

CONTRACT

**Delaware Public Schools Promotion Effort RFP#2013-17**

This Agreement ("Agreement") is effective only upon the execution of a State of Delaware Purchase Order and will end on April 15, 2016, by and between the State of Delaware, Department of Education, hereafter referred to as DDOE, and **GMMB Inc.**, hereafter referred to as

WHEREAS, DDOE desires to obtain certain services to provide a communications campaign for Delaware public schools; and

WHEREAS, GMMB INC. desires to provide such services to DDOE on the terms set forth below;

WHEREAS, DDOE and GMMB INC. 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 GMMB INC. agree as follows:

**1. Services.**

1.1 GMMB INC. 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\_B\_; and (c) GMMB INC.'s response to the request for proposals, attached hereto as Appendix\_C\_. 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 GMMB INC. 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 GMMB INC., 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 GMMB INC. for any aspect of its performance under this Agreement. Pricing of changes shall be consistent with those established within this Agreement.

1.4 GMMB INC. will not be required to make changes to its scope of work that result in GMMB INC.'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 the execution of this agreement and a State of Delaware Purchase Order through April 15, 2016.

2.2 DDOE will pay GMMB INC. 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 A.

2.3 DDOE's obligation to pay GMMB INC. for the performance of services described in Appendix A, Statement of Work will not exceed the fixed fee amount of \$308,000. It is expressly understood that the work defined in the appendices to this Agreement must be completed by GMMB INC. and it shall be GMMB INC.'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 GMMB INC.

2.4 GMMB INC. shall submit monthly invoices to DDOE in sufficient detail to support the services provided during the previous month. DDOE agrees to pay those invoices within thirty (30) days of receipt. In the event DDOE disputes a portion of an invoice, DDOE agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide GMMB INC. 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 GMMB INC. 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: GMMB Inc., 3050 K Street, NW, Suite 100 Washington, DC 20007 ATTN: Bill Brocato CFO, Partner.

2.5 Unless provided otherwise in an Appendix, all expenses incurred in the performance of the services are to be paid by GMMB INC. If an Appendix specifically provides for expense reimbursement, GMMB INC. shall be reimbursed only for reasonable expenses incurred by GMMB INC. 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 GMMB INC. all damages, costs and expenses caused by GMMB INC.'s negligence, resulting from or arising out of errors or omissions in GMMB INC.'s work products, which have not been previously paid to GMMB INC.

2.8 Invoices shall be submitted to: Betty Torbert, Office of the Secretary, Dept. of Education, 401 Federal Street, Suite 2, Dover, DE 19901

### **3. Responsibilities of GMMB INC.**

3.1 GMMB INC. shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by GMMB INC., its subcontractors and its principals, officers, employees and agents under this Agreement. In performing the specified services, GMMB INC. shall follow practices consistent with generally accepted professional and technical standards. GMMB INC. 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, GMMB INC. shall, at its expense and option either (1) replace it with a conforming equivalent or (2) modify it to conform with DTI standards. GMMB INC. shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to DDOE caused by GMMB INC.'s failure to ensure compliance with DTI standards.

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

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

Project	Team	Title	% of Project Involvement
	Angela Landers	Vice President	

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

3.6 GMMB INC. shall furnish to DDOE's designated representative copies of all correspondence to regulatory agencies related to this Agreement for review prior to mailing such correspondence.

3.7 GMMB INC. 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 GMMB INC. 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 GMMB INC. 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 GMMB INC. 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 after notice and opportunity to cure, suspend the payments scheduled as set forth in Appendix A.

**5. State Responsibilities.**

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

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

GMMB INC. shall return any original data provided by DDOE.

5.6 DDOE shall assist GMMB INC. 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 GMMB INC. 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 GMMB INC.'s name, either express or implied, in any of its advertising or sales materials. GMMB INC. 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 GMMB INC. 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. GMMB INC. 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 GMMB INC. 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 GMMB INC. retains title, whether individually by GMMB INC. 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 GMMB INC. 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, GMMB INC. 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 GMMB INC. prior to the effective date of this Agreement ("Preexisting Information") shall remain the exclusive property of GMMB INC. 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 GMMB INC. warrants that its services will be performed in a good and workmanlike manner. GMMB INC. 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 GMMB INC. for DDOE in connection with the provision of the Services, GMMB INC. shall pass through or assign to DDOE the rights GMMB INC. 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 GMMB INC. 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 GMMB INC., its agents or employees, or (B) GMMB INC.'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) GMMB INC. shall have been notified promptly in writing by DDOE of any notice of such claim; and (ii) GMMB INC. 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 GMMB INC. in writing of a third party claim against DDOE that any Deliverable infringes a copyright or a trade secret of any third party, GMMB INC. will defend such claim at its expense and will pay any costs or damages that may be finally awarded against DDOE. GMMB INC. 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 GMMB INC.; (3) DDOE's use of the Deliverable in combination with any product or information not owned or developed by GMMB INC.; (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 GMMB INC.'s opinion is likely to be, held to be infringing, GMMB INC. 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 GMMB INC.'s entire liability with respect to infringement.

9.3 DDOE agrees that GMMB INC.'s total liability to DDOE for any and all damages whatsoever arising out of or in any way related to this Agreement from

any cause, including but not limited to contract liability or GMMB INC. negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed fees paid to GMMB INC..

In no event shall GMMB INC. 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 GMMB INC. has been advised of the likelihood of such damages.

## **10. Employees.**

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

11.4 As an independent contractor, GMMB INC. 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 GMMB INC. under this Agreement for such period of time as DDOE, at its sole discretion, may prescribe by providing written notice to GMMB INC. at least 30 working days prior to the date on which DDOE wishes to suspend. Upon such suspension, DDOE shall pay GMMB INC. its compensation, based on the percentage of the project completed and earned until the effective date of suspension, less all previous payments. GMMB INC. shall not perform further work under this Agreement after the effective date of suspension. GMMB INC. 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 GMMB INC. for any cause other than the error or omission of the GMMB INC., for an aggregate period in excess of 30 days, GMMB INC. shall be entitled to an equitable adjustment of the compensation payable to GMMB INC. under this Agreement to reimburse GMMB INC. 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 GMMB INC. 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 GMMB INC. 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 GMMB INC. at the time of termination may be adjusted to the extent of any additional costs occasioned to DDOE by reason of GMMB INC.'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 GMMB INC. shall cease conducting business, DDOE shall have the right to make an unsolicited offer of employment to any employees of GMMB INC. assigned to the performance of the Agreement, notwithstanding the provisions of Section 10.2.

13.4 If after termination for failure of GMMB INC. to fulfill contractual obligations it is determined that GMMB INC. 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 GMMB INC. 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 GMMB INC., 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 GMMB INC. or any agent or representative of GMMB INC. 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 GMMB INC. it could pursue in the event of a breach of this Agreement by GMMB INC.

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 GMMB INC. 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 GMMB INC., without prior written approval of DDOE.

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

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

15.5 The compensation due shall not be affected by DDOE's approval of the GMMB INC.'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.**

GMMB INC. 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 GMMB INC. 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 GMMB INC. 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, GMMB INC. shall comply with all applicable federal, state and local laws, ordinances, codes and regulations. GMMB INC. 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 GMMB INC. 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. GMMB INC. 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 GMMB INC. acknowledges that DDOE has an obligation to ensure that public funds are not used to subsidize private discrimination. GMMB INC. 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 GMMB INC. in breach of the Agreement, terminate the Agreement, and designate GMMB INC. as non-responsible.

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

## **21. Insurance.**

21.1 GMMB INC. 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. GMMB INC. shall provide thirty (30) days written notice of cancellation or material change of any policies.

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

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

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

**22. Assignment of Antitrust Claims.**

As consideration for the award and execution of this contract by the State, GMMB INC. 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. GMMB INC. 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: Bill Brocato  
Chief Financial Officer & Partner  
3050 K Street, NW Suite 100  
Washington, DC 20007

DDOE: Karen Field Rogers  
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DOE Certificated Staff coordinating activity:  
*Original on File*

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.

GMMB

*Original on File*

~~Angela~~  
Angela Vice-President  
Project Manager

4/11/14

Date

*Original on File*

(Official of Contractor)

Principal Investigator, CPO

4/11/14

Date

Delaware Department of Education

*Original on File*

Karen Field Rogers  
Associate Secretary, Financial Reform &  
Resource Management

4/9/14

Date

Initial Finance Director

*Original on File*

~~Branch~~ Associate Secretary

4/7/14

Date

Initial Work Group  
Director

## Statement of Work – Appendix A

### Overview

GMMB is excited to begin our partnership communicating the unique strengths of Delaware Public Schools and the overall forward momentum of Delaware’s education system to ensure student success. We appreciate the opportunity. You have a strong story to tell and ensuring that you share the vision for education and student success in Delaware in a way that resonates strongly with your key audiences is extremely important. We will work with you to research and craft key messages, determine how, when and who should deliver them, and identify target audiences—both inside and outside the educational system. In addition, GMMB will work to understand the unique perspectives of individual stakeholders and how they relate to the development of a cohesive campaign strategy. Descriptions and estimated costs of recommended activities for the first two phases of the campaign over the next five months are below.

**Goal:** Develop a unifying and positive narrative for Delaware’s public schools that is inspirational and motivating for our key educator stakeholders. The primary audience for this campaign is the public school teachers and parents.

### Phase I: 1-2 months

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#### Conduct Research Inventory and New Research

To begin, we recommend conducting a brief inventory of existing research in and outside of Delaware that aims to accomplish the goals of the Delaware Public Schools campaign. After a review of existing research, including Project 5000 Opinions statewide survey and other available research, GMMB will conduct research to determine perceptions of and satisfaction with the direction of the public schools among key groups, including parents, teachers and business leaders. This research will enable us to understand how to best reach each audience and will help create a benchmark for Delaware Public Schools to use as a baseline to compare progress against the campaign’s goals in the future.

We seek to understand the attitudes and perceptions of Delawareans towards public schools and the direction of the schools across all three counties and nineteen school districts in the state in order to effectively communicate the strengths and momentum of Delaware Public Schools. It is important to recruit participants from all parts of the state due to the varying demographic and socio-economic status of Delaware.

For this research, GMMB recommends using an online bulletin board technology called QualBoard to facilitate an online longitudinal focus group. The participants log in at different times and from locations that are convenient to them to answer questions posted by the moderator while reading and responding to the other participants’ comments. In addition to standard questions, the moderator can ask multi-media questions to receive responses with pictures or video, webcam response questions, built-in multiple-choice questions, and segmented questions for sub-groups of respondents. GMMB will execute the research in-house utilizing software from itracks.

We believe this is the best and most efficient approach to getting a variety of opinions across the state. Delaware has limited resources and facilities to conduct focus groups across the state, with a single facility in Wilmington and no facilities in Newark or the southern part of the state. We believe conducting in-person focus groups in Wilmington will not provide the diversity we are hoping to obtain.

Three separate online focus groups for parents, teachers, and business/community leaders will help us determine the message and approach that resonates with key stakeholders. Below are the three groups that will be conducted, as well as some of the questions we seek to answer within each group:

- 1. Parents of children in public preschool, elementary, middle, and high schools (mix of parents in terms of economic status and considering both local public schools as well as other alternatives for their children's education):** Determine aspirations for their children/students; perceptions of the direction of Delaware Public Schools and drivers of satisfaction/dissatisfaction; key decision-making criteria in choice of schools and in education policy; trusted messengers; and response to existing messages/information about Delaware Public Schools.
- 2. Elementary, middle, and high school Delaware Public Schools teachers:** Determine perceptions and helpfulness of educator evaluation system; views on changes that could make evaluations more helpful; perceptions of schools and policies to help teachers and students succeed including, standards; drivers of satisfaction/dissatisfaction in their roles; valued/trusted sources of information for teaching practices; and response to existing messages/information about education quality in Delaware Public Schools.
- 3. Business and community leaders (including realtors, human resource directors, leaders of key community groups):** Determine aspirations for children/students; perceptions of the direction of Delaware Public Schools; nature of interactions with prospective school parents/community; impact of reputation of local schools in community attractiveness/attractiveness to potential employees/attractiveness to businesses; trusted messengers; and response to messages/information about Delaware Public Schools.

GMMB will create a screening questionnaire for a professional Delawarean recruiter to fill the online focus group slots via telephone recruit. A kickoff call with GMMB to begin the work is included in the estimated budget.

**Deliverables:** Topline analysis from the three online focus groups and tabs for multiple choice and polling questions.

**Initial research completed, deliverables due eight (8) weeks from start date**  
**Budget: \$38,000**

#### **Develop an Inventory, Strategic Plan and Implementation Timeline**

- Conduct thorough assessment of existing Delaware Public Schools' communications infrastructure and outreach channels—as well as the assets and resources of your community and business partners—to ensure a streamlined approach. Through this inventory, we will gain insight into the unique perspective of stakeholders to ensure we have a full understanding of individual districts and schools.
  - Conduct kick off meeting and individual interviews with stakeholder partners (one interview per organization) and senior staff, over the phone and in person if there are opportunities to do so;
  - Review existing communications or outreach materials that reflect core values and priorities;
  - Evaluate existing internal and external communications channels and current uses of them, including websites;
  - Conduct a media scan of stories about Delaware Public Schools that have appeared in national and regional news sources over the past 18 months; and assess other similarly situated state-wide communications campaigns, their areas of emphasis and public profiles; and
  - Provide insights on existing public school enrollment and percent of people who work in Delaware, who live outside Delaware, and the percent who live in Delaware and send their kids

- to Delaware public schools, and percent who send their kids to private schools. GMMB will include regional and national context as well.
- **Deliverable:** summary report containing the findings of the assessment, review of existing communication and outreach materials, evaluation of communication channels including websites, media scan in national and regional news sources, assessment of similarly situated states' communications plans and insights on existing public school enrollment with percent of people who live in Delaware and work in Delaware and send their kids to Delaware public schools, and percent who live in Delaware and send their kids to private schools.

**Budget: \$12,000**

**Inventory Completed – report to be due eight (8) weeks from start date.**

**\$12,000**

- Develop strategic communications plan for the next 8-10 months with a clear strategy and achievable work plan. This plan will include a strategic digital and earned media plan.
- Develop a campaign timeline with a campaign launch TBD This timing will also build support for Delaware Public Schools at another key time: ahead of the 2014-15 school year, when the state is expected to implement new assessments and to meet targets and milestones included in Race to the Top and the Early Learning Challenge Fund.
- Provide strategic counsel to internal campaign team.
- Coordinate bi-weekly calls to provide progress updates and discuss upcoming projects for overall work.
- **Deliverable:** report that includes strategic communications plan, campaign timeline and progress update summary.

**Budget: \$38,000**

**Strategic plan completed – report to be due twelve (12) weeks from start date.**

**\$38,000**

**Total Phase I Budget: \$88,000**

## **Phase II: 2-5 months**

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### **Develop Narrative and Campaign Messages**

Our recommended development process includes the following elements: core values, narrative, and message architecture.

- **Core Values:** We will work with you to identify short phrases that define student success in Delaware Public Schools and provide a one-pager of these.
- **Narrative:** After developing the campaign's positioning statement, we will begin development of a narrative to express—in a short statement—the identity or “big idea” that will guide the campaign.
- **Message Architecture:** Utilizing the core values and opinion research, we will develop and refine short, targeted messages that will help you to talk about Delaware Public Schools and why they are unique and leading the nation in putting education and student success first. From this process, we hope to arrive at five or six key statements that clearly distill the strongest arguments for the campaign. We would also tailor these messages to appropriately reach each target audience. These statements provide the foundation for all subsequent work.

- **Team Presentation:** At a time convenient for all parties, GMMB will travel to Delaware to present the above deliverables to your team.
- **Deliverable:** a portfolio of materials that outline the usable and implementable core values, creative platform, and message architecture.

**Budget: \$35,000** (*this budget assumes two rounds of client review*)

**Narrative and Campaign Messages due sixteen (16) weeks from start date.**

**\$35,000**

#### **Test Creative Approach/Narrative, Campaign Messages and Establish Baseline: Quantitative Measurement**

- **Online survey of key audiences** – GMMB will work with Lake Research Partners to create a benchmarked resource on perceptions and attitudes of Delaware Public Schools. The online survey will provide quantitative measurement among a statistically reliable sample of key questions addressed in the qualitative research from Phase I, and conduct a quantitative test of campaign messages and creative platform.
- **Deliverable:** report containing survey and survey results.
  - **Lake Research Partners' Relevant Delaware Experience**  
*Lake Research Partners worked with Education Voters Delaware in 2009 to conduct a statewide survey among voters to assess their views toward education, as well as their interest in joining the organization. They found that voters want action on public education in the state and they recognize the connection between strong public schools, strong communities, and a strong workforce.*

**Budget: \$35,000**

**Test & Quantitative Measurement Completed – report due fourteen (14) weeks from start date.**

**\$35,000**

#### **Stakeholder Engagement and Earned Media**

GMMB will begin the stakeholder engagement and earned media work in Phase II, but will continue to provide support for this in Phase III. Limited activities in both categories will include:

##### **Stakeholder Engagement**

- Recruit and build "Delaware Public Schools Champions". We would continue to look for authentic voices and credible spokespersons throughout the year. We will work with you to tell the stories of those who have experienced the quality of Delaware Public Schools and use those throughout the campaign in paid, earned and digital media.
- Work with local teacher organizations and unions to identify outstanding teachers and administrators who could serve as credible spokespeople. In addition, we will work with you to engage Delaware business leaders to provide perspective from their community.
- Participate in stakeholder steering committee meetings to guide overall campaign work, which meet regularly and includes representation from the business and education communities.
- Establish a Speakers Bureau to provide opportunities for representatives and spokespeople to engage with target audiences.
- **Deliverables:**
  - A Speakers Bureau plan, timeline and summary results of completed speakers' events with attendee information.
  - Reports of stakeholder steering committee progress to date.

- Database of spokespersons, identified outstanding teachers and administrators, engaged business leaders and archive of success stories.

### **Earned Media Support**

- Limited targeted earned media activities will be outlined further in the strategic communications plan that we will develop for the first five months, but broadly, these will primarily include:
  - Rapid response to, and strategic counsel on, incoming media/reporter requests; and
  - Drafting briefing materials to support any scheduled interviews/press events.

Additional, more limited support may include:

- Proactive outreach to key reporters and relationship building throughout the year;
- Pitching and placement of op-eds; and
- Support at events that are open to the media; and
- Report/sharable collection of op-eds, briefing materials, event support and strategic counsel needed to date.

**Budget: \$35,000**

**Stakeholder Engagement and Earned Media Support due nineteen (19) weeks from start date.  
\$35,000**

### **Campaign Content and Material Development**

Our recommended initial content and materials development in Phase II for reaching key stakeholder groups will promote both Delaware's strengths in its education system overall and specific top performing schools or individual programs such as world language immersion. These materials would include:

- Develop and distribute materials:
  - Factsheets and talking points: Materials explaining what makes the vision for student success a hallmark of the Delaware Public Schools to assist campaign spokespeople in speaking about them, including light design of materials.
  - Earned media tools: Interview tips, press releases, op-eds, blog posts, Tweets and a template letter to the editor for campaign spokespeople and partners to use and customize.
  - Media training for a select group of key Delaware spokespeople to prepare for interviews and speaking engagements.
  - Presentation templates: Slides and talking points that can be used for speaking engagements.
  - Provide overarching strategic counsel on campaign implementation, materials development, and communications strategy for the campaign.
  - Develop sharable content including an infographic with data that tells Delaware's story designed into a graphic format with charts, images, icons and supporting text.
  - **Deliverable:** a portfolio of outreach materials that includes fact sheets, press releases, op-eds, blog posts, social media posts and tools, template letters to the editor, other templates for partners, leave behind materials for each audience and presentation templates.

**Budget: \$75,000**

**Content and Materials Development - due seventeen (17) weeks from start date.  
\$75,000**

### Implementation Support

GMMB will provide support to the Delaware Public Schools team to implement projects across the duration of the campaign scope of work. This may include, but is not limited to, participating in meetings in Delaware, engaging with key stakeholders, additional earned media activities, additional costs associated with research, or other implementation activities as determined by the strategic plan. This will also include activities to support capacity building for the campaign in Delaware, including trainings or other meetings. This also includes any travel and administrative expenses incurred throughout the duration of the campaign.

**Budget: \$32,000**

**Implementation Support – due twenty-two (22) weeks from start date.**

**Total Phase II Budget: \$212,000**

### Overall Costs

Based on the costs for each project outlined above, below is an estimated total budget for projects from start date through twenty-two (22) weeks from start. Phase I and Phase II would be billed based on projects.

<b>Overall 2014 Budget</b>	
<b>Project</b>	<b>Total</b>
<b>Phase I</b>	
Conduct Research Inventory and New Research	\$38,000
Develop an Inventory, Strategic Plan and Implementation Timeline	\$50,000
<b>Phase II</b>	
Develop Narrative and Campaign Messages	\$35,000
Test Creative Approach/Narrative, Campaign Messages and Establish Baseline	\$35,000
Stakeholder Engagement and Earned Media	\$35,000
Content and Material Development	\$75,000
Implementation Support	\$32,000
<b>Total for Project (including hours and expenses)</b>	<b>\$300,000</b>

We are thrilled to work with you on an issue we care deeply about, and look forward to discussing this scope of work with you further. Please contact Jacquie Lawing Ebert ([Jacquie.LawingEbert@gmmb.com](mailto:Jacquie.LawingEbert@gmmb.com) or 202-813-4964) or Angela Landers ([Angela.Landers@gmmb.com](mailto:Angela.Landers@gmmb.com) or 202-813-4901) with any questions.

## Rates

GMMB is pleased to offer significantly discounted rates. Those discounts are reflected in the rate card below.

Position	Rate
Partner	\$328.50
Senior Vice President	\$274.50
Vice President	\$238.50
Senior Policy Analyst	\$238.50
Account Supervisor	\$202.50
Senior Account Executive	\$184.50
Account Executive	\$157.50
Account Assistant	\$90.00
Creative Director	\$274.50
Senior Project Manager	\$238.50
Associate Creative Director	\$211.50
Project Management Director	\$202.50
Sr. Copywriter	\$184.50
Copywriter	\$157.50
Project Manager	\$157.50
Creative Services Coordinator	\$157.50
Jr. Copywriter	\$135.00
Sr. Art Director	\$184.50
Art Director	\$157.50
Jr. Art Director	\$130.50
Sr. Producer	\$184.50
Production Manager	\$171.00
Director	\$153.00
Producer	\$153.00
Motion Graphics Artist	\$153.00
Associate Producer	\$130.50
Production Assistant	\$90.00

Position	Rate
Creative Services Director	\$238.50
Design Director	\$238.50
Print Production Director	\$211.50
Associate Design Director	\$189.00
Design Production Manager	\$166.50
Sr. Production Artist	\$166.50
Sr. Designer	\$166.50
Production & Art Buyer	\$157.50
Designer	\$148.50
Traffic Coordinator	\$90.00
User Experience Director	\$238.50
Sr. Digital Producer	\$238.50
Digital Design Director	\$234.00
Digital Manager	\$211.50
Digital Producer	\$202.50
Senior Digital Designer	\$189.00
Digital Developer	\$166.50
Digital Designer	\$166.50
Jr. Digital Producer	\$162.00
Digital Coordinator	\$157.50
Jr. Digital Designer	\$148.50
Media Director	\$279.00
Associate Media Director	\$265.50
Media Supervisor	\$247.50
Sr. Media Buyer	\$234.00
Sr. Digital Media Analyst	\$184.50
Media Buyer	\$184.50
Jr. Media Buyer	\$130.50
Media Assistant	\$90.00