

Delaware Talent Management Statement of Agreement

This Agreement ("Agreement") is entered into as of June 6, 2013 ("Effective Date") and will end on August 31, 2014, by and between the State of Delaware, Department of Education, hereafter referred to as DDOE, and Innovative Schools, hereafter referred to as Innovative Schools.

WHEREAS, DDOE desires to develop full-service human capital management services for select participating schools and LEAs; and

WHEREAS, INNOVATIVE SCHOOLS desires to provide such services to DDOE on the terms set forth below;

WHEREAS, DDOE and INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS agree as follows:

1. Services.

1.1 INNOVATIVE SCHOOLS shall perform for DDOE the services specified in the Appendices to this Agreement, attached hereto and made a part hereof.

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) DDOE's request for proposals, attached hereto as Appendix C; (c) INNOVATIVE SCHOOLS's response to the request for proposals, attached hereto as Appendix D. The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

1.3 DDOE may, at any time, by written order, 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 INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS, who shall then submit to DDOE a "Change Order" for approval authorizing said change. The Change Order shall state whether the change shall cause an alteration in the price or the time required by INNOVATIVE SCHOOLS for any aspect of its

performance under this Agreement. Pricing of changes shall be consistent with those established within this Agreement.

1.4 INNOVATIVE SCHOOLS will not be required to make changes to its scope of work that result in INNOVATIVE SCHOOLS'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 June 6, 2013 through August 31, 2014.

2.2 DDOE will pay INNOVATIVE SCHOOLS for 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 INNOVATIVE SCHOOLS for the performance of services described in Appendix A, Statement of Work will not exceed the fixed fee amount of \$180,000. It is expressly understood that the work defined in the appendices to this Agreement must be completed by INNOVATIVE SCHOOLS and it shall be INNOVATIVE SCHOOLS'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 INNOVATIVE SCHOOLS.

2.4 INNOVATIVE SCHOOLS shall submit invoices to DDOE, in accordance with Appendix B, in sufficient detail to support the services provided during the previous period. 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 INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS 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 *INNOVATIVE SCHOOLS, 100 West 10th Street, Suite 403, Wilmington, DE 19801*.

2.5 Unless provided otherwise in an Appendix, all expenses incurred in the performance of the services are to be paid by INNOVATIVE SCHOOLS. If an

Appendix specifically provides for expense reimbursement, INNOVATIVE SCHOOLS shall be reimbursed only for reasonable expenses incurred by INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS all damages, costs and expenses caused by INNOVATIVE SCHOOLS's negligence, resulting from or arising out of errors or omissions in INNOVATIVE SCHOOLS's work products, which have not been previously paid to INNOVATIVE SCHOOLS.

2.8 Invoices shall be submitted to:

Michelle Kriss
Administrative Secretary, Project Management Office (PMO)
Delaware Department of Education
John G. Townsend Building
401 Federal Street, Suite 2
Dover, DE 19901
Phone No. (302) 735-4120
Fax No. (302) 739-7768

3. Responsibilities of INNOVATIVE SCHOOLS.

3.1 INNOVATIVE SCHOOLS shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by INNOVATIVE SCHOOLS, its subcontractors and its and their principals, officers, employees and agents under this Agreement. In performing the specified services, INNOVATIVE SCHOOLS shall follow practices consistent with generally accepted professional and technical standards. INNOVATIVE SCHOOLS 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 any service, product or deliverable furnished pursuant to this Agreement does not conform with DTI standards, INNOVATIVE

SCHOOLS shall, at its expense and option either (1) replace it with a conforming equivalent or (2) modify it to conform with DTI standards. INNOVATIVE SCHOOLS shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to DDOE caused by INNOVATIVE SCHOOLS's failure to ensure compliance with DTI standards.

3.2 It shall be the duty of the INNOVATIVE SCHOOLS 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. INNOVATIVE SCHOOLS will not produce a work product that violates or infringes on any copyright or patent rights. INNOVATIVE SCHOOLS shall, 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 INNOVATIVE SCHOOLS shall not in any way relieve INNOVATIVE SCHOOLS of responsibility for the professional and technical accuracy and adequacy of its work. DDOE's review, approval, acceptance, or payment for any of INNOVATIVE SCHOOLS'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 INNOVATIVE SCHOOLS shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to DDOE caused by INNOVATIVE SCHOOLS's performance or failure to perform under this Agreement.

3.4 INNOVATIVE SCHOOLS shall appoint a Lead Program Coordinator who will manage the performance of services under the direction of an INNOVATIVE SCHOOLS Executive Director. All of the services specified by this Agreement shall be performed in accordance with Appendix A, by INNOVATIVE SCHOOLS's associates and employees under the supervision of the Executive Director. The positions anticipated include:

Project	Team	Title	% of Project Involvement
	Debbie Doordan	Executive Director	5%
	Charles Sheppard	Lead Program Coordinator	50%

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, INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS is unsuitable to DDOE for good cause, INNOVATIVE SCHOOLS shall remove such employee from the performance of services and substitute in his/her place a suitable employee.

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

3.7 INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS 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 A.

5. State Responsibilities.

5.1 In connection with INNOVATIVE SCHOOLS'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 INNOVATIVE SCHOOLS in the performance of services under this Agreement and will be available for consultation with INNOVATIVE SCHOOLS at such reasonable times with advance notice as to not conflict with their other responsibilities.

5.3 The services performed by INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS. It is understood that DDOE's representatives' review comments do not relieve INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS 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.

INNOVATIVE SCHOOLS shall return any original data provided by DDOE.

5.6 DDOE shall assist INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS's name, either express or implied, in any of its advertising or sales materials. INNOVATIVE SCHOOLS 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 All materials, information, documents, and reports, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by INNOVATIVE SCHOOLS for DDOE relating to the services to be performed hereunder 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. INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS retains all title and interest to the data it furnished and/or generated pursuant to this Agreement. Retention of such title and interest does not conflict with DDOE's rights to the materials, information and documents developed in performing the project. Upon final payment, DDOE shall have a perpetual, nontransferable, non-exclusive paid-up right and license to use, copy, modify and prepare derivative works of all materials in which INNOVATIVE SCHOOLS retains title, whether individually by INNOVATIVE SCHOOLS or jointly with DDOE. Any and all source code developed in connection with the services provided will be provided to DDOE, and the aforementioned right and license shall apply to source code. The parties will cooperate with each other and execute such other documents as may be reasonably deemed necessary to achieve the objectives of this Section.

6.3 In no event shall INNOVATIVE SCHOOLS or its subcontractors 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,

INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS prior to the effective date of this Agreement ("Preexisting Information") shall remain the exclusive property of INNOVATIVE SCHOOLS 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.

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 INNOVATIVE SCHOOLS warrants that its services will be performed in a good and workmanlike manner. INNOVATIVE SCHOOLS 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.

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 INNOVATIVE SCHOOLS for DDOE in connection with the provision of the Services, INNOVATIVE SCHOOLS shall pass through or assign to DDOE the rights INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS, its agents or employees, or (B) INNOVATIVE SCHOOLS'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) INNOVATIVE SCHOOLS shall have been notified promptly in writing by DDOE of any notice of such claim; and (ii) INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS in writing of a third party claim against DDOE that any Deliverable infringes a copyright or a trade secret of any third party, INNOVATIVE SCHOOLS will defend such claim at its expense and will pay any costs or damages that may be finally awarded against DDOE. INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS; (3) DDOE's use of the Deliverable in combination with any product or information not owned or developed by INNOVATIVE SCHOOLS; (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 Client or any third party. If any Deliverable is, or in INNOVATIVE SCHOOLS's opinion is likely to be, held to be infringing, INNOVATIVE SCHOOLS shall at its expense and option either (a) procure the right for DDOE to continue using it, (b) replace it with a noninfringing equivalent, (c) modify it to make it noninfringing. The foregoing remedies constitute DDOE's sole and exclusive remedies and INNOVATIVE SCHOOLS's entire liability with respect to infringement.

9.3 DDOE agrees that INNOVATIVE SCHOOLS' 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 INNOVATIVE SCHOOLS negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed fees paid to INNOVATIVE SCHOOLS.

In no event shall INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS has been advised of the likelihood of such damages.

10. Employees.

10.1 INNOVATIVE SCHOOLS has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS 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, INNOVATIVE SCHOOLS 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. INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS acknowledges that INNOVATIVE SCHOOLS and any subcontractors, agents or employees employed by INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS shall be responsible for providing liability insurance for its personnel.

11.4 As an independent contractor, INNOVATIVE SCHOOLS 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.

12.1 DDOE may suspend performance by INNOVATIVE SCHOOLS under this Agreement for such period of time as DDOE, at its sole discretion, may prescribe by providing written notice to INNOVATIVE SCHOOLS at least 30 working days prior to the date on which DDOE wishes to suspend. Upon such suspension, DDOE shall pay INNOVATIVE SCHOOLS its compensation, based on the percentage of the project completed and earned until the effective date of suspension, less all previous payments. INNOVATIVE SCHOOLS shall not perform further work under this Agreement after the effective date of suspension. INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS for any cause other than the error or omission of the INNOVATIVE SCHOOLS, for an aggregate period in excess of 30 days, INNOVATIVE SCHOOLS shall be entitled to an equitable adjustment of the compensation payable to INNOVATIVE SCHOOLS under this Agreement to reimburse INNOVATIVE SCHOOLS 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.

13.2 This Agreement may be terminated in whole or in part by DDOE for its convenience, but only after INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS at the time of termination may be adjusted to the extent of any additional costs occasioned to DDOE by reason of INNOVATIVE SCHOOLS's default.
- c. Upon termination for default, DDOE may take over the work and prosecute the same to completion by agreement with another party or otherwise. In the event INNOVATIVE SCHOOLS shall cease conducting business, DDOE shall have the right to make an unsolicited offer of employment to any employees of INNOVATIVE SCHOOLS assigned to the performance of the Agreement, notwithstanding the provisions of Section 10.2.

13.4 If after termination for failure of INNOVATIVE SCHOOLS to fulfill contractual obligations it is determined that INNOVATIVE SCHOOLS has not so failed, the termination shall be deemed to have been effected for the convenience of DDOE.

13.5 The rights and remedies of DDOE and INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS, 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 INNOVATIVE SCHOOLS or any agent or representative of INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS it could pursue in the event of a breach of this Agreement by INNOVATIVE SCHOOLS.

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 INNOVATIVE SCHOOLS 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.

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

15.3 Approval by DDOE of INNOVATIVE SCHOOLS's request to subcontract or acceptance of or payment for subcontracted work by DDOE shall not in any way relieve INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS shall be and remain liable for all damages to DDOE caused by negligent performance or non-performance of work under this

Agreement by INNOVATIVE SCHOOLS, its subcontractor or its sub-subcontractor.

15.5 The compensation due shall not be affected by DDOE's approval of the INNOVATIVE SCHOOLS'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.

INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS 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, INNOVATIVE SCHOOLS shall comply with all applicable federal, state and local laws, ordinances, codes and regulations. INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS 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. INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS acknowledges that DDOE has an obligation to ensure that public funds are not used to subsidize private discrimination.

INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS in breach of the Agreement, terminate the Agreement, and designate INNOVATIVE SCHOOLS as non-responsible.

20.6 INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS 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 INNOVATIVE SCHOOLS's performance and records pertaining to this Agreement at the INNOVATIVE SCHOOLS business office during normal business hours.

21. Insurance.

21.1 VENDOR NAME 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 person/\$3,000,000 per occurrence, **and**
- C. Medical/Professional Liability - \$1,000,000.00 per person/\$3,000,000 per occurrence; or
- D. Miscellaneous Errors and Omissions - \$1,000,000.00 per person/\$3,000,000 per occurrence, 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. INNOVATIVE SCHOOLS 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, Delaware, 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, INNOVATIVE SCHOOLS 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. INNOVATIVE SCHOOLS 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: Deborah L. Doordan
INNOVATIVE SCHOOLS
100 West 10th Street
Suite 403
Wilmington, DE 19801.

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:

Jonathan D. Neubauer

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.

Innovative Schools

Original on File

Deborah L. Doordan
Executive Director

6/10/13
Date

Original on File

Charles W. Sheppard, Jr.
Lead Program Coordinator

6/10/13
Date

Delaware Department of Education

Original on File

Karen Field Rogers
Associate Secretary, Financial Reform &
Resource Management

6/6/13
Date

Original on File

Initial Finance Director

Original on File

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

6/6/13
Date

Original on File
Original on File

Initial Work Group
Director

Appendix A - Statement of Work for Delaware Talent Management

I. Program Services & Service Delivery Model

- a. **Nature of Work to be Performed:** Delaware Department of Education (hereinafter "DDOE") has retained Innovative Schools for a period of fifteen months to operate Delaware Talent Management (hereinafter "DTM"), a program designed to provide professional services related to human resource operational support and human capital strategy development to participating schools. Innovative Schools will model the service after The New Teacher Project (TNTN)'s similar services nationwide and will subcontract with TNTN as necessary to operate and support the program. The time period covered by this agreement with DDOE does not limit Innovative Schools from starting or continuing this service outside the dates of this agreement, nor does it preclude Innovative Schools from securing additional financial consideration from the state's Local Education Agencies (hereinafter "LEAs") or private contributions outside of, or in conjunction with, the scope of this agreement.
- b. **Participating Schools:** DTM is designed to provide professional services related to human resource operational support and human capital strategy to select participating schools. The number of participating schools must be no less than five (5) at any given time during this agreement, and shall total fourteen (14) participating schools by the end of the agreement period; otherwise, the agreement may be terminated by DDOE. The program is designed to serve high-need and hard-to-staff schools, and Innovative Schools will seek to attract participating schools of these types. While these schools will be the target clients of DTM, the services shall be made available to any LEA that would like to participate. Innovative Schools will solicit school participation in consultation with DDOE. Innovative Schools, with prior approval of DDOE, may secure select school partnerships outside of these requirements based upon LEA interest.
- c. **Core Program Services:** Participating schools enter into agreements with Innovative Schools (to be added as an appendix to this agreement if requested by DDOE) to provide human capital management support, consultation, and direct service across the human capital continuum. Each participating school will designate a point of contact, typically the School Leader, Principal or Assistant Principal, for this initiative. With the intent of ensuring that every classroom is staffed with a well-prepared and talented teacher, DTM provides four services that support each school's teacher hiring practices, talent management strategies, teacher evaluation processes, and teacher professional development. These four services, outlined below, are complimentary and offered in a variety of package configurations by Innovative Schools, :
 - i. **Semiannual delivery of a school-wide Instructional Culture Survey to diagnose human capital management practices:** Based on an instrument developed by

The New Teacher Project, this survey will diagnose current teacher hiring practices and measure each school's instructional culture based upon a set of common predictors. The survey calculates an instructional culture index (ICI) score and is administered confidentially to each school's teaching staff as a means of identifying and assessing the school's human capital management practices, including, but not limited to:

1. Teacher Selection & Hiring
2. Teacher Observation & Feedback
3. Teacher Evaluation
4. Teacher Professional Development
5. Teacher Retention Strategies

ii. **Maintenance of a teacher pipeline for ongoing usage by school hiring officials:**

DTM will implement a national recruitment campaign and selective screening process for certified teachers, supported by the initiative's candidate website and applicant portal, thereby building a pool of highly qualified candidates for teaching positions in participating schools. Principals will receive training from DTM on how to access candidates, review candidate materials, interview candidates, and process candidates in a timely and efficient manner.

iii. **Coaching of school leaders:** DTM will provide training to leaders at participating schools on key human capital management practices. School leaders will receive coaching in areas that may include, but will not be limited to, setting milestones, selection/observation rubric forming, retention planning, and other areas identified as challenges through the Instructional Culture Survey and by school leaders themselves. DTM will provide specific training on the following topics:

1. Marketing schools to prospective teachers
2. School-based teacher selection models
3. Effective Interviewing

iv. **Mentoring support for new teachers:** DTM will provide support and training for new teachers and mentor teachers in participating schools (see attached overview). Specifically, DTM will conduct workshops for mentors and mentees on topics reported by new teachers as areas of particular difficulty; hold site-based meetings of new teachers in each participating school to discuss challenges and determine areas for further support; and accompany mentor teachers as they observe their mentees in the classroom and provide coaching around the feedback process. The workshop aspect of this component will include training and facilitated discussion on the following topics:

1. Observation and feedback (for mentors)
2. Classroom management (for mentors and mentees)
3. Instructional strategies (for mentors and mentees)

4. Time and task management (for mentors and mentees)
5. Use of data in instruction (for mentors and mentees)

d. Service Delivery Timeline: Innovative Schools will provide the services described above on the following timeline:

- i. June 6, 2013-August 31, 2013: Innovative schools will recruit a minimum of five (5) schools to participate in Delaware Talent Management (DTM). Innovative Schools, in collaboration with TNTP as necessary (hereinafter "DTM Staff"), will recruit and screen teacher candidates and will refer appropriate candidates to participating schools for the purpose of filling mid-year and fall 2013 vacancies and assisting schools in beginning the 2013-2014 school year with no teacher vacancies. DTM Staff will administer an end-of-year Instructional Culture Insight Survey and share school-level reports comparing each participating school to the top-performing schools across the network, and will provide an anonymized report of the results to DDOE. Concurrently, Innovative schools will recruit an additional five (5) schools to participate in DTM, bringing the total number of schools participating in DTM to ten (10). By the end of August, a DTM leadership coach will develop an individual coaching plan with each school's leadership team for the coming year, including with new schools whose contract term officially begins on September 1, 2013.
- ii. September 1, 2013-December 31, 2013: DTM Staff will continue to recruit and screen teacher applicants and will support participating schools with referrals of appropriate candidates for vacancies that arise related to the September 30th Count and other events, and will close the 2013 recruitment season in mid-October, re-opening the application portal for 2014 applications in December. DTM leadership coach(es) will implement the first phase of the yearly coaching plan developed for each school and will provide training on seasonally relevant human capital management topics. DTM Staff will conduct a workshop on observation and feedback for mentor teachers in September, and a September introduction meeting will be held at each site for new teachers. DTM staff will conduct three workshops for new teachers and their mentors, in October, November, and December, respectively, on the topics of classroom management, instructional strategies, and time and task management. In November, a new teacher meeting will be held at each site. During this period, co-observation of new teachers with mentors may occur.
- iii. January 1, 2014- May 31, 2014: DTM Staff will administer a mid-year Instructional Culture Insight Survey and share school-level reports comparing each participating school to the top-performing schools across the network, and will provide an anonymized report of the results to DDOE. Screening of new

teacher applications will resume, and DTM Staff will refer appropriate candidates for mid-year vacancies. In January, DTM Staff will conduct a workshop for new and mentor teachers on the use of data in instruction, and in February, a new teacher meeting will be held at each site. During this period, co-observation of new teachers with mentors will also occur. DTM leadership coach(es) will continue to implement the yearly coaching plan developed for each school and provide training on seasonally relevant human capital management topics. DTM Staff will work with partner school leadership teams to project vacancies for the 2014-2015 school year and will begin to refer candidates for early interviewing. Concurrently, DTM Staff will begin to recruit new participating schools for the 2014-2015 program year.

- iv. June 1, 2014- August 31, 2014: Innovative schools will recruit additional schools to participate in DTM, bringing the total number of schools participating in DTM to at least fourteen (14). A final new teacher meeting will be held at each site in June. DTM Staff will administer an end-of-year Instructional Culture Insight Survey and share school-level reports comparing each participating school to the top-performing schools across the network, and will provide an anonymized report of the results to DDOE. By the end of August, a DTM leadership coach will develop an individual coaching plan with each school's leadership team for the coming year, including with new schools whose contract term officially begins on September 1, 2014. DTM Staff will continue to recruit and screen teacher applicants and will support participating schools with referrals of appropriate candidates for remaining Fall 2014 vacancies. Concurrently, Innovative Schools will solidify partnerships with new participating schools.

II. Personnel

- a. Innovative Schools will provide a Project Coordinator for this program:
 - i. The Project Coordinator will attend a minimum of one (1) in-person meeting quarterly with the DDOE Project Manager, on a date/time and at a location to be mutually agreed upon by Innovative Schools and DDOE.
 - ii. Innovative Schools and the DDOE Project Manager will have a sixty-minute progress meeting each week at a date/time to be mutually agreed upon by Innovative Schools and DDOE.

III. Program Evaluation and Measures of Success

- a. Innovative Schools will report on the following contract-specific Measures of Success:
 - Recruitment--# of applications from certified candidates received
Target: 1000 during 2013 recruitment period ending on October 30, 2013

Target: 200 between December 1, 2013 and March 1, 2014

Target: 500 between December 1, 2013 and June 1, 2014

Target: 750 between December 1, 2013 and August 31, 2014

- Prescreening—speed with which initial screening of submitted applications will be completed

Target: 90% of applications screened within 7 days of completion

- Hiring support—average number of candidates referred per identified vacancy in participating schools

Target: 5-7

- Placement—proportion of identified vacancies in participating schools filled with DTM candidates

Target: 30% of vacancies filled with any candidate from outside the school, based on reporting from partner school personnel

- Hiring Practices—proportion of participating schools fully staffed before the start of the 2013-2014, and before the start of the 2014-2015 school year

Target: 75%

- Teacher Quality—Proportion of teachers hired through the DTM pipeline and employed in their new positions for at least six months rated effective on pre-Insight-survey rating scale by school leadership and rated as either “Effective” or “Highly Effective” on their Delaware Performance Appraisal System II (DPAS II) Summative Evaluations (DTM and DDOE will work in collaboration to gather necessary documentation related to the DPAS II data).

Target: 80%

- Insight Survey—proportion of teachers at participating schools responding to the Insight Survey, on average

Target: 70%

- Insight Survey—growth in survey domains from mid-year survey to end-of year survey each year (excluding schools not participating in both surveys during a given year)

Target: 70% of domains in each school’s results grow by at least .5 points on the ten-point scale, excluding domains already scoring 8.5 or higher

- Coaching - Creation of a school-specific yearly coaching plans

Target: 100% of participating schools will have a clearly defined coaching plan created in collaboration with school leadership before September 30 of each year

- Coaching – Proportion of school leaders expressing satisfaction with coaching service on DOE-approved survey at the end of each school year

Target: 80%

- Mentoring—Proportion of attending teachers expressing satisfaction with each workshop on a feedback survey at the end of each session

Target: 70% on average

- Mentoring—Number of new teacher meetings held in each participating school:

Target: 3 per year

- Mentoring—Number of co-observations completed with mentor teachers for each new teacher:

Target: 1 for each new teacher, not to exceed 10 co-observations per participating school

- Amendments to these measures of success will be mutually agreed upon by DDOE and Innovative Schools. If there are disagreements, DOE shall have the authority to make the final determination.
- Evaluation(s) of the initiative based upon measures of success may be conducted by DDOE, USED, or an external party. DDOE reserves the right to evaluate the program using additional measures and methods.

Appendix B: Payments and Deliverables

Total payment for this Agreement with Innovative Schools will not exceed the amount \$180,000 for the term of June 6, 2013 to August 31, 2014.

Payment by the DDOE: DDOE agrees to compensate Innovative Schools a maximum \$180,000 for the services described in this Agreement.

Payment Schedule. Payments will occur under four (4) separate threads of deliverables, with "requested documentation" denoting all documents requested by DDOE for the purposes of Race to the Top (RTTT) reporting. Innovative Schools shall invoice the DDOE according to the following payment schedule:

- I. Delaware Talent Management 2013-2014 - \$180,000
 - a. On June 30, 2013—\$60,000
 - i. This payment encompasses the following deliverables, evidenced through requested documentation pertaining to each:
 1. Semiannual report on DTM progress to date, including information on cumulative 2013 teacher recruitment numbers, prescreening speed, referral volume, and teacher placement
 2. Participating School/School Point-of-Contact List
 3. List of potential participating schools being solicited for the program
 - b. On December 31, 2013—\$55,000
 - i. This payment encompasses the following deliverables, evidenced through requested documentation pertaining to each:
 1. Copy of the end-of-year Instructional Culture Insight survey administered to schools and report on initial Instructional Culture Insight Survey results
 2. Results of end-of-year coaching satisfaction survey administered to school leaders
 3. Results of new and mentor teacher workshop feedback surveys administered to date
 4. Updated participating School/School Point-of-Contact List
 5. Semiannual report on DTM progress to date, including final information on cumulative 2013 teacher recruitment numbers, prescreening speed, referral volume, teacher placement, and teacher quality, as well as number of co-observations conducted with mentor teachers to date
 6. Evidence of school-specific coaching plans for each participating school
 - c. On May 31, 2014 - \$35,000
 - i. This payment encompasses the following deliverables, evidenced through requested documentation pertaining to each:

1. Copy of the mid-year Instructional Culture Insight survey administered to schools and report on Instructional Culture Insight Survey results.
 2. Results of January teacher data workshop feedback survey
 3. Semiannual report on DTM progress to date, including information on cumulative 2014 teacher recruitment numbers, prescreening speed, referral volume, and teacher placement, as well as number of co-observations conducted with mentor teachers to date
 4. List of potential participating schools being solicited for the program
- d. On August 20, 2014—\$30,000
- i. This payment encompasses the following deliverables, evidenced through requested documentation pertaining to each:
 1. Copy of the end-of-year Instructional Culture Insight survey administered to schools and report on Instructional Culture Insight Survey results.
 2. List of expected participating schools for the 2014-2015 program year
 3. End of contract summative report including information on cumulative term of contract teacher recruitment numbers, prescreening speed, referral volume, teacher placement, and teacher quality, as well as total number of co-observations conducted with mentor teachers

II. The Acceptance Process and Criteria for deliverables listed herein are as follows:

- a. Innovative Schools will submit a deliverable to DDOE at least five (5) business days before the due date.
- b. DDOE will make any requested changes in writing within five (5) business days after submission by Innovative Schools.
- c. Innovative Schools will revise the deliverable and submit on the agreed-upon due date.
- d. DDOE will accept or reject the deliverable within five (5) business days after due date. If DDOE rejects the deliverable, DDOE will provide a detailed written critique of the deliverable, the rationale for rejecting, and detailed changes that Innovative Schools must make to ensure acceptance.
- e. DDOE will accept deliverable upon submission of deliverable with requested changes.

DTM Budget

Price Per School	\$ 4,750	\$ 9,500
Number of Schools	5	10
	2013	2014
Private Donations	\$ 55,000	
Schools	\$ 23,750	\$ 95,000
Delaware Department of Education	\$ 70,000	\$ 110,000
Total	\$ 148,750	\$ 205,000
<u>Expenses</u>		
Instructional Culture Insight Survey		
TNTP Technical Support	\$ 34,540	\$ 34,540
School Leadership Coaching		
Check-ins, meetings, & debrief	\$ 9,750	\$ 19,500
Workshops	\$ 6,500	\$ 6,500
Staffing Support		
Referrals for vacancies	\$ 6,000	\$ 12,000
Project Manager	\$ 8,500	\$ 17,000
Phone Selector	\$ 1,082	\$ 3,245
Pre-screener	\$ 3,786	\$ 11,356
Job Posting Cost	\$ 6,750	\$ 6,750
TNTP Technology Contract	\$ 55,000	\$ 33,000
Mentoring and Induction Support		
Workshops	\$ 14,150	\$ 14,150
New Teacher Meetings	\$ 7,850	\$ 7,850
New Teacher Coaching/Observation	\$ 18,000	\$ 18,000
General		
Program Marketing	\$ 5,000	\$ 5,000
Travel	\$ 4,813	\$ 14,439
Total Expenses	\$ 141,720	\$ 203,329
Net	\$ 7,030	\$ 1,671
Requested Funding	\$ 70,000	\$ 110,000

DTM Budget Assumptions

Instructional Culture Insight Survey

The New Teacher Project (TNTP) is a sub-contractor of Innovative Schools. They have created and administer the Instructional Insight Survey. (Twice per year)

School Leadership Coaching

Innovative Schools Coaching – DTM staff visit each school to review the compiled results of the survey, craft plans to address management issues, and advise and assist as necessary. (30 hours per school - one 3 hour visit per month for each month of the school year - 10 months)
Innovative Schools staff to conduct 5 workshops during the course of the year. (1-1.5 hours per workshop)

Staffing Support

Innovative Schools Technical Assistance - DTM staff following up on applications and referring appropriate candidates for open positions. (4 hours per vacancy.)

DTM staff dedicated to coordinate all activities related to staffing support.

Selectors are expected to conduct telephone interviews to assess candidates' responses to interview questions against a set list of criteria in order to determine which candidates should interview with our schools. Selectors will be responsible for entering the interview and assessment notes into our online applicant tracking system.

Pre- screeners are expected to assess a candidate's resume and responses to application questions against a set list of criteria (documenting your assessment along the way) in order to determine which candidates should interview with our schools.

Venues will vary depending on the needs of client schools.

IT Contract with TNTP - TNTP will host, operate and maintain the software on servers operated by or for TNTP, and provide customer with access to the applicant tracking software and data during the service term

New Teacher Mentoring and Induction

Figure includes costs related to planning and preparation, delivery, materials, and travel.

Figure includes planning and preparation, delivery, materials, travel, and follow-up

Figure includes planning and preparation, delivery, materials, and travel.

General

Staff time / visits to LEAs / travel time to attract more schools to the program.

IS Staff Travel to Schools to visit with principals for debriefs, check-ins, and additional coaching sessions

TNTP Contract Cost

Debrief

Workshops

Referrals for vacancies

Project Manager - Pipeline Maintenance

Phone Selector

Pre- screener - 3.50 per file

Job Posting Cost

TNTP COST

Workshops

New Teacher Meetings

New Teacher Coaching/Observation

Program Marketing

Travel

APPENDIX C

REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES

TO PROVIDE PROFESSIONAL SERVICES RELATED TO HUMAN RESOURCE OPERATIONAL SUPPORT AND HUMAN CAPITAL STRATEGY DEVELOPMENT TO A SUBSET OF 5-20 SCHOOLS ACROSS SELECT LEAs IN THE STATE OF DELAWARE UNDER RACE TO THE TOP (RTTT)

ISSUED BY DELAWARE DEPARTMENT OF EDUCATION

RFP # DOE 2013-07

I. Overview

The State of Delaware Department of Education (DDOE) seeks a professional services provider to assist districts in their recruitment and hiring processes. 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: November 13, 2012
Cut-Off Date for Questions	Date: November 20, 2012
Deadline for Receipt of Proposals	Date: November 29, 2012
Notification of Award	Date: December 20, 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

Delaware's K-12 educational system has the following characteristics:

- Statewide enrollment of more than 130,000 students, including diverse student populations and high mobility rates among some groups
- 44 Local Education Agencies (LEAs), including 19 districts and 25 charter schools, with enrollments ranging from several hundred students to over 17,000
- 204 rural, urban and suburban schools
- More than 9,000 teachers

In July of 2009, President Barack Obama announced \$4.35 billion in competitive funds known as the Race to the Top Fund to spark transformational improvements to America's public schools. Among the 41 initial applications for funding, Delaware's plan for reform was selected as the best, and the state became one of just two first round winners.

Governor Markell's Education Agenda

Delaware is now in its third year of 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 the following strategy:

- Set high standards for college- and career- readiness, and measure progress with high quality assessments and excellent data systems
- Recruit, retain, develop, and support great teachers and leaders who can help all students meet high standards
- Build core capabilities to promote great teaching and leadership
- Accelerate improvements in the State's high-need schools
- Build capacity to deliver against goals

Recruiting and Developing Great Teachers & Leaders

A centerpiece of Delaware's overall strategy is an investment in new statewide initiatives that build core capabilities in recruiting talent. The pledges that the state of Delaware made in its Race to the Top application were created to drastically increase student achievement. The recruitment of skilled teachers is at the core of that pledge. These efforts are specifically focused on recruiting, selecting, developing educators to serve in high-need schools and in hard-to-staff subject areas. This also includes retaining and rewarding educators who are raising student achievement in those schools.

One state practice to accomplish this is to conduct a nationwide search for an established vendor that has a proven track record in working with states and LEAs in human capital strategy and human resource operations strategy; notably the recruitment, selection,

placement, and retention of educators. This partnership is most needed for schools that, with the professional service provider's support, the state and LEAs have identified as high-need or hard-to-staff. Thus, this proposed partnership will need to specifically address that need.

It will be imperative for all talent strategies to align with the culture of Delaware's school system which has already been committed to school reform for decades. The program requested will implement talent sourcing systems and school staffing operational practices in order to ensure that, in the near-term, LEAs hardest-to-staff vacancies are filled and LEAs are supported in developing and retaining their educators. The program should also brand itself as a Delaware-specific initiative and incorporate feedback from DDOE into all core program components throughout the term of the partnership.

The DDOE selected vendor will focus on high-need district schools, "Partnership Zone" and "Focus" schools and charter schools statewide to build capacity amongst LEA staff to implement the services outlined below after the contract period with limited or no technical assistance from the DOE. This will include the partner organization training LEA staff (notably Principals) in best practices around teacher recruitment, hiring and staff retention.

B. Overview of Services Requested

In order to build upon the track record of professional services providers and further promote the recruitment and selection of our teachers, DDOE is now issuing this Request for Proposals for vendors to create a method of service by which the vendor assist LEAs in their recruitment, selection, placement and retention processes. The program envisioned is further described below under the banner of four key tenets:

- The service provider will work to invest LEAs/schools in the proposed program. As noted in the RFP's title, the state seeks a partner to work with 5-20 schools. By working across a network of schools, the vendor will be able to share best practices across the network and build "scale" for the participating schools. (See "types of schools" listed above)
- Through the creation and implementation of a human capital practices "diagnostic", the service provider will provide an assessment of each specific school's practices as related to hiring, instructional support, evaluation, training, and retention. The service provider will create a consistent instrument for the tracking and reporting of data on each school to DDOE.
- The service provider will work to establish a talent sourcing process to promote a national and regional recruitment campaign and an intensive screening process for educators who seek to work at the participating schools. The provider will implement necessary training and support to ensure principals are fully able to implement the sourcing system in collaboration with the selected vendor.

- Lastly, the service provider will supply ongoing school leadership coaching as related to effective interview and hiring practices, instructional supports for educators, educator evaluation, ongoing training, and best practices for educator retention. The service provider should also coach and work with each school to develop a 3-5 year school-specific human capital strategic plan that can be implemented by school leadership in collaboration with all school partners.

While the vendor will have responsibility for providing the aforementioned services, it should be noted that the LEA is the employer of all educators hired by said LEA. Thus, in order to build capacity, each LEA will play the critical role in the selection, training placement, and retention and removal of educators as needed, and may accept or reject candidates provided by the vendor during designated review periods. The four tenets above outline the nature of the relationship and support expected by DDOE.

III. 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.

B. Proposal Requirements and Preparation of the Application

Each proposal submission must contain the following information.

1. Cover Page

The cover page must be the first page of the application. Please see the end of this document for a sample cover page.

2. Program Abstract (1-page)

Concisely describe the program to be implemented and summarize the intended results.

3. Program Outline

The proposal should be organized into two major sections:

a. Program Narrative & Project Plan

- Describe the program you would provide, addressing the full range of services requested, including all key requirements, and clearly articulating your methodology and approach. Please attach any relevant recruitment, selection, or training documents that are central to understanding your approach as appendices.
- If you find certain services requested to be unrealistic, please explain why your experience, methodology and/or capacity make these elements untenable. Proposals which offer alternate approaches to those outlined are encouraged for this request.
- Include your implementation plan for the 24-month period (w/ calendar)
- Discuss how you would measure the success of your program through quantifiable metrics and revise your approach based on findings

b. Evidence of effectiveness, capacity, and organizational expertise

- Discuss how your experience is appropriate to Delaware in terms of services provided and similar context (e.g., urban/rural dynamic, turnaround schools, talent pipelines as part of reform agenda)
- Demonstrate that student achievement rose as a direct result of your previous engagements
- Discuss how you managed a past engagement of a similar scale to Delaware. If you do not have experience on a similar scale, provide evidence of your ability and plan to scale up, including milestones, dates and activities.
- Discuss your organizational capacity. Provide organizational chart, annual revenues and any/or other pertinent management information

4. Budget and budget narrative

In an appendix, provide a budget and budget narrative that describe the fiscal scope and requirements of your proposal, including, but not limited to:

- Administrative cost
- Recruitment and selection costs
- Training and coaching costs
- Cost of any participant stipends
- All other miscellaneous costs
- Revenue model for participating LEAs/schools

Please also discuss how you calculated each figure included in your proposed budget.

IV. Professional Services RFP Administrative Information

A. RFP Issuance

1. Obtaining Copies of the RFP

This RFP is available in electronic form through the DDOE website at <http://www.doe.k12.de.us/rfplisting/> 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 the 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.

Christopher N. Ruszkowski
Chief Officer, Teacher & Leader Effectiveness Unit
Delaware Department of Education
401 Federal Street, Suite #2
Dover, DE 19901-3639
Phone: 302-735-4120
Email: cruszkowski@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

The 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 the 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.

B. RFP Submissions

1. 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.

2. 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 8 paper copies and 2 electronic copies on CD or USB.**

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

- Program abstract and program outline limited to a total of 15 pages, not including the appendices;
- 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; unless included as an appendix
- One-inch (1") side, top, and bottom margins;
- Footer on each page with page number and the vendor name;
- Do not attach additional pages or information not requested in the application;
- Stapled (do not use binders or folders when submitting application).

All properly sealed and marked proposals are to be sent to the DDOE and received no later than **3 PM EST on November 29, 2012**. The outside of the proposal package must be clearly labeled "**RFP # DOE 2012-07 – Human Resource Operational Support.**" 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 PM EST on November 29, 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.

3. 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.

4. 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.

5. Proposal Expiration Date

Prices quoted in the proposal shall remain fixed and binding on the bidder at least through December 31, 2013. DDOE reserves the right to ask for an extension of time if needed.

6. 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.

7. Proposal Opening

DDOE will receive proposals until the date and time shown in this RFP. Proposals will be opened only in the presence of the 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.

8. 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.

9. 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.

10. 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.

11. 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 of 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.

12. 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 vendors’ 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.

a. Primary Vendor

The 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.

b. 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.

c. Multiple Proposals

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

13. 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.

14. 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.

a. 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 the DDOE's website at <http://www.DOE.k12.de.us/rfp/Listing/> 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. Deviations from this format will not be accepted.

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 midnight on November 20, 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>

15. 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.

16. 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 DDOEs 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.

17. 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.

18. 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.

19. Revisions to the RFP

If it becomes necessary to revise any part of the RFP, an addendum will be posted at <http://doe.k12.de.us/rfp/Listing> 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.

20. 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.

21. 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 DDOE 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.

C. RFP Evaluation Process

An evaluation team composed of representatives of DDOE 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 a timely manner, any and all information that DDOE may deem necessary to make a decision.

1. Proposal Evaluation Team

The Proposal Evaluation Team shall be comprised of representatives of DDOE. 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 the 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.

2. 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

All proposals shall be evaluated using the same criteria and scoring process. A scoring rubric will be provided to members of the RFP commit to aid in the calibration of the scoring process. The following criteria shall be used by the Evaluation Team to evaluate proposals:

Criteria	Weight
1. Quality of Project Outline addressing all four project tenets	40
2. Viability of implementation plan	15
3. Quality of performance metrics	15
4. Evidence of capacity, effectiveness, and organizational expertise	20
6. Feasibility of budget proposal, budget narrative and revenue model	10
Total	100

3. 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.

4. 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.

5. 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.

D. Contract Terms and Conditions

1. General Information

- a. This contract may be awarded to, or split among, multiple vendors. The selected vendor or vendors will enter into an eighteen month initial contract. After a detailed review and analyses of the initial term, contract(s) may be renewable for 3 possible extensions for a period of 1 year for each extension. The initial term of the contract in the winter 2013.
- 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.

2. 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.

3. 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.

4. 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.

5. 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:

**Christopher Ruszkowski
Chief Officer, Teacher & Leader Effectiveness Unit
Delaware Department of Education
401 Federal Street, Suite #2
Dover, DE 19901-3639**

e. Indemnification

1) 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.

2) 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:

- (a) Procure the right for DDOE to continue using the Product(s);
- (b) Replace the product with a non-infringing equivalent that satisfies all the requirements of the contract; or
- (c) 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.

f. Insurance

- 1) 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.
- 2) 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.
- 3) 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 others)	\$ 25,000

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

g. 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.

h. Warranty

1. 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.

i. 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.

DOE 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%).

j. Penalties

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

k. 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.

l. 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.

m. 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.

n. 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.

o. 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.

p. 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.

q. 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.

r. 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:

- 1) the laws of the State of Delaware;
- 2) the applicable portion of the Federal Civil Rights Act of 1964;
- 3) the Equal Employment Opportunity Act and the regulations issued there under by the federal government;
- 4) a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury; and

- 5) 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.

s. 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.

t. Other General Conditions

- 1) **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.
- 2) **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.
- 3) **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.
- 4) **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.
- 5) **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.

- 6) **Regulations** – All equipment, software and services must meet all applicable local, State and Federal regulations in effect on the date of the contract.
- 7) **Changes** – No alterations in any terms, conditions, delivery, price, quality, or specifications of items ordered will be effective without the written consent of DDOE.
- 8) **Additional Terms and Conditions** – DDOE reserves the right to add terms and conditions during the contract negotiations.

u. **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. Vendor shall provide system diagrams 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.

E. RFP Miscellaneous Information

1. 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.

2. 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.

3. 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.

4. 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>



Delaware Department of Education

Proposal Cover Page

Vendor: _____

Project Manager

Name: _____
Title: _____
Address: _____
Telephone: _____ Fax: _____
E-Mail: _____

Total cost of proposed services: \$ _____

Certification by Authorized Institutional Official:

The vendor certifies that to the best of his/her knowledge the information in this proposal is correct, that the filing of this application is duly authorized by the governing body of the organization or institution, and that the vendor will comply with the attached statement of assurances.

Typed or Printed Name of Authorized Official

Title

Authorized Official

Date

Signature of



Delaware Department of Education

Case Reference (optional)

Please submit this form for each case reference provided. Case references should not exceed ten pages.

Vendor: _____

Case Reference Organization Name: _____

Case Reference Contact:

Name: _____

Title: _____

Address: _____

Telephone: _____ Fax: _____

E-Mail: _____

Brief Description of Engagement and Results (with similarities and differences from Delaware requirements highlighted):