller with one serving only 600 students. This leads to a statewide total of approximately 10,000 administrators, teachers, and specialists involved in the DPAS-II process who would need access to the system. Individual LEA implementations could have as few as 20 and as many as 1,600 educators.

Resources

- Delaware Performance Appraisal System II (DPAS-II) Website
<http://www.doe.k12.de.us/csa/dpasii>
- *DPAS-II Guide for Teachers*
<http://www.doe.k12.de.us/csa/dpasii/ti/DPASII TeachFullGuide.pdf>
- *DPAS-II Guide for Specialists*
<http://www.doe.k12.de.us/csa/dpasii/specialist/DPASII SpecFullGuide.pdf>

D. SCOPE OF WORK

The purpose of this section is to provide an overview of the approach being considered by the State for implementation of a DPAS-II evaluation management system. The intent is to have all LEAs use an electronic evaluation system partner to manage the DPAS-II workflow process and reporting requirements identified in this RFP.

Statement of Needs / Priorities / Requirements

The State is seeking proposals on electronic evaluation management systems that are able to accommodate the DPAS-II workflow process, allowing educators to upload required evidence, and evaluators to assess work using rubrics and forms.

1. The solution must be able to replace the hard copy/manual process for collecting and storing evidential documents of various types, including the ability to migrate printed instructions, forms, and rubrics to an electronic format for delivery and collection and have the ability to easily adjust to changes in rules and regulations.
2. The solution must provide the capability to create and use forms and surveys to collect information from teachers, specialists, and administrators.
3. The solution must be able to import and update the user data base with certified staff for each LEA the vendor contracts with including at a minimum the current staff assignment by school and LEA, the designation of evaluator(s) for each staff member, and the most recent summative performance rating.
4. The solution must be able to export data to the DDOE Evaluation Reporting System (ERS) on a weekly basis (or replace the ERS system).
5. The solution must offer teachers, specialists, and administrators the ability to upload evidence of performance, including, but not limited to, lesson plans, samples of student work, parents and student survey results, classroom resources, assessment documents, newsletters, meeting agendas, and other documents as electronic files.
6. The solution must support both the evaluation of evidence that is electronically submitted and evidence that is physically delivered or observed in practice.
7. The solution must support the use of the DPAS-II rubrics as a guide for evaluating educator performance.
8. The solution must provide sufficient storage space for submitted evidence and evaluation data over time and access to the DDOE for a period of at least 7 years.
9. The solution must offer the ability for evaluators to comment on evidence and provide feedback.
10. The solution must allow for multiple evaluations of submitted evidence and ensure that appropriate evaluators are able to view submissions from the educators they are responsible for evaluating and only be able to access specific evaluations according to different levels of authorization, prevent unauthorized access of personnel information, and adhere to all Federal and State of Delaware legal and regulatory requirements concerning confidentiality and employee rights.
11. The solution must provide reporting capabilities for multiple levels of authorization (i.e., evaluator, school, district, and state) to monitor progress and analyze performance at aggregate and disaggregate levels.
12. The solution should support collaboration between educators and evaluators with messaging and discussion boards, or other similar capabilities.
13. The solution should ideally contain project tracking functionality for the assignment and tracking of educator and evaluation activities.
14. The solution should ideally support the rolling up of formative evaluations into

an overall summative score.

15. The solution shall be fully secure with the ability to create different levels of access for different user identities.
16. The solution shall have all necessary technological capabilities including, but not limited to, interoperability with other state systems, upgrading and product enhancement capabilities, and the necessary technicians to ensure ongoing support and maintenance of the solution.
17. The solution and associated contracts must adhere to all Necessary Terms and Conditions from the Department of Technology and Information outlined in Section 3.2.
18. The solution must be fully operational for LEAs to implement the solution at the beginning of the 2012-2013 school year (no later than September 10, 2012).

Required Information

The following information shall be provided in each proposal in the order listed below. Failure to respond to any request for information within this proposal may result in rejection of the proposal at the sole discretion of the State.

A. Minimum Requirements

1. Delaware business license:

Provide evidence of a Delaware business license or evidence of an application to obtain the business license.

2. Professional liability insurance:

Provide evidence of professional liability insurance in the amount of \$1,000,000.00.

3. (Any other minimum criteria required by state contract)

E. RFP ISSUANCE

1. Obtaining Copies of the RFP

This RFP is available in electronic form through DDOE website at

<http://www.doe.k12.de.us/rfp/> and the State of Delaware Procurement website at <http://bids.delaware.gov/> Paper copies of this RFP will not be available.

2. Public Notice

Public notice has been provided in accordance with 29 *Del. C.* § 6981.

3. Assistance to Vendors with a Disability

Vendors with a disability may receive accommodation regarding the means of communicating this RFP or participating in the procurement process. For more information, contact the Designated Contact no later than ten days prior to the deadline for receipt of proposals.

4. RFP Designated Contact

All requests, questions, or other communications about this RFP shall be made in writing to DDOE. Address all communications to the person listed below; communications made to other DDOE personnel or attempting to ask questions by phone or in person will not be allowed or recognized as valid and may disqualify the vendor. Vendors should rely only on written statements issued by the RFP designated contact:

Eric Niebrzydowski
Delaware Department of Education
401 Federal Street, Suite #2
Dover, DE 19901-3639
eniebrzydowski@doe.k12.de.us

To ensure that written requests are received and answered in a timely manner, electronic mail (e-mail) correspondence is acceptable, but other forms of delivery, such as postal and courier services can also be used.

5. Consultants and Legal Counsel

DDOE may retain consultants or legal counsel to assist in the review and evaluation of this RFP and the vendors' responses. Bidders shall not contact consultant or legal counsel on any matter related to the RFP.

6. Contact with State Employees

Direct contact with State of Delaware employees other than DDOE Designated

Contact regarding this RFP is expressly prohibited without prior consent. Vendors directly contacting DDOE employees risk elimination of their proposal from further consideration. Exceptions exist only for organizations currently doing business in the State who require contact in the normal course of doing that business.

7. Organizations Ineligible to Bid

Any individual, business, organization, corporation, consortium, partnership, joint venture, or any other entity including subcontractors currently debarred or suspended is ineligible to bid. Any entity ineligible to conduct business in the State of Delaware for any reason is ineligible to respond to the RFP.

8. Exclusions

The Proposal Evaluation Team reserves the right to refuse to consider any proposal from a vendor who:

- a. Has been convicted for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract;
- b. Has been convicted under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty that currently and seriously affects responsibility as a State contractor;
- c. Has been convicted or has had a civil judgment entered for a violation under State or Federal antitrust statutes;
- d. Has violated contract provisions such as:
 - 1) Knowing failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - 2) Failure to perform or unsatisfactory performance in accordance with terms of one or more contracts;
- e. Has violated ethical standards set out in law or regulation; and
- f. Any other cause listed in regulations of the State of Delaware determined to be serious and compelling as to affect responsibility as a State contractor, including suspension or debarment by another governmental entity for a cause listed in the regulations.

F. RFP SUBMISSIONS

a. Acknowledgement of Understanding of Terms

By submitting a bid, each vendor shall be deemed to acknowledge that it has carefully read all sections of this RFP, including all forms, schedules and exhibits hereto, and has fully informed itself as to all existing conditions and limitations.

b. Proposals

To be considered, all proposals must be submitted in writing and respond to the items outlined in this RFP. The State reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted with 10 paper copies and 5 electronic copies on CD.

Proposals submitted in response to this RFP should be prepared and submitted in accordance with the following guidelines.

- Narrative sections should be limited to 20 pages maximum;
- Typewritten;
- Line spacing of 1.5;
- Twelve-point font, using an easy-to-read font such as Arial, Times New Roman, etc.
- Charts and graphs may be single spaced and use no smaller than 10-point type.

- One-inch (1") side, top, and bottom margins;
- Footer on each page with page number and the vendor name;
- Stapled (do not use binders or folders when submitting application).

All properly sealed and marked proposals are to be sent to DDOE and received no later than **3:00 PM local time on July 19, 2012**. The outside of the proposal package must be clearly labeled "RFP # DOE – **2013-01 – DPAS-II**." The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), US Mail, or by hand to:

**Emily Falcon, Director
Financial Reform Resources
Delaware Department of Education
401 Federal Street, Suite #2
Dover, DE 19901-3639**

Any proposal submitted by US Mail shall be sent by either certified or registered mail. Proposals must be received at the above address no later than **3:00 PM local time on July 19, 2012**. Any proposal received after this date shall not be considered and shall be returned unopened. The proposing vendor bears the risk of delays in delivery. The contents of any proposal shall not be disclosed as to be made available to competing entities during the negotiation process.

Upon receipt of vendor proposals, each vendor shall be presumed to be thoroughly familiar with all specifications and requirements of this RFP. The failure or omission to examine any form, instrument or document shall in no way relieve vendors from any obligation in respect to this RFP.

c. Proposal Modifications

Any changes, amendments or modifications to a proposal must be made in writing, submitted in the same manner as the original response and conspicuously labeled as a change, amendment or modification to a previously submitted proposal. Changes, amendments or modifications to proposals shall not be accepted or considered after the hour and date specified as the deadline for submission of proposals.

d. Proposal Costs and Expenses

The DDOE will not pay any costs incurred by any Vendor associated with any aspect of responding to this solicitation, including proposal preparation, printing or delivery, attendance at vendor's conference, system demonstrations or negotiation process.

e. Proposal Expiration Date

Prices quoted in the proposal shall remain fixed and binding on the bidder at least through **January 15, 2013**. The DDOE reserves the right to ask for an extension of time if needed.

f. Late Proposals

Proposals received after the specified date and time will not be accepted or considered. To guard against premature opening, sealed proposals shall be submitted, plainly marked with the proposal title, vendor name, and time and date of the proposal opening. Evaluation of the proposals is expected to begin shortly after the

proposal due date. To document compliance with the deadline, the proposal will be date and time stamped upon receipt.

g. Proposal Opening

DDOE will receive proposals until the date and time shown in this RFP. Proposals will be opened only in the presence of DDOE personnel. Any unopened proposals will be returned to Vendor.

There will be no public opening of proposals but a public log will be kept of the names of all vendor organizations that submitted proposals. The contents of any proposal shall not be disclosed to competing vendors prior to contract award.

h. Non-Conforming Proposals

Non-conforming proposals will not be considered. Non-conforming proposals are defined as those that do not meet the requirements of this RFP. The determination of whether an RFP requirement is substantive or a mere formality shall reside solely within DDOE.

i. Concise Proposals

DDOE discourages overly lengthy and costly proposals. It is the desire that proposals be prepared in a straightforward and concise manner. Unnecessarily elaborate brochures or other promotional materials beyond those sufficient to present a complete and effective proposal are not desired. DDOE's interest is in the quality and responsiveness of the proposal.

j. Realistic Proposals

It is the expectation of DDOE that vendors can fully satisfy the obligations of the proposal in the manner and timeframe defined within the proposal. Proposals must be realistic and must represent the best estimate of time, materials and other costs including the impact of inflation and any economic or other factors that are reasonably predictable.

DDOE shall bear no responsibility or increase obligation for a vendor's failure to accurately estimate the costs or resources required to meet the obligations defined in the proposal.

k. Confidentiality of Documents

All documents submitted as part of the vendor's proposal will be deemed confidential during the evaluation process. Vendor proposals will not be available for review by anyone other than DDOE/Proposal Evaluation Team or its designated agents. There shall be no disclosure of any vendor's information to a competing vendor prior to award of the contract.

DDOE is a public agency as defined by state law, and as such, it is subject to the Delaware Freedom of Information Act, 29 *Del. C.* Ch. 100. Under the law, all DDOE's records are public records (unless otherwise declared by law to be confidential) and are subject to inspection and copying by any person. Vendor(s) are advised that once a proposal is received by DDOE and a decision on contract award is made, its contents will become public record and nothing contained in the proposal will be deemed to be confidential except proprietary information.

Vendor(s) shall not include any information in their proposal that is proprietary in nature or that they would not want to be released to the public. Proposals must contain sufficient information to be evaluated and a contract written without reference to any proprietary information. If a vendor feels that they cannot submit their proposal without including proprietary information, they must adhere to the following procedure or their proposal may be deemed unresponsive and will not be recommended for selection. Vendor(s) must submit such information in a separate, sealed envelope labeled "Proprietary Information" with the RFP number. The envelope must contain a letter from the Vendor's legal counsel describing the documents in the envelope, representing in good faith that the information in each document is not "public record" as defined by 29 Del. C. § 10002(d), and briefly stating the reasons that each document meets the said definitions.

Upon receipt of a proposal accompanied by such a separate, sealed envelope, DDOE will open the envelope to determine whether the procedure described above has been followed.

I. Multi-Vendor Solutions (Joint Ventures)

Multi-vendor solutions (joint ventures) will be allowed only if one of the venture partners is designated as the "**prime contractor**". The "**prime contractor**" must be the joint venture's contact point for DDOE and be responsible for the joint venture's performance under the contract, including all project management, legal and financial responsibility for the implementation of all vendor's systems. If a joint venture is proposed, a copy of the joint venture agreement clearly describing the responsibilities of the partners must be submitted with the proposal. Services specified in the proposal shall not be subcontracted without prior written approval by DDOE, and approval of a request to subcontract shall not in any way relieve Vendor of responsibility for the professional and technical accuracy and adequacy of the work. Further, vendor shall be and remain liable for all damages to DDOE caused by negligent performance or non-performance of work by its subcontractor or its sub-subcontractor.

Multi-vendor proposals must be a consolidated response with all cost included in the cost summary. Where necessary, RFP response pages are to be duplicated for each vendor.

i. Primary Vendor

DDOE expects to negotiate and contract with only one "prime vendor". DDOE will not accept any proposals that reflect an equal teaming arrangement or from vendors who are co-bidding on this RFP. The prime vendor will be responsible for the management of all subcontractors.

Any contract that may result from this RFP shall specify that the prime vendor is solely responsible for fulfillment of any contract with the State as a result of this procurement. The State will make contract payments only to the awarded vendor. Payments to any-subcontractors are the sole responsibility of the prime vendor (awarded vendor).

Nothing in this section shall prohibit DDOE from the full exercise of its options under Section IV.B.16 regarding multiple source contracting.

ii. Sub-Contracting

The vendor selected shall be solely responsible for contractual performance and management of all subcontract relationships. This contract allows subcontracting assignments; however, vendors assume all responsibility for work quality, delivery, installation, maintenance, and any supporting services required by a subcontractor.

Use of subcontractors must be clearly explained in the proposal, and major subcontractors must be identified by name. **The prime vendor shall be wholly responsible for the entire contract performance whether or not subcontractors are used.** Any sub-contractors must be approved by DDOE.

iii. Multiple Proposals

A primary vendor may not participate in more than one proposal in any form. Subcontracting vendors may participate in multiple joint venture proposals.

a. Sub-Contracting

The vendor selected shall be solely responsible for contractual performance and management of all subcontract relationships. This contract allows subcontracting assignments; however, vendors assume all responsibility for work quality, delivery, installation, maintenance, and any supporting services required by a subcontractor.

Use of subcontractors must be clearly explained in the proposal, and subcontractors must be identified by name. Any sub-contractors must be approved by DDOE.

(a) Discrepancies and Omissions

Vendor is fully responsible for the completeness and accuracy of their proposal, and for examining this RFP and all addenda. Failure to do so will be at the sole risk of vendor. Should vendor find discrepancies, omissions, unclear or ambiguous intent or meaning, or should any questions arise concerning this RFP, vendor shall notify DDOE's Designated Contact, in writing, of such findings at least ten (10) days before the proposal opening. This will allow issuance of any necessary addenda. It will also help prevent the opening of a defective proposal and exposure of vendor's proposal upon which award could not be made. All unresolved issues should be addressed in the proposal.

Protests based on any omission or error, or on the content of the solicitation, will be disallowed if these faults have not been brought to the attention of the Designated Contact, in writing, no later than ten (10) calendar days prior to the time set for opening of the proposals.

(b) RFP Question and Answer Process

DDOE will allow written requests for clarification of the RFP. All questions will be consolidated into a single set of responses and posted on DDOE's website at <http://www.doe.k12.de.us/rfplisting/> by 12:00 PM each Friday. Vendors' names will be removed from questions in the responses released. Questions should be submitted in the following format:

Section number
Paragraph number
Page number
Text of passage being questioned
Question

Questions not submitted electronically shall be accompanied by a CD and questions shall be formatted in Microsoft Word. Questions must be filed no later than 4 P.M. on **July 9, 2012**. Questions received after that time will not be considered. A copy of the questions and answers will be posted on <http://bids.delaware.gov>

(c) State's Right to Reject Proposals

DDOE reserves the right to accept or reject any or all proposals or any part of any proposal, to waive defects, technicalities or any specifications (whether they be in DDOE's specifications or vendor's response), to sit and act as sole judge of the merit and qualifications of each product offered, or to solicit new proposals on the same project or on a modified project which may include portions of the originally proposed project as DDOE may deem necessary in the best interest of the State of Delaware.

(d) State's Right to Cancel Solicitation

DDOE reserves the right to cancel this solicitation at any time during the procurement process, for any reason or for no reason. DDOE makes no commitments expressed or implied, that this process will result in a business transaction with any vendor.

This RFP does not constitute an offer by DDOE. Vendor's participation in this process may result in DDOE selecting your organization to engage in further discussions and negotiations toward execution of a contract. The commencement of such negotiations does not, however, signify a commitment by DDOE to execute a contract nor to continue negotiations. DDOE may terminate negotiations at any time and for any reason, or for no reason.

(e) State's Right to Award Multiple Source Contracting

Pursuant to 29 *Del. C.* § 6986, DDOE may award a contract for a particular professional service to two or more vendors if the agency head makes a determination that such an award is in the best interest of DDOE.

(f) Notification of Withdrawal of Proposal

Vendor may modify or withdraw its proposal by written request, provided that both proposal and request is received by DDOE prior to the proposal due date. Proposals may be re-submitted in accordance with the proposal due date in order to be considered further.

Proposals become the property of DDOE at the proposal submission deadline. All proposals received are considered firm offers at that time.

(g) Revisions to the RFP

If it becomes necessary to revise any part of the RFP, an addendum will be posted on DDOE's website at <http://www.doe.k12.de.us/rfplisting/> and <http://bids.delaware.gov> DDOE is not bound by any statement related to this RFP made by any State of Delaware employee, contractor or its agents.

(h) Exceptions to the RFP

Any exceptions to the RFP, or DDOE's terms and conditions, must be highlighted and included in writing in the proposal. Acceptance of exceptions is within the sole discretion of the evaluation committee.

(i) Award of Contract

The final award of a contract is subject to approval by DDOE. DDOE has the sole right to select the successful vendor(s) for award, to reject any proposal as unsatisfactory or non-responsive, to award a contract to other than the lowest priced proposal, to award multiple contracts, or not to award a contract, as a result of this RFP.

Notice in writing to a vendor of the acceptance of its proposal by DDOE and the subsequent full execution of a written contract will constitute a contract, and no vendor will acquire any legal or equitable rights or privileges until the occurrence of both such events.

a. RFP Award Notifications

After reviews of the evaluation committee report and its recommendation, and once the contract terms and conditions have been finalized, DDOE will award the contract.

The contract shall be awarded to the vendor whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP.

It should be explicitly noted that DDOE is not obligated to award the contract to the vendor who submits the lowest bid or the vendor who receives the highest total point score, rather the contract will be awarded to the vendor whose proposal is the most advantageous to DDOE. The award is subject to the appropriate State of Delaware approvals.

After a final selection is made, the winning vendor will be invited to negotiate a contract with DDOE; remaining vendors will be notified in writing of their selection status.

G. RFP EVALUATION PROCESS

An evaluation team composed of representatives from DDOE and the state's LEAs will evaluate proposals on a variety of quantitative criteria. Neither the lowest price nor highest scoring proposal will necessarily be selected.

DDOE reserves full discretion to determine the competence and responsibility, professionally and/or financially, of vendors. Vendors are to provide in timely manner any and all information that DDOE may deem necessary to make a decision.

i. Proposal Evaluation Team

The Proposal Evaluation Team shall be comprised of representatives of DDOE and state's LEAs. The Team shall determine which vendors meet the minimum requirements pursuant to selection criteria of the RFP and procedures established in 29 *Del. C.* §§ 6981 and 6982. The Team may negotiate with one or more vendors during the same period and may, at its discretion, terminate negotiations with any or all vendors. The Team shall make a recommendation regarding the award to Delaware Secretary of Education, who shall have final authority, subject to the provisions of this RFP and 29 *Del. C.* § 6982, to award a contract to the successful vendor in the best interests of the State of Delaware.

ii. Proposal Selection Criteria

The Proposal Evaluation Team shall assign up to the maximum number of points for each evaluation item to each of the proposing vendor's proposals. All assignments of points shall be at the sole discretion of the Proposal Evaluation Team.

The proposals all contain the essential information on which the award decision shall be made. The information required to be submitted in response to this RFP has been determined by DDOE to be essential for use by the Team in the bid evaluation and award process.

Therefore, all instructions contained in this RFP shall be met in order to qualify as a responsive and responsible contractor and participate in the Proposal Evaluation Team's consideration for award.

Proposals which do not meet or comply with the instructions of this RFP may be considered non-conforming and deemed non-responsive and subject to disqualification at the sole discretion of the Team.

The Team reserves the right to:

- Select for contract or for negotiations a proposal other than that with lowest costs.
- Reject any and all proposals or portions of proposals received in response to this RFP or to make no award or issue a new RFP.
- Waive or modify any information, irregularity, or inconsistency in proposals received.
- Request modification to proposals from any or all vendors during the contract review and negotiation.

- Negotiate any aspect of the proposal with any vendor and negotiate with more than one vendor at the same time.
- Select more than one vendor pursuant to 29 *Del. C.* §6986.

a. Criteria Weight for Proposal Evaluation:

Proposals will be evaluated using the following criteria and scoring weights as guides:

Criteria	Weight
Technological Requirements & Capabilities	30
Project Plan for Logistics, Deployment & Training	15
Evidence of Effectiveness in Similar Engagements	15
User-Friendliness/User-Experience	15
Budget Narrative and Cost-Effectiveness	15
Evidence of Organizational Capacity to Deliver Services	10
Total	100

iii. Proposal Clarification

The Evaluation Team may contact any vendor in order to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Proposals may not be modified as a result of any such clarification request.

iv. References

The Evaluation Team may contact any customer of the vendor, whether or not included in the vendor's reference list, and use such information in the evaluation process. Additionally, DDOE may choose to visit existing installations of comparable systems, which may or may not include vendor personnel. If the vendor is involved in such site visits, DDOE will pay travel costs only for State of Delaware personnel for these visits.

v. Oral Presentations

Selected vendors may be invited to make oral presentations to the Evaluation Team. The vendor representative(s) attending the oral presentation shall be technically qualified to respond to questions related to the proposed system and its components.

All of the vendor's costs associated with participation in oral discussions and system demonstrations conducted for DDOE are the vendor's responsibility.

b. Contract Terms and Conditions

i. General Information

- a. The term of the contract between the successful bidder and DDOE shall be for three years with two possible extensions for a period of three years for each extension.
- b. The selected vendor will be required to enter into a written agreement with DDOE. DDOE reserves the right to incorporate standard State contractual provisions into any contract negotiated as a result of a proposal submitted in response to this RFP. Any proposed modifications to the terms and conditions of the standard contract are subject to review and approval by DDOE. Vendors will be required to sign the contract for all services, and may be required to sign additional agreements.
- c. The selected vendor or vendors will be expected to enter negotiations with DDOE, which will result in a formal contract between parties. Procurement will be in accordance with subsequent contracted agreement. This RFP and the selected vendor's response to this RFP will be incorporated as part of any formal contract.
- d. DDOE's standard contract will most likely be supplemented with the vendor's software license, support/maintenance, source code escrow agreements, and any other applicable agreements. The terms and conditions of these agreements will be negotiated with the finalist during actual contract negotiations.
- e. The successful vendor shall promptly execute a contract incorporating the terms of this RFP. No vendor is to begin any service prior to receipt a State of Delaware purchase order signed by two authorized representatives of the agency requesting service, properly processed through the State of Delaware Accounting Office and the Department of Finance. The purchase order shall serve as the authorization to proceed in accordance with the bid specifications and the special instructions, once it is received by the successful vendor.
- f. If the vendor to whom the award is made fails to enter into the agreement as herein provided, the award will be annulled, and an award may be made to another vendor. Such vendor shall fulfill every stipulation embraced herein as if they were the party to whom the first award was made.

ii. Collusion or Fraud

Any evidence of agreement or collusion among vendor(s) and prospective vendor(s) acting to illegally restrain freedom from competition by agreement to offer a fixed price, or otherwise, will render the offers of such vendor(s) void.

By responding, the vendor shall be deemed to have represented and warranted that its proposal is not made in connection with any competing vendor submitting a separate response to this RFP, and is in all respects fair and without collusion or fraud; that the vendor did not participate in the RFP development process and had no knowledge of the specific contents of the RFP prior to its issuance; and that no employee or official of the State of Delaware participated directly or indirectly in the vendor's proposal preparation.

Advance knowledge of information which gives any particular vendor advantages over any other interested vendor(s), in advance of the opening of proposals, whether in response to advertising or an employee or representative thereof, will potentially void that particular proposal.

iii. Lobbying and Gratuities

Lobbying or providing gratuities shall be strictly prohibited. Vendors found to be lobbying, providing gratuities to, or in any way attempting to influence a State of Delaware employee or agent of the State of Delaware concerning this RFP or the award of a contract resulting from this RFP shall have their proposal immediately rejected and shall be barred from further participation in this RFP.

The selected vendor will warrant that no person or selling agency has been employed or retained to solicit or secure a contract resulting from this RFP upon agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, DDOE shall have the right to annul any contract resulting from this RFP without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

All contact with State of Delaware employees, contractors or agents of the State of Delaware concerning this RFP shall be conducted in strict accordance with the manner, forum and conditions set forth in this RFP.

iv. Solicitation of State Employees

Until contract award, vendors shall not, directly or indirectly, solicit any employee of the State of Delaware to leave the State of Delaware's employ in order to accept employment with the vendor, its affiliates, actual or prospective contractors, or any person acting in concert with vendor, without prior written approval of the State of Delaware's contracting officer. Solicitation of State of Delaware employees by a vendor may result in rejection of the vendor's proposal.

This paragraph does not prevent the employment by a vendor of a State of Delaware employee who has initiated contact with the vendor. However, State of Delaware employees may be legally prohibited from accepting employment with the contractor or subcontractor under certain circumstances. Vendors may not knowingly employ a person who cannot legally accept employment under state or federal law. If a vendor discovers that they have done so, they must terminate that employment immediately.

v. General Contract Terms

a. Independent contractors

The parties to the contract shall be independent contractors to one another, and nothing herein shall be deemed to cause this agreement to create an agency, partnership, joint venture or employment relationship between parties. Each party shall be responsible for compliance with all applicable workers compensation, unemployment, disability insurance, social security withholding and all other similar matters. Neither party shall be liable for any debts, accounts, obligations or other liability whatsoever of the other party, or any other obligation of the other party to pay on the behalf of its employees or to withhold from any compensation paid to such employees any social benefits, workers compensation insurance premiums or any income or other similar taxes.

It may be at DDOE's discretion as to the location of work for the contractual support personnel during the project period. DDOE shall provide working space and sufficient supplies and material to augment the Contractor's services.

b. Non-Appropriation

In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

c. Licenses and Permits

In performance of the contract, the vendor will be required to comply with all applicable federal, state and local laws, ordinances, codes, and regulations. The cost of permits and other relevant costs required in the performance of the contract shall be borne by the successful vendor. The vendor shall be properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* § 2301.

Prior to receiving an award, the successful vendor shall either furnish DDOE with proof of State of Delaware Business Licensure or initiate the process of application where required. An application may be requested in writing to: Division of Revenue, Carvel State Building, P.O. Box 8750, 820 N. French Street, Wilmington, DE 19899 or by telephone to one of the following numbers: (302) 577-8200—Public Service, (302) 577-8205—Licensing Department.

Information regarding the award of the contract will be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject vendor to applicable fines and/or interest penalties.

d. Notice

Any notice to DDOE required under the contract shall be sent by registered mail to:

**Karen Field-Rogers
Delaware Department of Education
401 Federal Street, Suite #2
Dover, DE 19901-3639**

e. Indemnification

i. General Indemnification.

By submitting a proposal, the proposing vendor agrees that in the event it is awarded a contract, it will indemnify and otherwise hold harmless the State of Delaware, DDOE, its agents and employees from any and all liability, suits, actions, or claims, together with all costs, expenses for attorney's fees, arising out of the vendor's its agents and employees' performance work or services in connection with the contract, regardless of whether such suits, actions, claims or liabilities are based upon acts or failures to act attributable, in whole or part, to the State, its employees or agents.

ii. Proprietary Rights Indemnification

Vendor shall warrant that all elements of its solution, including all equipment, software, documentation, services and deliverables, do not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary rights of any third party. In the event of any claim, suit or action by any third party against the State of Delaware or DDOE, the State of Delaware or DDOE shall promptly notify the vendor in writing and vendor shall defend such claim, suit or action at vendor's expense, and vendor shall indemnify the State of Delaware or DDOE against any loss, cost, damage, expense or liability arising out of such claim, suit or action (including, without limitation, litigation costs, lost employee time, and counsel fees) whether or not such claim, suit or action is successful.

If any equipment, software, services (including methods) products or other intellectual property used or furnished by the vendor (collectively "Products") is or in vendor's reasonable judgment is likely to be, held to constitute an infringing product, vendor shall at its expense and option either:

- vi. Procure the right for DDOE to continue using the Product(s);
- vii. Replace the product with a non-infringing equivalent that satisfies all the requirements of the contract; or
- viii. Modify the Product(s) to make it or them non-infringing, provided that the modification does not materially alter the functionality or efficacy of the product or cause the Product(s) or any part of the work to fail to conform to the requirements of the Contract, or only alters the Product(s) to a

degree that DDOE agrees to and accepts in writing.

a. Insurance

- i. Vendor recognizes that it is operating as an independent contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney's fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the vendor's negligent performance under this contract, and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the vendor in their negligent performance under this contract.
- ii. The vendor shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this contract. The vendor is an independent contractor and is not an employee of the State of Delaware.
- iii. During the term of this contract, the vendor shall, at its own expense, carry insurance minimum limits as follows:

a.	Comprehensive General Liability	\$1,000,000
b.	Professional Liability/Misc. Error & Omissions/Product Liability	\$1,000,000/\$3,000,000

If the contractual service requires the transportation of departmental clients or staff, the vendor shall, in addition to the above coverages, secure at its own expense the following coverage:

a.	Automotive Liability (Bodily Injury)	\$100,000/\$300,000
b.	Automotive Property Damage (to other)	\$ 25,000

- iv. The vendor shall provide a certificate of insurance as proof that the vendor has the required insurance.

b. Performance Requirements

The selected Vendor will warrant that it possesses, or has arranged through subcontractors, all capital and other equipment, labor, materials, and licenses necessary to carry out and complete the work hereunder in compliance with any and all Federal and State laws, and County and local ordinances, regulations and codes.

c. Warranty

The Vendor will provide a warranty that the deliverables provided pursuant to the contract will function as designed for a period of no less than one (1) year from the date of system acceptance. The warranty shall require the Vendor correct, at its own expense, the setup, configuration, customizations or modifications so that it functions according to the State's requirements.

d. Costs and Payment Schedules

All contract costs must be as detailed specifically in the Vendor's cost proposal.

No charges other than as specified in the proposal shall be allowed without written consent of DDOE. The proposal costs shall include full compensation for all taxes that the selected vendor is required to pay.

DDOE will require a payment schedule based on defined and measurable milestones. Payments for services will not be made in advance of work performed. DDOE may require holdback of contract monies until acceptable performance is demonstrated (as much as 25%).

e. Penalties

DDOE may include in the final contract penalty provisions for non-performance, such as liquidated damages.

f. Termination for Cause

If for any reasons, or through any cause, the Vendor fails to fulfil in timely and proper manner his obligations under the contract, or if the Vendor violates any of the covenants, agreements or stipulations of the contract, DDOE shall thereupon have the right to terminate the contract by giving written notice to the Vendor of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination, In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports or other material prepared by the Vendor under the contract shall, at the option of DDOE, become its property, and the Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is useable to DDOE.

g. Termination for Convenience

DDOE may terminate the contract at any time by giving written notice of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports or other material prepared by the Vendor under the contract shall, at the option of DDOE, become its property, and the Vendor shall be entitled to compensation for any satisfactory work completed on such documents and other materials which is useable to DDOE. If the contract is terminated by DDOE as so provided, the Vendor will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Vendor as covered by the contract, less payments

of compensation previously made. Provided however, that if less than 60 percent of the services covered by the contract have been performed upon the effective date of termination, the Vendor shall be reimbursed (in addition to the above

payment) for that portion of actual out of pocket expenses (not otherwise reimbursed under the contract) incurred by the Vendor during the contract period which are directly attributable to the uncompleted portion of the services covered by the contract.

h. Non-discrimination

In performing the services subject to this RFP the vendor will agree that it will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. The successful vendor shall comply with all federal and state laws, regulations and policies pertaining to the prevention of discriminatory employment practice. Failure to perform under this provision constitutes a material breach of contract.

i. Covenant against Contingent Fees

The successful vendor will warrant that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement of understanding for a commission or percentage, brokerage or contingent fee excepting bona-fide employees, bona-fide established commercial or selling agencies maintained by the Vendor for the purpose of securing business. For breach or violation of this warranty DDOE shall have the right to annul the contract without liability or at its discretion to deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

j. Vendor Activity

No activity is to be executed in an off shore facility, either by a subcontracted firm or a foreign office or division of the vendor. The vendor must attest to the fact that no activity will take place outside of the United States in its transmittal letter. Failure to adhere to this requirement is cause for elimination from future consideration.

k. Work Product

All materials and products developed under the executed contract by the vendor are the sole and exclusive property of the State. The vendor will seek written permission to use any product created under the contract.

l. Contract Documents

The RFP, the purchase order, the executed contract and any supplemental documents between DDOE and the successful vendor shall constitute the contract between DDOE and the vendor. In the event there is any discrepancy between any of these contract documents, the following order of documents governs so that the former prevails over the latter: contract, State of Delaware's RFP, Vendor's response to the RFP and purchase order. No other documents shall be considered. These documents will constitute the entire agreement between DDOE and the vendor.

m. Applicable Law

The laws of the State of Delaware shall apply, except where Federal Law has precedence. The successful vendor consents to jurisdiction and venue in the State of Delaware.

In submitting a proposal, Vendors certify that they comply with all federal, state and local laws applicable to its activities and obligations including:

- i. the laws of the State of Delaware;
- ii. the applicable portion of the Federal Civil Rights Act of 1964;
- iii. the Equal Employment Opportunity Act and the regulations issued there under by the federal government;
- iv. a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury; and
- v. that programs, services, and activities provided to the general public under resulting contract conform with the Americans with Disabilities Act of 1990, and the regulations issued there under by the federal government.

If any vendor fails to comply with (1) through (5) of this paragraph, DDOE reserves the right to disregard the proposal, terminate the contract, or consider the vendor in default.

The selected vendor shall keep itself fully informed of and shall observe and comply with all applicable existing Federal and State laws, and County and local ordinances, regulations and codes, and those laws, ordinances, regulations, and codes adopted during its performance of the work.

n. Scope of Agreement

If the scope of any provision of the contract is determined to be too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the contract shall not thereby fail, but the scope of such provisions shall be curtailed only to the extent necessary to conform to the law.

o. Other General Conditions

- i. **Current Version** – “Packaged” application and system software shall be the most current version generally available as of the date of the physical installation of the software.
- ii. **Current Manufacture** – Equipment specified and/or furnished under this specification shall be standard products of manufacturers regularly engaged in the production of such equipment and shall be the manufacturer’s latest design. All

material and equipment offered shall be new and unused.

- iii. **Volumes and Quantities** – Activity volume estimates and other quantities have been reviewed for accuracy; however, they may be subject to change prior or subsequent to award of the contract.
- iv. **Prior Use** – DDOE reserves the right to use equipment and material furnished under this proposal prior to final acceptance. Such use shall not constitute acceptance of the work or any part thereof by DDOE.
- v. **Status Reporting** – The selected vendor will be required to lead and/or participate in status meetings and submit status reports covering such items as progress of work being performed, milestones attained, resources expended, problems encountered and corrective action taken, until final system acceptance.
- vi. **Regulations** – All equipment, software and services must meet all applicable local, State and Federal regulations in effect on the date of the contract.
- vii. **Changes** – No alterations in any terms, conditions, delivery, price, quality, or specifications of items ordered will be effective without the written consent of DDOE.
- viii. **Additional Terms and Conditions** – DDOE reserves the right to add terms and conditions during the contract negotiations.

p. Technology Standards

The selected vendor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by it, its subcontractors and its and their principals, officers, employees and agents under this Agreement.

A selected vendor shall provide system diagrams, upon request, in accordance with State Architecture requirements at:

<http://extranet.dti.state.de.us/information/arb/templates.shtml> In performing the specified services, Vendor shall follow practices

consistent with generally accepted professional and technical standards. Vendor shall be responsible for ensuring that all services, products and deliverables furnished pursuant to this Agreement comply with the standards promulgated by the Department of Technology and Information ("DTI") published at <http://dti.delaware.gov/information/standards-policies.shtml>, and as modified from time to time by DTI during the term of this Agreement. Vendor will integrate all delivered services and systems with the DDOE Identity Management System and Single-Sign On system. If any service, product or deliverable furnished pursuant to this Agreement does not conform with DTI standards, Vendor shall, at its expense and option either (1) replace it with a conforming equivalent or (2) modify it to conform with DTI standards. Vendor shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to DDOE caused by Vendor's failure to ensure compliance with DTI standards.

H. RFP MISCELLANEOUS INFORMATION

i. No Press Releases or Public Disclosure

Vendors may not release any information about this RFP. DDOE reserves the right to pre-approve any news or advertising releases concerning this RFP, the resulting contract, the work performed, or any reference to DDOE with regard to any project or contract performance. Any such news or advertising releases pertaining to this RFP or resulting contract shall require the prior express written permission of DDOE.

ii. RFP Reference Library

DDOE has made every attempt to provide the necessary information within this RFP. DDOE will make the reference library available only to the winning bidder.

iii. Definitions of Requirements

To prevent any confusion about identifying requirements in this RFP, the following definition is offered: The words *shall*, *will* and/or *must* are used to designate a mandatory requirement. Vendors must respond to all mandatory requirements presented in the RFP. Failure to respond to a mandatory requirement may cause the disqualification of the vendor's proposal.

iv. Production Environment Requirements

DDOE requires that all hardware, system software products, and application software products included in proposals be currently in use in a production environment by a least three other customers, have been in use for at least six months, and have been generally available from the manufacturers for a period of six months. Unreleased or beta test hardware, system software, or application software will not be acceptable.

5. Office of Minority and Women Business Enterprise

Minority and women business enterprises are encouraged to visit
<http://gss.omb.delaware.gov/omwbe/index.shtml>

Appendix D

RFP Response
presented to the

**Delaware Department of Education
Dover, Delaware**

for RFP #DOE 2013-01

**For Professional Services to Provide a
Technology-Based Educator Evaluation
Management System (DPAS-II)**

Due Date: July 19, 2012



BloomBoard

Presented by

BloomBoard, Inc.
395 Page Mill, 3rd Floor
Palo Alto, California 94306

Contact: Jason Lange 203.675.9848



BloomBoard

395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com

CONTENTS

Transmittal Letter

Section I:	Executive Summary	3
Section II:	Scope of Work	4
	• <i>Statement of Needs/Priorities/ Requirements</i>	
Section III:	Project Plan and Deliverables	10
	• <i>Project Plan for Logistics, Deployment & Training</i>	
Section IV:	References and Experience	12
Section V:	A Day in the Life of an Empowered Educator	13
Section VI:	Budget Narrative and EMS Cost	21



BloomBoard

395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com

Executive Summary

BloomBoard is a cutting-edge web-based platform designed to empower classroom teachers, school principals, coaches, and district administration. The BloomBoard observation system allows each school partner to manage evaluations, goal-setting, and professional development resources in a user-friendly online environment, establishing a secure repository for all evaluation-related materials in accordance with all state and local regulations. BloomBoard provides this evaluation management system (EMS) at a low-cost, scalable rate that ensures long-term viability.

The key components that make BloomBoard uniquely effective and affordable are:

► **Teacher Evaluation Observation Instruments and Professional Development**

The BloomBoard system allows mentors, coaches and administrators to:

- *Create an online version of the DPAS-II*
- *Integrate data from a wide variety of existing electronic sources and surveys*
- *Assess teachers through an equitable, transparent, and customizable online interface*
- *Assign observation and evaluation ratings, upload supplemental documents and videos, and automate recurring performance actions*
- *Align learning and development activities for each teacher with individual performance goals*
- *Provide teachers with access to online professional development resources that support and enhance best practices*
- *Analyze teacher progress data, including real-time dashboards, pre-programmed reports and custom assessments*
- *Establish an online repository of documentation that eliminates all need for a paper-based system, while meeting local and state regulations*



BloomBoard

395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com

► **Training and Support:**

In order to maintain fidelity of implementation, BloomBoard will:

- *Conduct face-to-face training for system administrators and trainers*
- *Certify all evaluators via a normed evaluation assessment*
- *Support end users through an online help desk 24/7, in addition to providing toll-free phone and email support during standard business hours*

► **Business Model:**

- *As a web-based solution, BloomBoard is uniquely scalable, with servers that can easily accommodate all Delaware Department of Education users*
- *BloomBoard fundamentally prioritizes usability and customer service, with a commitment to total client satisfaction*
- *BloomBoard's open professional development marketplace allows users access to a much wider range of content than individual schools could syndicate*

BloomBoard, Inc. is the industry-leading choice to provide the Delaware Department of Education with an effective technology-based EMS that will empower and support educators' professional growth and will promote rapid, significant gains in student achievement. We look forward to demonstrating how the BloomBoard system can excel in meeting your needs.

Section II: Scope of Work

The BloomBoard Evaluation Management System (EMS) is a differentiated instruction platform for educator growth by offering an intuitive, web-based interface to manage the observation and professional development processes. Each teacher will receive an individual online account within the system, through which administrators and coaches can conduct observations. Data from these observations are used to set professional development goals for the teacher.

The criteria from the observations are used to create personalized growth plans, complete with easy-to-manage goal-setting tools. For a more detailed description of the EMS process that

districts are currently using to turn performance management into a supportive process, see *Section V: A Day in the Life of an Empowered Educator.*

BloomBoard proposes to meet the needs of the Delaware Department of Education (DDOE) by customizing the existing evaluation template to match the requirements and specifications of the DPAS-II. Once the DPAS-II has been migrated to an electronic format based on the existing BloomBoard template, each LEA will be fully responsible for its own evaluation process. The data from these evaluations will be aggregated and reported in real time, allowing the DDOE extensive analytical capabilities that are tailored to its unique needs.

Below are responses to the Statement of Needs / Priorities /Requirements of the DDOE.

1. *The solution must be able to replace the hard copy/manual process for collecting and storing evidential documents of various types, including the ability to migrate printed instructions, forms, and rubrics to an electronic format for delivery and collection and have the ability to easily adjust to changes in rules and regulations.*

The BloomBoard EMS is web-based, eliminating all need for hard copy records. As part of the initial collaborative process, BloomBoard will create electronic versions of all existing rubrics and instructions, allowing the evaluation process to be conducted entirely online. Even after the school year is underway, changes to the rules and regulations that accompany evaluations can be implemented seamlessly within one (1) business day of a request. Observations are scheduled online by administrators or coaches, after which teachers are prompted to upload lesson plans or examples of student work. Coaches and administrators may then tag evidence within uploaded documents, creating a repository of information that is instantly accessible to any authorized administrator.

2. *The solution must provide the capability to create and use forms and surveys to collect information from teachers, specialists, and administrators.*

The BloomBoard system provides the capability to embed any custom forms into the evidence collection process. BloomBoard partners are also able to conduct surveys with a free, 3rd party BloomBoard affiliate. The data collected through surveys can then be imported into the BloomBoard EMS seamlessly, integrating these data into the overall evaluative



395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com

structure, as determined by the existing Delaware PAS-II.

3. *The solution must be able to import and update the user data base with certified staff for each LEA the vendor contracts with including at a minimum the current staff assignment by school and LEA, the designation of evaluator(s) for each staff member, and the most recent summative performance rating.*

The BloomBoard system allows for the import and maintenance of all relevant use data including, but not limited to, staff assignment by school and LEA, evaluator designation and prior performance rating. BloomBoard seamlessly integrates with several information system providers to automate the maintenance of these data streams, and would be happy to work with DDOE free of charge to enable this automation, if it is not already available.

4. *The solution must be able to export data to the DDOE Evaluation Reporting System (ERS) on a weekly basis (or replace the ERS system).*

Full data export is available at any time, and can be scheduled automatically at regular intervals. The formatting of the reports is highly customizable; any desired report can be generated directly by the BloomBoard system, allowing it to take the place of the ERS.

5. *The solution must offer teachers, specialists and administrators the ability to upload evidence of performance, including, but not limited to, lesson plans, samples of student work, parents and student survey results, classroom resources, assessment documents, newsletters, meeting agendas, and other documents as electronic files.*

All users have the capability to upload unlimited resources demonstrating evidence of performance for permanent storage on the BloomBoard system. BloomBoard is able to host a wide variety of file types, including MS Word, PowerPoint, Excel, PDF, and even video files. As mentioned previously, surveys are conducted through a 3rd party BloomBoard affiliate, and are integrated into the BloomBoard system once complete.

6. *The solution must support both the evaluation of evidence that is electronically submitted and evidence that is physically delivered or observed in practice.*

Any evidence that is electronically submitted can be assessed using BloomBoard's standard interface. Evidence submitted in hard copy can either be scanned and assessed, as though it was delivered electronically, or referenced as a part of the observation process. Work that is submitted in hard copy or evidence that is observed in practice can be documented in a free-

form Observation Notes section, allowing it to be tagged in the same way as evidence that is electronically submitted.

7. *The solution must support the use of the DPAS-II rubrics as a guide for evaluating educator performance.*

As a part of the on-boarding process, BloomBoard will migrate all DPAS-II rubrics into its online system, allowing all evaluations to be based on electronic versions of existing rubrics.

8. *The solution must provide sufficient storage space for submitted evidence and evaluation data over time and access to the DDOE for a period of at least 7 years.*

Evidence and evaluation data are stored permanently in the BloomBoard system for the duration of any client partnership. If DDOE should decide to terminate the relationship with BloomBoard, a full export of performance data and submitted evidence would be provided.

9. *The solution must offer the ability for evaluators to comment on evidence and provide feedback.*

The BloomBoard system allows evaluators multiple means of commentary and feedback on evidence collected. Any piece of evidence collected (i.e., within uploaded resources or in-person scripting) can be commented on individually during the tagging process. Evaluators are also able to leave overall commentary and/or feedback on an observation or a specific set of evidence, at which time the teacher is notified via email of the feedback and is able to reply. Additionally, evaluators are able to provide comments and/or feedback within the Ratings section of the evaluation system. All of these means of communication between evaluators and teachers are meant to create a transparent environment focused on constructive dialogue, which has proven paramount to a successful implementation of any performance evaluation process.

10. *The solution must allow for multiple evaluations of submitted evidence and ensure that appropriate evaluators are able to view submissions from the educators they are responsible for evaluating and only be able to access specific evaluations according to different levels of authorization, prevent unauthorized access of personnel information, and adhere to all Federal and State of Delaware legal and regulatory requirements concerning confidentiality and employee rights.*



BloomBoard

395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com

The BloomBoard EMS includes strict permission controls and grants access to evaluation data on an individual account basis - that is, each evaluator is linked only to the teachers that he or she will be observing (or the teachers whose data he or she is authorized to access). Access to the evidence provided by a single user may be granted to multiple administrative users, allowing multiple secure evaluations of evidence.

Evidence is hosted entirely within each teacher's online account, ensuring that no part of the evaluation process is improperly available to unauthorized users. Additionally, by granting user access on an individual basis, BloomBoard can support users that are both conducting evaluations and being evaluated. No evaluation data is available to non-evaluating users, maintaining user privacy and data security.

- 11. The solution must provide reporting capabilities for multiple levels of authorization (i.e., evaluator, school, district, and state) to monitor progress and analyze performance at aggregate and disaggregate levels.*

BloomBoard provides analytic dashboards that are deliberately limited in scope to reflect user authorization. As a part of the on-boarding process, the BloomBoard support team works with partners to establish what types of reporting will be helpful at both aggregate and disaggregate levels. Additional, custom reports can be requested at any time, and (if useful) can be added to the real-time dashboards, as needed.

- 12. The solution should support collaboration between educators and evaluators with messaging and discussion boards, or other similar capabilities.*

The BloomBoard system empowers educators and evaluators to have an open dialogue beyond the evaluative process. After educators set their personal goals, evaluators can comment, provide feedback and recommend resources that will assist the educators in reaching those goals. If the resource is one that an evaluator has uploaded (an article, for example), the evaluator can also include suggested discussion and reflection questions to spur conversation and thought partnership. Finally, educators can recommend resources to one another, allowing collaborative sharing of effective aids in practice.



BloomBoard

395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com

13. *The solution should ideally contain project tracking functionality for the assignment and tracking of educator and evaluation activities.*

All steps of the observation and evaluation process are tracked through an observation overview page for each user. In addition to providing an overview of the evaluation process, this page tells each user what the next required step is to move toward completion. The system also sends each user automatic notifications as appointments are scheduled and tasks are due. Any appointments created can be directly integrated with a Microsoft Outlook or Google calendar.

14. *The solution should ideally support the rolling up of formative evaluations into an overall summative score.*

When formative evaluations are conducted, the data from those evaluations are aggregated by the system and used to inform a summative score for each standard. The evaluator must, however, choose to confirm each of these ratings, ensuring that the summative evaluation process is one that is thoughtful and considered. If the educator's assessment differs from the evaluator's, both are noted in the final evaluation.

15. *The solution shall be fully secure with the ability to create different levels of access for different user identities.*

BloomBoard accounts can be provisioned based on a variety of roles (e.g.: evaluator, evaluatee, content author, etc.) and access to data is unique to each user identity. To ensure that the BloomBoard site, and all hosted data is fully secure, BloomBoard is protected by AES 256 Bit SSL encryption for all data exchanges. Our data center is protected by an ACL-based firewall, only allowing access to our internal infrastructure through a secure, encrypted connection. Only special designated personnel are granted access to the server, using a restricted account. And all data exchanges, such as file import/export, and system upgrades, also occur over a secure encrypted connection.

16. *The solution shall have all necessary technological capabilities including, but not limited to, interoperability with other state systems, upgrading and product enhancement capabilities, and the necessary technicians to ensure ongoing support and maintenance of the solution.*

The BloomBoard system integrates seamlessly with all standard data export types, and is



395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com

interoperable with a wide range of other technology solutions. All maintenance and upgrades are conducted on a remote basis, and create downtime of less than .01% of total user time (typically 1-2 minutes every 6 weeks at minimal impact time). As-needed, technical support is available by email or phone during standard business hours and is entirely free of charge.

17. *The solution and associated contracts must adhere to all Necessary Terms and Conditions from the Department of Technology and Information outlined in Section 3.2.*

BloomBoard meets all Necessary Terms and Conditions as outlined in Section 3.2.

18. *The solution must be fully operational for LEAs to implement the solution at the beginning of the 2012-2013 school year (no later than September 10, 2012).*

The BloomBoard on-boarding process typically takes no more than 2 weeks, and can take significantly less (depending on client involvement in the process). If BloomBoard is awarded a contract on August 3rd, 2012, the system will be fully operational for Delaware LEAs no later than August 17th, 2012.

Section III: Project Plan and Deliverables

PROJECT TIMELINE

Below is a suggested timeline for a partnership with the Delaware DOE:

TIMELINE	MILESTONES
August 2012	BloomBoard works with DDOE to migrate all DPAS-II tools into the online system. Preliminary analytical needs are established, and evaluation framework is finalized.
August 2012	BloomBoard creates web-based registration system for schools to enroll. All user accounts are created for teachers, coaches, and administrators.
August 2012	BloomBoard conducts weekly web-based trainings for educators, and in-person trainings for administrators. All users are fully informed and ready to begin using the system by August 31, 2012.
August 2012 - June 2013	BloomBoard conducts webinars and on-demand video trainings, in addition to providing phone and email support for any customer questions.
September 2012	Certified evaluators begin to conduct observations using system tools
September 2012	Using data from evaluations, coaches create personalized implementation plans for teachers.
October 2012	Administrators begin to use observation data to inform decision-making. BloomBoard staff assist in data analytics, and provide recommendations for customized dashboards
November 2012 - June 2013	Teachers access online professional development resources to reach their personal goals. Coaches and administrators continue to conduct evaluations to analyze teacher progress. Data is aggregated, and interventions are planned as needed.

DELIVERABLES

BloomBoard will provide all deliverables described in this proposal to all LEAs and/or the Delaware DOE. These deliverables include, but are not limited to:

- *An electronic migration of all DPAS-II evaluation tools and rubrics to an online platform*
- *A platform by which teachers and administrators can access a wide variety of professional development content tailored specifically to their needs*
- *A training plan to inform all potential LEA partners about system use*
- *A web-based registration system for schools to join the project*
- *Webinar-based trainings regarding system tools and methodology*
- *Extensive analytical dashboards for administrators to make informed, data-driven decisions regarding staff development*
- *Integration between this evaluation platform and a wide variety of other data repositories for student achievement results, survey results, etc.*
- *A video repository of teachers and administrators who have developed strong implementation methodologies for this evaluative rubric in their classrooms and schools*
- *Unlimited customer support and personalized coaching for teachers and administrators as they become acquainted with the system and its capabilities*
- *Training and certification from Master Trainers with decades of experience in public education*
- *General support and project management, including assistance in data analysis, project sustainability and professional development infrastructure throughout the term of the engagement*

Section IV: References and Experience

REFERENCES

Business Name	Colorado Department of Education, Educator Effectiveness
Address	201 East Colfax Avenue, Denver, CO 80203
Contact	Toby King, <i>Senior Consultant for Evaluation and Support</i>
Phone Number	303.866.6964



BloomBoard

395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com

Fax Number	NA
E-Mail	King_T@cde.state.co.us
Description of Services	The Colorado Department of Education is rolling out the BloomBoard System for a 27-district pilot in the Fall 2012 that will serve more than 9,000 educators.
Business Name	Aspire Public Schools
Address	1001 22 nd Avenue, Suite 100, Oakland, CA 94606
Contact	Lynzi Ziegenhagen, <i>Vice President, Technology</i>
Phone Number	415.373.6519
Fax Number	510.434.5000
E-Mail	Lynzi.Ziegenhagen@aspirepublicschools.org
Description of Services	Aspire Public Schools uses the BloomBoard System to support teachers in 34 schools during the evaluation for The College-Ready Promise Initiative.
Business Name	Green Dot Public Schools
Address	1149 South Hill Street, Suite #600, Los Angeles, CA 90015
Contact	Phillip Parker, <i>Teacher Effectiveness Lead</i>
Phone Number	323.565.1627
Fax Number	NA
E-Mail	pparker@animo.org
Description of Services	Green Dot Public Schools uses the BloomBoard System to support teachers in 18 schools during evaluation for The College-Ready Promise Initiative.

EXPERIENCE

BloomBoard was founded on the belief that teacher effectiveness is the most critical driver for improving public education, and that technology will dramatically accelerate that change. The functional requirements of the system were developed through thousands of teacher, principal and administrator interviews, based on the most common challenges identified by all in facilitating positive evaluation management and professional development support. After more than two years of development, BloomBoard has emerged as the most effective technology-based tool available today to manage and support the growth of educators.

In addition to a foundation built on recommendations from teachers and administrators, BloomBoard is constantly adjusting product specifications in response to user feedback. Maintaining customer satisfaction and producing results that enable student growth are the organization's highest priorities; consequently, new features are driven largely by the input and requests of existing partners.



395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com

BloomBoard currently works with dozens of districts across the country. The Colorado Department of Education recently awarded BloomBoard a contract to provide free observation and evaluation services for state-run pilots in 27 school districts in 2012-2013 in anticipation of the state-wide mandate that will take effect the following year.

Section V: A Day in the Life of an Empowered Educator

a. Scheduling an Observation

First thing each morning Mrs. Stevens, the school principal, logs into the BloomBoard system and is immediately taken to her dashboard. (Figure 5.1) The dashboard allows Mrs. Stevens to manage her observation tasks, schedule an observation, and/or view previously scheduled observations. The dashboard allows her to view, by status, a list of all educators who have been assigned observations, whether pending or completed. Once an observation is scheduled, the review and observation approval workflow begins.

Mrs. Stevens selects the Formal Observation from her list of available observations. She then selects dates for the pre-observation meeting, observation, and post conference meeting. The system automatically sends calendar meeting requests for each event that can then be seamlessly integrated with Outlook and Google Calendars.



BloomBoard

395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com

Figure 5.1(above): The dashboard allows administrators to see an at-a-glance overview of all tasks they need to complete for upcoming observations.

Figure 5.2 (previous page): Lesson plans and other documentation are uploaded to the system prior to a Pre-Observation Conference. Evidence submitted electronically and in-person can both be tagged to specific performance indicators.

After scheduling, Mrs. Stevens is taken to the Observation Overview Page where she sees a quick glimpse of everything she needs for the observation, including the components of the observation, how much progress has been made in completing the observation form, and how many steps remain to be completed.

Automatic email notifications are sent during each step of the observation process when: 1) an observation is scheduled, 2) an observation is ready for review, 3) an observation has been completed, 4) feedback has been shared and 5) summative ratings (e.g. Mid-Year and End-of-Year) are available. Additionally, the system will automatically email Mrs. Brooks to notify her that a lesson plan is due before her pre-conference meeting coming up in a few days.

b. Pre-Conference Meeting

Once Mrs. Brooks has uploaded her lesson plan, Mrs. Stevens can see an online version of the document, as well as all of the relevant instructional standards (Figure 5.2). This page would look the same after uploading a video. To align evidence to an appropriate instructional standard, Mrs. Stevens simply highlights text within the document (or pauses the video) and then checks off the relevant box from the indicator panel on her screen containing the standards.

Mrs. Stevens can also take notes during the pre-observation conference. The system captures all pre-observation conference notes and ratings and stores them through the observation process. After the evidence collection has been completed, Mrs. Stevens and Mrs. Brooks are then able to independently rate the pre-observation evidence, including meeting notes and the lesson plan. For each element of the rubric, Mrs. Stevens and Mrs. Brooks can view all of the evidence collected from the pre-observation meeting and aligned to each indicator. They can then choose the appropriate performance level (e.g. Level 1, Level 2, etc.), while viewing descriptions of what each competency and indicator looks like at different levels of practice (Figure 5.3). The system also supports competency rubrics for school leaders (principals) and other employees.



395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com

c. Classroom Observation

A few days later, Mrs. Stevens is back on her dashboard and notes that she is scheduled for a classroom observation with Mrs. Brooks. To prepare for this observation, Mrs. Stevens clicks on Mrs. Brooks' profile page and is taken to a screen where she has a consolidated view of Mrs. Brooks' entire Personal Learning Plan, including profile information, goals, scheduled professional development tasks, observations (both in progress and completed), and a display of recent touch points with Mrs. Stevens.

Mrs. Stevens reviews Mrs. Brooks' current goals – goals that were created in the BloomBoard EMS platform following the previous observation. She is reminded that Mrs. Brooks has been working on helping her students develop critical thinking and problem-solving skills. Mrs. Stevens makes a mental note to remain particularly cognizant of this during the upcoming observation.

To begin the observation, Mrs. Stevens is taken to a blank scripting page where she is able to collect notes and a script of the events taking place in Mrs. Brooks' classroom. Mrs. Stevens can time stamp all of her notes as she collects them to help with measuring classroom pacing, etc. Just as in the evidence gathering process outlined above, Mrs. Stevens can now highlight any of the script she has written and tag the highlighted evidence to any standard in the side panel on her screen containing the specified Delaware DOE instructional standards. Once finished collecting evidence, Mrs. Stevens can complete the task and choose whether or not to share the notes with the teacher directly through the system. If the evidence has been shared, Mrs. Brooks will then be able to access it during the Self-Assessment portion of the observation cycle. Once again, Mrs. Stevens can view any evidence collected in the observation aligned to each indicator, and then choose the appropriate performance level for that indicator. In each stage of the observation, the indicators that appear are only those relevant to the current stage of the observation (preparation, in-class, data-driven assessment, etc.).



BloomBoard

395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com

TEACHER: Mrs. Brooks
OBSERVATION: Formal Observation May 2012
CLASSROOM OBSERVATION: Add Ratings

2.2 - Manage student behavior through clear expectations and a balance of positive reinforcement, feedback, and redirection

2.2.A - Behavioral expectations

LEVEL 1	LEVEL 2	LEVEL 3	LEVEL 4
There is limited evidence that the teacher has reinforced the school's standards of conduct for students	The teacher's efforts to reinforce the school's standards of conduct are inconsistent	The teacher supports the school's standards of conduct so that students understand and are held to the same high standards	The teacher and students actively support the school's standards of conduct; students accept responsibility for their conduct
Select	Select	Select	Select

Keep this comment private Add this comment

Classroom Observation

T: Opens class with a do now

S: work diligently

Learning objectives are clearly written on the board and Mrs. Brooks references the goal for today's lesson while the students are working.

Comments:

Figure 5.3 (above): Once evidence is collected, both the administrator and the teacher can review it to assign levels appropriately.



395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com

Figure 5.4 (previous page): Following formative assessments, the system automatically suggests ratings for final, summative assessments. The administrator must confirm these ratings to ensure a thoughtful assessment process.

d. Post-Observation Conference and Goal-Setting

During the Post-Observation Conference a few days later, Mrs. Stevens and Mrs. Brooks compare ratings from the prior observation activities, focusing on the elements for which they chose conflicting ratings.

They also can discuss the improvement Mrs. Brooks made since the last observation – specifically, they discuss the improvements she has made towards her goal of helping students develop critical thinking and problem-solving skills. They review the individual elements and desired outcomes of that particular goal, and Mrs. Stevens concludes that Mrs. Brooks showed “accomplished” performance for this element and therefore has met her goal. Mrs. Stevens marks that goal as “completed,” and they move on to discussing a new goal. At the end of the evaluation process, Mrs. Stevens can create a summative observation rating for Mrs. Brooks based on individual formative observations (Figure 5.4).

Mrs. Stevens recommends that Mrs. Brooks work on a goal of integrating technology into her classroom. She received a rating of “proficient” for that element and had listed it as one of the

items in her development area that she wanted to work on. Together, they create a new growth goal around this idea, and add it to Mrs. Brooks' Personal Learning Plan. With the goal created, Mrs. Brooks can now enter the specific goal details page and enter the SMART prompts to ensure that the goal is of high quality.

e. Professional Development Resource Selection

Mrs. Stevens and Mrs. Brooks now use the Quick Links under the Planned Activities section of Mrs. Brooks' goal page to search for professional development resources that will help Mrs. Brooks use technology in a more integrated and relevant way for her students.

An initial search for this element within the on-demand BloomBoard Marketplace (professional development platform) brings up a number of videos, books, workshops, webinars and articles related to technology in the classroom (Figure 5.5).

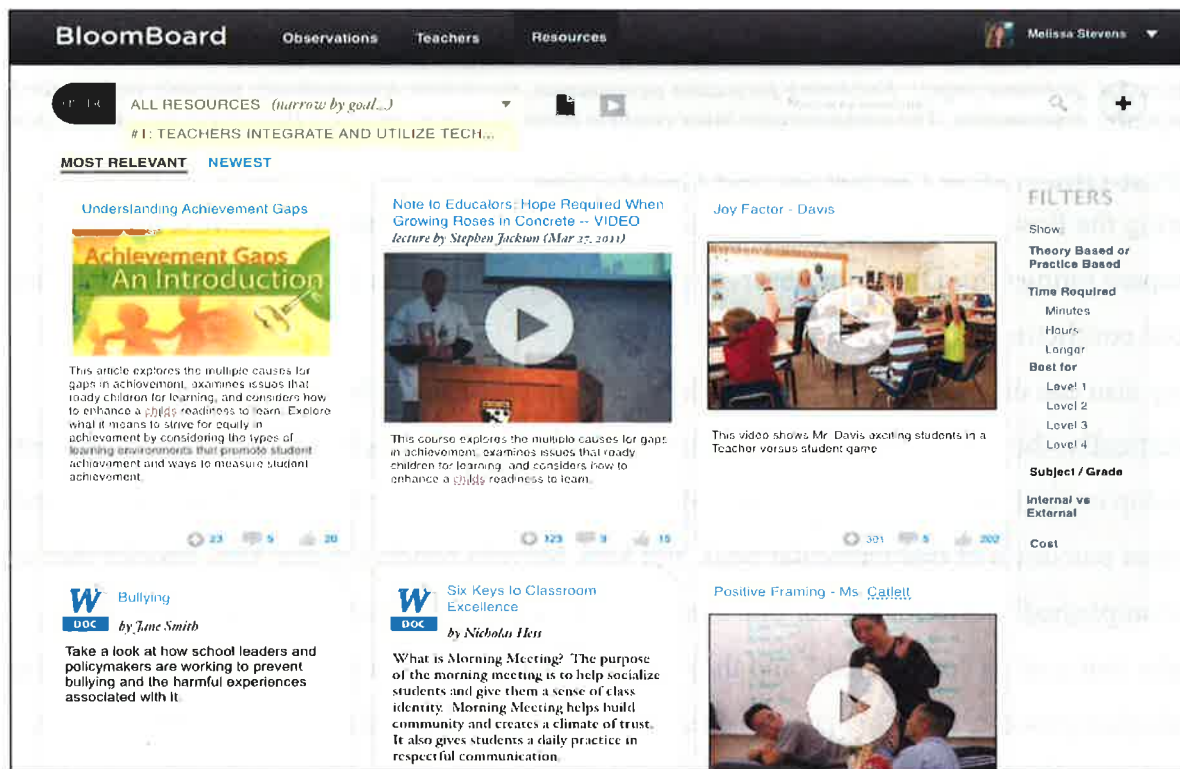


Figure 5.5 (above): Using the resource marketplace, administrators can recommend professional development tools to teachers to help them achieve their goals.



BloomBoard

395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com



Fig 5.6 (above): School, district, & state data can be aggregated or disaggregated for comprehensive analysis.

Not only does the BloomBoard system use ratings and reviews to refer high quality content, but it also incorporates teacher observation data, as well as student achievement data. This means that the system can individually target each teacher with supports that will show the most improvement for teachers and students over time.

To narrow the choices down to the content that will be the most relevant for Mrs. Brooks, Mrs. Stevens filters the search results to show content relevant only to teachers working toward moving from “proficient” level to “accomplished” level. She further narrows the search to show content relevant to Mrs. Brooks’ videos and course work. Then she places all of these activities on the new goal page, and adds due dates for each activity grade level.

After browsing a few of these resources, Mrs. Stevens and Mrs. Brooks settle on 3 articles and 2 videos which they then choose to add to Mrs. Brooks’ Professional Growth Plan. They then can begin the formative cycle of support and observation over again.

f. Data Collection

Anytime throughout the observation / support cycle, DDOE can use the BloomBoard system to create advanced reporting tools that can display a snapshot of performance by school and district



BloomBoard

395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com

broken out by various measures within the system, including overall evaluation rating, observation ratings (Teaching Performance), and other performance indicators (Figure 5.6). Using this system, DDOE officials can monitor the progress of Mrs. Stevens and Mrs. Brooks at the school, district, or LEA level. While BloomBoard will always provide free, on-demand access to all of the data within the system through an excel export format, access to our analytics reporting package is only available as a premium feature on the site.



395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com

VI. Budget Narrative and Evaluation Management System Cost

BloomBoard's basic teacher observation and evaluation management system is free. As a part of its educational philosophy, BloomBoard believes that all teachers and administrators deserve access to high-quality technology infrastructure that facilitates positive professional development. BloomBoard support, maintenance, and upgrades are also entirely free.

BloomBoard offers comprehensive optional "train-the-trainer" sessions led by Master Trainers at a cost of \$2,000 per day. BloomBoard can accommodate up to 40 individuals at each full-day training session. Web-based training is free, and is provided on an as-needed basis.

BloomBoard currently offers two optional premium paid services: 1) data analytics licenses that allow users to view aggregated school- and district-level data in real time (\$1,000 per license per year), and 2) video observation / professional development content hosting (\$10 per resource per year).

Additionally, BloomBoard partners with third-party content providers to make a wide variety of professional development resources available for purchase. This budget is entirely at the discretion of each school or district.

FEE SCHEDULE SUMMARY

SERVICE TO BE PROVIDED	ANTICIPATED COST
1. Teacher and Administrator Evaluation System Licenses	Free
2. In-Person Training Sessions (<i>optional</i>)	\$2,000/day
3. Online Training and Support	Free
4. Analytic Dashboard Licenses (<i>optional</i>)	\$1,000/license/year
5. Video Resource Hosting (<i>optional</i>)	\$10/resource/year

Appendix E

BLOOMBOARD PLATFORM SERVICES TERMS

1. Definitions.

"License Administrator" means a User designated by DDOE and authorized by BBI to submit Order Forms for additional User licenses. DDOE may substitute License Administrators by written notice to BBI.

"Service" means the service(s) purchased by DDOE from BBI as set forth in the Contract for RFP #2013-01. Service includes providing DDOE with access to and use of the Bloomboard Platform Services.

"Service Term" means the term during which BBI will provide the Service to DDOE as specified in the Statement of Work.

"Users" means DDOE's employees and contractors who are authorized to use the Service and have been supplied user identifications and passwords by DDOE (or by BBI at DDOE's request).

2. Services.

2.1 Bloomboard Platform Services. BBI shall make the Bloomboard Platform Services available to DDOE during the term set forth in the Statement of Work, the applicable Additional Terms, and the Contract for RFP #2013-01.

2.2 Professional Services. BBI will provide certain professional services as set out in the Statement of Work as attached as Appendix A to the Contract for RFP #2013-01.

3. Use of the Service.

3.1 BBI Responsibilities.

(a) BBI shall ensure that the Services set forth in the Statement of Work are available to DDOE and they perform substantially in accordance with the specifications and will use commercially reasonable efforts to maintain the security of the Service.

(b) Additionally, BBI will provide telephone help desk or online support services during normal business hours (between the hours of 7:00 am and 7:00 pm PST on business days). BBI may access DDOE's User accounts, including without limitation DDOE Data subject to the provisions of FERPA, to respond to service or technical problems.

3.2 DDOE Responsibilities. DDOE is responsible for all activities that occur under DDOE's User accounts. DDOE shall: (i) have sole responsibility for the accuracy, quality, integrity, legality (including potential infringement of third party rights), reliability, and appropriateness of all DDOE Data; (ii) use commercially reasonable efforts to prevent unauthorized access to, or



395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com

use of, the Bloomboard Platform Services and notify BBI promptly of any such unauthorized use; and (iii) comply with all applicable local, state, federal, and foreign laws in using the Service. Under no circumstances is there indemnification by DDOE of BBI. Any references to any form of indemnification by DDOE is null and void.

3.3 Bloomboard Platform Services Guidelines. DDOE shall use the Bloomboard Platform Services solely for its internal business purposes as contemplated by the Contract for RFP #2013-01 and shall not use the Bloomboard Platform Services to: (i) send spam or any other form of duplicative and unsolicited messages other than marketing and promotional messages to DDOE's clients and prospective clients as contemplated by the Service; (ii) harvest, collect, gather, or assemble information or data regarding other users without their consent; (iii) knowingly transmit through or post on the Bloomboard Platform Services unlawful, immoral, libelous, tortuous, infringing, defamatory, threatening, vulgar, or obscene material or material harmful to minors; (iv) knowingly transmit material containing software viruses or other harmful or deleterious computer code, files, scripts, agents, or programs; (v) knowingly interfere with or disrupt the integrity or performance of the Bloomboard Platform Services or the data contained therein; (vi) attempt to gain unauthorized access to the Service, computer systems, or networks related to the Service; or (vii) harass or interfere with another user's use and enjoyment of the Service.

3.4 Aggregated Statistics. Notwithstanding anything to the contrary, BBI may use and distribute statistics based on DDOE's usage and DDOE Data as aggregated with BBI's other clients' usage and data for marketing and other purposes. BBI may also send email communications to the Users regarding BBI's suite of services.

4. DMCA Copyright Policy. BBI operates the Bloomboard Platform Services in compliance with 17 U.S.C. §512 and the Digital Millennium Copyright Act ("DMCA"). It is our policy to respond to any infringement notices and take appropriate actions under the DMCA and other applicable intellectual property laws. It is the policy of BBI to promptly process and investigate notices of alleged copyright infringement, and take appropriate actions under the DMCA. The DMCA requires that all notices of alleged copyright infringement must be in writing. When informing the designated agent of an alleged copyright infringement, the complainant must do the following:

- (a) Identify the copyrighted work that allegedly has been infringed. If multiple copyrighted works at a single online site are involved, please provide a list of the works on that site;
- (b) Describe the material that is claimed to be infringing and provide sufficient information to permit BBI, to locate that material;



395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com

- (c) Provide your contact information, including an address, telephone number, and, if available, an email address;
- (d) Certify or include a statement that the complainant has a good faith belief that the use of the copyright-protected material in the manner complained of is not authorized by the copyright owner, the owner's agent, or law;
- (e) Certify that the information that you have provided BBI is accurate. The complainant should attest under penalty of perjury that the complainant is authorized to enforce the copyrights that have allegedly have been infringed; and
- (f) Include a physical or electronic signature of the copyright owner or person authorized to act on behalf of the owner.

Before the complainant alleges an infringement, complainant should consult copyright materials to confirm that the use is, in fact, infringing. The United States Copyright Office provides basic information, online, at <http://www.copyright.gov/circs/circ01.pdf>, which can assist one in determining whether an exception or defense, such as fair use, may apply to the use of your copyrighted work.

BBI expects all of the Users of its Bloomboard Platform Services to comply with applicable copyright laws. However, if BBI is notified of a claimed copyright infringement, or otherwise becomes aware of facts and circumstances from which infringement is apparent, it will respond appropriately, which may include removing or disabling access to the material that is claimed to be infringing. BBI will follow the procedures outlined in the DMCA with regard to appropriate notifications of the User and the complaining party, acceptance of counter notifications, and, where indicated, "putback" of the alleged infringing material. Refer to the United States Copyright Office for the provisions of the DMCA at <http://www.loc.gov/copyright/legislation/dmca.pdf>.

Where it has been clearly established that a User is a repeat offender, BBI may, in its sole discretion, terminate that User's account. Pursuant to the DMCA, BBI has designated an agent to receive notification of alleged copyright infringement occurring on web pages or computer servers. If you believe that your copyrighted work is being infringed on the Service, please notify our designated agent at: <support@bloomboard.com>

5. Force Majeure. Neither party will be deemed in breach of these Terms if the failure to perform is caused by circumstances beyond its reasonable control, including without limitation acts of God, acts of government, flood, fire, earthquake, civil unrest, acts of terror, strikes or labor problems, computer, internet, or telecommunications failures, delays or network intrusions, or denial of service attacks.



BloomBoard

395 Page Mill Rd. 3rd Floor
Palo Alto, CA 94306
www.bloomboard.com

6. Ownership of DDOE Data. "DDOE Data" means any electronic data, information or material provided or submitted by DDOE to BBI through the Bloomboard Platform Services. As between BBI and DDOE, all DDOE Data remains the sole property of DDOE.

7. Use of DDOE Data. DDOE grants to BBI a non-exclusive, non-sublicenseable, non-transferable (except as set forth in Section 15.1 of the Contract) license to use, copy, store, modify, and display the DDOE Data, subject to the requirements of FERPA solely to the extent necessary to provide the Service and only during the Service Term. For clarification purposes, the foregoing license also extends to BBI's subcontractors provided that BBI will remain responsible for such subcontractors' breach of the Terms. BBI shall: (i) in addition to its confidentiality obligations under Section 7 of the Contract, not use, edit, or disclose the DDOE Data.

8. Return of DDOE Data. Upon written request by DDOE within sixty (60) days of the effective date of termination, BBI shall make available to DDOE a file of DDOE Data. After such sixty (60) day period, BBI shall have no obligation to maintain or provide any DDOE Data, except as required by FERPA.

