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**EXECUTIVE DOCUMENT SUMMARY**

State Form 41221 (R10/4-06)



Instructions for completing the EDS and the Contract process.

1. Please read the guidelines on the back of this form.
2. Please type all information.
3. Check all boxes that apply.
4. For amendments / renewals, attach original contract.
5. Attach additional pages if necessary.

12/11  
km

1. EDS Number: A58-2-12DL-0261	2. Date prepared: 10/11/2011
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**3. CONTRACTS & LEASES**

<input checked="" type="checkbox"/> Professional/Personal Services	<input type="checkbox"/> Contract for procured Services
<input type="checkbox"/> Grant	<input type="checkbox"/> Maintenance
<input type="checkbox"/> Lease	<input type="checkbox"/> License Agreement
<input type="checkbox"/> Attorney	<input type="checkbox"/> Amendment# _____
<input type="checkbox"/> MOU	<input type="checkbox"/> Renewal # _____
<input type="checkbox"/> QPA	<input type="checkbox"/> Other _____

**FISCAL INFORMATION**

4. Account Number: 58132-59C00.	5. Account Name: ARRA Title I School Improvem
6. Total amount this action: \$850,000.00	7. New contract total: \$850,000.00
8. Revenue generated this action: \$0.00	9. Revenue generated total contract: \$0.00
10. New total amount for each fiscal year :	
Year 2012	\$850,000.00
Year _____	\$ _____
Year _____	\$ _____
Year _____	\$ _____

**TIME PERIOD COVERED IN THIS EDS**

11. From (month, day, year): 8/30/2011	12. To ( month, day, year ): 9/30/2012
13. Method of source selection:	
<input type="checkbox"/> Bid/Quotation	<input type="checkbox"/> Emergency
<input type="checkbox"/> RFP# <u>IDOE 4</u>	<input type="checkbox"/> Special Procurement
<input checked="" type="checkbox"/> RFP# <u>IDOE 4</u>	<input type="checkbox"/> Other (specify) _____

35. Will the attached document involve data processing or telecommunications systems(s)?  Yes: IOT or Delegate has signed off on contract

36. Statutory Authority (Cite applicable Indiana or Federal Codes):  
IC 20-19-3-5

37. Description of work and justification for spending money. (Please give a brief description of the scope of work included in this agreement.)

Contractor will conduct an in-depth analysis of the systems and capacities of the following turnaround academy or academies: Theodore Roosevelt Career and Technical Academy. Specifically, this analysis will include a thorough examination of the turnaround academy's assets and liabilities (e.g. leadership, human capital, organizational culture). During this initial phase and throughout the engagement, the Contractor will evaluate key structural, programmatic and human capital areas with a plan for achieving "early wins" while looking ahead toward long-term results. A "high-touch" presence in the school building and the community served will be required.

38. Justification of vendor selection and determination of price reasonableness:

Based on application scoring, seven applicants were invited to deliver a formal oral presentation, which included an intense Q&A from the committee. An on-site evaluation was conducted in at least one school operated by each of the five semi-finalists. This evaluation included focus groups with school leaders, students, teachers, community members, and families, as well as focused classroom observations. Based on the applications, presentations and site visits, three finalists were selected.

RECEIVED

OCT 17 2011

OAG-ADVISORY

39. If this contract is submitted late, please explain why: (Required if more than 30 days late.)

This contract was forwarded as soon as all details were finalized.

40. Agency fiscal officer or representative approval <i>AT</i>	41. Date Approved 10.13.2011	42. Budget agency approval <i>AT</i>	43. Date Approved 10/14/11
44. Attorney General's Office approval <i>[Signature]</i>	45. Date Approved 17 Oct 11	46. Agency representative receiving from AG	47. Date Approved

**AGENCY INFORMATION**

14. Name of agency: Department of Education	15. Requisition Number: 000006230
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16. Address: DOE-ACCOUNTING 151 WOHIO ST INDIANAPOLIS, IN 46204
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**AGENCY CONTACT INFORMATION**

17. Name: Richard McKnight	18. Telephone #: 317 2320596
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19. E-mail address: rmcknigh@doe.in.gov
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**COURIER INFORMATION**

20. Name: Tina Austin	21. Telephone #: 232-0569
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22. E-mail address: taustin@doe.in.gov
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**VENDOR INFORMATION**

23. Vendor ID # 0000287590
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24. Name: EDISON LEARNING INC	25. Telephone #: (212) 419-1632
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26. Address: 900 S GAY ST STE 1000 KNOXVILLE, TN 37902
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27. E-mail address: Aileen.Philbrick@edisonlearning.com
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28. Is the vendor registered with the Secretary of State? (Out of State Corporations, must be registered)  Yes  No

29. Primary Vendor: M/WBE	30. If yes, list the %:
Minority: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Minority: _____ %
Women: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Women: _____ %

31 Sub Vendor: M/WBE	32. If yes, list the %:
Minority: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Minority: _____ %
Women: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Women: _____ %

33. Is there Renewal Language in the document?	34. Is there a "Termination for Convenience" clause in the document?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No



# REQUISITION

**Ship To:** IN Department of Education  
Accounting Dept.  
151 W OHIO ST  
INDIANAPOLIS IN 46204

**Bill to:** IN Department of Education  
Accounting Dept.  
151 W OHIO ST  
INDIANAPOLIS IN 46204

<b>Requisition No.</b> 000006230	<b>Date</b> 10/13/2011	<b>Required Date</b>	<b>Page</b> 1 of 1
<b>Fund/Object/Center:</b> 58132/ 531010 / 59C000			
<b>Dept Number:</b> 023047			
<b>Project Number:</b> 7000S388A090015			
<b>Requisition Number:</b> 000006230			
<b>Requestor:</b> M254188 Melissa Ann Covey			
<b>Agency Number:</b> 00700 Department of Education			
<b>Facility:</b>			

**MUST COMPLETE FOR ICPR**  
 Print REQ  
 Streamline Eligible

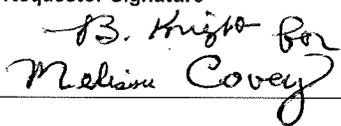
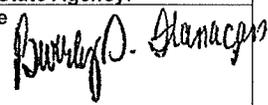
Line	Item	Description	Quantity	UOM	Unit Price	Ext Amt
1-1		TO ENCUMBER FUNDS. RECEIVE BY AMOUNT ONLY. A58212DL0261	1.0000	MON	850,000.0000	850,000.00

Vendor: 0000287590 EDISON LEARNING INC

<< Contractor will conduct an in-depth analysis of the systems and capacities of the following turnaround academy or academies: Theodore Roosevelt Career and Technical Academy. Specifically, this analysis will include a thorough examination of the turnaround academy's assets and liabilities (e.g. leadership, human capital, organizational culture). >>

The following UN/CEFACT Unit of Measure Common Codes are used in this document:  
MON Month

**Requisition Total \$ 850,000.00**

<b>Requestor Signature</b> 	<b>I certify that the item[s] requested is [are] necessary for the operation of this State Agency.</b>	
	<b>Printed Name of Agency Head or Authorized Employee</b> <p style="font-size: 1.2em; text-align: center;">Beverly Flanagan</p>	<b>Authorized Signature</b> 

## PROFESSIONAL SERVICES CONTRACT

**EDS #A58-2-12DL-0261**

This Contract ("this Contract"), entered into by and between the **Indiana Department of Education** (the "State" or "IDOE") and **EdisonLearning, Inc.**, (the "Contractor"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

### **1. Duties of Contractor**

The Contractor shall perform certain duties and obligations, as more fully set forth herein, to observe, analyze, and evaluate the school ("school" or "turnaround academy") to which it is assigned to identify issues present at the school that present barriers to students' educational needs and to the proper, efficient and effective operation of the school. The Contractor shall use the information and data collected to develop a comprehensive plan to implement school turnaround to improve the school's performance.

The Contractor shall provide services as described in this Contract and pursuant to the Scope of Work, which is attached hereto **Exhibit A** and herein incorporated by reference. The services provided by the Contractor shall also be compliant with the duties and obligations set forth in the Request for Proposal issued by the Indiana Department of Administration on behalf of IDOE, a copy of which can be found at [http://www.doe.in.gov/turnaround/docs/rfp\\_idoe\\_turnaround\\_school\\_operator\\_11-19-final.pdf](http://www.doe.in.gov/turnaround/docs/rfp_idoe_turnaround_school_operator_11-19-final.pdf).

### **2. Consideration**

The Contractor will be paid \$850,000 in accordance with the budget attached as **Exhibit B** and herein incorporated by reference for performing the duties set forth above (the "Fee"). Total remuneration under this Contract shall not exceed **Eight Hundred Fifty Thousand Dollars (\$850,000)**.

### **3. Term**

This Contract shall be effective for a period of thirteen (13) months (the "Term"). The Term shall commence on **August 30, 2011** and shall remain in effect through **September 30, 2012**.

### **4. Access to Records**

The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records and other evidence pertaining to all costs incurred under this Contract. It shall make such materials available at its respective offices at all reasonable times during this Contract; and for three (3) years from the date of final payment under this Contract, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested.

### **5. Assignment; Successors**

The Contractor binds its successors and assignees to all the terms and conditions of this Contract. The Contractor shall not assign or subcontract the whole or any part of this Contract without the State's prior written consent provided that the Contractor may assign this Agreement to a successor (entity) that acquires, through a corporate reorganization, substantially all of the Contractor's assets and liabilities. Prior to such an assignment, the State shall have the opportunity to review and consent to the assignment;

however, such consent shall not be unreasonably withheld. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the State, provided that the Contractor gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

The State shall have the authority to assign to the executive of a city or county the duties and obligations set forth herein upon the State sending written notification of the assignment to the Contractor. In the event the State assigns its duties and obligations under this Contract, the State shall have no further obligation to the Contractor and any obligation to the Contractor shall be borne by the assignee.

## **6. Audits**

The Contractor acknowledges that it may be required to submit to an audit limited to funds paid through this Contract. Any such audit shall be conducted in accordance with IC 5-11-1, *et seq.*, and audit guidelines specified by the State.

Where applicable, where any federal funds are received by the Contractor or the Contractor's subcontractor following the expiration of this Contract, the Contractor shall arrange for a financial and compliance audit of funds provided by the State pursuant to this Contract. Such audit is to be conducted by an independent public or certified public accountant (or as applicable, the Indiana State Board of Accounts), and performed in accordance with Indiana State Board of Accounts publication entitled "Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources," and applicable provisions of the Office of Management and Budget Circulars A-133 (Audits of States, Local Governments, and Non-Profit Organizations). The Contractor is responsible for ensuring that the audit and any management letters are completed and forwarded to the State in accordance with the terms of this Contract. Audits conducted pursuant to this paragraph must be submitted no later than nine (9) months following the close of the Contractor's fiscal year. The Contractor agrees to provide the Indiana State Board of Accounts and the State an original of all financial and compliance audits. The audit shall be an audit limited to funds paid through this Contract to the actual entity, or distinct portion thereof that is the Contractor, and not of a parent, member, or subsidiary corporation of the Contractor, except as otherwise required by applicable federal law. The audit shall include a statement from the Auditor that the Auditor has reviewed this Contract and that the Contractor is not out of compliance with the financial aspects of this Contract.

The State acknowledges that the Contractor is a privately held corporation and is under no obligation to make its non-public financial information available to any third party. Notwithstanding the foregoing, upon written request by the State, the Contractor agrees to provide the State information reasonably sufficient to confirm that the Contractor is solvent and financially secure, such information to be considered confidential ("Contractor's Financial Information") unless the Contractor identifies such information as non-confidential and publicly disclosable by marking it as "Contractor's Non-Confidential Financial Information." The Contractor's Financial Information, when provided to the State, shall be exempt from public disclosure by the State as "confidential information received upon request" or other applicable exemption under the Indiana's Access to Public Records Act, and shall otherwise be exempt from disclosure under any other applicable federal or state law. In the event the State receives a request from a third party ("Third Party Request") for any of the Contractor's Financial Information (by way of example and not a limitation, from a third party, federal agency, or another agency other than the State agency to whom the Contractor initially disclosed Contractor's Financial Information), the State shall immediately notify the Contractor in writing of the Third-Party Request and the State shall not comply with such request before the earlier of: (a) the period required in a final and unappealable order issued by a court of competent jurisdiction indicating that the requested information is not exempt from public

disclosure; or (b) the date on which the Contractor notifies the State in writing that such information may be disclosed. The Contractor shall indemnify the State for all reasonable attorneys' fees, penalties and costs incurred by the State or as assessed against the State as a result of the State's compliance with the Contractor's written request to protect the Contractor's Financial Information from disclosure.

#### **7. Authority to Bind Contractor**

The signatory for the Contractor represents that he/she has been duly authorized to execute this Contract on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Contractor when his/her signature is affixed, and accepted by the State.

#### **8. Changes in Work**

The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the State. The Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.

#### **9. Compliance with Laws**

- A. The Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein which are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract require formal modification.
- B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC 4-2-6, *et seq.*, IC 4-2-7, *et seq.*, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <http://www.in.gov/ethics/>. If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44-1-3, and under any other applicable laws.
- C. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The Contractor agrees that any payments currently due to the State of Indiana may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State. Authority to withhold payments is found in IC 4-13-2-14.5 for contractors on the tax warrant list for delinquent taxes.
- D. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Contractor agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.

- E. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Indiana Department of Administration ("IDOA") following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest, except as permitted by IC 5-17-5.
- F. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.
- G. The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- H. As required by IC 5-22-3-7:
  - (1) The Contractor and any principals of the Contractor certify that:
    - (A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of:
      - (i) IC 24-4.7 [Telephone Solicitation Of Consumers];
      - (ii) IC 24-5-12 [Telephone Solicitations]; or
      - (iii) IC 24-5-14 [Regulation of Automatic Dialing Machines];in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and
    - (B) the Contractor will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.
  - (2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor:
    - (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and
    - (B) will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

## **10. Condition of Payment**

All services provided by the Contractor under this Contract must be performed to the State's reasonable satisfaction, as reasonably determined by the undersigned State representative and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. The State shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract or performed in violation of any federal, state or local statute, ordinance, rule or regulation.

The State agrees to pay the Contractor for services properly rendered within the scope of Exhibit A. The Contractor shall consult with the State prior to providing any services outside the scope of Exhibit A.

## **11. Confidentiality of State Information**

The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material, and information gathered, based upon or disclosed to the Contractor for the purpose of this Contract, will not be disclosed to or discussed with third parties without the prior written consent of the State.

The parties acknowledge that the services to be performed by Contractor for the State under this contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the State or Turnaround Academy in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the Contractor and the State agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by Contractor, Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this contract.

The Contractor understands that the data or information shared pursuant to this Contract may contain personally identifiable student information subject to the protections of the Family Educational Rights and Privacy Act (FERPA), 20 USC 1232g and 34 CFR Part 99. The Contractor assures that (i) all data, material and information gathered by or disclosed to the Contractor pursuant to this Contract and/or obtained by the Contractor during its performance of the Contract will not be disclosed to or discussed with any third party without prior written consent of the individual or parents of the individual to which the information relates (Consenting Party); (ii) it will comply with all confidentiality requirements in the storage and maintenance of the data and that its employees, agents and consultants comply with all confidentiality obligations; (iii) any of the data obtained during its performance of the Contract will not be used for any purpose other than that specified in the Contract without the prior written consent of the Consenting Party; and (iv) when it no longer requires the data for purposes of this Contract, the Contractor will either return the data to the Consenting Party or securely destroy the data, as required by all applicable laws, rules and regulations governing the privacy of such information.

## **12. Continuity of Services**

- A. The Contractor recognizes that the service(s) to be performed under this Contract are vital to the State and must be continued without interruption and that, upon Contract expiration, a successor, either the State or another contractor, may continue them. The Contractor agrees, to the extent the State and the Contractor agree to a reasonable fee for all phase-in, phase-out services (the "Phase-In, Phase-Out Fee"), to:
1. Furnish phase-in consultation; and
  2. Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.
- B. The Contractor shall, upon the State's written notice and to the extent the State and the Contractor agree to a reasonable Phase-In, Phase Out Fee:
1. Furnish phase-in, phase-out services for up to sixty (60) days in the event of default or after this Contract expires; and
  2. Negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required.

The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the State's approval. The

Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this Contract are maintained at the required level of proficiency.

- C. The Contractor shall allow as many personnel as practicable to remain on the job during the provision of the phase-in, phase-out services to help the successor maintain the continuity and consistency of the services required by this Contract. If the Contractor agrees in writing and in its sole and absolute discretion to permit its employees to become employees of the successor, then the Contractor shall (i) disclose necessary personnel records as permitted by the Contractor's policy with respect to such records; (ii) allow the successor to conduct on-site interviews with these employees; and (iii) if selected employees are agreeable to the change, release the employees at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

### **13. Debarment and Suspension**

- A. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.
- B. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

### **14. Default by State**

If the State, sixty (60) days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Contractor may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination.

### **15. Disputes**

- A. Should any disputes arise with respect to this Contract, the Contractor and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
- B. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the State or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim against the State for such costs.
- C. If a party to the Contract is not satisfied with the progress toward resolving a dispute, the party must notify in writing the other party of this dissatisfaction. Upon written notice, the parties have ten (10) working days, unless the parties mutually agree to extend this period, following the notification to

resolve the dispute. If the dispute is not resolved within ten (10) working days, a dissatisfied party will submit the dispute in writing according to the following procedure:

1. The parties agree to resolve such matters through submission in writing of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Contractor and the State within ten (10) working days after presentation of such dispute for action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner or one of the parties concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to mediation for a determination. If a party is not satisfied with the Commissioner's ultimate decision and no resolution is reached at mediation, the dissatisfied party may submit the dispute to an Indiana court of competent jurisdiction.
2. The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to the Contractor of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for the Contractor to terminate this Contract, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

#### **16. Drug-Free Workplace Certification**

The Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor or an employee of the Contractor in the State of Indiana has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total contract amount set forth in this Contract is in excess of \$25,000.00, the Contractor hereby further agrees that this Contract is expressly subject to the terms, conditions, and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. No award of a contract shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000.00, shall be valid, unless and until this certification has been fully executed by the Contractor and made a part of the contract or agreement as part of the contract documents.

The Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;

- B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

**17. Employment Eligibility Verification**

The Contractor affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.

The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.

The Contractor shall require his/her/its subcontractors, who perform work under this contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The State may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

**18. Employment Option (Clause deleted by agreement of the Parties)**

**19. Force Majeure**

In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected

party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

## **20. Funding Cancellation**

When the Director of the State Budget Agency ("SBA") or applicable federal agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be cancelled. A written determination by the Director of SBA or applicable federal agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive. The State shall immediately notify the Contractor in writing of any such determination by the Director of SBA or the applicable federal agency.

Notwithstanding any of the foregoing, the Contractor shall be entitled to receive and the State shall pay the Contractor for all services properly rendered under this Contract prior to the later of the date of cancellation of the Contract or Contractor's receipt of the notification by State, which shall be made pursuant to Section 31.

## **21. Governing Laws**

This Contract shall be construed in accordance with and governed by the laws of the State of Indiana, and suit, if any, must be brought in the State of Indiana.

## **22. Indemnification**

The Contractor agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract. Pursuant to the Indiana Constitution Article X, Section 3 the State is precluded from and shall not provide such indemnification to the Contractor.

## **23. Independent Contractor**

Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party.

The Contractor shall be responsible for providing all necessary unemployment and workers' compensation insurance for the Contractor's employees.

## **24. Information Technology Enterprise Architecture Requirements**

If the Contractor provides any information technology related products or services to the State, the Contractor shall comply with all IOT standards, policies and guidelines, which are online at <http://iot.in.gov/architecture/>. The Contractor specifically agrees that all hardware, software and services provided to or purchased by the State shall be compatible with the principles and goals contained in the electronic and information technology accessibility standards adopted under Section 508 of the Federal

Rehabilitation Act of 1973 (29 U.S.C. 794d) and IC 4-13.1-3. Any deviation from these architecture requirements must be approved in writing by IOT in advance. The State may terminate this Contract for default if the Contractor fails to cure a breach of this provision within a reasonable time.

## **25. Insurance**

A. For each turnaround academy Contractor is assigned, Contractor shall secure and keep in force during the term of this Contract, the following insurance coverage, covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from Contractor's performance under this Contract:

1. Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits of \$700,000 per person and \$5,000,000 per occurrence unless additional coverage is required by the State. The State is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Contract.
2. Automobile liability with minimum liability limits of \$700,000 per person and \$5,000,000 per occurrence. The State is to be named as an additional insured on a primary, non-contributory basis.
3. Errors and omissions liability coverage with minimum liability coverage of \$3,000,000 per occurrence or per claim made and \$5,000,000 in the aggregate. The Contractor shall immediately notify the State in the event the Contractor changes its insurer.
4. The Contractor shall provide proof of such insurance coverage by tendering to the undersigned State representative a certificate of insurance prior to the commencement of this Contract and proof of Workers compensation coverage meeting all statutory requirements of IC 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana.

B. The Contractor's insurance coverage must meet the following additional requirements:

1. The insurer must have a certificate of authority issued by the Indiana Department of Insurance.
2. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
3. The State will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.
4. The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.

Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to immediately terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to the State before the commencement of this Contract.

## **26. Key Person(s)** (Clause deleted by agreement of the Parties)

## **27. Licensing Standards**

The Contractor, its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules, or regulations governing services to be provided by the Contractor pursuant to this Contract. The State will not pay the Contractor for any services performed when the Contractor, its employees or subcontractors are not in compliance with such applicable standards, laws, rules, or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification, or accreditation, the Contractor shall notify the State immediately and the State, at its option, may immediately terminate this Contract.

## **28. Merger & Modification**

This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented, or amended, except by written agreement signed by all necessary parties.

## **29. Minority and Women's Business Enterprises Compliance (Deleted; not applicable (no subcontractors will be used))**

## **30. Nondiscrimination**

This covenant is enacted pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act. Breach of this covenant may be regarded as a material breach of this Contract, but nothing in this covenant shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.

Pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee or applicant's: race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Furthermore, Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services.

The Contractor understands that the State is a recipient of federal funds, and therefore, where applicable, Contractor and any subcontractors agree to comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246.

## **31. Notice to Parties**

Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following addresses, unless otherwise specifically advised.

A. Notices to the State shall be sent to:

Dr. Tony Bennett  
Superintendent of Public Instruction  
Indiana Department of Education  
151 West Ohio Street  
Indianapolis, IN 46204  
317-232-8004

B. Notices to the Contractor shall be sent to:

Ms. Jodie Beckley  
Senior Vice President, School Management Solutions  
EdisonLearning, Inc.  
485 Lexington Avenue – 2<sup>nd</sup> Floor  
New York, NY 10017  
e-mail: [jodie.beckley@edisonlearning.com](mailto:jodie.beckley@edisonlearning.com)

- and -

Mr. Thomas Jackson  
Chief Legal Officer  
EdisonLearning, Inc.  
485 Lexington Avenue – 2<sup>nd</sup> Floor  
New York, NY 10017  
e-mail: [thom.jackson@edisonlearning.com](mailto:thom.jackson@edisonlearning.com)  
fax: 212-656-1607

Any Notice required under this Contract to be provided by the State to the Contractor shall be perfected upon the State notifying the Contractor's Chief Legal Officer set forth above.

- C. As required by IC 4-13-2-14.8, payments to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by the Contractor with the Indiana Auditor of State.
- D. All notices required or permitted by this Contract shall be in writing and shall be either personally delivered or sent by nationally-recognized overnight courier, facsimile, electronic mail, or by registered or certified U.S. mail, postage prepaid, addressed as set forth below (except that a Party may from time to time give notice changing the address for this purpose). A notice shall be effective on the date personally delivered, on the date delivered by a nationally-recognized overnight courier, on the date set forth on the receipt of a telecopy or facsimile, on the date set forth on the electronic mail identifying when the electronic mail was sent or upon the earlier of the date set forth on the receipt of registered or certified mail or on the fifth day after mailing.

### **32. Order of Precedence; Incorporation by Reference**

Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract, (2) exhibit(s) to this Contract; (3) Contractor's response to RFP #IDOE-4; and (4) the RFP #IDOE-4 issued by the IDOE found at [http://www.doe.in.gov/turnaround/docs/rfp\\_idoe\\_turnaround\\_school\\_operator\\_11-19-final.pdf](http://www.doe.in.gov/turnaround/docs/rfp_idoe_turnaround_school_operator_11-19-final.pdf) (RFP). All of the foregoing is incorporated fully by reference.

### **33. Ownership of Documents and Materials**

The Contractor owns and shall continue to own all instructional materials, training materials, teaching methodologies, school management methodologies, including but not limited to assessment methodologies, curriculum, lesson plans and any other materials developed by the Contractor, its employees, agents or subcontractors prior to or during execution of this Contract ("Contractor's Materials"). Data collected by the Contractor for the State under this Contract during Phase 1, Assessment, Phase 2 Human Capital Planning Phase and Phase 3, Evaluation, as described in the Scope of Work (the "Data"), shall be considered "work for hire" and the Contractor transfers any ownership claim of such Data to the State and shall be the property of the State. At the expiration of the Contract or upon termination thereof, Contractor shall provide the State the Data in a format usable by the State. Use of the Data, other than related to contract performance by the Contractor, without the prior written consent of the State, is prohibited; provided, however, that the Contractor may use the Data in an aggregated form for evaluative and analytical purposes associated with understanding the efficacy of its products and services. Contractor's use of the Data for such evaluative and statistical purposes shall not include any personally identifiable data and shall be in accordance with the applicable provisions of the Family Educational Rights and Privacy Act of 1974, as amended. The Contractor shall provide the State full, immediate, and unrestricted access to the Data during the term of this Contract.

### **34. Payments**

- A. All payments shall be made in arrears in conformance with State fiscal policies and procedures and, as required by IC 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the Contractor in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by IC 4-13-2-20.
- B. The Contractor shall be paid for the services provided under this Contract on a monthly basis. Contractor shall initiate payment by submitting an invoice to the State within thirty (30) days after Contractor's services were rendered, with payment from the State due within forty-five (45) days of receipt of invoice.
- C. All accounts will be closed sixty (60) days after the Expiration Date of this Contract Agreement. Any invoice submitted after sixty (60) days will not be reimbursed by the State.
- D. The Contractor agrees to abide by the Contract Budget; except that, subject to written approval of the State Project Director, budget line item amounts may be transferred to other Contract budget line items. The maximum amount that may be transferred from any one Contract budget line item is equal to ten percent (10%) of the original budget line item amount.

### **35. Penalties/Interest/Attorney's Fees**

The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, IC 5-17-5, IC 34-54-8, and IC 34-13-1.

Notwithstanding the provisions contained in IC 5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

### **36. Progress Reports**

The Contractor shall submit reports, plans and other deliverables as set forth in the Scope of Work attached hereto as Exhibit A to assure the State that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date.

### **37. Renewal Option** (Clause deleted by agreement of the Parties)

### **38. Security and Privacy of Health Information**

The Contractor agrees to comply with all requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) in all activities related to this Contract, to maintain compliance throughout the life of this Contract, to operate any systems used to fulfill the requirements of this Contract in full compliance with HIPAA and to take no action which adversely affects the State's HIPAA compliance.

The parties acknowledge that the Department of Health and Human Services has issued the Final Rule, as amended from time to time, on the Standards for Privacy of Individually Identifiable Health Information, as required by HIPAA. To the extent required by the provisions of HIPAA and regulations promulgated thereunder, the Contractor covenants that it will appropriately safeguard Protected Health Information (PHI), as defined by the regulations, which is made available to or obtained by the Contractor in the course of its work under this Contract. The Contractor agrees to comply with applicable requirements of law relating to PHI with respect to any task or other activity it performs for the State as required by the final regulations.

### **39. Severability**

The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

### **40. Substantial Performance**

This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

### **41. Taxes**

The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the Contractor as a result of this Contract.

### **42. Termination for Convenience**

This Contract may be terminated, in whole or in part, by the State, which shall include and is not limited to the Indiana Department of Administration and the State Budget Agency whenever, for any reason, the State determines that such termination is in its best interest. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least sixty (60) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Contractor shall have the right to terminate this Contract upon thirty (30) days notice, if, pursuant to Paragraph 5 herein, the Contractor reasonably withholds consent to the State to assign to the executive of a city or county the duties and obligations set forth in this Contract. Upon termination, the Contractor shall be compensated for services properly rendered prior to the effective date of termination.

The State will not be liable for services performed after the effective date of termination. The Contractor shall be compensated for services herein provided but in no case shall total payment made to the Contractor exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date. For the purposes of this paragraph, the parties stipulate and agree that the Indiana Department of Administration shall be deemed to be a party to this agreement with authority to terminate the same for convenience when such termination is determined by the Commissioner of IDOA to be in the best interests of the State.

#### **43. Termination for Default**

- A. With the provision of sixty (60) days notice to the Contractor, the State may terminate this Contract in whole or in part if the Contractor **fails to:**
1. Correct or cure any breach of this Contract; the time to correct or cure the breach may be extended beyond sixty (60) days if the State determines progress is being made and the extension is agreed to by the parties;
  2. Deliver the supplies or perform the services within the time specified in this Contract or any extension;
  3. Make progress so as to endanger performance of this Contract; or
  4. Perform any of the other provisions of this Contract.
- B. If the State terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the State considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.
- C. The State shall pay the contract price for completed supplies delivered and services accepted. The Contractor and the State shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.
- D. The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.

#### **44. Travel**

No expenses for travel will be reimbursed unless specifically permitted under the scope of services or consideration provisions. Expenditures made by the Contractor for travel will be reimbursed at the current rate paid by the State and in accordance with the State Travel Policies and Procedures as specified in the current Financial Management Circular. Out-of-state travel requests must be reviewed by the State for availability of funds and for appropriateness per Circular guidelines.

All travel expenses associated with Contractor's services are included in the Fee set forth in Paragraph 2 of this Contract and the budget attached hereto as Exhibit B. The State shall not separately reimburse Contractor for any travel expenses that may be incurred by Contractor during its performance under the Contract.

#### **45. Waiver of Rights**

No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Contractor's negligent performance of any of the services furnished under this Contract.

#### **46. Work Standards**

The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

#### **47. State Boilerplate Affirmation Clause**

I swear or affirm under the penalties of perjury that I have not altered, modified, changed or deleted the State's Boilerplate contract clauses (as contained in the 2011 OAG/ IDOA *Professional Services Contract Manual*) in any way except for the following clauses which are named below:

1. **Duties of Contractor** (Modified)
2. **Consideration** (Modified)
3. **Term** (Modified)
4. **Access to Records** (Modified)
5. **Assignment, Successors** (Modified)
6. **Audits** (Modified)
9. **Compliance with Laws** (Modified)
10. **Condition of Payment** (Modified)
11. **Confidentiality of State Information** (Modified and FERPA language added)
12. **Continuity of Services** (Modified)
15. **Disputes** (Modified)
18. **Employment Option** (Clause deleted by agreement of the Parties)
20. **Funding Cancellation** (Modified)
22. **Indemnification** (Modified)
25. **Insurance** (Modified)
26. **Key Person(s)** (Clause deleted by agreement of the Parties)
29. **Minority and Women's Business Enterprises Compliance** ((Deleted: not applicable (no subcontractors will be used))
31. **Notice to Parties** (Modified)
32. **Order of Precedence; Incorporation by Reference** (Modified)
33. **Ownership of Documents and Materials** (Modified)
34. **Payments** (Items B, invoicing, Item C, billing period added and Item D, budget transfer information added)
36. **Progress Reports** (Modified)
37. **Renewal** (Clause deleted by agreement of the Parties)
42. **Termination for Convenience** (Modified)

- 43. **Termination by Default** (Modified)
- 44. **Travel** (Modified)
- 48. **American Recovery and Reinvestment Act Funding** (Clause added)
- 49. **Expanded Criminal Background** (Clause added)

**48. American Recovery and Reinvestment Act Funding**

Funds supporting this Grant/Contract/Loan have been provided through the “American Recovery and Reinvestment Act of 2009” (“ARRA”) and are subject to the reporting and operational requirements of ARRA. The State makes no representations/guarantees about funding beyond the grant/contract period as this is being funded with one time dollars from the ARRA. The recipient of these funds is responsible for record keeping and reporting requirements under ARRA. Reports required pursuant to ARRA by Federal agencies and the State of Indiana shall include, but are not limited to, performance indicators of program deliverables, information on costs and progress against timelines. Additionally, each contract and grant subject to ARRA, including subcontractors and subgrantees, is subject to audit by appropriate federal or state entities. Failure to comply with the terms, conditions and requirements of ARRA may result in the recapture of the balance of funds awarded.

Reports referenced in the above paragraph that are required pursuant to ARRA by Federal agencies and the State of Indiana, and are to include, but not be limited to, performance indicators of program deliverables, information on costs and progress against timelines, shall be based upon the services the Contractor is to provide as described in the Scope of Work in Exhibit A.

**49. Expanded Criminal Background**

Contractor shall perform expanded criminal history checks as defined in IC 20-26-2-1.5. Such criminal history checks shall be done on all Contractor’s employees or individuals employed by its subcontractors that are likely to have direct, ongoing contact with children within the scope of the individual’s employment. Contractor further agrees to follow all federal, state and/or local laws, rules and regulations, as well as any and all policies adopted by any applicable school corporation, relating to conducting criminal history checks and as part of hiring of employees and contracting with contractors and subcontractors.

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**THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.**

**Non-Collusion and Acceptance**

The undersigned attests, subject to the penalties for perjury, that he/she is the Contractor, or that he/she is the properly authorized representative, agent, member or officer of the Contractor, that he/she has not, nor has any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract.

**In Witness Whereof**, Contractor and the State have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below hereby agree to the terms thereof.

**Edison Learning, Inc.:**

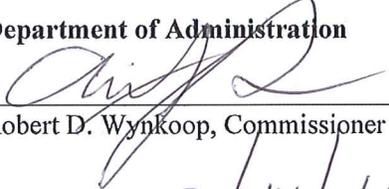
By:   
Printed Name: JEFF WAHL  
Title: President & CEO  
Date: 10/12/11

Attested By: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

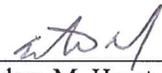
**Indiana Department of Education:**

By:  (for)  
Dr. Tony Bennett  
Superintendent of Public Instruction  
Date: October 13, 2011

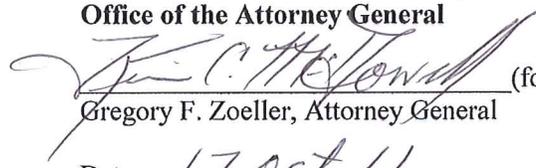
**Department of Administration**

  
Robert D. Wynkoop, Commissioner  
Date: 10/14/11

**State Budget Agency**

 (for)  
Adam M. Horst, Director  
Date: 10/14/11

**APPROVED as to Form and Legality:  
Office of the Attorney General**

 (for)  
Gregory F. Zoeller, Attorney General  
Date: 17 Oct 11

**Exhibit A: Scope of Work Agreement for Contractor – Pre-Implementation (Year 0)**

Overview

During Year 0, the Contractor will conduct an in-depth analysis of the systems and capacities of the following turnaround academy or academies: Theodore Roosevelt Career and Technical Academy. Specifically, this analysis will include a thorough examination of the turnaround academy’s assets and liabilities (e.g. leadership, human capital, organizational culture). During this initial phase and throughout the engagement, the Contractor will evaluate key structural, programmatic and human capital areas with a plan for achieving “early wins” while looking ahead toward long-term results. A “high-touch” presence in the school building and the community served will be required.

Based on the findings of the *assessment, human capital planning and evaluation* phases (described below), the Contractor will utilize a clear school transformation planning process to determine what specific and measurable, yet radical steps are required to catalyze quick, dramatic, and sustained improvement in student academic performance. These determinations must inform the development of ambitious yet attainable goals for the prospective five-year contract, focusing on both leading and lagging indicators of success. Benchmarks must also be developed for each annual goal by the Contractor and approved by the IDOE.

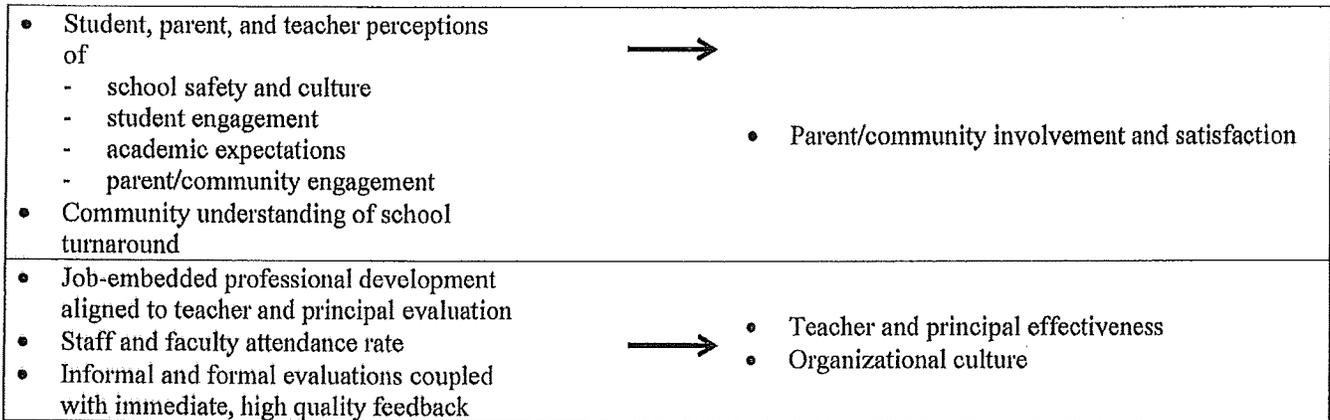
Phase 1: Assessment

The focus of assessment in Year 0 is to ensure the appropriate inputs (e.g., staff, funding, conditions) and activities (e.g. processes, tools, actions) are in place as a foundation for the radical steps that will be taken to rapidly transform the turnaround academy. To get at these, the Contractor will be expected to closely track both short (leading) and long (lagging) term indicators.

*Leading and Lagging Indicators*

A comprehensive assessment must track and monitor both leading and lagging indicators of success including, but not limited to, those listed below. Leading indicators demonstrate signs of growth or change in a given direction, provide an early read on progress towards long-term outcomes, and measure conditions that are prerequisite to the desired outcomes. Lagging indicators measure the success and consequences of activities that have already taken place, often expected in the long-term, and measure achievement of desired outcomes.

Leading Indicators		Lagging Indicators
<ul style="list-style-type: none"> <li>• Attendance/truancy rate</li> <li>• Number of disciplinary incidents including suspensions &amp; expulsions</li> <li>• Student stability (percent moving in and out of school during the year)</li> <li>• Average GPA</li> <li>• Course passage rate; number of students earning Ds &amp; Fs</li> <li>• Credit accumulation (number of under-aged and under-credited students)</li> </ul>	<p>→</p>	<ul style="list-style-type: none"> <li>• Non-waiver graduation rate</li> <li>• Drop-out rate</li> <li>• Percent of diploma types awarded (Honors vs. General)</li> <li>• College matriculation</li> <li>• Career readiness indicator</li> </ul>
<ul style="list-style-type: none"> <li>• Site visit &amp; quality review scores and analysis</li> </ul>	<p>→</p>	<ul style="list-style-type: none"> <li>• P.L. 221 status</li> <li>• ISTEP+ and ECA scores</li> </ul>
<ul style="list-style-type: none"> <li>• Number enrolled in AP/IB courses</li> <li>• Percent taking AP/IB tests</li> </ul>	<p>→</p>	<ul style="list-style-type: none"> <li>• Percent receiving a passing AP/IB score</li> </ul>



Input from key stakeholder groups is required to develop the most complete understanding of the school community possible. These groups, at a minimum, must include the following:

- Students
- Families
- Faith-Based community
- Community organizations
- Business partnerships
- Faculty and staff
- Administrators

The Contractor must utilize methods of data collection most appropriate for capturing the perspectives of the aforementioned stakeholder groups, including but not limited to the following:

- Surveys
- Observations
- Focus groups
- Meetings (e.g., with community groups, faculty, staff, or administrators)

Due consideration must also be given to data in the following areas:

- Demographic and Instructional data
  - o Enrollment by grade
  - o Race/ethnicity
  - o Gender
  - o Percent of English language learners
  - o Percent of special education students
  - o Percent of gifted and talented students
  - o Percent of students qualifying for Free and Reduced Lunch
  - o Title I status
  - o Percent of potential first-generation college students
  - o Student-to-teacher ratio
  - o Average class size
  - o Student-to support staff ratio
- Community Involvement data

- List and describe community organizations providing services
- Matrix of services, stewardship, and support provided by community organizations
- Facilities and Resources data
  - Safety and cleanliness of school facilities
  - Safety and availability of school transportation
  - Accuracy of budget projections
  - Ratio of students and staff to computers
  - Internet/network availability

The Contractor’s ability to ascertain the accuracy of certain data, including but limited to a school’s budget projections, for which it must necessarily rely on the input of stakeholders is conditioned upon such data being made available to the Contractor.

*Deliverable:* On or before December 30, 2011, the Contractor must submit to IDOE’s Office of School Improvement and Turnaround a comprehensive assessment plan (“Phase 1 Plan”) addressing each of the topics listed in the section above as well as how key stakeholders’ perspectives were solicited and included in the assessment. IDOE will review the plan for approval based on clarity and thoroughness, including solicitation of key stakeholders’ perspectives. If the plan is not approved, the Contractor will modify and revise the plan to IDOE’s reasonable satisfaction until the plan is approved.

Phase 2: Human-Capital Planning Phase

During the human-capital planning phase, the Contractor will describe its plans and timeline for making staffing decisions for the 2012-2013 school year. The plan must consist of the following for administrators, teachers, staff, and instructional aides/coaches:

<b>I. Recruitment and Evaluation</b>		
• Evaluation metrics and protocol	• Recruitment strategies	• Completion date
<b>II. Implementation</b>		
• Identify and recruit great school leaders and teachers	• Evaluate current human capital and applicants	• Completion date
<b>III. Threshold</b>		
• Recommend existing teachers that should remain on staff		• Completion date

*Deliverable:* On or before December 30, 2011, the Contractor will deliver to IDOE’s Office of School Improvement and Turnaround a comprehensive human capital plan (“Phase 2 Plan”) providing a detailed strategy and timeline for the three phases described above (recruitment and evaluation, implementation, and threshold). This plan will be reviewed for approval based on the demonstration of best practices for human capital recruitment and evaluation. If the plan is not approved, the Contractor will modify and revise the plan to IDOE’s reasonable satisfaction until the plan is approved.

Phase 3: Evaluation

During the evaluation phase, the Contractor shall also, to the extent the Contractor deems such input to be relevant and practicable, solicit input from key stakeholder groups to acquire the most complete understanding of the school community possible. These groups, at a minimum, must include the following:

- Students
- Families

- Faith-based community
- Community organizations
- Business partnerships
- Faculty and staff
- Administrators

The Contractor must utilize methods of data collection most appropriate for capturing the perspectives of the stakeholder groups listed above, including but not limited to the following:

- Surveys
- Observations
- Focus groups
- Meetings (e.g., with community groups, faculty, staff, or administrators)

The evaluation phase must encompass, at a minimum, the following areas:

Building Services			
Custodial	Food Service	Transportation	Building Inventory

Outreach and Engagement Strategies	
Business and Community Outreach and Engagement Strategies	Parent Outreach and Engagement Strategies

Student Services		
Student Rules and Regulations	Counseling and Guidance Program	Extra Curricular Activities (e.g., academic, athletic, enrichment)
Wrap-Around Services	Data Management	Technology
School Safety and Security	Special Education	

Academic Focus		
Curriculum	Assessment	Credit-Recovery Services
Accelerated Learning Opportunities	Vocational Programs	Adult Education
Dual-Credit Programs	Professional Development	

*Deliverable:* On or before January 31, 2012, the Contractor must deliver to IDOE's Office of School Improvement and Turnaround a thorough evaluation ("Phase 3 Plan"). The evaluation will be reviewed for approval to ensure it thoroughly addresses all required components, paying particular attention to yearly goals and within-year benchmarks. If the evaluation is not approved, the Contractor will modify and revise the evaluation to IDOE's reasonable satisfaction until the plan is approved.

**Phase 4: Planning and Goal Setting**

Informed by findings from the assessment, human capital, and evaluation phases, the Contractor will create a school turnaround plan as defined below. The scope of work does not include implementation of the plan. This plan must consist, at a minimum, of the following core content areas and required appendices:

*Core Content*

- School Vision and Mission Statement
- School Governance and Management Structure (roles and responsibilities)
- Innovations (substantive modifications/additions)
- Learning Environment and School Culture (classroom expectations, staff expectations, code of conduct, discipline policy)
- Curriculum and Instruction (core curriculum, instructional practices and expectations)
- Student Assessment (formative and summative assessments, pre-/post-tests)
- Use of Data (school-wide data dashboard, data-driven instruction, benchmarks)
- Leadership Structure and Staffing Plan (teacher and school leader evaluation, roles and responsibilities)
- Teacher Contract
- Job-Embedded Professional Development (content, delivery, goals)
- Student Support (wrap-around service, before/after school)
- Family and Community Involvement (engagement plan and strategies)
- Budget
- Goals (annual, within-year benchmarks, leading and lagging indicators)

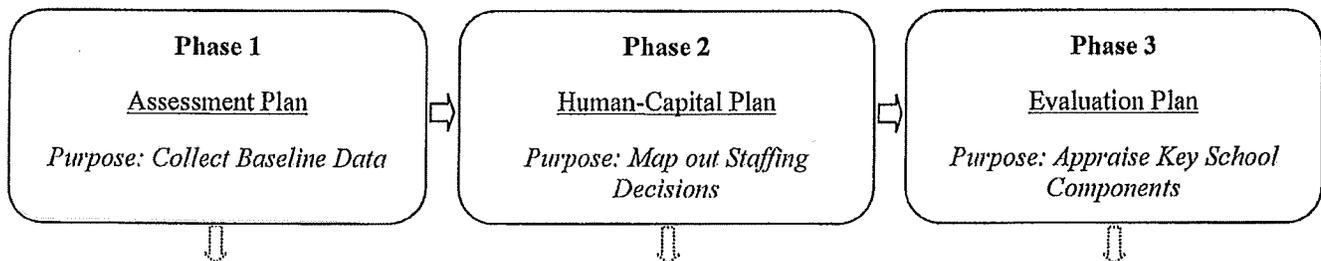
*Appendices Required*

- School Calendar
- Sample Student Schedule
- Sample Teacher Schedule
- English and Language Arts Scope and Sequence
- Math Scope and Sequence
- Science Scope and Sequence
- Social Studies Scope and Sequence
- Assessment Plan
- Professional Development Plan and Calendar (content, plans for differentiation, goals, calendar)

*Deliverable:* Following the submission and approval of the evaluation (“Phase 3 Plan”), the Contractor will provide an updated draft of the school turnaround plan every thirty (30) days until the final turnaround plan (“Phase 4 Plan”) is submitted. On or before May 30, 2012, the Contractor shall submit to IDOE’s Office of School Improvement and Turnaround the final turnaround plan. This plan will be reviewed for approval to ensure it thoroughly addresses all required components, paying particular attention to the yearly goals and within-year benchmarks. If the plan is not approved, the Contractor will modify and revise the plan to IDOE’s reasonable satisfaction until the plan is approved.

Summary

During the observation year, the Contractor will solicit input from key stakeholder groups outlined above in order to produce the deliverables listed below. The first three deliverables (i.e., assessment plan, human-capital plan, and evaluation plan) will provide the Contractor with a thorough, substantive analysis of the school. This comprehensive analysis will in turn profoundly inform the development of the fourth and final deliverable, the school turnaround plan.



**Phase 4**

School Turnaround Plan

*Purpose: Informed by the assessment, human-capital, and evaluation plans, develop a comprehensive school turnaround plan including annual goals aligned to leading and lagging indicators*

# Exhibit B

A. BUDGET FOR 2011-2012														
Account Number	Expenditure Account	110		120		211-290	211-290	311-319	440	510-593	611-689	710-748	910	Line Totals
		Cert	Salary	Noncert	Noncert									
11000	Instruction													\$0.00
20000	Support Services- Student							\$390,547.40		\$38,059.60				\$428,607.00
22100	Improvement of Instruction (Professional development)*							\$108,107.70		\$30,713.30				-\$138,821.00
25191	Refund of Revenue													\$0.00
26400	Operation and Maintenance													\$0.00
27000	Transportation													\$0.00
33000	Community Service Operations							\$223,003.00		\$59,269.00				\$0.00
60100	Transfers (interfund)													\$282,372.00
	Column Totals	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$721,658.10	\$0.00	\$128,341.90	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL INSTITUTION COST													\$850,000.00	

General Supplies	Property: Equipment/Tech	B. ITEMIZE and EXPLAIN
		<p><b>Professional Services</b></p> <p>Includes one dedicated 'Director of Turnaround Services' to manage and oversee the scope of work for Support Services - Student; Improvement of Instruction; and Community Service Operations. Responsibilities include: Execute project work plans and revise as appropriate to meet changing needs and requirements; Identify resources needed and assign individual responsibilities; Manage day-to-day operational aspects of a project and scope; Effectively apply Edison Learning methodology and enforce project standards; Minimize exposure and risk on projects, including developing contingency plans; Constantly monitor and report on progress of the project(s) to all stakeholders; Present reports defining project progress, problems and solutions; Establish and maintain a positive relationship with the Gary Roosevelt High School staff and the influencing stakeholders. In addition, the fee anticipates 50 employees who will dedicate a percentage of time to the completion of their assigned scope of work. These include 15 employees for Community Service Operations; 5 employees for Improvement of Instruction; and 30 employees for Support Services - Student.</p> <p><b>Other Purchase Services</b></p> <p>These amounts include the cost of travel expenses for the 50 different employees completing the scope of work for Support Services - Student; Improvement of Instruction; and Community Service Operations. The total amount is estimated as follows: Airfare \$48,089; Hotel \$39,469; Ground Transportation \$13,156; Food and Misc Expenses \$27,628.</p>

**B. Itemize and Explain – Professional Services (continued)**

Expenditure Account	Quantity of Employees <sup>1</sup>	Specific Responsibilities Pertaining to Phase 1: Assessment	Specific Responsibilities Pertaining to Phase 2: Human Capital Planning	Specific Responsibilities Pertaining to Phase 3: Evaluation	Specific Responsibilities Pertaining to Phase 4: School Turnaround Plan
Support Services – Student	30	<ul style="list-style-type: none"> <li>Collect demographic and instructional data, assess data, and develop assessment plan to be administered in phase 3</li> <li>Develop assessment plan to evaluate technology hardware and software inventory, facility infrastructure, technology contracted services, educational technology program &amp; professional development, technology capital and repair &amp; maintenance budgets in phase 3</li> <li>Obtain budget information for existing contracted services and develop evaluation plan for services currently utilized in the school</li> <li>Develop assessment plan for facilities and resources to be administered in phase 3</li> <li>Collect all budget and financial data</li> <li>Research all Federal, State, and local rules and regulations</li> <li>Research any collective bargaining agreements</li> <li>Collect individual reports from functional leaders; consolidate, review, and edit individual reports; circulate consolidated report for internal review; incorporate edits and finalize IDOE submission; submit to IDOE, modify</li> </ul>	<ul style="list-style-type: none"> <li>Conduct Edison Learning's Collaborative Quality Analysis for Curriculum, Instruction and Assessment, Student Services, and Professional Development</li> <li>Assess and evaluate technology hardware and software inventory, Facility Infrastructure, Technology Contracted Services, Educational Technology Program &amp; Professional Development, Technology Capital and Repair &amp; Maintenance Budgets</li> <li>Conduct evaluation of current Student Information System and finalize student information system evaluation report including recommendations for improvement</li> <li>Evaluate facility door hardware and security system</li> <li>Review deterrents, detection, delay and response systems and practices, visitor management practices, student monitoring practices, student discipline records, code and ADA compliance, facility use by outside</li> </ul>	<ul style="list-style-type: none"> <li>Create School Turnaround Plan to include the following: Annual goals and within-year benchmarks; leadership structure and staffing plan, school vision and mission; school organization and management structure; curriculum and instructional expectations; learning environment and school culture expectations; student assessment plan and use of data for continuous improvement; plans for student support, professional development plan; technology plan; student information plan; materials management plan; contracted services plan; and budget.</li> <li>Appendices to include: school calendar, sample student schedule, sample teacher schedule, scope and sequence for ELA, Math, Science and Social Studies.</li> </ul>	

<sup>1</sup> The number of employees dedicated to each expenditure account and each employee's specific responsibilities are subject to change based on the Contractor's needs during the Pre-Implementation/Observation year (Year 0).

Improvement of Instruction	5	<p>submission if needed and resubmit to IDOE</p>	<ul style="list-style-type: none"> <li>• Evaluate current organizational structure</li> <li>• Collect all relevant data</li> <li>• Determine recommended model and evaluation process</li> <li>• Determine costs for comprehensive human capital plan</li> <li>• Collect individual reports from functional leaders; consolidate, review, and</li> </ul>	<ul style="list-style-type: none"> <li>• entities, transportation program, evaluate security personnel, review CAP index crime report of community, review results and associated recommendations for changes report, and finalize safety and security evaluation report</li> <li>• Formulate materials management inventory plan and conduct curriculum and furniture inventory</li> <li>• Finalize materials management evaluation</li> <li>• Conduct site visit to meet with service area managers and interview transportation staff, facilities staff, food service staff</li> <li>• Identify SpEd related service needs and potential sources for SpEd related services</li> <li>• Identify potential sources for substitutes for teachers and professional services</li> <li>• Collect individual reports from functional leaders; consolidate, review, and edit individual reports; circulate consolidated report for internal review; incorporate edits and finalize IDOE submission; submit to IDOE, modify submission if needed and resubmit to IDOE</li> </ul>	<ul style="list-style-type: none"> <li>• Create School Turnaround Plan to include the following: Human Resources Plan and draft teacher contract</li> <li>• Collect individual reports from functional leaders; consolidate, review, and edit individual reports; circulate consolidated report for internal review; incorporate edits</li> </ul>
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	15	<p>Community Service Operations</p>	<ul style="list-style-type: none"> <li>Collect community involvement data, assess data, and develop assessment plan to be administered in phase 3</li> <li>Collect individual reports from functional leaders; consolidate, review, and edit individual reports; circulate consolidated report for internal review; incorporate edits and finalize IDOE submission; submit to IDOE; modify submission if needed and resubmit to IDOE</li> </ul>	<ul style="list-style-type: none"> <li>Develop and administer community leader and business leader focus group surveys</li> <li>Conduct focus group meetings for students, teachers, parents, and community members</li> <li>Collect and analyze all data from surveys and meetings/focus groups</li> <li>Collect individual reports from functional leaders; consolidate, review, and edit individual reports; circulate consolidated report for internal review; incorporate edits and finalize IDOE submission; submit to IDOE; modify submission if needed and resubmit to IDOE</li> </ul>	<p>edit individual reports; circulate consolidated report for internal review; incorporate edits and finalize IDOE submission; submit to IDOE; modify submission if needed and resubmit to IDOE</p>	<p>and finalize IDOE submission; submit to IDOE; modify submission if needed and resubmit to IDOE</p>
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