

STATE OF TEXAS §
COUNTY OF TRAVIS §

| | | | |
|------------------|--------------------------------------|--------------------------|--------------------------------|
| Division Number: | 907 | Program Name: | Educator Certification Testing |
| Org. Code: | 004 | Legal/Funding Authority: | TEC 21.003 |
| Speed Chart: | | | |
| Payee Name: | Educational Testing Service (ETS) | Payee ID: | 1210634479 |
| ISAS Contract #: | 2842 | PO #: | 36694 |

Amendment No. 6

**AMENDMENT TO
STANDARD CONTRACT
BETWEEN
TEXAS EDUCATION AGENCY
AND**

Educational Testing Service (ETS)
NAME OF CONTRACTOR

It is mutually understood and agreed by and between the undersigned contracting parties of the above numbered contract to amend said Contract effective September 1, 2017 as follows:

ARTICLE II. PERIOD OF CONTRACT

TEA is exercising the final option, two of two, to renew the contract as allowed in the Contract term beginning September 1, 2017, and ending August 31, 2018.

ARTICLE III. PURPOSE OF CONTRACT

Contractor shall continue to perform all of the functions and duties set described herein and incorporated by reference. Contractor shall perform development and administration activities pertaining to the Texas educator certification testing program from September 1, 2017 through August 31, 2018.

ARTICLE IV. PAYMENT UNDER CONTRACT

Subject to the availability to TEA of funds for the purposes of this contract, TEA shall pay to Contractor by State of Texas warrant(s) the amount of approximately \$18,730,000 for the performance, satisfactory to the TEA, of Contractor's functions and duties under this Contract. Fees for examinations are currently set at \$131, of which TEA receives \$11 per exam and ETS receives \$120 per exam. The Agency estimates 140,000 exams will be administered per year for an estimated total of \$18,340,000 per year. Fees for individual Core Subjects subtests are currently set at \$65 per subtest, of which TEA receives \$11 per exam and ETS receives \$54 per exam. The Agency estimates 6,000 individual Core Subjects subtests will be administered per year for an estimated \$390,000. The actual number of exams is contingent on the number of candidates and educators registering for the exams. Other costs associated with this contract are estimated to be \$25,000. A detailed budget, labeled Exhibit A, is attached, and hereby incorporated by reference.

| | |
|------------------|-------------------|
| Contract Amount | \$ 100,488,480.20 |
| Amendment Amount | \$ 18,755,000.00 |
| Contract Total | \$ 119,243,480.20 |

Texas Government Code §2252.901 prohibits the agency into entering into an employment contract, a professional services contract, or a consulting services contract with a former or retired TEA employee before the first anniversary of their last date of regular employment. If TEA enters into a "professional services" contract with a corporation, firm, or other business entity that employs a former or retired employee during the first year of the past employee's departure from the agency, the former or retired employee is restricted from performing services on projects that the employee worked on while employed at TEA.

Texas Government Code §572.069. CERTAIN EMPLOYMENT FOR FORMER STATE OFFICER OR EMPLOYEE RESTRICTED. A former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person may not accept employment from that person before the second anniversary of the date the officer's or employee's service or employment with the state agency ceased.

Effective 01/01/17, the mileage reimbursement rate is 53.5¢ and the previous rate 1/1/16- 12/31/16 was 54¢. The Comptroller's website for travel rules and regulations – textravel: <https://fmxcpa.state.tx.us/fmx/travel/textravel/index.php>. Receipts must be made available for programmatic or financial audit, by TEA and by others authorized by law or regulation to make such an audit, for a period of not less than seven years.

All other terms and conditions of the original contract and amendments remain the same and are incorporated herein as if specifically written. Updated Contract Terms and Conditions dated 5/22/17, are attached and incorporated herein.

It is agreed and accepted by a person authorized to bind Contractor that all Terms and Conditions of this Amendment are effective commencing on the above date.

Typed Name: Diane Bailey
Typed Title: Vice President, Teacher Licensure
and Certification Programs


Authorized Signature

This section reserved for Agency use.

I, an authorized official of Agency, hereby certify that this contract is in compliance with the authorizing program statute and applicable regulations and authorize the services to be performed as written above.

AGREED and accepted on behalf of Agency this 2 day of August 2017 (month/year)
by a person authorized to bind Agency.

Return electronic copy to:
TEAContracts@tea.texas.gov

Norma Barrera, Purchasing and Contracts
Texas Education Agency
1701 North Congress Avenue, Room 2-125
Austin, Texas 78701-1494



Mike Morath
Commissioner of Education

TEA Standard Contract Terms and Conditions

Revised Contract Terms and Conditions, dated May 22, 2017, that are different from the Terms and Conditions of the original Contract dated September 1, 2011 are attached and incorporated herein.

H. Records Retention and the Right to Audit: Contractor shall maintain its records and accounts in a manner which shall assure a full accounting for all funds received and expended by Contractor in connection with the Contract Project. These records and accounts shall be retained by Contractor and made available for programmatic or financial audit by TEA and by others authorized by law or regulation to make such an audit for a period of not less than 7 years from the date of completion of the Contract Project or the date of the receipt by TEA of Contractor's final claim for payment or final expenditure report in connection with this Contract, whichever is later. If an audit has been announced, the records shall be retained until such audit has been completed.

Pursuant to Section 2262.154 of the Texas Government Code, the state auditor may conduct an audit or investigation of Contractor or any other entity or person receiving funds from the state directly under this Contract or indirectly through a subcontract under this Contract. The acceptance of funds by Contractor or any other entity or person directly under this Contract or indirectly through a subcontract under this Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, Contractor or other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards.

Contractor further agrees that acceptance of funds under this Contract acts as acceptance for TEA to conduct an audit or investigation in connection with those funds. Contractor, subcontractors, and any entities receiving funds through this Contract shall cooperate fully with TEA in the conduct of the audit or investigation, including providing all records pertaining to this Contract that are requested.

Q. Point of Contact Escalation: All notices, reports and correspondence required by this Contract shall be in writing and delivered to the TEA Project Manager listed below or their successors in office. Within thirty (30) days of execution of a contract, the respective Parties will designate the next level of personnel within each organization to address conflicts or ambiguity that cannot be resolved at the Project Manager level.

TEA
Rebecca McCoy, Testing Manager
Division of Educator Agency
William B. Travis Building
1701 N. Congress Avenue
Austin, Texas 78701

Contractor
Janet Cook, Executive Director
Teacher Licensure and Certification Program
Educator Testing Service
6600 Rosedale Road, MS L-290
Princeton, NJ 08541

TT. Contractor Performance and Past Performance: TEA is required to submit Contractor Performance reports under Texas Government Code, §2262.055, and 34 Texas Administrative Code (TAC), §20.509 and §20.115. Govt. Code §2155.089 requires agencies to report contractor performance for purchases over \$25,000. Agencies are also encouraged to report contractor performance on purchases under \$25,000 and associated with contracts and purchase orders issued throughout the life of a contract or purchase order, not just at its conclusion. The Comptroller's Vendor Performance Tracking System (VPTS) provides the state procurement community with a comprehensive tool for evaluating vendor performance to reduce risk in the contract awarding process. Historic reports submitted prior to February 10th, 2017 were graded on a satisfactory or unsatisfactory scale. The score will be displayed as "Legacy Satisfactory" or "Legacy Unsatisfactory." The Contractor must have a score of "Legacy Satisfactory" or, for scores submitted after February 10, 2017, a Contractor must reflect a letter grade of 'A'.

TEA may conduct reference checks with other entities regarding past performance of Respondent or its subcontractors. In addition to evaluating performance through the VPTS, TEA may examine other sources of contractor performance, including, but not limited to, notices of termination, cure notices, assessments of liquidated damages, litigation, audit reports, and non-renewals of contracts. Such sources of contractor performance may include any governmental entity, whether an agency or political subdivision of the State of Texas, another state, or the Federal government. Further, TEA may initiate such examinations of contractor performance based upon media reports. Any such investigations shall be at the sole discretion of TEA, and any negative findings, as determined by TEA, may result in a non-award to Respondent. The VPTS is located on Comptroller's website at: <https://www.comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/>.

Exhibit A: Detailed Revised Budget

| Contract Year | PO No. | Total | Notes |
|---|------------|-------------------|--|
| Year 1: 2011-12 | 0000030192 | \$ 14,439,270.00 | actual amount paid |
| Year 2: 2012-13 | 0000031252 | \$ 15,518,720.50 | actual amount paid |
| Year 3: 2013-14 | 0000032226 | \$ 16,768,610.00 | actual amount paid |
| Year 4: 2014-15 | 0000033423 | \$ 17,451,120.50 | actual amount paid |
| Year 5: 2015-16 | 0000034643 | \$ 18,205,304.00 | actual amount paid |
| Year 6: 2016-17 | 0000035867 | \$ 18,105,455.20 | estimated amount to be paid through 8/31/2017 |
| Grand Total for 6-Year Contract Period: | | \$ 100,488,480.20 | includes estimated 2016-17 total, so actual grand total will likely change |

Estimated Year 7 Expenditures Based on the Following:

| # of Tests | Unit Price | Total |
|--|------------|------------------|
| 140,000 | \$ 131 | \$ 18,340,000.00 |
| 6,000 | \$ 65 | \$ 390,000.00 |
| Miscellaneous Fees paid to ETS (e.g., cancellations, chargebacks) | | \$ 25,000.00 |
| Estimated Total for Year 7 Contract Period: | | \$ 18,755,000.00 |