

REQUEST FOR PROPOSAL (RFP)
#18-013
NEW YORK STATE EDUCATION DEPARTMENT

Title: Elementary, Intermediate (Middle) Level, and High School New York State English as a Second Language Achievement Test (NYSESLAT)

The New York State Education Department (NYSED), Office of State Assessment (OSA), is seeking proposals for the [New York State English as a Second Language Achievement Test \(NYSESLAT\)](#) and [New York State Identification Test for English Language Learners \(NYSITELL\)](#). Services include development, research, printing, shipping, scoring, and score reporting of operational and field tests aligned with New York State's approved English Language Arts (ELA) learning standards.

The primary purpose of the NYSESLAT is to measure annual student progress in achieving English language proficiency and ascertain when students can appropriately exit English Language Learner/Multilingual Learner (ELL/MLL) status.

In New York State, ELLs/MLLs are students who speak a language other than English who are not only developing English skills, but becoming bilingual or, in some cases, multilingual children and who score below the Commanding level on the [current initial identification test](#) (NYSITELL) or on the NYSESLAT. New York State Commissioner's Regulations (CR) Part 154-2.3 (l) stipulates that each school district with ELLs/MLLs shall annually assess the English language proficiency of each such student, using such assessment as prescribed by the Commissioner for this purpose. The NYSESLAT is used to assess the English language proficiency of students in Kindergarten through Grade 12 who are ELLs/MLLs. The results of the NYSESLAT measure English language proficiency relative to the linguistic demands of ELA Standards in grade-level classrooms and prescribes the provision of ELL/MLL services as per CR-Part 154-2 for the following academic year.

According to 2015-16 school year data, of the approximately 2.6 million public school students in New York State (NYS), over 245,000 students (8.8%) are ELLs/MLLs. The linguistic diversity of NYS families makes up over 200 languages. ELLs/MLLs are a diverse group of students from different backgrounds and cultures, and with different academic experiences.

Eligible applicants are for-profit or not-for-profit entities, including large testing companies and/or educational organizations with demonstrated experience in developing and administering large scale assessments and printing and shipping a high volume of tests and test-related materials in a timely and secure manner.

Subcontracting will be limited to thirty percent (30%) of the total contract budget. Subcontracting is defined as non-employee direct personal services and related incidental expenses, including travel.

Bidders are required to comply with NYSED's Minority and Women-Owned Business Enterprises (M/WBE) participation goals for this RFP through one of three methods. Compliance methods are discussed in detail in the Minority/Women-Owned Business Enterprise (M/WBE) Participation Goals section below.

NYSED will award one contract pursuant to this RFP for a term of four (4) years and seven (7) months. The contract resulting from this RFP will be for a term anticipated to begin June 1, 2018 and to end December 31, 2022.

NYSED continues to transition to computer-based testing (CBT), as part of its commitment to both meeting the needs of 21st century learners and improving test delivery, test integrity, scoring validity, and turn-around time on testing results. Accordingly, during the term of the contract awarded from this RFP, NYSED may issue a separate RFP to provide an option for NYS schools to administer one or more of the grade bands of the NYSESLAT to their students by CBT. In the event that this other contract is awarded to a different contractor, the contractor awarded the primary test development contract resulting from this RFP is expected to fully cooperate with the contractor awarded the CBT delivery contract. This includes providing all of the passages/stimuli, test questions, and other associated test content that will be administered in CBT format to the CBT contractor at least 90 days in advance of their first administration date and provided in a format mutually agreed upon by the two contractors and by NYSED.

Service Area: Statewide

Components contained in RFP Proposal #18-013 are as follows:

1. Description of Services to Be Performed
2. Submission
3. Evaluation Criteria and Method of Award
4. Assurances
5. Submission Documents (separate document)
6. Attachments

Questions regarding this request must be submitted by Email to AssessmentRFP@nysed.gov no later than the close of business November 10, 2017. Questions regarding this request should be identified as Program, Fiscal, or M/WBE. A Questions and Answers Summary will be posted to the [NYSED competitive procurement website](#) no later than November 24, 2017. The following are the designated contacts for this procurement:

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The following documents must be submitted in separately sealed envelopes, as detailed in the Submission section of this RFP, and be received at NYSED no later than **December 15, 2017 by 3:00 PM:**

1. Submission Documents labeled **Submission Documents – RFP #18-013 Do Not Open**
2. Technical Proposal labeled **Technical Proposal – RFP #18-013 Do Not Open**
3. Cost Proposal labeled **Cost Proposal – RFP #18-013 Do Not Open**
4. M/WBE Documents labeled **M/WBE Documents – RFP #18-013 Do Not Open**
5. CD-ROM containing the technical, cost, submission and M/WBE proposals submitted, using Microsoft Office. Place in a separate envelope labeled **CD-ROM – RFP #18-013 Do Not Open.**

RFP #18-013

The mailing address for all the above documentation is:

NYS Education Department
Bureau of Fiscal Management
Attn: Jessica Hartjen, RFP#18-013
Contract Administration Unit
89 Washington Avenue, Room 501W EB
Albany, NY 12234

(Facsimile copies of the proposals are NOT acceptable.)

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Glossary of Terms and Acronyms Used in this RFP

Term	Description
BCCI	Beginning in Spring 2014, NYSED launched the Bilingual Common Core Initiative to develop new English as a New Language (formerly referred to as English as a Second Language) and Native Language Arts Standards aligned to the Common Core Learning Standards. As a result, NYSED has developed two sets of resources known as New Language Arts Progressions (NLAP) and Home Language Arts Progressions (HLAP) for every New York State Learning Standard in every grade. The NLAP and HLAP provide a framework for teachers, to ensure that students in English as a New Language and Bilingual Education programs are meeting the Standards. The Progressions include five levels of language proficiency and demonstrate a trajectory of language learning and teaching.
BELLS	The Blueprint for English Language Learner Success is comprised of eight distinct principles, each outlining priorities and expectations for how districts across New York State are to provide instruction and support for ELLs/MLLs in public schools. The Blueprint increases responsibility, provides guidance, promotes appreciation, and raises standards for accountability, while preparing ELLs/MLLs for success.
BOCES	Board of Cooperative Educational Services – BOCES is a public organization that was created by the New York State Legislature in 1948 in order to provide shared educational programs and services to school districts.
CBT	Computer-based testing
Commissioner's Regulations (CR) Part 154-2 and 154-3	CR Part 154-2 and CR Part 154-3 establish the legal requirements for the education of ELLs/MLLs in New York State. CR Part 154-2 describes the new and expanded requirements of schools and school districts that went fully into effect as of the 2015-2016 school year. CR Part 154-3 establishes ELL/MLL Identification criteria for Students with Disabilities; and ELL/MLL Exit process and criteria for eligible Students with Disabilities.
Content Advisory Panels	Existing groups of content experts convened by NYSED to review assessment and curriculum programs for the State. There are panels for ELA, math, science, and social studies. Each panel includes members from Pre-K through higher education.
Current ELA Learning Standards	ELA Learning Standards adopted in January 2011
ELA	English Language Arts
ELL/MLL	English Language Learner / Multilingual Learner – students with home or primary languages other than English who are not only developing English language skills, but becoming bilingual or, in some cases, multilingual children
English as a New Language (ENL)	Formerly known as English as a Second Language
Entry K	Kindergarten Entry
ESOL	English to Speakers of Other Languages: New York State Teacher Certification
ESSA	Every Student Succeeds Act – reauthorizes the 1965 Elementary and Secondary Education Act (ESEA) and replaced No Child Left Behind (NCLB).

	New York State is working with the United States Department of Education to solidify a plan for the implementation of the new law
Item Sets	A set of items (multiple-choice and/or constructed-response) associated with a passage
Linguistic Demands	NYSESLAT measures student English language proficiency relative to the linguistic demands of the NYS ELA Standards in grade-level classrooms. The linguistic demands that are measured with the NYSESLAT reflect the language required to access grade-level content.
M/WBE	Minority/Women-Owned Business Enterprise
NCLB	No Child Left Behind act – the 2001 reauthorization of the federal Elementary and Secondary Education Act
Next Generation ELA Learning Standards	New York State ELA Learning Standards revised in September 2017
New Entrant	A student who enrolls for the first time in the New York State public school system. If these students are identified as speaking a language other than English at home, they are given the initial identification exam in order to determine their English language proficiency and appropriate support services.
NYSED	New York State Education Department
NYSESLAT	New York State English as a Second Language Achievement Test
NYSITELL	New York State Identification Test for English Language Learners
PBT	Paper-based testing
Performance Level Descriptors (PLDs)	Performance levels or performance categories refer to the various classifications that are the intent of the assessment (e.g., pass versus fail; basic, proficient, advanced). PLDs are descriptions of the knowledge, skills, abilities, and behaviors that distinguish performance between adjacent performance categories. Standard-setting methods are designed to identify which scores along the scale optimally represent the PLDs for a given assessment; these scores are often referred to as cut scores. PLDs are alternatively known in the literature as Achievement Level Descriptors.
ToMs	Targets of Measurement are what New York State designates as the standards measured by the NYSESLAT
Technical Advisory Committee (TAC)	NYSED's Technical Advisory Committee meets twice yearly and is comprised of experts in the field of measurement who provide NYSED with technical guidance across all New York State testing programs.
TESOL	Teaching English to Speakers of Other Languages
Universal Design for Learning (UDL)	A curriculum planning framework based on current findings in the learning sciences (including cognitive neuroscience) that guides the development of flexible lesson planning strategies so that classrooms can accommodate individual learning differences in students and ensure proficiency in the standards for all students. Unless otherwise directed by NYSED, NYSED requests that materials adhere to the Universal Design for Learning Guidelines (CAST (2011). Universal Design for Learning Guidelines version 2.0. Wakefield, MA: Author)

1. Description of Services to be Performed

Work Statement and Specifications

This section of the bid package details the services and products to be acquired. Please note that the contract process also includes general New York State administrative terms and conditions, as well as terms and conditions required by New York State law. These terms and conditions address issues related to both the submission of bids and any subsequent contract; they are included separately in this bid package for your information. Please review all terms and conditions.

Minority and Women-Owned Business Enterprise (M/WBE) Participation Goals Pursuant to Article 15-A of New York State Executive Law

For purposes of this procurement, NYSED hereby establishes an overall goal of 30% of the total contract amount for M/WBE participation; 17% for Minority-Owned Business Enterprises (“MBE”) participation and 13% for Women-Owned Business Enterprises (“WBE”) participation, based on the current availability of qualified MBEs and WBEs. All bidders must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of this Contract. Minority and Women-Owned Business Enterprise (M/WBE) participation includes any and all services, materials, or supplies purchased from New York State-certified minority- and women-owned firms. Utilization of certified Minority- and Women-Owned firms will be applied toward the goals. Bidders can achieve compliance with NYSED’s Minority and Women-Owned Business Enterprise goals as described below.

ACHIEVE FULL COMPLIANCE WITH PARTICIPATION GOALS (PREFERRED)

Bidders should submit subcontracting/supplier forms that meet or exceed NYSED’s participation goals for this procurement. All subcontracting/supplier forms must be submitted with the bid proposal. In addition, bidders must complete and submit M/WBE 100: Utilization Plan, M/WBE 102: Notice of Intent to Participate, and EEO 100: Staffing Plan. Instructions and copies of these forms are located in the Submission Documents. All firms utilized must be certified with the NYS Division of Minority and Women Business Development before beginning any work on this contract. For additional information and a listing of currently certified M/WBEs, see the [NYS Directory of Certified Minority and Women-Owned Business Enterprises](#).

The contact person on M/WBE matters is available throughout the application and procurement process to assist bidders in meeting the M/WBE goals. NYSED reserves the right to approve the addition or deletion of subcontractors or suppliers, in order to comply with the M/WBE goals, provided that such addition or deletion does not affect the technical proposal and/or increase the total cost of the bid proposal.

DOCUMENTATION OF GOOD FAITH EFFORTS

Bidders must undertake a good faith effort to solicit NYS-Certified M/WBE firms as subcontractors and/or suppliers in fulfillment of this procurement. Means of solicitation may include, but are not limited to: advertisements in minority-centered publications; solicitation of vendors found in the [NYS Directory of Certified Minority and Women-Owned Business Enterprises](#); and the solicitation of minority- and women-oriented trade and labor organizations. Bidders will be required to certify and attest to their good faith efforts by completing NYSED’s Certification of Good Faith Efforts (Form M/WBE 105). See the M/WBE Submission Documents for detailed examples of and forms required to document good faith efforts.

NYSED reserves the right to reject any bid for failure to document “good faith efforts” to comply with the stated M/WBE goals.

IN THE EVENT THAT BIDDERS CANNOT COMPLY WITH NYSED-DESIGNATED PARTICIPATION GOALS, SAID BIDDERS MUST DOCUMENT THEIR “GOOD FAITH EFFORTS” TO COMPLY AND SUBMIT ONE OF THE FOLLOWING REQUESTS:

REQUEST A PARTIAL WAIVER OF PARTICIPATION GOALS

In order to request a partial waiver of the participation goals for this procurement, Bidders must provide documentation of their good faith efforts to obtain the use of certified M/WBE enterprises along with their bid proposal forms. The subcontracting forms must include the participation percentage(s) for which they seek approval. Bidders will be required to certify and attest to their good faith efforts. Bidders should submit a request for a partial waiver (Form M/WBE 101) and document their Good Faith Efforts (Form M/WBE 105) at the same time as the bid is submitted. Bidders must also complete and submit M/WBE 100: Utilization Plan, M/WBE 102: Notice of Intent to Participate and EEO 100: Staffing Plan. The M/WBE Coordinator is available throughout the procurement process to assist in all areas of M/WBE compliance.

REQUEST A COMPLETE WAIVER OF PARTICIPATION GOALS

In order to request a complete waiver of the participation goals for this procurement, Bidders must provide documentation of their Good Faith Efforts to obtain the use of certified M/WBE enterprises along with their bid proposal forms. Bidders will be required to certify and attest to their good faith efforts. Bidders should submit a request for a complete waiver on Form M/WBE 101 and document their Good Faith Efforts (Form M/WBE 105) at the same time as they submit their bid. The M/WBE Coordinator is available throughout the procurement process to assist in all areas of M/WBE compliance.

All payments to Minority- and Women-Owned Business Enterprise subcontractor(s) must be reported to NYSED M/WBE Program Unit, using M/WBE 103 Quarterly M/WBE Compliance Report. This report must be submitted on a quarterly basis and can be found at NYSED’s [M/WBE Forms and Compliance Forms webpage](#).

Service-Disabled Veteran-Owned Business (SDVOB) Participation Goals Pursuant to Article 17-B of New York State Executive Law

Article 17-B of New York State Executive Law was enacted to ensure that certified SDVOBs are provided opportunities for meaningful participation in the performance of State contracts. To this end, NYSED strongly encourages bidders to make maximum possible use of SDVOBs as subcontractors and/or suppliers under this contract, consistent with the requirements of State Finance Law and State procurement guidelines, as well as NYSED policies and procedures. Bidders should consider fulfilling the requirements of this contract through the participation of SDVOBs at a rate of 6%. For additional information about this program, including a list of SDVOBs, please visit the [Office of General Services, Division of Service-Disabled Veterans’ Business Development website](#).

Background

NYSESLAT

Title III of the No Child Left Behind Act of 2002 (NCLB) required annual assessment to measure, track, and report the English language skills of all ELL/MLL students enrolled in Grades K-12. According to section 3121(d)(1), each state must use evaluation measures designed to assess “the progress of children in attaining English proficiency, including a child’s level of comprehension, speaking, listening, reading, and writing skills in English.” NCLB required demonstrated annual improvement in English language proficiency for such students, in order for them to meet “challenging State academic content and student academic achievement standards.” NCLB also required that the annual assessment of

ELL/MLL students be based on specific student achievement objectives. Section 3113(b)(2) states that the “agency will establish standards and objectives for raising the level of English proficiency that are derived from the four recognized domains of speaking, listening, reading, and writing, and that are aligned with achievement of the challenging State academic content and student academic achievement standards described in section 1111(b)(1).”

NYSED administers the [NYSESLAT](#) to ELL/MLL students in Grades K–12, in compliance with the federal law. The NYSESLAT continues New York State’s efforts to provide ELLs/MLLs with a test that is consistent with the NYS Learning Standards, the New Language Progressions, and current advances in the field of language assessment.

The current NYSESLAT is administered in six grade bands: K, 1-2, 3-4, 5-6, 7-8, 9-12 aligned to the linguistic demands of grade-level instruction. The NYSESLAT measures the Linguistic Demands necessary to meet the discipline-specific New York State curriculum standards at the corresponding grade band as required by the NCLB. The Linguistic Demands are derived from the New Language Arts Progressions of the [Bilingual Common Core Initiative](#) (BCCI). In the classroom, the Linguistic Demands identify the words, phrases, and forms of language that students need to understand and use to meet discipline-specific New York State Learning Standards in K–12 across all four modalities (Listening, Speaking, Reading, and Writing). As presented in the Progressions, Linguistic Demands reflect the language skills required to access grade-level content, rather than the content itself.

The Linguistic Demands are articulated, for the purposes of assessment development, as [Targets of Measurement](#) (ToMs). ToMs are what New York State designates as the standards measured by the NYSESLAT. To capture performance with the necessary level of precision, every grade-band ToM has been delineated across five levels—Entering, Emerging, Transitioning, Expanding, and Commanding—which reflect a continuum of English language acquisition that culminates in Commanding. Together with the ToMs, these five [Performance Level Descriptions](#) (PLDs) allow a student’s English language proficiency improvement to be measured annually.

To meet federal and State requirements regarding the assessment of ELL/MLL students, NYSED requested test development, research, and scoring based on the State’s New Language Arts Progressions. As in past years, the NYSESLAT consists of four modalities (Speaking, Listening, Reading, and Writing). Individual test items align to specific ToMs and PLDs, and the test was developed by the Standards for Educational and Psychological Testing (AERA, APA & NCME, 2014) and New York State testing requirements, as well as other applicable federal and State requirements.

The New York State Board of Regents approved the Blueprint for ELL Success (BELLS) and the BCCI to ensure that all ELL/MLL students attending New York State schools are college- and career-ready upon graduation. Based on NCLB mandates, and because each student’s annual progress toward proficiency must be tracked, all ELLs/MLLs in Grades K–12 are assessed each year in order to measure academic English language proficiency in Listening, Speaking, Reading, and Writing. The NYSESLAT helps schools and teachers determine the type of English language instructional support that their ELLs/MLLs need to fully acquire the language proficiency that will prepare them for success in the classroom.

The NYSESLAT is used when making decisions regarding language instructional programs and for accountability determinations. First, the test measures the level of English proficiency of all ELLs/MLLs in Listening, Speaking, Reading, and Writing. School districts then use these data to determine the type and amount of instructional services to which the students are entitled. Second, the NYSESLAT measures students’ annual progress toward learning English and attaining academic English language proficiency. It determines whether school districts and the State meet the required progress and attainment targets as defined in the [New York State Title III accountability system](#).

NYSESLAT results provide important English language development information, in order to ensure that ELLs/MLLs are adequately and appropriately supported in the classroom. NYSED uses NYSESLAT results to best serve current ELLs/MLLs in English as a New Language (ENL)/Bilingual Education (BE) programs, and Former ELLs/MLLs receiving Former ELL/MLL services for 2 years after meeting the criteria for exiting ELL/MLL status.

NYSESLAT results provide important information about each ELLs/MLL's English proficiency level, which then drives the provision of ENL/BE services and instruction aligned to:

- [Commissioner's Regulations Subparts 154-2:](#)
- [Commissioner's Regulations Subparts 154-3:](#)
- [Blueprint for English Language Learners Success](#)
- [New York State Learning Standards](#)
- [New Language Arts Progressions](#)

The current version of the NYSESLAT, administered since 2015, incorporates five fundamental shifts from the tests that it replaced:

Shift 1: New York State Learning Standards via New Language Arts Progressions

Shift 2: Five English Language Proficiency / Performance Levels

Shift 3: Integrated Language Skills / Modalities using Global Themes

Shift 4: Grade-Level Text Complexity

Shift 5: Instructionally Relevant Academic Language

NYSESLAT Shift to the New, New York State Next Generation English Language Arts Learning Standards

In 2015, New York State (NYS) began a process of review and revision of its January 2011 English Language Arts (ELA) Learning Standards, resulting in the Board of Regents adoption of the new, [New York State Next Generation English Language Arts Learning Standards](#), in September 2017. These revisions were developed through numerous phases of public comment, as well as through virtual and face-to-face meetings with committees consisting of NYS educators, teachers of ELLs/MLLs and Students with Disabilities, parents, curriculum specialists, school administrators, college professors, and experts in cognitive research. These revised standards reflect the collaborative efforts and expertise among all constituents involved and consist of revisions, additions, deletions, vertical movement, and clarifications from the 2011 English Language Arts Standards. The standards are defined as the knowledge, skills, and understanding that individuals can and do habitually demonstrate over time when exposed to high-quality instructional environments and learning experiences. These new standards recognize the importance of preparing New York State's children for success in life through a rigorous education. The new standards meet the 2015 legislative requirement that the standards be reassessed with stakeholder input.

NYSED anticipates that the NYSESLAT operational test for 2022 will be developed and administered incorporating the shift from the current learning standards to the new NYS Next Generation ELA Learning Standards and related revisions to the BELLS and BCCI.

NYSITELL

In the fall of 2014, the Board of Regents adopted amendments to Part 154 of the Regulations of the Commissioner of Education (CR Part 154), which establishes the legal requirements for the education of ELLs/MLLs in New York State (NYS). CR Part 154 outlines specific procedures that must be followed to determine English language proficiency during the initial enrollment or reentry process.

The [NYSITELL](#) is the statewide identification assessment of English Language Learners and serves as the approved means of initially identifying ELLs/MLLs in New York State. All public and charter schools must follow the steps outlined in the initial and reentry processes prescribed by Commissioner's Regulations (CR) Part 154-2.3, which includes administering the [Home Language Questionnaire](#) (HLQ) and conducting an individual interview with students who have indicated on the HLQ that a language other than English is spoken at home. Information gathered from the HLQ and the Individual Interview should be assessed carefully, to determine if the student is required to take the NYSITELL.

Results of the NYSITELL are used to determine if the student needs bilingual and/or English as a New Language (ENL) services. Based on NYSITELL results, students are categorized into one of five levels (Entering, Emerging, Transitioning, Expanding, and Commanding), which determines the number of hours of services that each student will receive. NYSITELL results also help teachers inform instruction by determining a student's relative strengths in each modality (Listening, Reading, Writing, and Speaking).

Effective February 1, 2018, a [newly designed NYSITELL](#) will take the place of the current 2014 edition of the NYSITELL. The 2018 edition of the NYSITELL will be aligned to the current NYSESLAT, but abbreviated in length. The 2018 NYSITELL will include many of the same question types as the NYSESLAT and will cover the same four modalities of Speaking, Listening, Reading, and Writing.

Tentative Test Development and Administration Schedule

This contract calls for four years of field testing (2018-19, 2019-20, 2020-21, 2021–22 school years), four years of operational testing (2018-19, 2019-20, 2020-21, 2021–22 school years), and a fifth year of development of passages and items for the field testing in the 2022-23 school year.

Date	Activity
June 2018	Contract Begins
June 2018	Develop Passages and Items for the 2019 Field Tests Based Upon Current Language Arts Progressions and Targets of Measurement
February-March 2019	Administration of 2019 Field Tests Based Upon Current Language Arts Progressions and Targets of Measurement
March 2019	Develop Passages and Items for the 2020 Field Tests Based Upon Current Language Arts Progressions and Targets of Measurement
Spring 2019	Administration of 2019 Operational Tests Based Upon Current Language Arts Progressions and Targets of Measurement Constructed with Items that were Field Tested as Part of NYSED's Current NYSESLAT Contract
Spring and Summer 2019	Creation of Test Specifications and Item Prototypes for the Start of Test Development for Revised Assessments Measuring the New NYS Next Generation ELA Standards
February – March 2020	Administration of 2020 Field Tests Based Upon Current Language Arts Progressions and Targets of Measurement
March 2020	Develop Passages and Items for the 2021 Field Tests Based Upon the New NYS Next Generation ELA Standards

Spring 2020	Administration of 2020 Operational Tests Based Upon Current Language Arts Progressions and Targets of Measurement
May – July 2020	Creation of Test Specifications and Item Prototypes for the Start of Test Development for the New Kindergarten Entry Initial Identification Test Measuring the New NYS Next Generation ELA Standards
July – August 2020	Develop Stimuli and Items for the New Kindergarten Entry Initial Identification Field Tests
February – March 2021	Administration of 2021 Field Tests Based Upon the New Item Prototypes for Assessing the New NYS Next Generation ELA Standards
Spring 2021	Administration of 2021 Operational Tests Based Upon Current Language Arts Progressions and Targets of Measurement
March 2021	Develop Passages and Items for the 2022 Field Tests Based Upon the New NYS Next Generation ELA Standards
February – March 2022	Administration of 2022 Field Tests Based Upon the New NYS Next Generation ELA Standards
March 2022	Develop Passages and Items for the 2023 Field Tests Based Upon the New NYS Next Generation ELA Standards
Spring 2022	Administration of 2022 Operational Tests Based Upon the New NYS Next Generation ELA Standards
June – September 2022	Administer the New Kindergarten Entry Initial Identification Field Test Based Upon the New NYS Next Generation ELA Standards
Summer 2022	Conduct Standard Setting for Operational Tests Based Upon the New NYS Next Generation ELA Standards
December 31, 2022	Contract Completed

NYSESLAT Test Design

NYSESLAT is currently developed in six grade bands: K, 1-2, 3-4, 5-6, 7-8, 9-12. Each test assesses students' English language proficiency in four modalities: Reading, Writing, Listening, and Speaking. For administration in spring 2020 and 2021, the contractor must construct new operational tests in these grade bands with the same four modalities.

For the administration of the 2019 and 2020 field tests, the contractor will be required to develop passages and items based upon the current Language Arts Progressions and Targets of Measurements.

In the spring and summer of 2019, the contractor will be required to create the revised NYSESLAT test specifications and item prototypes for the revised assessments aligned with the new NYS Next Generation ELA Standards for all grade levels, in the four modalities of Reading, Writing, Listening, and Speaking. For this new NYSESLAT, the contractor will be required to develop a separate assessment for Grade 1, thus establishing seven grade bands rather than the current six. The revised NYSESLAT must be developed in accordance with the Standards for Educational and Psychological Testing (AERA, APA & NCME, 2014) and the applicable New York State learning standards in ELA and be consistent with the principles of Universal Test Design. The NYSESLAT must also be consistent with applicable Federal and State testing requirements.

For the administration of the 2021 and 2022 field tests, the contractor will be required to develop passages and items based upon the new item prototypes for assessing the new NYS Next Generation ELA Standards.

It is anticipated that the first administration of operational test forms based upon the new NYS Next Generation ELA Learning Standards will be in spring 2022.

The contractor, NYSED, and other stakeholders will collaboratively create test specifications and item prototypes for a revised NYSESLAT that measures the new NYS Next Generation Learning Standards in ELA and revised language arts progressions.

Note that NYSED retains the right to approve final item types and test specifications. Additionally, NYSED requires that all initial and ongoing item and test specification conversations include NYSED's Content Advisory Panels and Technical Advisory Committee (TAC), as appropriate. If necessary, contractor staff may be required to attend up to five one-day meetings in Albany or New York City in order to present information or receive guidance from NYSED's advisory organizations.

Key Principles for the Current NYSESLAT

1. The test is built directly on the standards / progressions identified by NYSED.
2. The test must be developmentally appropriate. For example, in Kindergarten, it is expected that there will be fewer items that address reading and writing standards. As students' progress to higher grades, it is expected that students will encounter more items written to reading and writing standards as a proportion of the entire test.
3. The test uses an integrated approach to assess three of the four modalities (Listening/Reading/Writing) in Grades 1-12, while for Kindergarten, the four modalities are assessed separately. Speaking is individually administered in Grades K-12.
4. The test items must reflect grade-appropriate academic context. That is, all scenario-based items should be situated in academic situations that students find interesting, familiar, and challenging.
5. The purpose of the tests is to measure annual student improvement in achieving English language proficiency so that students may ultimately exit ELL/MLL status and move into content-area classes without additional English language development supports. Additionally, this test is used to determine where students fall along a range of proficiency levels in order to determine the amount of language development support needed.
6. The test must assess the language of core content (ELA, science, and social studies). Contractors are expected to ensure that innovative approaches are used to assess the academic language, and not the content demands, of each of the content areas (e.g., a question that assesses the language of science should not require the student to solve a scientific problem or rely on outside knowledge of scientific concepts, but rather test the use of language within the context of science). The contractor must develop a rationale and protocol for determining the degree to which items are testing content versus language demands. This protocol should be used during item development and documentation should be provided to NYSED.

Current Test Overview

The table below shows estimated testing times. The Grades 1–12 test forms consist of either one modality (Speaking) or a combination of modalities (Listening, Reading, and Writing). Listening/Reading/Writing will consist of three test booklets, each containing a theme-based Listening, Reading, and Writing section. Each Listening/Reading/Writing test booklet will be administered in a separate session. The Kindergarten test form consists of one modality per test booklet; either Speaking, Listening, Reading, or Writing. The testing times given are for planning

purposes, only. The time allotment indicated should be adequate for most students to complete testing. However, if necessary, students should be allowed as much additional time as needed to complete the test while still working productively. If a student is no longer working productively, administration may be stopped for that modality/subsection, but the administrator should continue with administration of the next modality/test session booklet.

NYSESLAT Estimated Testing Time (Minutes)

Session	Grade Band	Number of Questions/Tasks	Total Number of Questions/Tasks	Estimated Testing Time (Minutes)
Speaking	K–12	12 Constructed-Response	12	15
Listening	K	19 Multiple-choice	19	35–40
Reading	K	18 Multiple-choice	18	35–40
Writing	K	8 Short Constructed-Response	8	35–40
Listening/Reading /Writing Session 1	1–12	Listening: 8 Multiple-choice	17	35–55
		Reading: 8 Multiple-choice		
		Writing: 1 Short-Constructed Response		
Listening/Reading /Writing Session 2	1–12	Listening: 8 Multiple-choice	17	35–55
		Reading: 8 Multiple-choice		
		Writing: 1 Short-Constructed Response		
Listening/Reading /Writing Session 3	1–12	Listening: 8 Multiple-choice	20	35–55
		Reading: 11 Multiple-choice		
		Writing: 1 Extended Constructed-Response		

Current Test Blueprint and Specifications

The test specifications for the current NYSESLAT consist, at a minimum, of the elements articulated in this section. Further details on the current NYSESLAT may be found in the NYSESLAT technical report available at <http://www.p12.nysed.gov/assessment/reports/home-tr-nyseslat.html>.

The NYSESLAT uses Global Themes and associated Topics (two per Global Theme for Speaking, Listening, and Reading) as an organizing principle underlying the presentation of test material. Using Global Themes provides continuity for the students as they move from passage to passage and modality to modality during testing. The Global Themes and Topics guide the creation of passages and graphics used on the test. They are grounded in the New York State Curriculum Standards so that students interact with material with Linguistic Demands like those experienced in the grade-level classroom. The Linguistic Demands are articulated, for the purposes of assessment development, as Targets of Measurement (ToMs). Each modality uses a specific set of ToMs, and each test item is written to a particular ToM and performance level. The breakdown of the ToMs at each grade band is presented in [Attachment A: Breakdown of ToMs by Year](#), in §6 of this RFP. It is expected that the breakdown of ToMs will be similar in future years' tests.

Speaking consists of constructed-response items individually administered to students, while Listening and Reading consist of group-administered multiple-choice items. Writing consists of short and extended constructed-response items that are group administered. Speaking constructed-response items require oral responses, and Writing constructed-response items require written responses.

Current NYSESLAT Operational Test Design: Grades 1–12

At Grades 1–12, there are three sessions, known as L/R/W sessions, each of which contains a Listening, Reading, and Writing component. For these grade bands, each session of the NYSESLAT is associated with a single Global Theme. All of the stimuli and all of the listening, reading, and writing questions within each L/R/W session are associated with a single over-arching Global Theme. See [Attachment B: Excerpts from Passage and Item Writing Guidelines for NYSESLAT](#) and page 11 of [Spring 2015 NYSESLAT: Questions and Answers](#) for more information about Global Themes.

The Speaking test consists of three sections, each containing one Emerging, one Transitioning, one Expanding, and one Commanding level item. Each section includes items associated with a Global Theme (generally the same Global Themes that are used in the L/R/W sessions for that grade band).

The tables below show the number of items and passages on the 2017 NYSESLAT for Grades 1–12, as well as the test design for Speaking.

Current Operational NYSESLAT Listening (Grades 1–12)							
Session	Passage Length	Response Type	Number of Items by Grade Band				
			1–2	3–4	5–6	7–8	9–12
1	Short	MC4	3	3	3	3	3
	Long	MC4	5	5	5	5	5
2	Short	MC4	3	3	3	3	3
	Long	MC4	5	5	5	5	5
3	Short	MC4	3	3	3	3	3
	Long	MC4	5	5	5	5	5
Total Listening			24	24	24	24	24
Total Listening Points			24	24	24	24	24

MC4 = 4-Option Multiple-Choice Items

Current Operational NYSESLAT Reading (Grades 1–12)							
Session	Passage Length	Response Type	Number of Items by Grade Band				
			1–2	3–4	5–6	7–8	9–12
1	Short	MC4	3	3	3	3	3
	Medium	MC4	5	5	5	5	5
2	Short	MC4	3	3	3	3	3
	Medium	MC4	5	5	5	5	5
3	Medium	MC4	5	5	5	5	5
	Long	MC4	6	6	6	6	6
Total Reading			27	27	27	27	27
Total Reading Points			27	27	27	27	27

MC4 = 4-Option Multiple-Choice Items

Current Operational NYSESLAT Writing (Grades 1–12)						
Session	Response Type	Number of Items by Grade Band				
		1–2	3–4	5–6	7–8	9–12
1	SCR	1	1	1	1	1
2	SCR	1	1	1	1	1
3	ECR	1	1	1	1	1
Total Writing		3	3	3	3	3
Total Writing Points		12	12	12	12	12

SCR = Short Constructed-Response item worth 4 points.

ECR = Extended Constructed-Response item worth 4 points.

Current Operational NYSESLAT Speaking (Grades 1–12)			
Section	Item Type	Response Type	Number of Items
I	Respond to Graphic/Text	CR1 (0–1)	1
	Respond to Graphic/Text	CR2 (0–2)	3
II	Respond to Graphic/Text	CR1 (0–1)	1
	Respond to Graphic/Text	CR2 (0–2)	3
III	Respond to Graphic/Text	CR1 (0–1)	1
	Respond to Graphic/Text	CR2 (0–2)	3
Total Speaking			12
Total Speaking Points			21

Current NYSESLAT Operational Test Design: Kindergarten

Each session of the Kindergarten test is specific to a single modality (e.g., Listening, Reading, Writing, or Speaking). The Speaking session for Kindergarten is similar in design to the Grades 1–12 test.

The tables below provide the design for the Listening, Reading, Writing, and Speaking sessions of the Kindergarten NYSESLAT.

Current Operational NYSESLAT Kindergarten Listening Test Design		
Item Type	Response Type	Number of Items
Character-Image Sorting	MC3	2–3
Main Topic-Image Sorting	MC3	2–3
Story Order	MC3	2–3
Descriptions	MC3	2–3
Word Recognition	MC3	2–3
Words from Context	MC3	2–3
Dev. of Story-Image Sorting	MC3	2
Dev. of Ideas-Image Sorting	MC3	1
Total Listening		19
Total Listening Points		19

MC3 = 3-Option Multiple-Choice Items

Current Operational NYSESLAT Kindergarten Reading Test Design		
Item Type	Response Type	Number of Items
Letter-Sound Recognition	MC3	3
Sound-Letter Match	MC3	3
Alphabet Recognition	MC3	1
Word Reading 1	MC3	4–5
Word Reading 2	MC3	4–5
Sentence Reading	MC3	2
Total Reading		18
Total Reading Points		18

MC3 = 3-Option Multiple-Choice Items

Current Operational NYSESLAT Kindergarten Writing Test Design		
Item Type	Response Type	Number of Items
Letter Writing	CR1 (0–1)	4
Word Writing	CR2 (0–2)	2
Sentence Writing	CR2 (0–2)	1
Write a Story	CR4 (0–4)	1
Total Writing		8
Total Writing Points		14

2017 Operational NYSESLAT Speaking (Kindergarten)			
Section	Item Type	Response Type	Number of Items
I	Respond to Graphic/Text	CR1 (0–1)	1
	Respond to Graphic/Text	CR2 (0–2)	3
II	Respond to Graphic/Text	CR1 (0–1)	1
	Respond to Graphic/Text	CR2 (0–2)	3
III	Respond to Graphic/Text	CR1 (0–1)	1
	Respond to Graphic/Text	CR2 (0–2)	3
Total Speaking			12
Total Speaking Points			21

Test Development Requirements and Guidelines

The contractor must use, and modify as necessary with approval from NYSED, the Test Development Requirements and Guidelines for this test. This document addresses both the form development process and the actual required and suggested characteristics of the test form. The Test Development Requirements and Guidelines takes into consideration how to construct the best set of tests across the life of the contract, by including, in each round of development, items that cover the full breadth of the standards and a wide range of academic contexts.

Technical Advisory Committee

The contractor is required to work with NYSED's Technical Advisory Committee (TAC) in order to ensure that independent guidance is given to the assessment program. This may require travel to TAC

meetings to receive guidance and/or present information as needed (a maximum of two two-day meetings per year in New York City).

Educator Committees

The involvement of NYS teachers representing NYS geographically and demographically is a central part of the test development process.

All activities involving New York State teachers must be held within a radius of 30 miles of the NYSED building at 89 Washington Avenue in Albany, New York. The contractor is responsible for maintaining complete records of committee meetings, including sign-in and sign-out sheets, and providing these records to NYSED upon request.

The contractor is responsible for all of the arrangements and costs for teachers participating in test development activities, including meals and travel expenses. Teachers residing more than 50 miles from the meeting site must also be reimbursed for their lodging. Teachers from throughout New York State will be invited to participate and may travel distances as near as 3 miles or as far as 350 miles each way. For budgeting purposes, contractors should assume an average travel distance of 150 miles each way and assume that 90% of participating teachers will require lodging.

The contractor will also pay teachers honoraria of \$200 a day for a 7.5-hour work day. The honorarium will not be payable for travel days. All travel expenses for teachers are to be reimbursed by the contractor at the approved New York State rates. New York State rates are available at [GSA's Per Diem Rates website](#) and [GSA's Mileage Reimbursement Rates website](#). The contractor is not responsible for providing any substitute teacher reimbursement for school districts.

The table below lists the teacher committees required for the NYSESLAT program and the approximate number of teachers required for each. The contractor should assume that between 3 and 6 NYSED staff will also be attending each of these educator committee meetings.

RFP #18-013: Educator Committees

Date	Committee	# of NYS Educators	# of Days	Honorarium Per Day	Purpose	Product
Summer 2018 2019 2020 2021 2022	Field Test Passage and Item Review	54	4	\$200	Review passages and refine prospective field test items	Satisfactory Field Test Passages and Items
Nov-Dec 2018 2019 2020 2021	Field Test Final Eyes Review	14	1	\$200	Final review of field tests	Print-ready Error-free Field Tests
October-November 2019 2020 2021	Operational Tests Forms Construction	36	4-5	\$200	Review tests forms proposed by contractor and select alternative passage/ item sets	Educator judged developmentally appropriate operational test forms aligned to the test blue prints
December 2019 2020 2021	Operational Test Final Eyes Review	14	2-3	\$200	Final review of operational tests	Print-ready Error-free Operational Tests
Spring/ Summer 2019	Test Specification Creation/Item Prototype Development	54	4	\$200	Develop test specifications and item prototypes for the new NYSESLAT aligned to new NYS Next Generation ELA standards	Test Specifications and Prototype Items Aligned to new NYS Next Generation ELA standards

RFP #18-013 Educator Committees

Date	Committee	# of NYS Educators	# of Days	Honorarium Per Day	Purpose	Product
Summer 2019 2020 2021 2022	Rangefinding for Field Tests Speaking and Writing	54	4-5	\$200	Choose exemplar papers	Scoring Materials
Fall 2019	Performance Level Descriptor Development	25	2	\$200	Develop/ revise performance level descriptions for each of the five performance levels	Performance Level Descriptions
Spring/ Summer 2020	Test Specification Creation/Item Prototype Development for new Kindergarten Entry Initial Identification Test	7	3	\$200	Develop test specifications and item prototypes for new Kindergarten Entry Initial Identification Test	Test Specifications and Prototype Items Aligned to new NYS Next Generation ELA standards for the new Kindergarten Entry Initial Identification tests
January 2021	New Kindergarten Entry Initial Identification Field Test Stimuli/Item Review	7	1	\$200	Review passages and refine prospective field test items for new Kindergarten Entry Initial Identification field tests	New Kindergarten Entry Initial Identification Field Tests
March 2022	Final Eyes Review of new Kindergarten Entry Initial Identification Field Tests	7	1	\$200	Final review of field test forms for new Kindergarten Entry Initial Identification	New Kindergarten Entry Initial Identification Field Tests
Summer 2022	Standard Setting for Operational Tests	106	3	\$200	Determine cut scores	Cut Scores

Item Development Requirements and Guidelines

The contractor must use, and modify as necessary with approval from NYSED, the Item Development Requirements and Guidelines for this test. This document addresses all required and suggested aspects associated with item-development for this test. The document addresses both the item-development process and the actual required and suggested characteristics of test items.

The following must be included in the item-development requirements and guidelines:

1. The contractor must propose to NYSED a list of new Global Themes and associated Topics for which new field test stimuli and items will be written.
2. Grade-appropriate content, graphics, style, typeface, and font size must be proposed by the contractor and approved by NYSED.
3. Develop and field test items with a wide range of item difficulties, including items that cover both extremes of proficiency level – early stages of language development through proficiency.
4. Write items that are clear, free from bias, and age-/grade- and proficiency-level appropriate for each test.
5. Ensure that the items and item types reflect the best educational research available. Items must match the linguistic demands defined for each standard and be clear to the reader.
6. Ensure that the constructed-response items clearly define the expectations of the students, such as the necessity of providing details from a passage or other stimulus as support.
7. Ensure that multiple-choice questions are organized by using an A B C D pattern. The use of “none of the above” or “all of the above” may not be used. Items having negative words, such as “not”, should be used only when necessary. There must be only one correct answer choice for each multiple-choice question.

The contractor must implement an industry-standard item-development process that adheres to the quantities and qualities articulated in this RFP, as well as address the test specifications described in this RFP.

For the current test design, to build the item bank, contractors should assume that they will need to field test annually a sufficient number (see #10 [under Field Testing for NYSESLAT and Kindergarten Entry Initial Identification Test](#)) of items sets per grade band to completely populate each new year’s operational tests without any reuse of operational test items (see definition of Item Sets in the “Glossary of Terms and Acronyms Used in this RFP”). The contractor should expect that at least one Item Set per form should involve each of the following three core content areas: ELA, science, and social studies.

Item Sets

Items developed for the current NYSESLAT are developed as sets. Each set will have a central theme, related to a core academic content area (ELA, science, social studies), and consist of one text with embedded information presented visually (e.g., in charts, graphs, diagrams, time lines, or illustrations) or one audio component (either a pre-recorded audio of the text or the text as spoken by the proctor). Students will respond to multiple-choice questions or writing performance tasks. Speaking performance tasks, which must be individually administered, will be contained in a separate session and need not be related to the themes included in the other sessions of the tests.

Parameters for Items

In developing items for the new operational forms of the NYSESLAT to be administered in spring 2020 and 2021 based on the current test design, the contractor should adhere to the following requirements:

1. **Passages.** Passages for Grades K-4 should be approximately evenly distributed between informational texts and literature, whereas in older grades, there should be an emphasis on informational texts. All passages must be of grade-appropriate text complexity as determined by using NYSED's text complexity protocols, which will be provided at the beginning of the contract.

NYSED prefers that the contractor use passages commissioned expressly for this test, but some passages or graphics may come from materials in the public domain.
2. **Alignment.** All items must align to standards articulated in NYSED's standards / progressions. As such, all item development must begin with a close evaluation of how each standard can be operationalized within the constraints of this test. It is admissible and encouraged for standards to be grouped if educationally / developmentally defensible.

See [Attachment B: Excerpts from Passage and Item Writing Guidelines for NYSESLAT](#), in §6 of this RFP, for more information.

Item Rubrics

For the operational tests based upon the current NYS Language Arts Progressions and Targets of Measurement, the contractor will develop writing and speaking items that will be scored in accordance with the generic current scoring rubrics (see [Attachment C: 2017 NYSESLAT Speaking Rubric Grades Kindergarten through 12](#) and [Attachment D: 2017 NYSESLAT Writing Rubrics Grades Kindergarten through 12](#) in §6 of this RFP).

Item Review: Content Review and Final Eyes Educator Committees

Passages and items must be reviewed by staff of OSA and the Office of Bilingual Education and World Languages (OBEWL), prior to being reviewed by a committee of NYS educators.

The Contractor will convene, maintain, and budget for the expenses for the following review committees:

1. Content Review Committees (Passage and Item Review) must be convened to review test passages and items before field testing, to ensure their quality and fairness, and advise accepting, rejecting, or modifying based on test design and quality content. The committee shall examine each test passage and item, to ensure compliance with Standard 4.8 of the *Standards for Educational and Psychological Testing* (2014). The committees make recommendations on which items to include. Passage and item review should be divided into grade bands.
2. Final Eyes Committees (Field Tests, Operational Tests, and Initial Identification Tests) review the final proposed form of each field test and operational test before printing. One committee should review the K, 1-2, and 3-4 tests, a second committee should review the 5-6 and 7-8 tests, and a third committee should review the 9-12 tests.

For each committee, the contractor is required to develop a meeting procedures proposal to be submitted to NYSED for approval at least 30 calendar days prior to its implementation. Following the meeting, the contractor must prepare a written report of the meeting results, including the feedback of

committee members, and provide the report to NYSED. See [Educator Committees](#) for additional information.

Item Review Checklists

The contractor will use the existing [NYSESLAT ELL/MLL Review Checklist for Listening, Reading, and Writing \(Attachment E, in §6 of this RFP\)](#) and [NYSESLAT ELL/MLL Review Checklist for Speaking \(Attachment F, in §6 of this RFP\)](#) and will propose to NYSED suggested enhancements to these documents. All changes to review checklists and other review protocol must be approved by NYSED. All Passage and Item Review Checklists should ensure the following:

1. Absence of bias and sensitive topics in passages that reflect cultural responsiveness
2. Factual accuracy of informational passages
3. Item soundness, which can be interpreted as item validity and is based on the idea that the information derived from an item is true or valid
4. Absence of bias in items that reflect cultural responsiveness
5. Appropriateness of topic, vocabulary, and language structure for each grade band
6. Alignment of an item to the intended ToM and PLD

Item Prototyping and Test Specifications for NYSESLAT and Kindergarten Entry Initial Identification Test

The contractor must propose a prototyping phase of the test development process in which various item types are proposed by the contractor as prototypes for the Revised Assessments measuring the new NYS Next Generation ELA standards for NYSESLAT in all grade bands and for the new Kindergarten Entry Initial Identification test. The prototyping will be done in concert with the new test specification development.

A critical phase of the contract that results from this RFP is the prototyping of items for the new iteration of the NYSESLAT based on the new NYS Next Generation ELA Standards. This prototyping phase will allow NYSED and the contractor to work together to create new items and item types that are built directly on the standards / progressions identified by NYSED for this test.

In 2020, prototypes for the new Kindergarten Entry Initial Identification tests will be developed by the contractor, building off the prototypes that it develops in 2019 for the new Kindergarten NYSESLAT. However, the contractor will need to make further refinements as part of the NYSESLAT prototyping process.

Prototyping Process

Beginning in spring/summer 2019, the contractor must engage in a prototyping process with NYSED. The goal of this prototyping process is to develop a set of exemplar items and/or item types that assess the new NYS Next Generation ELA Standards and revised progressions identified by NYSED. During the prototyping process, item types will be developed for the new NYSESLAT, with consideration of item types needed to appropriately assess new entrants on the new Kindergarten Entry Initial Identification tests.

Field Testing for NYSESLAT and Kindergarten Entry Initial Identification Test

Field tests must be administered annually to build the item bank with which the operational tests are constructed. The contractor must administer NYSESLAT field tests based on the Current Language Arts Progressions and Targets of Measurement and the new NYS Next Generation ELA standards.

The contractor must administer the new Kindergarten Entry Initial Identification Field Test based on the new NYS Next Generation ELA standards. See the [Tentative Test Development and Administration Schedule](#) for more information.

Typically, the field tests will occur within the four-week period prior to the administration of the operational tests. This RFP requires the contractor to conduct four years of field testing (2019 – 2022), and develop passages/items with which the 2023 field tests will be developed. Field tests are administered in most of the public, nonpublic, and charter schools that administered the operational NYSESLAT in the prior school year. The contractor will collaborate with NYSED in developing a sampling plan for the annual field testing. Participating schools do not receive a stipend. Specific contractor responsibilities for each field test are as follows:

1. The contractor must create a detailed plan for the development and administration of field tests, which must be provided to NYSED and approved prior to any field test activities occurring.
2. The contractor must administer the field tests separately from the operational tests. For security purposes, the field test materials must be noticeably different in appearance from the operational test materials.
3. The contractor will select a statewide representative sample of NYS public, charter, and nonpublic schools for each grade band to participate in field testing, and notify the selected schools of the field tests. The samples must be selected in collaboration with, and approved by, NYSED and reflect the diversity of the State's ELL/MLL population, ethnicity, home languages, and Needs/Resource Categories (New York City, Big 4 Cities, Urban/Suburban High Need Districts, Rural High Need Districts, Average Need Districts, and Low Need Districts).
4. The field tests must include an adequate number of ELLs/MLLs to accommodate the number of field test forms each year. Separate field test samples must be selected for each grade band (K, 1-2, 3-4, 5-6, 7-8, 9-12).
5. The contractor must collect a minimum of 500 usable field test answer papers per field test form. Since field test participation in New York State is not mandated, the contractor must over sample to achieve the minimum target of 500 answer papers written per field test form. The amount of over sampling should be based on the previous years' field test return rates (typically around 70%).
6. The contractor will use data from the prior year's operational administration to determine the number of field tests required by each school in the selected sample. The contractor will notify schools that they have been selected, and advise them of the number of field tests that will be sent to the school. The contractor must provide a customer service number for schools to call if they have any questions or concerns about their field test assignment. All contractor correspondence related to the NYSESLAT program, including that to schools and committee members, must be provided in advance to NYSED for review and approval.
7. The contractor must submit all proposed correspondence to NYSED at least 30 days prior to its intended use.
8. The contractor will be responsible for the development, printing, and distribution to schools of field test booklets and all required ancillary materials, including teacher directions, CDs for use with the Listening passages, answer documents, and directions for returning the field tests to the contractor. The contractor must also provide the technology for schools assigned to a

Speaking field test to securely record and transmit to the contractor student responses, and provide digital recorders to these schools, upon request.

9. The contractor must provide each participating school with an easy-to-follow set of instructions that explains how to administer the field test assigned to that school.
10. The contractor must design the answer sheets or scannable field test booklets for student responses to the field tests and submit them to NYSED for review and approval.
11. The contractor is required to propose a detailed plan to field test at least 1.75 times the required number of items for each multiple-choice item type and 2.5 times the number of required items for each constructed-response item type for each operational NYSESLAT test. The contractor must ensure that there will be enough quality items available to populate the operational NYSESLAT tests. Additionally, the contractor must develop and administer field tests from which test samplers and turnkey training materials for the new NYSESLAT and the new Kindergarten Entry Initial Identification test will be developed.
12. The field test item pool is also required to be large enough so that the operational test forms needed can be developed using “successfully” field tested items, and so those items found unusable for an immediate operational test can be revised and reworked in order to be used in future field test cycles, thus building an item bank for NYSED’s use. The contractor is responsible for maintaining an item bank with equated items (both used and unused). The contractor will work with NYSED to determine an appropriate format for the item bank, to allow for NYSED’s use of the item bank both during and following the contract period. The item bank may be requested by NYSED at any time during the contract period and must be given to NYSED at completion of the contract.
13. Field Tests are to be abbreviated in length, as compared to the operational test sessions, such that students can generally complete the form in a 40-minute class period.

Field Test Security

The field test items and test materials must remain secure. The contractor must provide notice to schools on each page of the field test forms and administration directions that photocopying materials and any reference to test content is strictly prohibited. The notice states: “Secure materials. All rights reserved. No part of this booklet may be reproduced and/or transmitted by any means without written permission of the New York State Education Department. Use of these materials is expressly limited to the New York State Education Department”.

The contractor must track and collect all secure field test materials and inform NYSED of the results. The contractor is responsible for assuring that all field tests and related materials are returned in a timely and secure manner, and contacting schools, repeatedly if necessary, that do not return materials by the due date. The contractor must provide NYSED with a list of schools that have failed to return materials within 2 weeks after the due date and again after the contractor has made at least three concerted efforts to elicit their return.

All secure materials distributed to schools as part of the field tests must be serialized. The contractor’s records and the shipping packing lists (manifests) must indicate the range of serial numbers shipped to the schools. The contractor must also account for each individualized secure item in checking returned materials. Follow-up correspondence to each school concerning non-returned field test materials must include the serial number(s) of the missing material(s).

The contractor is responsible for budgeting for the payment of the shipping costs for schools to return the field test materials to the contractor.

Field Test Scoring

The contractor will score the field tests (multiple-choice and open-ended questions), verify the results, and provide all score results to NYSED. The results of the field test will also be detailed in the annual Field Test Technical Report. (See [Attachment G: Recommended Outline for NYSESLAT Field Test Technical Report](#) in §6 of this RFP.)

The contractor will develop models for scoring the open-ended questions and submit them to NYSED for NYSED's review and approval at least 60 calendar days prior to their implementation. NYSED does not require that New York State teachers be used for the actual scoring of the field test items. However, scorers hired by the contractor for these field tests must have at least a bachelor's degree and nine college credits in English and/or Education.

Rangefinding for scoring writing field tests must be conducted in Albany annually for each year of field testing. Rangefinding meetings will be arranged collaboratively between NYSED and the contractor. All rangefinding expenses will be paid by the contractor (excluding the expenses of NYSED staff who attend the sessions).

Rangefinding committees will include New York State-certified ESOL, bilingual education, ELA, and bilingual special education teachers. A minimum of nine members must comprise each grade band committee. Members must represent different geographic and demographic populations of New York State. NYSED will provide the contractor with names of teachers to participate in rangefinding, but the contractor is responsible for making all of the contacts to determine the teacher's availability and willingness to participate, and provide teachers with confirmations and details regarding their participation.

Analysis of Field Test Data

The contractor must provide statistical analyses for each NYSESLAT field test administration and submit a technical report. All field test items must be equated to the operational scale. The analyses must include both classical item analysis and IRT statistics. Specifically, the contractor must provide:

1. Field test data analysis: file merging, data clean up, and evaluation of sample representativeness.
2. Classical item analysis: n-count, item mean, item-total correlations (point-biserial), percent choosing each answer choice for multiple-choice items, percent receiving each possible score point for open-ended items, and distracter analysis.
3. Reliability analysis: inter-rater reliability analysis for the constructed-response items.
4. Item response theory (IRT) statistics: Field test data must be calibrated using an Item Response Theory (IRT) model, including IRT calibrations (item difficulty, discrimination), equating and scaling, and item fit evaluation.
5. Differential item functioning (DIF) analysis: The Mantel-Haenszel process for multiple-choice items, a derivative process for open-ended items, or an IRT-derived process for both item types must be used to evaluate DIF on field test items for population focal groups identified by NYSED. The minimum sample size for a focal group is 200.

A research file must be prepared for NYSED that contains student item-level data, as well as the demographic information necessary to replicate all analysis. If the contractor is using proprietary software, the contractor must provide NYSED's research staff with access to that software at no additional charge to NYSED for the duration of the contract and three years after the end of the contract, and must provide free training in its use.

Operational Form Development

The 2018 field tests will be administered and scored by the current contractor. The current contractor will also construct and provide to the new contractor the 2019 operational test forms and related materials to be printed. The current contractor will also provide to the new contractor files containing the field-tested passages, items, and item-level statistics. Following the administration and scoring of field tests each year beginning with the 2019 field tests, the new contractor must construct the proposed 2020, 2021, and 2022 NYSESLAT operational test forms based on the field test results and research guidelines for item selection. The contractor must provide NYSED with the proposed operational test forms, as well as additional field-tested items for possible replacement. The proposed operational test forms will be jointly reviewed by the contractor, NYSED staff, and NYS educators, and signed off by NYSED.

Forms construction meetings with NYS educators must be held in the Albany, NY area. A minimum of one month in advance of such meetings, the contractor will propose tentative forms for NYSED's review. Contractor psychometric and content staff must attend the meetings in person. The contractor must provide proposed forms and all field test statistical data for NYSED's and educators' review. The contractor must provide item cards or their equivalent for all items proposed for the operational test forms, as well as possible alternative or replacement items, including classical and Item Response Theory (IRT) statistics for the items, at least two weeks before the forms construction meetings. At the time of form selection, the contractor must also provide the NYS educators and NYSED staff with a mapping of all proposed items to the test specifications, as well as the ToMs and PLDs associated with the possible replacement items.

Operational test forms should adhere to the following guidelines:

1. It is anticipated that each test will consist of four sessions. One session will contain those items that must be individually administered to each student (such as speaking performance tasks) and the remaining three sessions will be designed to be administered in a group setting. Each session will likely contain multiple item sets and a mix of item types.
2. For each form and modality, the raw score value representing English language proficiency at each grade level must be no greater than 90 percent of the highest raw score value attainable. Each test must be constructed so that students do not have to earn a perfect or near-perfect score on any modality in order to demonstrate English language proficiency.
3. The contractor must provide separate test booklets for each of the sessions for each student.
4. The contractor must prepare full-length braille (see [Attachment H: NYSED Specifications and Requirements for Transcribing the NYSESLAT into Braille](#), in §6 of this RFP, for specifications) and large-type (see [Attachment I: Specifications for Large Type](#), in §6 of this RFP) editions of all test books and develop special instructions, as necessary, for the administration of these forms. The contractor must work with NYSED to determine the most appropriate way to present test materials to students with visual impairments and make any adjustments to the test content that are necessary for appropriate assessment.

Linking

To link each successive year's NYSESLAT with the prior year's edition, approximately one-third of the prior year's form should be carried over to the next edition. At Grades 1–12, one session is selected as the linking session for Listening, Reading, and Writing. Similarly, one section of the Speaking session will be used for linking. For Kindergarten, a representative selection of items in Listening, Reading, and Writing are chosen as linking items, along with one section of the Speaking session.

Style Guide

Upon the award of the contract, NYSED will provide to the contractor the existing NYSESLAT Style Guide. The contractor will be required to propose to NYSED suggested enhancements to this document. All changes to the Style Guide must be reviewed and approved by NYSED.

1. Tests and test-related materials must be completed in the style and format prescribed and approved by NYSED. [NYSESLAT Resources, Materials and Sample Items with Annotations](#) includes information regarding sample test questions for all four modalities of NYSESLAT, and scoring.
2. During the prototyping process for the development of the operational tests based upon the new NYS Next Generation ELA standards, the contractor and NYSED will jointly determine what style and format changes will be necessary.

Operational Administration

Informational Materials for Schools and Parents

Test Samplers

In Fall 2018, the contractor must develop, for NYSED to post on its web site, a sample item booklet (test sampler) for each grade band that includes items in all four modalities and describes the scoring rubrics and test design of the current NYSESLAT. The test sampler may reuse sample questions included in NYSED web-posted scoring training materials, provided that the questions continue to be representative of the test format of the current NYSESLAT. The contractor may also populate the test sampler by using items administered in previous years' tests, but that have not been included in the 2018 edition NYSITELL.

Near the start of the first school year in which operational NYSESLAT Tests based on new NYS Next Generation ELA standards are administered (approximately in Fall 2021) or if new item types are introduced, the contractor must develop, print, and ship to schools, informational publications at a rate of two per school. The publications must include a test sampler that includes the four modalities and describes the rubrics and the test design. The test sampler may reuse sample questions included in previous test samplers, provided that the questions continue to be representative of the new test format. The contractor must develop and field test new items representative of all new item types to be included on the test samplers. The contractor must produce scoring materials for all items on the test sampler, including rubrics and scored sample student responses. Sample student responses should come from actual student work obtained from field testing.

Informational Brochures

In addition, for the new operational NYSESLAT Tests based on new NYS Next Generation ELA standards, the contractor must also develop an informational brochure for parents, in user-friendly language. This brochure must be developed, printed, and distributed by the contractor to schools for dissemination to parents. The brochures must be made available by the contractor in English, Arabic, Bengali, Chinese (Simplified), Chinese (Traditional), French, Haitian-Creole, Korean, Russian, Spanish, Urdu, and two additional languages as specified by NYSED at the time that the brochure is being developed. Each school that administers NYSESLAT should receive two copies of the brochure in each language.

The brochures must be reviewed and approved by NYSED and be prepared in PDF and html format for web posting by NYSED.

Printing, Duplication, and Shipping of Operational Tests

For operational tests in 2019, 2020, 2021, and 2022, the contractor is required to print the school-requested quantities of the NYSESLAT and all NYSESLAT-related materials, duplicate any CDs, and ship all such materials to the schools requesting them. Materials to be printed and shipped include all operational test booklets, including those in braille and large type, as requested by schools; teacher directions; printed copies of dictation for listening passages; scoring guides for local scoring that must include rubrics; annotated scoring exemplars; practice sets; and any other test-related materials necessary for valid test administration. The contractor will be required to re-ship any missing or damaged materials.

The contractor must have defined procedures in place for order processing, test printing, distribution, and security. The contractor must ensure that it has the technical support and staffing levels necessary to provide an effective quality control program for all test materials.

The contractor will be responsible for receiving and inputting supplemental requests from schools that occur after the regular ordering period. The contractor must create and print individual packing lists (manifests) for each individual school, to pick and pack test materials ordered by schools.

The grade band and “New York State English As a Second Language Achievement Test” must appear on all test materials. Operational test materials must be noticeably different in appearance from field test materials. CDs for Listening passages and for preparing teachers to score the Speaking items must be labeled with colored labels that are specific to each grade band of the test and packed individually in either poly-boxes or clear slim packs.

All secure test materials for operational tests must be shrink-wrapped. Packages of secure materials that could be administered on different days must be printed in separate booklets and shrink-wrapped separately. In addition, all secure test materials must be printed with a unique serialized bar code on each individual item, to be used by the contractor to record the specific bar codes provided to each school and account for the materials returned.

NYSESLAT materials will be shipped to approximately 4,300 schools by the contractor in three shipments. The first shipment will include those materials needed to administer the individually administered Speaking session, including student test books, teacher directions, and scoring materials. The second shipment will include student test books and teacher directions for the three additional sessions. The third shipment will include scoring materials for the Writing tasks of the test.

The contractor must provide written transcripts of the Listening passages for schools that request them. These scripts are provided for administration, as an accommodation as specified in the student’s IEPs, only to hearing-impaired students who are not proficient in American Sign Language, so that such

students may read those passages. The contractor must also provide written instructions to schools on how they may request these scripts from the contractor.

The contractor must print and ship to the schools the quantities of braille and large-type editions of the tests that are requested by schools and NYSED. The braille editions must be accurately labeled on the front of each test with the grade band, session, and the words "Braille Edition." The large-type edition must be designed in a manner that provides suitable pagination for printing in booklet format, stapled in the spine by machine. The contractor must ensure that the enlargement of graphics does not prevent students from getting the correct answer. [Attachment J: Operational Test Materials to be Printed, Duplicated, and Shipped by the Contractor](#), in §6 of this RFP, gives the quantities for the operational test materials that were printed and reproduced under the contract for the 2017 NYSESLAT. The contractor will be required to re-ship any missing or damaged materials. The contractor is responsible for printing and distributing as many materials as are ordered and needed for administration. These quantities may increase from the quantities printed for the 2017 administration, as the number of students statewide participating in the NYSESLAT has continued to increase almost every school year.

Procedure for Schools to Order Exams from the Contractor

The contractor must provide either an online ordering system or send printed or scannable order forms to all schools so that schools may order exams from the contractor. This procedure must include processing operational test orders, including large-type and braille editions, submitted by schools, sending written confirmation of test orders via e-mail to each school, inputting supplemental requests from schools, and developing and printing packing lists (manifests) to pick and pack test materials ordered by schools. NYSED will provide the contractor with an Excel file, annually in October that includes: school name, school address, school code, principal name, e-mail address, and the fax and phone numbers of the schools to which the contractor will send ordering instructions. The building principal will be the contractor's primary contact.

On the order form, the contractor must provide each school with the opportunity to specify an alternate school location to which the school may prefer to have its secure examination materials shipped.

The contractor will collaborate with NYSED in developing monitoring systems to control excesses in schools' exam requests. This may include systems that compare each school's current school year request with their prior year usage. Such controls are likely to be especially important with respect to large-type and braille editions.

Customer Service Helpline

The contractor must maintain a customer service helpline for schools throughout the ordering, shipping, administration, and scoring periods, beginning with the 2019 operational administration. The contractor must provide a customer service helpline from November through April for ordering and pre-administration questions from local schools. The contractor must also provide a customer service helpline from April through June for test administration and scoring questions from local schools concerning the administration of the tests and the scoring of the constructed-response questions. Schools typically inquire about test scoring issues, the answers to which must be limited to scoring procedures, or about untypical responses to questions. The contractor must provide a customer service number, which must be staffed from 7:30 A.M. to 4:30 P.M. Eastern Standard Time each business day. Wait time for the customer service number should not exceed three (3) minutes. The customer service helpline must be prepared to handle all ordering, printing, and shipping-related questions, starting with the first day on which school administrators have received instructions from the contractor on how to submit NYSESLAT exam orders and continuing through the test administration and scoring periods until schools return test materials to the contractor in May and June. (Note: NYSED, and not the

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contractor, is responsible for receiving, processing, printing, and shipping all components of the operational NYSITELL.)

Scoring Protocols for Operational Tests

The scoring protocols for the current NYSESLAT are provided in the [2017 NYSESLAT School Administrator's Manual](#). The contractor will collaborate with NYSED in developing updated scoring protocols to be implemented in conjunction with the new operational tests based upon the new NYS Next Generation ELA standards.

Constructed-response items are scored locally by teachers in the public schools and in participating non-public schools. Scores for the constructed-response items are recorded by the teacher on an answer sheet printed and provided to the schools by one of the State's scanning centers. There are approximately 17 different local or regional scanning centers responsible for providing answer sheets to New York State schools.

Multiple-choice items are not scored locally. After the local scoring period, answer sheets are scanned at the same scanning center that provided them to the school. The contractor must coordinate with NYSED and the scanning centers to develop a file layout for the resulting scanned records.

After scanning their answer sheets, the scanning centers send their data files to a central repository, the State's Student Information Repository System (SIRS), which merges all files into one raw data file and sends this to the contractor.

The contractor will:

1. Receive the raw data file for all test takers from SIRS.
2. Score each of the multiple-choice components for each student, sum the raw scores for each modality, and determine the student's scale scores and performance level.
3. Insert scaled scores and performance levels into the data file.
4. Send the scored file back to the Student Information Repository System.

Training for Local Scoring of Operational Tests

For each of the 2019, 2020, and 2021 operational administrations of the NYSESLAT, the contractor must provide one, one-day, in-person training session for up to 50 participants, held within 30 miles of Albany, and one webinar turnkey training session. The webinar should occur in January and should be recorded for subsequent viewing. The contractor will be responsible for developing and printing/reproducing training materials for use at the training sessions.

For the first administration in 2022 of the NYSESLAT operational tests that are developed in accordance with the revised test specifications (based on the new NYS Next Generation ELA standards), the contractor must provide twelve, one-day-long turnkey training sessions for teachers and administrators that train teachers in how to score the open-ended questions in the Writing and Speaking sessions. Emphasis in the training should be on those elements that have been revised from previous years. The training must include information on the design and implementation of the NYSESLAT, use of the generic rubrics, and scoring the constructed-response items for Writing and Speaking. The training should use items from the test samplers and sample student responses obtained through field testing.

Prior to the first training session with teachers, the contractor must conduct a dry run in Albany. This dry run should be the full length of, and include all presentations planned for, the live sessions. The first turnkey training session with teacher participants should be scheduled in the Capital Region. Sites for the remaining turnkey training sessions must be geographically distributed across the State, typically

in: Nassau, Suffolk, Southern Westchester, Mid-Hudson, North Country, Syracuse, Rochester, and at least four in New York City. Up to 100 teachers may attend each training session.

The contractor must film at least one turnkey training session and prepare an edited version of the video to be posted on NYSED's website.

The contractor will be responsible for developing training materials, arranging for training sites, and all associated costs of training. Teachers attending the training do not receive honoraria or reimbursement for travel or lodging costs. School districts are not reimbursed for substitute teachers.

The training sessions must be completed by the last week in February. Specific dates and locations will be determined in collaboration with NYSED, the Regional Bilingual Education Resource Networks (RBERNs), local BOCES, and the Big Five city school districts, which should be contacted to coordinate the turnkey training activities and assist with planning.

The contractor must provide to NYSED a technical report on the training for scoring. The report must contain a summary of the entire turnkey training process, including the following:

1. List of participants and their titles, school districts, and ethnicities
2. List of locations
3. Evaluation Form results
4. Copies of all training materials

Return of Operational Tests to the Contractor

The contractor must budget and arrange for each school to return the operational tests to the contractors, following test administration and scoring, and to confirm receipt by using pre-paid shipping labels. The contractor must also contact, repeatedly if necessary, all schools that do not return the operational test materials. NYSED requires that the contractor provide a weekly report to NYSED on the status of operational test returns and make its best effort to attain a 100% return of materials.

The contractor must store all returned operational test student writing booklets for one year after the administration of the test. These documents must be stored in a retrievable fashion. Student responses must then be securely destroyed in a manner that protects students' privacy.

Psychometric Analysis and Score Reporting

The contractor must conduct item calibration, equating, and scaling; provide analysis of test and item psychometric properties; and conduct research, to support the validity of the inferences being made from test scores.

Linking / Equating

A post-equating design must be used. The contractor must use an IRT model to calibrate, equate, and scale the NYSESLAT. Bidders must propose the most appropriate IRT equating designs for both field test and operational test equating. Currently, the Rasch and Partial Credit Models are used for NYSESLAT; internal anchor and chain linking are used for equating.

Field test equating: The operational test will include anchor items, to allow field test items to be calibrated on the operational scale. The common scaling of field test items to the operational scale must be based on representative statewide samples.

Operational test equating: Operational data must be used for item calibration and equating. The new operational tests will be equated by linking operational items to the baseline, or to the previous year if chain linking design is used.

For quality control purposes, two simultaneous and independent equating's must be performed by the contractor, and the equating results must agree.

The alignment of test characteristic curves and standard error curves of the baseline operational tests and the new operational forms must be evaluated.

The contractor is required to submit all equating files and an impact data summary to NYSED for its review and approval prior to scoring the operational test.

Scaling

The contractor must develop a total test scale score and link each test form from year to year. To exit from ESL/Bilingual programs, a student must score at the:

1. Commanding level on the NYSESLAT, or
2. Expanding level on the NYSESLAT and score a Level 3 or 4 on the Grades 3-8 ELA Test, or
3. Expanding level on the NYSESLAT and score 65 or higher on the Regents Examination in ELA.

All items within the four modalities will be calibrated separately to create the four modality scales and equated from year to year. The four modality scale scores are then summed to produce the overall scale score. The contractor may propose an appropriate method.

The total test scale score, performance level, State and district percentile ranks, and modality sub score information will be used for individual student reporting purposes. The contractor must be prepared to provide NYSED with calibrated and scaled sub scores for each modality. However, NYSED may choose to report only raw scores and/or some form of simplified normative data (e.g., state average modality raw score) for each modality.

The contractor must provide scale scores and proficiency levels, as well as any other technical information necessary for calculating student growth, to NYSED and any NYSED consultant or contractor working on student growth models.

For each year of operational testing, the contractor must produce State-level reports that include, at a minimum:

1. The total number of identified ELL/MLL students statewide;
2. The number of students assessed at each grade level by school, school district, and statewide;
3. The percentage of students scoring at each performance level for each assessment component and for the total assessment;
4. Performance level descriptors;
5. The percentage of students who responded correctly to each multiple-choice test question;
6. The mean raw score for each open-ended test question; and

7. The standard and performance indicator associated with each test item.

These reports must be provided by the contractor electronically via the contractor's secure FTP site to NYSED by July 20 of each year.

Re-scoring of Operational Tests

The contractor must select:

1. A representative sample of 10% of student responses for each grade band and rescore the locally scored written performance tasks for an inter-rater reliability study.
2. A representative sample of 10% of student test recordings for each grade band and rescore the locally scored speaking results for an inter-rater reliability study.

The sample for these audits must be selected in cooperation with NYSED. The rescoring of the operational examinations must be completed by the first week in September.

The contractor must provide scoring training to the scorers whom they hire, using the same scoring training materials used by schools to score the operational tests. Scorers hired by the contractor for these operational tests must have at least a bachelor's degree and nine college credits in English and/or Education.

The contractor must provide NYSED with data files that merge the original scores and re-scores and an electronic school-level report on the rescoring. The Student Information Repository System will provide electronic data files to the contractor of the local scores for open-ended questions for each school, as part of the larger data set sent to the contractor. The contractor must develop a technical report of the rescoring results, which will then be included in the annual operational test technical manual. (See [Attachment K: Technical Manual Outline for NYSESLAT](#), in §6 of this RFP, for the outline.)

Comparability of Testing Modes

It is anticipated that, during the term of the contract resulting from the issuance of this RFP, NYSED may issue a separate RFP to provide an option for NYS schools to administer one or more of the grade bands of the NYSESLAT to their students by CBT. This option to schools would most likely begin with CBT field testing only in the 2019-20 school year and include the option for CBT operational and field testing in the 2020-21 and 2021-22 school years. In the event that students are participating in the NYSESLAT field testing through two modes, CBT and paper-based testing (PBT), the primary contractor for the NYSESLAT development (contractor resulting from this RFP) will be expected to conduct CBT vs. PBT comparability analyses by using a propensity matching or other industry standard research design. The design for such comparability studies must be proposed by the contractor and approved by NYSED prior to their implementation.

Quality Control of Data Analysis

All data files must be submitted to NYSED's research staff to verify and replicate all analysis. The files must include, but not be limited to, the following:

1. Clean, scored, and merged data files for each Field Test form and data layout files.

2. Clean calibration data files, IRT program files, output files, equating constants, and equated item parameters for each Field Test form.
3. Metadata for the calibrated item bank in a specified format including classical item statistics (e.g., p-values, point biserials) and IRT parameter estimates, as well as the demographic information necessary to the analysis.
4. Raw score-to-theta-to-scale score tables, transformation constants, conversion charts for each OP test form.

Technical Documentation and Support

The contractor must develop technical manuals/reports for each year's operational NYSESLAT and each year's field test, based on the outlines in [Attachment G: Recommended Outline for NYSESLAT Field Test Technical Report](#) and [Attachment K: Technical Manual Outline for NYSESLAT](#), in §6 of this RFP. Prior to submission of draft reports to NYSED, all reports must be carefully proofread and edited by the contractor. The draft technical reports must then be reviewed and approved by NYSED. The operational test technical manuals/reports must provide adequate information for Peer Review.

The contractor must provide field test and operational test statistical data about each test question after each administration, so that NYSED may conduct subsequent secondary analysis at its discretion. If the contractor is using proprietary software, the contractor must provide NYSED's research staff with access to that software, at no additional charge to NYSED, for the duration of the contract and three years after the end of the contract, and must provide free training in its use.

The contractor must also provide any additional information necessary to substantiate the psychometric characteristics and appropriate content of all items to NYSED, in the event of concern or criticism about test items.

NYSESLAT Standard Setting

To obtain recommendations on performance standards, NYSED requires that standard setting is performed using operational test data. Standard setting will occur after the first administration of the new NYSESLAT based on the new NYS Next Generation ELA standards.

The process for standard setting will consist of two elements:

1. development of threshold Performance Level Descriptors (PLDs)
2. traditional standard setting meeting

Standard Setting Meeting

The standard setting meeting (three days in length) will be conducted in the Albany area within two months after the examination is administered. The contractor will be responsible for arranging and paying for conference room space within 30 miles of Albany for the standard setting meeting. In addition, the contractor must provide all meeting facilitation and training for participants, and develop and produce all materials necessary to conduct the meetings (e.g., item statistic books, handouts, PowerPoint presentations, sign-in and sign-out sheets, meeting agendas, non-disclosure agreements). The contractor must ensure that all materials are kept secure always, including implementing the security guidelines found in [Attachment L: Security Guidelines for the New York State Assessment Program](#), in §6 of this RFP.

The Educator Committee for the standard setting meetings will include 100 NYS-certified teachers in ESOL, bilingual education, bilingual special education, and common branch and content area teachers with experience working with ELLs/MLLs, as well as six school administrators. Participants will be broken into six groups to work on different grade bands, each of which will work on a different grade band: K, 1-2, 3-4, 5-6, 7-8, and 9-12. NYSED will provide the contractor with names of teachers and administrators for the contractor to contact to determine availability and willingness to participate in the standard setting. Four to seven NYSED staff and members of NYSED's Technical Advisory Committee (TAC) will also attend the meetings, primarily in an observational role.

The contractor will be responsible for arranging and paying for travel reimbursement and hotel accommodations for participants residing more than 50 miles from the standard setting location and meals for all participants. Teacher participants will also be paid honoraria of \$200 per day of attendance. No honoraria will be paid to school administrators. The contractor will not provide any payment or reimbursement to NYSED staff or TAC members.

A final determination of the methodology to use for each standard setting will be determined collaboratively between the contractor and NYSED, but each standard setting meeting should include the following steps:

1. development of threshold PLDs, as defined above
2. review of items and item- and test-level statistics
3. training on standard setting methodology
4. practice judgments with discussion
5. multiple rounds of judgment with discussion
6. discussion of external benchmark and impact data
7. all appropriate procedural validity documentation (e.g., surveys of panelists)
8. record and summarize the decisions of the committee

After each committee has completed its work, a synthesis group composed of table leaders for all four committees will meet. Their purpose is to review the recommendations on cut scores arrived at for each grade level in the three separate rooms and to make recommendations on revisions to those determinations that help to provide a logical vertical articulation across the K-12 spectrum.

Immediately following the completion of the standard setting meeting, the contractor will be responsible for providing NYSED with impact analysis and for developing the operational raw score-to-scale score tables for each grade level, based on the operational calibrations and standard setting results.

Standard Setting Technical Report

A comprehensive technical report for the NYSESLAT standard setting is required. The technical report should include recommendations that indicate the judgments of each expert in each phase of judgment, as appropriate to the standard setting model, and sections on the analysis of external benchmark data. In addition to the technical reports, the contractor must provide NYSED with all electronic data files within two weeks following the standard setting meeting.

A draft of the technical report should be submitted to NYSED within six weeks of the completion of the standard setting. Prior to submission to NYSED, the draft report must be carefully proofread and edited. The draft technical report must then be reviewed and approved by NYSED. The final technical report should be submitted within two weeks of receiving final approval of the draft report by NYSED.

Alignment Studies

In order to meet the ESSA requirement that each state submit evidence regarding its English language

proficiency assessments to the United States Department of Education for peer review, the contractor will arrange and provide for two alignment studies by an independent party with demonstrated expertise in high-quality, large-scale assessment, at the contractor's sole cost. These studies must review the test blueprint and the operational test forms for the current NYSESLAT, and the test blueprint and the field test forms for the revised NYSESLAT measuring the new NYS Next Generation Learning Standards in ELA and revised language arts progressions. The studies must determine:

1. the extent to which the test is aligned to the full range of New York State's relevant academic standards, and
2. the extent to which test items intended to require complex demonstration or applications of knowledge and skills relate to other measures that require similar levels of cognitive complexity in the content area.

A report from the independent-expert review of the current NYSESLAT is expected to be completed by September 1, 2018.

A report from the independent-expert review of the revised NYSESLAT is expected to be completed by October 31, 2021, following the administration and scoring of field tests for the revised NYSESLAT and prior to the first operational administration of the revised NYSESLAT.

The contractor shall notify NYSED of any third party reviewing field test items and/or operational items. Any such third party is subject to the review and approval of NYSED and its staff must sign non-disclosure agreements.

Organizational Capacity

Program Manager

The program manager must not have primary responsibility for any other contract with NYSED or for a large-scale testing program for another state, and must be available 8am – 6pm Eastern Standard Time, Monday through Friday, except state holidays, for program management purposes. The contractor must also provide a means for key staff to be reached from 6am – 10pm Eastern Standard Time, during periods of operational testing.

The program manager and all other key personnel of the contractor involved with this contract must be identified by name and experience in writing to NYSED and approved by NYSED.

The program manager should have:

1. A minimum of a bachelor's degree;
2. Project management certification through the Project Management Institute (PMI) as a Project Management Professional (PMP), or other recognized project management certification;
3. Experience working with ELL/MLL programs;
4. At least three years' experience managing large-scale assessment projects from conception through completion;
5. Experience with the assessment of English language learners, Grades K-12, and knowledge or experience with cultural sensitivity/cultural responsiveness;
6. Demonstrated knowledge of educational testing procedures; and
7. Strong organizational, managerial, and communication skills.

The program manager responsibilities will include, but will not be limited to:

1. Developing and submitting an annual, detailed project plan and/or schedule to NYSED for review and sign-off. The purpose of the plan is to provide NYSED with an overall analysis of the methods that the contractor will utilize to perform all aspects of the contract in the required timeframe. The project plan will be developed and approved at the beginning of each year, and the contractor will not perform work on the project until NYSED has accepted the contractor's annual project plan.
2. Travelling to Albany or New York City to meet with NYSED program staff for those meetings listed in #3 below, and up to six additional times per year.
3. Coordinating and participating in annual start-up meetings and quarterly status meetings (one full day in length). The first meeting must be held no more than one month after final approval of the contract. All quarterly status meetings must be conducted in person. These meetings can be scheduled to coincide with other activities being held in Albany.
4. Providing NYSED with the minutes of all meetings and conference calls, for NYSED review and approval.
5. Submitting monthly status reports to NYSED that include: a detailed list of all work and activities completed, in progress, and upcoming; corresponding dates on all phases of the development and implementation and progress made in accordance with the detailed project plans and contractual requirements; a list of all information needed from NYSED to proceed with work; and external dependencies, if any, that may affect the schedule, and the variance by which it would affect the schedule.
6. Coordinating and participating in conference calls biweekly to discuss the status report and any issues related thereto.
7. Submitting all deliverables and other work products in the manner prescribed by NYSED according to a mutually agreed-upon timeline in order to allow for appropriate review and approval. All materials must be proofed for errors prior to submission to NYSED.
8. Maintaining accurate, up-to-date information of the status of all contractor and subcontractor(s) work on the project, and communicating such to NYSED in a timely manner.
9. Notifying the NYSED Assistant Commissioner of State Assessment, or his/her designee, via telephone and in writing, of any problem or potential problem that arises regarding the quality, timeliness, or any other issue and the contractor's proposed solution. The issue and solution shall also be included in subsequent reports.
10. Overseeing the development and implementation of changes as necessary, to ensure that the projects remain within specified scope and are within time, cost, and quality objectives.
11. Appropriately and effectively communicating with teachers and NYSED staff. This includes the effective and professional facilitation of trainings, technical assistance, and relationship building with all involved stakeholders.

Test Development Team

The contractor must maintain a skilled test development staff consisting, at a minimum, of:

1. One test development supervisor for the duration of the contract, who will supervise and be responsible for all aspects of the program's test development and will serve as a single point of contact for test development technical issues and decisions.
2. Two English language development specialists. These individuals should have a minimum of a master's degree in Teaching English to Speakers of Other Languages (TESOL), bilingual education or a closely related field; at least 36 college credits in the content area; at least three years of experience in writing items for the appropriate grade levels; experience with the assessment of English language learners, Grades K-12; and knowledge or experience with cultural sensitivity/cultural responsiveness.
3. One ELA content specialist. This individual should have a minimum of a master's degree or higher in the field; at least 36 college credits in the content area; at least three years of experience with the assessment of English language learners, Grades K-12; and knowledge or experience with cultural sensitivity/cultural responsiveness.
4. Additional content specialists should be available, as needed, to ensure appropriate and accurate coverage of math, social studies, and science content language. These individuals should have a minimum of a master's degree in the field; at least 36 college credits in the content area; experience in writing items for the appropriate grade levels; experience with the assessment of English language learners, Grades K-12; and knowledge or experience with cultural sensitivity/cultural responsiveness. Related experience can compensate for a master's degree. Content specialists should be familiar with the New York State Learning Standards, in order to ensure that test content is consistent with these standards and appropriate for the content area expectations in each grade.

Item Writers

The contractor is responsible for writing all items. NYSED prefers items written by individuals with a minimum of a Bachelor's degree, as well as a degree in TESOL / bilingual education; knowledge of appropriate questions for the target audience; experience in writing and editing items; experience with the assessment of English language learners, Grades K-12; and knowledge or experience with cultural sensitivity/cultural responsiveness; and knowledge and training in the New York State Learning Standards. Item writers who are authoring items for the Item Sets should also have applicable expertise in the content area addressed by the item set. The contractor is encouraged, but not required, to use New York State teachers to write items for the NYSESLAT.

NYSED Authority and Approval

NYSED shall have approval authority over all aspects of the NYSESLAT and NYSITELL programs including, but not limited to, the following:

1. All development plans and timelines for item development, field-testing items, item replenishment, scoring, and reporting.
2. All development plans and drafts for NYSED-approved scannable test answer booklets.
3. All schedules, including, but not limited to, training schedules, rollout schedules, implementation schedules, scoring/reporting schedules, and item review schedules.
4. All reports, including, but not limited to, technical reports (ongoing and post-operational), score reports, and field test reports.

5. All new and revised assessment items developed by the contractor, in order to ensure alignment to current and revised content specifications.
6. Any changes pertaining to the program manager, key staff, or subcontractor(s), on and after award of the contract and commencement of work, and for the duration of the contract.

All materials, including test materials, technical reports, and communications, must be provided error free and thoroughly proofed by the contractor's editors. Ten (10) business days must be provided by the contractor to NYSED for review of items, field test forms, operational test forms, scoring keys and rating guides, plus related deliverables. This will allow NYSED sufficient time to provide feedback to the contractor and give final approval of the deliverables.

Monitoring and Evaluation

NYSED will monitor and evaluate the progress of the contractor in meeting the contractual requirements through bi-weekly conference calls, monthly status reports, and quarterly status meetings coordinated by the program manager. The evaluation will emphasize the contractor's ability to meet timelines and supply deliverables in a timely manner. The contractor must retain and update records and accounts monthly and must be able to prepare and submit statistical, narrative, and/or financial and program reports and summaries related to this contract, as requested by NYSED.

Ownership Provisions

All field test and operational examination-related materials, test items, and test data are the exclusive property of NYSED and cannot be used by the contractor or any subcontractor for any purpose other than what is defined in the contract.

NYSED is the sole owner of outputs resulting from the work proposed in this RFP, including, but not limited to, all passages and items developed, item banks, field and operational test forms, administration directions and manuals, scoring materials and rubrics, score scales, test samplers, informational materials, and technical documents and reports, generated under this contract. The contractor must be prepared to deliver all or part of these outputs to NYSED at any point during the term of the contract. All materials must be turned over to NYSED in print and electronic form, as specified by NYSED, prior to the final payment under this agreement. NYSED may, at its sole discretion, make public, and may publish on its website, all materials. The contractor may use such publicly disclosed materials in the same manner as any other party, in accordance with the terms posted on NYSED's website.

All materials are to be delivered, as appropriate, in copyrightable form. Where original works are included in the body of the material, an acknowledgment statement must be included, setting forth the copyright information with respect to such original works.

The contractor shall reproduce, use, display, and include copies of NYSED's trademarks, trade name, logos, copyrights and other intellectual property (collectively, the "Marks") on all copies of materials produced for NYSED. The contractor acknowledges that the Marks are owned solely and exclusively by NYSED, and nothing contained in the contract resulting from this RFP shall give the contractor any ownership right or interest in such Marks.

If the contractor also develops or publishes textbooks or practice tests for sale to schools and/or school districts within the State of New York, the contractor agrees that, when promoting to New York State customers such textbooks, ancillary materials, and/or practice tests, the contractor will not make any reference to the contractor having been awarded the contract or the contractor's performance of the

services for NYSED contemplated by the contract. If the contractor is under ownership by another entity that develops or publishes textbooks or practice tests for sale to schools and/or school districts within the State of New York ("Related Publisher"): a) contractor reiterates the restriction against disclosure as stated above; b) the Related Publisher is restricted from providing any information to the contractor pertaining in any way to content used, or proposed to be used, in the Related Publisher's development of textbooks or practice tests for adoption within the State of New York; and c) the Related Publisher is restricted, when promoting to New York State customers the Related Publisher's practice tests and/or textbooks developed for sale to schools and/or school districts within the State of New York, from making any reference to the common ownership of the Related Publisher and the contractor or any reference to the contractor's performance.

Cooperation with Other Contractors

NYSED currently has, or may develop, contracts for certain test-related activities that are associated with the NYSESLAT program. In the future, these services may include, but are not limited to, the generation of student score reports, student growth calculation and reporting, delivery of the NYSESLAT field tests and operational tests on a computer-based testing platform, and/or the scoring of student computer-inputted constructed responses on a computer-based scoring platform. In the event that any of these contracts are held or awarded to other contractors, the contractor awarded the contract tied to this RFP must cooperate fully and in a timely manner with those contractor(s) providing other services associated with these examinations. This includes providing all of the passages/stimuli, test questions, and other associated test content that will be administered in CBT format to the CBT contractor at least 90 days in advance of their first administration date and provided in a format mutually agreed upon by the two contractors and by NYSED.

Challenges to the NYSESLAT

The contractor agrees to cooperate with NYSED with respect to any challenge to the NYSESLAT and, if necessary, provide, at no cost to NYSED, experts, evidence, witness testimony, or other documentation necessary, within reason, to refute a challenge to the validity, reliability, cultural fairness, or any other aspect of the development of the examination with which the contractor was associated, for a minimum of five years after a particular test item, test form, or operational test is administered.

Staff Changes

The contractor will maintain continuity of staff throughout the course of the contract. All changes in staff will be subject to NYSED approval. The replacement staff with comparable or superior skills will be provided at the same or lower rate.

Contract Completion Requirements

Upon completion or termination of the contract awarded as a result of this RFP, the contractor will use its best efforts to assist NYSED in completing an efficient transition to NYSED and/or any successive contractor. This shall include, but not be limited to, assisting NYSED in developing and implementing a feasible transition plan in advance of the anticipated expiration, cancellation, or termination of the contract.

The contractor agrees to cooperate fully with NYSED and any successive contractor and refrain from any activity that would interfere with the successful implementation of an efficient transition. The contractor shall provide (a) all items, reports, materials, data, and equipment owned by NYSED in the contractor's possession, and (b) any information reasonably useful to and requested by NYSED in

developing a request for proposal for a successive contractor, prior to the expiration, cancellation, or termination of the contract.

The contractor will work with NYSED to determine the format of providing materials, data, and information that will optimize its reuse by NYSED or any successive contractor. The contractor will also provide NYSED with a list of all computer programs and software tools necessary to allow an end user to read and export any materials and data provided by the contractor under this contract.

Security

The contractor must provide security procedures for this contract in accordance with the protocols set forth in this RFP and [Attachment L: Security Guidelines for the New York State Assessment Program](#), in §6 of this RFP. The security plan must specifically address where the activities described in this RFP will occur and how test materials will remain secure always, including secure shipment and/or encryption and secure transmission of all test materials.

The contractor must use encrypted files and design, host, and maintain a secure file transfer protocol (FTP) site as a means of file transfer. Access to the NYS test information on this site must be limited to the contractor and NYSED, unless further sharing with other parties is authorized in writing by NYSED. Any other electronic transfer via e-mail, Internet, or facsimile (FAX) of any secure test materials is not permitted, unless authorized by NYSED to do so on a case-by-case basis. All shipments between the contractor and NYSED must be in NYSED-provided locked boxes, via UPS Next Day Air. When shipping secure test materials to schools, the contractor must use a carrier with ground-tracking capability, but may pack the materials in well-sealed corrugated cartons rather than in locked boxes.

All contractor staff having access to secure or confidential information, including but not limited to test questions and scoring materials, shall sign a Non-Disclosure Agreement ([see Attachment M: Non-Disclosure Agreement](#), in §6 of this RFP) prior to the initiation of work under this contract and in accordance with [Attachment L: Security Guidelines for the New York State Assessment Program](#). Contractors must adhere to NYSED's security protocols regarding transmission of secure materials via encrypted files and secure shipment of printed materials by using a carrier with on-line package tracking.

Requirements of Education Law § 2-d

The contractor agrees to comply with FERPA and New York State Education Law § 2-d. The New York State Data Security and Privacy Plan (Appendix R), the Parents Bill of Rights (Appendix S) and the Attachment to the Parents' Bill of Rights for Contracts Involving Certain Personally Identifiable Information (Appendix S-1) are included in [4. Assurances](#) of this RFP, the terms of which are incorporated herein by reference, and which shall also be part of the Contract.

Bidders should complete items #3 and #6 of Appendix S-1 and return it with their technical proposal for NYSED review.

Payments and Reports

The contractor will be required to submit quarterly status reports and annual progress reports, as outlined in the [Program Manager](#) section of this RFP. Payment will be made to the contractor once the quarterly reports are reviewed and the project deliverables are determined to be accurate in accordance with properly submitted invoices. Invoices should be submitted for payment on a quarterly basis and must include dates of services and an itemized list of activities and costs consistent with the approved schedule of deliverables contained in the executed contract. Payment(s) to subcontractor(s) should be

indicated on the invoice and should list the subcontractors' names, payment amount, and nature of services provided. Invoices with incomplete information will be returned to the vendor. Invoices should reflect only the deliverables that have been completed and submitted to NYSED. Payments will be made upon 100% completion of each deliverable and approval by NYSED.

Accessibility of Web-Based Information and Applications

Any documents, web-based information and applications development, or programming delivered pursuant to the contract or procurement, will comply with NYSED IT Policy NYSED-WEBACC-001, Web Accessibility Policy as such policy may be amended, modified or superseded, which requires that state agency web-based information, including documents, and applications are accessible to persons with disabilities. Documents, web-based information and applications must conform to NYSED-WEBACC-001 as determined by quality assurance testing. Such quality assurance testing will be conducted by NYSED employees or by the contractor and the results of such testing must be satisfactory to NYSED before web-based information and applications will be considered a qualified deliverable under the contract or procurement.

Subcontracting Limit

Subcontracting will be limited to 30% of the total contract budget. Subcontracting is defined as non-employee direct personal services and related incidental expenses, including travel.

For vendors using subcontractors, a Vendor Responsibility Questionnaire and a NYSED vendor responsibility review are required for a subcontractor in cases in which:

1. the subcontractor is known at the time of the contract award,
2. the subcontractor is not an entity that is exempt from reporting by OSC, and,
3. the subcontract will equal or exceed \$100,000 over the life of the contract.

For additional information about Vendor Responsibility, see the **Vendor Responsibility** section contained in **3. Evaluation Criteria and Method of Award** of this RFP.

If the vendor proposes to change subcontractors during the contract period, NYSED must be notified prior to the change. NYSED reserves the right to reject any replacement subcontractors proposed by the vendor and reserves the right to approve all changes in subcontractors. The Subcontracting Form located in the Submission Documents must be updated annually and submitted to NYSED. Using this form, the vendor must also report to NYSED, on an annual basis, actual expenditures incurred for all subcontractors and indicate which subcontracting costs are associated with M/WBE.

Contract Period

NYSED will award one (1) contract pursuant to this RFP. The contract resulting from this RFP will be for a term anticipated to begin June 1, 2018 and to end December 31, 2022.

Electronic Processing of Payments

In accordance with a directive dated January 22, 2010 by the Director of State Operations - Office of Taxpayer Accountability, all state agency contracts, grants, and purchase orders executed after February 28, 2010 shall contain a provision requiring that contractors and grantees accept electronic payments. Additional information and authorization forms are available at the [Office of the New York State Comptroller](#).

M/WBE AND EQUAL EMPLOYMENT OPPORTUNITIES REQUIREMENTS CONTRACTOR REQUIREMENT AND OBLIGATION UNDER NEW YORK STATE EXECUTIVE LAW, ARTICLE 15-A (PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS)

In an effort to eradicate barriers that have historically impeded access by minority group members and women in State contracting activities, Article 15-A, of the New York State Executive Law §310-318, (Participation by Minority Group Members and Women With Respect To State Contracts) was enacted to promote equality of economic opportunities for minority group members and women.

The New York State Education Department (“NYSED”) has enacted its policies Equal Opportunity, Non-Discrimination and Affirmative Action and on Minority and Women-Owned Business Enterprise Procurements, consistent with the requirements as set forth under the provisions of Article 15-A (the “Article”) incorporated by reference, requiring Contracting Agencies to implement procedures to ensure that the “Contractor” (as defined under Article 15-A, §310.3 shall mean an individual, a business enterprise, including a sole proprietorship, a partnership, a corporation, a not-for-profit corporation, or any other party to a state contract, or a bidder in conjunction with the award of a state contract or a proposed party to a state contract, complies with requirements to ensure Equal Employment Opportunities for Minority Group Members and Women, in addition to providing Opportunities for Minority and Women-Owned Business Enterprises on all covered state contracts.

In keeping with the intent of the Law, it is the expectation of the Commissioner and the responsibility of all contractors participating in and/or selected for procurement opportunities with NYSED, to fulfill their obligations to comply with the requirements of the Article and its implementing regulations.

In accordance with these requirements, the contractor hereby agrees to make every good faith effort to promote and assist the participation of certified Minority and Women-Owned Business Enterprises (“M/WBE”) as subcontractors and suppliers on this project for the provision of services and materials in an amount at least equal to the M/WBE goal (Included in the procurement document) as a percentage of the total dollar value of this project. In addition, the contractor shall ensure the following:

1. All state contracts and all documents soliciting bids or proposals for state contracts contain or make reference to the following provisions:

a. The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, marital status, gender, religion, veteran status, sexual orientation, genetic disposition or carrier status and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination.

For purposes of the Article, affirmative action shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination and rate of pay or other forms of compensation.

b. The contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, marital status, gender, religion, veteran status, sexual orientation, genetic disposition or carrier status and that such union or representative will affirmatively cooperate in the implementation of the contractor’s obligation herein.

c. The contractor shall state in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, marital status, gender, religion, veteran status, sexual orientation, genetic disposition or carrier status.

2. The contractor will include the provisions of subdivision one of this section in every subcontract as defined under §310.14, except as provided under §312.6 of the Article, in such a manner that the provisions will be binding upon each subcontractor as to work in connection with the State contract.

3. Contractors or subcontractors shall comply with the requirements of any federal law concerning equal employment opportunity, which effectuates the purpose of this section.

4. Contractors and subcontractors shall undertake programs of affirmative action and equal employment opportunity as required by this section¹. In accordance with the provision of the Article, the bidder will submit, with their proposal, Staffing Plan (EEO 100).

5. Certified businesses (as defined under Article 15-A, §310.1 means a business verified as a minority or women-owned business enterprise pursuant to §314 of the Article) shall be given the opportunity for meaningful participation in the performance of this contract, to actively and affirmatively promote and assist their participation in the performance of this contract, so as to facilitate the award of a fair share of this contract to such businesses².

6. Contractor shall make a good faith effort to solicit active participation by enterprises identified in the [Empire State Development \("ESD"\) directory of certified businesses](#). The contractor must document its good faith efforts as set forth in 5 NYCRR 142.8. This document, Contractors Good Faith Efforts, can be found in the M/WBE Submission Documents.

7. Contractor shall agree, as a condition of entering into said contract, to be bound by the provisions of Article 15-A, §316.

8. Contractor shall include the provisions set forth in paragraphs (6) and (7) above, in every subcontract in a manner that the provisions will be binding upon each subcontractor as to work in connection with this contract.

9. Contractor shall comply with the requirements of any federal law concerning opportunities for M/WBEs which effectuates the purpose of this section.

10. Contractor shall submit all necessary M/WBE documents and/or forms as described above as part of their proposal in response to NYSED procurement.

11. The percentage goals established for this RFP are based on the overall availability of M/WBEs certified in the particular areas of expertise identified under this RFP. These goals should not be construed as rigid and inflexible quotas which must be met, but as targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire Minority and Women-Owned Business Program work.

¹ Notice – Contractors are provided with notice herein, NYSED may require a contractor to submit proof of an equal opportunity program after the proposal opening and prior to the award of any contract. In accordance with regulations set forth under Article 15-A §312.5, contractors and/or subcontractors will be required to submit compliance reports relating to the contractor's and/or subcontractor's program in effect as of the date the contract is executed.

² Should the contractor identify a firm that is not currently certified as an M/WBE, it should request that the firm submit a certification application [Empire State Development](#) by the deadline for submission of proposals for eligibility determination. It is the responsibility of the contractor to ensure that a sufficient number of certified M/WBE firms have been identified in response to this procurement, in order to facilitate full M/WBE participation.

12. Contractor shall ensure that enterprises have been identified (M/WBE 102) within the Utilization Plan, and the contractor shall attempt, in good faith, to utilize such enterprise(s) at least to the extent indicated in the plan, as to what measures and procedures contractor intends to take to comply with the provisions of the Article.

13. Contractor shall upon written notification from NYSED M/WBE Program Unit as to any deficiencies and required remedies thereof, the contractor, within the period of time specified, will submit compliance reports documenting remedial actions taken and other information relating to the operation and implementation of the Utilization Plan.

14. Where it appears that a contractor cannot, after a good faith effort, comply with the M/WBE participation requirements, contractor may file a written application with NYSED M/WBE Program Unit requesting a partial or total waiver (M/WBE 101) of such requirements setting forth the reasons for such contractor's inability to meet any or all of the participation requirements, together with an explanation of the efforts undertaken by the contractor to obtain the required M/WBE participation.

For purposes of determining a contractor's good faith efforts to comply with the requirements of this section or be entitled to a waiver, NYSED shall consider at the least the following:

I. Whether the contractor has advertised in general circulation media, trade association publications and minority-focused and women-focused media and, in such event;

a. Whether or not the certified M/WBEs which have been solicited by the contractor exhibited interest in submitting proposals for a particular project by attending a pre-bid conference; and

b. Whether certified businesses solicited by the contractor responded in a timely fashion to the contractor's solicitations for timely competitive bid quotations prior to the contracting agency's deadline for submission of proposals.

II. Whether there has been written notification to appropriate certified M/WBEs that appear in the [Empire State Development website](#).

All required Affirmative Action, EEO, and M/WBE forms to be submitted along with bids and/or proposals for NYSED procurements are attached hereto. Bidders must submit subcontracting forms which:

1) fully comply with the participation goals specified in the RFP; OR

2) partially comply with the participation goals specified in the RFP, and include a request for partial waiver, and document its good faith efforts to fully comply with the percentage goals specified in the RFP; OR

3) do not include certified M/WBE subcontractors or suppliers, and include a request for a complete waiver, and document its good faith efforts to fully comply with the participation goals specified in the RFP.

All M/WBE firms are required to be certified by Empire State Development (ESD) or must be in the process of obtaining certification from ESD. Online Certification can be found at the [New York State Contract System website](#).

Failure to comply with the requirements of Article 15-A as set forth under this procurement and in conjunction with the corresponding contract, will result in the withholding of associated funds and other enforcement proceedings set forth under Article 15-A.

2. Submission

Documents to be submitted with this proposal

This section details the submission document or documents that are expected to be transmitted by the respondent to the State Education Department in response to this RFP. NYSED shall own all materials, processes, and products (software, code, documentation and other written materials) developed under this contract. Materials prepared under this contract shall be in a form that will be ready for copyright in the name of the New York State Education Department. Any sub-contractor is also bound by these terms. The submission will become the basis on which NYSED will judge the respondent's ability to perform the required services as laid out in the RFP. This will be followed by various terms and conditions that reflect the specific needs of this project.

Project Submission

The proposal submitted in response to this RFP must include the following documents:

1. Submission Documents—Two (2) copies (one bearing an original signature)
2. Technical Proposal—Seven(7) copies (one bearing an original signature)
3. Cost Proposal—Three (3) copies (one bearing an original signature)
4. M/WBE Documents—Two (2) copies (one bearing an original signature)
5. Microsoft Word (CD format)—One (1) electronic version with the submission, technical, cost, and M/WBE proposals. Please place the CD-ROM in a separate envelope.

The proposal must be received by **December 15, 2017 by 3:00 PM** at NYSED in Albany, New York.

Proposals should be prepared simply and economically, avoiding the use of elaborate promotional materials beyond those sufficient to provide complete presentation. If supplemental materials are a necessary part of the proposal, the bidder should reference these materials in the technical proposal, identifying the document(s) and citing the appropriate section and page(s) to be reviewed.

The proposal must communicate an understanding of the deliverables of the RFP, describe how the tasks are to be performed and identify potential problems in the conduct of the deliverables and methods to identify and solve such problems.

Bidders should specify all details and dates required to evaluate the technical proposal and should limit aspects of the project plan which are to be determined only after the award of a contract. No optional deliverables to be provided only at an additional cost should be included and will not be considered in the evaluation of the technical proposal. Contractual terms, conditions and assumptions are inappropriate for inclusion in the proposal.

Any proprietary material considered confidential by the bidder will specifically be so identified, and the basis for such confidentiality will be specifically set forth in the proposal by submitting the form "Request for Exemption from Disclosure Pursuant to the Freedom of Information Law," located in 5) Submission Documents.

Technical Proposal

Technical Proposal (70 points)

The original plus six (6) copies of the completed Technical Proposal must be submitted in a separate envelope labeled **RFP #18-013 –Technical Proposal – Do Not Open** and must include the following:

1. A project workplan detailing and addressing how tasks will be organized and managed to provide the project deliverables, as described below;
2. A project staffing plan, detailing what and how resources will be utilized to provide the project deliverable, as described below;
3. Resumes for all key staff, and;
4. A minimum of three current professional letters of reference.

A. Test Development Requirements and Guidelines (25 Points Total)

The proposal should include the bidder's experience and a project plan for the following components of the form development process and the required and suggested characteristics of the test form:

A-1: Conduct Educator Committee Meetings (5 points)

The proposal should include a detailed plan that incorporates the required Educator Committee Meetings during each stage of test development.

A-2: Item Development Requirements and Guidelines (5 points)

The proposal should clearly describe the bidder's experience in the item-development process for large-scale assessment programs, and its plans and capacity to develop the passages and item sets according to the suggested characteristics of test items as described by this RFP.

A-3: Item Prototyping and Test Specifications for NYSESLAT and NYSITELL (5 points)

The bidder should describe, in detail, a prototyping phase of the test development process in which various item types are proposed as prototypes for the revised assessments measuring the new NYS Next Generation ELA standards for NYSESLAT and for the new Kindergarten Entry Initial Identification test.

A-4: Field Testing for NYSESLAT and Kindergarten Entry Initial Identification Test (5 points)

The proposal should clearly describe the bidder's experience in field testing large-scale assessments and its plans and capacity to conduct field testing as required by this RFP. The proposal should include the bidder's plans for selecting field test samples, to ensure that they are representative of NYS schools, and oversampling to ensure that the minimum number of actual student responses is obtained for each field test form. The proposal should contain the development, printing, shipping, and retrieval of all field test materials, and communication with schools to notify them of the field tests and work to obtain any unreturned field test materials. The proposal should include a description of how the bidder will score multiple-choice and open-ended questions, including rangefinding, developing scorer training materials, and recruiting and training appropriate scorers. The plan should describe field test security, and analysis of field test data.

A-5: Operational Form Development (5 points)

The proposal should describe, in detail, how the bidder will develop proposed NYSESLAT operational test forms (based on the field test results and research guidelines for item selection, and according to the test design and other specifications of the RFP) and develop and format all test booklets (including braille and large-type editions) and all ancillary materials.

B. Operational Administration (30 Points Total)

The proposal should describe the bidder's experience in test administration and providing field support for large-scale testing programs, and its plans and capacity to perform all services required by the RFP.

B-1: [Printing, Duplication, and Shipping of Operational Tests](#) (5 points)

The proposal should describe, in detail, how the bidder will print the school-requested quantities of the NYSESLAT and all NYSESLAT-related materials, duplicate any CDs, and ship all such materials to the schools requesting them, including braille and large-type editions. The bidder should describe defined procedures for order processing, test printing, distribution, and security, ensuring technical support and staffing levels are adequate to provide an effective quality control program for all test materials.

B-2: [Procedure for Schools to Order Exams from Contractor](#) (5 points)

The proposal should describe how the bidder will provide either an online ordering system or send printed or scannable order forms to all schools for them to order exams from the bidder. This procedure should include processing operational test orders, including large-type and braille editions submitted by schools, sending written confirmation of test orders via e-mail to each school, inputting supplemental requests from schools, and developing and printing packing lists (manifests) to pick and pack ordered test materials ordered.

B-3: [Customer Service Helpline](#) (5 points)

The proposal should describe how the bidder will provide customer service support to schools throughout the ordering, shipping, administration, and scoring periods; from November through April for ordering and pre-administration questions, and from April through June for test administration and scoring questions, from local schools concerning the administration of the tests and the scoring of the constructed-response questions.

B-4: [Psychometric Analysis and Score Reporting](#) (10 points)

The proposal should describe, in detail, how the bidder will conduct item calibration, equating, and scaling; provide analysis of test and item psychometric properties; and conduct research, including comparability of testing modes for CBT and PBT, to support the validity of the inferences being made from test scores.

B-5: [NYSESLAT Standard Setting](#) (5 points)

The proposal should describe how the bidder will conduct a standard setting for the new NYSESLAT based on the new NYS Next Generation ELA standards, in order to develop threshold Performance Level Descriptors (PLDs) and to obtain recommendations on performance levels.

C. [Organizational Capacity](#) (10 Points Total)

C-1: [Capacity and Staffing Plan](#) (5 Points)

The proposal should demonstrate the bidder's ability to complete the required end products and design and facilitate all relevant meetings within the given timelines.

The proposal should include a detailed staffing plan that includes the names and qualifications of all key staff (as outlined in the Organizational Capacity of this RFP) and should also describe how staff will interact with one another, subcontractors, NYSED staff, teacher committees, schools, and other contractors working with NYSED. This includes how the program manager will work with NYSED staff to fulfill the responsibilities identified in this RFP.

Strong preference will be given to a program manager with skills listed in the [program manager](#) § of this RFP.

Strong preference will be given to English language development specialists with:

- a Master's degree or higher in, TESOL or Bilingual Education,
- knowledge and/or experience with cultural sensitivity/cultural sensitively,
- familiarity with NYS learning standards, and
- experience with Elementary, Middle School and High School students

The proposal should describe how the bidder will ensure that the work of the contract has the necessary priority within the organization to be completed with the highest quality and on time. Resumes for all key staff should be included.

C-2: Related Assessment Projects and References (5 Points)

The proposal should include examples of the bidder's previous experience in the development of large-scale assessment programs, including test development, field testing, scoring, research, material preparation, and administration. The bidder should provide examples of related assessment projects. Preference will be given to applicants that have experience with developing assessments of English language development/proficiency. The dates of service and a summary of the services provided, including the details of service provided, entities and student populations affected, and duration of contract, should be included for each example.

A minimum of three current professional letters of reference to substantiate qualifications should be provided with the proposal. The letters of reference should include the name, title, company name, address, email address and phone number. Do not use NYSED staff as references. The bidders should ensure that the references are current and information submitted for references is accurate.

D. Security (5 Points Total)

The proposal should describe security procedures for this contract in accordance with the protocols set forth in this RFP. The proposal should describe in detail the bidder's facilities, infrastructure, and security protocols, including specifics about each stage of the test development and administration process. The proposal should specifically address how the bidder test materials will remain secure always, including secure shipment and/or encryption and secure transmission of all test materials. All requirements of this RFP, including [Appendices R, S, and S-1](#), and [Attachment L: Security Guidelines for the New York State Assessment Program](#), should be specifically addressed.

Cost Proposal

Cost Proposal (30 Points)

The original plus two (2) copies of the completed Cost Proposal must be submitted in a separate envelope labeled **RFP #18-013 – Cost Proposal – Do Not Open** and must include the following:

1. Bid Form Cost Proposal – Schedule of Deliverables
2. Five (5) Year Budget Summary, **Signature Required**
3. Subcontracting Form
4. M/WBE Purchases Form

The cost proposal will be provided as an excel spreadsheet that will include all four (4) of the documents listed above.

Budgets must be submitted using whole dollar numbers.

The Financial Criteria portion of the RFP will be scored based upon the grand total of the five (5)-year budget summary.

M/WBE Documents

The original plus one (1) copy of the completed M/WBE Documents must be submitted in a separate envelope labeled **RFP #18-013-M/WBE Documents-Do Not Open**. Please return the documents listed for the compliance method bidder has achieved:

Full Participation-No Request for Waiver

1. M/WBE Cover Letter, **Signatures Required**
2. **M/WBE 100** Utilization Plan
3. **M/WBE 102** Notice of Intent to Participate
4. **EEO 100** Staffing Plan

Partial Participation-Partial Request for Waiver

1. M/WBE Cover Letter, **Signatures Required**
2. **M/WBE 100** Utilization Plan
3. **M/WBE 102** Notice of Intent to Participate
4. **EEO 100** Staffing Plan
5. **M/WBE 101** Request for Waiver
6. **M/WBE 105** Contractor's Good Faith Efforts

No Participation-Request for Complete Waiver

1. M/WBE Cover Letter, **Signatures Required**
2. **M/WBE 101** Request for Waiver
3. **M/WBE 105** Contractor's Good Faith Efforts

3. Evaluation Criteria and Method of Award

This section begins with the criteria the agency will use to evaluate bids, and closes with the “method of award” or how the contractor will be selected. This will be followed by various terms and conditions that reflect the specific needs of this project as well as New York State contract guidelines and requirements.

Criteria for Evaluating Bids

All eligible proposals received by the deadline will be reviewed using the following criteria and ratings. Applicants must ensure that all components of this application request have been addressed, the required number of copies has been provided, all forms and assurances have been completed, and the original signatures are included as required.

An evaluation committee will complete a review of all proposals submitted. The committee will review each proposal based upon the submitted proposal and the requirements of the RFP only. Bidders should not assume that committee review members will be familiar with the current program or have any previous experience with the bidder. Appropriate description should be included to inform review committee members about the bidder’s qualifications and capacity to perform all required deliverables.

The committee will review each proposal to determine compliance with the requirements described in the RFP. The committee retains the right to determine whether any deviation from the requirements of this RFP is substantial in nature and may reject in whole or in part any and all proposals, waive minor irregularities and conduct discussions with all responsible bidders.

Technical Criteria (70 Points)

Financial Criteria (30 Points)

The Financial Criteria portion of this RFP will be scored based upon the grand total for the 5-year budget summary.

- The **financial portion** of the proposal represents 30% points of the overall score and will be awarded up to 30 points pursuant to a formula. This calculation will be computed by the Contracts Administration Unit upon completion of the technical scoring by the technical review panel.
- The submitted budget will be awarded points pursuant to a formula which awards the highest score of 30 points to the budget that reflects the lowest overall cost. The remaining budgets will be awarded points based on a calculation that computes the relative difference of each proposal against the lowest budget submitted. The resulting percentage is then applied to the maximum point value of 30 points.
- **NYSED reserves the right to request best and final offers. In the event NYSED exercises this right, all bidders that meet the minimum technical score will be asked to provide a best and final offer. The Contract Administration Unit will recalculate the financial score based upon the best and final offers received.**

Method of Award

The aggregate score of all the criteria listed will be calculated for each proposal received.

The contract issued pursuant to this proposal will be awarded to the vendor whose aggregate technical and cost score is the highest among all the proposals rated. **If NYSED exercises the right to request best and final offers, the contract must be issued to the vendor with the highest aggregate technical and financial score that results from the best and final offers received.**

In the event that more than one proposal obtains the highest aggregate score, the contract will be awarded to the bidder in that group of highest aggregate scores whose budget component reflects the lowest overall cost.

NYSED's Reservation of Rights

NYSED reserves the right to: (1) reject any or all proposals received in response to the RFP; (2) withdraw the RFP at any time, at the agency's sole discretion; (3) make an award under the RFP in whole or in part; (4) disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the RFP; (5) seek clarifications of proposals; (6) use proposal information obtained through site visits, management interviews and the state's investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the agency's request for clarifying information in the course of evaluation and/or selection under the RFP; (7) prior to the bid opening, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available; (8) prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent RFP amendments; (9) change any of the scheduled dates; (10) waive any requirements that are not material; (11) negotiate with the successful bidder within the scope of the RFP in the best interests of the state; (12) conduct contract negotiations with the next responsible bidder, should the agency be unsuccessful in negotiating with the selected bidder; (13) utilize any and all ideas submitted in the proposals received; (14) unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 90 days from the bid opening; (15) require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offerer's proposal and/or to determine an offerer's compliance with the requirements of the solicitation; (16) request best and final offers.

Post-Selection Procedures

Upon selection, the successful bidder will receive a proposed contract from NYSED. The selected bidder may be given an opportunity to reduce its cost proposal in accordance with the agency's right to negotiate a final best price. The contents of this RFP, any subsequent correspondence during the proposal evaluation period, and such other stipulations as agreed upon may be made a part of the final contract prepared by NYSED. Successful bidders may be subject to audit and should ensure that adequate controls are in place to document the allowable activities and expenditure of State funds.

Debriefing Procedures

In accordance with section 163 of the NY State Finance Law, NYSED, upon request, must provide a debriefing to any unsuccessful bidder regarding the reasons their proposal was not selected for an award.

1. All unsuccessful bidders may request a debriefing within fifteen (15) calendar days of receiving notice from NYSED of non-award. Bidders may request a debriefing by submitting a written request to the Fiscal Contact person at:

NYS Education Department

Contract Administration Unit
89 Washington Avenue
Room 501W EB
Albany, NY 12234

2. Upon receipt of a timely written request from the unsuccessful bidder, NYSED will schedule the debriefing to occur within a reasonable time following receipt of the request. Debriefings will be conducted in person, unless NYSED and the bidder mutually agree to utilize other means, including but not limited to telephone, video-conferencing or other types of electronic communication.
3. The debriefing will include: a) the reasons that the proposal submitted by the unsuccessful bidder was not selected for an award; b) the qualitative and quantitative analysis employed by NYSED in assessing the relative merits of the proposals; c) the application of the selection criteria to the unsuccessful bidder's proposal; and d) when the debriefing is held after the final award, the reasons for the selection of the winning proposal. The debriefing will also provide, to the greatest extent practicable, general advice and guidance to the unsuccessful bidder concerning potential ways that their future proposals could be more responsive.

Contract Award Protest Procedures

Bidders who receive a notice of non-award or disqualification may protest the NYSED award decision subject to the following:

1. The protest must be in writing and must contain specific factual and/or legal allegations setting forth the basis on which the protesting party challenges the contract award by NYSED.
2. The protest must be filed within ten (10) business days of receipt of a debriefing or disqualification letter. The protest letter must be filed with:

NYS Education Department
Contract Administration Unit
89 Washington Avenue
Room 501W EB
Albany, NY 12234

3. The NYSED Contract Administration Unit (CAU) will convene a review team that will include at least one staff member from each of NYSED's Office of Counsel, CAU, and the Program Office. The review team will review and consider the merits of the protest and will decide whether the protest is approved or denied. Counsel's Office will provide the bidder with written notification of the review team's decision within seven (7) business days of the receipt of the protest. The original protest and decision will be filed with OSC when the contract procurement record is submitted for approval and CAU will advise OSC that a protest was filed.
4. The NYSED Contract Administration Unit (CAU) may summarily deny a protest that fails to contain specific factual or legal allegations, or where the protest only raises issues of law that have already been decided by the courts.

Vendor Responsibility

State law requires that the award of state contracts be made to responsible vendors. Before an award is made to a not-for-profit entity, a for-profit entity, a private college or university or a public entity not exempted by the Office of the State Comptroller, NYSED must make an affirmative responsibility determination. The factors to be considered include: legal authority to do business in New York State; integrity; capacity- both organizational and financial; and previous performance. Before an award of \$100,000 or greater can be made to a covered entity, the entity will be required to complete and submit a [Vendor Responsibility Questionnaire](#). School districts, Charter Schools, BOCES, public colleges and universities, public libraries, and the Research Foundation for SUNY and CUNY are some of the exempt entities. A complete list of exempt entities can be viewed at the [Office of the State Comptroller's website](#).

NYSED recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the [VendRep System Instructions](#) or go directly to the [VendRep System on the Office of the State Comptroller's website](#).

Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller's Help Desk at 866-370-4672 or 518-408-4672 or by email at ITServiceDesk@osc.state.ny.us.

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the [VendRep website](#) or may contact NYSED or the Office of the State Comptroller's Help Desk for a copy of the paper form.

Subcontractors:

For vendors using subcontractors, a Vendor Responsibility Questionnaire and a NYSED vendor responsibility review are required for a subcontractor where:

1. the subcontractor is known at the time of the contract award;
2. the subcontractor is not an entity that is exempt from reporting by OSC; and
3. the subcontract will equal or exceed \$100,000 over the life of the contract.

Note: Bidders must acknowledge their method of filing their questionnaire by checking the appropriate box on the Response Sheet for Bids (5. Submission Documents).

Procurement Lobbying Law

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between NYSED and an Offerer/bidder during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest notice of the solicitation through final award and approval of the Procurement Contract by NYSED and, if applicable, Office of the State Comptroller ("restricted period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, is identified below. NYSED employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the Offerer/bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found at [NYSED's Procurement Lobbying Law Policy Guidelines webpage](#).

Designated Contacts for NYSED
Program Office – **Victoria Mahar**
Contract Administration Unit – **Jessica Hartjen**
M/WBE – **Joan Ramsey**

Consultant Disclosure Legislation

Effective June 19, 2006, new reporting requirements became effective for State contractors, as the result of an amendment to State Finance Law §§ 8 and 163. As a result of these changes in law, State contractors will be required to disclose, by employment category, the number of persons employed to provide services under a contract for consulting services, the number of hours worked and the amount paid to the contractor by the State as compensation for work performed by these employees. This will include information on any persons working under any subcontracts with the State contractor.

Chapter 10 of the Laws of 2006 expands the definition of contracts for consulting services to include any contract entered into by a State agency for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal, or similar services.

To enable compliance with the law, State agencies must include in the Procurement Record submitted to OSC for new consultant contracts, the State Consultant Services Contractor's Planned Employment From Contract Start Date Through the End of the Contract Term ([Form A](#) - see link below). The completed form must include information for all employees providing service under the contract whether employed by the contractor or a subcontractor. Please note that the form captures the necessary planned employment information ***prospectively from the start date of the contract through the end of the contract term.***

[Form A](#) is available on OSC's website.

Please note that although this form is not required as part of the bid submissions, NYSED encourages bidders to include them in their bid submission to expedite contract execution if the bidder is awarded the contract. Note also that only the form listed above is acceptable.

Chapter 10 of the Laws of 2006 mandates that State agencies must now require State contractors to **report annually** on the employment information described above, including work performed by subcontractors. The legislation mandates that the annual employment reports are to be submitted by the contractor to the contracting agency, to OSC and to the Department of Civil Service. State Consultant Services Contractor's Annual Employment Report ([Form B](#) - see link below) is to be used to report the information for all procurement contracts above \$15,000. Please note that, in contrast to the information to be included on Form A, which is a one-time report of planned employment data for the entire term of a consulting contract on a projected basis, ***Form B will be submitted each year the contract is in effect and will capture historical information, detailing actual employment data for the most recently concluded State fiscal year (April 1 – March 31).***

[Form B](#) is available on OSC's website.

For more information, please visit [OSC Guide to Financial Operations](#).

Public Officer's Law Section 73

All bidders must comply with Public Officer's Law Section 73 (4)(a), as follows:

4. (a) No statewide elected official, state officer or employee, member of the legislature, legislative employee or political party chairman or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any state agency, or (ii) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised, directly or indirectly, by a state agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.

(i) The term "state officer or employee" shall mean:

(i) heads of state departments and their deputies and assistants other than members of the board of regents of the university of the state of New York who receive no compensation or are compensated on a per diem basis;

(ii) officers and employees of statewide elected officials;

(iii) officers and employees of state departments, boards, bureaus, divisions, commissions, councils or other state agencies other than officers of such boards, commissions or councils who receive no compensation or are compensated on a per diem basis; and

(iv) members or directors of public authorities, other than multistate authorities, public benefit corporations and commissions at least one of whose members is appointed by the governor, who receive compensation other than on a per diem basis, and employees of such authorities, corporations and commissions.

Review [Public Officer's Law Section 73](#).

NYSED Substitute Form W-9

Any payee/vendor/organization receiving Federal and/or State payments from NYSED must complete the NYSED Substitute Form W-9 if they are not yet registered in the Statewide Financial System centralized vendor file.

The NYS Education Department (NYSED) is using the NYSED Substitute Form W-9 to obtain certification of a vendor's Tax Identification Number in order to facilitate a vendor's registration with the SFS centralized vendor file and to ensure accuracy of information contained therein. We ask for the information on the NYSED Substitute Form W-9 to carry out the Internal Revenue laws of the United States.

Workers' Compensation Coverage and Debarment

New York State Workers' Compensation Law (WCL) has specific coverage requirements for businesses contracting with New York State and additional requirements which provide for the debarment of vendors that violate certain sections of WCL. The WCL requires, and has required since introduction of the law in 1922, the heads of all municipal and State entities to ensure that businesses have appropriate workers' compensation and disability benefits insurance coverage *prior* to issuing any permits or licenses, or *prior* to entering into contracts.

Workers' compensation requirements are covered by WCL Section 57, while disability benefits are covered by WCL Section 220(8). The Workers' Compensation Benefits clause in Appendix A – STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS states that in accordance with Section 142 of the State Finance Law, a contract shall be void and of no force and effect unless the contractor

provides and maintains coverage during the life of the contract for the benefit of such employees as are required to be covered by the provisions of the WCL.

Under provisions of the 2007 Workers' Compensation Reform Legislation (WCL Section 141-b), any person, or entity substantially owned by that person: subject to a final assessment of civil fines or penalties, subject to a stop-work order, or convicted of a misdemeanor for violation of Workers' Compensation laws Section 52 or 131, is barred from bidding on, or being awarded, any public work contract or subcontract with the State, any municipal corporation or public body for one year for each violation. The ban is five years for each felony conviction.

PROOF OF COVERAGE REQUIREMENTS

The Workers' Compensation Board has developed several forms to assist State contracting entities in ensuring that businesses have the appropriate workers' compensation and disability insurance coverage as required by Sections 57 and 220(8) of the WCL.

Please note – an ACORD form is not acceptable proof of New York State workers' compensation or disability benefits insurance coverage.

Proof of Workers' Compensation Coverage

To comply with coverage provisions of the WCL, the Workers' Compensation Board requires that a business seeking to enter into a State contract submit appropriate proof of coverage to the State contracting entity issuing the contract. For each new contract or contract renewal, the contracting entity must obtain ONE of the following forms from the contractor and submit to OSC to prove the contractor has appropriate workers' compensation insurance coverage:

- **Form C-105.2** – Certificate of Workers' Compensation Insurance issued by private insurance carriers, or **Form U-26.3** issued by the State Insurance Fund; or
- **Form SI-12**– Certificate of Workers' Compensation Self-Insurance; or **Form GSI-105.2** Certificate of Participation in Workers' Compensation Group Self-Insurance; or
- **CE-200**– Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage.

Proof of Disability Benefits Coverage

To comply with coverage provisions of the WCL regarding disability benefits, the Workers' Compensation Board requires that a business seeking to enter into a State contract must submit appropriate proof of coverage to the State contracting entity issuing the contract. For each new contract or contract renewal, the contracting entity must obtain ONE of the following forms from the contractor and submit to OSC to prove the contractor has appropriate disability benefits insurance coverage:

- **Form DB-120.1** - Certificate of Disability Benefits Insurance; or
- **Form DB-155**- Certificate of Disability Benefits Self-Insurance; or
- **CE-200**– Certificate of Attestation of Exemption from New York State Workers' Compensation and/or Disability Benefits Coverage.

For additional information regarding workers' compensation and disability benefits requirements, please refer to the [New York State Workers' Compensation Board website](#). Alternatively, questions

relating to either workers' compensation or disability benefits coverage should be directed to the NYS Workers' Compensation Board, Bureau of Compliance at (518) 486-6307.

Please note that although these forms are not required as part of the bid submissions, NYSED encourages bidders to include them in their bid submission to expedite contract execution if the bidder is awarded the contract. Note also that only the forms listed above are acceptable.

Sales and Compensating Use Tax Certification (Tax Law, § 5-a)

Tax Law § 5-a requires contractors awarded State contracts for commodities or services valued at more than \$100,000 over the full term of the contract to certify to the New York State Department of Taxation and Finance ("DTF") that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specific period of time. The registration requirement applies if the contractor made a cumulative total of more than \$300,000 in sales during the four completed sales tax quarters which immediately precede the sales tax quarter in which the certification is made. Sales tax quarters are June – August, September – November, December – February, and March – May. In addition, contractors must certify to DTF that each affiliate and subcontractor of such contractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also certify to the procuring State entity that they filed the certification with the DTF and that it is correct and complete.

The selected bidder must file a properly completed Form ST-220-CA (with NYSED as the Contracting Agency) and Form ST-220-TD (with the DTF). These requirements must be met before a contract may take effect. Further information can be found at the [New York State Department of Taxation and Finance's website](#). Forms are available through these links:

- [ST-220 CA](#)
- [ST-220 TD](#)

Please note that although these forms are not required as part of the bid submissions, NYSED encourages bidders to include them with their bid submissions to expedite contract execution if the bidder is awarded the contract.

4. Assurances

The State of New York Agreement, Appendix A – Standard Clause for all New York State Contracts, and Appendix A-1 - Agency Specific Clauses, Appendix R - Data Security and Privacy Plan Provisions, Appendix S - Parents' Bill of Rights for Data Privacy and Security, and Appendix S-1 - Attachment to Parents' Bill of Rights for Contracts Involving Disclosure of Certain Personally Identifiable Information, **WILL BE INCLUDED** in the contract that results from this RFP. Vendors who are unable to complete or abide by these assurances should not respond to this request.

The documents listed below are included in **5. Submission Documents**, which must be signed by the Chief Administrative Officer. Please review the terms and conditions. Certain documents will become part of the resulting contract that will be executed between the successful bidder and the NYS Education Department.

1. Non-Collusion Certification
2. MacBride Certification
3. Certification-Omnibus Procurement Act of 1992
4. Certification Regarding Lobbying; Debarment and Suspension; and Drug-Free Workplace Requirements
5. Offerer Disclosure of Prior Non-Responsibility Determinations
6. NYSED Substitute Form W-9 (If bidder is not yet registered in the SFS centralized vendor file.)
7. Iran Divestment Act Certification

M/WBE Documents – **(the forms below are included in 5. Submission Documents)**

Please return the documents listed for the compliance method bidder has achieved:

Full Participation-No Request for Waiver

Signatures Required

1. M/WBE Cover Letter
2. **M/WBE 100** Utilization Plan
3. **M/WBE 102** Notice of Intent to Participate
4. **EEO 100** Staffing Plan

Partial Participation-Partial Request for Waiver

Signature Required

1. M/WBE Cover Letter
2. **M/WBE 100** Utilization Plan
3. **M/WBE 102** Notice of Intent to Participate
4. **EEO 100** Staffing Plan
5. **M/WBE 101** Request for Waiver
6. **M/WBE 105** Contractor's Good Faith Efforts

No Participation-Request for Complete Waiver

Signature Required

1. M/WBE Cover Letter
2. **M/WBE 101** Request for Waiver
3. **M/WBE 105** Contractor's Good Faith Efforts

STATE OF NEW YORK AGREEMENT

This AGREEMENT is hereby made by and between the People of the State of New York, acting through MaryEllen Elia, Commissioner of Education of the State of New York, party of the first part, hereinafter referred to as the (STATE) and the public or private agency (CONTRACTOR) identified on the face page hereof.

WITNESSETH:

WHEREAS, the STATE has the authority to regulate and provide funding for the establishment and operation of program services and desires to contract with skilled parties possessing the necessary resources to provide such services; and

WHEREAS, the CONTRACTOR is ready, willing and able to provide such program services and possesses or can make available all necessary qualified personnel, licenses, facilities and expertise to perform or have performed the services required pursuant to the terms of this AGREEMENT;

NOW THEREFORE, in consideration of the promises, responsibilities and covenants herein, the STATE and the CONTRACTOR agree as follows:

I. Conditions of Agreement

A. This AGREEMENT may consist of successive periods (PERIOD), as specified within the AGREEMENT or within a subsequent Modification Agreement(s) (Appendix X). Each additional or superseding PERIOD shall be on the forms specified by the particular State agency, and shall be incorporated into this AGREEMENT.

B. Funding for the first PERIOD shall not exceed the funding amount specified on the face page hereof. Funding for each subsequent PERIOD, if any, shall not exceed the amount specified in the appropriate appendix for that PERIOD.

C. This AGREEMENT incorporates the face pages attached and all of the marked appendices identified on the face page hereof.

D. For each succeeding PERIOD of this AGREEMENT, the parties shall prepare new appendices, to the extent that any require modification, and a Modification Agreement (The attached Appendix X is the blank form to be used). Any terms of this AGREEMENT not modified shall remain in effect for each PERIOD of the AGREEMENT.

To modify the AGREEMENT within an existing PERIOD, the parties shall revise or complete the appropriate appendix form(s). Any change in the amount of consideration to be paid, or change in the term, is subject to the approval of the Office of the State Comptroller. Any other modifications shall be processed in accordance with agency guidelines as stated in Appendix A1.

E. The CONTRACTOR shall perform all services to the satisfaction of the STATE. The CONTRACTOR shall provide services and meet the program objectives summarized in the Program Workplan (Appendix D) in accordance with: provisions of the AGREEMENT; relevant laws, rules and regulations, administrative and fiscal guidelines; and where applicable, operating certificates for facilities or licenses for an activity or program.

F. If the CONTRACTOR enters into subcontracts for the performance of work pursuant to this AGREEMENT, the CONTRACTOR shall take full responsibility for the acts and omissions of its subcontractors. Nothing in the subcontract shall impair the rights of the STATE under this AGREEMENT. No contractual relationship shall be deemed to exist between the subcontractor and the STATE.

G. Appendix A (Standard Clauses as required by the Attorney General for all State contracts) takes precedence over all other parts of the AGREEMENT.

II. Payment and Reporting

A. The CONTRACTOR, to be eligible for payment, shall submit to the STATE's designated payment office (identified in Appendix C) any appropriate documentation as required by the Payment and Reporting Schedule (Appendix C) and by agency fiscal guidelines, in a manner acceptable to the STATE.

B. The STATE shall make payments and any reconciliations in accordance with the Payment and Reporting Schedule (Appendix C). The STATE shall pay the CONTRACTOR, in consideration of contract services for a given PERIOD, a sum not to exceed the amount noted on the face page hereof or in the respective Appendix designating the payment amount for that given

PERIOD. This sum shall not duplicate reimbursement from other sources for CONTRACTOR costs and services provided pursuant to this AGREEMENT.

C. The CONTRACTOR shall meet the audit requirements specified by the STATE.

III. Terminations

A. This AGREEMENT may be terminated at any time upon mutual written consent of the STATE and the CONTRACTOR.

B. The STATE may terminate the AGREEMENT immediately, upon written notice of termination to the CONTRACTOR, if the CONTRACTOR fails to comply with the terms and conditions of this AGREEMENT and/or with any laws, rules, regulations, policies or procedures affecting this AGREEMENT.

C. The STATE may also terminate this AGREEMENT for any reason in accordance with provisions set forth in Appendix A1.

D. Written notice of termination, where required, shall be sent by personal messenger service or by certified mail, return receipt requested. The termination shall be effective in accordance with the terms of the notice.

E. Upon receipt of notice of termination, the CONTRACTOR agrees to cancel, prior to the effective date of any prospective termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval by the STATE.

F. The STATE shall be responsible for payment on claims pursuant to services provided and costs incurred pursuant to terms of the AGREEMENT. In no event shall the STATE be liable for expenses and obligations arising from the program(s) in this AGREEMENT after the termination date.

IV. Indemnification

A. The CONTRACTOR shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the CONTRACTOR or its subcontractors pursuant to this AGREEMENT. The CONTRACTOR shall indemnify and hold harmless the STATE and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the provision of services pursuant to this AGREEMENT.

B. The CONTRACTOR is an independent contractor and may neither hold itself out nor claim to be an officer, employee or subdivision of the STATE nor make any claim, demand or application to or for any right based upon any different status.

V. Property

Any equipment, furniture, supplies or other property purchased pursuant to this AGREEMENT is deemed to be the property of the STATE except as may otherwise be governed by Federal or State laws, rules or regulations, or as stated in Appendix A1.

VI. Safeguards for Services and Confidentiality

A. Services performed pursuant to this AGREEMENT are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

B. Funds provided pursuant to this AGREEMENT shall not be used for any partisan political activity, or for activities that may influence legislation or the election or defeat of any candidate for public office.

C. Information relating to individuals who may receive services pursuant to this AGREEMENT shall be maintained and used only for the purposes intended under the contract and in conformity with applicable provisions of laws and regulations, or specified in Appendix A1.

Appendix A STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the

Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the

purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written

agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business
Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbcertification@esd.ny.gov
[NYS M/WBE Directory](#)

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees

to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section

5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. **IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“[Prohibited Entities List](#)”).

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the

Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

(January 2014)

APPENDIX A-1Payment and Reporting

- A. In the event that Contractor shall receive, from any source whatsoever, sums the payment of which is in consideration for the same costs and services provided to the State, the monetary obligation of the State hereunder shall be reduced by an equivalent amount provided, however, that nothing contained herein shall require such reimbursement where additional similar services are provided and no duplicative payments are received.
- B. For each individual for whom costs are claimed under this agreement, the contractor warrants that the individual has been classified as an employee or as an independent contractor in accordance with 2 NYCRR 315 and all applicable laws including, but not limited to, the Internal Revenue Code, the New York Retirement and Social Security Law, the New York Education Law, the New York Labor Law, and the New York Tax Law. Furthermore, the contractor warrants that all project funds allocated to the proposed budget for Employee Benefits, represent costs for employees of the contractor only and that such funds will not be expended on any individual classified as an independent contractor.

Terminations

- A. The State may terminate this Agreement without cause by thirty (30) days prior written notice. In the event of such termination, the parties will adjust the accounts due and the Contractor will undertake no additional expenditures not already required. Upon any such termination, the parties shall endeavor in an orderly manner to wind down activities hereunder.
- B. SED reserves the right to terminate this Agreement in the event it is found that the certification by the Contractor in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, SED may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of this Agreement.

Responsibility Provisions

- A. **General Responsibility Language**
The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of Education or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
- B. **Suspension of Work (for Non-Responsibility)**
The Commissioner of Education or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of Education or his or her designee issues a written notice authorizing a resumption of performance under the Contract.
- C. **Termination (for Non-Responsibility)**
Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate SED officials or staff, the Contract may be terminated by the Commissioner of Education or his or

her designee at the Contractor's expense where the Contractor is determined by the Commissioner of Education or his or her designee to be non-responsible. In such event, the Commissioner or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

Property

- A. The Contractor shall maintain a complete inventory of all realty, equipment and other non-expendable assets including, but not limited to, books, paintings, artifacts, rare coins, antiques and other collectible items purchased, improved or developed under this agreement. The Contractor shall submit a copy of the inventory in a form identical to or essentially similar to, Exhibit A annexed hereto. The term "non-expendable assets" shall mean for the purposes of this agreement any and all assets which are not consumed during the term of this agreement and which have a cost of One Thousand Dollars (\$1,000) or more.

Inventories for non-expendable assets must be submitted with the final expenditure report. In addition to or as part of whatever rights the State may have with respect to the inspection of the Contractor, the State shall have the right to inspect the inventory without notice to the Contractor.

The Contractor shall not at any time sell, trade, convey or otherwise dispose of any non-expendable assets having a market value in excess of Two Thousand Dollars (\$2,000) at the time of the desired disposition without the express permission of the State. The Contractor may seek permission in writing by certified mail to the State.

The Contractor shall not at any time use or allow to be used any non-expendable assets in a manner inconsistent with the purposes of this agreement.

- B. If the Contractor wishes to continue to use any of the non-expendable assets purchased with the funds available under this agreement upon the termination of this agreement, it shall request permission from the State in writing for such continued use within twenty-five (25) days of the termination of this agreement. The Contractor's request shall itemize the non-expendable assets for which continued use is sought. The State may accept, reject or accept in part such request. If the request for continued use is allowed to any degree, it shall be conditioned upon the fact that said equipment shall continue to be used in accordance with the purposes of this agreement.

If after the State grants permission to the Contractor for "continued use" as set forth above the non-expendable assets are not used in accordance with the purposes of this agreement, the State in its discretion may elect to take title to such assets and may assert its right to possession upon thirty (30) days prior written notice by certified mail to the Contractor. The State upon obtaining such non-expendable assets may arrange for their further use in the public interest as it in its discretion may decide.

- C. Upon termination of this agreement, the State in its discretion may elect to take title and may assert its right to possession of any non-expendable assets upon thirty (30) days prior written notice by certified mail to the Contractor. The State's option to elect to take title shall be triggered by the termination of this agreement or by the State's rejection of continued use of non-expendable assets by the Contractor as set forth herein. The State upon obtaining such non-expendable assets may arrange for their further use in the public interest as it in its discretion may decide.
- D. The terms and conditions set forth herein regarding non-expendable assets shall survive the expiration or termination, for whatever reason, of this agreement.

Safeguards for Services and Confidentiality

- A. Any copyrightable work produced pursuant to said agreement shall be the sole and exclusive property of the New York State Education Department. The material prepared under the terms of this agreement by the Contractor shall be prepared by the Contractor in a form so that it will be ready for copyright in the name of the New York State Education Department. Should the Contractor use the services of consultants or other organizations or individuals who are not regular employees of the Contractor, the Contractor and such organization or individual shall, prior to the performance of any work pursuant to this agreement, enter into a written agreement, duly executed, which shall set forth the services to be provided by such organization or individual and the consideration therefor. Such agreement shall provide that any copyrightable work produced pursuant to said agreement shall be the sole and exclusive property of NYSED and that such work shall be prepared in a form ready for copyright by the New York State Education Department. A copy of such agreement shall be provided to the State.
- B. Required Web Accessibility of Delivered Documents and Applications. If applicable, all documentation, applications development, or programming delivered pursuant to the contract or procurement, will comply with New York State Education Department IT Policy NYSED-WEBACC-001, Web Accessibility Policy, which requires that documents, web-based information and applications are accessible to persons with disabilities. All delivered documentation and applications must conform to NYSED-WEBACC-001 as determined by quality assurance testing. Such quality assurance testing will be conducted by NYSED employee or contractor and the results of such testing must be satisfactory to NYSED before documents and applications will be considered a qualified deliverable under the contract or procurement.
- C. All reports of research, studies, publications, workshops, announcements, and other activities funded as a result of this proposal will acknowledge the support provided by the State of New York.
- D. This agreement cannot be modified, amended, or otherwise changed except by a writing signed by all parties to this contract.
- E. No failure to assert any rights or remedies available to the State under this agreement shall be considered a waiver of such right or remedy or any other right or remedy unless such waiver is contained in a writing signed by the party alleged to have waived its right or remedy.
- F. Expenses for travel, lodging, and subsistence shall be reimbursed at the per diem rate in effect at the time for New York State Management/Confidential employees.
- G. No fees shall be charged by the Contractor for training provided under this agreement.
- H. Partisan Political Activity and Lobbying. Funds provided pursuant to this Agreement shall not be used for any partisan political activity or for activities that may influence legislation or the election or defeat of any candidate for public office.
- I. Nothing herein shall require the State to adopt the curriculum developed pursuant to this agreement.
- J. This agreement, including all appendices, is, upon signature of the parties and the approval of the Attorney General and the State Comptroller, a legally enforceable contract. Therefore, a signature on behalf of the Contractor will bind the Contractor to all the terms and conditions stated therein.

The parties to this agreement intend the foregoing writing to be the final, complete, and exclusive expression of all the terms of their agreement.

Certifications

- A. Contractor certifies that it has met the disclosure requirements of State Finance Law §139-k and that all information provided to the State Education Department with respect to State Finance Law §139-k is complete, true and accurate.
- B. Contractor certifies that it has not knowingly and willfully violated the prohibitions against impermissible contacts found in State Finance Law §139-j.
- C. Contractor certifies that no governmental entity has made a finding of nonresponsibility regarding the Contractor in the previous four years.
- D. Contractor certifies that no governmental entity or other governmental agency has terminated or withheld a procurement contract with the Contractor due to the intentional provision of false or incomplete information.
- E. Contractor affirms that it understands and agrees to comply with the procedures of the STATE relative to permissible contacts as required by State Finance Law §139-j (3) and §139-j (6)(b).
- F. Contractor certifies that it is in compliance with NYS Public Officers Law, including but not limited to, §73(4)(a).

Notices

Any written notice or delivery under any provision of this AGREEMENT shall be deemed to have been properly made if sent by certified mail, return receipt requested to the address(es) set forth in this Agreement, except as such address(es) may be changed by notice in writing. Notice shall be considered to have been provided as of the date of receipt of the notice by the receiving party.

Miscellaneous

- A. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). Contractor shall be liable for the costs associated with such breach if caused by Contractor's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Contractor's agents, officers, employees or subcontractors.
- B. If required by the Office of State Comptroller ("OSC") Bulletin G-226 and State Finance Law §§ 8 and 163, Contractor agrees to submit an initial planned employment data report on Form A and an annual employment report on Form B. State will furnish Form A and Form B to Contractor if required.

The initial planned employment report must be submitted at the time of approval of this Agreement. The annual employment report on Form B is due by May 15th of each year and covers actual employment data performed during the prior period of April 1st to March 31st. Copies of the report will be submitted to the NYS Education Department, OSC and the NYS Department of Civil Service at the addresses below.

By mail: NYS Office of the State Comptroller
 Bureau of Contracts
 110 State Street, 11th Floor
 Albany, NY 12236
 Attn: Consultant Reporting

By fax: (518) 474-8030 or (518) 473-8808

Reports to DCS are to be transmitted as follows:

By mail: NYS Department of Civil Service
Office of Counsel
Alfred E. Smith Office Building
Albany, NY 12239

Reports to NYSED are to be transmitted as follows:

By mail: NYS Education Department
Contract Administration Unit
Room 505 W EB
Albany, NY 12234

By fax: (518) 408-1716

- C. Consultant Staff Changes. If this is a contract for consulting services, Contractor will maintain continuity of the consultant team staff throughout the course of the contract. All changes in staff will be subject to STATE approval. The replacement consultant(s) with comparable skills will be provided at the same or lower hourly rate.
- D. Order of Precedence. In the event of any discrepancy, disagreement, conflict or ambiguity between the various documents, attachments and appendices comprising this contract, they shall be given preference in the following order to resolve any such discrepancy, disagreement, conflict or ambiguity:
1. Appendix A – Standard Clauses for all State Contracts
 2. State of New York Agreement
 3. Appendix A-1 - Agency Specific Clauses
 4. Appendix X - Sample Modification Agreement Form (where applicable)
 5. Appendix A-3 - Minority/Women-owned Business Enterprise Requirements (where applicable)
 6. Appendix B - Budget
 7. Appendix C – Payment and Reporting Schedule
 8. Appendix D – Program Workplan

(Revised 6/12/17)

**APPENDIX R:
DATA SECURITY AND PRIVACY PLAN PROVISIONS**

1. The individually identifiable data provided to or stored by the Contractor pursuant to this agreement (the "Data") are sensitive, requiring appropriate levels of security to prevent unauthorized disclosure or modification. The Contractor shall take all reasonable measures to protect the confidentiality of the Data as required by federal and state laws and regulations applicable to the Contractor. These may include but are not limited to the New York State Social Services Law, Personal Privacy Protection Law and Education Law §2-d; the federal Social Security Act and Family Educational Rights and Privacy Act; internet security laws; and any regulations promulgated thereunder.
2. The Contractor has full and final responsibility for the security of the Data. The Contractor agrees to implement reasonable technical and physical security measures to ensure the confidentiality, integrity and availability of the Data. Such security measures may be reviewed by the State, both through an informal audit of policies and procedures and/or through inspection of security methods used within the Contractor's infrastructure, storage, and other physical security. The Contractor should review its implementation and maintenance of its security review periodically to protect the data in strict compliance with statutory and regulatory requirements.
3. The Contractor's security measures must also include:
 - a. Provision that access to the Data is restricted solely to staff who need such access to carry out the responsibilities of the Contractor under this agreement, and that such staff will not release such Data to any unauthorized party;
 - b. All confidential Data are stored on computer and storage facilities maintained within Contractor's computer networks, behind appropriate firewalls;
 - c. Access to computer applications and Data are managed through appropriate user ID/password procedures;
 - d. Contractor's computer network storing the Data is scanned for inappropriate access through an intrusion detection system. NYSED has the right to perform a site visit to review the vendor's security practices if NYSED feels it is necessary;
 - e. That Contractor has a disaster recovery plan that is acceptable to the State;
 - f. Satisfactory redundant and uninterruptible power and fiber infrastructure provisions; and
 - g. A copy of the Contractor's security review evidencing compliance with these requirements must be submitted to NYSED for review and approval within 6 months of the signing of the contract or before the first certification test is performed, whichever occurs first.
4. The Data must be returned to NYSED upon termination or expiration of this Agreement, or at such point that the Data are no longer needed for the purpose referenced in this Agreement, or, at the sole discretion of NYSED, securely destroyed. All hard copies of personally identifiable Data in the possession of the Contractor must be securely destroyed, and all electronic Data must be purged from the network in a manner that does not permit retrieval of the data. The contractor is specifically prohibited from commingling any data from outside sources into the Data received from NYSED, except as specifically authorized by NYSED.
5. If personally identifiable data of students, teachers or building principals will be disclosed to the Contractor by NYSED for purposes of the Contractor providing services to NYSED, the Contractor must comply with the following requirements of Education Law §2-d (Chapter 56, Subpart L of the Laws of 2014) and any implementing regulations:

- a. Any officers or employees of the third-party contractor and its assignees who have access to student data or teacher or principal data have received or will receive training on the federal and state law governing confidentiality of such data prior to receiving access;
 - b. limit internal access to education records to those individuals that are determined to have legitimate educational interests;
 - c. not use the education records for any other purposes than those explicitly authorized in its contract;
 - d. except for authorized representatives of the third-party contractor to the extent they are carrying out the contract, not disclose any personally identifiable information to any other party:
 - (i) without the prior written consent of the parent or eligible student; or
 - (ii) unless required by statute or court order and the party provides a notice of the disclosure to the department, district board of education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order;
 - e. maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of personally identifiable student information in its custody; and
 - f. use encryption technology consistent with Education Law §2-d and any implementing regulations.
6. If requested by NYSED to make any disclosure of aggregated data using the Data provided to or stored by the Contractor, Contractor must ensure that the disclosed aggregated data cannot reasonably be used to identify a particular individual. Aggregated data will be considered identifiable if the disclosure has less than five (5) data elements per cell or the data elements per cell comprise 100% of the subject population.
7. Contractor agrees that all Data shall remain at all times the property of the State, and may not be used for any purpose other than the purpose outlined in this Agreement without the express written permission of NYSED. The Contractor has no ownership of or licensing rights to the Data except as provided in this Agreement, and Contractor specifically agrees that it will not sell, give or otherwise transfer the Data to any third party without NYSED's express prior approval.
8. The Contractor must ensure that these confidentiality and security provisions apply to any subcontractor engaged by the Contractor for the work under this agreement. The Contractor shall take full responsibility for the acts and omissions of its subcontractors, and the use of subcontractors shall not impair the rights of NYSED against the Contractor in accordance with this Agreement.
9. Hardware, software and services acquired by the Contractor under this Agreement may not be used for other activities beyond those described in the scope of the contract unless authorized in advance by NYSED.
10. Security of Location - Server room will remain a restricted access, locked room with access via security cards. The list of staff with access to the server room will continue to be reviewed quarterly against the number of times each staff gained access to the server room.
11. Breach Notification:
- a. Contractor that receives student data or teacher or principal data pursuant to a contract or other written agreement with an educational agency shall be required to notify such educational agency of any breach of security resulting in an unauthorized release of such data in accordance with Education Law §2-d and any implementing regulations. Upon such notification, the educational

agency shall take appropriate action in accordance with Education Law §2-d and any implementing regulations.

- b. If the State is required, pursuant to Education Law §2-d(6)(b), to notify one or more parent, eligible student, teacher or principal of an unauthorized release of student data by the Contractor or its assignee, the Contractor shall promptly reimburse the State for the full cost of such notification.
- c. Contractor acknowledges that it may be subject to penalties under Education Law §§2-d (6) and 2-d(7) for unauthorized disclosure of personally identifiable student, teacher or principal data.
- d. Contractor agrees that it will cooperate and promptly comply with any inquiries from the State based upon the State's receipt of a complaint or other information indicating that an improper or unauthorized disclosure of personally identifiable information may have occurred. Contractor will permit on-site examination and inspection, and will provide at its own cost necessary documentation or testimony of any employee, representative or assignee of Contractor relating to the alleged improper disclosure of data.

* **The Laws of New York State:** <http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS>: *Regulations for New York State Social Services*
: Social Services Law §§ 136, 372, 390(3)(c)(iv), 409-f, 422, 444 and
460-e; 18 NYCRR Part 339, Part 357, § 414.15(a)(5), § 416.15(a)(7), § 417.15 (a)(7), § 418-1.15 (a) (5), § 418-2.15(a) (7), Part 445 and Part 466
New York State Personal Privacy Laws (PPPL): 21 NYCRR Chapter XXV and 19 NYCRR Part 81
SED-specific PPPL regulations: 8 NYCRR Part 187

Appendix S: PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

To satisfy their responsibilities regarding the provision of education to students in pre-kindergarten through grade twelve, "educational agencies" (as defined below) in the State of New York collect and maintain certain personally identifiable information from the education records of their students. As part of the Common Core Implementation Reform Act, Education Law §2-d requires that each educational agency in the State of New York must develop a Parents' Bill of Rights for Data Privacy and Security (Parents' Bill of Rights). The Parents' Bill of Rights must be published on the website of each educational agency, and must be included with every contract the educational agency enters into with a "third party contractor" (as defined below) where the third-party contractor receives student data, or certain protected teacher/principal data related to Annual Professional Performance Reviews that is designated as confidential pursuant to Education Law §3012-c ("APPR data").

The purpose of the Parents' Bill of Rights is to inform parents (which also include legal guardians or persons in parental relation to a student, but generally not the parents of a student who is age eighteen or over) of the legal requirements regarding privacy, security and use of student data. In addition to the federal Family Educational Rights and Privacy Act (FERPA), Education Law §2-d provides important new protections for student data, and new remedies for breaches of the responsibility to maintain the security and confidentiality of such data.

A. What are the essential parents' rights under the Family Educational Rights and Privacy Act (FERPA) relating to personally identifiable information in their child's student records?

The rights of parents under FERPA are summarized in the Model Notification of Rights prepared by the United States Department of Education for use by schools in providing annual notification of rights to parents. It can be accessed at <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/lea-officials.html>, and a copy is attached to this Parents' Bill of Rights. Complete student records are maintained by schools and school districts, and not at the New York State Education Department (NYSED). Further, NYSED would need to establish and implement a means to verify a parent's identity and right of access to records before processing a request for records to the school or school district. Therefore, requests to access student records will be most efficiently managed at the school or school district level.

Parents' rights under FERPA include:

1. The right to inspect and review the student's education records within 45 days after the day the school or school district receives a request for access.
2. The right to request amendment of the student's education records that the parent or eligible student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA. Complete student records are maintained by schools and school districts and not at NYSED, which is the secondary repository of data, and NYSED make amendments to school or school district records. Schools and school districts are in the best position to make corrections to students' education records.
3. The right to provide written consent before the school discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent (including but not limited to disclosure under specified conditions to: (i) school officials within the school or school district with legitimate educational interests; (ii) officials of another school for purposes of enrollment or transfer; (iii) third party contractors providing services to, or performing functions for an educational agency; (iv) authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as NYSED; (iv) (v) organizations conducting studies for or on behalf of educational agencies) and (vi) the

public where the school or school district has designated certain student data as “directory information” (described below). The attached FERPA Model Notification of Rights more fully describes the exceptions to the consent requirement under FERPA).

4. Where a school or school district has a policy of releasing “directory information” from student records, the parent has a right to refuse to let the school or school district designate any all of such information as directory information. Directory information, as defined in federal regulations, includes: the student’s name, address, telephone number, email address, photograph, date and place of birth, major field of study, grade level, enrollment status, dates of attendance, participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received and the most recent educational agency or institution attended. Where disclosure without consent is otherwise authorized under FERPA, however, a parent’s refusal to permit disclosure of directory information does not prevent disclosure pursuant to such separate authorization.
5. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the School to comply with the requirements of FERPA.

B. What are parents’ rights under the Personal Privacy Protection Law (PPPL), Article 6-A of the Public Officers Law relating to records held by State agencies?

The PPPL (Public Officers Law §§91-99) applies to all records of State agencies and is not specific to student records or to parents. It does not apply to school districts or other local educational agencies. It imposes duties on State agencies to have procedures in place to protect from disclosure of “personal information,” defined as information which because of a name, number, symbol, mark or other identifier, can be used to identify a “data subject” (in this case the student or the student’s parent). Like FERPA, the PPPL confers a right on the data subject (student or the student’s parent) to access to State agency records relating to them and requires State agencies to have procedures for correction or amendment of records.

A more detailed description of the PPPL is available from the Committee on Open Government of the New York Department of State. Guidance on what you should know about the PPPL can be accessed at <http://www.dos.ny.gov/coog/shldno1.html>. The Committee on Open Government’s address is Committee on Open Government, Department of State, One Commerce Plaza, 99 Washington Avenue, suite 650, Albany, NY 12231, their email address is coog@dos.ny.gov, and their telephone number is (518) 474-2518.

C. Parents’ Rights Under Education Law §2-d relating to Unauthorized Release of Personally Identifiable Information

1. What “educational agencies” are included in the requirements of Education Law §2-d?

- The New York State Education Department (“NYSED”);
- Each public-school district;
- Each Board of Cooperative Educational Services or BOCES; and
- All schools that are:
 - a public elementary or secondary school;
 - a universal pre-kindergarten program authorized pursuant to Education Law §3602-e;
 - an approved provider of preschool special education services;
 - any other publicly funded pre-kindergarten program;
 - a school serving children in a special act school district as defined in Education Law 4001; or
 - certain schools for the education of students with disabilities - an approved private school, a state-supported school subject to the provisions of Education Law Article 85, or a state-operated school subject to Education Law Article 87 or 88.

2. What kind of student data is subject to the confidentiality and security requirements of Education Law §2-d?

The law applies to personally identifiable information contained in student records of an educational agency listed above. The term “student” refers to any person attending or seeking to enroll in an educational agency, and the term “personally identifiable information” (“PII”) uses the definition provided in FERPA. Under FERPA, personally identifiable information or PII includes, but is not limited to:

- (a) The student’s name;
- (b) The name of the student’s parent or other family members;
- (c) The address of the student or student’s family;
- (d) A personal identifier, such as the student’s social security number, student number, or biometric record;
- (e) Other indirect identifiers, such as the student’s date of birth, place of birth, and Mother’s Maiden Name³;
- (f) Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
- (g) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

3. What kind of student data is *not* subject to the confidentiality and security requirements of Education Law §2-d?

The confidentiality and privacy provisions of Education Law §2-d and FERPA extend only to PII, and not to student data that is not personally identifiable. Therefore, de-identified data (e.g., data regarding students that uses random identifiers), aggregated data (e.g., data reported at the school district level) or anonymized data that could not be used to identify a particular student is not considered to be PII and is not within the purview of Education Law §2-d or within the scope of this Parents’ Bill of Rights.

4. What are my rights under Education Law § 2-d as a parent regarding my student’s PII?

Education Law §2-d ensures that, in addition to all of the protections and rights of parents under the federal FERPA law, certain rights will also be provided under the Education Law. These rights include, but are not limited to, the following elements:

- (A) A student’s PII cannot be sold or released by the educational agency for any commercial or marketing purposes.
 - PII may be used for purposes of a contract that provides payment to a vendor for providing services to an educational agency as permitted by law.
 - However, sale of PII to a third party solely for commercial purposes or receipt of payment by an educational agency, or disclosure of PII that is not related to a service being provided to the educational agency, is strictly prohibited.
- (B) Parents have the right to inspect and review the complete contents of their child’s education record including any student data stored or maintained by an educational agency.
 - This right of inspection is consistent with the requirements of FERPA. In addition to the right of inspection of the educational record, Education Law §2-d provides a specific right for parents to inspect or receive copies of any data in the student’s educational record.

³ Please note that NYSED does not collect certain information defined in FERPA, such as students’ social security numbers, biometric records, mother’s maiden name (unless used as the mother’s legal name).

- NYSED will develop policies for annual notification by educational agencies to parents regarding the right to request student data. Such policies will specify a reasonable time for the educational agency to comply with such requests.
- The policies will also require security measures when providing student data to parents, to ensure that only authorized individuals receive such data. A parent may be asked for information or verifications reasonably necessary to ensure that he or she is in fact the student's parent and is authorized to receive such information pursuant to law.

(C) State and federal laws protect the confidentiality of PII, and safeguards associated with industry standards and best practices, including, but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred.

Education Law §2-d also specifically provides certain limitations on the collection of data by educational agencies, including, but not limited to:

- (A) A mandate that, except as otherwise specifically authorized by law, NYSED shall only collect PII relating to an educational purpose;
- (B) NYSED may only require districts to submit PII, including data on disability status and student suspensions, where such release is required by law or otherwise authorized under FERPA and/or the New York State Personal Privacy Law; and
- (C) Except as required by law or in the case of educational enrollment data, school districts shall not report to NYSED student data regarding juvenile delinquency records, criminal records, medical and health records or student biometric information.
- (D) Parents may access the NYSED Student Data Elements List, a complete list of all student data elements collected by NYSED, at <http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx>, or may obtain a copy of this list by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany, NY 12234; and
- (E) Parents have the right to file complaints with an educational agency about possible breaches of student data by that educational agency's third-party contractors or their employees, officers, or assignees, or with NYSED. Complaints to NYSED should be directed in writing to the Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany NY 12234, email to CPO@mail.nysed.gov. The complaint process is under development and will be established through regulations to be proposed by NYSED's Chief Privacy Officer, who has not yet been appointed.
 - Specifically, the Commissioner of Education, after consultation with the Chief Privacy Officer, will promulgate regulations establishing procedures for the submission of complaints from parents, classroom teachers or building principals, or other staff of an educational agency, making allegations of improper disclosure of student data and/or teacher or principal APPR data by a third-party contractor or its officers, employees or assignees.
 - When appointed, the Chief Privacy Officer of NYSED will also provide a procedure within NYSED whereby parents, students, teachers, superintendents, school board members, principals, and other persons or entities may request information pertaining to student data or teacher or principal APPR data in a timely and efficient manner.

5. Must additional elements be included in the Parents' Bill of Rights.?

Yes. For purposes of further ensuring confidentiality and security of student data, as an appendix to the Parents' Bill of Rights each contract an educational agency enters into with a third-party contractor shall include the following supplemental information:

(A) the exclusive purposes for which the student data, or teacher or principal data, will be used;

- (B) how the third-party contractor will ensure that the subcontractors, persons or entities that the third-party contractor will share the student data or teacher or principal data with, if any, will abide by data protection and security requirements;
- (C) when the agreement with the third-party contractor expires and what happens to the student data or teacher or principal data upon expiration of the agreement;
- (D) if and how a parent, student, eligible student, teacher or principal may challenge the accuracy of the student data or teacher or principal data that is collected; and
- (E) where the student data or teacher or principal data will be stored (described in such a manner as to protect data security), and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.
 - a. In addition, the Chief Privacy Officer, with input from parents and other education and expert stakeholders, is required to develop additional elements of the Parents' Bill of Rights to be prescribed in Regulations of the Commissioner.

6. What protections are required to be in place if an educational agency contract with a third-party contractor to provide services, and the contract requires the disclosure of PII to the third-party contractor?

Education Law §2-d provides very specific protections for contracts with “third party contractors”, defined as any person or entity, other than an educational agency, that receives student data or teacher or principal data from an educational agency pursuant to a contract or other written agreement for purposes of providing services to such educational agency. The term “third party contractor” also includes an educational partnership organization that receives student and/or teacher or principal APPR data from a school district to carry out its responsibilities pursuant to Education Law §211-e, and a not-for-profit corporation or other non-profit organization, which are not themselves covered by the definition of an “educational agency.”

Services of a third-party contractor covered under Education Law §2-d include, but not limited to, data management or storage services, conducting studies for or on behalf of the educational agency, or audit or evaluation of publicly funded programs.

When an educational agency enters into a contract with a third-party contractor, under which the third-party contractor will receive student data, the contract or agreement must include a data security and privacy plan that outlines how all state, federal, and local data security and privacy contract requirements will be implemented over the life of the contract, consistent with the educational agency's policy on data security and privacy. However, the standards for an educational agency's policy on data security and privacy must be prescribed in Regulations of the Commissioner that have not yet been promulgated. A signed copy of the Parents' Bill of Rights must be included, as well as a requirement that any officers or employees of the third-party contractor and its assignees who have access to student data or teacher or principal data have received or will receive training on the federal and state law governing confidentiality of such data prior to receiving access.

Each third-party contractor that enters into a contract or other written agreement with an educational agency under which the third-party contractor will receive student data or teacher or principal data shall:

- o limit internal access to education records to those individuals that are determined to have legitimate educational interests
- o not use the education records for any other purposes than those explicitly authorized in its contract;

- except for authorized representatives of the third party contractor to the extent they are carrying out the contract, not disclose any PII to any other party (i) without the prior written consent of the parent or eligible student; or (ii) unless required by statute or court order and the party provides a notice of the disclosure to NYSED, district board of education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order;
- maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of PII in its custody; and
- use encryption technology to protect data while in motion or in its custody from unauthorized disclosure.

7. What steps can and must be taken in the event of a breach of confidentiality or security?

Upon receipt of a complaint or other information indicating that a third-party contractor may have improperly disclosed student data, or teacher or principal APPR data, NYSED's Chief Privacy Officer is authorized to investigate, visit, examine and inspect the third-party contractor's facilities and records and obtain documentation from, or require the testimony of, any party relating to the alleged improper disclosure of student data or teacher or principal APPR data.

Where there is a breach and unauthorized release of PII by a by a third party contractor or its assignees (e.g., a subcontractor): (i) the third party contractor must notify the educational agency of the breach in the most expedient way possible and without unreasonable delay; (ii) the educational agency must notify the parent in the most expedient way possible and without unreasonable delay; and (iii) the third party contractor may be subject to certain penalties including, but not limited to, a monetary fine; mandatory training regarding federal and state law governing the confidentiality of student data, or teacher or principal APPR data; and preclusion from accessing any student data, or teacher or principal APPR data, from an educational agency for a fixed period up to five years.

8. Data Security and Privacy Standards

Upon appointment, NYSED's Chief Privacy Officer will be required to develop, with input from experts, standards for educational agency data security and privacy policies. The Commissioner will then promulgate regulations implementing these data security and privacy standards.

9. No Private Right of Action

Please note that Education Law §2-d explicitly states that it does not create a private right of action against NYSED or any other educational agency, such as a school, school district or BOCES.

ATTACHMENT

Model Notification of Rights under FERPA for Elementary and Secondary Schools

The Family Educational Rights and Privacy Act (FERPA) affords parents and students who are 18 years of age or older ("eligible students") certain rights with respect to the student's education records. These rights are:

1. The right to inspect and review the student's education records within 45 days after the day the [Name of school ("School")] receives a request for access.

Parents or eligible students should submit to the school principal [or appropriate school official] a written request that identifies the records they wish to inspect. The school official will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

2. The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.

Parents or eligible students who wish to ask the [School] to amend a record should write the school principal [or appropriate school official], clearly identify the part of the record they want changed, and specify why it should be changed. If the school decides not to amend the record as requested by the parent or eligible student, the school will notify the parent or eligible student of the decision and of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

3. The right to provide written consent before the school discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by the school as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the school board. A school official also may include a volunteer or contractor outside of the school who performs an institutional service or function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, medical consultant, or therapist; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

[Optional] Upon request, the school discloses education records without consent to officials of another school district in which a student seeks or intends to enroll, or is already enrolled if the disclosure is for purposes of the student's enrollment or transfer. [NOTE: FERPA requires a school district to make a reasonable attempt to notify the parent or student of the records request unless it states in its annual notification that it intends to forward records on request.]

4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the [School] to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

[NOTE: In addition, a school may want to include its directory information public notice, as required by §99.37 of the regulations, with its annual notification of rights under FERPA.]

[Optional] See the list below of the disclosures that elementary and secondary schools may make without consent.

FERPA permits the disclosure of PII from students' education records, without consent of the parent or eligible student, if the disclosure meets certain conditions found in §99.31 of the FERPA regulations. Except for disclosures to school officials, disclosures related to some judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the parent or eligible student, §99.32 of the FERPA regulations requires the school to record the disclosure. Parents and eligible students have a right to inspect and review the record of disclosures. A school may disclose PII from the education records of a student without obtaining prior written consent of the parents or the eligible student –

- To other school officials, including teachers, within the educational agency or institution whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the school has outsourced institutional services or functions, provided that the conditions listed in §99.31(a)(1)(i)(B)(1) - (a)(1)(i)(B)(2) are met. (§99.31(a)(1))
- To officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled if the disclosure is for purposes related to the student's enrollment or transfer, subject to the requirements of §99.34. (§99.31(a)(2))
- To authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as the State educational agency in the parent or eligible student's State (SEA). Disclosures under this provision may be made, subject to the requirements of §99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf. (§§99.31(a)(3) and 99.35)
- About financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. (§99.31(a)(4))
- To State and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a State statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records were released, subject to §99.38. (§99.31(a)(5))
- To organizations conducting studies for, or on behalf of, the school, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction. (§99.31(a)(6))
- To accrediting organizations to carry out their accrediting functions. (§99.31(a)(7))
- To parents of an eligible student if the student is a dependent for IRS tax purposes. (§99.31(a)(8))
- To comply with a judicial order or lawfully issued subpoena. (§99.31(a)(9))
- To appropriate officials about a health or safety emergency, subject to §99.36. (§99.31(a)(10))
- Information the school has designated as "directory information" under §99.37. (§99.31(a)(11))

Appendix S-1: Attachment to Parents' Bill of Rights for Contracts Involving Disclosure of Certain Personally Identifiable Information

Education Law §2-d, added by Ch. 56 of the Laws of 2014, requires that a Parents' Bill of Rights be attached to every contract with a third-party contractor (as defined in the law) which involves the disclosure of personally identifiable information (PII) derived from student education records ("Student Data"), or certain teacher/principal information regarding annual professional performance evaluations that is confidential pursuant to Education Law §30212-c ("APPR Data"). Each such Contract must include this completed Attachment to provide specific information about the use of such data by the Contractor.

1. Specify whether this Contract involves disclosure to the Contractor of Student Data, APPR Data, or both.

Disclosure of Student Data

Disclosure of APPR Data

2. Describe the exclusive purposes for which the Student Data or APPR Data will be used in the performance of this contract.

Student Data will be provided to the contractor for the purposes of scheduling, score reporting, standard setting and research.

3. Identify any subcontractors or other persons/entities with whom the Contractor will share the Student Data or APPR in the performance of this Contract, and describe how the Contractor will ensure that such persons/entities will abide by the data protection and security requirements of the Contract.

Subcontractors or other entities with whom the Contractor will share data:

Bidder should specifically list in this section any/all subcontractors that will/may receive data.

In the event the Contractor engages a Subcontractor or otherwise shares Student Data or APPR Data with any other entity, Contractor acknowledges and agrees that before any such data is shared with a Contractor or another entity, such party must agree in writing to be bound by the confidentiality and data protection provisions set forth in this Contract including, but not limited to, the "Data Security and Privacy Plan" set forth in Appendix R. Upon termination of the agreement between the Contractor and a Subcontractor or other entity, Contractor acknowledges and agrees that it is responsible for ensuring that all Student Data or APPR Data shared by the Contractor must be returned to Contractor or otherwise destroyed as provided in Paragraph 4 of the "Data Security and Privacy Plan" set forth in Appendix R.

4. Specify the expiration date of the Contract, and explain what will happen to the Student Data or APPR Data in the Contractor's possession, or the possession of any person/entity described in response to Paragraph 3, upon the expiration or earlier termination of the Contract.

Contract expiration date: **December 31, 2022**

Contractor agrees to return the Student Data or APPR Data to NYSED consistent with the protocols set forth in Paragraph 4 of the "Data Security and Privacy Plan" set forth in Appendix R.

Contractor agree to securely destroy the Student Data or APPR Data consistent with the protocols set forth in Paragraph 4 of the “Data Security and Privacy Plan” set forth in Appendix R.

Contractor will store operational test student writing booklets for one year after the administration of the test. Following the contract expiration date, Contractor will continue to securely store booklets in compliance with this requirement. All booklets will be securely destroyed one year after the administration of the test.

5. State whether the Contractor will be collecting any data from or pertaining to students derived from the student’s education record, or pertaining to teachers or principals’ annual professional performance evaluation pursuant to the Contract, and explain if and how a parent, student, eligible student (a student eighteen years or older), teacher or principal may challenge the accuracy of the Student Data or APPR data that is collected.

Student Data

APPR Data

Any challenges to the accuracy of any of the Student Data or APPR Data shared pursuant to this Contract should be addressed to the school, educational agency or entity which produced, generated or otherwise created such data.

6. Describe where the Student Data or APPR Data will be stored (in a manner that does not jeopardize data security), and the security protections taken to ensure that the data will be protected, including whether such data will be encrypted.

Bidder should detail in this section where data will be stored, what security measures will be in place, and whether electronic data is encrypted in motion and/or at rest.

6. Attachments

Attachment A: Breakdown of ToMs by Year

Table A-1. 2015, 2016, and 2017 Test Specification Alignment to ToMs—Grade Band K

ToMs	Total 2015			Total 2016			Total 2017		
	N Item	N Points	% Point	N Item	N Points	% Point	N Item	N Points	% Point
1	18	20	27.8	14	18	25.0	15	19	26.4
2	13	19	26.3	14	22	30.6	15	25	34.7
3	14	16	22.2	14	15	20.8	13	14	19.4
4	15	17	20.8	15	17	23.6	14	14	19.4
5	-	-	-	-	-	-	-	-	-
Total	60	72	100.0	57	72	100.0	57	72	100.0

Table A-2. 2015, 2016, and 2017 Test Specification Alignment to ToMs—Grade Band 1–2

ToMs	Total 2015			Total 2016			Total 2017		
	N Item	N Points	% Point	N Item	N Points	% Point	N Item	N Points	% Point
1	17	18	21.4	17	18	21.4	23	27	32.1
2	28	37	44.0	30	41	48.8	25	34	40.5
3	14	16	19.0	13	14	16.7	13	18	21.4
4	5	10	11.9	4	10	11.9	4	4	4.8
5	3	3	3.5	1	1	1.2	1	1	1.2
Total	67	84	100.0	66	84	100.0	66	84	100.0

Table A-3. 2015, 2016, and 2017 Test Specification Alignment to ToMs—Grade Band 3–4

ToMs	Total 2015			Total 2016			Total 2017		
	N Item	N Points	% Point	N Points	N Points	% Point	N Item	N Points	% Point
1	18	18	21.4	19	20	23.8	19	19	22.7
2	22	29	34.5	23	32	38.1	27	39	46.4
3	15	20	23.8	12	14	16.7	14	17	20.2
4	11	16	19.0	10	16	19.0	5	8	9.5
5	1	1	1.1	2	2	2.4	1	1	1.2
Total	67	84	100.0	66	84	100.0	66	84	100.0

Table A-4. 2015, 2016 and 2017 Test Specification Alignment to ToMs—Grade Band 5–6

ToMs	Total 2015			Total 2016			Total 2017		
	N Item	N Points	% Point	N Points	N Points	% Point	N Item	N Points	% Point
1	19	21	25.0	21	23	27.3	19	20	23.8
2	17	25	29.8	19	29	34.5	21	32	38.1
3	16	16	19.0	13	14	16.7	17	20	23.8
4	12	19	22.6	9	14	16.7	7	10	11.9
5	3	3	3.5	4	4	4.7	2	2	2.4
Total	67	84	100.0	66	84	100.0	66	84	100.0%

Table A-5. 2015, 2016 and 2017 Test Specification Alignment to ToMs —Grade Band 7–8

ToMs	Total 2015			Total 2016			Total 2017		
	N Item	N Points	% Point	N Item	N Points	% Point	N Item	N Points	% Point
1	16	16	19.0	16	18	21.4	18	21	25
2	19	26	30.9	22	31	36.9	22	31	36.9
3	21	28	33.3	19	22	26.2	14	17	20.2
4	9	12	14.3	6	10	11.9	8	11	13.1
5	3	3	3.5	3	3	3.5	4	4	4.8
Total	67	84	100.0	66	84	100.0	66	84	100.0

Table A-6. 2015, 2016 and 2017 Test Specification Alignment to ToMs—Grade Band 9–12

ToMs	Total 2015			Total 2016			Total 2017		
	N Item	N Points	% Point	N Item	N Points	% Point	N Item	N Points	% Point
1	18	18	21.4	16	18	21.4	17	21	25
2	15	21	25.0	20	29	34.5	23	32	38.1
3	17	17	20.2	14	15	17.9	16	18	21.4
4	15	26	30.9	13	19	22.6	7	10	11.9
5	2	2	2.3	3	3	3.6	3	3	3.6
Total	67	84	100.0	66	84	100.0	66	84	100.0

Attachment B: Excerpts from Passage and Item Writing Guidelines for NYSESLATNew York State Education Department
Introduction to NYSESLAT Passage and Item Writing

The New York State English as a Second Language Achievement Test (NYSESLAT) is designed to annually assess the English proficiency of all English Language Learners (ELLs) who are enrolled in Grades K–12 in New York State schools.

With the adoption of the Common Core State Standards, the New York State Education Department (NYSED) moved away from the English as a Second Language standards and adopted the Bilingual Common Core Progressions (BCCP). NYSESLAT is currently in the second of two phases to be fully aligned with the CCSS and the Bilingual Common Core Progressions. Additional information on the background of the NYSESLAT can be found in Appendix F.

The NYSESLAT is administered to six grade bands (K, 1–2, 3–4, 5–6, 7–8, 9–12) in four modalities (Listening, Reading, Writing, and Speaking).

The Listening, Writing, and Reading modalities use grade-level literary and informational passages. The passages represent a mix of the content areas of science, social studies, and English language arts.

Passages are written to identified Global Themes and Topics taken from New York State Department of Education curriculum and standards. Global Themes and Topics are a means for organizing related passages within the test booklet and are not given to NYS educators or to the students. Global Themes and Topics are provided to each writer as part of the assignment.

Example of Global Theme and Topics, and Passages Developed

7–8	Environmental Issues	1. Energy use	1. Going Green to Save the Planet
			2. Energy Use Viewed from Space
		2. Short story or poem about the environment	1. Bald and Beautiful Eagles in New York
			2. Who Put the Acid in Acid Rain?

Multiple-choice items and Writing prompts are based on Targets of Measurement (ToMs) and Performance Level Descriptions (PLDs). The ToMs are organized around the grade-level linguistic demands of the Common Core Standards for New York English Language Learners. Each Target of Measurement corresponds to a General Claim stating what successful students can do within the grade-level academic classroom. Each General Claim has an Anchor statement that provides more information about the linguistic abilities. The Language Purposes/Functions/Characteristics associated with each ToM provide information about the ways in which the linguistic demands may be exhibited in a grade-level text, grade-level spoken discourse, or student writing.

The Performance Level Descriptions reflect language from the ToMs, but also describe the linguistic abilities of students at five performance levels (Entering, Emerging, Transitioning, Expanding, and Commanding).

Passage Writing

Part I: Overarching Characteristics for Texts (Passages)

The underlying premise central to the NYSESLAT is “A student’s performance on a grade-level NYSESLAT indicates his or her level of English proficiency relative to the linguistic demands of the grade-level classroom.” For this reason, all of the passages must be written at grade level. Likewise, the items should be grade-appropriate in their language. Where two grades compose the grade band (i.e., Grade 1–2, Grade 3–4, etc.), the lower grade is targeted because students at the lower of the two grades can’t be expected to be proficient in the language of the next higher-grade level.

Because the Bilingual Common Core Progressions are aligned to the Common Core State Standards, reading passages created for the NYSESLAT must be of grade-appropriate text complexity using NYSED’s Common Core State Standards text complexity protocols. The CCSS devote considerable attention to the types and nature of texts used in instruction and assessment. The foundation for preparing all students for the linguistic rigors of college and the workplace is the texts with which students interact. Upon graduation, all students should be prepared to successfully read and analyze the types of complex texts they will encounter after high school. Creating passages of appropriate type and complexity for use in assessment of language proficiency is integral to this preparation.

One of the major shifts of the CCSS is an emphasis on informational texts. Increased exposure to informational texts better prepares students for the various types of texts and topics they will encounter in college and the workplace. The array of passages created for assessment for K–12 should support the range of informational texts in the general education classroom.

When creating passages for the assessment of language proficiency, the following should be considered:

Text Complexity Text Types

Text Suitability for Specific Targets of Measurement (ToMs)

Issues of Bias and Sensitivity

TEXT COMPLEXITY

Creating passages of appropriate complexity is essential for assessing the language skills of English Language Learners (ELLs) at each proficiency level. Passages too basic for a given level will not possess the necessary vocabulary, syntax, structure, and content development needed to assess grade-level language skills. Passages too complex for a given level will contain characteristics that interfere with the assessment of grade-level language skills. Text complexity is generally determined using quantitative and qualitative measures, and ultimately, the expert professional judgment of educators with classroom experience and knowledge of ELLs.

Quantitative Measures of Text Complexity

Quantitative measures rely predominantly on word frequency ratings and sentence length, with some scales incorporating additional characteristics like punctuation, word meaning and syntactical features, and sentence and paragraph cohesion.

There are a variety of quantitative tools for measuring text complexity. For NYSESLAT, NYSED specified the following text complexity formulas as acceptable: the ATOS Analyzer and the Lexile Analyzer.

Updated Text Complexity Grade Bands and Associated Ranges

NYSESLAT GRADE Band	ATOS	The Lexile Framework®
K	1.00–3.00	N/A
1–2	1.57–4.21	190–650
3–4	3.89–6.08	520–940
5–6	6.01–8.00	830–1070
7–8	7.93–9.98	970–1185
9–12	9.67–14.10	1050–1385

For Listening passages, writers will provide the ATOS score and the Lexile score, with the emphasis on the ATOS score. At times, the ATOS score and the Lexile scores may not align well. Use your expert professional judgment to decide if the ATOS is appropriate. If not, adjust the passage until the ATOS score either aligns with the Lexile or falls at the appropriate level for the grade band.

For Reading passages, writers will provide the ATOS score and the Lexile score. If the scores differ, adjust the passage until the scores align to the appropriate grade band.

Grades 1–8 readability: an overlap exists within the ranges for the grade band; passages should be written toward the low end of the band, but no lower than lowest grade

Grades 9–12 readability: should fall between the low end of Grade 9 to the high end of Grade 10, but no lower than Grade 9 or higher than Grade 10

Final text complexity is ultimately determined by the qualitative expert professional judgment of passage writers and reviewers; in other words, quantitative measures should not trump professional judgment of professional educators.

It should be noted that for Grades 1–2, it is sometimes challenging to get quantitative results for very short passages. It has been our experience that usually you can get a Flesch-Kincaid score. In instances where quantitative scores are not provided, qualitative judgments must be used. To inform qualitative judgment, the writer can look at Grade 1–2 text examples. Examples can be found in the Common Core State Standards for

English Language Arts and Literacy in History/Social Studies, Science, and Technical Subjects Appendix B: Text Exemplars and Sample Performance Tasks.

Ideally, a NYSESLAT Listening or Reading passage should return ATOS and Lexile readability scores near the low end of a score range for the lower grade of a grade band. This is to help ensure that the passage will be accessible to students who have varying degrees of English language proficiency.

Qualitative Measures of Text Complexity

In addition to the use of quantitative scores when judging the suitability of a passage, a qualitative judgment is also used. The qualitative measure of a passage is based on the expert judgment of experienced English Language Learner and English language arts professionals.

Passage writers should be conversant with the level and complexity of texts used in instruction at the grade level for which they are writing. The characteristics of these texts as found in the grade-level classroom should provide the criteria by which potential passages can be analyzed to determine if they are of suitable complexity for assessing the specific grade-band, modality, and ToMs. Appendix A¹ of the CCSS highlights important textual characteristics that are also

relevant for judging qualitative text complexity when assessing the English language proficiency of English Language Learners (ELLs):

- Levels of Purpose (Informational Texts) or Meaning (Literary Texts) Structure (Informational or Literary Texts)
- Language Conventionality and Clarity
- Knowledge Demands

Attending to these four textual aspects when planning and writing a passage will assist with the determination of the passage's complexity as well as its suitability for assessing specific ToMs for a specific grade level.

Passage writers should consider the following questions and statements before starting passage writing. These statements are intended to guide the writer as he or she plans the type, structure, complexity, and suitability of the passage.

Level of Purpose (Informational Texts)

What will the main purpose of the passage be? Each passage should have a single (main) purpose. For example, informational passages may inform, describe, or entertain.

Common Core State Standards for English Language Arts and Literacy in History/Social Studies, Science, and Technical Subjects Appendix A: Research Supporting Key Elements of the Standards and Glossary of Terms.

Is there information or language that must be included for ELLs to determine and understand the passage's purpose? (Please refer to the section on Knowledge Demands on page 8.)

Passages with multiple and implied purposes tend to be of higher complexity. Close attention should be paid to the nature of the purpose as well. At the 1–4 grade levels, a basic clear singular purpose is appropriate. At the 7–12 grade levels, passages written as speeches and op-ed pieces can have a rich layering of purposes. However, they are not appropriate for NYSESLAT. Passages written for ELLs, in general, should have a single primary purpose to support a logical flow and easier accessibility for the students.

Levels of Meaning (Literary Texts)

What will the main theme or themes of the passage be?

What information and language is required for ELLs to determine and understand the passage's meaning(s)? (Please refer to the section on Knowledge Demands.)

Passages with multiple levels of meaning tend to be more complex. Close attention should be paid to the nature of the meanings as well, particularly for ELLs. Complexity increases as meaning relies more on figurative language and is purposely ambiguous. Therefore, to have passages that are at least partially accessible to all students, it is important to vary the complexity and avoid ambiguity within a passage.

Structure (Informational Texts)

What will the organizational structure of the passage be? For ELLs, maintain syntax that is at the lowest grade of the grade band and avoid confusing or ambiguous sentences.

Will the structure conform to the common structures of the genre (Description, Sequence and Order, Compare and Contrast, Cause and Effect, Problem and Solution)?

Will the structure be clearly marked with text features (e.g., headings)? To what extent will the ideas/argumentation be developed?

What graphic(s) will accompany the passage to present supportive information to enhance the full passage text? All passages require the description of, or suggestion for, a graphic that provides

a visual representation of selected information contained in the passage. For example, a diagram that illustrates information in a passage to aid in understanding for ELLs would be supportive (supports student understanding of the passage).

Before writing, the organizational structure of a potential passage should be carefully considered to determine the complexity of its ideas and argumentation.

Structure (Literary)

What will the organizational structure of the passage text be? In narratives, chronological structure is easier for ELLs to understand than flashbacks or sequences that move back and forth in time. For ELLs, maintain syntax that is within the target grade level and use sentences and paragraphs that are logically connected to each other.

Does the structure conform to the common structures of the genre (Characters, Setting, Problem or Conflict, Plot, Solution or Resolution, Point of View, Theme)?

How will events develop and move from one event to the next?

Will the structure include marked passage text features, such as a subtitle or headings?

In Narratives, chronological structure is easier for ELLs to understand than flashbacks or sequences that move back and forth in time.

Will the narrative be structured with a single or multiple point of view?

Before writing, the narrative structure of a potential passage should be outlined to determine its sequencing and point of view. Texts generally increase in complexity as their structures deviate from basic chronological narration. Multiple points of view and subtle transitions built primarily on dialogue can make texts more complex as well. Therefore, in an effort to have passages that are at least partially accessible to all students, it is important to vary the complexity within a passage.

Language Conventionality and Clarity

Language that is unrelated, unnecessary, or irrelevant to the construct being tested can cause ELLs difficulty in understanding and responding to assessment items.

Examples of language ELLs find difficult and therefore should not be used include:

- figurative language (e.g., No pain, no gain);
- ambiguous words (e.g., Each of us saw her duck.);
- archaic words (e.g., We will see you in a fortnight.); or
- esoteric language (e.g., “pizzicato” in music).

For the NYSESLAT, content-related vocabulary (academic or technical vocabulary) from within the target grade level may be used as long as it is explained within the passage. However, the use of low-frequency, difficult words related to the content should be minimized. The lower of the two grade bands in a band is considered the “target grade level” for item development. Cultural references or idiomatic expressions that might be unfamiliar to ELLs should also be avoided.

To reduce syntactic overload, passages are best written in a straightforward manner, with comprehensible sentence structures. It is possible to reduce linguistic complexity and still deliver academic content.

Knowledge Demands

Passages suitable for assessing language proficiency must be self-contained in their knowledge demands. Passages that rely on the life experience and prior knowledge of a specific discipline are not suitable for the NYSESLAT. Any background knowledge needed for the student to understand the information presented in a passage must be provided as part of the passage. Such information may be reinforced using a supportive graphic (e.g., a passage about wolves that assumes that students have pre-knowledge and familiarity about these animals, their behaviors, their appearance, and their pack mentality would not be acceptable). The same principle applies to item development. Each item must be grounded in the content, substance, and language demands of the passage it references and must not require life experience or prior knowledge to be answered correctly.

The NYSESLAT is developed for students within grade bands (1–2, 3–4, 5–6, 7–8, and 9–12). Content expectations should be targeted to the lower grade in the band and no lower than the grade immediately below (i.e., for the 5–6 grade band, it is appropriate to use Grade 5 content and, on occasion, Grade 4 content).

ISSUES OF BIAS AND SENSITIVITY

Passages on the NYSESLAT must avoid topics that might upset or distract students or affect their performance. In particular for this cycle of writing, pay attention to the political climate and issues that are receiving media attention in ways that might offend or cause student's anxiety if a related idea is used for a passage. All passages should:

- respect the diversity of the assessment population;
- avoid content that might unfairly advantage, disadvantage, or typecast any student subgroup (groups can be based on gender, race, ethnicity, cultural background, religion, mental condition, or socio-economic background);
- be free of language, symbols, words, phrases, or examples that are biased or potentially offensive, inappropriate, or negative toward any group;
- contain concise and readable text: commonly used words, vocabulary appropriate for grade level, minimum use of unnecessary words, avoid idioms, avoid technical terms and abbreviations, sentence complexity appropriate for grade level;
- be free of emotionally charged item content or graphics;
- avoid topics listed in Appendix A of the NYSESLAT Style Guide (Topics to Avoid)

ACCEPTABLE INFORMATIONAL TEXT TYPES

There are a variety of types of Informational texts. Each of these types has unique characteristics, but they can be grouped by general similarities in structure and purpose. The following table lists common types of informational texts according to their typical structure. All passages must be original work.

EXPOSITORY	ARGUMENTATIVE	INSTRUCTIONAL	NARRATIVE
Text Books (Science)	Essays	Training Manuals	(Auto)
Text Books (Humanities)	Speeches	Contracts	Histories
Reports or Essays	Advertisements	User Guides/Manuals	Correspondence
Tourism Guides	Reviews	Recipes	Agendas
Product/Service Descriptions	Government Documents	Product/Service Descriptions	News Articles
Magazine/News Articles	Memoirs		Essays
Company Profiles	Tourism Guides		Interviews
Government Documents	Correspondence		Memoirs
Agendas	Journal Articles		
Correspondence			
Interviews			

There are, of course, similarities of purpose, structure, and content across these groups, and some types generally combine purposes. Nonetheless, it's important to have some sense of the differences for both providing a range of passages on a NYSESLAT test form and for ensuring the proper assessment of ToMs. While some ToMs articulate skills that span informational text types, others are associated with particular types and purposes. These associations will be elaborated upon in "Part II: Text Suitability for Specific Targets of Measurement."

LITERARY TEXT TYPES

There are also a variety of types and genres of Literary texts, each with its own unique purposes and structures. Each of these types has unique characteristics, but they can be grouped by general similarities in structure and purpose. The following table lists common literary texts according to their typical structure.

STORIES	DRAMA	POETRY
Children's Adventure	Plays	Nursery Rhymes
Folktales	Scripts	Narrative Poems
Legends	Dialogues	Free Verse
Fables		
Myth		
Realistic Fiction		

Again, there are similarities of purpose, structure, and content across these types as well. However, some genres have a distinctive purpose and structure which should be maintained in the passage. A range of literary passage types will need to be included within a NYSESLAT test form to ensure the proper assessment of ToMs. The skills articulated in some ToMs may apply to several genres or forms, and others may be better associated with a genre or form.

Part II: Text Suitability for NYSESLAT Targets of Measurement

Before writing a passage, identify the potential purposes, meanings, structure, and language to be used in the passage to determine its suitability for assessing specific Targets of Measurement (ToMs). ToMs articulate specific skills associated with identified language purposes, functions, and characteristics. To ensure accuracy and efficacy of assessment, passages should be crafted that allow for the development of test items that assess specific language purposes, functions, characteristics, or linguistic demands.

Passage writers should have the ToMs clearly in mind when creating or editing their passages because the content of the passage is used to develop items distributed across the ToMs. The preliminary planning and analysis will chart the specific ToMs the passage will support for item writing. Passage writers should have a strong understanding of the text characteristics and linguistic demands necessary for assessing each ToM. This will lead to an understanding of how a comprehensive set of items can be crafted for particular passage types in preparation for writing items.

Passage length requirements will be included in the writing assignments.

**Table of Passage Word Counts for READING
January 2017**

Grade Band	Short Reading Passage	Medium Reading Passage	Long Reading Passage
1–2	10–30	35–80	120–160
3–4	100–150	150–225	230–300
5–6	150–225	230–300	305–375
7–8	175–250	255–325	330–450
9–12	175–250	255–325	330–450

**Table of Passage Word Counts for LISTENING
January 2015**

Grade Band	Short Listening Passage	Medium Listening Passage	Long Listening Passage
K	5–20	25–45	50–80
1–2	10–50		55–100
3–4	50–100		105–150
5–6	75–125		130–175
7–8	75–125		130–175
9–12	75–125		130–175

Item Writing

WRITER ASSIGNMENTS

Assignments will be made by modality (Listening or Reading). Listening assignments will consist of three passages (two short and one long passage); Reading assignments will consist of either two short passages and a medium passage or a medium and a long passage. In addition, the Reading assignment will include generating three Writing prompts. Refer to the following tables that illustrate the number of items to be written by modality and passage length.

Writers who have been assigned to write items for Reading passages should also look at the Writing table because they will be generating Writing prompts as well.

Tables illustrating the distribution of items across ToMs and PLDs are also presented for your use. Writers should focus primarily on the table that relates to their modality and the number/length of passages they have been assigned to write.

The number of items to be written and the ToMs/PLDs to be addressed are based on the length of the passage.

Number of Multiple-Choice Items Needed by Modality and Passage Length

Modality	Passage Length	# of Items	ToMs to be Addressed	Item Distribution Table (P. 12–13)
Listening	Short	6**/psg	1, 2, 3	A
	Long	10	1, 2, 3, 4	B
Reading	Short	6**/psg	1, 2, 3	C
	Medium	10	1, 2, 3 (4, 5) ***	D
	Long	12	1, 2, 3, 4, 5	E

** Grades 1–2, 3–4, 5–6: a short passage may only support 5 unique items rather than the 6 assigned.
 ***Medium Reading passage—write items to ToMs 4 and 5 only if the language in your passage supports them.

The number and type of Writing prompts—Short Constructed Response (SCR) or Extended Constructed Response (ECR)—are based on the Reading passages. A prompt designed to elicit an SCR can be written to either the short or medium passage. A prompt designed to elicit an ECR can be written to either the medium or long passage.

Number of Writing Prompts Needed by Passage Length and Prompt Type

	Short Constructed Response (ToMs 1, 2)	Extended Constructed Response (Literary – ToMs 1, 2, 3 Informational – ToMs 1, 2, 4)
Reading Assignment: Two Short and one Medium	3	
Reading Assignment: One Medium and one Long		3

Supportive Graphics with Passages

All Listening and Reading passages will include an accompanying supportive graphic. The graphic may be a picture, table, chart, map, etc. that supports the information in the passage.

A “Supportive” graphic relates to the passage and presents, in a visual mode, information found in the passage. Some supportive graphics may require labels. For example, if the image of a compass rose is included on a graphic of a map, the compass rose should be labeled as such. This feature allows the passage to use a complex term and provides a visual representation of it with a label to minimize the confusion that unfamiliar domain-specific words may cause for most (if not all) students. Supportive graphics must not include additional information not presented in the passage.

EXAMPLE ITEM DISTRIBUTION TABLES

The item distribution tables below are for illustrative purposes only. The distribution of items must comply with the guidelines in the right column, but the actual distribution may vary from what is shown in each example. A blank item distribution table for individual writer’s use is available in Appendix C.

Example Item Distribution Table A						<ul style="list-style-type: none"> • Must write to all 3 ToMs • Must write to all 5 PLDs • No more than 2 items/ToM or 2 items/PLD for each passage • Distribute items
Short Listening Passage - 6 Items						
PLDs	1	2	3	4	5	
ToMs						
1	X	O	O	X		
2		X	O	O	X	
3	O	X	X		O	
X = an item created for Passage 1; O = an item created for Passage 2						

Example Item Distribution Table B					
Long Listening Passage - 10 Items					
PLDs	1	2	3	4	5
ToMs					
1	X		X	X	
2		X			X
3	X		X		
4		Gr. 7–12 only	X	X	X

- Must write to all 4 ToMs
- Must write to all 5 PLDs
- No more than 3 items/ToM or 3 items/PLD

Example Item Distribution Table C					
Short Reading Passage - 6 Items					
PLDs	1	2	3	4	5
ToMs					
1	X	O		O	X
2	O		X	X	O
3	O	X	O		X

- Must write to all 3 ToMs
- Must write to all 5 PLDs
- No more than 2 items/ToM or 2 items/PLD for each passage
- Distribute items differently for each short passage

X = an item created for Passage 1; O = an item created for Passage 2

Example Item Distribution Table D					
Medium Reading Passage - 10 Items					
PLDs	1	2	3	4	5
ToMs					
1	X	X			X
2		X		X	
3	X		X		
4		Gr. 5–12 only	X		X
5		Gr. 5–12 only		X	

- Must write to all 5 ToMs
- Must write to all 5 PLDs
- No more than 3 items/ToM or 3 items/PLD
- Write items to ToMs 4 and 5 only if the language in your passage supports them

Example Item Distribution Table E					
Long Reading Passage - 12 Items					
PLDs	1	2	3	4	5
ToMs					
1	X		X	X	
2		X			X
3	X			X	X
4		Gr. 5–12 only	X	X	
5		Gr. 5–12 only	X		X

- Must write to all 5 ToMs
- Must write to all 5 PLDs
- No more than 3 items/ToM or 3 items/PLD

READING AND LISTENING MULTIPLE-CHOICE ITEMS

Guidelines for Developing NYSESLAT Multiple-Choice Test Items General Guidelines

Avoid abbreviations, acronyms, and errors in grammar, punctuation, and spelling.

- Do not use trick questions or humor.
- Do not use contractions.
- Do not create items that require students to make inferences.
- Do not use “you” in the item stem (e.g., Which word helps you understand.?) Instead, use “Which word from the passage helps tell.”
- Use present tense if possible. Do not use multiple tenses in a passage or an item if possible.
- Be concise. Make all words count.
- **General Item Content**
- Focus on measuring a single ToM and PLD per item.
- Keep the vocabulary consistent with the grade level of the students being tested.
- Use the language that comes directly from the passage for item stems and answer choices for ToMs 1–3; when creating items for ToMs 4 and 5, information from the text can be rephrased in the stem of items for ToM 4 and in the answer choices for ToM 5.
- For further information regarding the content of items, please refer to Appendix B of the 2017 NYSESLAT Style Guide and the appropriate Item Criteria document. This document is available for every grade band and provides an in-depth analysis of the item/ToM relationship. (Please refer to the MetriTech.com web site for these documents. The username and password were provided during item writer training.)
- Avoid cueing/clueing one item with another. (Clueing is present when the information in an item stem provides the information needed to answer another question correctly. Information found in item distractors can’t clue another item because the student doesn’t have an answer key and doesn’t know for sure which is the correct answer.) Note too that because text from a passage is usually included in the item stem to support the

correct answer, this information isn't considered a "clue" for another item in the set because the entire passage text is available to the student in support of all items.

- Include Supportive graphics with each passage. In addition to including a text description of the graphics you want used, you may scan in or attach your own sketch or other type of image. If you provide an image from a textbook or other copyrighted material, please include a complete credit line for that source. Although the development team will recreate the image, the team needs to know where the image came from.

Item Stem Construction (Please refer to the 2017 NYSESLAT Style Guide, Appendix B)

- Directions in the item stems need to be clear so students know exactly what is being asked.
- All item stems must be closed—in other words, the stem should be a complete sentence.
- Keep the wording simple and clear; avoid excess verbiage.
- Write the stems positively; avoid using any negative phrasing such as "not" or "except."
- Nothing in item stems should be underlined EXCEPT pronoun referents (ToM 1) or vocabulary words (ToM 3). Vocabulary words should be underlined in Reading passages. Reprint the necessary text from the passage with each affected Reading item and underline the pronoun referent or vocabulary word in this text.
- The term "main idea" is used at all grades.

When including a passage excerpt as part of the item stem, the following guidelines will help determine what amount of text is appropriate for the various proficiency levels.

- PL 1: 1–3 short, basic sentences; excerpt includes all of the language used for the answer choices
- PL 2: on the average, 2–4 sentences; excerpt includes all of the language used for the answer choices
- PL 3: 3–5 sentences; especially if the language comes from two paragraphs; occasionally the student can be directed to the paragraphs within the text itself ("Read paragraphs 2 and 3 of the passage again.")
- PL 4 and 5: at Grades 5–12, direct the student to the particular paragraph(s) in the text ("Read paragraphs 2 and 3 of the passage again."). However, even at these grade bands and performance levels, using an excerpt is preferred.
- ToM 3, all PLs: underline the target word in the passage itself and provide the phrase or sentence
- context for the target word as part of the item stem; PLs 1-3: include the excerpt that has the target word (underlined) and the language used in the answer choices
- ToM 4: there must be text in the stem that provides the context for the question
- ToM 5 (R): the stem must have the phrases/sentences from the passage as the context for the item

Answer Choice Development

- Provide four answer choices for each item for Grades 1–12. Provide three answer choices for each item for Kindergarten.
- Make sure each item has one and only one correct answer.
- Create answer choices that are parallel in construction (all gerunds, all nouns, etc.) so that one answer choice doesn't stand out because of non-parallel construction to the

other three. (This applies either to all four answer choices or each pair of two answer choices.)

- Do not have outliers in answer choices (examples of outliers: one answer choice is significantly more complex or technical than the other choices; one answer choice is significantly longer or shorter than the others; one answer choice includes a proper noun, but the others do not).
- Do not use “all of the above” or “none of the above.”
- Whenever possible, avoid creating answer choices that are mutually exclusive opposites.
- Avoid writing items where the words/phrases in the stem are repeated in the answer choices; if necessary, key words from the stem can appear in all answer choices (or two of the four answer choices).
- Avoid grammatical clues to the correct response (e.g., one answer choice has an apostrophe or a capital letter, but the other choices do not).
- Do not use specific determiners such as “always,” “never,” “totally,” or “absolutely.”
- When possible, order the answer choices as they appear in the text repeated from the passage.
- Information about the use of quotation marks and ellipses can be found on page 28 of the Style Guide.
- Multiple single words used as answer choices are separated by commas, with the first word capitalized.

Example:

A Thousands, soldiers

B Flowers, florist

C Assisted, aid

D Warily, carefully

- Short paired phrases used as answer choices can be placed on the same line, separated by a semicolon. The second phrase should NOT be capitalized.
- Longer phrases used as answer choices should be stacked one over the other. Do not put a semicolon at the end of the first phrase. Capitalize the first letter of each phrase in the stack.

Distractor Development

- Make sure distractors (incorrect answer choices) are plausible but incorrect.
- To the extent possible, create distractors that reflect common misunderstandings made by students.
- Distractor text should come directly from the passage for ToMs 1–4, no rephrasing except for ToM 5.
- Include a rationale for each distractor describing what makes it incorrect (keep them short).
- The correct answer choice should be labeled KEY.
- An exception to the above is when the answer choices are sentences or clauses taken directly from the passage. In those instances, to the extent possible, select text that aligns with the bullets above, but recognize that some or all of these conventions may be violated when adhering to the requirement for ToMs 1–4 that answer choices be direct quotes from the passage.

Item Features

Occasionally graphical or textual pieces of information may be incorporated in an item (e.g., illustrated words or a graphic organizer).

An item feature is neither intended nor permitted to alter the construct being measured by the item; to do so would invalidate the test results. However, it is acceptable for a feature to provide visual support for an item. Thus, the use of a feature may allow a student at a lower language proficiency level to process the grade level demand of an item.

The use of an item feature allows the test developer to align an item to different levels of proficiency intentionally, but to retain the use of grade-level text. However, students should not be able to answer a question solely with the use of the feature and without reading the text.

What types of features are acceptable for use in NYSESLAT test items?

- Images
 - Definition: pictures that provide a visual image for each of the answer choices.
 - Example 1: at Grades 1–2, an item that asks students to identify the correct order of events in a passage could provide images of each event in the sequence in the answer choices to allow students at lower proficiency levels to demonstrate their ability to identify the order of events in a passage. No more than three pictures should be used in each answer choice.
 - Example 2: a Reading item that provides only images as answer choices to allow students in the lower grade bands (e.g., Grades 1–2 – Entering or Emerging Proficiency Levels) to select the correct answer based on an image rather than written words if it is not developmentally or linguistically appropriate for them to read words or sentences. The images are required to also have a label under them (e.g., an image of a cat would have the word “cat” underneath the image).
- Graphic organizers
 - Definition: a graphic that organizes information from a passage or stimulus.
 - Example 1: an item that asks students to compare and contrast information from a passage and provides a partially completed T-chart. The item asks students to complete the T-chart from the answer choices to allow students at lower proficiency levels to demonstrate their ability to compare and contrast with some support.
 - Other examples of graphic organizers might include: Venn diagrams, a character map, cause-effect graphic organizer, word web, main idea–key details, etc. (See the Features Table in the Appendix.)

Summary of the Use of Features

Overall, features are used sparingly in the NYSESLAT. They are only included at the item level to increase an item’s accessibility for ELLs, particularly to target an item toward the lower proficiency levels or when an item requires the organization or analysis of information. For additional feature types, refer to Appendix B.

LISTENING MODALITY

The following description is provided for item writers who have not had the opportunity to be involved in the administration of an ELL Listening test. Please note that the stimuli presented to students will consist of Listening passages, parts of passages (passage excerpts), the passage graphic, and multiple-choice items grounded in the Listening passages. The example Listening items referenced as part of the item writing materials are good examples of how the questions and answer choices relate to a passage that is read to the students and how the items are presented to the students.

Administration of the Listening Test

Passage

Students will not see the Listening passages. These will be read to the students by the examiner (Grades 1–2) or presented using a CD (Grades 3–12) and do not appear in the student test booklet. The supportive graphic that was created during passage writing will appear in the test booklet. Students can focus on it as they listen to the passage. However, although the graphic will be a visual representation of information from the passage, it should not enable a student who cannot understand the language in the passage to correctly answer the test questions. Passages are read only once to the students.

Making Listening Passages Comprehensible

In general, Listening passages should be easy to listen to. They should not be written as duplicates of a Reading passage. Listening passages can maintain academic content but will not mimic an academic Reading passage. Several factors have been identified that improve listening comprehension:

- a limited number of ideas in the passage (less density) and some redundancy of important information;
- coherence within the passage; how ideas are carried through;
- the use of words and phrases that signal relationships between ideas and within the overall passage structure;
- the placement of important ideas, either near the beginning or at the end of a passage;
- the use of the active voice rather than the passive voice.

Items

Listening items are presented to students in several ways. The underlying approach is based on the requirement that students answer an item correctly because they understand what they have heard, not because they are able to read or remember something, in other words Listening items should not test memory.

Preview of the Question - Verbatim Repetition

At Grades 1–12, the test question and the answer choices appear in the test booklet. The test question will be previewed for the students as part of the item stem to help reduce cognitive load. The question is previewed before the text excerpt is read to the student and then repeated afterwards, verbatim. For example, a direction to the student is given, such

as “Listen to these sentences from the passage again. Then, I will ask you ‘Which group of words/phrase shows where the wolf went?’” This is followed by the test administrator reading an excerpt from the passage. The test question will then be repeated verbatim as stated initially, followed by the answer choices. The answer choices will be words, phrases, or sentences from the passage (see specifics in the Style Guide, Appendix B) reflecting the ToM and PLD being measured. Both the test question and the answer choices are read to the students by the administrator.

WRITING MODALITY

Writing will include prompts intended to elicit either a Short-Constructed Response (SCR) or an Extended Constructed Response (ECR). Both types of prompts are grounded in one of the Reading passages presented initially in the Reading section of the test booklet and repeated in the Writing Section. SCR prompts should be written to elicit 1 paragraph of writing by the student. Due to the limited nature of the response, these prompts should be aligned to only ToMs 1 and 2. ECR prompts should be written to elicit at least two paragraphs. Because these prompts will require more development by the students of their responses, they should be aligned to either ToMs 1, 2, and 3 (Narrative) or ToMs 1, 2, and 4 (Expository). Both SCRs and ECRs will be scored using a 0–4-point rubric. It is important to look at the Scoring Rubrics (Appendix E) before developing a Writing prompt to create a prompt that will generate written responses at the 4-point level.

Attachment B continued: 2017 Appendix A Glossary

Working definitions of terms, along a continuum, as used in the development of NYSESLAT Writing Proficiency Level Descriptions (PLDs) and Writing Rubrics:

Support (applies to L/R PLDs and Speaking only)	Definition
Substantial	Frequent direct support that includes, but is not limited to: objects, pictures, diagrams, charts, graphic organizers, timelines, repetition, rephrasing, pointing, verbal guidance, cues, sentence starters, modeling, etc.
Moderate	Occasional direct support that includes, but is not limited to: objects, pictures, diagrams, charts, graphic organizers, timelines, repetition, rephrasing, pointing, verbal guidance, cues, sentence starters, modeling, etc.
Limited	Occasional support that includes: diagrams, charts, graphic organizers, verbal guidance, sentence starters, etc.
Complexity	Definition
Predictable sentence	A sentence that is easily learned or memorized; student generally is unable to expand beyond the memorized statement; e.g., I don't like. I'm fine. My name is . . .

Phrase	A group of words that does not include a subject and a verb, but may express a complete feeling, detail, idea, or thought
Simple sentence	Contains one subject and one verb; expresses a complete thought; may contain other elements such as a personal pronoun or a helping verb
Expanded sentence	contains a subject and a verb; further developed using a variety of grammatical structures, e.g., prepositional phrase, compound subject or predicate, adjective or adverb phrase, participial or infinitive phrase
Compound sentence	Contains two independent clauses (each with a subject and a verb) joined by a coordinating conjunction, e.g., and, but, or, so, yet
Complex sentence	Contains an independent clause and one or more dependent clauses joined by a subordinating conjunction (e.g., because, since, after, although, when) or a relative pronoun (e.g. that, who, or which)
Quality	Definition
Tier 1 words	The most basic words; rarely require direct instruction; words of everyday speech; often sight words/high frequency words; e.g., book, run, numbers, colors
Tier 2 words	Words that frequently occur across a variety of domains; used within mature language situations such as adult conversations and literature; may have multiple meanings and/or have multiple synonyms; used across a variety of subjects or environments; e.g., experiment, difference, exaggerate, masterpiece
Tier 3 words	Used in specific content areas or domains; words that are central to building knowledge and conceptual understanding within the various academic domains and should be integral to instruction of content. Science, mathematics, and literary terms are all examples of these words.
Coherence	Definition/Approximate number of occurrences
Basic (applies to Writing PLDs only)	Occurring in a way as to indicate a fundamental understanding of organizational components in writing (such as the use of an introduction; the development of a topic; the use of transitions; making a conclusion), but an inability to incorporate more than one of these.
Limited	Occurring in a way as to indicate a fundamental understanding of organizational components in writing (such as the use of an introduction; the development of a topic; the use of transitions; making a conclusion) and an ability to incorporate some of these.

Partial	Occurring in a way as to indicate a complete understanding of organizational components in writing (such as the use of an introduction; the development of a topic; the use of transitions; making a conclusion) and an ability to incorporate most of these.
Sufficient	Occurring in a way as to indicate a complete understanding of organizational components in writing (such as the use of an introduction; the development of a topic; the use of transitions; making a conclusion) and an ability to incorporate these adequately.
Degree	Definition/Approximate number of occurrences
Few/A Few	1–2 in a student response
Some	Evidence and/or details are occasionally present in the response OR the response has support throughout but is brief (2 to 3 sentences)
Many	Evidence and/or details are present in the majority of the response (with occasional lapses in detail) OR evidence and/or details are found throughout the response, but they lack variety and precision
Varied	Evidence and/or details are consistently present throughout the response in precise and diverse ways
Mechanics	Definition/ Approximate number of occurrences
Totally obscures meaning	Frequency of errors renders the response virtually incomprehensible; only one or two words may be recognizable
Often obscures, but meaning is evident	Frequency of errors interferes with comprehension of the response, but minimal control is evident; e.g., a subject and a verb; an adjective and a noun
Occasionally obscures meaning	Errors are evident throughout the response, but the general meaning of the response is clear
Rarely obscures meaning	Few errors are evident throughout the response, and those errors do not interfere with the meaning of the response
Minimal or no errors that obscure meaning	An occasional error that does not interfere with the meaning of the response; includes errors that are also made by native speakers

Attachment B Continued: Appendix C Blank Item Distribution Tables – Listening

Item Distribution Table A					
Short Listening Passage - 6 Items					
PLDs	1	2	3	4	5
ToMs					
1					
2					
3					

Must write to all 3 ToMs
Must write to all 5 PLDs
No more than 2/ToM or 2/PLD

Item Distribution Table B					
Long Listening Passage - 10 Items					
PLDs	1	2	3	4	5
ToMs					
1					
2					
3					
4		Gr. 7-12 only			

Must write to all 4 ToMs
Must write to all 5 PLDs
No more than 3/ToM or 3/PLD

Blank Item Distribution Tables - Reading

Item Distribution Table C					
Short Reading Passage - 6 Items					
PLDs	1	2	3	4	5
ToMs					
1					
2					
3					

Must write to all 3 ToMs
Must write to all 5 PLDs
No more than 2/ToM or 2/PLD

Item Distribution Table D					
Medium Reading Passage - 10 Items					
PLDs	1	2	3	4	5
ToMs					
1					
2					
3					
4		Gr. 5-12 only			
5		Gr. 5-12 only			

Must write to all 5 ToMs
Must write to all 5 PLDs
No more than 3/ToM or 3/PLD
Write items to ToMs 4 and 5 only if the language in your passage supports them

Item Distribution Table E					
Long Reading Passage - 12 Items					
PLDs	1	2	3	4	5
ToMs					
1					
2					
3					
4		Gr. 5-12 only			
5		Gr. 5-12 only			

Must write to all 5 ToMs
Must write to all 5 PLDs
No more than 3/ToM or 3/PLD

Attachment B Continued: Appendix F**NYSESLAT Test Design Elements**

The critical test design elements of the NYSESLAT include:

- 1) six grade bands—K, 1–2, 3–4, 5–6, 7–8, 9–12
- 2) four modalities—Listening, Reading, Writing, and Speaking
- 3) five proficiency levels—Entering, Emerging, Transitioning, Expanding, Commanding
- 4) three Global Themes, each encompassing Listening, Reading, Writing (Speaking is administered separately, but also uses three Global Themes with two topics each)
- 5) two topics per Global Theme unique to Listening, Reading, and Speaking
- 6) passages written to each Topic under a Global Theme representing a mix of Literary and Informational, as well as the content areas of ELA, science, and social studies
- 7) Writing prompts requiring students to reference reading passages in which supporting details and evidence can be found

To support this test design, NYSED created four preliminary documents which informed the development of the NYSESLAT:

- 1) Linguistic Demands (LDs)—an examination and extraction of the linguistic demands of the Common Core Language Standards (CCLS) as articulated in the New Language Progressions NLPs by standard and grade level (K, 1, 2, 3, 4, 5, 6, 7, 8, 9–10, 11–12)
- 2) Synthesized Linguistic Demands (SLDs)—a synthesis of these many LDs into grade-band charts (K, 1–2, 3–4, 5–6, 7–8, 9–12) showing the salient Student Language and Language Purposes/Functions
- 3) Targets of Measurement (ToMs)—a further distillation of the information from the SLDs presented for the four modalities of Listening, Reading, Writing, and Speaking; representative of the linguistic demands of the CCLS
- 4) Performance Level Descriptions (PLDs)—statements that describe student linguistic abilities at each of five proficiency levels (Entering, Emerging, Transitioning, Expanding, and Commanding)

Together these four documents represent the foundation underlying the NYSESLAT assessment of a student's English proficiency relative to the linguistic demands of the grade-level classroom within the four language modalities (Listening, Reading, Writing, and Speaking) beginning in 2015.

Attachment C: 2017 NYSESLAT Speaking Rubric Grades Kindergarten through 12
 Grades Kindergarten through 12

Item Level	Score 0 Does Not Meet Expectations	Score 1 Meets Expectations	
Emerging	<ul style="list-style-type: none"> • No response • Responds with “yes,” “no,” or “I don’t know” • Responds completely in a language other than English • Uses one word to respond • Does not express a complete thought or idea • Unintelligible 	<ul style="list-style-type: none"> • Uses multiple words, short phrases, or sentences to respond • Partially expresses thoughts and ideas • Frequent errors may obscure meaning 	N/A

Item Level	Score 0 Does Not Meet Expectations	Score 1 Approaches Expectations	Score 2 Meets Expectations
Transitioning	<ul style="list-style-type: none"> • No response • Responds with “yes,” “no,” or “I don’t know” • Responds completely in a language other than English • Uses one word to respond • Does not express a complete thought or idea • Unintelligible • Errors may totally obscure meaning 	<ul style="list-style-type: none"> • Uses multiple words to respond • Partially expresses thoughts and ideas • Frequent errors may obscure meaning 	<ul style="list-style-type: none"> • Uses connected phrases or a simple sentence to respond • May use multiple sentences • Expresses complete thoughts and ideas relevant to the topic • Occasional errors in words and structures may obscure some meaning
Expanding	<ul style="list-style-type: none"> • Responds with “yes,” “no,” or “I don’t know” • Uses at most multiple words to respond • Does not express complete thoughts and ideas • Frequent errors may obscure meaning 	<ul style="list-style-type: none"> • Uses connected phrases or a simple sentence to respond • Expresses complete thoughts and ideas relevant to the topic • Occasional errors in words and structures may obscure some meaning 	<ul style="list-style-type: none"> • Uses connected simple sentences to respond • May use limited expanded sentences • Expresses connected and complete thoughts and ideas relevant to the topic • Infrequent errors in words and structure may obscure some meaning
Commanding	<ul style="list-style-type: none"> • Responds with “yes,” “no,” or “I don’t know” • Uses at most connected phrases or a simple sentence to respond • May express complete thoughts and ideas • Occasional or frequent errors in words and structures may obscure meaning 	<ul style="list-style-type: none"> • Uses connected simple sentences to respond • Expresses connected and complete thoughts and ideas relevant to the topic • Infrequent errors in words and structure may obscure some meaning 	<ul style="list-style-type: none"> • Uses connected expanded sentences • Generates a fluid response using linking words and phrases to sequence complete thoughts and ideas relevant to the topic • No errors or infrequent errors that do not obscure meaning

2017 NYSESLAT Writing Rubrics—Kindergarten		
Letter Writing		
Dimension	Score 0 – Entering A response at this level:	Score 1 – Emerging–Transitioning A response at this level:
<ul style="list-style-type: none"> Letter Forming Legibility 	<ul style="list-style-type: none"> Is blank Is not a recognizable letter Is an incorrect letter Is upside down Is illegible or unintelligible 	<ul style="list-style-type: none"> Is recognizable as the correct letter Is acceptable if it: <ul style="list-style-type: none"> Is “sloppy” Is upper- or lowercase Is cursive Is backward (if the reversal does not change it into a different letter) Includes other letters before and/or after the correct letter

Word Writing			
Dimension	Score 0 – Entering–Emerging	Score 1 – Transitioning–Expanding	Score 2 – Commanding A response at this level:
<ul style="list-style-type: none"> Letter Forming Accuracy 	<ul style="list-style-type: none"> Does not sequence letters needed to produce the recognizable correct word Is blank Is in a language other than English Is illegible or unintelligible Is spelled incorrectly (without phonemic awareness) Includes upside-down letter(s) 	<ul style="list-style-type: none"> Sequences most of the letters needed to produce the recognizable correct word Demonstrates phonemic awareness by using grade-appropriate spelling (phonetic or inventive spelling) <p>Is acceptable if it:</p> <ul style="list-style-type: none"> Includes legible letters Includes letters that may be uppercase, lowercase, or both Is cursive Includes backward letters (so long as the reversal does not change them into different letters) 	<ul style="list-style-type: none"> Sequences all letters needed to produce the correct word <p>Is acceptable if it:</p> <ul style="list-style-type: none"> Includes legible letters Has no spelling errors Includes letters that may be uppercase, lowercase, or both Is cursive Includes backward letters (so long as the reversal does not change them into different letters)

Sentence Writing			
Dimension	Score 0 – Entering–Emerging	Score 1 – Transitioning–Expanding	Score 2 – Commanding A response at this level:
<ul style="list-style-type: none"> Letter Forming Words Accuracy 	<ul style="list-style-type: none"> Does not differentiate letters and words Includes few or no words Is blank Is completely in a language other than English Is completely illegible or unintelligible Is irrelevant Is a single word 	<ul style="list-style-type: none"> Includes most of the words in the correct order Is acceptable if it: <ul style="list-style-type: none"> Does not have an initial capital letter Includes erratic word spacing Includes some incorrect spelling that is NOT phonetic or inventive Includes several backward letters (if the reversal does not change it into a different letter) Does not include appropriate end punctuation 	<ul style="list-style-type: none"> Includes all words in the correct order Is acceptable if it: <ul style="list-style-type: none"> Does not have an initial capital letter Maintains appropriate spacing Includes grade-appropriate spelling (phonetic or inventive spelling) Includes a few backward letters (if the reversal does not change it into a different letter) Does not include appropriate end punctuation

2017 NYSESLAT Writing Rubrics—Kindergarten Continued

Note: Responses that are completely irrelevant to the prompt can be scored no higher than a 1

Write a Story

Dimension	Score 0 – Entering A response at this level:	Score 1 – Emerging A response at this level:	Score 2 – Transitioning A response at this level:	Score 3 – Expanding A response at this level:	Score 4 – Commanding A response at this level:
Complexity/ Quality of Language	<ul style="list-style-type: none"> Contains zero words or short phrases Is blank Is completely in a language other than English Is illegible or unintelligible Is completely copied text from the test booklet 	<ul style="list-style-type: none"> Contains words, short phrases, and/or predictable sentences 	<ul style="list-style-type: none"> Contains phrases and simple sentences 	<ul style="list-style-type: none"> Contains simple and/or expanded sentences 	<ul style="list-style-type: none"> Contains simple and/or expanded sentences, and one or more compound or complex sentence
Coherence of Response	<ul style="list-style-type: none"> Includes zero words or a few words in a language other than English OR no drawing(s) to write a story or write about a topic 	<ul style="list-style-type: none"> Includes only drawing(s), OR word(s) and phrases and drawing(s), OR only words and phrases to minimally provide descriptions and events to write a story or write about a topic 	<ul style="list-style-type: none"> Includes only very detailed drawing(s), OR phrases and sentences and drawings, OR only phrases and sentences to somewhat provide descriptions and events to write a story or write about a topic 	<ul style="list-style-type: none"> Includes drawing(s) and a string of phrases and sentences, OR only a string of phrases and sentences to partially provide descriptions and events to write a story or write about a topic 	<ul style="list-style-type: none"> Includes drawing(s) and a string of phrases and sentences, OR only a string of phrases and sentences to provide descriptions and events to write a story or write about a topic
Mechanics	<ul style="list-style-type: none"> Contains numerous errors that totally obscure meaning Contains words that are unclear 	<ul style="list-style-type: none"> Contains many errors that often obscure meaning Contains words that may be unclear, but meaning is evident May include inventive spelling 	<ul style="list-style-type: none"> Contains some errors that occasionally obscure meaning Is mostly clear May include inventive spelling 	<ul style="list-style-type: none"> Contains few errors that rarely obscure meaning Is clear May include inventive spelling 	<ul style="list-style-type: none"> Contains minimal or no errors that obscure meaning Is clear May include inventive spelling

2017 NYSESLAT Writing Rubric—Grades 1–2						
Dimension	Score 0 – Entering A response at this level:	Score 1 – Emerging A response at this level:	Score 2 – Transitioning A response at this level:	Score 3 – Expanding A response at this level:	Score 4 – Commanding A response at this level:	
Complexity of Language	<ul style="list-style-type: none"> Contains zero or few words or short phrases Is blank Is completely in a language other than English Is illegible or unintelligible Is completely copied text Is isolated words or a list of words or short phrases 	<ul style="list-style-type: none"> Contains some words, short phrases, and occasionally simple sentences Includes at least one sentence May include adapted text in a well-constructed sentence 	<ul style="list-style-type: none"> Contains mostly simple sentences Includes at least one expanded or compound sentence 	<ul style="list-style-type: none"> Contains simple, expanded, and compound sentences 	<ul style="list-style-type: none"> Contains a variety of simple, expanded, and compound (or complex) sentences 	
Quality of Language	<ul style="list-style-type: none"> Contains at most frequently used words 	<ul style="list-style-type: none"> Contains common words and short phrases 	<ul style="list-style-type: none"> Contains a few grade-level words and phrases 	<ul style="list-style-type: none"> Contains some grade-level words and phrases 	<ul style="list-style-type: none"> Contains many grade-level words and phrases 	
Coherence of Response	<ul style="list-style-type: none"> Lacks a clear introduction or completion of a thought or an idea due to brevity 	<ul style="list-style-type: none"> Includes at least one sentence in an attempt to introduce or complete a thought or an idea 	<ul style="list-style-type: none"> Includes introductory and/or concluding words and sentences that provide limited organization of thoughts, ideas, or both 	<ul style="list-style-type: none"> Includes introductory and concluding words and sentences that provide partial organization of thoughts, ideas, or both 	<ul style="list-style-type: none"> Includes words and sentences that sufficiently introduce and complete thoughts, ideas, or both 	
Degree of Response	SCR	<ul style="list-style-type: none"> Lacks descriptions of thoughts, feelings, or ideas 	<ul style="list-style-type: none"> Includes at least one description of a thought or an idea 	<ul style="list-style-type: none"> Includes some minimally detailed descriptions of thoughts, ideas, or both 	<ul style="list-style-type: none"> Includes many detailed descriptions of thoughts, ideas, or both 	<ul style="list-style-type: none"> Includes many sufficiently detailed descriptions of thoughts, ideas, or both
	ECR Narrative	<ul style="list-style-type: none"> Lacks development of descriptions or events in sequence 	<ul style="list-style-type: none"> Includes at least one description or two events in sequence 	<ul style="list-style-type: none"> Includes some descriptions with minimal details and/or two or more events in sequence 	<ul style="list-style-type: none"> Includes descriptions with many details and two or more events in sequence 	<ul style="list-style-type: none"> Includes descriptions with many and varied details and two or more events in sequence
	ECR Informational	<ul style="list-style-type: none"> Lacks development of an opinion or additional information 	<ul style="list-style-type: none"> Includes at least one opinion and/or additional information 	<ul style="list-style-type: none"> Includes an opinion with some reasons and/or additional information 	<ul style="list-style-type: none"> Includes an opinion with many reasons and additional information 	<ul style="list-style-type: none"> Includes an opinion with many and varied reasons and additional information
Mechanics	<ul style="list-style-type: none"> Contains numerous errors that totally obscure meaning Contains words that are unclear 	<ul style="list-style-type: none"> Contains many errors that often obscure meaning Contains words that may be unclear, but meaning is evident May include inventive spelling 	<ul style="list-style-type: none"> Contains some errors that occasionally obscure meaning Is mostly clear May include inventive spelling 	<ul style="list-style-type: none"> Contains few errors that rarely obscure meaning Is clear May include inventive spelling 	<ul style="list-style-type: none"> Contains minimal or no errors that obscure meaning Is clear May include inventive spelling 	

Note: Responses that are **completely irrelevant** to the prompt can be scored no higher than a 1.

2017 NYSESLAT Writing Rubric—Grades 3–4						
Dimension		Score 0 – Entering A response at this level:	Score 1 – Emerging A response at this level:	Score 2 – Transitioning A response at this level:	Score 3 – Expanding A response at this level:	Score 4 – Commanding A response at this level:
Complexity of Language		<ul style="list-style-type: none"> Contains zero or few words or short phrases Is blank Is completely in a language other than English Is illegible or unintelligible Is completely copied text Is isolated words or a list of words or short phrases 	<ul style="list-style-type: none"> Contains some words, short phrases, and occasionally simple sentences Includes at least one sentence May include adapted text in a well-constructed sentence 	<ul style="list-style-type: none"> Contains mostly simple sentences Includes at least one expanded or complex sentence 	<ul style="list-style-type: none"> Contains simple, expanded, and complex sentences 	<ul style="list-style-type: none"> Contains a variety of simple, expanded, and complex sentences
Quality of Language		<ul style="list-style-type: none"> Contains at most frequently used Tier 1 words or predictable phrases 	<ul style="list-style-type: none"> Contains Tier 1 and common grade-level Tier 2 words and short phrases 	<ul style="list-style-type: none"> Contains Tier 1 and a few grade-level Tier 2 words and phrases 	<ul style="list-style-type: none"> Contains Tier 1 and some grade-level Tier 2 words and phrases 	<ul style="list-style-type: none"> Contains Tier 1 and many grade-level Tier 2 words and phrases
Coherence of Response		<ul style="list-style-type: none"> Lacks a clear introduction, or development of a thought or an idea, or completion due to brevity 	<ul style="list-style-type: none"> Includes at least one sentence to introduce, develop, or complete thoughts or ideas 	<ul style="list-style-type: none"> Includes words and sentences that provide a limited introduction, development, and/or completion of linked thoughts, ideas, or both 	<ul style="list-style-type: none"> Includes words and sentences that provide an introduction, development, and completion of linked thoughts, ideas, or both to provide partial organization 	<ul style="list-style-type: none"> Includes words and sentences that provide an introduction, development, and completion of linked thoughts, ideas, or both to provide clear and sufficient organization
Degree of Response	SCR	<ul style="list-style-type: none"> Lacks descriptions of ideas or facts 	<ul style="list-style-type: none"> Includes at least one description of an idea or a fact 	<ul style="list-style-type: none"> Includes some minimally detailed descriptions of ideas, facts, or both 	<ul style="list-style-type: none"> Includes many detailed descriptions of ideas, facts, or both 	<ul style="list-style-type: none"> Includes many sufficiently detailed descriptions of ideas, facts, or both
	ECR Narrative	<ul style="list-style-type: none"> Lacks development of descriptions or events 	<ul style="list-style-type: none"> Includes at least one description or event 	<ul style="list-style-type: none"> Includes some detailed descriptions and/or two or more events in sequence 	<ul style="list-style-type: none"> Includes many detailed descriptions and events in sequence 	<ul style="list-style-type: none"> Includes many and varied detailed descriptions and events in sequence
	ECR Informational	<ul style="list-style-type: none"> Lacks development of connected ideas 	<ul style="list-style-type: none"> Includes at least one original idea or two ideas that are connected 	<ul style="list-style-type: none"> Includes some supported and/or connected ideas 	<ul style="list-style-type: none"> Includes many supported and connected ideas 	<ul style="list-style-type: none"> Includes many and varied supported and connected ideas
Mechanics		<ul style="list-style-type: none"> Contains numerous errors that totally obscure meaning Contains words that are unclear 	<ul style="list-style-type: none"> Contains many errors that often obscure meaning Contains words that may be unclear, but meaning is evident May include inventive spelling 	<ul style="list-style-type: none"> Contains some errors that occasionally obscure meaning Is mostly clear May include inventive spelling 	<ul style="list-style-type: none"> Contains few errors that rarely obscure meaning Is clear May include inventive spelling 	<ul style="list-style-type: none"> Contains minimal or no errors that obscure meaning Is clear May include inventive spelling

Note: Responses that are **completely irrelevant** to the prompt can be scored no higher than a 1.

2017 NYSESLAT Writing Rubric—Grades 5–6						
Dimension		Score 0 – Entering	Score 1 – Emerging	Score 2 – Transitioning	Score 3 – Expanding	Score 4 – Commanding
		A response at this level:	A response at this level:	A response at this level:	A response at this level:	A response at this level:
Complexity of Language		<ul style="list-style-type: none"> Contains zero or few words or short phrases Is blank Is completely in a language other than English Is illegible or unintelligible Is completely copied text Is isolated words or a list of words or short phrases 	<ul style="list-style-type: none"> Contains some words, short phrases, and occasionally simple sentences Includes at least one sentence May include adapted text in a well-constructed sentence 	<ul style="list-style-type: none"> Contains mostly simple sentences Includes at least one expanded or complex sentence 	<ul style="list-style-type: none"> Contains simple, expanded, and complex sentences 	<ul style="list-style-type: none"> Contains a variety of simple, expanded, and complex sentences
Quality of Language		<ul style="list-style-type: none"> Contains at most frequently used Tier 1 words or predictable phrases 	<ul style="list-style-type: none"> Contains Tier 1 and common grade-level Tier 2 words and short phrases 	<ul style="list-style-type: none"> Contains Tier 1 and a few grade-level Tier 2 words and phrases 	<ul style="list-style-type: none"> Contains Tier 1 and some grade-level Tier 2 words and phrases 	<ul style="list-style-type: none"> Contains Tier 1 and many grade-level Tier 2 words and phrases
Coherence of Response		<ul style="list-style-type: none"> Lacks a clear orientation, or development of an idea, or closure due to brevity 	<ul style="list-style-type: none"> Includes words and at least one sentence to introduce, develop, transition, or conclude ideas 	<ul style="list-style-type: none"> Includes words and sentences that provide limited orientation, development of ideas, transitions, and/or closure 	<ul style="list-style-type: none"> Includes words and sentences that provide partial orientation, logical development of ideas, transitions, and closure 	<ul style="list-style-type: none"> Includes sufficient orientation, logical development of ideas, and closure to provide clear organization
Degree of Response	SCR	<ul style="list-style-type: none"> Lacks descriptions of ideas or facts 	<ul style="list-style-type: none"> Includes at least one description of an idea or a fact 	<ul style="list-style-type: none"> Includes some minimally detailed descriptions of ideas, facts, or both 	<ul style="list-style-type: none"> Includes many detailed descriptions of ideas, facts, or both 	<ul style="list-style-type: none"> Includes many sufficiently and precisely detailed descriptions of ideas, facts, or both
	ECR Narrative	<ul style="list-style-type: none"> Lacks development of characters, details, or events 	<ul style="list-style-type: none"> Includes at least two references to characters, details, events, or closure 	<ul style="list-style-type: none"> Includes some references to characters, and limited development of details, sequenced events, and/or closure 	<ul style="list-style-type: none"> Includes many references to characters, and partial development of details, sequenced events, and closure 	<ul style="list-style-type: none"> Includes many and varied references to characters, and sufficiently precise details, sequenced events, and closure
	ECR Informational	<ul style="list-style-type: none"> Lacks development of ideas or support 	<ul style="list-style-type: none"> Includes at least one idea with support, or closure 	<ul style="list-style-type: none"> Includes some linked ideas, a variety of support, and/or closure 	<ul style="list-style-type: none"> Includes many stated and linked ideas, a variety of support, and closure 	<ul style="list-style-type: none"> Includes many and varied precisely stated and linked ideas, a variety of support, and closure
Mechanics		<ul style="list-style-type: none"> Contains numerous errors that totally obscure meaning Contains words that are unclear 	<ul style="list-style-type: none"> Contains many errors that often obscure meaning Contains words that may be unclear, but meaning is evident May include inventive spelling 	<ul style="list-style-type: none"> Contains some errors that occasionally obscure meaning Is mostly clear May include inventive spelling 	<ul style="list-style-type: none"> Contains few errors that rarely obscure meaning Is clear May include inventive spelling 	<ul style="list-style-type: none"> Contains minimal or no errors that obscure meaning Is clear May include inventive spelling

Note: Responses that are **completely irrelevant** to the prompt can be scored no higher than a 1.

2017 NYSESLAT Writing Rubric—Grades 7–8					
Dimension	Score 0 – Entering A response at this level:	Score 1 – Emerging A response at this level:	Score 2 – Transitioning A response at this level:	Score 3 – Expanding A response at this level:	Score 4 – Commanding A response at this level:
Complexity of Language	<ul style="list-style-type: none"> Contains zero or few words or short phrases Is blank Is completely in a language other than English Is illegible or unintelligible Is completely copied text Is isolated words or a list of words or short phrases 	<ul style="list-style-type: none"> Contains some words, short phrases, and occasionally simple sentences Includes at least one sentence May include adapted text in a well-constructed sentence 	<ul style="list-style-type: none"> Contains mostly simple sentences Includes at least one expanded or complex sentence 	<ul style="list-style-type: none"> Contains simple, expanded, and complex sentences 	<ul style="list-style-type: none"> Contains a variety of simple, expanded, and complex sentences
Quality of Language	<ul style="list-style-type: none"> Contains at most commonly used Tier 1 words or short phrases 	<ul style="list-style-type: none"> Contains Tier 1 and common grade-level Tier 2 words and short phrases 	<ul style="list-style-type: none"> Contains Tier 1 and a few grade-level Tier 2 and/or Tier 3 words and phrases 	<ul style="list-style-type: none"> Contains Tier 1 and some grade-level Tier 2 and/or Tier 3 words and phrases used appropriately 	<ul style="list-style-type: none"> Contains Tier 1 and many grade-level Tier 2 and/or Tier 3 words and/or phrases used appropriately
Coherence of Response	<ul style="list-style-type: none"> Lacks a clear orientation, or organized or connected ideas, or closure due to brevity 	<ul style="list-style-type: none"> Includes at least one sentence that provides an orientation, organized or connected ideas, transitions, or closure 	<ul style="list-style-type: none"> Includes words and sentences that provide limited orientation, organized or connected ideas, transitions, and/or closure 	<ul style="list-style-type: none"> Includes words and sentences that provide partial orientation, logically organized and/or connected ideas, transitions, and closure 	<ul style="list-style-type: none"> Includes sufficient orientation, logically organized and connected ideas, and closure to provide clear organization
Degree of Response	SCR	<ul style="list-style-type: none"> Lacks descriptions of ideas or facts 	<ul style="list-style-type: none"> Includes at least one description of an idea or a fact 	<ul style="list-style-type: none"> Includes some minimally detailed descriptions of ideas, facts, or both 	<ul style="list-style-type: none"> Includes many detailed descriptions of ideas, facts, or both
	ECR Narrative	<ul style="list-style-type: none"> Lacks development of characters, details, or events 	<ul style="list-style-type: none"> Includes at least two references to characters, details, events, or closure 	<ul style="list-style-type: none"> Includes some references to characters, and limited development of details, sequenced events, and/or closure 	<ul style="list-style-type: none"> Includes many references to characters, and partial development of details, sequenced events, and closure
	ECR Informational	<ul style="list-style-type: none"> Lacks development of claims and evidence or support 	<ul style="list-style-type: none"> Includes at least one claim with evidence, support, or closure 	<ul style="list-style-type: none"> Includes some linked claims and evidence, a variety of support, and/or closure 	<ul style="list-style-type: none"> Includes many stated and linked claims and evidence, a variety of support, and closure
Mechanics	<ul style="list-style-type: none"> Contains numerous errors that totally obscure meaning Contains words that are unclear 	<ul style="list-style-type: none"> Contains many errors that often obscure meaning Contains words that may be unclear, but meaning is evident May include inventive spelling 	<ul style="list-style-type: none"> Contains some errors that occasionally obscure meaning Is mostly clear May include inventive spelling 	<ul style="list-style-type: none"> Contains few errors that rarely obscure meaning Is clear May include inventive spelling 	<ul style="list-style-type: none"> Contains minimal or no errors that obscure meaning Is clear May include inventive spelling

Note: Responses that are **completely irrelevant** to the prompt can be scored no higher than a 1.

2017 NYSESLAT Writing Rubric—Grades 9–12						
Dimension		Score 0 – Entering A response at this level:	Score 1 – Emerging A response at this level:	Score 2 – Transitioning A response at this level:	Score 3 – Expanding A response at this level:	Score 4 – Commanding A response at this level:
Complexity of Language		<ul style="list-style-type: none"> Contains zero or few words or short phrases Is blank Is completely in a language other than English Is illegible or unintelligible Is completely copied text Is isolated words or a list of words or short phrases 	<ul style="list-style-type: none"> Contains some words, short phrases, and occasionally simple sentences Includes at least one sentence May include adapted text in a well-constructed sentence 	<ul style="list-style-type: none"> Contains mostly simple sentences Includes at least one expanded or complex sentence 	<ul style="list-style-type: none"> Contains simple, expanded, and complex sentences 	<ul style="list-style-type: none"> Contains a variety of simple, expanded, and complex sentences
Quality of Language		<ul style="list-style-type: none"> Contains at most commonly used Tier 1 words or short phrases 	<ul style="list-style-type: none"> Contains Tier 1 and common grade-level Tier 2 words and short phrases 	<ul style="list-style-type: none"> Contains Tier 1 and a few grade-level Tier 2 and/or Tier 3 words and phrases 	<ul style="list-style-type: none"> Contains Tier 1 and some grade-level Tier 2 and/or Tier 3 words and phrases used appropriately 	<ul style="list-style-type: none"> Contains Tier 1 and many grade-level Tier 2 and/or Tier 3 words and phrases used appropriately
Coherence of Response		<ul style="list-style-type: none"> Lacks a clear orientation, or organized or connected ideas, or closure due to brevity 	<ul style="list-style-type: none"> Includes at least one sentence that provides an orientation, organized or connected ideas, transitions, or closure 	<ul style="list-style-type: none"> Includes words and sentences that provide limited orientation, organized or connected ideas, transitions, and/or closure 	<ul style="list-style-type: none"> Includes words and sentences that provide partial orientation, logically organized and/or connected ideas, transitions, and closure 	<ul style="list-style-type: none"> Includes sufficient orientation, logically organized and connected ideas, and closure to provide clear organization
Degree of Response	SCR	<ul style="list-style-type: none"> Lacks descriptions of ideas or facts 	<ul style="list-style-type: none"> Includes at least one description of an idea or a fact 	<ul style="list-style-type: none"> Includes some minimally detailed descriptions of ideas, facts, or both 	<ul style="list-style-type: none"> Includes many detailed descriptions of ideas, facts, or both 	<ul style="list-style-type: none"> Includes many sufficiently and precisely detailed descriptions of ideas, facts, or both
	ECR Narrative	<ul style="list-style-type: none"> Lacks development of characters, details, or events 	<ul style="list-style-type: none"> Includes at least two references to characters, details, events, or closure 	<ul style="list-style-type: none"> Includes some references to characters, and limited development of details, sequenced events, and/or closure 	<ul style="list-style-type: none"> Includes many references to characters, and partial development of details, sequenced events, and closure 	<ul style="list-style-type: none"> Includes many and varied references to characters, and sufficiently precise details, sequenced events, and closure
	ECR Informational	<ul style="list-style-type: none"> Lacks development of claims and evidence or support 	<ul style="list-style-type: none"> Includes at least one claim with evidence, support, or closure 	<ul style="list-style-type: none"> Includes some cohesive claims and evidence, a variety of support, and/or closure 	<ul style="list-style-type: none"> Includes many well-chosen cohesive claims and evidence, a variety of support, and closure 	<ul style="list-style-type: none"> Includes many and varied precise, well-chosen, cohesive claims and evidence, a variety of support, and closure
Mechanics		<ul style="list-style-type: none"> Contains numerous errors that totally obscure meaning Contains words that are unclear 	<ul style="list-style-type: none"> Contains many errors that often obscure meaning Contains words that may be unclear, but meaning is evident May include inventive spelling 	<ul style="list-style-type: none"> Contains some errors that occasionally obscure meaning Is mostly clear May include inventive spelling 	<ul style="list-style-type: none"> Contains few errors that rarely obscure meaning Is clear May include inventive spelling 	<ul style="list-style-type: none"> Contains minimal or no errors that obscure meaning Is clear May include inventive spelling

Note: Responses that are completely irrelevant to the prompt can be scored no higher than a 1.

Attachment E: NYSESLAT ELL/MLL Review Checklist for Listening, Reading, and Writing

Keep edits simple. If item meets all criteria in the checklist, do not make changes

Keep in mind that any changes in text must adhere to word count rules

If you edit the text, you need to edit the distractors and rationales affected

ALL		YES
Passage, Item, or Prompt, including the graphics, is free of content that might offend or typecast a group of students (by ethnicity, gender, country of origin, race, religion, geographical location, physical ability, socio-economic level, first language, etc.)		
Passage, Item, or Prompt, including the graphics, is free of content that might unfairly advantage or disadvantage groups of students (by ethnicity, gender, country of origin, race, religion, geographical location, physical ability, socio-economic level, first language, etc.)		
Passage, Item, or Prompt is free from unnecessary cultural or religious references.		
Passage, Item, or Prompt, including the graphics, does not rely on an assumed shared experience that is class oriented or native English speaking oriented		
Passage, Item, or Prompt does not require any prior knowledge and/or experience for comprehension		
LANGUAGE		
Uses vocabulary that is appropriate for ELLs and the grade band (avoids unnecessary, ambiguous, multi-meaning words; unrelated (technical) or irrelevant words; irregularly spelled words;		
Uses vocabulary that is targeted for the lower grade of the grade band; For example, Gr 9-12 readability should range from low Gr 9 to high Gr 10		
Uses sentence complexity that is appropriate for ELLs and the grade band (no lengthy, confusing, or ambiguous sentences)		
Topic is appropriate for ELLs/MLLs		
Possesses the necessary characteristics to assess the ToMs		
Overall organization of the text is appropriate for ELLs		
Figurative language (simile, metaphor), used sparingly, is appropriate for ELLs		
Pronouns are clear and unambiguous		
Avoids the use of proper names that may be unfamiliar or difficult for ELLs		
Relationship structures (cause/effect, compare/contrast, problem/solution) are clear		
Tier 2 (Gr 1-12) or Tier 3 (Gr 7-8 and 9-12 only) vocabulary is within the lower grade of the grade band		
QUESTION		
Is aligned to the relevant ToM and PLD		
Has one, unambiguous correct KEY		
Requires understanding of the language in the passage (including vocabulary items); does not test content		
Does not use hypotheticals. For example, "Imagine you are in a space ship...", "What would you say if Timmy asked you...?", "What do you think will happen next?"		
WRITING PROMPT		
Is written to allow for a response from ELLs at different proficiency levels		
Is fair and focuses the response;		
SCR	Asks students to write a clear response that reflects the expectations of ToMs 1 and 2	
SCR	Poses a question that is answerable in one paragraph	
ECR	Requires students to write a clear response that reflects the expectations of ToMs 1, 2 and 3 (Narrative) or ToMs 1, 2 and 4 (Informational)	
ECR	Poses a question that is answerable in two paragraphs for Gr. 1-2 and at least two paragraphs for Gr. 3-12	
GRAPHICS		
Provide appropriate support for ELLs and the grade band		

Attachment F: NYSESLAT ELL/MLL Review Checklist for Speaking**NYSESLAT ELL/MLL REVIEW CHECKLIST FOR SPEAKING**

- Keep edits simple. If item meets all criteria in the checklist, do not make changes

	Yes
Content, graphic, and vocabulary are appropriate for the lower end of the grade band	
Rephrasing is a restatement of the prompt and appropriate for the grade band (Rephrasing is used for the Emerging level only.)	
Expected responses are appropriate for the grade band and proficiency level (PLD)	
Aligned to the selected ToM	
Provides all content necessary to elicit appropriate language for the PLD assigned to the item	
Allows for an open-ended range of responses beyond the proficiency level	
Free of bias or information that might offend or unfairly advantage a group of students based on gender, race, religion, origin, socio-economic status, etc.	
Elicits more than one word as a response	
Pronouns have clear referents in the item	
Does not use ambiguous words, words with multiple meanings or hard to pronounce names	
Provides appropriate vocabulary and context for a response	
The item aligns both the text and the graphics	
Does not use hypotheticals. For example, "Imagine you are in a space ship...", "What would you say if Timmy asked you...?", "What do you think will happen next?"	

Attachment G: Recommended Outline for NYSESLAT Field Test Technical Report

(include but not limited to the following content)

Field Test Overview

Field Test Design

- Field Test Sample Design

- Field Test Participation Rates

- Common Items across FT Forms (if applicable)

Field test Analysis

- File merging and Data Cleaning

- Field Test and Operational Data Matching

- Assessment of Sample Representativeness

Classical Analysis

- Item analysis for all field-tested items

- Inter-Rater Reliability for CR Items

- Differential Item Functioning

IRT Scaling

- Item Calibration

- Item Equating and Scaling

- Item Fit Evaluation

Research Guidelines for Selection of Operational Items

Attachment H: NYSED Specifications and Requirements for Transcribing the NYSESLAT into Braille

1. The individual(s) providing literary braille transcriptions under this contract should be certified by the National Library Service for the Blind and Physically Handicapped, Library of Congress (NLS) in literary braille transcribing, under the rules of Unified English Braille (UEB).
2. Over the course of the contract, the contractor will be required to provide both EBAE and UEB for literary braille transcriptions and mathematic transcriptions under the rules of Nemeth Code for Mathematics and Scientific Notation, as requested by NYSED. The NYSED is in the process of gradually transitioning its State assessment programs from EBAE to UEB. The timeline for the transition of the NYSESLAT from EBAE to UEB is provided in the February 2017 memorandum, "[Timelines for Transition of State Assessments to Unified English Braille.](#)"
3. The individual(s) providing mathematics braille transcriptions under this contract should be certified by NLS in mathematics braille transcribing, under the rules of Nemeth Code for Mathematics and Scientific Notation, with at least a general certification in UEB.
4. The contractor must provide literary, science, math, and tactile, adhering to all current braille codes, guidelines and standards provided by the Braille Authority of North America (BANA) for all countries using English Braille.
5. All materials for Grades 3 and up should be transcribed into Grade II braille. All materials for Grades K-2 should be transcribed into Grade I braille. On occasion, when requested by NYS school(s), the contractor may be required to transcribe one or more of the Grades 3 and above tests into Grade 1 braille as well.
6. Original transcriptions must be checked thoroughly and proofread by a reviewer and discrepancies resolved before submission to NYSED. NYSED prefers that the literary reviewer is certified by NLS in literary braille proofreading under the rules of UEB. NYSED also prefers that the mathematics reviewer is certified by NLS in mathematics braille proofreading under the rules of Nemeth Code for Mathematics and Scientific Notation with at least a general certification in UEB.
7. Tests and related materials must be transcribed into braille text and raised-line graphics for illustrations in their entirety, including all labeled items on tactile graphics (map, graph, diagram, chart, table, etc.).
8. The exclusion and/or prorating of items from the braille edition of these tests and related material are prohibited. The contractor must obtain NYSED's prior approval to change, modify, or eliminate information contained in the printed original copy.
9. If the contractor is using inter-point braille embossing (braille on both sides of the paper), the contractor must use paper that will prevent the braille from bleeding through, allowing for maximum embossing quality.
10. A thermographic printing process, using granulated ink, is the required method for producing raised-line tactile graphics.
11. If a tactile graphic does not fit within the constraints of a standard braille page (11 inches by 11.5 inches), then foldouts must be used.

12. If a tactile graphic has information that cannot fit within the constraints of the BANA codes for tactile graphics, the contractor must obtain NYSED's prior approval to change, modify, or eliminate information contained in the printed original copy.
13. The NYSESLAT, especially in the early grades, is graphic based and many adaptations and adjustments to various items will be required. Any suggestions for adapting items to make them more accessible and able to be transcribed into braille more efficiently should be discussed with and approved by NYSED prior to beginning transcription.
14. The contractor must adhere to the [Security Guidelines for the New York State Assessment Program](#) (see §6, Attachment L in this RFP) for handling the transfer of secure documents for transcription. Test materials (regular English printed copies, pdf files, initial and final braille transcriptions, and reproductions) must be shipped in NYSED-provided locked boxes via UPS Next Day Air.
15. The contractor must maintain computer files for embossing.
16. The contractor must ensure electronic and hard copy master files of braille transcribed documents are retained for various reasons including, but not limited to, the need to produce duplicate orders or replace items. These files must be maintained for the life of the contract and the vendor must be prepared to transfer files to NYSED at the end of the contract period. (See also, Appendix A, §10. Records)
17. The contractor must make all corrections to braille transcriptions after NYSED review. No additional payment will be made for pages that must be re-transcribed due to errors made by the contractor.

Attachment I: Specifications for Large Type

1. The typeface, size and spacing should be standardized on all tests, including print contained in charts, graphs, maps, tables and other graphics and visual stimuli, using a serif-free typeface.
2. Base text size will be 18 pt., with proportionally headings and subheadings that are proportionately larger.
3. A sans serif font, such as Helvetica, should replace existing primary text fonts (New Century Schoolbook, New Caledonia).
4. Minimal use of parentheses, italics, underlining, and boldface in text.
5. Spacing between lines of print is at least 1.25 spaces.
6. Paragraphs are block-style with no indentation. The left margin should be justified, and the right-hand margin should not be justified (“flush left/” ragged right”).
7. Pages should be single-column, with one-inch margins.
8. Divided (hyphenated) words should not be used.
9. Type should be solid black with no shades of gray printed on white, ivory, cream or yellow paper with a dull finish so as not to promote glare.
10. Avoid text used over a background design or other graphical material.
11. Graphics should not only be enlarged, but maintain strong contrast and clarity. Graphics should be modified to eliminate or minimize gray shades and fills, increase contrast, and enlarge type.
12. High-quality black line art should be used instead of gray-scale or shaded drawings.
13. Page layouts should keep any referenced art together on a spread with the related questions (to avoid flipping).
14. Artist credits and other copyright information that typically appear right below graphics, illustrations and other visual stimuli shall be moved to a clearly delineated section at the bottom of the page or to an appendix whenever it is determined that such material is not relevant to the student’s understanding of the item itself.
15. If staple binding is utilized, staples shall be placed along the spine side (instead of at the upper left corner). This will make it easier for students to manipulate the pages and to maintain continuity.

Attachment J: Operational Test Materials to be Printed, Duplicated, and Shipped by the Contractor

NYSESLAT - 2017 Operational Test Materials							
Shrink-wrap							
Test Books	Qty	Packaging	In 10's	In 5's	In 4's	In 2's	Serial Barcode
Gr K Reading Test book	46,325	Packages of 10's & 5's	40,670	5,655			Yes
Gr K Writing Test book	46,325	Packages of 10's & 5's	40,670	5,655			Yes
Gr K Listening Test book	46,325	Packages of 10's & 5's	40,670	5,655			Yes
Gr K Speaking TB	5,632	Packages of 4's & 2's			2,124	3,508	Yes
Gr 1-2 Reading/Writing/Listening TB-Form 1	83,325	Packages of 10's & 5's	77,300	6,025			Yes
Gr 1-2 Reading/Writing/Listening TB-Form 2	83,325	Packages of 10's & 5's	77,300	6,025			Yes
Gr 1-2 Reading/Writing/Listening TB-Form 3	83,325	Packages of 10's & 5's	77,300	6,025			Yes
Gr 1-2 Speaking TB	8,078	Packages of 4's & 2's			4,672	3,406	Yes
Gr 3-4 Reading/Writing/Listening TB Form 1	68,810	Packages of 10's & 5's	62,980	5,830			Yes
Gr 3-4 Reading/Writing/Listening TB Form 2	68,810	Packages of 10's & 5's	62,980	5,830			Yes
Gr 3-4 Reading/Writing/Listening TB Form 3	68,810	Packages of 10's & 5's	62,980	5,830			Yes
Gr 3-4 Speaking TB	7,036	Packages of 4's & 2's			3,620	3,416	Yes
Gr 5-6 Reading/Writing/Listening TB Form 1	59,710	Packages of 10's & 5's	52,520	7,190			Yes
Gr 5-6 Reading/Writing/Listening TB Form 2	59,710	Packages of 10's & 5's	52,520	7,190			Yes
Gr 5-6 Reading/Writing/Listening TB Form 3	59,710	Packages of 10's & 5's	52,520	7,190			Yes
Gr 5-6 Speaking TB	7,054	Packages of 4's & 2's			2,760	4,294	Yes
Gr 7-8 Reading/Writing/Listening TB Form 1	46,465	Packages of 10's & 5's	42,680	3,785			Yes
Gr 7-8 Reading/Writing/Listening TB Form 2	46,465	Packages of 10's & 5's	42,680	3,785			Yes
Gr 7-8 Reading/Writing/Listening TB Form 3	46,465	Packages of 10's & 5's	42,680	3,785			Yes

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Gr 5-6 Reading Writing Listening DFA Form 1	6,952	Packages of 4's & 2's			2,700	4,252	Yes
Gr 5-6 Reading Writing Listening DFA Form 2	6,952	Packages of 4's & 2's			2,700	4,252	Yes
Gr 5-6 Reading Writing Listening DFA Form 3	6,952	Packages of 4's & 2's			2,700	4,252	Yes
Gr 5-6 Speaking DFA	7,054	Packages of 4's & 2's			2,760	4,294	Yes
Gr 7-8 Reading Writing Listening DFA Form 1	4,570	Packages of 4's & 2's			2,500	2,070	Yes
Gr 7-8 Reading Writing Listening DFA Form 2	4,570	Packages of 4's & 2's			2,500	2,070	Yes
Gr 7-8 Reading Writing Listening DFA Form 3	4,570	Packages of 4's & 2's			2,500	2,070	Yes
Gr 7-8 Speaking DFA	4,638	Packages of 4's & 2's			2,560	2,078	Yes
Gr 9-12 Reading Writing Listening DFA Form 1	6,394	Packages of 4's & 2's			4,696	1,698	Yes
Gr 9-12 Reading Writing Listening DFA Form 2	6,394	Packages of 4's & 2's			4,696	1,698	Yes
Gr 9-12 Reading Writing Listening DFA Form 3	6,394	Packages of 4's & 2's			4,696	1,698	Yes
Gr 9-12 Speaking DFA	6,516	Packages of 4's & 2's			4,776	1,740	Yes
	154,202				83,208	70,994	
					Shrink wrap		
Training Set	Qty				In 4's	In 2's	Serial Barcode
Gr K Writing Training Set	5,870	Packages of 4's & 2's			1,930	3,940	Yes
Gr 1-2 Writing Training Set	8,248	Packages of 4's & 2's			4,398	3,850	Yes
Gr 3-4 Writing Training Set	7,306	Packages of 4's & 2's			3,442	3,864	Yes
Gr 5-6 Writing Training Set	7,318	Packages of 4's & 2's			2,598	4,720	Yes
Gr 7-8 Writing Training Set	5,070	Packages of 4's & 2's			2,478	2,592	Yes
Gr 9-12 Writing Training Set	6,988	Packages of 4's & 2's			4,774	2,214	Yes
	40,800				19,620	21,180	
					Shrink wrap		
CD's	Qty				In 4's	In 2's	Serial Barcode
Gr 3-4 Listening CD	2,659	Packages of 4's & 2's			934	1,725	Yes
Gr 5-6 Listening CD	2,911	Packages of 4's & 2's			705	2,206	Yes
Gr 7-8 Listening CD	1,739	Packages of 4's & 2's			659	1,080	Yes
Gr 9-12 Listening CD	2,129	Packages of 4's & 2's			1,223	906	Yes

K-12 Speaking Scoring CDs (all on 1 CD)	14,061		Packages of 4's & 2's			1,148	12,913	Yes
	23,499					4,669	18,830	
Sealed Singles								
Braille Materials Test Books	Qty							Serial Barcode
Gr 3-4 Braille Reading/Writing/Listening TB Form 1	6							Yes
Gr 3-4 Braille Reading/Writing/Listening TB Form 2	6							Yes
Gr 3-4 Braille Reading/Writing/Listening TB Form 3	6							Yes
Gr 3-4 Braille Speaking TB	6							Yes
Gr 5-6 Braille Reading/Writing/Listening TB Form 1	8							Yes
Gr 5-6 Braille Reading/Writing/Listening TB Form 2	8							Yes
Gr 5-6 Braille Reading/Writing/Listening TB Form 3	8							Yes
Gr 5-6 Braille Speaking TB	8							Yes
Gr 7-8 Braille Reading/Writing/Listening TB Form 1	4							Yes
Gr 7-8 Braille Reading/Writing/Listening TB Form 2	4							Yes
Gr 7-8 Braille Reading/Writing/Listening TB Form 3	4							Yes
Gr 7-8 Braille Speaking TB	4							Yes
Gr 9-12 Braille Reading/Writing/Listening TB Form 1	7							Yes
Gr 9-12 Braille Reading/Writing/Listening TB Form 2	7							Yes
Gr 9-12 Braille Reading/Writing/Listening TB Form 3	7							Yes
Gr 9-12 Braille Speaking TB	7							Yes
	100							
Braille Materials DFAs								Yes
Gr 3-4 Braille Reading/Writing/Listening DFA Form 1	6							Yes
Gr 3-4 Braille Reading/Writing/Listening DFA Form 2	6							Yes

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Gr 3-4 Braille Reading/Writing/Listening DFA Form 3	6						Yes
Gr 3-4 Braille Speaking DFA	6						Yes
Gr 5-6 Braille Reading/Writing/Listening DFA Form 1	8						Yes
Gr 5-6 Braille Reading/Writing/Listening DFA Form 2	8						Yes
Gr 5-6 Braille Reading/Writing/Listening DFA Form 3	8						Yes
Gr 5-6 Braille Speaking DFA	8						Yes
Gr 7-8 Braille Reading/Writing/Listening DFA Form 1	4						Yes
Gr 7-8 Braille Reading/Writing/Listening DFA Form 2	4						Yes
Gr 7-8 Braille Reading/Writing/Listening DFA Form 3	4						Yes
Gr 7-8 Braille Speaking DFA	4						Yes
Gr 9-12 Braille Reading/Writing/Listening DFA Form 1	7						Yes
Gr 9-12 Braille Reading/Writing/Listening DFA Form 2	7						Yes
Gr 9-12 Braille Reading/Writing/Listening DFA Form 3	7						Yes
Gr 9-12 Braille Speaking DFA	7						Yes
	100						
Braille Materials Checklists							
2017 NYSESLAT - Braille Checklist Directions	7						No
2017 NYSESLAT - Braille Checklist Score Sheet.pdf	7						No
2017 NYSESLAT - K Braille Checklist.pdf	1						No
2017 NYSESLAT - 1-2 Braille Checklist.pdf	6						No
	21						
Large Print	Qty						Serial Barcode
NYSESLAT OT 2017 Large Print Gr 1-2 L/W/R Test F1	225						Yes
NYSESLAT OT 2017 Large Print Gr 1-2 L/W/R Test F2	225						Yes
NYSESLAT OT 2017 Large Print Gr 1-2 L/W/R Test F3	225						Yes

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NYSESLAT OT 2017 Large Print Gr 1-2 Speaking Testbook	225						Yes	
NYSESLAT OT 2017 Large Print Gr 3-4 L/W/R Test F1	250						Yes	
NYSESLAT OT 2017 Large Print Gr 3-4 L/W/R Test F2	250						Yes	
NYSESLAT OT 2017 Large Print Gr 3-4 L/W/R Test F3	250						Yes	
NYSESLAT OT 2017 Large Print Gr 3-4 Speaking Testbook	250						Yes	
NYSESLAT OT 2017 Large Print Gr 5-6 L/W/R Test F1	300						Yes	
NYSESLAT OT 2017 Large Print Gr 5-6 L/W/R Test F2	300						Yes	
NYSESLAT OT 2017 Large Print Gr 5-6 L/W/R Test F3	300						Yes	
NYSESLAT OT 2017 Large Print Gr 5-6 Speaking Testbook	300						Yes	
NYSESLAT OT 2017 Large Print Gr 7-8 L/W/R Test F1	225						Yes	
NYSESLAT OT 2017 Large Print Gr 7-8 L/W/R Test F2	225						Yes	
NYSESLAT OT 2017 Large Print Gr 7-8 L/W/R Test F3	225						Yes	
NYSESLAT OT 2017 Large Print Gr 7-8 Speaking Testbook	225						Yes	
NYSESLAT OT 2017 Large Print Gr 9-12 L/W/R Test F1	200						Yes	
NYSESLAT OT 2017 Large Print Gr 9-12 L/W/R Test F2	200						Yes	
NYSESLAT OT 2017 Large Print Gr 9-12 L/W/R Test F3	200						Yes	
NYSESLAT OT 2017 Large Print Gr 9-12 Speaking Test book	200						Yes	
NYSESLAT OT 2017 Large Print Gr K Listening Test book	200						Yes	
NYSESLAT OT 2017 Large Print Gr K Reading Test book	200						Yes	
NYSESLAT OT 2017 Large Print Gr K Speaking Test book	200						Yes	
NYSESLAT OT 2017 Large Print Gr K Writing Test book	200						Yes	
	5,600							
	Sealed Singles							
Listening Scripts	Qty						Serial Barcode	
3-4 Listening Script Test Session 1	70						Yes	
3-4 Listening Script Test Session 2	70						Yes	

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3-4 Listening Script Test Session 3	70							Yes
5-6 Listening Script Test Session 1	85							Yes
5-6 Listening Script Test Session 2	85							Yes
5-6 Listening Script Test Session 3	85							Yes
7-8 Listening Script Test Session 1	35							Yes
7-8 Listening Script Test Session 2	35							Yes
7-8 Listening Script Test Session 3	35							Yes
9-12 Listening Script Test Session 1	35							Yes
9-12 Listening Script Test Session 2	35							Yes
9-12 Listening Script Test Session 3	35							Yes
	675							

Attachment K: Technical Manual Outline for NYSESLAT

Overview

Section I: Introduction

16. Purpose of Assessment
17. Test Use and Decisions Based on Assessment
18. Target Population
19. Test Accommodations

Section II: Test Design and Development

- b. Framework of Test Program
- c. Test Description
- d. Test Configurations and Format
- e. Test Blueprint
- f. Item Mapping by NYS Learning Standards and Key Ideas by Grade
- g. Item Development and Item Review Processes
- h. Field Test
- i. Operational Test Selection
- j. Description of Proficiency Levels

Section III: Test Administration and Scoring

- a. Test Administration
- b. Rangefinding
- c. Scoring of Operational Tests
- d. Scoring Audit
- e. Scorer Qualifications and Training
- f. Quality Control Process

Section IV: Operational Data Collection and Classical Analysis

- Data Collection
- Data Processing
- Classical analysis
 - Item Difficulty and Response
 - Distribution Point-Biserial
 - Correlation Coefficients Distractor
 - Analysis
 - Reliability Coefficients
 - Item Differential Functioning Analysis

Section V: IRT Calibration, Equating, and Scaling

- a. IRT Models and Rationale for Use
- b. Calibration Sample
- c. Calibration process
- d. Item Parameters
- e. Item Fit Statistics
- f. Local Dependence
- g. Scaling and Equating Anchor
 - Item Security
 - Anchor Item
 - Evaluation
- h. Test Characteristics Curves

- i. Raw-Score to Scale Score and CSEM Conversion Tables
- j. IRT DIF Statistics

Section VI: Validity

- a. Content Validity
- b. Internal Structure (Construct) Validity
- c. External Structure
 - Relationship with Grade 3-8 ELA Tests
 - Relationship with Regents English Examination
- d. Consequential Validity
- e. Generalizability

Section VII: Reliability and Standard Error of Measurement

- a. Reliability for Total Test
- b. Reliability for Test components
- c. Estimated Conditional SEM of Scale Scores
- d. Accuracy of Performance Level Classification
- e. Consistency of Performance Level Classification
- f. Inter-Rater Reliability of CR items

Section VIII: Summary of Operational Test Results

- a. Proficiency
- b. Cut Score
- c. Tables
- d. Raw Score and Scale Score Distribution Summary (N, Mean, Median, Range, SD, Percentile) for Each Scale by:
 - Total State (public/charter versus non-public)
 - Gender (public/charter only)
 - Grade Level (public/charter only)
 - Grade Band (public/charter only)
 - Ethnicity (public/charter only)
 - Disability (public/charter only)
 - Need/Resource Category (public/charter only)
 - Major Language Background (public/charter only)
- e. Summary of Performance Level Distribution for the State (public/charter versus non-public) and Subgroups (public/charter only).
- f. Exit Rate for Total State (public/charter versus non-public) and Subgroups (public/charter only)

Attachment L: Security Guidelines for the New York State Assessment Program

1. Staff of NYSED and of contractors working with the Office of State Assessment who are responsible for transporting, receiving, or handling secure test materials or confidential data, distributing such materials to consultants, work groups, and committees, and/or coordinating and overseeing related activities with consultants must be provided appropriate guidance to convey the importance of maintaining the security of materials.
2. Secure test materials and data must either be under the direct physical control of authorized NYSED personnel or their designated consultants or contractor personnel or in a secure storage area, which is inaccessible to other than authorized staff, always. Materials may never be left at a vacant desk, in an unattended conference room, or in an unattended hotel conference room.
3. Contractors must discuss with their NYSED contact person and receive prior approval of arrangements for delivery and storage of secure materials to locations other than NYSED or the contractor's place of business.
4. Contractors must plan for the secure destruction of any secure materials used during the contract process of which they wish to dispose.
5. The contractor's security procedures will include shipment of all tests in NYSED's locked boxes. The locked containers will be provided to the contractor by NYSED. When shipping of all non-secure test materials, the contractor must use a carrier with ground-tracking capability, to test centers and to NYSED, whenever shipment of printed materials is necessary. The contractor, may not utilize electronic transfer to ship individual student information or any secure test materials, unless as authorized by NYSED on a case-by-case basis. Electronic transfer includes transfer via e-mail, Internet, or facsimile (FAX).
6. Secure materials may never be emailed or faxed. If there appears to be a compelling reason to do so, prior approval must be obtained in writing from the NYSED Office of State Assessment.
7. The contractor will host and maintain a secure file transfer protocol (SFTP) site as a means of file transfer. Access to the New York State test information on the site must be limited to the contractor and NYSED unless further sharing with other parties is authorized in writing by NYSED.
8. Photocopying of secure or confidential material must be undertaken with care. Paper jams may result in paper containing secure or confidential materials being lodged in the copier and later discovered by another user. Extreme caution must be used. The contractor's plan for photocopying must be approved by NYSED.
9. The contractor will require all staff and consultants who review secure materials, including but not limited to secure test questions, scoring materials, and related materials that reference secure test questions, or confidential data, must sign a Non-Disclosure Agreement (NDA) to be provided by NYSED. The contractor must retain the signed forms for at least one year beyond the end date of the contract, and promptly submit the signed forms to NYSED upon request.

Attachment M: Non-Disclosure Agreement

**NON-DISCLOSURE AGREEMENT
New York State Education Department
Office of State Assessment**

Name: _____

Title: _____

Organization: _____

Examination Title(s): _____

Type of work to be performed: _____

Date(s) of work to be performed: _____

The purpose of all New York State assessments is to provide a fair and equitable assessment system that reliably measures the State learning standards. The expert opinions of consultants, educational organizations, and test development companies are vital to guiding our continuing efforts to develop fair, valid, and reliable State assessments that measure what each student knows and can do. Because you will have access to secure and/or confidential materials as part of your participation in the test development process, you also have the responsibility to assist the Office of State Assessment (OSA) in ensuring the security and confidentiality of these materials. Therefore, by signing this agreement, you agree to abide by the following security restrictions and ownership provisions. Please retain a copy of this non-disclosure agreement for your records.

Secure and Confidential Information

I acknowledge that information provided by OSA or developed by me or my organization related to the work described above includes secure and confidential information that is the property of the New York State Education Department ("Department"). I acknowledge that such secure and confidential information includes many items, including but not limited to the following information types:

- a) all oral or written information in draft or final form relating to the development, review and/or scoring of a New York State Assessment, including operational tests, field tests, and pretests;
- b) all test items or test forms, whether in draft or final form, prior to public release by the Department;
- c) all test data and statistical analyses, whether provided to me by OSA or developed by me or my organization, prior to public release by the Department;
- d) any reports, prior to public release by the Department;
- e) the results of any analyses or studies, whether provided to me by OSA or developed by me or my organization, prior to public release by the Department;
- f) any individual student data or information; and
- g) any other confidential information that has not been made available to the general public by the Department.

By signing this agreement, I agree to maintain and honor the security of test materials, test data, and confidential student information and to abide by the following security restrictions:

- 1) I agree not to disclose any secure or confidential materials, including test questions, test data, individual student information, or technical reports, whether in draft or final form, to anyone other than OSA staff or other person(s) participating in the work described above, unless specifically authorized to do so by OSA. I also agree not to disclose such materials to any Department staff other than OSA staff without the prior permission of OSA.

- 2) If I am responsible for supervising other staff or subcontractors, I agree to limit the access and use of secure and confidential materials to only those individuals who have a legitimate need to access such materials in order to perform the work described above.
- 3) I agree to provide appropriate training, guidance, and oversight to any staff or subcontractors under my supervision who may work with secure or confidential materials in order to maintain the security of such materials.
- 4) I agree to follow all guidelines and instructions provided by OSA regarding the transfer of the secure and confidential materials in my possession. Such transfer may include secure electronic transfer using encrypted files, shipment of materials using a carrier with ground tracking capabilities, and/or the use of locked boxes when shipping. At no time will I transfer or store any secure and confidential materials in a location other a secure area within my organization's facility without the authorization of OSA.
- 5) Upon completion of the work described above, I agree to securely store, destroy, or return all secure and confidential materials provided to or prepared by me, including all copies thereof and all notes prepared by me, in accordance with the instructions given to me by OSA.
- 6) I understand that secure and confidential materials are not to be copied or duplicated in any way, shared with or discussed with anyone other than OSA staff or other person(s) participating in the work described above, unless specifically authorized to do so by OSA.
- 7) I agree to immediately report to OSA if I learn of or suspect any potential misuse of secure and confidential information.

Ownership and Return of Secure Test Materials and Test Data

All secure test materials and test data are the property of the Department, including all materials prepared by me in the course of my participation in the work described above. All such materials prepared by me are being commissioned by the Department and shall be works made for hire as defined by the United States Copyright Law. In the event that such materials prepared by me are deemed not to be works made for hire, I hereby assign to the Department any and all right, title and interest I may have, including but not limited to any copyright, in the work commissioned by the Department.

I, _____, have read the non-disclosure agreement above and agree to abide by the security restrictions and ownership provisions described herein.

Please Print: Signature: _____
Date: _____
Name: _____
Title: _____
Address: _____
City: _____ State: _____ Zip: _____
Telephone: (_____) _____
E-mail: _____