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Virginia M. Barry, Ph.D.  
Commissioner of Education  
Tel. 603-271-3144

Paul Leather  
Deputy Commissioner of Education  
Tel. 603-271-3801

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
101 Pleasant Street  
Concord, N.H. 03301  
FAX 603-271-1953  
Citizens Services Line 1-800-339-9900

December 6, 2016

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the Department of Education to amend on a **sole source** basis a contract with SunGard Public Sector, Ltd., Lake Mary, Florida (Vendor Code #165862), by increasing the price limitation by \$50,000, from \$2,615,633 to \$ 2,665,633; and extending the end date from June 30, 2017 to June 30, 2018; to purchase licensing for the PerformancePLUS suite, effective upon Governor and Council approval. Contract was originally approved on February 7, 2007, Item #98, amended on July 16, 2008, Item #74, amended on June 17, 2009, Item #266, amended on July 15, 2009, Item #131, amended on October 6, 2010, Item #69, and amended on June 20, 2012, Item #191. 100% Federal

Funds are anticipated to be available in the account titled, Assessment-Federal, upon the availability and continued appropriation of funds in the future operating budget as follows:

	<u>FY18</u>
06-056-056-562010-25340000-102-500731 Contracts for Program Services	\$50,000

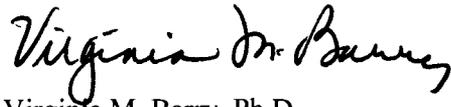
**EXPLANATION**

This amendment request is on a **sole source** basis due to SunGard owning the intellectual property for PerformancePLUS and no other vendor is allowed to work with the source code to perform software maintenance tasks; the Performance Plus application is widely used by New Hampshire schools and still has a useful lifespan of 5 years or more; and changing to a new system now, is estimated to cost five to ten times more than renewing a maintenance agreement and will involve retraining personnel throughout NH schools and in the Department.

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
Page 2

PerformancePLUS is a web-based suite of products used to enhance the academic, physical, social and personal growth of each child by providing customized, high quality information and educational resources to students, parents, educators, policy makers, citizens and the New Hampshire Department of Education. The PerformancePLUS suite includes PerformanceTRACKER for tracking student performance, CurriculumCONNECTOR for comprehensive, standards-based curriculum development and review, and AssessmentBUILDER, for building and scoring local benchmarks. These tools work together to enhance instruction and increase both individual student achievement as well as overall district achievement.

Respectfully submitted,

A handwritten signature in black ink that reads "Virginia M. Barry". The signature is written in a cursive style with a large, prominent "V" at the beginning.

Virginia M. Barry, Ph.D.  
Commissioner of Education



**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF INFORMATION TECHNOLOGY**

27 Hazen Dr., Concord, NH 03301  
Fax: 603-271-1516 TDD Access: 1-800-735-2964  
[www.nh.gov/doit](http://www.nh.gov/doit)

**Denis Goulet**  
*Commissioner*

December 6, 2016

Virginia M. Barry, Ph.D.  
Commissioner  
Department of Education  
State of New Hampshire  
101 Pleasant Street  
Concord NH 03301

Dear Commissioner Barry:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to amend existing contract 2007-008: DOE Follow the Child Assistance Center, with SunGard Public Sector, Inc., as described below and referenced as DoIT No. 2007-008F.

This amendment request is for a one year, sole-source contract extension with SunGard Public Sector, Ltd. to purchase statewide licensing for the PerformancePLUS suite. PerformancePLUS is a web-based suite of products used to enhance the academic, physical, social and personal growth of each child by providing customized, high quality information and educational resources to students, parents, educators, policy makers, citizens and the New Hampshire Department of Education.

The amount of this amendment is \$50,000, for a total contract amount not to exceed \$2,665,633. The amendment extends the contract expiration date from June 30, 2017 to June 30, 2018.

A copy of this letter should accompany the Department of Education's submission to Governor and Executive Council for approval.

Sincerely,

Denis Goulet

DG/mh  
2007-008F

**AMENDMENT TO  
PROFESSIONAL SERVICES CONTRACT**

Now come the New Hampshire Department of Education, Commissioner’s Office, hereinafter “the Agency,” and SunGard Public Sector LLC, an FIS Global Company, formerly known as SunGard Public Sector Inc., Lake Mary, Florida, hereinafter “the Contractor”, and pursuant to an agreement between the parties that was approved by Governor and Council on February 7, 2007 (item #98), amended on July 16, 2008 (item #74), amended June 17, 2009, (item #266), amended on July 15, 2009 (item #131), amended on October 6, 2010, (item #69) and amended on June 20, 2012 (Item #191) (“Contract”) hereby agree to modify same as follows:

1. Modify General Provision 1.6, Completion Date, to read as follows: 6/30/2018
2. Modify General Provision 1.8, Price Limitation, to read as follows: \$2,665,633.
3. Modify Exhibit B, Estimated Budget, by replacing Table 2 and Table 3 with the following:

<b>Table 2 – Detailed License Deliverables and Pricing (Including hosting* and maintenance)</b>			
Description	Type of License	Quantity	7/1/2017 - 6/30/2018
<b>PerformancePLUS Infrastructure</b>	Statewide	NH DOE Staff Access	\$50,000
<b>Performance Tracker &amp; Assessment Builder</b>	NH DOE	NH DOE Staff Access	\$0 Included in fee above
<b>Local School District Software &amp; Hosting (optional and available by local district or state)**</b>			
<b>Performance Tracker &amp; Assessment Builder</b>	LEA	Per Student (minimum \$500 per District)	\$1.50
<b>Assessment Builder</b>	LEA	Per Student (minimum \$500 per District)	\$1.00
<b>On-line Assessment (OLA)</b>	LEA	Per Student (minimum \$250 per District)	\$0.50
<b>Individual Learning Plan (ILP)</b>	LEA	Per Student (minimum \$250 per District)	\$0.50
<b>Curriculum Connector</b>	LEA	Per Student (minimum \$500 per District)	\$1.50

\*All data will reside with Contractor.

\*\*As part of the PerformancePLUS Infrastructure, and consistent with the original contract, the NH DOE will provide the assessment and demographic data. Local school districts will be able to purchase access to the PerformancePLUS suite of tools as described.

Agency acknowledges and agrees that Contractor will provide school districts in the state of New Hampshire the right to access the Agency's instance of the PerformancePLUS software application for certain fees.

Notwithstanding anything in the Agreement, as of July 1, 2017, in consideration of the software as a service Fee, Contractor shall provide the infrastructure for PerformancePLUS system hosted by Contractor. Contractor will not provide any end user training or any modules to end-users under this Agreement.

<b>Position Title</b>	<b>7/1/2017 – 6/20/2018</b>
PerformancePLUS Project Manager	\$214
Education Specialist	\$214
Data Entry	\$143
Trainer	\$214
Customer Programming	\$100

4. Modify Limitation on Price by increasing the total budget from \$2,615,633.00 by \$50,000 such that the maximum amount to be expended during the duration of the Contract ending June 30, 2018, is \$2,665,633.
5. Section 4 in Exhibit K of the Contract is modified as follows: In Section 4.1 Escrow Associates, LLC identified in line 1 is replaced with Iron Mountain Information Management LLC.
6. All other provisions of the Contract shall remain in effect.
7. This modification shall be effective on July 1, 2017 or the date of Governor and Council approval, whichever is later.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK ]

This modification of the existing Contract is hereby incorporated by reference to the existing Contract by the parties and must be attached to the said Contract.

IN WITNESS WHEREOF, the parties, hereto have set their hands as of the day and year first above written.

THE STATE OF NEW HAMPSHIRE  
Department of Education  
Division of Instruction

By: Virginia Dr. Bennett  
Signature Title Commissioner of Education

Date: 12/6/17

SunGard Public Sector, LLC.

By: [Signature]  
Adam R. Eberle, Chief Commercial Officer

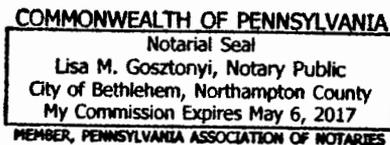
Date: December 6, 2016

STATE OF Pennsylvania

County of Northampton

On this the 6<sup>th</sup> day of December, 2016 before me, Adam R. Eberle, the undersigned officer, personally appeared before me who acknowledged himself/herself to be the Chief Commercial Officer of SunGard Public Sector, LLC, a corporation, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as Chief Commercial Officer.

In witness whereof I hereto set my hand and official seal.



[Signature]  
Notary Public LISA M. GOSZTANYI

Approved as to form, substance and execution by the Attorney General this 14<sup>th</sup> day of December, 2016.

Division of Attorney General Office

By: 

Approved by the Governor and Council this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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

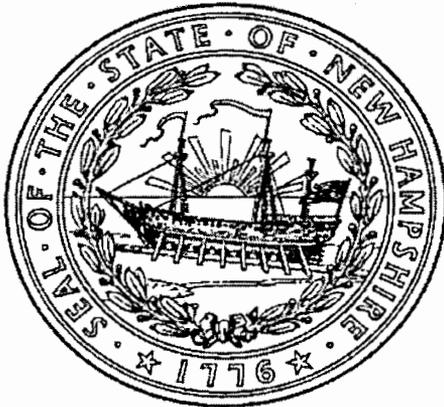
# State of New Hampshire

## Department of State

### CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that SUNGARD PUBLIC SECTOR LLC is a Florida Limited Liability Company registered to transact business in New Hampshire on March 31, 2009. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 611089



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 5th day of December A.D. 2016.

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State



**CERTIFICATE OF SECRETARY**

THE UNDERSIGNED, Debra H. Burgess, Assistant Secretary of **SUNGARD PUBLIC SECTOR LLC**, a limited liability company organized and existing under the laws of the State of Florida (the "Company"), does hereby certify that Adam Eberle is a duly appointed Authorized Signer of the Company effective as of February 1, 2016, and that by virtue of such position is authorized to enter into, negotiate, execute and deliver any and all contracts, amendments, bids, proposals, instruments, documents and other agreements between the Company and its customers or in support of a contract with a customer, in the name of, and on behalf of, the Company, for client agreements up to a maximum value of \$5 million USD. Mr. Eberle was an authorized signer on December 6, 2016.

IN WITNESS WHEREOF, the undersigned has caused this Certificate of Secretary to be duly executed this 7<sup>th</sup> day of December, 2016.

  
Debra H. Burgess, Assistant Secretary

STATE OF FLORIDA            )  
COUNTY OF DUVAL         )

Sworn and subscribed to before me, Julie A. Rhoden, a notary public in the State of Florida, on this 7<sup>th</sup> day of December, 2016, by Debra H. Burgess, who is personally known to me.

  
Notary Public

My Commission Expires: July 15, 2019

SEAL:



Virginia M. Barry, Ph.D.  
Commissioner of Education  
Tel. 603-271-3144



Paul Leather  
Deputy Commissioner of Education  
Tel. 603-271-3801

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
101 Pleasant Street  
Concord, N.H. 03301  
FAX 603-271-1953  
Citizens Services Line 1-800-339-9900

FOR INFORMATION ONLY:

G & C Letter # \_\_\_\_\_  
G & C Date 6-20-12  
APPROVED: \_\_\_\_\_  
Page # \_\_\_\_\_  
Item # 141

May 2, 2012

His Excellency, Governor John Lynch  
And the Honorable Executive Council  
State House  
Concord, New Hampshire 03301

#### REQUESTED ACTION

Authorize the Department of Education to amend a contract with SunGard Public Sector, Ltd., Lake Mary, Florida (Vendor Code #165862), originally approved on February 7, 2007, item #98, amended on July 16, 2008, item #74, amended on June 17, 2009, item #266, amended on July 15, 2009, item #131, and amended on October 6, 2010, item #69, in an additional amount not to exceed \$1,375,000, a total contract cost not to exceed \$2,615,633 from July 1, 2012 or the date of Governor and Council approval, whichever is later, through June 30, 2017, to purchase statewide licensing for the PerformancePlus suite as priced in Exhibit B. Source of funding: 100% Federal

Funds are available, and are anticipated to be available with the passage of the biennial budgets, for FY2013, FY 2014, FY 2015, FY 2016 and FY2017 in the following accounts:

<u>SFY</u>	<u>Funding</u>	<u>Amounts</u>
2013	010-056-61560000-046-500464	\$ 285,000
2014	010-056-61560000-046-500464	\$ 310,000
2015	010-056-61560000-046-500464	\$ 260,000
2016	010-056-61560000-046-500464	\$ 260,000
2017	010-056-61560000-046-500464	\$ 260,000

#### EXPLANATION

This amendment request is for a sole-source contract extension with SunGard Public Sector, Ltd. The justification for a sole-source award for the PerformancePlus application is as follows:

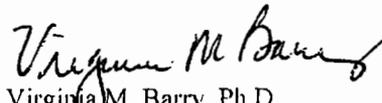
- SunGard owns the intellectual property for PerformancePlus and no other vendor is allowed to work with the source code to perform software maintenance tasks;
- The Performance Plus application is widely used by New Hampshire schools and still has a useful lifespan of 5 years or more.

His Excellency, Governor John Lynch  
And the Honorable Executive Council  
Page 2

- Changing to a new system now, is estimated to cost five to ten times more than renewing a maintenance agreement and will involve retraining personnel throughout NH schools and in the Department.

PerformancePlus is a web-based suite of products used to enhance the academic, physical, social and personal growth of each child by providing customized, high quality information and educational resources to students, parents, educators, policy makers, citizens and the New Hampshire Department of Education. The PerformancePLUS suite includes PerformanceTRACKER for tracking student performance, CurriculumCONNECTOR for comprehensive, standards-based curriculum development and review, and AssessmentBUILDER, for building and scoring local benchmarks. These tools work together to enhance instruction and increase both individual student achievement as well as overall district achievement.

Respectfully submitted,

  
Virginia M. Barry, Ph.D.  
Commissioner of Education

STATE OF Pennsylvania

County of Northampton

On this the 9 day of May, 2012 before me, Deborah Crouthamel, the undersigned officer, personally appeared David Maden who acknowledged himself/herself to be the VP of Finance of SunGard Public Sector, Ltd., a corporation, and that David Maden as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as SunGard Public Sector, Ltd.

In witness whereof I hereto set my hand and official seal.

COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Deborah L. Crouthamel, Notary Public  
City of Bethlehem, Northampton County  
My Commission Expires June 23, 2012

Deborah L. Crouthamel  
Notary Public/Justice of the Peace

Approved as to form, substance and execution by the Attorney General this 4th day of June, 2012.

Division of Attorney General Office

By: Alice M. Co

Approved by the Governor and Council this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

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



Virginia M. Barry, Ph.D.  
 Commissioner of Education  
 Tel. 603-271-3144

Paul Leather  
 Deputy Commissioner of Education  
 Tel. 603-271-3801

STATE OF NEW HAMPSHIRE  
 DEPARTMENT OF EDUCATION  
 101 Pleasant Street  
 Concord, N.H. 03301  
 FAX 603-271-1953  
 Citizens Services Line 1-800-339-9900

May 2, 2012

AMENDMENT TO  
 PROFESSIONAL SERVICES CONTRACT

Now come the New Hampshire Department of Education, Commissioner's Office, hereinafter "the Agency," and SunGard Public Sector, Ltd., Lake Mary, Florida, hereinafter "the Contractor", and pursuant to an agreement between the parties that was approved by Governor and Council on February 7, 2007 (item #98), amended on July 16, 2008 (item #74), amended June 17, 2009, (item #266), amended on July 15, 2009 (item #131) and amended on October 6, 2010, (item #69) hereby agree to modify same as follows:

1. Modify General Provision 1.6, Completion Date, to read as follows: 6/30/2017
2. Modify General Provision 1.8, Price Limitation, to read as follows: \$2,615,633.
3. Modify Exhibit B, Estimated Budget, by adding the following:

Table 2 – Detailed License Deliverables and Pricing (Including hosting, support and maintenance)							
Description	Type of License	Quantity	7/1/2012 through 6/30/2013	7/1/2013 through 6/30/2014	7/1/2014 through 6/30/2015	7/1/2015 through 6/30/2016	7/1/2016 through 6/30/2017
Performance Tracker	Statewide	Unlimited Students	\$130,000	\$130,000	\$130,000	\$130,000	\$130,000
Assessment Builder	Statewide	Unlimited Students	\$90,000	\$90,000	\$90,000	\$90,000	\$90,000
ILP	Statewide	Unlimited Students	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
OLA*	server and OLA license only		\$25,000	\$50,000			
Local School District Software & Hosting (optional and available by local district or state) (per student)							
Assessment Builder &	Per Student	Up to 10,000	\$1.75	\$1.75	\$1.75	\$1.75	\$1.75

District Performance Tracker		Students					
		10,001 to 50,000 Students	\$1.41	\$1.41	\$1.41	\$1.41	\$1.41
		50,001 to 100,000 Students	\$1.18	\$1.18	\$1.18	\$1.18	\$1.18
		More than 100,000 Students	\$0.90	\$0.90	\$0.90	\$0.90	\$0.90
Curriculum Connector	Per Student	up to 10,000 students	\$2.50	\$2.50	\$2.50	\$2.50	\$2.50
		10,001 to 50,000 Students	\$2.20	\$2.20	\$2.20	\$2.20	\$2.20
		50,001 to 100,000 Students	\$1.90	\$1.90	\$1.90	\$1.90	\$1.90
		More than 100,000 Students	\$1.60	\$1.60	\$1.60	\$1.60	\$1.60
Curriculum Connector	Statewide option	up to 10,000 students	\$22,500	\$22,500	\$22,500	\$22,500	\$22,500
		up to 25,000 Students	\$50,000	\$50,000	\$50,000	\$50,000	\$50,000
		up to 40,000 Students	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000
		Up to 60,000 Students	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000
		More than 60,000 Students	\$130,000	\$130,000	\$130,000	\$130,000	\$130,000

\*Servers will reside at NHDOE location. MS SQL licensing is not included. Programmatic changes are needed to have OLA programs running against the New Hampshire single database version of PerformancePLUS

Table 3 – PerformancePLUS Rates Pricing Worksheet (Hourly Rates)					
Position Title	SFY 2013 7/1/2012-	SFY 2014 7/1/2013-	SFY 2015 7/1/2014-	SFY 2016 7/1/2015-	SFY 2017 7/1/2016-

	6/30/2013	6/30/2014	6/30/2015	6/30/2016	6/30/2017
PerformancePLUS Project Manager	214	214	214	214	214
Education Specialist	214	214	214	214	214
Data Entry	143	143	143	143	143
Trainer	214	214	214	214	214
Customer Programming	100	100	100	100	100

3. Modify Limitation on Price by increasing the total budget from \$1,240,633.00 by \$1,375,000 such that the maximum amount to be expended during the duration of the contract ending June 30, 2017, is \$2,615,633.
4. All other provisions of the contract shall remain in effect.
5. This modification shall be effective on the date of approval by Governor and Council.

This modification of an existing agreement is hereby incorporated by reference to the existing agreement by the parties and must be attached to the said agreement.

IN WITNESS WHEREOF, the parties, hereto have set their hands as of the day and year first above written.

THE STATE OF NEW HAMPSHIRE  
Department of Education  
Division of Instruction

By: Virginia D. Barry  
Commissioner of Education

Date: 5/15/12

SunGard Public Sector, Ltd.

By: Paul Madh V. Finance  
Signature, Title

Date: 5/9/12



STATE OF NEW HAMPSHIRE  
DEPARTMENT OF INFORMATION TECHNOLOGY  
27 Hazen Dr., Concord, NH 03301  
Fax: 603-271-1516 TDD Access: 1-800-735-2964  
www.nh.gov/doi

S. William Rogers  
Commissioner

May 17, 2012

Dr. Virginia M. Barry, Commissioner  
State of New Hampshire  
Department of Education  
101 Pleasant Street  
Concord NH 03301

Dear Commissioner Barry:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to amend existing contract 2007-008: DOE Follow the Child Assistance Center, with SunGard Public Sector, Inc., formally Performanc Pathways, as described below and referenced as OIT No. 2007-008D.

The Department of Education requests approval to amend the contract for the system to collect and distribute information on the academic, physical, social, and personal growth of school children as required by the federal Follow the Child Program. The amendment extends the contract expiration date and will be effective upon Governor and Executive Council approval through July 31, 2017. The amount of this amendment is \$1,375,000, for a total contract amount not to exceed \$2,615,633. This project is set forth in the Department of Education's Information Technology Plan, dated October 18, 2005, Project No. 2006-07-111.

A copy of this letter should accompany the Department of Education's submission to Governor and Executive Council for approval.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Rogers".

S. William Rogers

SWR/ltm  
2007-008

State of New Hampshire  
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that SunGard Public Sector Inc., a(n) Florida corporation, is authorized to transact business in New Hampshire and qualified on March 31, 2009. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto  
set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 16<sup>th</sup> day of April, A.D. 2012

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State

SUNGARD PUBLIC SECTOR INC.

CERTIFICATE OF SECRETARY

THE UNDERSIGNED, Leslie S. Brush, being the duly elected Secretary of SunGard Public Sector Inc., a corporation duly formed and validly existing under the laws of the State of Florida ("SunGard"), does hereby certify that David D. Madea is a duly elected Vice President, Finance - K-12 Education of the Corporation, and further that by virtue of such office he is fully authorized to enter into and execute any and all documents, agreements and/or instruments in the name of, and on behalf, of the Corporation.

WITNESS the due execution and delivery hereof on 15th day of May, 2012.

[CORPORATE SEAL]



Leslie S. Brush  
Leslie S. Brush, Secretary



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
04/30/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Marsh USA Inc. TWO LOGAN SQUARE PHILADELPHIA, PA 19103-2797 Attn: Philadelphia.Cert@marsh.com/ Fax - 212-948-0360  669365-SUNGA-GAWU-12-13	<b>CONTACT NAME:</b> _____	
	<b>PHONE (A/C, No, Ex):</b> _____	<b>FAX (A/C, No):</b> _____
<b>E-MAIL ADDRESS:</b> _____		
<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURER A:</b> Liberty Mutual Insurance Company		23043
<b>INSURER B:</b> National Union Fire Insurance Co		19445
<b>INSURER C:</b> Liberty Insurance Corporation		42404
<b>INSURER D:</b> _____		
<b>INSURER E:</b> _____		
<b>INSURER F:</b> _____		

**COVERAGES**      **CERTIFICATE NUMBER:** CLE-003815517-01      **REVISION NUMBER:** 5

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDITIONAL INSURER	SUBROGATION	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CONTRACTUAL LIABILITY  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				05/01/2012	05/01/2013	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 10,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS				05/01/2012	05/01/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ _____ BODILY INJURY (Per accident) \$ _____ PROPERTY DAMAGE (Per accident) \$ _____ COMP/COLLISION PPT \$ 1,500
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 25,000				05/01/2012	05/01/2013	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below				05/01/2012	05/01/2013	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

**CERTIFICATE HOLDER**      **CANCELLATION**

SUNGARD DATA SYSTEMS INC  
ITS COMPANIES & SUBSIDIARIES  
680 E. SWEDES FORD ROAD  
WAYNE, PA 19087

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE  
of Marsh USA Inc.

Manashi Mukherjee

*Manashi Mukherjee*

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AGENCY CUSTOMER ID: 669365

LOC #: Philadelphia



### ADDITIONAL REMARKS SCHEDULE

Page 2 of 2

AGENCY Marsh USA Inc.		NAMED INSURED SUNGARD DATA SYSTEMS INC. ITS COMPANIES AND SUBSIDIARIES 680 E SWEDES FORD ROAD WAYNE, PA 19087	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

#### ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,  
FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

Automobile Liability  
Policy Covers  
AUTO PHYSICAL DAMAGE : Y  
Limits  
COMP/COLLISION HIRED PPT, LT TRUCK, OTHER : 3,000

Virginia M. Barry, Ph.D.  
Commissioner of Education  
Tel 603-271-3144



Paul Leather  
Deputy Commissioner of Education  
Tel 603-271-3801

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
101 Pleasant Street  
Concord, N.H. 03301  
FAX 603-271-1953  
Citizens Services Line 1-800-339-9900

FOR INFORMATION ONLY

G & C Letter # \_\_\_\_\_  
G & C Date 10/16/10  
APPROVED: \_\_\_\_\_  
Page # 5  
Item # 69

July 27, 2010

His Excellency, Governor John Lynch  
And the Honorable Executive Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the Department of Education to amend a contract with SunGard Public Sector, Ltd., Lake Mary, Florida (Vendor Code #165862), originally approved on February 7, 2007, item #98, amended on July 16, 2008, item #74, amended on June 17, 2009, item #266, and amended on July 15, 2009, item #131, in an additional amount not to exceed \$90,000, a total contract cost not to exceed \$1,240,633 from July 1, 2010 or the date of Governor and Council approval, whichever is later, through July 31, 2011, to purchase a statewide license for Assessment Builder as priced in Exhibit B of the contract. Source of funding: 100% Federal

Funds are available from:

	FY 2011 Amount
Account #010-056-64220000-102-500731	\$90,000.00

**EXPLANATION**

The purpose of this amendment is to modify an item within an existing contract with SunGard Public Section, Ltd., effective February 7, 2007 until June 30, 2012. This amendment is for the purchase of a third year of a statewide license for Assessment Builder in the amount of \$90,000. Assessment Builder is part of a suite of products which will enhance the academic, physical, social and personal growth of each child by providing customized, high quality information and educational resources to students, parents, educators, policy makers, citizens and the New Hampshire Department of Education. This purchase will enable every public school in New Hampshire to gain access to the Assessment Builder module of the Performance Plus system

His Excellency, Governor John Lynch  
And the Honorable Executive Council  
Page 2

for the 2010 through 2011 school year. Schools also have access to the Performance Tracker module of this system as provided by the original five-year contract. By gaining access to Assessment Builder, schools will be able to incorporate multiple assessment results into the tools to better understand the growth and needs of their students. The Assessment Builder licensing option and pricing schedule is provided in the original Governor and Council contract.

Respectfully submitted,



Virginia M. Barry, Ph.D.  
Commissioner of Education

**AMENDMENT TO  
PROFESSIONAL SERVICES CONTRACT**

Now come the New Hampshire Department of Education, Commissioner's Office, hereinafter "the Agency," and SunGard Public Sector, Ltd., Lake Mary, Florida, hereinafter "the Contractor", and pursuant to an agreement between the parties that was approved by Governor and Council on February 7, 2007 (item#98), amended on July 16, (item #74), amended June 17, 2009, (item #266, and amended on July 15, 2009 (item #131) hereby agree to modify same as follows:

1. Modify General Provision 1.8, Price Limitation, to read as follows: \$1,240,633.00
2. Modify Exhibit B, Estimated Budget, by adding the following: Statewide license for Assessment Builder \$90,000.00 for the period of time from approval by Governor and Council through July 31, 2011.
3. Modify Limitation on Price by increasing the total budget from \$1,150,633.00 by \$90,000.00 such that the maximum amount to be expended during the duration of the contract ending June 30, 2012, is \$1,240,633.00.
4. All other provisions of the contract shall remain in effect.
5. This modification shall be effective on the date of approval by Governor and Council.

This modification of an existing agreement is hereby incorporated by reference to the existing agreement by the parties and must be attached to the said agreement.

IN WITNESS WHEREOF, the parties, hereto have set their hands as of the day and year first above written.

THE STATE OF NEW HAMPSHIRE  
Department of Education  
Division of Instruction

By: Virginia D. Barnes  
Commissioner of Education

Date: 8/24/10

SunGard Public Sector, Ltd.

By: [Signature] VP, Finance  
Signature, Title

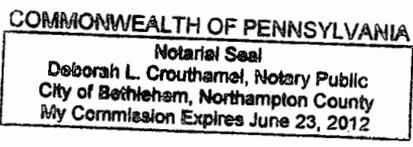
Date: August 12, 2010

STATE OF Pennsylvania

County of Northampton

On this the 12 day of August, 2010 before me, Deborah L. Crouthamel, the undersigned officer, personally appeared Dave Madec who acknowledged himself/herself to be the VP Finance of SunGard Public Sector, Ltd., a corporation, and that Dave Madec, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as SunGard Public Sector, Ltd.

In witness whereof I hereto set my hand and official seal.



Deborah L. Crouthamel  
Notary Public/Justice of the Peace

Approved as to form, substance and execution by the Attorney General this 9th day of Sept, 2010.

Division of Attorney General Office

By: [Signature]

Approved by the Governor and Council this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

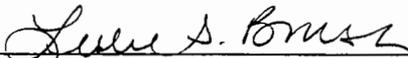
By: \_\_\_\_\_

CERTIFICATE OF SECRETARY

THE UNDERSIGNED, Leslie S. Brush, Secretary of **SUNGARD PUBLIC SECTOR INC.**, a corporation organized and existing under the laws to the State of Florida (the "Corporation"), does hereby certify that David D. Madea is a duly elected and acting Vice President, Finance of the Corporation, and that by virtue of such office, he is duly authorized and empowered to enter into and execute instruments and documents in the name of, and on behalf of, the Corporation.

IN WITNESS WHEREOF, the undersigned has caused this Certificate of Secretary to be duly executed and the corporate seal to be hereunto affixed this 7th day of July, 2010.

[CORPORATE SEAL]

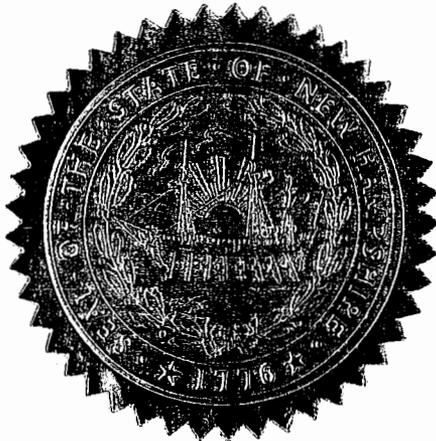
  
\_\_\_\_\_  
Leslie S. Brush, Secretary



# State of New Hampshire Department of State

## CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that SunGard Public Sector Inc., a(n) Florida corporation, is authorized to transact business in New Hampshire and qualified on March 31, 2009. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 13<sup>th</sup> day of July, A.D. 2010

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State

Virginia M. Barry, Ph.D.  
Commissioner of Education  
Tel 603-271-3144



Mary S. Heath  
Deputy Commissioner  
Tel. 603-271-7301

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
101 Pleasant Street  
Concord, N.H. 03301  
FAX 603-271-1953  
Citizens Services Line 1-800-339-9900

June 24, 2009

FOR INFORMATION ONLY

G & C Letter # \_\_\_\_\_  
G & C Date 7/15/09  
APPROVED: \_\_\_\_\_  
Page # 12  
Item # 131

His Excellency, Governor John Lynch  
And the Honorable Executive Council  
State House  
Concord, New Hampshire 03301

EXECUTIVE ACTION

Authorize the Department of Education to amend a contract with SunGard Public Sector, Ltd., Lake Mary, Florida (Vendor Code # 129389), originally approved on February 7, 2007, item #98, amended on July 16, 2008, item #74, and amended on June 17, 2009, item # 266, in an additional amount not to exceed \$156,500.00, a total contract cost not to exceed \$1,150,633.00, for the period of Governor and Council approval through July 31, 2010, to purchase a statewide license for Assessment Builder as priced in Exhibit B of the contract and to purchase up to fourteen implementation and training packages for Techpaths. Source of funding: 100% Federal  
FY 2010

Funds are available from:	Amount
Account # 010-056-6156-102-0731	\$156,500.00

EXPLANATION

The purpose of this amendment is to purchase a second year of a statewide license for Assessment Builder in the amount of \$90,000. Assessment Builder is part of a suite of products which will enhance the academic, physical, social and personal growth of each child by providing customized, high quality information and educational resources to students, parents, educators, policy makers, citizens and the New Hampshire Department of Education. This purchase will enable every public school in New Hampshire to gain access to the Assessment Builder module of the Performance Plus system for a second year. Schools also have access to the Performance Tracker module of this system. By gaining access to Assessment Builder, schools will be able to incorporate multiple assessments to better understand the growth and needs of their students. The Assessment Builder licensing option is provided in the original Governor and Council contract. Also requested in this amendment is approval to purchase up to fourteen (14) implementation and training packages for local school districts to begin or expand their use of Techpaths, a curriculum mapping tool, at a cost of \$4,750 per site for implementation fees and one day of training per site for a total of \$66,500. The maintenance and enhancements that are required under this contract will support the Follow the Child Assistance Center through

June 30, 2012. This solution is part of a comprehensive Department-wide strategy to improve our use of data in an effort to assist schools with improved education for every public school student in New Hampshire.

Respectfully submitted,

A handwritten signature in black ink that reads "Virginia M. Barry". The signature is written in a cursive style with a large, stylized initial "V".

Virginia M. Barry, PhD  
Commissioner of Education

**AMENDMENT TO  
PROFESSIONAL SERVICES CONTRACT**

Now come the New Hampshire Department of Education, Commissioner's Office, hereinafter "the Agency," and SunGard Public Sector, Ltd., Lake Mary, Florida, hereinafter "the Contractor", and, pursuant to an agreement between the parties that was approved by Governor and Council on February 7, 2007 (item # 98), amended on July 16, 2008, (item #74), and amended on June 17, 2009, (item # 266) hereby agree to modify same as follows:

1. Modify General Provision 1.8, Price Limitation, to read as follows \$1,150,633.00
2. Modify Exhibit A, List of Services, by adding the following purchases: Purchase of statewide license for Assessment Builder and purchase up to fourteen (14) implementation and training packages for Techpaths.
3. Modify Exhibit B, Estimated Budget, by adding the following: Statewide license for Assessment Builder \$90,000.00 for the period of time from approval by Governor and Council through July 31, 2010 and \$66,500 for up to (14) implementation and training packages for Techpaths.
4. Modify Limitation on Price by increasing the total budget from \$994,133.00 by \$156,500.00 such that the maximum amount to be expended during the duration of the contract ending June 30, 2012, is \$1,150,633.00.
6. All other provisions of the contract shall remain in effect
7. This modification shall be effective on the date of approval by Governor and Council.

This modification of an existing agreement is hereby incorporated by reference to the existing agreement by the parties and must be attached to the said agreement.

IN WITNESS WHEREOF, the parties, hereto have set their hands as of the day and year first above written.

THE STATE OF NEW HAMPSHIRE  
Department of Education  
Division of Instruction

By: Mary Heath *in* / *Barry*  
Commissioner of Education

Date: 6-29-09

SunGard Public Sector, Ltd.

By: D. Maly *VP Finance*  
Signature, Title

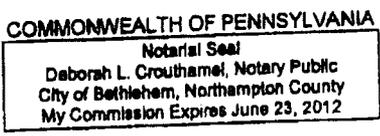
Date: 6/21/09

STATE OF Pennsylvania

County of Northampton

On this the 30 day of June 2009 before me, Deborah L. Grouthamel, the undersigned officer, personally appeared \_\_\_\_\_ who acknowledged himself/herself to be the VP of Finance of Bankard Bank Factor Inc. a corporation, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as Bankard Bank Factor Inc.

In witness whereof I hereto set my hand and official seal.



Deborah L. Grouthamel  
Notary Public/Justice of the Peace

Approved as to form, substance and execution by the Attorney General this 30th day of June, 2009.

Division of Attorney General Office

By: [Signature]

Approved by the Governor and Council this \_\_\_\_\_ day of \_\_\_\_\_, 2009

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

CERTIFICATE OF SECRETARY

THE UNDERSIGNED, Leslie S. Brush, Secretary of **SUNGARD PUBLIC SECTOR INC.**, a corporation organized and existing under the laws to the State of Florida (the "Corporation"), does hereby certify that David D. Madea is a duly elected and acting Vice President, Finance of the Corporation, and that by virtue of such office, he is duly authorized and empowered to enter into and execute instruments and documents in the name of, and on behalf of, the Corporation.

IN WITNESS WHEREOF, the undersigned has caused this Certificate of Secretary to be duly executed and the corporate seal to be hereunto affixed this 30<sup>th</sup> day of April, 2009.



CORPORATE SEAL]

Leslie S. Brush  
Leslie S. Brush, Secretary

Lyonel B. Tracy  
Commissioner of Education  
Tel 603-271-3144



Mary S. Heath  
Deputy Commissioner  
Tel 603-271-7301

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
101 Pleasant Street  
Concord, N.H. 03301  
FAX 603-271-1953  
Citizens Services Line 1-800-339-9900

FOR INFORMATION ONLY

G & C Letter # 8742  
G & C Date 6/17/09  
APPROVED:  
Page # 25  
Item # 266

May 18, 2009

His Excellency, Governor John Lynch  
And the Honorable Executive Council  
State House  
Concord, New Hampshire 03301

#### EXECUTIVE ACTION

Authorize the Department of Education to amend Contract #2007-008 with Performance Pathways of Mechanicsburg, Pennsylvania (Vendor Code # 129389), originally approved on February 7, 2007, G&C item #98, for Performance Pathways . having been acquired by SunGard Public Sector, Ltd., Lake Mary, Florida, United States, to assign all their obligations under the original Agreement to SunGard Public Sector, Ltd

#### EXPLANATION

The New Hampshire Department of Education entered into an agreement, on February 7, 2007, with Performance Pathways, Incorporated for a commercial off the shelf software system for the Department of Education to maximize the academic, physical, social and personal growth of each NH student by providing customized, high quality information and educational resource to students, parents, and educators.

Pursuant to the Agreement Section 14.9: *Change of Ownership* and Section 14.11: *Assignment, Delegation, and Subcontracts*, the Agreement may be modified or amended only by a written instrument executed by the parties subject to the approval of the N.H. Governor and Executive Council.

Performance Pathways, Inc., having been acquired by SunGard Public Sector, Ltd., Lake Mary, Florida, United States, seeks to assign their obligations under the Agreement to SunGard Public Sector, Ltd.. The Agreement will continue in force and identifies SunGard Public Sector, Ltd. as the contracting agency/officer in the amended Contract Agreement. SunGard agrees to assume all liabilities and obligations under the Agreement.

Respectfully submitted,

A handwritten signature in cursive script that reads "Lyonel B. Tracy".

Lyonel B. Tracy  
Commissioner of Education

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
FOLLOW THE CHILD ASSISTANCE CENTER  
CONTRACT 2007-008  
AMENDMENT B**

The New Hampshire ("NH") Department of Education ("Department") entered into an agreement, Contract #2007-008, on February 7, 2007, G&C Item #98 ("Agreement") with Performance Pathways, Incorporated ("Vendor") for a commercial off the shelf (COTS) software system for the Department of Education to maximize the academic, physical, social and personal growth of each NH student by providing customized, high quality information and educational resource to students, parents, and educators;

Pursuant to the Agreement Section 14.9: *Change of Ownership* and Section 14.11: *Assignment, Delegation, and Subcontracts*, the Agreement may be modified or amended only by a written instrument executed by the parties subject to the approval of the N.H. Governor and Executive Council;

The Vendor, having been acquired by SunGard Public Sector, Ltd., Lake Mary, Florida, United States, seeks to assign their obligations under the Agreement to SunGard Public Sector, Ltd.;

The Agreement continues in force and identifies SunGard Public Sector, Ltd. as the contracting agency/officer in the Contract Agreement (Page 1); and

SunGard agrees to assume all liabilities and obligations under the Agreement, and

The Vendor and the Department have agreed to amend the Agreement in certain other respects:

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Agreement and set forth herein, the parties agree as follows:

The Contract Agreement is hereby amended as follows:

1. Amend the Contract Agreement Section 1.3: *Vendor Contract Name* by deleting "Performance Pathways" and replacing it with "SunGard Public Sector, Ltd."
2. Amend the Contract Agreement Section 1.11: *Performance Pathways Signature* by deleting "Performance Pathways Signature" and replacing it with "SunGard Public Sector, Ltd. Signature."
3. Amend Contract Agreement Section 1.12: *Name & Title of Performance Pathways Signor*: by deleting :  
"Name & Title of Performance Pathways Signor  
Paul Goldstein  
Vice President of Marketing and Sales"  
and replacing it with:  
"Name & Title of SunGard Public Sector, Ltd. Signor  
Jeffrey Colosimo  
Vice President, Performance Plus

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
FOLLOW THE CHILD ASSISTANCE CENTER  
CONTRACT 2007-008  
AMENDMENT B**

The Agreement is hereby amended as described in Table 1:  
Table 1

<b>Contract # 2007-008 Statement of Work</b>  <b>Section Number</b>	<b>AMENDED TEXT</b>
<b>Section: Introduction</b>	<p><b>Delete the introductory paragraph and replace with:</b></p> <p>"This Contract is by and between the State of New Hampshire, Department of Education – Division of Program Support (the "State"), and SunGard Public Sector, Ltd. ("SunGard") having its principal place of business at Lake Mary, Florida, United States."</p>
<b>Section: Recitals</b>	<p>Delete the Recitals and replace with the following:</p> <p>The State issued Request for Proposal (RFP) 2007-008 dated June 19, 2006 to procure a Commercial-Off-The-Shelf (COTS) Software System, and associated Services, for a Follow the Child Assistance Center (FTCAC) The purpose of the RFP was to procure a commercial off the shelf (COTS) software package for the Department of Education to maximize the academic, physical, social and personal growth of each child by providing customized, high quality information and educational resource to students, parents, educators and the NH Department of Education. Phase I of the project will enable schools, teachers and other stakeholders to access this information through a secure web application that protects privacy as required. Phase 2 will allow Local Education Agencies (LEAs) to 'buy-into' additional modules extending the functionality implemented in the first phase of work – for example, allowing them to add their own assessment information; develop and manage assessments or manage curriculum while tying the curriculum to assessments;</p> <p>Performance Pathways submitted a Proposal in response to RFP 2007-008; and implemented the Follow the Child Assistance Center; and</p> <p>SunGard Public Sector acquired Performance Pathways; and</p> <p>The State desires to have SunGard continue to support and maintain the system as specified in the Contract.</p> <p>THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:</p>
<b>Section 5.1: Performance Pathways Project Manager</b>	<p>Delete section 5.1 and replace with the following:</p> <p><b>5.1 SunGard Contract Manager</b></p> <p>SunGard shall assign a Contract Manager who shall be responsible for all Contract authorization and administration. SunGard's Contract Manager is:</p> <p style="text-align: center;">Jeff Colosimo Vice President, Performance Plus SunGard Public Sector</p>

Initial all pages  
Performance Pathways Initials PC  
SunGard Initials JH

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
FOLLOW THE CHILD ASSISTANCE CENTER  
CONTRACT 2007-008  
AMENDMENT B

	<p>5010 Ritter Road, Suite 119 Mechanicsburg, PA 17055 TEL: 717-790-0170 ext. 101 FAX: 717-790-0685 EMAIL: jcolosimo@perfpathways.com or his designated successor.</p>																
Section 5.2.5	<p>Delete section 5.2.5 and replace with the following:</p> <p><b>5.2.5 Performance Plus Project Manager is:</b> Jim Bangtson Director, Customer Service SunGard Public Sector 5010 Ritter Road, Suite 119 Mechanicsburg, PA 17055 TEL: 717-790-0170 ext. 105 FAX: 717-790-0685 EMAIL: jbangtson@perfpathways.com or the designated successor.</p>																
	<p>Delete Section 5.3.3.1 and replace with:</p> <p><b>5.3.2.1 SunGard Key Project Staff shall consist of the following individuals in roles as identified below:</b></p> <table border="0"> <thead> <tr> <th style="text-align: left;"><u>SunGard Team -Key Member(s)</u></th> <th style="text-align: left;"><u>Title</u></th> </tr> </thead> <tbody> <tr> <td>Jeff Colosimo</td> <td>Project Executive</td> </tr> <tr> <td>Drew Lynch</td> <td>Project Consultant</td> </tr> <tr> <td>Jim Bangtson</td> <td>Project Manager</td> </tr> <tr> <td>Drew Lynch</td> <td>Product Development Manager</td> </tr> <tr> <td>John Denver</td> <td>Project IT Director</td> </tr> <tr> <td>Jim Bangtson</td> <td>Implementation Manager</td> </tr> <tr> <td>Karen Bailey</td> <td>Education Specialist</td> </tr> </tbody> </table>	<u>SunGard Team -Key Member(s)</u>	<u>Title</u>	Jeff Colosimo	Project Executive	Drew Lynch	Project Consultant	Jim Bangtson	Project Manager	Drew Lynch	Product Development Manager	John Denver	Project IT Director	Jim Bangtson	Implementation Manager	Karen Bailey	Education Specialist
<u>SunGard Team -Key Member(s)</u>	<u>Title</u>																
Jeff Colosimo	Project Executive																
Drew Lynch	Project Consultant																
Jim Bangtson	Project Manager																
Drew Lynch	Product Development Manager																
John Denver	Project IT Director																
Jim Bangtson	Implementation Manager																
Karen Bailey	Education Specialist																
Section 14.6 Dispute Resolution	<p>Delete the Dispute Resolution Responsibility and Schedule Table and replace with the following:</p> <table border="1"> <thead> <tr> <th>LEVEL</th> <th>SUNGARD</th> <th>THE STATE</th> <th>CUMULATIVE ALLOTTED TIME</th> </tr> </thead> <tbody> <tr> <td>Primary</td> <td>J. Bangtson</td> <td>Dr. Judith Fillion</td> <td>5 Business Days</td> </tr> <tr> <td>First</td> <td>J. Colosimo</td> <td>Mary Heath</td> <td>10 Business Days</td> </tr> <tr> <td>Second</td> <td>D. Lynch</td> <td>Lyonel B. Tracy</td> <td>15 Business Days</td> </tr> </tbody> </table>	LEVEL	SUNGARD	THE STATE	CUMULATIVE ALLOTTED TIME	Primary	J. Bangtson	Dr. Judith Fillion	5 Business Days	First	J. Colosimo	Mary Heath	10 Business Days	Second	D. Lynch	Lyonel B. Tracy	15 Business Days
LEVEL	SUNGARD	THE STATE	CUMULATIVE ALLOTTED TIME														
Primary	J. Bangtson	Dr. Judith Fillion	5 Business Days														
First	J. Colosimo	Mary Heath	10 Business Days														
Second	D. Lynch	Lyonel B. Tracy	15 Business Days														
Section 14.16: Notice	<p>Delete Section 14.16 and replace with:</p> <p><b>14.11 Notice</b> Any notice by a party to the other party shall be deemed to have been duly delivered or given at the time of mailing by registered mail, postage prepaid, in a United States Post Office addressed to the parties at the following addresses.</p>																

Initial all pages  
Performance Pathways Initials   
SunGard Initials 

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
FOLLOW THE CHILD ASSISTANCE CENTER  
CONTRACT 2007-008  
AMENDMENT B**

	<p>TO SUNGARD:</p> <p>Jeff Colosimo VP, Performance Plus SunGard Public Sector 5010 Ritter Road, Suite 119 Mechanicsburg, PA 17055 TEL: 717-790-0170 ext. 101 FAX: 717-790-0685</p>	<p>TO THE STATE:</p> <p>State of New Hampshire Department of Education Dr. Judith Fillion 101 Pleasant Street Concord, NH 03301 Tel: (603) 271-3855</p>
<b>Statement of Work (SOW)</b>	All references to "Performance Pathways" shall be replaced with "SunGard", with the exception of any occurrence in Contract SOW Section 2.1: <i>Contract Documents</i> and Section 2.2d: <i>Order of Precedence</i> .	
<b>Contract # 2007-008 Exhibit A Section Number</b>	<b>AMENDED TEXT</b>	
<b>Exhibit A</b>	All references to "Performance Pathways" in Exhibit A shall be replaced with "SunGard."	
<b>Contract # 2007-008 Exhibit B Section Number</b>	<b>AMENDED TEXT</b>	
<b>Exhibit B</b>	All references to "Performance Pathways" in Exhibit B shall be replaced with "SunGard."	
<b>Section 5 Payment Address</b>	<p>Delete Section 5 and replace with:</p> <p><b>5. PAYMENT ADDRESS</b> All payments shall be made to the following address: Accounts Receivable SunGard Public Sector 3 West Broad Street, Suite 1, Bethlehem, PA 18018</p>	
<b>Contract # 2007-008 Exhibits C - T</b>	<b>AMENDED TEXT</b>	
<b>Exhibits C - T</b>	All references to "Performance Pathways" in Exhibit C-T shall be replaced with "SunGard."	

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
FOLLOW THE CHILD ASSISTANCE CENTER  
CONTRACT 2007-008  
AMENDMENT B

Table 3 Contract 2007-008 Follow the Child Assistance Center, Contract Amendment Descriptions

CONTRACT AND AMENDMENT NUMBER	AMENDMENT TYPE	EFFECTIVE DATE	CONTRACT AMOUNT
Contract #2007-008	Original Contract	February 7, 2007 Item #98	\$871,333.00
Amendment A	First Amendment (A)	July 16, 2008 Item #74	\$122,800.00
Amendment B	Second Amendment (B)	Upon Governor and Executive Council Approval	Assignment Only
	<b>CONTRACT TOTAL</b>		<b>\$994,133.00</b>

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
FOLLOW THE CHILD ASSISTANCE CENTER  
CONTRACT 2007-008  
AMENDMENT B

Except as provided herein, all provisions of the Agreement shall remain in full force and effect. This modification shall take effect upon the approval date from the N.H. Governor and the Executive Council.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.

D. Madea  
Dave Madea  
Vice President of Finance  
SunGard Public Sector, Ltd.

Date: 5/12/09

Jeff Colosimo  
Jeff Colosimo, Vice President Performance Plus  
Performance Pathways

Date: 5/12/09

Corporate Signature Notarized:

STATE OF Pennsylvania  
COUNTY OF Cumberland

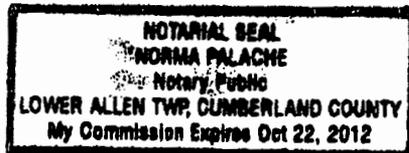
On this the 12 day of May, 2009, before me, Norma Palache, the undersigned Officer Jeff Colosimo, personally appeared and acknowledged her/himself to be the Vice President Performance Plus of SunGard, a corporation, and that she/he, as such Vice President being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by her/himself as Jeff Colosimo.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

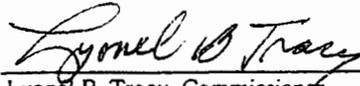
Norma Palache  
Notary Public/Justice of the Peace

My Commission Expires:

(SEAL)



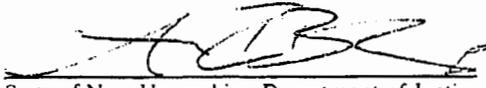
STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
FOLLOW THE CHILD ASSISTANCE CENTER  
CONTRACT 2007-008  
AMENDMENT B



Lyonel B. Tracy, Commissioner  
State of New Hampshire  
Department of Education

Date: 5-22-09

Approved by the Attorney General (Form, Substance and Execution)



State of New Hampshire, Department of Justice

Date: 6/1/09

CONSENT TO ASSIGNMENT

The New Hampshire Department of Education ("STATE") hereby conditionally consents to Performance Pathways Incorporated's assignment of 2007-008 DOE Follow the Child Contract approved by Governor and Council on February 7, 2007 Item #98, to SunGard Public Sector, Ltd (SunGard), of Lake Mary, Florida, United States.

This consent to assignment is conditioned upon SunGard's assuming full responsibility for performance of the entire aforementioned contract, including but not limited to, any and all obligations and liabilities under the contract.

Subject to the conditions contained herein. This contract assignment shall be effective upon Governor and Council approval.

NH Department of Education

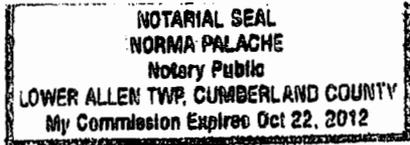
By: Judith D. Sullivan  
Title: Division Director  
Date: 05/21/09

Performance Pathways, Inc.

By: [Signature]  
Title: CEO  
Date: 5/7/09

SunGard Public Sector, Ltd.

By: [Signature]  
Title: VP Finance  
Date: 5-12-09



(Seal)

STATE OF Pennsylvania  
COUNTY OF Cumberland

On this the 7 day of May, 2009, before me,  
Norma Palache, the undersigned Officer, personally  
appeared and acknowledged her/himself to be the  
Vice President, of SunGard,  
a corporation, and that she/he, as such Vice President being  
authorized to do so, executed the foregoing instrument for the purposes therein  
contained, by signing the name of the corporation by her/himself as  
Jeff Colosimo.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Norma Palache

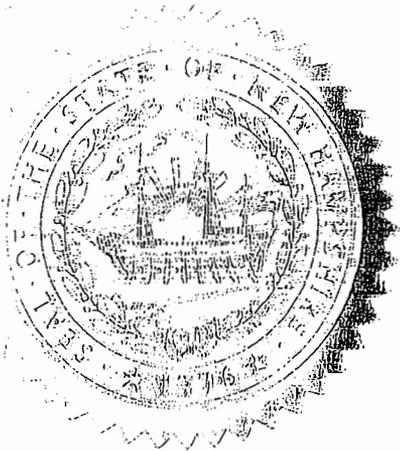
Notary Public/Justice of the Peace:

Norma Palache

State of New Hampshire  
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that SunGard Public Sector Inc., a(n) Florida corporation, is authorized to transact business in New Hampshire and qualified on March 21, 2009. I further certify that all fees required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 5<sup>th</sup> day of May, A.D. 2009

A handwritten signature in cursive script, appearing to read "William Gardner".

William M. Gardner  
Secretary of State

CERTIFICATE OF SECRETARY

THE UNDERSIGNED, Leslie S. Brush, Secretary of **SUNGARD PUBLIC SECTOR INC.**, a corporation organized and existing under the laws to the State of Florida (the "Corporation"), does hereby certify that David D. Madea is a duly elected and acting Vice President, Finance of the Corporation, and that by virtue of such office, he is duly authorized and empowered to enter into and execute instruments and documents in the name of, and on behalf of, the Corporation.

IN WITNESS WHEREOF, the undersigned has caused this Certificate of Secretary to be duly executed and the corporate seal to be hereunto affixed this 30<sup>th</sup> day of April, 2009.



CORPORATE SEAL]

Leslie S. Brush  
Leslie S. Brush, Secretary

PRODUCER  
Marsh USA Inc.  
TWO LOGAN SQUARE  
PHILADELPHIA, PA 19103-2797

THIS CERTIFICATION IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

669365---08-09  
INSURED  
SUNGARD DATA SYSTEMS INC.  
AND ALL ITS COMPANIES AND SUBSIDIARIES  
680 E. SWEDES FORD ROAD  
WAYNE, PA 19087

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Liberty Mutual Insurance Company	23043
INSURER B: N/A	N/A
INSURER C: Liberty Insurance Corporation	42404
INSURER D:	
INSURER E:	

COVERAGES

3

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR. ADD'L LTR   INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CONTRACTUAL LIABILITY... GENERAL AGGREGATE LIMIT APPLIES PER <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC		05/01/2008	05/01/2009	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES(Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 10,000,000 PRODUCTS - COM/POP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/> AUTO PHYSICAL DAMAGE	DUCTIBLES: COMP: \$ 1000 PPT, HIRED PPT, LT TRUCK/ \$3000 OTHER COLL: \$1000 PPT, HIRED PPT, LT TRUCK/ \$ 3000 OTHER	05/01/2008	05/01/2009	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
	EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE Y/N OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below		05/01/2008 05/01/2008	05/01/2009 05/01/2009	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

CERTIFICATE HOLDER CLE-002185192-01

New Hampshire Department of Education  
101 Pleasant Street  
Concord, NH 03301

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE of Marsh USA Inc. *Mary Radaszewski*  
Mary Radaszewski



Lyonel B. Tracy  
 Commissioner of Education  
 Tel 603-271-3144

Mary S. Heath  
 Deputy Commissioner  
 Tel 603-271-1961

STATE OF NEW HAMPSHIRE  
 DEPARTMENT OF EDUCATION  
 101 Pleasant Street  
 Concord, N.H. 03301  
 FAX 603-271-1953  
 Citizens Services Line 1-800-339-9900

May 22, 2008

FOR INFORMATION ONLY

G & C Letter # 810215  
 G & C Date 6/17/08  
 APPROVED: 7 7/16/08  
 Page # 7  
 Item # 74

His Excellency, Governor John Lynch  
 And the Honorable Executive Council  
 State House  
 Concord, New Hampshire 03301

EXECUTIVE ACTION

Authorize the Department of Education to amend a contract with Performance Pathways of Mechanicsburg, Pennsylvania (Vendor Code # 129389), originally approved on February 7, 2007, item #98, in an additional amount not to exceed \$122,800.00, a total contract cost not to exceed \$994,133.00, for the period August 1, 2008 through July 31, 2009, to purchase a statewide license for Assessment Builder as priced in Exhibit B of the contract and to purchase twelve (12) regional trainings for Assessment Builder. Source of funding: 100% Federal

Funds are available from:	FY 2009
Account # 010-056-6156-102-0731	Amount
	\$122,800.00

EXPLANATION

The purpose of this amendment is to purchase a statewide license for Assessment Builder in the amount of \$100,000 which will enhance the academic, physical, social and personal growth of each child by providing customized, high quality information and educational resource to students, parents, educators, policy makers, citizens and the New Hampshire Department of Education. This purchase will enable every public school in New Hampshire to gain access to the Assessment Builder module of the Performance Pathway's system. Schools already have access to the Performance Tracker module of this system. By gaining access to Assessment Builder, schools will be able to incorporate multiple assessments to better understand the growth and needs of their students. Also requested in this amendment is approval to purchase twelve (12) regional trainings for local school districts training for Assessment Builder at \$1,900 per day for a total of \$22,800. These additional options are provided in the original Governor and Council contract. The maintenance and enhancements that are required under this contract will support the Follow the Child Assistance Center through June 30, 2012. This solution is part of a comprehensive Department-wide strategy to improve our use of data in an effort to assist schools with improved education for every public school student in New Hampshire.

Respectfully submitted,

  
 Lyonel B. Tracy  
 Commissioner of Education

AMENDMENT TO  
PROFESSIONAL SERVICES CONTRACT

Now come the New Hampshire Department of Education, Commissioner's Office, hereinafter "the Agency," and Performance Pathways of Mechanicsburg, Pennsylvania hereinafter "the Contractor", and, pursuant to an agreement between the parties that was approved by Governor and Council on February 7, 2007 (item # 98) hereby agree to modify same as follows:

1. Modify General Provision 1.8, Price Limitation, to read as follows \$994,133.00
2. Modify Exhibit A, List of Services, by adding the following purchases: Purchase of statewide license for Assessment Builder and purchase twelve (12) regional trainings for Assessment Builder.
3. Modify Exhibit B, Estimated Budget, by adding the following: Statewide license for Assessment Builder \$100,000.00 for the period of time from August 1, 2008 through July 31, 2009 and for twelve (12) regional trainings for Assessment Builder at \$1,900.00 per day, totaling \$22,800.00.
4. Modify Limitation on Price by increasing the total budget from \$871,333.00 by \$122,800.00 such that the maximum amount to be expended during the duration of the contract ending June 30, 2012, is \$994,133.00.
5. All other provisions of the contract shall remain in effect
7. This modification shall be effective on the date of approval by Governor and Council.

This modification of an existing agreement is hereby incorporated by reference to the existing agreement by the parties and must be attached to the said agreement.

IN WITNESS WHEREOF, the parties, hereto have set their hands as of the day and year first above written.

THE STATE OF NEW HAMPSHIRE  
Department of Education  
Division of Program Support

By: *Justin D. Sullivan*  
Division Director/Administrator

By: *[Signature]*  
Commissioner of Education

Performance Pathways

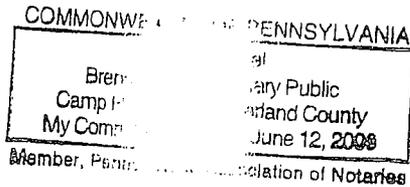
By: *[Signature]* CFC  
Signature, Title

STATE OF Pennsylvania

County of Cumberland

On this the 22<sup>nd</sup> day of May, 2007<sup>§</sup> before me, Brenda Gubb, the undersigned officer, personally appeared Jeffrey Colosimo who acknowledged himself/herself to be the CEO of Pert Pathways a corporation, and that he, as such CEO, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as CEO.

In witness whereof I hereto set my hand and official seal.



Brenda K Gubb

Notary Public/Justice of the Peace

Approved as to form, substance and execution by the Attorney General this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Division of Attorney General Office

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

Approved by the Governor and Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007

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

# PATHWAYS

## QUOTE

Performance Pathways, Inc.  
 PO BOX 1042 - Mechanicsburg, PA 17055 -  
 Phone: 717-790-0170 - Fax: 717-790-0685 - Email: info@perpathways.com

Date	Quote #
04/22/08	PPIQ5002

**Sold To:** New Hampshire Dept of Ed  
 Michael Schwartz  
 101 Pleasant Street  
 Concord, NH 03301

**Ship To:** New Hampshire Dept of Ed  
 Michael Schwartz  
 101 Pleasant Street  
 Concord, NH 03301

**Phone:** (603)271-7455  
**Fax:** (603)271-1953

**Phone:** (603)271-7455  
**Fax:** (603)271-1953

Terms	Rep	P.O. Number	Ship Via
	pgoldstein		

Ln #	Qty	Description	Unit Price	Ext. Price
1		Professional Development - 1 day No Cost a. One full session at one location b. Tentative Date: June 6, 2008 c. No Cost		
2		Using Technology to Create Assessments: An Introduction to Assessment Builder ~ Training of Trainers Session  a. 12 full day sessions at six regional locations b. Tentative Dates: September - November 2008 c. Fees: \$1,900.00/day		
3	12	On Site Training/Consulting - Full Day	\$1,900.00	\$22,800.00
4		Building Assessment Literacy: Creating an Integrated Data-based Culture DOE employees, Regional Trainers, Administrators, Teacher-Leaders, Teachers a. Three full day sessions at three regional locations b. Tentative Dates: January - March 2009 c. 50-75 attendees ~ at round tables w/o computers d. Fees: \$2,250.00/Day		
5	3	On Site Advanced Training/Consulting - Full Day	\$2,250.00	\$6,750.00
			SubTotal	\$29,550.00
			Sales Tax	\$0.00
			Shipping	\$0.00
			<b>Total</b>	<b>\$29,550.00</b>



STATE OF NEW HAMPSHIRE  
OFFICE OF INFORMATION TECHNOLOGY

Office of the Governor  
27 Hazen Dr., Concord, NH 03301  
603-271-4208 1-800-852-3345 x4208  
Fax: 603-271-1516 TDD Access: 1-800-735-2964

Richard C. Bailey, Jr.  
*Chief Information Officer*

January 25, 2007

Dr. Lyonel B. Tracy, Commissioner  
State of New Hampshire  
Department of Education  
101 Pleasant Street  
Concord NH 03301

Dear Commissioner Tracy:

This letter represents formal notification that the Office of Information Technology (OIT) has approved your agency's request to enter into a contract with Performance Pathways, of Mechanicsburg, PA as described below and referenced as OIT No. 2007-008. This project is a result of RFP# 2007-008.

This is a request to enter into a contract to procure and install an off-the-shelf application to collect and distribute information on the academic, physical, social, and personal growth of school children as required by the federal Follow The Child Program. The contract will become effective upon Governor and Council approval through June 30, 2012. The amount of the contract is not to exceed \$871,333.00.

This project is set forth in the Department of Education's Strategic Information Technology Plan 2005 – 2009, dated October 18, 2005, Project Name: Student Level Data Collections, Project Number 2006-007.

A copy of this letter should accompany the Department of Education's submission to the Governor and Executive Council for approval.

Sincerely,



Richard C. Bailey, Jr.

RB/ltn

cc: Leslie Mason  
Chris Hensel

Lyonel B. Tracy  
Commissioner of Education  
Tel. 603-271-3144



Mary S. Heath  
Deputy Commissioner  
Tel. 603-271-7301

January 24, 2007

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
101 Pleasant Street  
Concord, N.H. 03301  
FAX 603-271-1953  
Citizens Services Line 1-800-338-9900

FOR INFORMATION ONLY  
G & C Letter # 8327  
G & C Date 2/27/07  
APPROVED:  
Page # \_\_\_\_\_  
Item # \_\_\_\_\_

His Excellency, Governor John Lynch  
and the Honorable Executive Council  
State House  
Concord, New Hampshire 03301

REQUESTED ACTION

1. Authorize the Department of Education to enter into a contract with Performance Pathways of Mechanicsburg, Pennsylvania (Vendor # 129389) in an amount not to exceed \$871,333.00 for the period effective upon Governor and Council approval through June 30, 2012 for the implementation and ongoing support for a new Follow the Child Assistance Center System, pending approval of the next three biennial budgets. Source of funding: 100% Federal.

<u>SFY</u>	<u>Funding</u>	<u>Amounts</u>
2007	010-056-6422-046-0465 (Federal)	\$211,667
2008	010-056-6422-046-0465 (Federal)	\$139,666
2009	010-056-6422-046-0465 (Federal)	\$130,000
2010	010-056-6422-046-0465 (Federal)	\$130,000
2011	010-056-6422-046-0465 (Federal)	\$130,000
2012	010-056-6422-046-0465 (Federal)	\$130,000

2. Authorize payment for services rendered and approved, withholding 10% of the total value of the contract to be paid upon successful completion of the warranty period.

EXPLANATION

The purpose of this contract is to procure a commercial off the shelf (COTS) software package for the Department of Education to maximize the academic, physical, social and personal growth of each child by providing customized, high quality information and educational resource to students, parents, educators, policy makers, citizens and the NH Department of Education.

The first phase of the project will enable schools, teachers and other stakeholders to access this information through a secure web application that protects privacy as required. A second phase, will allow Local Education Agencies (LEAs) to 'buy-into' additional modules extending the functionality

implemented in the first phase of work – for example, allowing them to add their own assessment information; develop and manage assessments or managing curriculum while tying the curriculum to assessments.

The maintenance and enhancements that are required under this contract will support the Follow the Child Assistance Center through June 30, 2012. This solution is part of a comprehensive Department-wide strategy to improve our use of data in an effort to assist schools with improved education for every public school student in New Hampshire.

A request for proposal (RFP) was prepared and distributed to prospective vendors soliciting proposals for the Follow the Child Assistance Center System – acquisition, implementation, and maintenance support. The proposal was advertised in the Concord Monitor on June 19, 2006 for three days. It was posted on the Department of Education website and also on the Administrative Services procurement website from June 21, 2006 through the closing date of August 7, 2006. Four proposals were received. Two of the proposals did not meet the minimum qualifications. The qualifying proposals were received from Performance Pathways and ESP Solutions. Performance Pathways received the highest score. The bids included costs for both school districts and the State. Performance Pathways was the low bidder for the combined costs as determined by the scoring rubric. Although the initial state cost is higher than the competitor's bid, the total contract in the end is anticipated to be two million dollars less.

Performance Pathways received 81 out of 100 points for their proposal – the greatest number of points, among the vendor proposals. Only one other proposal progressed to the final stage and that vendor received 64 out of 100 points for their proposal. The rubric for scoring considered four primary areas:

1. Scoring of the Proposed Solution.
2. Scoring of Vendor Technical, Service, and Project Management Proposal
3. Scoring of Vendor Qualifications
4. Scoring Solution Cost

The review process included a review team of six Department of Education representatives as well as input from more than 20 District and DOE personnel.

The funding for this effort is based on Federal funds described above.

Respectfully submitted,



Lyonel B. Tracy  
Commissioner of Education

State of New Hampshire  
RFP 2007-008 Follow The Child Assistance Center

Evaluation Scoring for Vendor: ESP Solutions Group

Evaluation Criteria:		Max Points	Pts Awarded
1.	Overall Fit <i>Criteria</i> Ability to meet overall fit of phase I solution	35	22
	Ability to meet overall fit of phase II solution	25	16.7
	Technical, Service and Project Management Response <i>Criteria</i> Technical Topics	10	5.3
	Service Topics	20	11
	Project Management	4	2
	Vendor Qualifications <i>Criteria</i> Corporate Qualifications	9	5
	Organization and Size of Vendor's Proposed Project Team	7	4
	Qualifications of Proposed Project Manager	15	6.7
	Qualifications of Proposed Key Vendor Staff	2	0.7
	Maturity of Vendor Solution	3	1.5
	Cost <i>Criteria</i> Is the costing model complete? Cost competitive.	3	2
		2	1.5
		5	1
5.	Cost <i>Criteria</i> Is the costing model complete? Cost competitive.	30	24
			\$4,007,152*
<b>Total</b>		<u>100</u>	<u>63.7</u>

\*Cost represent full impact of LEA and SEA costs

State of New Hampshire  
RFP 2007-008 Follow The Child Assistance Center

Evaluation Scoring for Vendor: Performance Pathways

Evaluation Criteria:	Max Points	Pts Awarded
1. Overall Fit <i>Criteria</i> Ability to meet overall fit of phase I solution	35	30.8
Ability to meet overall fit of phase II solution	25	21
2. Technical, Service and Project Management Response <i>Criteria</i> Technical Topics	10	9.8
Service Topics	20	18
Project Management	4	4
3. Vendor Qualifications <i>Criteria</i> Corporate Qualifications	9	8
Organization and Size of Vendor's Proposed Project Team	7	6
Qualifications of Proposed Project Manager	15	13.9
Qualifications of Proposed Key Vendor Staff	2	2
Maturity of Vendor Solution	3	2.7
5. Cost <i>Criteria</i> Is the costing model complete? Cost competitive.	3	2.5
	2	2
	5	4.7
	30	18
	n/a	
	30	18
<b>Total</b>	<u>100</u>	<u>80.7</u>

\$2,274,212\*

\*Cost represent full impact of LEA and SEA costs

RFP 2007-008 : i4see Follow the Child Assistance Center  
 Vendor Presentation Summary

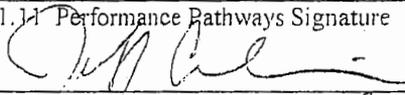
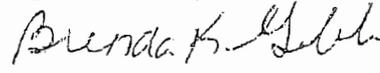
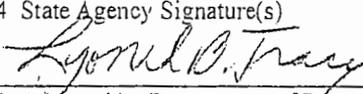
Performance Pathways										
	06-07	07-08	08-09	09-10	10-11	11-12	6 year total	Phase total	Points	
State Phase I										
Deliverables	141685						141,685			
Per Student	130000.00	130000.00	130000.00	130000.00	130000.00	130000.00	780,000	\$ 921,685	8	
LEA Phase II (50,001-100,000)										
Curriculum	2.35	2.35	2.35	2.35	2.35	2.35	705,014			
Assessment Tracking	0.94	0.94	0.94	0.94	0.94	0.94	282,006			
Assessment Creation	1.41	1.18	1.18	1.18	1.18	1.18	365,507	\$ 1,352,527	10	
(prorate 1st year)										
	1.80	1.30						\$ 2,274,212		
		100,000 (caj	200000							
		3-8 and 11								
ESP										
State Phase I										
Deliverables	130000.00						130,000			
Per Student	120000.00	25000.00	26250.00	27562.50	28940.63	30387.66	253,141	\$ 388,141	20	
LEA Phase II (50,001-100,000)										
Curriculum (Edmin)	2.75	2.75	2.89	3.03	3.18	3.34	897,292			
Curriculum (TetraData)	1.03	0.51	0.54	0.57	0.59	0.62	192,986			
Assessment Tracking	2.25	2.25	2.36	2.48	2.60	2.73	734,148			
Assessment Creation	5.50	5.50	5.78	6.06	6.37	6.69	1,794,584	\$ 3,619,011	4	
								\$ 4,007,152		

State of New Hampshire  
 Department of Education  
 Follow the Child Assistance Center  
 COTS Contract 2007-008  
 Statement of Work (SOW)

CONTRACT AGREEMENT

The State of New Hampshire and the Performance Pathways hereby mutually agree as follows:

GENERAL PROVISIONS

1.1 State Agency Name Department of Education - Division of Program Support		1.2 State Agency Address 101 Pleasant Street Concord New Hampshire 03301	
1.3 Vendor Contract Name Performance Pathways		1.4 Vendor Address 5010 Ritter Road Mechanicsburg, PA 17055	
1.5 Account No. 010-056-6422-046-0465 \$871,333	1.6 Completion Date 06/30/2012	1.7 Audit Date N/A	1.8 Price Limitation \$871,333
1.9 Contracting Officer for State Agency Dr. Judith Fillion, Director		1.10 State Agency Telephone Number 603-271-3855	
1.11 Performance Pathways Signature 		1.12 Name & Title of Performance Pathways Signor Jeff Colosimo, President	
1.13 Acknowledgement: State of <u>Pa</u> , County of <u>Cumberland</u>  On <u>1/24/07</u> before the undersigned officer, personally appeared the person identified in block 1.12 or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
COMMONWEALTH OF PENNSYLVANIA			
1.13.1 Signature of Notary Public or Justice of the Peace [seal] 		Notarial Seal Brenda K. Gibb, Notary Public Camp Hill Boro, Cumberland County My Commission Expires June 12, 2009	
1.13.2 Name & Title of Notary or Justice of the Peace Brenda K. Gibb, Notary <small>Member, Pennsylvania Association of Notaries.</small>			
1.14 State Agency Signature(s) 		1.15 Name/Title of State Agency Signor(s) Lyonel B. Tracy, Commissioner	
1.16 Approval by Department of Personnel (Rate of Compensation for Individual Consultants)  By: _____ Director, On: _____			
1.17 Approval by Attorney General (Form, Substance and Execution)  By:  Assistant Attorney General, On: <u>1/26/07</u>			
1.18 Approval by the Governor & Council  By: _____ On: _____			

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**1. TERMS AND DEFINITIONS**

Capitalized terms used in the Contract shall have the meanings given below:

Acceptance	An Acceptance Letter provides notice from the State that a Deliverable has satisfied Acceptance Tests or Review.
Acceptance Criteria	The criteria a work product must meet to successfully complete a test phase or meet delivery requirements.
Acceptance Test	Tests performed to determine that no Deficiencies exist in the Deliverables.
Agency	"Agency" shall mean any board, department, commission, hospital, sanitarium, home, library, school, college, prison or other institution conducted or operated by or for the State of New Hampshire, per reference RSA 21-I:11.
Assessment Advisor	Department of Education expert on the needs and processes that guide assessments within the State of New Hampshire.
COTS	Commercial Off-The-Shelf Software applications
Change Order	Modification to the Contract outside the scope of this Contract.
Certification	Performance Pathways' written Certification and full supporting and written (including without limitation test results as applicable) that the Performance Pathways has completed development of the Deliverable and certified its readiness for applicable Acceptance Testing or Review.
Confidential Information	Information required to be kept Confidential from unauthorized disclosure under the Contract.
Contract Documents	Documents that comprise this Contract (See Statement of Work Section 1.1).
Contract Managers	The persons identified by the State and by Performance Pathways responsible for all Contractual authorization and administration of the Contract. These responsibilities shall include, but not be limited to, processing Contract Documentation, obtaining executive approvals, tracking costs and payments, and representing the parties in Contract administration activities.
Cure Period	The time period to cure a Default (30) days.
Custom Software	Software specific to the DOE requirements.
Data	State's records, files, forms, Data and other documents

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	or information that shall be converted by Vendor for processing.
Deficiencies	<p>A failure, deficiency, or defect in a Deliverable resulting in a Deliverable, the Software, or the System, not conforming to its Specifications.</p> <p><b>Class A Deficiency</b> – Software - Critical, does not allow System to operate, no work around, demands immediate action; Written Documentation - missing significant portions of information or unintelligible to State; Non Software - Services were inadequate and require re-performance of the service.</p> <p><b>Class B Deficiency</b> – Software - important, does not stop operation and/or there is a work around and user can perform tasks; Written Documentation - portions of information are missing but not enough to make the document unintelligible; Non Software - Services were deficient, require reworking, but do not require re-performance of the service.</p> <p><b>Class C Deficiency</b> – Software - minimal, cosmetic in nature, minimal effect on System, low priority and/or user can use System; Written Documentation - minimal changes required and of minor editing nature; Non Software - Services require only minor reworking and do not require re-performance of the service.</p>
Deliverables	A deliverable is any Written, Software, or Non-Software Deliverable (letter, report, manual, book, other), provided by Vendor to the State under the Contract.
Documentation	All information that describes the installation, operation, and use of the Software, either in printed or electronic format.
DOE	Department of Education
Effective Date	The date on which this Contract takes effect. (See Statement of Work Section 3: <i>Contract Term</i> ).
Enhancements	Updates, additions, modifications to, and new releases for the Software, and all changes to the Documentation as a result of Enhancements, including, but not limited to, Enhancements produced by Change Orders
Firm Fixed Price Contract	A firm-fixed-price Contract provides a price that is not subject to increase, i.e., adjustment on the basis of the Performance Pathways' cost experience in performing the Contract
Follow The Child Assistance	The FTCAC will consist of two phases. Phase I will

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Center (FTCAC) Project	enable schools, teachers and other stakeholders to access this information through a secure web application that protects privacy as required. Phase II, optional to Local Education Agencies (LEAs), will allow LEAs to 'buy-into' additional modules extending the functionality implemented in Phase I work – for example, allowing them to add their own assessment information; develop and manage assessments or manage curriculum while tying the curriculum to assessments.
GLE	Grade Level Expectations – these are defined by the Department of Education.
Governor and Executive Council	The New Hampshire Governor and Executive Council.
Implementation	The process for making the System fully Operational for processing the Data.
Implementation Plan	Sets forth the transition from development of the System to full operation, and includes without limitation, training, business and technical procedures.
Information Technology	Refers to the tools and processes used for the gathering, storing, manipulating, transmitting, sharing, and sensing of information including, but not limited to, Data processing, computing, information Systems, telecommunications, and various audio and video technologies.
Installation Date	The date that Vendor completes installation and certifies such completion in writing to the State.
IP	Internet Protocol
Key Project Staff	Primary vendor staff responsible for specific components of the project.
Knowledge Transfer	Building the expertise of the Department staff in the use of the vendor solution.
LEA	Local Education Agency – refers to school district and/or school
Licensee	The State of New Hampshire.
NCLB	No Child Left Behind – Federal legislation guiding requirements for education in each State.
NECAP	New England Common Assessment Program – an assessment test administered across New Hampshire, Vermont, and Rhode Island.
NHEIAP	NH Educational Improvement and Assessment Program.
Non Exclusive Contract	A Contract executed by the State that does not restrict the State from seeking alternative sources for the product or service.
Non-Software Deliverables	Deliverables that are not Software Deliverables, e.g.,

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	meetings, support Services, other.
Normal Business Hours	Normal Business Hours – 8:00 a.m. to 5:00 p.m. EST, Monday through Friday excluding State of New Hampshire holidays. State holidays are: New Year’s Day, Martin Luther King Day, President’s Day, Memorial Day, July 4 <sup>th</sup> , Labor Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving Day, and Christmas Day. Specific dates shall be provided.
Notice to Proceed (NTP)	The State Contract Manager’s direction to Performance Pathways to begin work on the Contract on a given date and time.
Office of Information Technology (OIT)	The Office of Information Technology established under RSA 4-D within the Office of the Governor.
Operational	System is operating fully functional, all Data has been loaded into the System, is available for use by the State in its daily operations, and the State has issued an Acceptance Letter.
Order of Precedence	The order in which Contract Activities/Documents preside in the event of a conflict or ambiguity.
Phase I	Phase I will enable schools, teachers and other stakeholders to access this information through a secure web application that protects privacy as required.
Phase II	Phase II, optional to Local Education Agencies (LEAs), will allow LEAs to ‘buy-into’ additional modules extending the functionality implemented in Phase I work – for example, allowing them to add their own assessment information; develop and manage assessments or manage curriculum while tying the curriculum to assessments.
Production Cut Over Date	The date that the State has successfully completed User Acceptance Testing and signoff, the Software has been placed into production, and the Warranty Period commences.
Project	The planned undertaking regarding the entire subject matter of an RFP Contract and the activities of the parties related hereto.
Project Team	The group of State employees and Performance Pathways personnel responsible for managing the processes and mechanisms required such that the Services are procured in accordance with the Project Plan on time, on budget and to the required Specifications and quality.
Project Management Plan	A document that describes the processes and methodology to be employed by Vendor to ensure a successful Project.

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Project Managers	The persons identified in SOW Section 5.2 and 5.5 of the Statement of Work.
Proposal	Performance Pathways' written Proposal submitted in response to RFP 2007-008.
Review	The process of Reviewing Deliverables for Acceptance.
Review Period	The period set for Review contained in the Statement of Work for a Deliverable. If none is specified then five (5) business days shall apply.
RFP (Request for Proposal)	Request For Proposal 2007-008.
SASID	State assigned student identifier. A unique id for every public student in New Hampshire.
SEA	State Education Agency – also known as the New Hampshire Department of Education.
Schedule	The dates described in the Work Plan for deadlines for performance of Services and other Project events and activities under the Contract.
Service Level Agreement (SLA)	A signed agreement between Performance Pathways and the State specifying the level of service that is expected and provided by Performance Pathways during the term of the Contract.
Services	The work or labor to be performed by the Performance Pathways on the Project as described in the Contract.
Software	All custom Software and COTS Software provided by Performance Pathways under the Contract
Software Deliverables	Software provided to the State under the Contract.
Software License	Licenses provided to the State under this Contract.
Solution	The Solution consists of the total Solution, which includes, without limitation, Software and Services, addressing the requirements and terms of the Specifications. The off-the-shelf Software and configured Software customized for the State provided by Performance Pathways in response to this RFP.
Specifications	The written Specifications that set forth the requirements which include, without limitation, this RFP, the Proposal, the Contract, any performance standards, Documentation, applicable State and federal policies, laws and regulations, State technical standards, subsequent State-approved Deliverables, and other Specifications and requirements described in the Contract. The Specifications are incorporated by reference as though completely set forth herein.
State	STATE is defined as: State of New Hampshire Department of Education

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	101 Pleasant Street Concord, New Hampshire 03301 Reference to the term "State" shall include applicable Agencies.
State Confidential Information	State's information regardless of its form that is not subject to public disclosure under applicable State and federal laws and regulations, including but not limited to New Hampshire RSA Chapter 91-A.
State Data	Any information contained within State Systems in electronic or paper format.
State Fiscal Year	The New Hampshire State Fiscal Year extends from July 1 <sup>st</sup> through June 30 <sup>th</sup> of the following calendar year
State Owned Documents	Documents provided to Performance Pathways by the State or created by Performance Pathways as Deliverables of the Contract.
State Project Manager (PM)	State's representative with regard to Project management and technical matters.
State Project Team	The group of State employees responsible for managing the processes and mechanisms required such that the Services are procured in accordance with the Project Plan on time, on budget and to the required Specifications and quality.
Statement of Work (SOW)	A Statement of Work clearly defines the basic requirements and objectives of a Project. The Statement of Work also defines a high level view of the architecture, performance and design requirements, the roles and responsibilities of the State and Vendor. The SOW defines the results that Vendor remains responsible and accountable for achieving.
SubContractor	A person, partnership, or company subContracted by Performance Pathways to perform under the Contract.
Subject Matter Expert	Individual(s) with significant knowledge in a specific area.
System	All Software, specified hardware, and interfaces and extensions, integrated and functioning together in accordance with the Specifications.
System Testing	Upon completion of integration testing, System Testing is started. System Testing simulates real life scenarios that occur in a "simulated real life" test environment and test all functions of the System that are required in real life. System Testing is deemed complete when actual results and expected results are either in line or differences are explainable or acceptable, based on State input.
TBD	To Be Determined.

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Technical Authorization	Direction to Performance Pathways, which fills in details, clarifies, interprets, or specifies technical requirements. It must be: (1) consistent with Statement of Work within Statement of Services; (2) not constitute a new assignment; and (3) not change the terms, documents of Specifications of the SOW.
Test Plan	A Test Plan is a predetermined list of testing steps that must be performed before State Acceptance of a System. It includes Acceptance Criteria for the System.
Third Party	Technology vendor or consultant who is not performing work under this Contract.
Total Contract Price	Maximum amount of charges Performance Pathways can invoice the State for payment for this fixed price Contract
User Acceptance Testing (UAT)	Testing performed by the State to determine whether a System meets all requirements, and will support the business for which it was designed.
Warranty Period	That period following Acceptance during which Performance Pathways shall provide Warranties and Warranty Services.
Warranty Services	The Services to be provided during the Warranty Period.
Warranty Releases	Software code that is provided to the State as a remedy for defects documented during the Warranty Period.
Work Plan	Any Written, Software, or Non-Software Deliverable (letter, report, manual, book, other), provided by Performance Pathways to the State under the terms of the Contract
Written Deliverables	Written Documentation (letter, report, manual, book, other) provided by Performance Pathways, either in paper or electronic format.

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This Contract is by and between the State of New Hampshire, Department of Education – Division of Program Support (the “State”), and Performance Pathways, having its principal place of business at 5010 Ritter Road, Mechanicsburg, PA 17055.

## RECITALS

The State issued Request for Proposal (RFP) 2007-008 dated June 19, 2006 to procure a Commercial-Off-The-Shelf (COTS) Software System, and associated Services, for a Follow the Child Assistance Center (FTCAC) The purpose of the RFP was to procure a commercial off the shelf (COTS) software package for the Department of Education to maximize the academic, physical, social and personal growth of each child by providing customized, high quality information and educational resource to students, parents, educators and the NH Department of Education. Phase I of the project will enable schools, teachers and other stakeholders to access this information through a secure web application that protects privacy as defined in accordance with the Specifications. Phase II will allow Local Education Agencies (LEAs) to ‘buy-into’ additional modules extending the functionality implemented in the first phase of work – for example, allowing them to add their own student assessment information; develop and manage assessments or manage curriculum while tying the curriculum to assessments;

Performance Pathways submitted a Proposal in response to RFP 2007-008; and

The State desires to have Performance Pathways implement the proposed COTS Software for the State, with associated Services;

THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

## 2. CONTRACT

### 2.1 Contract Documents

This Contract consists of the following Contract Documents:

- a. The Statement of Work
- b. Exhibit A Contract Deliverables
- c. Exhibit B Price and Payment Schedule
- d. Exhibit C Special Provisions
- e. Exhibit D Administrative Services
- f. Exhibit E Implementation Services
- g. Exhibit F Testing Services
- h. Exhibit G Maintenance and Support Services
- i. Exhibit H Priority Requirements- Performance Pathways Responses
- j. Exhibit I Work Plan
- k. Exhibit J COTS Software License
- l. Exhibit K Warranty and Warranty Services

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- m. Exhibit L Training Services
- n. Exhibit M Agency RFP with Addendums
- o. Exhibit N Performance Pathways Proposal dated June 19, 2006
- p. Exhibit O Performance Pathways Certificate of Vote
- q. Exhibit P Performance Pathways Certificate of Authority
- r. Exhibit Q Performance Pathways Certificate of Insurance
- s. Exhibit R Performance Pathways Performance Bond
- t. Exhibit S Performance Pathways Proposal Transmittal Form Letter
- u. Exhibit T Required IT Work Procedures

## 2.2 Order of Precedence

In the event of conflict or ambiguity among any of the text of the Contract Documents, the following Order of Precedence shall govern:

- a. *The State of New Hampshire Terms and Conditions*, as stated in Appendix G, Section G-4 of the RFP and the *General Contract Requirements*, as stated in the RFP Section 6.
- b. State of New Hampshire, Department of Education Contract with Performance Pathways, with Statement of Work, Exhibits A-T; then
- c. RFP 2007-008 Follow the Child Assistance Center, dated 6-19-2006, with Addendums incorporated; then
- d. The Performance Pathways Proposal to RFP 2007-008, dated 8-7-2006; then
- e. The *IT Project Required Work Procedures*, Section G-1 of the RFP.

## 2.3 Non-Exclusive Contract

This is a Non-Exclusive, Firm Fixed Price ("FFP") Contract with price and term limitations as set forth in the Contract.

The State may, at its discretion, retain other vendors to provide Services or Deliverables procured under this Contract for other State of New Hampshire Implementations and work related to the Contract. Performance Pathways shall not be responsible for any delay, act, or omission of such other Vendor, except that Performance Pathways shall be responsible for any delay, act, or omission of the other Performance Vendor if such delay, act, or omission is caused by or due to the fault of Performance Pathways.

## 3. CONTRACT TERM

### 3.1 Term

The Contract shall take effect after full execution by the parties, and the receipt of required governmental approvals, including but not limited to, Governor and Executive Council approval (the "Effective Date").

The Contract shall begin on the Effective Date and shall not extend beyond June 30, 2012.

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Performance Pathways shall commence work upon issuance of a Notice to Proceed by the State. If Performance Pathways commences work prior to the Effective Date and a Notice to Proceed, such work shall be performed at the sole risk of Performance Pathways and the State shall be under no obligation to pay the Performance Pathways for any costs incurred or Services performed.

The State must authorize the continuation of the Contract prior to each year of the Contract terms by letter of renewal. The State may choose not to renew any given year at their sole discretion. Additionally termination of the Contract can occur as described in this Contract.

Time is of the essence in the performance of Performance Pathways' obligations under the Contract.

### 3.2 Contract Services

Performance Pathways shall perform the following Contract Services:

- Project management
- Configure the System
- Implement System
- Conduct Unit & System Testing
- Conduct integration testing
- Conduct User Acceptance Test
- Conduct training
- Implement System
- Provide System Documentation
- Conduct Project close out
- Provide Warranty Services

### 4. COMPENSATION – CONTRACT PRICE

The Contract price, method of payment, and terms of payment are identified in Contract Exhibit B: *Price and Payment Schedule*.

### 5. CONTRACT MANAGEMENT

The Project will require the coordinated efforts of a Project Team consisting of both Performance Pathways and State personnel. Performance Pathways shall provide all necessary resources to perform its obligations under the Contract. Performance Pathways shall be responsible for managing the Project to its successful completion.

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**5.1 Performance Pathways Contract Manager**

Performance Pathways shall assign a Contract Manager who shall be responsible for all Contract authorization and administration. Performance Pathways' Contract Manager is:

Jeff Colosimo  
President, Performance Pathways  
5010 Ritter Road  
Mechanicsburg, PA 17055  
TEL: (203) 452-8076  
FAX: (203) 452-8095  
EMAIL: Jeff A. Colosimo [jcolosimo@perfpathways.com]

or his designated successor.

**5.2 Performance Pathways Project Manager**

**5.2.1 Contract Project Manager**

Performance Pathways shall assign a Project Manager who meets the requirements of the Performance Pathways Contract, including but not limited to, the requirements set forth in the RFP. Performance Pathways' selection of the Performance Pathways Project Manager shall be subject to the prior written approval of the State. The State's approval process may include, without limitations, at the State's discretion, Review of the Performance Pathways Project Manager's resume, qualifications, references, background checks, and an interview. The State may require removal or reassignment of Performance Pathways' Project Manager who, in the sole judgment of the State, is found unacceptable to the State or is not performing to the State's satisfaction.

**5.2.2** Performance Pathways Project Manager shall have full authority to make binding decisions under the Contract, and shall function as Performance Pathways representative for administrative and management matters. The Performance Pathways' Project Manager shall perform the duties required under the Contract, including, but not limited to, those set forth in Contract Exhibit I: *Work Plan*. Performance Pathways' Project Manager must be available to promptly respond during Normal Business Hours within two (2) hours to inquiries from the State, and be at the site as needed. Performance Pathways' Project Manager must work diligently and use his/ her best efforts on the Project. Performance Pathways' Project Manager must be qualified to perform the obligations required of the position under the Contract.

**5.2.3** Performance Pathways shall not change its assignment of the Performance Pathways Project Manager without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of Performance Pathways' Project Manager shall not be unreasonably withheld. The replacement Performance Pathways Project Manager shall have comparable or greater skills than

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the Project Manager being replaced; meet the requirements of the Contract, (including but not limited to, the requirements set forth in RFP); and be subject to reference and background checks described above in SOW Section 5.2.1 *Contract Project Manager* and SOW 5.10 *Background Checks*. Performance Pathways shall assign a replacement Performance Pathways Project Manager within ten (10) business days of the departure of the prior Performance Pathways Project Manager, and Performance Pathways continue during the ten (10) business day period, to provide Project management Services through the assignment of qualified interim Performance Pathways Project Manager.

5.2.4 Notwithstanding any other provision of the Contract, the State shall have the option, at its discretion, to terminate the Contract, declare Performance Pathways in default and pursue its remedies at law and in equity, if Performance Pathways fails to assign a Project Manager meeting the requirements and terms of the Contract.

5.2.5 Performance Pathways Project Manager is:

James Bangtson  
Project Manager  
5010 Ritter Road  
Mechanicsburg, PA 17055  
TEL: (203) 452-8076  
FAX: (203) 452-8095  
EMAIL: JBangtson@PerfPathways.com

or the designated successor.

### 5.3 Performance Pathways Key Project Staff

5.3.1 Performance Pathways shall assign "Key Project Staff" who meet the requirements of the Contract, and can implement the Performance Pathways Software Solution meeting the requirements set forth in RFP Appendix C: *System Requirements and Deliverables*, Table C.1-1: *System Requirements and Deliverables*. The State may conduct reference and background checks on Performance Pathways Key Project Staff. The State reserves the right to require removal or reassignment of the Performance Pathways' Key Project Staff who are found unacceptable to the State. Any background checks shall be performed in accordance with SOW Section 5.10: *Background Checks*, herein.

5.3.2 Performance Pathways shall not change any Performance Pathway Key Project Staff commitments without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of the Key Project Staff will not be unreasonably withheld. The replacement Key Project Staff shall have comparable or greater skills than the Key Project Staff being replaced; meet the

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requirements of the Contract, including but not limited to the requirements set forth in RFP Appendix C: *System Requirements and Deliverables* and be subject to reference and background checks described above in SOW Section 5.2.1: *Contract Project Manager* and in SOW Section 5.10: *Background Checks*, herein.

5.3.3 Notwithstanding any other provision of the Contract to the contrary, the State shall have the option to terminate the Contract, declare Performance Pathways in default and to pursue its remedies at law and in equity, if Performance Pathways fails to assign Key Project Staff meeting the requirements and terms of the Contract.

5.3.3.1 Performance Pathways Key Project Staff shall consist of the following individuals in roles as identified below:

<u>Performance Pathways' Team -Key Member(s)</u>	<u>Title</u>
Jeff Colosimo	Project Executive
Bena Kallick	Project Consultant
James Bangtson	Project Manager
Drew Lynch	Product Development Manager
John Denver	Project IT Director
Dara Bogovic	Implementation Manager
Janice Yost	Education Specialist

#### 5.4 State Contract Manager

The State shall assign a State Contract Manager who shall function as the State's representative with regard to Contract administration. The State Contract Manager is:

Dr. Judith Fillion, Director  
Department of Education, Division of Program Support  
101 Pleasant St., Concord NH 03301  
TEL: (603) 271-3855  
FAX: (603) 271-8709  
EMAIL: jfillion@ed.state.nh.gov

or her designated successor.

#### 5.5 State Project Manager & Assessment Advisor

The State shall assign a Project manager. The State Project Manager's duties shall include the following:

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- a. Lead the Project;
- b. Engage and manage the Vendor;
- c. Managing significant issues and risks;
- d. Review and accept Contract Deliverables;
- e. Approve invoices;
- f. Review and approval of Change Proposals; and
- g. Manage stakeholders' concerns.

The State Project Manager is:

Mr. Dennis Kosydar  
Department of Education, Division of Program Support  
101 Pleasant St., Concord NH 03301  
TEL: (603) 271-3485  
FAX: (603) 271-8709  
EMAIL: dkosydar@ed.state.nh.gov

or his designated successor.

Additionally, the State shall assign an Assessment Advisor to provide expertise and guidance to ensure the Solution meets the assessment and analysis needs of the Contract. The Project Manager shall engage the Assessment Advisor in the Project as needed.

The State Assessment Advisor is:

Mr. Tim Kurtz  
Administrator Curriculum & Assessment, Division of Instruction  
101 Pleasant St., Concord NH 03301  
TEL: (603) 271-3846  
FAX: (603) 271-8709  
EMAIL: tkurtz@ed.state.nh.gov

## 5.6 State Meetings and Reports

The Performance Pathways Project Manager shall submit bi-weekly status reports in accordance with the Schedule and terms of this Contract. Performance Pathways' Project Manager and Key Staff shall participate in meetings as requested by the State, in accordance with the requirements and terms of this Contract. All status reports shall be prepared in formats approved by the State. Status reports shall include, at a minimum, the following:

- a. Project status related to the Work Plan;
- b. Deliverable status;
- c. Accomplishments during weeks being reported;
- d. Planned activities for the upcoming two (2) week period;
- e. Future activities; and
- f. Issues and concerns requiring resolution.

As reasonably requested by the State, Performance Pathways shall provide the State with information or reports regarding the Project. Performance Pathways shall prepare special reports and presentations relating to Project management, and shall assist the State in

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preparing reports and presentations, as reasonably requested by the State, all at no additional cost to the State.

#### 5.7 State-Owned Documents and Data

Performance Pathways shall provide the State access to all documents, State Data, materials, reports, and other work in progress relating to the Contract ("State Owned Documents"). Upon termination of the Contract, Performance Pathways shall turn over all State-Owned Documents, material, reports, and work in progress relating to this Contract to the State at no additional cost to the State. All documents must be provided in both printed and electronic format.

#### 5.8 Records Retention and Access Requirements

Performance Pathways shall agree to the conditions of all applicable State and federal laws and regulations, which are incorporated herein by this reference, regarding retention and access requirements, including without limitations, policies consistent with the Federal Acquisition Regulations (FAR) Subpart 4.7 Records Retention.

Performance Pathways and its SubContractors shall maintain books, records, documents, and other evidence of accounting procedures and practices, which properly and sufficiently reflect all direct and indirect costs, invoiced in the performance of their respective obligations under the Contract. Performance Pathways and its SubContractors shall retain all such records for three (3) years following termination of the Contract. Records relating to any litigation matters regarding the Contract shall be kept for one (1) year following the termination of all litigation, including all appeals.

Upon prior notice and subject to reasonable time frames, all such records shall be subject to inspection, examination, audit and copying State and federal officials. Access to these items shall be provided within Merrimack County of the State of New Hampshire, unless otherwise agreed by the State. Delivery of and access to such records shall be at no cost to the State during the three (3) year period after termination of the Contract term and one (1) year term following litigation relating to the Contract, including all appeals. Performance Pathways shall include the record retention and Review requirements of this section in any of its subContracts.

The State agrees that books, records, documents, and other evidence of accounting procedures and practices related to Performance Pathways' cost structure and profit factors shall be excluded from the State's Review unless the cost of any other Services and Deliverables provided under the Contract is calculated or derived from the cost structure or profit factors.

#### 5.9 Accounting Requirements

Performance Pathways shall maintain an accounting system in accordance with generally accepted accounting principles (GAAP). The costs applicable to the Contract shall be ascertainable from the accounting system.

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#### 5.10 Background Checks

The State may, at its sole expense, conduct background screening of the Performance Pathways Project Manager and Key Project Staff. The State shall maintain the confidentiality of background screening results in accordance with SOW Section 13: *Use of State's Information, Confidentiality*.

### 6. CONTRACT DELIVERABLES

#### 6.1 Deliverables and Services

Performance Pathways shall provide the State with the Deliverables and Services required under this Contract and are more fully set forth in Contract Exhibit A: *Contract Deliverables*.

#### 6.2 Non-Software and Written Deliverables Review and Acceptance

After receiving written Certification from Performance Pathways that a Non-Software or Written Deliverable is final, complete, and ready for Review, the State will Review the Deliverable to determine whether it meets the Acceptance Criteria defined in the Work Plan and the State will notify Performance Pathways in writing of its Acceptance or rejection of the Deliverable within five (5) business days of the State's receipt of Performance Pathways' written Certification. If the State rejects the Deliverable, the State shall notify Performance Pathways of the nature and class of the Deficiency and Performance Pathways shall correct the Deficiency within the period identified in the Work Plan. If no period for Performance Pathways correction of the Deliverable is identified, Performance Pathways shall correct the Deficiency in the Deliverable within five (5) business days.

Upon receipt of the corrected Deliverable, the State shall have five (5) business days to Review the Deliverable and notify Performance Pathways of its Acceptance or rejection thereof, with the option to extend the Review period up to five (5) additional business days. If Performance Pathways fails to correct the Deficiency within the allotted period, the State may, at its option, continue Reviewing the Deliverable and require Performance Pathways to continue until the Deficiency is corrected, or immediately terminate the Contract, declare Performance Pathways in default, and pursue its remedies at law and equity.

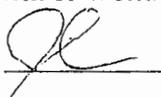
#### 6.3 System/Software Testing and Acceptance

System and Software Testing and Acceptance shall be performed as set forth in the Contract Exhibit I: *Work Plan* and Contract Exhibit F: *Testing Services*.

### 7. SOFTWARE

#### 7.1 COTS Software and Documentation

Performance Pathways shall provide the State with Performance Pathways Software Licenses and Documentation as described in Contract Exhibit J: *COTS Software License*.



## 7.2 COTS Software Support and Maintenance

Performance Pathways shall provide the State with Performance Pathways Software support and maintenance Services as described in Contract Exhibit J: *COTS Software License*.

## 7.3 Custom Software and Documentation

Performance Pathways shall provide the State with Custom Software as required under the Contract, subject to the license set forth in SOW Section 12: *Intellectual Property*, herein.

## 7.4 Custom Software Support and Maintenance

Performance Pathways shall provide the State with Custom Software support and maintenance Services as required under the Contract and as described in Contract Exhibit G: *Maintenance and Support Services*.

## 8. WARRANTY

Performance Pathways shall provide the Warranties and Warranties Services as required under the Contract and as set forth in Contract Exhibit K: *Warranty and Warranty Services*.

## 9. SERVICES

Performance Pathways shall provide the Services as required under the Contract. All Services shall meet and perform in accordance with the Specifications.

### 9.1 Administrative Services

Performance Pathways shall provide the State with the Administrative Services as set forth in Contract Exhibit D: *Administrative Services*.

### 9.2 Implementation Services

Performance Pathways shall provide the State with the Implementation Services as set forth in Contract Exhibit E: *Implementation Services*.

### 9.3 Testing Services

Performance Pathways shall perform Testing Services for the State as set forth in Contract Exhibit F: *Testing Services*.

### 9.4 Training Services

Performance Pathways shall provide the State with Training Services as set forth in Contract Exhibit L: *Training Services*.

### 9.5 Maintenance and Support Services

Performance Pathways shall provide the State with Maintenance and Support Services as set forth in Contract Exhibit G: *Maintenance and Support Services*.



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**10. WORK PLAN DELIVERABLE**

Performance Pathways shall provide the State with an initial Work Plan. The Work Plan shall include, without limitation, a detailed description of the Schedule, tasks, Deliverables, major milestones, task dependencies, Acceptance Criteria, and payment Schedule.

The initial Work Plan shall be a separate Deliverable and is set forth in Contract Exhibit I: *Work Plan*. Performance Pathways shall update the Work Plan as necessary, but no less than weekly, to accurately reflect the status of the Project, including without limitation, the Schedule, tasks, Deliverables, major milestones, task dependencies, Acceptance Criteria, and payment Schedule. Any such updates must be approved by the State, in writing, before final incorporation into Contract Exhibit I: *Work Plan*, as approved by the State, is incorporated herein by reference.

Unless otherwise agreed in writing by the State, changes to the Contract Exhibit I: *Work Plan* shall not relieve Performance Pathways from liability to the State for damages resulting from Performance Pathways' failure to perform its obligations under the Contract, including without limitation, performance in accordance with the Schedule. In the event of any delay in the Schedule, Performance Pathways must immediately notify the State in writing, identifying the nature of the delay, i.e., specific actions or inactions of Performance Pathways or the State causing the problem; its estimated duration; specific actions that need to be taken to correct the problem; and the expected Schedule impact on the Project. In the event additional time is required by Performance Pathways to correct Deficiencies, the Schedule shall not change unless previously agreed in writing by the State, except that the Schedule shall automatically extend on a day-to-day basis to the extent that the delay does not result from Performance Pathways' failure to fulfill its obligations under the Contract.

**11. CHANGE ORDERS**

The State may make changes or revisions at any time by written Change Order. Within five (5) business days of Performance Pathways' receipt of a Change Order, Performance Pathways shall advise the State, in detail, of any impact on cost (e.g., increase or decrease) or the Schedule or the Work Plan.

Performance Pathways may request a change within the scope of the Contract by written Change Order, identifying any impact on cost, the Schedule, or the Work Plan. The State will attempt to respond to Performance Pathways' requested Change Order within five (5) business days. The State will be deemed to have rejected the Change Order if the parties are unable to reach an agreement in writing.

All Change Orders requiring additional funding shall be subject to the State's Contract amendment process. Amendments are not effective until approved by Governor and Executive Council.

## 12. INTELLECTUAL PROPERTY

### 12.1 Deliverables

The term "Deliverables" shall mean information and the Performance Pathways Software Deliverables, including, but not limited to, the Deliverables identified in Contract Exhibit A: *Contract Deliverables*. All right, title and interest in State Data shall remain with the State. Licensing of the System will be as defined in Exhibit J: *COTS Software License*.

### 12.2 Performance Pathways' Materials

Subject to the provisions of this Contract, Performance Pathways may develop for itself, or for others, materials that are competitive with, or similar to, the Deliverables. In accordance with the confidentiality provision of this Contract, Performance Pathways shall not distribute any products containing or disclose any State Confidential Information. Performance Pathways shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques that are acquired or used in the course of its performance under this Contract, provided that such is not obtained as the result of the deliberate memorization of State Confidential Information by Performance Pathways employees or third party consultants engaged by Performance Pathways.

The parties agree that the general knowledge referred to herein cannot include information or records not subject to public disclosure under New Hampshire RSA Chapter 91-A, which includes, but is not limited to the following: records of grand juries and petit juries; records of parole and pardon boards; personal school records of pupils; records pertaining to internal personnel practices, financial information, test questions, scoring keys and other examination Data use to administer a licensing examination, examination for employment, or academic examination and personnel, medical, welfare, library use, video tape sale or rental, and other files containing personally identifiable information that is private in nature.

### 12.3 Copyright and Intellectual Property Rights

All right, title and interest in the State WWW site, including copyright to all Data and information, shall remain with the State. The State shall also retain all rights, title, and interest in any user interfaces and computer instructions embedded within the WWW pages. All WWW pages and any other Data or information shall, where applicable, display the State's copyright.

### 12.4 Custom Software Source Code

All rights and title to Custom Software developed for the State shall remain with Performance Pathways, and shall be subject to the license set forth in SOW Section 12.1: *Deliverables* and Contract Exhibit J: *COTS Software License*.

### 12.5 Survival

This SOW Section 12: *Intellectual Property* shall survive the termination of the Contract.



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### 13. USE OF STATE'S INFORMATION, CONFIDENTIALITY

#### 13.1 Use of State's Information

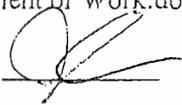
In performing its obligations under the Contract, Performance Pathways may gain access to information of the State, including State Confidential Information. "State Confidential Information" shall include, but not be limited to, information exempted from disclosure under New Hampshire RSA Chapter 91-A: *Access to Public Records and Meetings* (see e.g. RSA Chapter 91-A:5 *Exemptions*). Performance Pathways shall not use the State Confidential Information except as directly connected to and necessary for Performance Pathways' performance under the Contract, unless otherwise permitted under the Contract.

#### 13.2 Confidentiality of State's Information

Performance Pathways shall maintain the confidentiality of and protect from unauthorized use, disclosure, publication, and reproduction (collectively "release"), all State Confidential Information that becomes available to Performance Pathways in connection with its performance under the Contract, regardless of its form. Any disclosure of the State's Confidential Information shall require prior written approval of the State. Performance Pathways shall immediately notify the State if any request, subpoena or other legal process is served upon Performance Pathways regarding the State's Confidential Information, and Performance Pathways shall cooperate with the State in any effort the State undertakes to contest the subpoena or other legal process at no additional cost to the State. In the event of the unauthorized release of State Confidential Information, Performance Pathways shall immediately notify the State, and the State may immediately pursue any remedy at law and in equity, including, but not limited to, injunctive relief.

#### 13.3 Performance Pathways' Confidential Information

Insofar as Performance Pathways seeks to maintain the confidentiality of its Confidential Information, Performance Pathways must clearly identify in writing all information it claims to be confidential. Notwithstanding the foregoing, the State acknowledges that Performance Pathways considers the Software and Documentation to be Performance Pathways Confidential Information. Performance Pathways acknowledges that the State is subject to applicable State and federal laws governing disclosure of information including, but not limited, to the Right to Know Law, New Hampshire RSA Chapter 91-A. The State shall maintain the confidentiality of the identified Confidential Information insofar as it is consistent with applicable State and federal laws or regulations, including but not limited to, RSA Chapter 91-A. In the event the State receives a request for the information identified by Performance Pathways as confidential, the State shall notify Performance Pathways and specify the date the State will be releasing the requested information. At the request of the State, Performance Pathways shall cooperate and assist the State with the collection and Review of Performance Pathways' information, at no additional expense to the State. Any effort to prohibit or enjoin the release of the information shall be Performance Pathways' sole responsibility and at Performance Pathways' sole expense. If Performance Pathways fails to obtain a court order enjoining the disclosure, the State shall



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release the information on the date specified in the State's notice to Performance Pathways, without any liability to Performance Pathways.

#### 13.4 Survival

This SOW Section 13: *Use of State's Information, Confidentiality*, shall survive termination of the Contract.

### 14. GENERAL PROVISIONS

#### 14.1 Conditional Nature of Contract

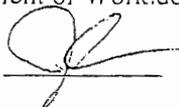
Notwithstanding any provision of the Contract to the contrary, all obligations of the State, including, without limitation, the continuance of payments, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments in excess of such available appropriated funds. In the event of a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and to terminate the Contract immediately upon giving the Performance Pathways notice of such termination.

#### 14.2 Compliance by Performance Pathways with Laws and Regulations: Equal Employment Opportunity

14.2.1 In connection with the performance of the Contract, Performance Pathways shall comply with all statutes, laws, regulations, orders of federal, State, county or municipal authorities which impose any obligation or duty upon Performance Pathways, including, but not limited to, civil rights and equal opportunity laws. Performance Pathways shall also comply with all applicable local, State and federal licensing requirements and standards necessary in the performance of the Contract.

14.2.2 During the term of the Contract, Performance Pathways shall not discriminate against employees or applicants for employment in violation of applicable State or federal laws, including but not limited to non discrimination because of race, color, religion, creed, age, sex, handicap or national origin and shall take affirmative action to prevent such discrimination.

14.2.3 If the Contract is funded in any part by monies of the United States, Performance Pathways shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issues to implement these regulations. Performance Pathways further agrees to permit the State or United States, access to any of the Performance Pathways' pertinent books, records, and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and covenants and conditions of the Contract.



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**14.3 Regulatory/Government Approvals**

Performance Pathways shall obtain all necessary and applicable regulatory or other governmental approvals necessary for it to perform its obligations under the Contract.

**14.4 Access/Cooperation**

As applicable, and subject to the applicable laws and regulations, the State shall provide Performance Pathways with access to program files, libraries, personal computer-based systems, software packages, network systems, security systems, and hardware.

The State will use reasonable efforts to provide approvals, authorizations, and decisions necessary to allow the Performance Pathways to perform its obligations under the Contract.

**14.5 Personnel**

**14.5.1** The performance of Performance Pathways' obligations under the Contract shall be carried out by Performance Pathways. Performance Pathways shall at its own expense provide all personnel, materials and resources required under the Contract and as necessary to perform the Performance Pathways' obligations under the Contract.

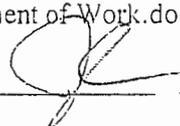
**14.5.2** Performance Pathways shall not hire, and shall permit no SubContractor or other person, firm or corporation with whom it is engaged in a combined effort to perform its obligations under the Contract, to hire any person who has a Contractual relationship with the State, or who is a State officer or employee, elected or appointed.

**14.5.3** The Department of Education Commissioner, or his successor, shall be the State's representative. In the event of any dispute governing the interpretation of the Contract, the DOE Commissioner's decision shall represent the final position of the State.

**14.6 Dispute Resolution**

Prior to the filing of any formal proceedings with respect to a dispute (other than an action seeking injunctive relief with respect to intellectual property rights or Confidential Information), the party believing itself aggrieved (the "Invoking Party") shall call for progressive management involvement in the dispute negotiation by written notice to the other party. Such notice shall be without prejudice to the invoking party's right to any other remedy permitted by this Contract.

The parties shall use all reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, between negotiators for



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the parties at the following successive management levels, each of which shall have a period of allotted time as specified below in which to attempt to resolve the dispute:

**Dispute Resolution Responsibility and Schedule Table**

LEVEL	PERFORMANCE PATHWAYS	THE STATE	CUMULATIVE ALLOTTED TIME
Primary	James Bangtson	Dr. Judith Fillion	5 Business Days
First	Paul Goldstein	Mary Heath	10 Business Days
Second	Jeff Colosimo	Lyonel B. Tracy	15 Business Days

The allotted time for the first level negotiations shall begin on the date the Invoking Party's notice is received by the other party.

**14.7 Termination**

**14.7.1 Termination for Default**

Unless otherwise provided in the Contract, the State shall provide Performance Pathways written notice of default, and Performance Pathways must cure the default within thirty (30) days ("Cure Period") of its receipt of the notice of default. If Performance Pathways fails to cure the default within the Cure Period, the State may, at its sole discretion, terminate the Contract, declare Performance Pathways in default, and pursue its remedies at law or in equity or both.

14.7.1.1 In the event the State declares Performance Pathways in default under any provision of the Contract, the State may, at a minimum, take any or all of the following actions:

14.7.1.1.1 Set off against any other obligations the State may owe to Performance Pathways under this Contract;

14.7.1.1.2 Procure Services that are the subject of the Contract from another source, and Performance Pathways shall be liable for reimbursing the State for the replacement Services, all administrative costs directly related to procuring the Services from another source, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, and staff time costs; and

13.7.1.1.3 Treat the Contract as breached and pursue any of its remedies at law or in equity, or both.

14.7.1.2 In the event of default by the State, Performance Pathways shall provide the State with written notice of default, and the State shall cure the default within thirty (30) days ("Cure Period") of its receipt of the notice of default, unless otherwise extended by Performance Pathways.

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14.7.1.3 No remedy conferred under the Contract is intended to be exclusive of any other remedy, and each remedy is cumulative and in addition to every other remedy in the Contract. The State's election or non-election of any or more remedies shall not constitute a waiver of its right to pursue other legally available remedies.

14.7.2 Termination for Convenience

14.7.2.1 The State may, at its sole discretion, terminate the Contract, for convenience, in whole or in part, by thirty (30) days written notice to Performance Pathways. In the event of such a termination for convenience, the State shall pay Performance Pathways the agreed upon price, if separately stated in this Contract, for Deliverables for which Acceptance has been given by the State. Amounts for Services provided prior to the date of termination for which no separate price is stated under the Contract will be paid, in whole or in part, generally in accordance with Contract Exhibit B: *Price and Payment Schedule*.

14.7.2.2 During the thirty (30) day period, Performance Pathways shall wind down and cease its Services as quickly and efficiently as reasonably possible, without performing unnecessary Services or activities and by minimizing negative effects on the State from such winding down and cessation of Services.

14.7.3 Termination for Conflict of Interest

14.7.3.1 The State may immediately declare Performance Pathways in default and terminate the Contract by written notice, if the State determines that a conflict of interest exists and that Performance Pathways knew or should have known of the conflict.

14.7.4 Termination Procedure

14.7.4.1 After receipt of a notice of termination, and except as otherwise directed by the State, Performance Pathways shall:

- a. Stop work under the Contract on the date, and to the extent specified, in the notice;
- b. Promptly, but in no event longer than thirty (30) days after termination, terminate its orders and subContracts related to the work which has been terminated and settle all outstanding liabilities and all claims arising out of such termination of orders and subContracts, with the approval or ratification of the State to the extent required,

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which approval or ratification shall be final for the purpose of this Section;

- c. Take such action as the State directs that is reasonable and customary under the circumstances, or as necessary to preserve and protect the property related to the Contract which is in the possession of Performance Pathways and in which the State has an interest;
- d. Transfer possession, as applicable, to the State and deliver in the manner, at the times, and to the extent directed by the State, any property which is required to be furnished to the State and which has been accepted or requested by the State; and
- e. Provide written certification to the State that Performance Pathways has surrendered to the State all said property.
- f. Assist in transition Services, as reasonable requested by the State at no additional cost.

#### 14.8 Force Majeure

Neither Performance Pathways nor the State shall be responsible for delays or failures in performance resulting from events beyond the control of such party and without fault or negligence of such party. Such events shall include, but not be limited to, acts of God, strikes, lock outs, riots, and acts of War, epidemics, acts of Government, fire, power failures, nuclear accidents, earthquakes, and unusually severe weather.

#### 14.9 Change of Ownership

In the event that Performance Pathways should change ownership for any reason whatsoever, the State shall have the option to continue under the Contract with Performance Pathways, its successors or assigns for the full remaining term of the Contract; continue under the Contract with Performance Pathways, its successors or assigns for such period of time as determined necessary by the State; or immediately terminate the Contract without liability to Performance Pathways, its successors or assigns.

#### 14.10 Performance Pathways' Relation to the State

In the performance of the Contract, Performance Pathways is in all respects an independent Contractor, and is neither an agent nor an employee of the State. Neither Performance Pathways nor any of its officers, employees, agents, or members shall have authority to bind the State or receive any benefits, worker's compensation or other emoluments provided by the State to its employees.

#### 14.11 Assignment, Delegation and SubContracts

14.11.1 Performance Pathways shall not assign, delegate, subContract, or otherwise transfer any of its interest, rights, or duties under the Contract without the prior

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written consent of the other party. Such consent shall not be unreasonably withheld.

14.11.2 Performance Pathways shall remain wholly responsible for performance of the entire Contract regardless of whether assignees, delegates, SubContractors or other transferees are used, unless otherwise agreed to in writing by the State and the Assigns ("Assigns") fully assumes in writing any and all obligations and liabilities under the Contract from the Effective Date. In the absence of a written assumption of full obligations and liabilities of the Contract, any permitted assignment, delegation, subContract or other transfer shall: not relieve Performance Pathways of any of its obligations under the Contract; not affect any remedies available to the State against Performance Pathways that may arise from any event of default; and the State will consider Performance Pathways to be the sole point of contact with regard to all Contractual matters, including payment of any and all charges resulting from the Contract.

14.11.3 Notwithstanding the foregoing, nothing herein shall prohibit Performance Pathways from assigning the Contract to the successor of all or substantially all of the assets or business of Performance Pathways provided that the successor fully assumes in writing all obligations and liabilities under the Contract. Any attempted transfer, assignment, delegation, or other transfer made without the State's prior written consent shall be null and void, and may constitute an event of default at the sole discretion of the State.

14.11.4 In the event that Performance Pathways should change ownership as permitted under this SOW Section 14.11, the State shall have the option to continue under the Contract with Performance Pathways, its successors or assigns for the full remaining term of the Contract; continue under the Contract with Performance Pathways, its successors or assigns for such period of time as determined necessary by the State; or immediately terminate the Contract without liability to the Performance Pathways, its successors or assigns.

#### 14.12 Indemnification

14.12.1 Performance Pathways shall indemnify, defend and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of Performance Pathways.

14.12.2 Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State.

#### 14.12.3 Survival

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This SOW Section 14.12: *Indemnification*, shall survive termination of this Agreement.

#### 14.13 Limitation of Liability

##### 14.13.1 State

In no event, shall the State be liable for any consequential, special, indirect, incidental, punitive, or exemplary damages. Subject to applicable laws and regulations and Performance Pathways, the State's liability to Performance Pathways shall not exceed one times (1x) the Total Contract Price.

##### 14.13.2 Performance Pathways

Subject to applicable laws and regulations, in no event shall Performance Pathways be liable for any consequential, special, indirect, incidental, punitive or exemplary damages and the Performance Pathways' liability to the State shall not exceed one and one half times (1.5X) the Total Contract Price set forth in SOW Section 1.8 of the *General Provisions* form (P-37). Notwithstanding the foregoing, the limitation of liability in this SOW Section 14.13.2: *Performance Pathways* shall not apply to Performance Pathways' indemnification obligations set forth in SOW Section 14.12: *Indemnification* and confidentiality obligations set forth in SOW Section 13: *Use of State's Information, Confidentiality*, all of which shall be unlimited.

##### 14.13.3 State's Immunity

Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive termination or Contract Conclusion.

##### 14.13.4 Survival

This SOW Section 14.13: *Limitation of Liability* shall survive the termination of the Contract.

#### 14.14 Insurance

##### 14.14.1 Performance Pathways Insurance Requirement

Performance Pathways shall, at its sole expense, obtain and maintain in force, and shall require any Subcontractor or assignee to obtain and maintain in force, including for the benefit of the State, the following insurance:

- a. Comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per incident; and

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- b. The policies shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Each policy shall contain a clause prohibiting cancellation or modifications of the policy earlier than ten (10) days after written notice thereof has been received by the State.

**14.15 Waiver of Event of Default**

No failure by either party to enforce any provisions hereof after any event of default shall be deemed a waiver of its rights with regard to that event, or any subsequent event. No express failure of any default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of Performance Pathways.

**14.16 Notice**

Any notice by a party to the other party shall be deemed to have been duly delivered or given at the time of mailing by registered mail, postage prepaid, in a United States Post Office addressed to the parties at the following addresses.

**TO PERFORMANCE PATHWAYS:**

Jeff Colosimo  
President Performance Pathways  
5010 Ritter Road  
Mechanicsburg, PA 17055  
TEL: (203) 452-8076  
FAX: (203) 452-8095

**TO THE STATE:**

State of New Hampshire  
Department of Education  
Dr. Judith Fillion  
101 Pleasant Street  
Concord, NH 03301  
Tel: (603) 271-3855

**14.17 Amendment**

The Contract may be amended, waived, or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

**14.18 Construction of Contract and Terms**

The Contract shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successor and assigns. Any action may only be brought in the State of New Hampshire, Merrimack County Superior Court.

**14.19 Third Parties**

The parties hereto do not intend to benefit any third parties and the Contract shall not be construed to confer any such benefit.



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Statement of Work (SOW)

**14.20 Headings**

The headings in the Contract shall not be held to explain, modify, amplify, or aid in the construction or interpretation of the Contract provisions, and are for reference purposes only.

**14.21 Exhibits**

The Contract Exhibits referred to in and attached to the Contract are incorporated by reference as if fully set forth herein.

**14.22 Survival**

The terms, conditions and warranties contained in the Contract that by their context are intended to survive the completion of the performance, cancellation or termination of the Contract shall so survive, including, but not limited to, the terms of SOW Section 5.8: *Records Retention and Access Requirements*, SOW Section 5.9: *Accounting Requirements*, SOW Section 13: *Use of State's Information, Confidentiality*, and SOW Section 14.12: *Indemnification* which shall survive the termination of the Contract.

**14.23 Entire Contract**

The Contract Documents, which may be executed in a number of counterparts, each of which shall be deemed an original, constitute the entire Contract and understanding between the parties, and supersede all prior Contracts and understandings.



State of New Hampshire  
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 COTS Contract 2007-008 Exhibit A  
 Contract Deliverables

**1. DELIVERABLES, MILESTONES AND ACTIVITIES**

Performance Pathways shall provide the State with Follow the Child Assistance Center Software and associated Documentation, which shall meet and perform in accordance with the Specifications.

Prior to the commencement of work on Non-Software and Written Deliverables, Performance Pathways shall provide the State a template, table of contents, or agenda for review and prior approval by the State.

The Deliverables are set forth in the schedule described below in Section 2. Pricing for Deliverables is set forth in Contract Exhibit B: *Price and Payment Schedule*. Pricing shall be effective for the initial term of the Contract, and any extensions thereof.

**2. DELIVERABLES, MILESTONES, AND ACTIVITIES SCHEDULE**

**Implementation Schedule – Activities / Deliverables / Milestones**

Table 1: Activity, Deliverable, or Milestone Price and Payment Table			
Reference Number	Activity, Deliverable, or Milestone	Deliverable Type	Projected Delivery Date
1	Project Work Plan Completed	Written	2/14/2007
2	Initiation Phase	Non-Software	2/23/2007
3	Configuration Phase Release Ia 4/5/2007; Release Ib 5/31/2007	Software	5/31/2007
4	Implementation Phase		6/30/2007
4.a	Conduct Functional & System Testing	Written	5/31/2007
4.b	Conduct Data Import & Integration Testing	Written	5/31/2007
4.c	User Acceptance Testing (State)	Written	6/15/2007
4.d	Conduct Training	Non-Software	6/30/2007
4.e	Implementation Cutover	Software	6/30/2007
5	System Documentation	Written	7/13/2007
6	Project Close Out	Non-Software	7/20/2007
7	Warranty Period – Payment of Holdback (90 calendar days)	Non-Software	10/18/2007

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Contract Deliverables

3. TRAINING DELIVERABLES

Training shall be in accordance with the requirements set forth in Contract Exhibit L: *Training Services* and the Schedule established by Contract Exhibit I: *Work Plan*. All pricing is set forth in Contract Exhibit B: *Price and Payment Schedule*.

4. SOFTWARE LICENSES

Software Licenses for Performance Pathways are set forth in Contract Exhibit J: *Software License and Related Terms* and associated pricing is set forth in Contract Exhibit B: *Price and Payment Schedule*.

State of New Hampshire  
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 Follow the Child Assistance Center  
 COTS Contract Exhibit B  
 Price and Payment Schedule

1. DELIVERABLE PAYMENT SCHEDULE

1.1 Firm Fixed Price

This is a Firm Fixed Price Contract of \$871,333.00 is for the period of the Effective Date through June 30, 2012. Performance Pathways shall be responsible for performing its' obligations in accordance with the Contract. The Contract shall allow Performance Pathways to invoice the State for the following Activities, Deliverables, or Milestones at fixed pricing/rates appearing in the Price and Payment Tables below:

Table 1: Activity, Deliverable, or Milestone Price and Payment Table				
Reference Number	Activity, Deliverable, or Milestone	Deliverable Type	Projected Delivery Date	Payment Amount (\$)
1	Project Work Plan Completed	Written	2/14/2007	0
2	Work Plan: Initiation Phase	Non-Software	2/23/2007	27,700
3	Work Plan: Configuration Phase Release Ia 4/5/2007; Release Ib 5/31/2007	Software	5/31/2007	44,200
4	Work Plan: Implementation Phase		6/30/2007	
4.a	Conduct Functional & System Testing	Written	5/31/2007	12,500
4.b	Conduct Data Import & Integration Testing	Written	5/31/2007	6,000
4.c	User Acceptance Test (State)	Written	6/15/2007	5,500
4.d	Conduct Training	Non-Software	6/30/2007	6,000
4.e	Implementation Cutover	Software	6/30/2007	6,400
5	System Documentation	Written	7/13/2007	8,000
6	Work Plan: Project Close Out	Non-Software	7/20/2007	17,700
7	Warranty Period – Payment of Holdback (90 calendar days)	Non-Software	10/18/2007	15,000
	Total			149,000

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 Price and Payment Schedule

Table 2 – Detailed License Deliverables and Pricing (Including hosting, support and maintenance)			
Description	License Type	Quantity	Net Price-License
Performance Tracker 3/1/2007 thru 6/30/2007	Statewide	Unlimited Students	\$62,667
Performance Tracker 7/1/2007 thru 8/31/2007	Statewide	Unlimited Students	\$31,333
Performance Tracker 9/1/2007 thru 6/30/2008	Statewide	Unlimited Students	\$108,333
Performance Tracker 7/1/2008 thru 6/30/2009	Statewide	Unlimited Students	\$130,000
Performance Tracker 7/1/2009 thru 6/30/2010	Statewide	Unlimited Students	\$130,000
Performance Tracker 7/1/2010 thru 6/30/2011	Statewide	Unlimited Students	\$130,000
Performance Tracker 7/1/2011 thru 6/30/2012	Statewide	Unlimited Students	\$130,000
<b>State Optional Purchases</b>			
TechPaths	Statewide	Unlimited Students	\$260,000
Assessment Builder	Statewide	Unlimited Students	\$100,000 year 1 \$90,000 subsequent years
Local School District Software & Hosting (optional and available by local district or state)			(per student)
Assessment Builder & District Performance Tracker	Per Student	Up to 10,000 Students	\$2.00 year 1
			\$1.75 subsequent years
			\$1.65 year 1
			\$1.41 subsequent years
			10,001 to 50,000 Students
50,001 to 100,000 Students	\$1.41 year 1		
	\$1.18 subsequent years		
More than 100,000 Students	\$1.00 year 1		
	\$0.90 subsequent years		
TechPaths (Curriculum Mapping)	Per Student	Up to 10,000 Students	\$3.00

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10,001 to 50,000 Students	\$2.75
50,001 to 100,000 Students	\$2.35
More than 100,000 Students	\$2.12
<i>Grand Sub Total</i>	

Table 3 – Performance Pathways Rates Pricing Worksheet (Hourly Rates)						
Position Title	SFY 2007 7/1/2007- 6/30/2008	SFY 2008 7/1/2008- 6/30/2009	SFY 2009 7/1/2009- 6/30/2010	SFY 2010 7/1/2010- 6/30/2011	SFY 2011 7/1/2011- 6/30/2012	SFY 2012 7/1/2012- 6/30/2013
Performance Pathways Project Manager	214	214	214	214	214	214
Education Specialist	214	214	214	214	214	214
Data Entry	143	143	143	143	143	143
Trainer	214	214	214	214	214	214
Customer Programming	100	100	100	100	100	100

**2. TOTAL CONTRACT PRICE**

Notwithstanding any provision in the Contract to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments made by the State exceed \$871,333.00 ("Total Contract Price"). The payment by the State of the Total Contract Price shall be the only, and the complete reimbursement to Performance Pathways for all fees and expenses, of whatever nature, incurred by Performance Pathways in the performance hereof.

**3. INVOICING**

All invoices shall be subject to the State's prior written approval, which shall not be unreasonably withheld. Invoices shall contain detailed information, including without limitation, the following: identification of each Deliverable or Service for which payment is sought; date of delivery and/or installation; the Acceptance date triggering such payment; and any other Project costs. Upon acceptance of a Deliverable, and a properly documented and undisputed invoice the State shall pay the

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Price and Payment Schedule

correct and undisputed invoice within thirty (30) days of invoice receipt. Invoices shall not be backdated and shall be promptly dispatched.

Invoices shall be sent to:  
State of New Hampshire  
Department of Education  
Attn: Dr. Judith Fillion  
101 Pleasant Street  
Concord, NH 03301

Main Number: (603) 271-3494  
Fax: (603) 271-1953

#### 4. PAYMENT ADDRESS

All payments shall be made to the following address:

Performance Pathways  
Attn: Accounts Payable  
5010 Ritter Road  
Suite 119  
Mechanicsburg, PA 17055

#### 5. OVERPAYMENTS TO PERFORMANCE PATHWAYS

Performance Pathways shall promptly, but no later than fifteen (15) business days, return to the State the full amount of any overpayment or erroneous payment upon notice from the State.

#### 6. CREDITS

The State may apply credits due to the State arising out of this Contract, against Performance Pathways invoices with appropriate information attached.

#### 7. PROJECT HOLDBACK

The State shall withhold ten percent (10%) of the Project Cost, as set forth in the Payment Table above, until successful conclusion of the Warranty Period.

#### 8. RIGHT TO OFFSET

The State reserves the right to offset from any amounts otherwise payable to Performance Pathways under the Contract those liquidated amounts required or permitted under the Contract, by RSA 80:7 through 7-C, or any other provision of law.

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Special Provisions

SPECIAL PROVISIONS

No special provisions required.

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COTS Contract 2007-008 Exhibit D  
Administrative Services

1. STATUS MEETINGS AND REPORTS

The State believes that effective communication and reporting, through meetings and written reports is essential to Project success. At a minimum, the State expects the following:

- 1.1 Introductory Meeting: Participants shall include Performance Pathways Key Project Staff and State staff from the Department of Education and the Office of Information Technology. This meeting shall enable leaders to become acquainted and establish any preliminary project procedures.
- 1.2 Kickoff Meeting: Participants shall include the Performance Pathways Key Project Staff and major stakeholders. This meeting is to establish a sound foundation for activities that shall follow.
- 1.3 Status Meetings: This shall include, but not be limited to, the Performance Pathways Project Manager, the State Project Manager and the State Contract Manager. These meetings shall be conducted at least bi-weekly, and shall address overall project status, error report reviews, project issues, and other topics for the purpose of managing the Project within budget and according to the schedule set forth in the Work Plan. A status and error report from Performance Pathways will serve as the basis for discussion.
- 1.4 The Work Plan must be reviewed at each Status Meeting and updated, at minimum, on a bi-weekly basis, in accordance with the Contract, as set forth in SOW Section 10: *Work Plan Deliverable* of the Contract Statement of Work.
- 1.5 Special Meetings: Need may arise for a special meeting with State leaders or Project stakeholders to address specific issues.
- 1.6 Reports: Performance Pathways shall submit reports in accordance with the Schedule and terms of the Contract. All reports shall be prepared in formats approved by the State. The Performance Pathways Project Manager shall produce reports related to Project Management as reasonably requested by the State. Performance Pathways must produce project status reports, which shall contain, at a minimum, the following:
  - a. Project status as it relates to Work Plan
  - b. Deliverables status
  - c. Accomplishments during weeks being reported
  - d. Planned activities for the upcoming two week period
  - e. Staff time reporting
  - f. Issues and concerns requiring resolution
  - g. Financial Status to be updated once a month

The State expects the Performance Pathways to prepare agendas, background information, and minutes of meetings. Background for each status meeting must include an updated Work Plan. Drafting of formal presentations, such as a presentation for the kickoff meeting, shall also be a Performance Pathways responsibility.

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- 1.7 Exit Meeting: Participants shall include the Performance Pathways Key Project Staff and major State stakeholders. This meeting is to provide a post implementation forum to review the entire Project, including challenges and triumphs, perceived participant performances, and identify any outstanding post-implementation tasks. The Performance Pathways is responsible to create all presentation materials.



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COTS Contract 2007-008 Exhibit E  
Implementation Services

Performance Pathways shall provide the following implementation services:

**1. IMPLEMENTATION STRATEGY**

**1.1 Key Components**

- A. Performance Pathways shall employ an implementation strategy with a timeline in accordance with the Work Plan.
- B. Performance Pathways and the State shall adopt a change management approach focused on identifying and planning key strategies and communication initiatives.

Performance Pathways Key Project Staff shall provide training templates as defined in the Training Plan, which shall be customized to address the State's specific requirements.

Decisions regarding format, content, style, and presentation can be made early on in the process by the State providing sufficient time for development of material as functionality is defined and configured.

- C. Performance Pathways shall utilize an approach that fosters and requires the participation of State resources, uses their business expertise to assist with the configuration of the applications, and prepares them to assume responsibility for employing the new hosted Performance Pathways' system. A focus on effective use and deployment of the hosted Performance Pathways' system shall be deemed a priority.
- D. Performance Pathways shall manage Project execution and provide the tools needed to create and manage the Project's plan and tasks, manage and schedule Performance Pathways Key Project Staff, track and manage issues, manage changing requirements, maintain communication between the State and the Performance Pathways Key Project Staff, and report status.
- E. Performance Pathways shall adopt an Implementation time-line aligned with the State's required time-line.

**1.2 Timeline**

The Project Schedule shall be set forth within the Work Plan.

**1.2.1 Planning**

During the initial planning period Project task and resource plans shall be developed, preliminary training plan established, the change management plan established, communication approaches established, Project standards and procedures finalized, and team training initiated.

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1.2.2 Implementation

Processes shall be documented, training established, and the application shall be ready for deployment in accordance with the State's schedule.

Implementation can be piloted in one area/office to refine the training and implementation approach or the State can choose on a one-time statewide implementation.

1.2.3 Change Management and Training

Performance Pathways' change management and training services shall be implemented as defined in the Exhibit I: *Work Plan*.

2. IMPLEMENTATION METHODOLOGY

Performance Pathways Key Project Staff shall provide the implementation services for the Contract. Its approach includes the following:

- 2.1 Performance Pathways shall follow its standard methodology process and engage the State at each step.
- 2.2 Implementation monitoring and reporting (i.e., progress against budgets, risk mitigation, goal attainment) shall be provided at Project Team status meeting as defined in this Contract.

2.3 Hosted Server Access

As a hosted solution the implementation services must ensure:

- 1) Provide access to a computer server or servers ("Hosted Server").
- 2) Make available the Hosted Server for customer access 24 hours per day, 7 days per week ("24x7") with the following exclusions:
  - a) Scheduled maintenance (at least once weekly – timing to be coordinated with the State);
  - b) Scheduled periods when backup of Hosted Server takes place – timing to be coordinated with the State;
  - c) Scheduled outages for application of patches or other modifications requested by the State;
- 3) Perform one (1) daily backup of development and test instances of Performance Pathways programs and State test data present on the Hosted Server, and
- 4) Upon completion or termination of the Hosted Server Access, create a copy of State development and test instances, using a medium agreed upon in advance, to facilitate transition of such information to other computer hardware ("Decommission Backup").

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Implementation Services

- 5) Provide for data updates at least once per day.
- 6) The allocation of server resources is at Performance Pathways' discretion. The need for dedicated or additional servers, additional disk space, or other additional hardware, to meet service level agreements, shall be at Performance Pathways' expense.
- 7) The hosting solution must meet the security requirements of the State of New Hampshire including but not limited to: (Items a. through f. will be maintained and controlled by State's DOE ESS application not hosted site)
  - a. Verify the identity or authenticate all of its human users before allowing them to use its capabilities.
  - b. Enforce unique user names.
  - c. Enforce user names of ten (10) characters or more. (Passwords must contain a combination of upper and lower case characters and at least one number or special character not defined as letters or numerals such as @,&,!).
  - d. Enforce the use of complex passwords or phrases using capital letters, numbers and special characters.
  - e. Prevent the reuse of old passwords.
  - f. Expire passwords after a defined period.
  - g. Encrypt passwords.
  - h. Authorize users and client applications to prevent access to inappropriate or confidential data or services.
  - i. Limit the number of people that can grant or change authorizations
  - j. Enforce session timeouts during long periods of inactivity.
  - k. Prevent any undesirable programs or software from destroying or damaging data or the application itself.
  - l. Prevent the unauthorized corruption of data collected from users.
  - m. Validate user input prior to processing.
  - n. The application shall not store authentication credentials or sensitive data in its code.
  - o. Detect and record all attempted accesses that fail identification, authentication and authorization requirements.
  - p. Make and store tamper-proof records to prevent parties to application transactions from denying that they have taken place.
  - q. Allow a user to explicitly terminate a session. No remnants of the prior session should then remain.
  - r. Display explicit error and exception handling when not executing as designed.
  - s. Application data shall be protected from unauthorized use when at rest.
  - t. Keep any sensitive data or communications private from unauthorized individuals and programs.
  - u. The application shall not violate its security requirements as a result of the upgrading of a data, software or hardware component.
  - v. On the hosted system, the State information will be separated from other information located on the same server using password protection.

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- w. Hosted Server shall be available 24x7 with the following exclusions:
  - i. During weekly schedule maintenance
  - ii. During scheduled backup periods
  - iii. During scheduled outages for application patches or other modifications
- x. Performs one (1) daily backup of Performance Pathways and the State production, development, and test data and Software on the Hosted Server.

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Testing Services

Performance Pathways shall provide the following Testing Products and Services described in this Contract Exhibit F, including but not necessarily limited to:

**1. TESTING AND ACCEPTANCE**

Performance Pathways shall bear all responsibilities for the full suite of test planning and preparation throughout the project. Performance Pathways shall also provide training as necessary to the State staff responsible for test activities. Performance Pathways shall be responsible for all aspects of testing contained in the Testing Plan that shall be incorporated into the Work Plan. This shall include support, at no additional cost, during User Acceptance Testing conducted by the State and evaluation of the training materials.

All Testing and Acceptance addressed herein (both business and technically oriented testing) shall apply to testing the System as a whole, (e.g., software functions, and implementation(s)). This shall include planning, test scenario and test instructions, data and system preparation for testing, and execution of data import, reports, filters, user security roles and other functionality testing, support of the State during User Acceptance Testing and Implementation. In addition, Performance Pathways shall provide a mechanism for reporting actual test results vs. expected results and for the resolution and tracking of all errors and problems identified during test execution. Performance Pathways shall correct Deficiencies and support required re-testing as described below.

Contextual Assumptions:

- A. The configured software is architected using classic Microsoft ASP as the code base with SQL Server 2000 as the RDBMS. The configured software solution will be delivered entirely as one solution and not in functional components. This reduces the effort involved with installation and setup.
- B. Performance Pathways will initially provide on-site assistance/training to help prepare the State staff in performing the acceptance testing. Once the testing members are comfortable with the testing activities and overall plans, this support will then migrate to online conferencing; phone and email support.
- C. All end-user system documentation available will be provided to State testing team, complete with descriptions that include any modifications made to the system as part of this Contract. The documentation will be delivered as final and additional system documentation may not be complete during system user testing.
- D. Performance Pathways will provide project management, end user training and technical assistance on site as deemed necessary by the State staff involved in the testing.
- E. Most defects are expected to be related to the integrity of the data imports. The integrity of the data is paramount to the success of the implementation and is directly proportional to the amount of issues that arise. The issues often involve the external unique identifying codes of the entities we import. The majority of issues are involved with importing student assessment results and on the validity of the Student ID. For example, when importing assessment results, a unique Student ID is needed in the data file. When errors are encountered, it is often due to the fact that the

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Testing Services

Student ID field values have not been correct. A second area, where issues or errors have been encountered, have been during importing Teacher information and Teacher-Class Rosters for LEA's. Typically, these data files do not have correct unique identifying codes for: Teacher, Class and/or Student ID.

- F. This System is primarily an off-the-shelf product. Testing time should be substantially less than if this were a customized solution that was built from scratch based upon a set of user requirements and technical specifications. It is expected that the time allocation to complete a comprehensive testing phase and time allocation for defect identification, defect correction and regression testing to be significantly lower as a result.
- G. The following tools will be used to isolate host access performance problems: Paessler's PRTG Traffic Grapher as well as a number of Windows Server 2003 performance monitors. PRTG Traffic Grapher will track bandwidth usage as well as server resource utilization, network utilization and application monitoring (IIS and SQL).
- H. Web-based access to bug tracking system will be used to document and track status of suspected defects.
- I. The Performance Pathway's project manager in conjunction with the State will be responsible for the classification of suspected defects. The priority of the suspected defects is often more important than the classification. When it comes to prioritizing error resolution, the project manager and development team will provide input as necessary, but the State will be the final determinant for prioritizing error resolution.
- J. System performance will be measured and documented on the State's infrastructure using their data. Tools employed will include the Paessler Webserver Stress Tool to stress test the application directly from inside the States infrastructure. Performance Pathways will use Paessler's PRTG Traffic Grapher as well as a number of Windows Server 2003 performance monitors to take key measurements and monitor processing threshold. PRTG Traffic Grapher allows us to track bandwidth usage as well as server resource utilization, network utilization and application monitoring (IIS and SQL).
- K. Performance tests such as system response based on URL, number of users, number of clicks, constant load for a specified time or increasing load for a specified time shall be conducted.

### 1.1 Test Planning and Preparation

Performance Pathways shall provide the State with a Testing Plan that shall include identification, preparation, and documentation of planned testing, test scenarios, test instructions, test data, functional tests including existing filters and reports, user security roles as well as customer reports, filters, user security roles, and subgroups, data import tests, assessment framework evaluation, expected testing results, and "bug" tracking system.

As identified in the Test Plan and documented in accordance with the Project Work Plan and the Contract documents, State testing shall commence upon the Performance

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 Testing Services

Pathways' Project Manager's certification, in writing, that the Performance Pathways's own staff has successfully executed all prerequisite Performance Pathways testing, along with reporting the actual testing results, prior to the start of any testing executed by State staff. The State shall be presented with a State approved Test Plan, test scenarios, test instructions, test data, and expected results.

**1.2 Functionality Testing**

In Functionality Testing, Performance Pathways shall test the solution to verify that existing System functionality encompassing reports and filters, user security roles, and other functionality is normal and producing predictable results. In addition, this functionality testing will assure that the Priority Requirements for Phase I as outlined in Exhibit H are also functioning and producing predictable results.

Activity Description	Develop the scenarios and test steps needed to test planned System functionality.
Performance Pathways Team Responsibilities	For application functionality, the Performance Pathways team shall identify applicable instructions, adapt them to the project specifics, test the specific functionality, and compare with the documented expected results.
Work Product Description	Verify that existing Performance Pathways System and State custom functionality is functioning normally, as expected and required, without errors. Document the testing process and results.

**1.3 System Integration Testing**

Data will be imported, typically in comma-delimited format, and may be semi-automated via Performance Pathways existing FTP site, but testing related to imported data will be addressed in section 1.4 below.

**1.4 Data Import Validation Testing**

Various data will be imported from legacy systems as well as current year test service providers, the following describes the data testing and validation process:

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<b>Activity Description</b>	The data import validation tests will address data imported in the System application during Phase 1 including Assessment Data, Student Data, and User Data generally as follows: A) Student Data 2005-06 (2006-07 if available) B) NECAP 2005-06 - Fall (Gr3-8; RLA; Math; Writing) General and Alternative Assessments C) NECAP 2006-07 (if available) D) School Administrators, State Personnel, Teachers
<b>Performance Pathways Team Responsibilities</b>	For data imports and related matters, collaborate with the State team regarding data imports formats and execution and shall assist as necessary to validate imported results with the documented expected results.
<b>State Responsibilities</b>	Extract and cleanse, if necessary, the legacy and current data to be imported during both the import and test phases.
<b>Work Product Description</b>	Validate imported data available during testing phase. And, that this imported data is further tested to verify that the resulting imported data performs correctly in the entire suite of the Performance Pathways Application.

**1.5 Testing System Environment**

In Installation Testing, the Performance Pathways host solution is installed at the hosted site in either a system test environment or in an isolated production environment and will serve as the environment for all testing.

**1.6 User Acceptance Testing (UAT)**

UAT begins upon completion of the software configuration as required and user training according to the Work Plan. Testing ends upon issuance of a letter of UAT Acceptance by the State.

The State shall be presented with all testing results, as well as written certification that Performance Pathways has successfully completed the prerequisite tests, meeting the defined acceptance, and performance criteria. The State shall commence testing within five (5) business days of receiving certification from the Vendor that the Performance Pathways hosted system is installed, configured, complete and ready for State testing.

User Acceptance Testing is a verification process that consists of performing the tests and verifying the results against the acceptance criteria specified and in the requirements defined in the Performance Pathways' response. The State shall conduct testing utilizing instructions and data sets identified and developed in the Test Plan to validate the functionality of the System and the data imported, and verify implementation readiness. It is performed on a hosted system which is a copy of the final hosted System to be implemented. Production Environment and can also serve as a performance and stress test of the System. The User Acceptance Test may cover any aspect of the new System.

The results of the User Acceptance Testing provide evidence that the new System meets the User Acceptance criteria as defined in the Work Plan.

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<b>Activity Description</b>	The System User Acceptance Testing verifies System functionality against predefined acceptance criteria that support the successful execution of approved System processes.
<b>Performance Pathways Team Responsibilities</b>	<ul style="list-style-type: none"> <li>• Provide the State an acceptance test plan and selection of test instructions and data for the acceptance test.</li> <li>• Monitor the execution of these tests and assist as needed during the User Acceptance Testing activities.</li> <li>• Work jointly with the State in determining the required actions for problem resolution.</li> </ul>
<b>State Responsibilities</b>	<ul style="list-style-type: none"> <li>• Approve the development of the User Acceptance Test Plan and the set of data for use during the User Acceptance Test.</li> <li>• Validate the acceptance test environment.</li> <li>• Execute the test instructions and conduct user acceptance testing activities.</li> <li>• Document and summarize acceptance test results.</li> <li>• Work jointly with Performance Pathways in determining the required actions for problem resolution.</li> <li>• Provide acceptance of the validated Systems.</li> </ul>
<b>Work Product Description</b>	The deliverable for User Acceptance testing is the User Acceptance Test Results. These results provide evidence that the new System meets the User Acceptance criteria as defined in the Work Plan.

**1.7 Regression Testing**

The Performance Pathways shall be responsible for developing the Test Plans and all test materials, and for executing all tests and certifying their completion prior to user testing. As a result of the user testing activities, problems shall be identified that require correction. The Performance Pathways shall be required to perform additional testing activities in response to State and/or user problems identified from the testing results.

During this problem correction process, the State requires that appropriate regression testing occur. By regression testing, the State means selective re-testing to detect faults introduced during the modification effort, both to verify that the modifications have not caused unintended adverse effects, and to verify that the modified and related (possibly affected) system functionalities still meet their specified requirements.

When a programming change is made in response to a problem identified during user testing, a regression Test Plan should be developed by the Performance Pathways based on the understanding of the program and the change being made to the program. The Test Plan has two objectives: first, to validate that the change/update has been properly incorporated into the program; and second, to validate that there has been no unintended change to the other portions of the program.

The Performance Pathways shall be expected to:

1. Create a set of tests, and test data that shall validate that the change has been incorporated correctly;

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2. Create a set of tests, and test data that shall validate that the unchanged portions of the program still operate correctly; and
3. Manage the entire cyclic process.

The Performance Pathways shall be expected to execute the regression testing, provide actual testing results, and certify its completion in writing to the State prior to opening the hosted System to the users for retesting.

In designing and conducting such regression testing, the Performance Pathways shall be required to assess the risks inherent to the modification being implemented, identifying and assessing any unintended consequences, and weighing those risks against the time and effort required for conducting the regression tests.

**1.8 Successful UAT Completion**

Upon successful completion of UAT, the State shall issue a Letter of UAT Acceptance. Upon issuance of the Letter of UAT Acceptance by the State, the respective Implementation Warranty period shall commence as further described in Contract Exhibit K: *Warranty and Warranty Services*.

**1.9 System Acceptance**

Upon completion of the Warranty Period, the State shall issues a Letter of Final System Acceptance.

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Performance Pathways shall maintain the Performance Pathways' System including but not limited to Performance Tracker, Tech Paths, and Assessment Builder applications, so that it meets the Specifications defined. Performance Pathways shall be responsible for System maintenance and support in accordance with the Contract Documents and the Contract Exhibit I: *Work Plan*.

**1. SYSTEM MAINTENANCE**

**1.1 Performance Pathways' Responsibility**

Performance Pathways shall be responsible for maintaining the Performance Pathways System in accordance with the Contract Documents and the Specifications, including without limitation the requirements, terms, and conditions contained herein.

**1.1.1 Maintenance Releases**

Performance Pathways shall make available to the State the latest program updates, general maintenance releases, selected functionality releases, patches, and documentation that are generally offered to its customers.

**1.1.2 Custom Software, Interfaces, and Patches**

All Software updates, general maintenance releases, selected functionality releases, patches, and documentation released to the State and applied by Performance Pathways as needed to meet the requirements, shall support and be compatible with the Performance Pathways-developed Custom Software and interfaces.

**1.1.3 Data conversion and Reports**

Per the requirements, Performance Pathways shall work with the State to update student data and assessment data on an ongoing, daily basis. As identified in Contract Exhibit H: *Priority Requirements* Section 1.1, up to 10 new assessments may be added each year. Additionally, up to five reports may be added per year.

**2. SYSTEM SUPPORT**

**2.1 Performance Pathways' Responsibility**

Performance Pathways shall be responsible for performing technical support in accordance with the Contract Documents, including without limitation the requirements, terms, and conditions contained herein.

**2.2 System Support Levels**

**2.2.1 Class A Deficiencies (Telephone Support)**

For all Class A Deficiencies, Performance Pathways shall have available to the State on-call telephone assistance, with issue tracking available to the State,

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twenty four (24) hours per day and seven (7) days a week with an e-mail / telephone response within two (2) hours of request;

**2.2.2 Class A Deficiencies (Hosted site or Remote Support)**

For all Class A Deficiencies, Performance Pathways shall provide hosted site, or remote diagnostic services, within four (4) business hours of a request; and

**2.2.3 Class B & C Deficiencies**

For all Class B & C Deficiencies the State shall notify Performance Pathways of such Deficiencies during regular business hours and Performance Pathways shall respond back within forty eight (48) hours of notification, for Class B Deficiencies only, of planned corrective action.

**2.3 Term**

Performance Pathways System support shall commence with the Effective Date of the User Acceptance Testing Letter of Acceptance and shall remain in effect until the end of the contract term.

**2.4 Service Level Agreement**

Maintenance Services shall include, without limitation, the following:

- a. Maintain the Performance Pathways System in accordance with the Specifications, terms, and requirements of the Contract;
- b. Repair or replace the Performance Pathways System or any portion thereof so that the System operates in accordance with the Specifications, terms, and requirements of the Contract;
- c. Performance Pathways shall have available to the State on-call telephone assistance, with issue tracking available to the State, 7:00 AM to 7:00 PM during State Business Days with an email / telephone response within two (2) hours of request, with assistance response dependent upon issue severity;
- d. Maintain a record of the activities related to maintenance repair or maintenance activities performed for the State;
- e. For all maintenance services calls, Performance Pathways shall ensure the following information will be collected and maintained: 1) nature of the deficiency; 2) current status of the deficiency; 3) action plans, dates, and times; 4) expected and actual completion time; 5) deficiency resolution information;
- f. Performance Pathways must work with the State to identify and troubleshoot potentially large-scale Software failures or deficiencies by collecting the following information: 1) mean time between reported deficiencies with the Software; 2) diagnosis of the root cause of the problem; and 3) identification of repeat calls or repeat Software problems; and
- g. Deficiencies found during Maintenance and Support Services that have a significant impact on system usage shall be corrected by Performance Pathways in no more than

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two business days, at no additional cost to the State, unless specifically extended in writing by the State. All other deficiencies found during Maintenance and Support Services shall be corrected by Performance Pathways no later than five business days, unless specifically extended in writing by the State, and at no additional cost to the State.

### 3. DATA COLLECTION

#### 3.1 Records Activities

Performance Pathways shall maintain a record of the activities related to warranty repair or maintenance and support activities performed for the State. For all maintenance services calls, Performance Pathways shall ensure the following information shall be collected and maintained:

1. Nature of the Deficiency;
2. Current status of the Deficiency;
3. Action plans, dates, and times;
4. Expected and actual Completion time; and
5. Deficiency resolution information.

#### 3.2 System Monitoring

Performance Pathways must work with the State to identify and troubleshoot potentially large-scale System failures or Deficiencies by collecting the following information:

1. Mean time between reported deficiencies with the System;
2. Diagnosis of the root cause of the problem; and
3. Identification of repeat calls or repeat System problems.

### 4. DEPARTMENT'S HELP DESK COVERAGE

Performance Pathways shall provide training and materials required to assist the Department's Help Desk prepare for support of the System through ongoing coordination with the Help Desk on change management and training activities; escalation procedures; interim staffing for peak Help Desk demand periods and transition to a permanent arrangement, development of a Help Desk knowledge base; and metrics based on Help Desk inquiries.

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1. Priority Requirements Response

Performance Pathways shall provide a fully operational COTS Software Solution with the following functionalities listed herein as further described in RFP 2007-008 attached herein.

These requirements will be delivered as part of two phases.

Phase I

As part of Phase I all schools, school districts, and other stakeholders will be able to analyze assessment information. Authorized individuals will be able to 'drill down' to the student level. The State will be able to add to and maintain the assessment information. Phase I will be purchased by the state to be available for all publicly funded students. All of the requirements identified below as included in "Phase I" should be part of this phase. This functionality will allow all stakeholders (district and school administrators and teachers, DOE personnel, researchers, citizens, etc.) to view and analyze assessment data and related student data that is captured by the DOE. This data currently includes state academic assessments such as NECAP, demographics, attendance and other student indicators. However, in the future and as part of this contract, this may also include other academic assessments (e.g. NWEA) as well as assessments/surveys identifying social, personal or physical measures. Phase I functionality may be released in segments if agreed upon by the Department of Education. See table references for two planned releases labeled Ia and Ib during Phase I.

Phase II

As part of Phase II, schools/districts will have the option to 'buy into' the functionality to create and administer local assessments. Local schools/districts will then be able to analyze student performance across both local and state assessments. In addition, Phase II will enable schools/districts to maintain curriculum and tie the curriculum to standards and assessments. By connecting this information schools/districts will be able to analyze the impact / correlation between curriculum, assessments and standards. Phase II requirements may be purchased at the option of local districts as well as the State per Exhibit B. All of the requirements identified below as included in "Phase II" should be part of this phase. This functionality will allow districts to integrate their local assessments into the same repository as the Phase I state maintained data. The state may choose to purchase Phase II functionality for all schools as defined in Exhibit B.



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Table 1.1-1 Performance Pathways Responses to Priority Requirements

\* Mandatory Requirements

Requirement Number	Description	Phase	Included (yes or no)	Modifications Required (yes or no)	Clarifications
Analyzing Data					
A.1	*Ability to follow-the-child and analyze student gains	Ia	Yes	No	Performance Pathways shall provide an individual student portfolio for each student that can go beyond No Child Left Behind requirements. In addition to a longitudinal history of all state, local, and national assessments, a district can create and track proficiencies against other criteria such as personal, social, or physical aspirations. As part of Phase I, the State will be able to include up to 10 different assessments each year. These assessments could include any of the FTC areas (for example, NECAP assessment, NWEA, a survey on physical wellbeing, etc.).
A.2	* Schools must have access to State maintained data. The data must include but not be limited to: NECAP, NHEIAP and other State assessment data; student demographic data such	Ia	Yes	No	All the state assessment data shall be accessible to be aggregated and dis-aggregated from one user friendly reporting menu.

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	as gender, race, school affiliation, LEP, special ed. etc.				
A.3	Enable access to LEA maintained data	II	Yes	No	Districts shall have the ability to add local assessment data at their own discretion as outlined in Phase Two of this RFP
A.4	*Access to student profiles including assessment, student demographics and program involvement (e.g. Special Ed, English as a Second Language, Career and Technical Education, etc.)	Ib	Yes	No	This data is accessible within our student profile screens Student characteristics collected by the state (e.g. attendance) will be added to the longitudinal Student Profile screens.  Attendance handled as subgroups with ranges could be Release Ia as well.
A.5	*Provide graphical views of data	Ib	Yes	No	Well known benefits of Performance Tracker are its graphic and interactive reports  Up to five reports will be added to meet the requirements of the state.
A.6	*Provide dashboard view of key indicators	Ib	Yes	Yes	The Dashboard will be a graphical district report card and will display AYP indicators as part of a state / district school report card. This report card will not be customizable by schools and districts.
	*Ability to analyze LEA assessment data along with State level assessment data	II	Yes	No	A powerful feature of Performance Tracker is the ability to easily run comparative reports by state, national, and local assessments
	Ability to share historical LEA assessment data with other schools as students transfer between schools	II	Yes	Yes	Student data including assessment results will be accessible by a receiving school. For example, if a student takes a local DIBELS test in school A and then

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					transfers to school B, the DIBELS results will be accessible by district B even if School B does not offer the DIBELS assessment. Links may be added to access local assessments.
A.7	Provide graphical comparison between assessments and goals (e.g. green, yellow, red indicator).	1a	Yes	Yes	The system could standardize on a defined colors for pie charts.
A.8	*Ability to perform analysis at the following levels: State, district, school, grade, course, teacher, student and user generated groups.	1a	Yes	No	In Release 1a, district information will be provided by a school building filter, whereas, in Release 1b, a district filter will be created.
A.9	*Ability to disaggregate analysis into student demographic parameters: race, gender, lunch status, special education, program status (e.g. English as a Second Language), age, attendance, retention, etc.	1b	Yes	No	Performance Pathways will work with the State to modify the Demographic Filters to enable filtering via additional student characteristics – up to ten. For attendance, use student groups whose names are coded as ranges . The user should be able to view a report that breaks out results by multiple demographic filters at once (e.g. any of the various student group filters plus race and gender in one report). Could create LEP-Male, LEP-Female, etc. via a stored procedure in database.  Where required, demographics must be maintained by year for students (e.g. Race).
A.10	*Ability to view longitudinal assessment data – at student and at school/district/State level. Ability to view	1a	Yes	No	In Release 1a, district information will be provided by a school building filter, whereas, in Release 1b, a district filter will be created.

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	item level detail when available.				
A.11	*Ability to see connection between assessment results and State standards, strands and Grade Level Expectations (GLE's).	Ia	Yes	No	This has already been done for NECAP and NWEA.
A.12	Ability to see connection between student data including assessment results and State standards, GLE's and school curriculum.	II	Yes	No	TechPaths: Curriculum Mapping System
A.13	Enable access to State data maintained centrally as well as local data accessible only by the local district.	II	Yes	No	
A.14	*Provide pre-defined easy access reports and key indicators (LEA users should not be able to alter these reports).	Ia	Yes	No	
A.15	*Enable custom user defined reports. Must enable the report criteria to be saved for later use.	Ia	Yes	No	Using various pre-defined reports and filters
A.16	Ability to create and display Adequate Yearly Progress (AYP) reports	Ib	Yes	No	In addition to the five custom reports that will be added as part of the implementation links will be provided to existing DOE reports that display Adequate Yearly Progress.
A.17	Ability for parents to access their student's data (as permitted by school).	Ia	Yes	No	Parents should have access to only their student(s) data. The State will manage the user ids and passwords.
A.18	*Ability to connect one student to multiple teachers and/or schools. For example spring 05 teacher(s) versus fall 06	Ia	Yes	No	

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	teacher versus spring 05 full year teacher.				
A.19	*Ability to produce public access predefined reports that restricts access to student level data and limits display of data when falling below defined cell sizes. types of cell size definition....ie race gender, etc.	Ib	Yes	Yes	The public will have access to the reports that the State defines as viewable by public – this should be configurable. They will be prevented from seeing individual student data, teacher data and data that falls below the cell size.  We can create links to reports without having to login.
A.20	*Ability to produce public access ad-hoc reports that restricts access to student level data and limits display of data when falling below defined cell sizes.	Ib	Yes	Yes	Through the use of filters, users will be able to run ad-hoc reports.  There are a number of solutions, could be setup to skip login and startup as a defined user.
A.21	*Enable data to be extracted from system so that SEA or LEA can take data out of system and use statistical analysis software or other school management software to further analyze results.	Ia	Yes	No	Release 1b will add more data to the export screen
A.22	Ability to maintain teacher, parent and other stakeholder profiles	Ia	Yes	No	Yes, but State must maintain user accounts.
A.23	Ability for students to have access to their own profiles and data.	Ib	Yes	No	This is the “portfolio”. Yes via the students own login (similar to parent login).
Creating Assessments					
C.1	Ability to develop local formative assessments by a district, teacher or group of teachers	II	Yes	No	
C.2	Ability to identify local	II	Yes	No	

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	assessment as 'State endorsed'				
C.3	Ability to tie assessment to standards -- both assessments generated by this tool and other outside assessments (e.g. NWEA) -- both standards defined by State and local standards	II	Yes	No	
C.4	Allow assessment definitions to be accessible throughout State or only by LEA.	II	Yes	No	
C.5	Ability to import data from outside tests. Both test definition and student assessment results.	II	Yes	No	
C.6	Allow student assessment results to be accessible only by LEA or by any authorized school.	II	Yes	No	
C.7	Maintain a bank of test questions tied to standards and GLE's	II	Yes	No	
C.8	Enable LEA to add/modify local standards (but not State defined standards)	II	Yes	Yes	
C.9	Ability to add test bank questions (from scratch or from 3 <sup>rd</sup> party test provider)	II	Yes	No	
C.10	Ability to classify test questions at various levels of 'certification'	II	Yes	No	As part of content library.
C.11	Ability to print out answer sheets and test keys	II	Yes	No	
C.12	Ability to score answer	II	Yes	No	

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	sheets				
C.13	Ability to administer on-line formative assessment	II	Yes	Yes	As of now this is a product that is part of our strategic development plans. Chargeable feature.
C.14	Ability to schedule assessment tests	II	Yes	No	
Maintaining Curriculum					
M.1	Ability to maintain curriculum maps including goals and lesson plans guiding school instruction throughout the year (system should enable these to be defined at multiple levels – e.g. school, course/class, teacher, students, etc.)	II	Yes	No	
M.2	Ability to carry over and to modify curriculum from year to year	II	Yes	No	
M.3	Ability to tie standards to curriculum and to assessment results	II	Yes	No	
M.4	Ability to identify professional development opportunities that meet needs for curriculum gaps	II	Yes	No	Can identify gaps between assessments and curriculum and then define lessons, action plans, remediation, etc. to identify areas that require additional professional development and potential resources.
M.5	Ability to define goals that are aligned with standards (goals should be possible at multiple levels – e.g. district, school, student, etc.)	II	Yes	No	
M.6	Ability to search for curriculum via standards or key words	II	Yes	No	

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M.7	Ability to share (i.e. add) and access best practice curriculum across schools	II	Yes	No	
M.8	Ability to access best practices from other states/countries	II	Yes	No	
M.9	Ability to maintain and access curriculum resources (e.g. presentations, videos, etc)	II	Yes	No	
M.10	Provide pre-defined easy access reports	II	Yes	No	
M.11	Enable custom user defined reports. Must enable report criteria to be saved for later use.	II	Yes	Yes	
M.12	Ability to classify curriculum at various levels of 'certification' – e.g. State Certified, District Certified, etc.	II	Yes	No	
Data Population					
D.1	*The Vendor Solution must include State maintained data. The data must include but not be limited to: NECAP and NHEIAP assessment data; student demographic data such as gender, race, school affiliation, LEP, special ed, etc.	Ia	Yes	No	Up to 10 per year are included (an assessment such as NECAP or for all grades and subjects is considered a total of 1 assessment. NWEA could be a second assessment).
D.2	*The Solution must restrict local schools from modifying State maintained data.	Ia	Yes	No	
D.3	*The Vendor must enable continuous updates of student	Ia	Yes	No	The application will enable nightly updates, but this can be modified to be more frequently

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	demographic, assessment and related data, as well as, teacher and classroom/course data (from the State's i4see system).				or less frequent if needed.
D.4	*Allow State to add new data to be accessible by all districts/schools.	Ia	Yes	No	This will require Performance Pathways' involvement if these are new attributes, but this is included with the scope of services throughout the life of the contract, providing data are attributes of existing data objects (student and assessment).
D.5	Enable local schools/districts to add data that is viewable only by local school or made accessible to all districts/schools.	II	Yes	No	
D.6	*The system must accept State data that connects one student to multiple teachers and/or to multiple schools. Similarly one teacher may be connected to multiple schools and/or students.	Ia	Yes	No	
D.7	Allow for data population via Schools Interoperability Framework (SIF) standards to incorporate data changes found in LEA student information systems.	II	Yes	Yes	Chargeable feature
D.8	The system must enable LEAs to add local student data both demographic and assessment data. The system must enable	II	Yes	No	

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	LEAs to add local curriculum and other pertinent data.				
D.9	The system must allow the LEA to specify if data they add is accessible solely by the LEA or be any authorized user State-wide.	II	Yes	Yes	Modify to allow LEA to authorize accessibility to state wide user
D.10	*The Vendor must import State maintained data annually throughout the warranty and maintenance periods. This includes the State NECAP assessment test in addition to at least one other assessment submission.	Ia	Yes	No	
D.11	*The Vendor must tie all State assessment data to State standards.	Ia	Yes	No	The State must provide standards alignment.
D.12	As appropriate, the Solution should convert curriculum data maintained in the New Hampshire Educators Online Solution ( <a href="http://www.nheon.org">www.nheon.org</a> ).	II	Yes	No	
Security/Privacy					
S.1	*Provide secure encrypted (were necessary) access to data	Ia	Yes	No	
S.2	*Enable multiple levels of security (for example principal can see all school data, but teacher can only see his/her class data)	Ia	Yes	No	
S.3	*Enable maintenance of security (e.g. roles and	Ia	Yes	No	

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	access rights)				
S.4	Integrate with State security so that the single logon used for i4see applications can provide access to FTC-AC.	1a	Yes	Yes	Requires further clarification, and needs to be a Release 1a, even if release 1a schedule is adversely affected, or will create a lot of rework. All user ID's are to be unique.  Is there a state teacher unique ID, if not, this will introduce a LEA issue regarding future teacher/class imports.
S.5	*Enable field level security – i.e. some fields are only viewable by authorized users (e.g. student name must be hidden depending upon security role).	1b	Yes	Yes	We've proposed to have the student name hidden depending upon security role
S.6	*The system must be able to bifurcate the name and SASID (State Assigned Student ID) data.	1a	Yes	No	This is unrelated to field-level security
S.7	* The DOE does not maintain a link between student identifiers (SASIDs) and student names. As such, the system must be able to operate without student names.	1a	Yes	No	This is unrelated to field-level security
S.8	*The system must be able to access student names maintained at the local education agencies.	1b	Yes	No	LEA extracts and uploads new import that has SASID, FN, LN
S.9	*The system must be able to meet the State legislative requirements for security and privacy of the SASID and student level data.	1a	Yes	No	
S.10	*Enable aggregate level access that incorporates	1b	Yes	Yes	

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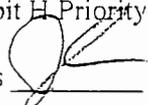
	cell sizes to prevent viewing potentially identifiable aggregate data.				
S.11	*Solution must be able to meet Family Educational Rights and Privacy Act (FERPA) requirements.	Ia	Yes	No	
S.12	*Enable field level security.	Ib	Yes	Yes	Any field level security will require solution customization as security module is role/record-based.
Technology					
T.1	*Web-based compatible with the latest version of MS Internet Explorer	Ia	Yes	No	
T.2	MS SQL Server Database	Ia	Yes	No	
T.3	*GUI Interface Technologies	Ia	Yes	No	
T.4	*Simple user interface to enable quick and easy access by teachers and other stakeholders	Ia	Yes	No	Release Ia not applicable to public access due to cell size in Ib
T.5	*Must require no local client workstation installation	Ia	Yes	No	
T.6	Hosting Solution	Ia	Yes	No	Performance Pathways is a 100% hosted solution
T.7	Enable State to access all data (deemed appropriate by DOE) housed in the FTC AC via SQL server connection.	Ia	Yes	No	Via hosted copy of SQL database that is backed up nightly
T.8	*Must provide a secure solution to ensure data security and privacy.	Ia	Yes	No	
T.9	*For hosted solutions, the vendor must ensure sufficient bandwidth exists.	Ia	Yes	No	

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Other					
O.1	*Training solutions to enable use by LEA and other stakeholders of the SEA funded solution meeting the mandatory requirements (on-line help; train-the-trainer; electronic training; etc.)	Ib	Yes	No	
O.2	Training solutions to enable use by all stakeholders of the extended modules (on-line help; train-the-trainer; electronic training; etc.)	Ib	Yes	No	
O.3	Dashboard views throughout system (e.g. Red-Yellow-Green lights to view curriculum that have been successful or standards that are not being met).	II	Yes	Yes	
O.4	The system must be able to include Alternative Assessments into all the requirements, as appropriate.	Ia	Yes	No	Accommodations could be handled as other student demographics.  As long as we can define alternative assessment framework, then we can treat it as other assessments.
O.5	The system should capture course and grade information for students.	Ia	Yes	No	State must provide data using an assessment framework which would be one of the ten available
O.6	The system should have the ability to search for results across the system. For example, searching for curriculum via subject, searching for assessment results by	II	Yes	No	

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	name, etc.				
O.7	Enable mail merge capabilities to communicate with parents and/or other user groups.	Ib	Yes	Yes	
Release Schedule					
R.1	Vendor must make accessible to all school principals and as requested by teachers the following assessment results: Grades 3-8 Fall 2005 Assessment results Grade 10 Spring 2006 Assessment results Grades 3-8 Fall 2006 Assessment results All corresponding alternative assessment results Gains (as defined by the DOE) for all students with two years of assessment results.	1a	Yes	No	
Additional					
A.1	Vendor can recommend additional requirements not included in this list.	1a	Yes	No	



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This preliminary Work Plan was included as required in the Performance Pathways' Proposal to RFP 2007-008. The Performance Pathways shall submit a revised Work Plan to the State within fourteen (14) Business Days from the Notice to Proceed, and shall be subject to the written Approval of the State. The approved Work Plan is the first Project Deliverable and shall be incorporated into the Contract by reference as if fully set forth herein. This revised Work Plan shall comply with the Contract.

The Work Plan shall identify the tasks required to implement the Project, address intra-task dependencies, resource allocations (both State and Performance Pathways team members), refine the Project's scope, and establish the Project's schedule. The Plan shall be documented in accordance with the Performance Pathways' methodology and shall utilize Microsoft Project to support the ongoing management of the Project. The Performance Pathways has the responsibility for the development and management of the Work Plan in conjunction with the State Project Managers. The Performance Pathways shall be responsible for the modifications to the Work Plan throughout the Project. The Work Plan, as approved by the State from time to time, shall be incorporated herein by reference as if fully set forth herein.

## 1. ASSUMPTIONS

The following identifies the assumptions upon which the Performance Pathways team's proposed Work Plan and related cost proposal are based.

### A. General

- The State shall provide team members with decision-making authority to support the implementation efforts.
- All State tasks must be performed per the agreed-upon Work Plan established at the commencement of the Project and refined throughout the Project.
- All key decisions shall be resolved within five (5) business days. Issues not resolved within this initial period shall be escalated to the State's Project Manager for resolution.
- Any activities, decisions or issues taken on by the State that affect the mutually agreed upon Work Plan timeline, scope, resources, and costs shall be subject to the identified Change Control process.
- Performance Pathways and the State shall mutually refine and confirm the final Project schedule, including deliverable and acceptance dates.
- Performance Pathways maintains an accounting system in accordance with Generally Accepted Accounting Principles (GAAP).



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- B. **Logistics**
- Upon agreement by the State Project Manager, the Performance Pathways team reserves the right to perform that work at a facility other than that furnished by the State, when practical at their expense.
  - The Performance Pathways team shall honor all holidays observed by Performance Pathways or the State, although with permission, may choose to work on holidays and weekends.
  - The State shall provide adequate facilities for the Performance Pathways team.
- C. **Project Management**
- Performance Pathways' Project Management Methodology shall be used as the Project management method.
  - The State shall provide the Project Team with reasonable access to the State personnel as needed to complete Project tasks.
  - A Project folder shall be used for centralized storage and retrieval of Project documents, work products, and other material and information relevant to the success of the Project and required by Project Team members. This central repository is secured by determining which team members have access to the Project folder and granting either view or read/write privileges. The Performance Pathways Project Manager shall establish and maintain this folder. The State Project Manager shall approve access for the State team. Documentation can be stored locally for the Performance Pathways and State teams on a "shared" network drive to facilitate ease and speed of access. Final versions of all documentation shall be provided to the State.
  - Performance Pathways may assign an Alternate Project Manager may be appointed from time to time with permission of the state, to handle reasonable and ordinary absences of the Project Manager.
- D. **Technical Environment and Management**
- The State is responsible for providing the hardware, network, and communication facilities needed to support the Project development and production efforts housed at the Department of Education.
  - Performance Pathways shall provide the hardware and operating system to host the Project's development and production instances. Hardware and operating system environments must be sized to support the service level agreements required by the RFP.
  - Designated State systems personnel shall be available during normal working hours and for adjustments to operating systems configurations and tuning.
- E. **Data Imports and Conversions**
- The Performance Pathways proposal is based on the assumption that the State's technical team is capable of implementing, with assistance from the Performance Pathways technical team, a subset of data imports and conversions. The Performance

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Pathways team shall lead the State with the mapping of the legacy data to the Performance Pathways System. Additionally, the Performance Pathways team shall:

- o Provide the State with Performance Pathways System data requirements and examples, of data mappings, import steps and data import functions.. The
- o Provide guidance and assistance with for data loaders and data imports as required.
- o Lead the review of functional and technical specifications.
- o Assist with the resolution of problems and issues associated with the development and implementation of all data imports..

**F. Project Schedule**

- The Project Schedule shall be managed by the Work Plan.

**G. Reporting**

- Performance Pathways shall provide bi-weekly status reports.

**H. User Training**

- The Performance Pathways team shall lead the development of the end-user training plan.
- A combination of regional training and the train the trainer approach shall be used for the delivery of end-user training.
- The State shall schedule and track attendance on all end-user training classes.

**I. Performance Testing**

- Performance Pathways shall provide a performance test workshop to identify the key scenarios to be tested, the approach and tools required, and best practices information on performance testing.
- The State shall work with Performance Pathways on Performance Testing as outlined in Contract Exhibit F – *Testing Services*.

**2. ROLES AND RESPONSIBILITIES**

**A. Performance Pathways Roles and Responsibilities**

**1) Performance Pathways Project Manager**

The Performance Pathways Project Manager shall have overall responsibility for the day-to-day management of the Project and shall plan, track, and manage the activities of the Performance Pathways Key Project Staff. The Performance Pathways Project Manager shall have the following responsibilities:

- Maintain communications with the State's Project Manager;
- Work with the State to plan and conducting a kick-off meeting;
- Create and maintain the Work Plan;

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- Assign Performance Pathways Key Project Staff to Project tasks according to the scheduled staffing requirements;
- Define roles and responsibilities of all Performance Pathways Key Project Staff;
- Provide bi-weekly and month update progress reports to the State Project Manager;
- Notify the State Project Manager of requirements for State resources in order to provide sufficient lead time for resources to be made available;
- Review task progress for time, quality, and accuracy in order to achieve progress;
- Review requirements and scheduling changes and identify the impact on the Project in order to identify whether the changes may require a change of scope;
- Implement scope and schedule changes as authorized by the State Project Manager and with appropriate change control approvals as identified in this Implementation Plan;
- Inform the State Project Manager and staff of any urgent issues if and when they arise;
- Provide the State completed Project deliverables and obtain sign-off from the State's Project Manager; and

**2) Performance Pathways Personnel**

The Performance Pathways team shall conduct analysis of requirements, validate the Performance Pathways team's understanding of the State's business requirements by application, and perform business requirements mapping;

- Perform requirements definition.
- Implement requirements.
- Assist with the transition to production.
- Development and review of functional and technical Specification to determine that they are at an appropriate level of detail and quality;
- Produce application configuration definitions and configure the applications;
- Development and documentation of any conversion and interface programs in accordance with functional and technical specifications;
- Development and documentation of installation procedures; and
- Development and execution of functional test steps and instructions;
- Testing of any of conversions and interfaces developed; and
- Any System integration testing.
- Construct and confirm application test case scenarios;
- Conduct testing of the configured application.;
- Produce functional specifications for any extensions, conversions, and interfaces;
- Assist the State in the testing of any extensions, conversions, and interfaces;
- Assist the State in execution of the State's acceptance test;

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- Conduct follow-up meetings to obtain feedback, results, and concurrence/approval from the State;
- Assist with the correction of configuration problems identified with hosted system, functional, data import, any integration and all acceptance testing; and

**B. State Roles and Responsibilities**

The following State resources have been identified for the Project. The time demands on the individual State personnel shall vary depending on the phase and specific tasks of the implementation. The demands on the Subject Matter Experts' time shall vary based on the need determined by the State Project Manager and the phase of the implementation.

**1) State Project Manager**

The State Project Manager shall collaborate with the Performance Pathways Project Manager. The role of the State Project Manager is to manage State resources, facilitate completion of all tasks assigned to State staff, and communicate Project status on a regular basis. The State Project Manager represents the State in all decisions on Project matters, provides all necessary support in the conduct of the implementation Project, and provides necessary State resources, as defined by the Work Plan and as otherwise identified throughout the course of the Project. The State Project Manager has the following responsibilities:

- Work with Performance Pathways to plan and conduct a kick-off meeting;
- Assist the Performance Pathways Project Manager in the development of a detailed Work Plan;
- Identify and secure the State Project Team members in accordance with the Work Plan;
- Define roles and responsibilities of all State Project Team members assigned to the Project;
- Identify and secure access to additional State end-user staff as needed to support specific areas of knowledge if and when required to perform certain implementation tasks;
- Communicate issues to State management as necessary to secure resolution of any matter that cannot be addressed at the Project level;
- Inform the Performance Pathways Project Manager of any urgent issues if and when they arise; and
- Assist the Performance Pathways Project Team to obtain requested information if and when required to perform certain Project tasks.

**2) State Subject Matter Experts (SMEs)**

The role of the State SMEs is to assist application teams with an understanding of the State's current business practices and processes, provide agency knowledge, and



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participate in the implementation. Responsibilities of the SMEs include the following:

- Be the key user and contact for their agency or department;
- Attend Project Team training and acquire in-depth functional knowledge of the relevant application applications;
- Assist in validating and documenting user requirements, as needed;
- Assist in mapping business requirements;
- Assist in constructing instructions and data;
- Assist in all functional and other user acceptance testing;
- Assist in performing conversion and integration testing and data verification;
- Attend Project meetings when requested;
- Assist in training end users in the use of the Performance Pathways Software and the business processes the applications support.

**3) State Technical Lead**

The State's Technical Lead reports to the State's Project Manager and is responsible for leading and managing the State's technical tasks. Responsibilities include:

- Attend technical training as necessary to support the Project;
- Work with Performance Pathways to develop and execute a knowledge transfer plan to ensure the State builds capacity to work with Performance Pathways to add new data elements to the solution and develop additional reports.
- Assist the State and Performance Pathways team Project Managers to establish the Project's detailed Work Plan;
- Manage the day-to-day activities of the State's technical resources assigned to the Project;
- Work with State IT management to obtain State technical resources in accordance with the Project's Work Plan;
- Work with the Performance Pathways Technical Lead to assistance if needed to ensure any state components are available to create the development and production environments;
- Work in partnership with the Performance Pathways and lead the State technical staff's efforts in documenting the technical operational procedures and processes for the Project. This is a Performance Pathways deliverable and it shall be expected that Performance Pathways shall lead the overall effort with support and assistance from the State; and
- Provide DBA resources as state input is required.
- Represent the technical efforts of the State at bi-weekly Project meetings.

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4) **State Testing Lead**

The State's Testing Lead shall lead and coordinate the State's testing efforts. Responsibilities include:

- Leading the development of hosted system, any integration, performance, and acceptance testing plans;
- Leading system, integration, performance, and acceptance testing;
- Chairing test review meetings;
- Coordinating the State's team and external third parties involvement in testing;
- Ensuring that proposed process changes are considered by process owners;
- Establish priorities of deficiencies requiring resolution; and
- Tracking deficiencies through resolution.

3. **SOFTWARE APPLICATION**

Performance Pathways will customize and implement the Software as described in this Contract.

4. **CONVERSION/IMPORTING TESTING RESPONSIBILITIES**

The following Table 1 identifies the data imports or conversions within the scope of this Contract.

Table 1: Planned Data Imports/Conversions

Conversion	Components, If applicable	Lead Responsibility	Description
NECAP Data		Performance Pathways	Import 05-06 and 06-07 NECAP results including connection to Standards; including item level data where available; including item level images where available
i4see Data	and i4see related data	Performance Pathways	Import 04-05, 05-06, 06-07 i4see and related data.
NECAP		Performance Pathways	Import 05-06 results including connection to Standards; including item level data where available; including item level images where available

- The Performance Pathways and the State, based on their assigned conversion responsibilities, as set forth in Contract Exhibit F: *Testing Services* shall identify applicable test scripts and installation instructions, adapt them to the Project specifics, test the business process, and compare with the documented expected results.

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- The Performance Pathways and the State, based on their assigned conversion/data import responsibilities, shall execute the applicable data imports that complete the conversion and compare execution results with the documented expected results.
- The State is responsible for documenting the technical specifications of all programs that extract and format data from the legacy systems for use by the conversion processes.
- The Performance Pathways and the State, based on their assigned conversion/data import responsibilities, shall develop and unit test their assigned conversions/data imports.
- The State and Performance Pathways, shall jointly conduct System and Integration Testing, verifying and validating the accuracy and completeness of the conversions.
- The State and the Performance Pathways teams, shall jointly verify and validate the accuracy and completeness of the conversions/data imports for acceptance testing and production.

**5. DATA IMPORT/INTERFACE RESPONSIBILITIES**

Interfaces shall be implemented in cooperation with the State. The following Table 2 identifies the interfaces within the scope of this Contract and their relative assignment.

Table 2: In-Scope Interfaces

Interface	Components, if applicable	Responsible Party	Description
DOE		Performance Pathways	Implement data import interfaces to enable DOE to migrate new data and changes to data into the solution.

**A. Interface Responsibilities**

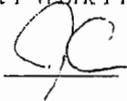
- Performance Pathways shall lead the State with the mapping of legacy data to the Performance Pathways Applications.
- Performance Pathways shall lead the review of functional and technical data import process/interface specifications.
- Performance Pathways shall assist the State with the resolution of problems and issues associated with the development and implementation of the data import interfaces.
- Performance Pathways shall document the functional and technical specifications for the data import process/interfaces.

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- Performance Pathways shall create the initial test plan and related instructions to test and validate data imports . The State shall validate and accept.
- The State and Performance Pathways shall jointly verify and validate the accuracy and completeness of the data import process and interface.
- The State shall document the technical changes needed to legacy systems to accommodate the the data import process.
- The State shall develop and test all legacy application changes needed to accommodate the data import process.
- The State and Performance Pathways, shall jointly construct instructions and create any data needed to support testing the data import processes.
- The State is responsible for leading the data extracts and related formatting needed from legacy systems to support the data import process.

6. APPLICATION MODIFICATION

Performance Pathways will modify the COTS solution for implementation as identified in Exhibit H: *Priority Requirements Contractor's Response*, Section 1.1, and as defined in this contract.



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7. PRELIMINARY WORK PLANS

The following Table 3 from Performance Pathways' RFP response provides the preliminary agreed upon Work Plan for the Contract.

ID	Task Name	Duration	Start Date	Finish Date.
0	Phase One Project Implementation	99 days	10/10/2006	2/27/2007
1	Initiation Phase	0 days	10/11/2006	10/11/2006
2	Project Preparation	1.3 days	10/11/2006	10/12/2006
3	Assign PPI Project Team - IP	13 hrs	10/11/2006	10/12/2006
4	Verify Client Project Team - IP	0 hrs	10/11/2006	10/11/2006
5	Schedule Implementation Meeting - IP	8 hrs	10/11/2006	10/11/2006
6	Implementation Meeting	2 days	10/10/2006	10/12/2006
7	Review Project Scope and Vision - IP	10 hrs	10/10/2006	10/12/2006
8	Team Introductions - IP	0 hrs	10/11/2006	10/11/2006
9	Review Project Tasks - IP	0 hrs	10/11/2006	10/11/2006
10	Review Project Timeline- IP	0 hrs	10/11/2006	10/11/2006
11	Assign Resources - IP	0 hrs	10/11/2006	10/11/2006
12	Project Manager Staff Preparation Meeting - IP	1 day	10/13/2006	10/13/2006
13	Assessment Staff Preparation Meeting - IP	1 day	10/16/2006	10/16/2006
14	Data Staff Preparation Meeting - IP	1 day	10/17/2006	10/17/2006
15	Technology Staff Preparation Meeting - IP	1 day	10/13/2006	10/13/2006
16	Training Staff Preparation Meeting - IP	1 day	10/19/2006	10/19/2006
17	Status Meeting - Init Phase - IP	1 day	10/23/2006	10/23/2006
18	Configuration Phase	0 days	10/11/2006	10/11/2006
19	Review and Analyze User Data - CP	0.5 days	11/7/2006	11/7/2006
20	Review and Analyze Assessment Data - CP	0.5 days	11/7/2006	11/9/2006
21	Analyze i4see database- CP	2 days	11/1/2006	11/2/2006
22	Import Data - CP	10 days	10/11/2006	10/25/2006
23	Software Customization	63 days	10/16/2006	1/11/2007
24	Dashboard Modifications - CP	15 days	10/16/2006	11/6/2006
25	Cell Size modifications - CP	15 days	11/6/2006	11/27/2006
26	Ad Hc Reports- CP	15 days	11/27/2006	12/21/2006
27	Field Level Security- CP	15 days	12/21/2006	1/11/2007
28	Status Meeting- CP	1 day	11/6/2006	11/6/2006
29	Setup Users - CP	2 days	11/3/2006	11/7/2006
30	Setup Assessment Frameworks	4 days	10/26/2006	10/31/2006
31	Setup Sections - CP	1 day	10/26/2006	10/26/2006
32	Setup GLE Alignment - CP	1 day	10/31/2006	10/31/2006
33	Setup Cutpoints- CP	2 days	10/27/2006	10/30/2006
34	Verify Assessment Frameworks - CP	2 days	10/25/2006	10/27/2006
35	Implementation Phase	0 days	10/11/2006	10/11/2006

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36	Software Testing	17 days	11/6/2006	11/28/2006
37	Verify User Logins - Imp	1 day	11/8/2006	11/8/2006
38	Verify Data - Imp	5 days	11/6/2006	11/16/2006
39	Test Reports - Imp	3 days	11/13/2006	11/15/2006
40	Test Filters - Imp	3 days	11/17/2006	11/21/2006
41	Test Software Customization - Imp	5 days	11/22/2006	11/28/2006
42	Status Meeting - Imp	1 day	11/20/2006	11/20/2006
43	Pilot	6 days	1/8/2007	1/15/2007
44	Identify test group - Imp	1 day	1/8/2007	1/8/2007
45	Test Reports - Imp	1 day	1/9/2007	1/9/2007
46	Test Filters - Imp	1 day	1/10/2007	1/10/2007
47	Obtain user feedback - Imp	3 days	1/11/2007	1/15/2007
48	Train support staff (help desk) - Imp	1 day	10/11/2006	10/11/2006
49	Release Software - Imp	1 day	1/31/2007	1/31/2007
50	Status Meeting - Imp	1 day	12/4/2006	12/4/2006
51	Status Meeting - Imp	1 day	1/3/2007	1/3/2007
52	Training	41 days	12/11/2006	2/6/2007
53	Customize training materials - Imp	3 days	1/11/2007	1/15/2007
54	Identify "Train the Trainer resources - Imp	1 day	1/1/2007	1/1/2007
55	Schedule Regional Training Sessions - Imp	1 day	12/11/2006	12/11/2006
56	Conduct Training - Imp	3 days	2/1/2007	2/6/2007
57	Status Meeting - Imp	1 day	1/17/2007	1/17/2007
58	Documentation	9 days	12/11/2006	12/21/2006
59	Develop Help specifications - Imp	1 day	12/11/2006	12/11/2006
60	Customize Help system - Imp	3 days	12/12/2006	12/14/2006
61	Develop custom user documentation - Imp	5 days	12/15/2006	12/21/2006
62	Project Close Out	0 days	1/31/2007	1/31/2007
63	Post Implementation Review	2 days	2/1/2007	2/5/2007
64	Document lessons learned - Close	2 days	2/1/2007	2/5/2007
65	Distribute to team members - Close	0 days	2/5/2007	2/5/2007
66	Phase One Close Out Meeting - Close	1 day	1/31/2007	1/31/2007
67	Status Meetings for remainder of the year - 2/15 to 6/30	10 days	2/14/2007	2/27/2007



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COTS Software License

The terms set forth in this Contract Exhibit J: *COTS Software License* are specific to the provision of the Performance Pathways Software licenses, as provided herein, and in no way shall limit or impact the rights under the services warranty.

**1. LICENSE GRANT**

Subject to the payment of applicable license fees as set forth in Contract Exhibit B: *Price and Payment Schedule*, Performance Pathways grants to the State a worldwide, perpetual, irrevocable, non-exclusive limited license to use the Performance Pathways Software identified in Contract Exhibit B: *Price and Payment Schedule* for the State's internal business operations, subject to the terms of the Contract. The State may allow its agents and contractors to access and use the Performance Pathways Software for this purpose and in such event, the State shall first obtain written agreement from such agents and contractors that each shall abide by the terms and conditions set forth herein.

**2. SOFTWARE DOCUMENTATION COPIES**

Performance Pathways' Software documentation shall either be shipped to the State or the State may access the documentation online. The State shall have the right to make a sufficient number of copies of the Performance Pathways' Software Documentation for its use.

**3. RESTRICTIONS**

The State may not:

- a. Remove or modify any program markings or any notice of Performance Pathways' proprietary rights;
- b. Make the programs or Software materials available in any manner to any Third Party for use in the Third Party's business operations;
- c. Cause or permit reverse engineering, disassembly or decompilation of the programs; or
- d. Disclose results of any program benchmark tests without Performance Pathways' prior written consent, and such consent shall not be unreasonably withheld.

**4. TITLE**

Title, right, and interest (including all ownership and Intellectual Property rights) in the Performance Pathways Software shall remain with Performance Pathways, Inc. The State agrees that, in the event that the State infringes Performance Pathways' intellectual property rights, Performance Pathways may pursue all remedies against the State, notwithstanding any provision of this Contract, including the limitation of liability.

**5. CUSTOM SOFTWARE LICENSE**

The State shall receive a worldwide, perpetual, irrevocable, non-exclusive paid-up limited right and license to use, copy, modify and prepare derivative works of the Deliverables, subject to any restrictions of any third-party materials embodied in the Deliverables and disclosed to the State in Performance Pathways' Proposal.

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6. AUDIT

Upon forty-five (45) days written notice, Performance Pathways may audit the State's use of the programs at its own expense. The State agrees to cooperate with Performance Pathways' audit and provide reasonable assistance and access to information. The State agrees that Performance Pathways shall not be responsible for any of the State's costs incurred in cooperating with the audit. Performance Pathways' audit rights are subject to applicable laws of the State of New Hampshire.

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WARRANTY and WARRANTY SERVICES

1. WARRANTIES

Performance Pathways shall warrant all Software and Services provided in the Contract Documents.

1.1 Software

Performance Pathways shall warrant that the Performance Pathways Software, including but not limited to the individual modules or functions furnished under the Contract is properly functioning within the System, compliant with the requirements of the Contract, and shall operate in accordance with the Specifications and Terms of the Contract.

1.2 Services

Performance Pathways shall warrant that all Services to be provided under the Contract shall be provided expediently, in a professional manner, in accordance with industry standards and that Services shall comply with performance standards, and specifications and terms of the Contract.

1.3 Non-Infringement

Performance Pathways shall warrant that it has good title to, or the right to allow the State to use, all Services and Software provided under this Contract, and that such Services and Software do not violate or infringe any patent, trademark, copyright, trade name or other intellectual property rights or misappropriate a trade secret of any third party.

1.4 Viruses; Destructive Programming

Performance Pathways shall warrant that the Software provided shall not contain any viruses, destructive programming, or mechanisms designed to disrupt the performance of the Software in accordance with the specifications.

1.5 Compatibility

Performance Pathways shall warrant that all System components, including but not limited to the individual modules or functions, including any replacement or upgraded Software components provided by Performance Pathways to correct deficiencies or as an enhancement, shall operate with the rest of the Software without loss of any functionality.

1.6 Personnel

Performance Pathways shall warrant that all personnel engaged in the services shall be qualified to perform the services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.



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WARRANTY and WARRANTY SERVICES

2. WARRANTY SERVICES

The Vendor shall agree to maintain, repair, and correct deficiencies in the System Software, including but not limited to the individual modules or functions during the Warranty Period, at no additional cost to the State, in accordance with the specifications and terms and requirements of the Contract, including without limitation, correcting all errors, and defects and deficiencies; eliminating viruses or destructive programming; and replacing incorrect, defective or deficient Software and documentation.

Warranty Services shall include, without limitation, the following:

- a. Maintain the Performance Pathways System in accordance with the Specifications, terms, and requirements of the Contract;
- b. Repair or replace the Performance Pathways System or any portion thereof so that the System operates in accordance with the Specifications, terms, and requirements of the Contract;
- c. Performance Pathways shall have available to the State on-call telephone assistance, with issue tracking available to the State, 7:00 AM to 7:00 PM during State Business Days with an email / telephone response within two (2) hours of request, with assistance response dependent upon issue severity;
- d. Maintain a record of the activities related to warranty repair or maintenance activities performed for the State;
- e. For all Warranty Services calls, Performance Pathways shall ensure the following information will be collected and maintained: 1) nature of the deficiency; 2) current status of the deficiency; 3) action plans, dates, and times; 4) expected and actual completion time; 5) deficiency resolution information;
- f. Performance Pathways must work with the State to identify and troubleshoot potentially large-scale Software failures or deficiencies by collecting the following information: 1) mean time between reported deficiencies with the Software; 2) diagnosis of the root cause of the problem; and 3) identification of repeat calls or repeat Software problems; and
- g. Deficiencies found during Warranty Period that have a significant impact on system usage shall be corrected by Performance Pathways in no more than two business days, at no additional cost to the State, unless specifically extended in writing by the State. All other deficiencies found during the Warranty Period shall be corrected by Performance Pathways no later than five business days, unless specifically extended in writing by the State, and at no additional cost to the State.

In the event Performance Pathways fails to correct the deficiency within the allotted period of time (see above), the State shall have the right, at its option: 1) declare Performance Pathways in default, terminate the contract, in whole or in part, without penalty or liability to the State; 2) return Performance Pathways' product and receive a refund for all amounts paid to Performance Pathways, including but not limited to, applicable license fees within ninety (90) days of notification to Performance Pathways of the State's intent to request a refund; 3) and to pursue its remedies available at law or in equity.

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WARRANTY and WARRANTY SERVICES

Notwithstanding any provision of the Contract, the State's option to terminate the Contract and pursue the remedies above shall remain in effect until satisfactory completion of the full Warranty Period.

**3. WARRANTY PERIOD**

The Warranty Period shall initially commence upon the State issuance of a Letter of Acceptance for each UAT period and shall continue through 90 days.

For subsequent modules or functions, the Warranty period shall extend for 90 days after each of the remaining major functions or modules, integrated successfully with the entire System, receives a Letter of Acceptance from the State.)

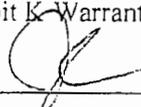
If within the last thirty (30) calendar days of the Warranty Period, the Software fails to operate as specified, the Warranty Period shall cease, Performance Pathways shall correct the Deficiency, and a new thirty (30)-calendar day Warranty Period shall begin. Any further Deficiencies with the Software must be corrected and run fault free for thirty (30) calendar days.

**4. PERFORMANCE PATHWAYS COTS SOFTWARE ESCROW**

4.1 Performance Pathways represents and warrants that the currently existing source code for the Performance Pathways Software licensed to the State under the Agreement, as well as the Documentation for such Performance Pathways Software, and developer comments to the source code for the Performance Pathways Software (the "Deposit Materials") have been deposited, in an escrow account maintained at Escrow Associates, LLC as required by this Contract. Future Deposit Materials for major version releases of the Performance Pathways Software not otherwise delivered to Licensee as source code shall be deposited in the escrow account (normally within six (6) months after the first commercial shipment of each such release). Performance Pathways shall promptly pay to the Escrow Agent all escrow fees that become due under the Escrow Agreement to maintain the Performance Pathways Software in escrow.

4.2 Performance Pathways agrees that, upon execution of this Agreement, the State shall be added to the Escrow Agreement as a beneficiary. The Escrow Agent shall notify the State that it has been added as a subscriber within a commercially reasonable time. Thereafter, upon the request of the State, to be made no more frequently than annually, Performance Pathways shall provide the State with written verification that the Performance Pathways Software has been deposited with the Escrow Agent.

4.3 The Escrow Agent shall make and release a copy of the applicable Deposit Materials to the State upon the occurrence of any of the following events ("Release Events"):



State of New Hampshire  
Department of Education  
Follow the Child Assistance Center  
COTS Contract 2007-008 EXHIBIT K  
WARRANTY and WARRANTY SERVICES

- (a) Performance Pathways institutes or becomes subject to a liquidation or bankruptcy proceeding of any kind;
- (b) Performance Pathways has made an assignment for the benefit of creditors;
- (c) A receiver or similar officer has been appointed to take charge of all or part of Performance Pathways' assets;
- (d) Performance Pathways terminates its maintenance and support services for the Performance Pathways Software or has ceased supporting and maintaining the Performance Pathways Software for the State whether due to its ceasing to conduct business generally or otherwise, except in cases where the termination or cessation is a result of the non-payment or other fault of the State; or
- (e) Performance Pathways has ceased its on-going business operations or that portion of its business operations relating to the licensing and Maintenance of the Performance Pathways Software.

4.4 In the event that materials are released from escrow to the State, Performance Pathways shall also grant to the State the right to use, copy, modify, display, distribute, and prepare derivative works of the Deposit Materials, and to authorize others to do the same on behalf of the State (contractors, agents, etc.), solely for the purpose of providing maintenance and support for the Performance Pathways Software and subject to the rights granted in this Agreement.

4.5 Performance Pathways agrees to pay all costs associated with the escrow covered by this agreement, except for nominal fees to cover the cost of reproduction and distribution of release of the Deposit Materials to the State, including all related reasonable administrative expenses.

State of New Hampshire  
Department of Education  
Follow the Child Assistance Center  
COTS Contract Exhibit L  
Training Services

Performance Pathways shall provide the following Training Products and Services required under the Contract and as further described in the Contract Documents, including but not limited to:

**A. TRAINING**

All courses are to be offered on-site in New Hampshire and shall be available for up to 80 students. Following the provision of classes, access to on-line course materials shall be provided through the online training library to the extent that it is available.

**1. Delivery Method**

**a. Instructor-Led Class Training**

This method helps build the in-depth knowledge and hands-on experience the State and LEA employees need to succeed in their job role with Performance Pathways. From in-class demonstrations led by experienced Performance Pathways instructors, to realistic hands-on labs, Instructor-Led in Class courses provide a dynamic learning environment.

This instruction is targeted to train the group of Users defined as Project Team, users from LEAs and selected Subject Matter Experts (SMEs).

**2. Training Development Approach**

**a. Performance Pathways and the State have agreed to an end user training approach to meet training objectives, including:**

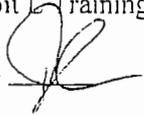
- 1) developing "in house" experts and end-user support channels that involve and leverage internal resources and subject matter experts (SMEs); and
- 2) leveraging statewide access to computers and the Web by accessing On-line courses whenever possible to lessen time away from the job and reduce travel costs for those who are spread across the State.

State of New Hampshire  
 Department of Education  
 Follow the Child Assistance Center  
 COTS Contract Exhibit L  
 Training Services

b. Approach Activities

Key activities of the approach are highlighted below:

User Training Approach	Role and Responsibility	
	Performance Pathways Team	State of NH
Develop Training Plan	Lead the development and implementation of the Training Plan.  Provide guidance, coaching, materials, and tools.	Assist in the development and implementation of the Training Plan.
Develop Curriculum	Analyze skill requirements.  Detail roles, course content, and estimated course length.	Assist to analyze skill requirements.  Assist to detail roles, course content, and estimated length.
Produce Training Materials and End-User Documentation	Lead the development of materials and documentation to include: Performance Pathways providing baseline documentation in electronic format that can be modified and reproduced.	Assist in the development of training materials.
	Performance Pathways and the State shall together Conduct Train-the-Trainers for the State staff and LEA staff through implementation. Performance Pathways will assist in the first train the trainer class for each topic.	Attend Train-the-Trainers training. Train additional State End Users.
Conduct Training	Assist to identify an approach and a plan to conduct training needs assessment for implementation.	Conduct training needs assessment for post go-live.
Evaluate Training Effectiveness	Develop instrument to evaluate training effectiveness.	Assist with the development and execute the implementation of the evaluation tool.



Department of Education  
Follow the Child Assistance Center  
COTS Contract Exhibit L  
Training Services

c. Key User Training Approach Activities

1) Identify State End Users

The Performance Pathways Project Team shall lead the State in identifying and categorizing its end users.

*User Category 1—Power User Training:* Power Users are those employees who frequently use the system. Training shall consist of a series of courses based on job functions, on business processes specific to job roles, and associated COTS transactions. The training strategy shall be organized around the State's business processes and detailed transactions that support these processes.

*User Category 2—Casual User Training:* Casual Users shall primarily access the system for inquiries or report viewing on an occasional basis. Their courses shall be focused on the end-to-end business process instruction and structured inquiry exercises.

*User Category 3—Specialty Users:* Specialty Users include functional and technical analysts. They shall be trained on the COTS software on the basis of the need to support, maintain, configure and administer the System.

d. Develop Training Plan

The Performance Pathways Team shall act as the training lead and shall provide guidance, coaching, materials, and tools to assist the State to structure and implement a training plan—including a strategy for outlining the scope, roles, audiences, and deployment timeline throughout the project lifecycle. The Plan is intended to 1) reinforce knowledge comprehension across the State by employing a train-the-trainer approach, 2) train employees on what they need to know and do to perform their jobs effectively, 3) establish an ongoing skills development process, 4) offer training solutions that address the immediate and ongoing needs of the State to train new hires and transfers, and 5) offer a solution that enables LEA employees to use the Solution to perform their jobs.

The Training Plan shall address the specific curriculum for each user category and provide support for the design, development, and deployment of training for each user category. It shall also provide a blueprint by which the State's Team shall manage its resources, activities, and timeline throughout the course of the COTS initiative.

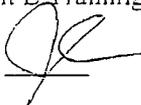
State of New Hampshire  
Department of Education  
Follow the Child Assistance Center  
COTS Contract Exhibit L  
Training Services

e. **Develop Training Curriculum**

Performance Pathways will develop a recommended training curriculum for the System users.

f. **Produce Training Materials and End-User Documentation**

The Performance Pathways team shall lead the efforts to produce the training materials and end-user documentation.

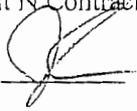


State of New Hampshire  
Department of Education  
Follow the Child Assistance Center  
COTS Contract 2007-008 Exhibit M  
NH DOE RFP 2007-008 (with Addendums) Incorporated

NH DOE RFP 2007-008 (with Addendums 1 through 10) is incorporated herein by reference.

State of New Hampshire  
Department of Education  
Follow the Child Assistance Center  
COTS Contract 2007-008 Exhibit N  
Contractor Proposal by Reference

The Performance Pathways Proposal to the Department of Education RFP 2007-008, dated June 19, 2006, is incorporated herein by reference.

A handwritten signature in black ink, appearing to be a stylized 'S' or 'J' with a horizontal line underneath.

State of New Hampshire  
Department of Education  
Follow the Child Assistance Center  
COTS Contract 2007-008 Exhibit O  
Certificate of Vote

The Performance Pathways Certificate of Vote is attached herewith.

State of New Hampshire  
Department of Education  
Follow the Child Assistance Center  
COTS Contract 2007-008 Exhibit O  
Certificate of Vote

NEEDS TO BE SIGNED AND DATED AT THE SAME TIME AS THE CONTRACT

CERTIFICATE

(Corporation without Seal)

I, Bena Kallick, Clerk/Secretary of Performance Pathways, Inc., do hereby certify that:

- (1) I am the duly elected and acting Clerk/Secretary of Performance Pathways, Inc., a Delaware corporation (State of incorporation) (the "Corporation");
- (2) I maintain and have custody and am familiar with the minute books of the Corporation;
- (3) I am duly authorized to issue certificates with respect to the contents of such books;
- (4) The following are true, accurate and complete copies of the resolutions adopted by the Board of Directors of the Corporation at a meeting of the said Board of Directors held on the 14<sup>th</sup> day of December, 2006, which meeting was duly held in accordance with Delaware (State of incorporation) law and the by-laws of the Corporation:

RESOLVED: That this Corporation enter into a contract with the State of New Hampshire, acting by and through the Division of Program Support of the Department of Education, providing for the performance of certain Follow the Child Activity Center services, and that the President (and Vice President) (and the Treasurer) (or any of them acting singly) be and hereby (is) (are) authorized and directed for and on behalf of this Corporation to enter into the said contract with the State and to take any and all such actions and to execute, acknowledge and deliver for and on behalf of this Corporation any and all documents, agreements and other instruments (and any amendments, revisions or modifications thereto) and (she) (he) (any of them) may deem necessary, desirable or appropriate to accomplish the same;

RESOLVED: That the signature of any officer of this Corporation affixed to any instrument or document in or contemplated by these resolutions shall be conclusive evidence of the authority of said officer to bind this Corporation thereby;

- (5) the foregoing resolutions have not been revoked, annulled, or amended in any manner whatsoever and remain in full force and effect as of the date hereof;
- (6) the following person(s) (has) (have) been duly elected to and now occupy the office(s) indicated below:

Jeffrey Colosimo \_\_\_\_\_ President

John Denver, Drew Lynch, Paul Goldstein, Bena Kallick \_\_\_\_\_ Vice President

Jeffrey Colosimo \_\_\_\_\_ Treasurer

State of New Hampshire  
Department of Education  
Follow the Child Assistance Center  
COTS Contract 2007-008 Exhibit O  
Certificate of Vote

and;

(7) the corporation has no seal.

IN WITNESS WHEREOF, I have hereunto set my hand as the Clerk/Secretary of the Corporation  
this 24 day of January, 2007

Bena Kallick  
Bena Kallick, Clerk/Secretary

STATE OF Pennsylvania

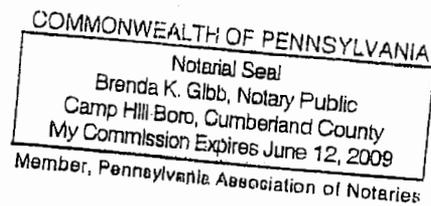
COUNTY OF Cumberland

On this the 24 day of January, 2007 before me,  
Brenda K. Gibb, the undersigned Officer, personally appeared  
Bena Kallick, who acknowledged her/himself to be the  
Clerk/Secretary of Performance Pathways, a corporation, and that  
she/he, as such Clerk/Secretary being authorized to do so, executed the foregoing  
instrument for the purposes therein contained, by signing the name of the corporation by her/himself as  
Clerk/Secretary.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Brenda K. Gibb  
Notary Public/Justice of the Peace

My Commission Expires: 6-12-09



State of New Hampshire  
Department of Education  
Follow the Child Assistance Center  
COTS Contract 2007-008 Exhibit P  
Contractor Certificate of Authority  
The Performance Pathways Certificate of Authority is attached herewith.

State of New Hampshire  
Department of Education  
Follow the Child Assistance Center  
COTS Contract 2007-008 Exhibit P  
Contractor Certificate of Authority

State of New Hampshire  
Department of State

CERTIFICATE OF AUTHORITY OF

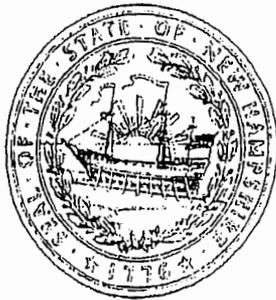
PERFORMANCE PATHWAYS, INC.

The undersigned, as Secretary of State of the State of New Hampshire, hereby certifies that an Application of PERFORMANCE PATHWAYS, INC. for a Certificate of Authority to transact business in this State, duly signed pursuant to the provisions of the New Hampshire Business Corporation Act, has been received in this office.

ACCORDINGLY the undersigned, as such Secretary of State, and by virtue of the authority vested in him by law, hereby issues this Certificate of Authority to PERFORMANCE PATHWAYS, INC. to transact business in this State under the name of PERFORMANCE PATHWAYS, INC. and attaches hereto a copy of the Application for such Certificate.

Business ID#: 560639

IN TESTIMONY WHEREOF, I hereto  
set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 13th day of July, 2006 A.D.



*William M. Gardner*

William M. Gardner  
Secretary of State

*[Handwritten Initials]*

Search  
By Business Name  
By Business ID  
By Registered Agent  
Annual Report  
File Online

Date: 1/25/2007

Filed Documents

(Annual Report History, View Images, etc.)

Business Name History

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Name	Name Type
Performance Pathways, Inc.	Legal
Performance Pathways, Inc.	Home State

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Corporation - Foreign - Information

Business ID: 560839  
Status: Good Standing  
Entity Creation Date: 7/13/2006  
State of Business.: DE  
Principal Office Address: 5010 Ritter Road Suite 119  
Mechanicsburg PA 17055  
Principal Mailing Address: 5010 RITTER ROAD SUITE 119  
MECHANICSBURG PA 17055  
Expiration Date: Perpetual  
Last Annual Report Filed Date: 1/19/2007  
Last Annual Report Filed: 2007

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Registered Agent

Agent Name: Business Filings Incorporated  
Office Address: 10 Ferry Street 427C  
Concord NH 03301  
Mailing Address:

State of New Hampshire  
Department of Education  
Follow the Child Assistance Center  
COTS Contract 2007-008 Exhibit Q  
Contractor Certificate of Insurance

The Performance Pathways Certificate of Insurance is attached herewith.



State of New Hampshire  
Department of Education  
Follow the Child Assistance Center  
COTS Contract 2007-008 Exhibit R

No Performance Bond required for this Contract.

State of New Hampshire  
Department of Education  
Follow the Child Assistance Center  
COTS Contract 2007-008 Exhibit S  
Contractor Proposal Transmittal Form Letter

From Proposal in RFP.

State of New Hampshire Proposal Transmittal Form Letter

Company Name Performance Pathways

Address 5010 Ritter Rd  
Mechanicsburg, PA 17055

To: NH Department of Education  
Point of Contact: Sandy Hyslop  
Telephone (603) 271-2831  
Email: shyslop@ed.state.nh.us

RE: Proposal Invitation Name: Follow The Child Assistance Center  
Proposal Number: DOE -RFP 2007-008  
Proposal Opening Date and Time: August 7, 2006 at 2:30PM

Dear Sir:

Company Name: Performance Pathways hereby offers to sell to the State of New Hampshire the services indicated in RFP NH DOE 2006-008 Follow The Child Assistance Center at the price(s) quoted in Vendor Response Section VII: *Cost Proposal*, and Appendix F: *Pricing Worksheets*, in complete accordance with all conditions of this RFP and all Specifications set forth in the RFP and in the State of New Hampshire Terms and Conditions outlined in RFP Section 6: *General Contract Requirements* and Appendix G-4: *State of New Hampshire Terms and Conditions*.

Company Signor: Paul Goldstein is authorized to legally obligate  
Company Name: Performance Pathways.

We attest to the fact that:

The company has reviewed and agreed to be bound by all RFP terms and conditions including but not limited to the *State of New Hampshire Terms and Conditions* in Appendix G-4 and *Contract Requirements* in Section 6, which shall form the basis of any Contract resulting from this RFP; No new terms and conditions have been added and no existing terms and conditions have been deleted in this RFP Proposal.

The proposal is effective for a period of 180 days or until the Effective Date of any resulting contract, whichever is later;

That the prices quoted in the proposal were established without collusion with other eligible vendors and without effort to preclude the State of New Hampshire from obtaining the best possible competitive price; and

The Vendor has read, signed, and included this RFP and any subsequent addendum(a).

Our official point of contact is Paul Goldstein,  
Title Vice President, Marketing and Sales  
Telephone 203-452-8076, Email: pgoldstein@perfpathways.com  
Authorized Signature Printed PAUL GOLDSTEIN  
Authorized Signature 

- Important Note: Vendors are provided an electronic version of the RFP Transmittal Letter. Any electronic alteration to this Transmittal Letter template is prohibited. Any such changes will result in a Proposal being rejected.

STATE OF NEW HAMPSHIRE  
Department of Education  
Follow the Child Assistance Center  
COTS Contract 2007-008 Exhibit T  
Required IT Work Procedures

Required IT Work Procedures

1. All work done must conform to standards and procedures established by the Office of Information Technology and the State.
2. Any technical education needed by the Vendor to successfully complete the assumed assignment shall be at the sole expense of the Vendor and provided by the Vendor.
3. Vendor must agree to provide an "equal or better" replacement for any personnel who leave employment of the Vendor during the course of the Contract.
4. Vendor must make the individuals available to be interviewed by the State prior to the Project assignment.
5. Vendor and its employees assigned to this Project must sign a "Computer Access and Use Agreement."
6. The State may require a detailed background check on any individual assigned to the Project, as this Project may involve confidential or sensitive information.
7. Personnel assigned to the State must be available to work within ten (10) business days of the contract signing.

**ORIGINAL**  
**Exh. B.**

New Hampshire  
Department of Education  
Child Assistance Center  
Contract Exhibit B  
Payment Schedule

Ginny  
- 483-2794 (H)  
- 361-2052 (cell)  
Add

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Days shall be respons  
Contract shall allow Pe  
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Need  
TO Ac's work (PA)

Table 1: Activity, Deliverable, or Milestone Price and Payment Table

Reference Number	Activity, Deliverable, or Milestone	Deliverable Type	Projected Delivery Date	Payment Amount (\$)
1	Project Work Plan Completed	Written	2/14/2007	0
2	Work Plan: Initiation Phase	Non-Software	2/23/2007	27,700
3	Work Plan: Configuration Phase Release Ia 4/5/2007; Release Ib 5/31/2007	Software	5/31/2007	44,200
4	Work Plan: Implementation Phase		6/30/2007	
4.a	Conduct Functional & System Testing	Written	5/31/2007	12,500
4.b	Conduct Data Import & Integration Testing	Written	5/31/2007	6,000
4.c	User Acceptance Test (State)	Written	6/15/2007	5,500
4.d	Conduct Training	Non-Software	6/30/2007	6,000
4.e	Implementation Cutover	Software	6/30/2007	6,400
5	System Documentation	Written	7/13/2007	8,000
6	Work Plan: Project Close Out	Non-Software	7/20/2007	17,700
7	Warranty Period - Payment of Holdback (90 calendar days)	Non-Software	10/18/2007	15,000
	Total			149,000

State of New Hampshire  
 Department of Education  
 Follow the Child Assistance Center  
 COTS Contract Exhibit B  
 Price and Payment Schedule

Table 2 – Detailed License Deliverables and Pricing (Including hosting, support and maintenance)			
Description	License Type	Quantity	Net Price-License
Performance Tracker 3/1/2007 thru 6/30/2007	Statewide	Unlimited Students	\$62,667
Performance Tracker 7/1/2007 thru 8/31/2007	Statewide	Unlimited Students	\$31,333
Performance Tracker 9/1/2007 thru 6/30/2008	Statewide	Unlimited Students	\$108,333
Performance Tracker 7/1/2008 thru 6/30/2009	Statewide	Unlimited Students	\$130,000
Performance Tracker 7/1/2009 thru 6/30/2010	Statewide	Unlimited Students	\$130,000
Performance Tracker 7/1/2010 thru 6/30/2011	Statewide	Unlimited Students	\$130,000
Performance Tracker 7/1/2011 thru 6/30/2012	Statewide	Unlimited Students	\$130,000
<b>State Optional Purchases</b>			
TechPaths	Statewide	Unlimited Students	\$260,000
Assessment Builder	Statewide	Unlimited Students	\$100,000 year 1 \$90,000 subsequent years
Local School District Software & Hosting (optional and available by local district or state)			(per student)
Assessment Builder & District Performance Tracker	Per Student	Up to 10,000 Students	\$2.00 year 1 \$1.75 subsequent years
		10,001 to 50,000 Students	\$1.65 year 1 \$1.41 subsequent years
		50,001 to 100,000 Students	\$1.41 year 1 \$1.18 subsequent years
		More than 100,000 Students	\$1.00 year 1 \$0.90 subsequent years
TechPaths (Curriculum Mapping)	Per Student	Up to 10,000 Students	\$3.00

State of New Hampshire  
 Department of Education  
 Follow the Child Assistance Center  
 COTS Contract Exhibit B  
 Price and Payment Schedule

10,001 to 50,000 Students	\$2.75
50,001 to 100,000 Students	\$2.35
More than 100,000 Students	\$2.12
<i>Grand Sub-Total</i>	

Table 3 – Performance Pathways Rates Pricing Worksheet (Hourly Rates)						
Position Title	SFY 2007 7/1/2007- 6/30/2008	SFY 2008 7/1/2008- 6/30/2009	SFY 2009 7/1/2009- 6/30/2010	SFY 2010 7/1/2010- 6/30/2011	SFY 2011 7/1/2011- 6/30/2012	SFY 2012 7/1/2012- 6/30/2013
Performance Pathways Project Manager	214	214	214	214	214	214
Education Specialist	214	214	214	214	214	214
Data Entry	143	143	143	143	143	143
Trainer	214	214	214	214	214	214
Customer Programming	100	100	100	100	100	100

**2. TOTAL CONTRACT PRICE**

Notwithstanding any provision in the Contract to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments made by the State exceed \$871,333.00 (“Total Contract Price”). The payment by the State of the Total Contract Price shall be the only, and the complete reimbursement to Performance Pathways for all fees and expenses, of whatever nature, incurred by Performance Pathways in the performance hereof.

**3. INVOICING**

All invoices shall be subject to the State’s prior written approval, which shall not be unreasonably withheld. Invoices shall contain detailed information, including without limitation, the following: identification of each Deliverable or Service for which payment is sought; date of delivery and/or installation; the Acceptance date triggering such payment; and any other Project costs. Upon acceptance of a Deliverable, and a properly documented and undisputed invoice the State shall pay the

State of New Hampshire  
Department of Education  
Follow the Child Assistance Center  
COTS Contract Exhibit B  
Price and Payment Schedule

correct and undisputed invoice within thirty (30) days of invoice receipt. Invoices shall not be backdated and shall be promptly dispatched.

Invoices shall be sent to:  
State of New Hampshire  
Department of Education  
Attn: Dr. Judith Fillion  
101 Pleasant Street  
Concord, NH 03301

Main Number: (603) 271-3494  
Fax: (603) 271-1953

#### 4. PAYMENT ADDRESS

All payments shall be made to the following address:

Performance Pathways  
Attn: Accounts Payable  
5010 Ritter Road  
Suite 119  
Mechanicsburg, PA 17055

#### 5. OVERPAYMENTS TO PERFORMANCE PATHWAYS

Performance Pathways shall promptly, but no later than fifteen (15) business days, return to the State the full amount of any overpayment or erroneous payment upon notice from the State.

#### 6. CREDITS

The State may apply credits due to the State arising out of this Contract, against Performance Pathways invoices with appropriate information attached.

#### 7. PROJECT HOLDBACK

The State shall withhold ten percent (10%) of the Project Cost, as set forth in the Payment Table above, until successful conclusion of the Warranty Period.

#### 8. RIGHT TO OFFSET

The State reserves the right to offset from any amounts otherwise payable to Performance Pathways under the Contract those liquidated amounts required or permitted under the Contract, by RSA 80:7 through 7-C, or any other provision of law.