

**SANTA CLARA COUNTY OFFICE OF
EDUCATION**

1290 Ridder Park Drive, San Jose, CA.
95131-2304

**NOTICE INVITING
PROPOSALS**

Exercise Only – RFP for Student Information Systems

- **Notice:** Notice is hereby given that the Board of Trustees of the Santa Clara County Office of Education (hereinafter referred to as (SCCOE)), is requesting proposals from interested vendors to provide proposal for AGENDA MANAGEMENT WITH INTEGRATED LIVE AND ON-DEMAND VIDEO SYSTEMS.

No offer of intent should be construed from this legal notice that the (SCCOE) intends to enter into a contract with the interested company for executive search unless, in the sole opinion of the (SCCOE), it is in the best interest of the (SCCOE) to do so. The (SCCOE) reserves the right to negotiate final contractual terms with the successful company.

- **Submittal:** Written proposals must be sealed and filed with the (SCCOE) at the address shown above no later than **3:00p.m., Monday, September 21, 2015** and there will not be a formal bid opening for these proposals.
- **Withdrawal:** Companies may not withdraw proposals for a period of sixty (60) days after the date set for opening of proposals.
- **Rejection:** The Board of Trustees reserves the right to reject any and all proposals and to waive any irregularity therein. Proposals will be studied and a recommendation will be made to the County Superintendent of Schools.
- **Questions:** Interested firms should direct questions in writing, no later than September 15, 2015 to JAS SOHAL (Manager Purchasing Services) at E-Mail at jas_sohal@sccoe.org. You can obtain a copy of the RFP2-15-16 at url: <http://www.sccoe.org/depts/bizserv/purchasing/Pages/Bids-Posting-System.aspx>

**County Superintendent of
Schools**

Santa Clara County Office of
Education

**By: Jas S. Sohal
Manager Purchasing Services**

1st Advertisement: September 2, 2015
2015

2nd Advertisement: September 9,

SANTA CLARA COUNTY OFFICE OF EDUCATION

REQUEST FOR
PROPOSAL FOR
Exercise Only – RFP for Student Information Systems

NOTICE IS HEREBY GIVEN that the Santa Clara County Office of Education (SCCOE) calls for RFPs to be received in Purchasing Services at 1290 Ridder Park Drive, San Jose, California 95131-2304 by **Monday, September 21, 2015 @ 3:00PM**. There will not be a formal RFP opening for these proposals. All proposals will be evaluated for pricing, specifications and other pertinent information. Any nonconforming or incomplete proposals may be rejected. Bidders must comply with the instructions contained in the proposal package. It shall be the full responsibility of all bidders to insure that proposals are delivered to the above office by the time and date stated. Facsimile (FAX) copies or E-mail of the proposal will not be accepted. SCCOE will not be responsible for late deliveries by U.S. mail or any other means.

SCCOE reserves the right to accept or reject any and all proposals and to waive any irregularities or informalities in any RFP or in the proposal process. No RFP, or any portion thereof, may be withdrawn for a period of ninety (90) days after RFP opening.

Contact
Information:

General Information

Jas Sohal
Manage Purchasing Services
1290 Ridder Park Drive - MC254
San Jose, CA. 95131
Ph.: 408-453-6858
Jas_sohal@sccoe.org

Technical Questions

Cindy Patterson
Manager Application Support
Santa Clara County Office of Education
1290 Ridder Park Drive - MC253
San Jose, CA 95131-2304
Ph.: 408.453.6682; mobile: 408.393.1432
Phil_Benfield@sccoe.org

SECTION 1: PROJECT SUMMARY

1.1 Overview

The Santa Clara County Office of Education (SCCOE) requests proposals for a Student Information System for the Student Services Branch. The Student Services Branch supports Alternative Education, Special Education and Early Learning. The Student Information System should support the education process, learning objectives and communication and information for students, staff, administration and family.

1.2: Project Background and Objective

The objective of this RFP is to investigate alternatives in the marketplace. Preference will be given to vendor with demonstrated experience working with county office of education or similar agencies with the ability to serve our unique student population.

1.3 Current Technology Environment

Santa Clara County Office of Education is a regional resource for technology for the k-12 community. The focus is on best of breed solution and can be hosted or locally installed. The schools are geographically diverse and limited by the requirements of the student population.

1.4 Network IT Operating Environment

Server Hardware – Cisco USC
Server Operating Systems-Windows Server, 2008, 2012, Red Hat Linux
Workstations-Mostly Dell, a few
Macs Workstations OS -Windows
7, Mac OS X Web Browser- IE,
Firefox 40.0, Chrome 44
Anti-Virus- Microsoft Security Essentials
Current SIS - AERIES

SECTION 2: CONTACT AND SUBMISSION INFORMATION

2.1 Proposal Schedule:

September 2, 2015	Issue Date
September 15, 2015	Deadline to Submit Questions
September 21, 2015	Submission Deadline
September 29, 2015	Additional Demos, if Necessary
October 9, 2015	Contract Award Notification

2.2 Additional Information

Inquiries regarding this RFP shall be in written form only. Responses to questions will be provided to all known prospective respondents. The SCCOE reserves the right to amend the

RFP. Addenda to this RFP will be posted on the SCCOE's website at:

<http://www.sccoe.org/depts/bizserv/purchasing/Pages/Bids-Posting-System.aspx>.

It is the responsibility of prospective respondents to check the website for any possible addenda.

General Questions should be submitted to:

Jas Sohal
Manage Purchasing Services
1290 Ridder Park Drive - MC254
San Jose, CA. 95131
Ph.: 408-453-6858
[Jas sohal@sccoe.org](mailto:Jas_sohal@sccoe.org)

Technical Questions should be submitted to:

Cindy Patterson
Manager Application Support
Santa Clara County Office of Education
1290 Ridder Park Drive - MC253
San Jose, CA 95131-2304
Ph.: 408.453.6726
Cindy_Patterson@sccoe.org

2.3 Preparation and Submission of Proposal

Please submit three (3) hard copies of the proposal. Proposals shall be submitted in a sealed envelope and labeled **Board Agenda System- RFP#2-15-16** and addressed to:

Jas Sohal
Manage Purchasing Services
1290 Ridder Park Drive - MC254
San Jose, CA. 95131
Ph.: 408-453-6858
[Jas sohal@sccoe.org](mailto:Jas_sohal@sccoe.org)

All proposals must be delivered to the above office on or before at 3:00 p.m. on September 21, 2015 and there will not be a formal RFP opening for these proposals.

Proposals received after the announced time and date for submittal will not be considered. However, nothing in this RFP precludes the SCCOE from requesting additional information at any time during the proposal evaluation period. The SCCOE is under no obligation to return proposals. All cost associated with a proposal will be borne by each proposer. See Section 4 for proposal format.

2.4 Time and Location of Proposer's Presentation

Upon completion of the review period, the SCCOE may invite finalists to make a presentation demonstrating the merits of their proposal or provide references from other clients who have purchased similar software systems. Finalists will be notified to arrange specific times. The SCCOE will not be responsible for any costs associated with the proposer's presentation.

2.5 Right to Reject Proposals

The SCCOE reserves the right to reject any and all proposals or to waive any minor defects or irregularities in any proposal or in the proposal process, or to solicit new proposals on the same project or on a modified project, which may include portions of the original proposed project as in the best interest of the SCCOE. Further, notwithstanding any other provisions of this RFP, the SCCOE reserves the right to award a contract to the proposal that best meet requirements of the RFP and not necessarily to the lowest bidder.

2.6 Award of Project and Approval of Agreement

The selected proposer shall be required to enter into a written contract with the SCCOE in a form approved by legal counsel and/or Risk Management for the SCCOE. This RFP and the proposal, or any part thereof, may be incorporated into and made a part of the final contract. The SCCOE reserves the right to negotiate the terms and conditions of the contract with the selected proposer.

Award of a contract is subject to funding approved by the SCCOE.

2.7 Proposals are Public Records

Each Proposer is hereby notified that, upon submittal of its proposal to the SCCOE in accordance with this RFP, the proposal becomes the property of the SCCOE and is a public record subject to disclosure in accordance with Public Records Act, Government Code Section 6250-6270.

SECTION 3: EVALUATION AND AWARD CRITERIA

Selection of a proposal will be based on the following criteria:

Criteria	Value
Functionality and demonstrated success of the software system in other local governments. This includes history of the software, number of versions released, frequency of software updates, size of local government client base and references.	20
Capability to provide training, service, and ongoing technical support	20
Cost (Licenses, hosted option, maintenance fees, training costs, support	35
End user experience / Ease of use / Work flow utility	15
Experience and company profile	10

SECTION 4: PROPOSAL FORMAT

Proposals shall include the following:

1. Proposal Summary

Include an executive summary that discusses the highlights, key features, and distinguishing points of the proposal. The summary should be specifically tailored to the scope of services requested herein and not a marketing flyer for the product.

2. Background Information -Appendix A

3. Statement of Qualifications and Experience

Include a narrative describing the proposer's experience implementing, training, and supporting similar software systems to the one proposed in this RFP. Include background information on the project manager or implementation team along with references for at least three other

government clients.

4. Scope of Services and Functionality- Appendix B

5. Training

Include a narrative that describes the initial training plan for system administrators and end users. Please include whether training is onsite, web-based, or other. Include whether the vendor provides ongoing on-demand tutorial support and/or 24/7 customer service help support.

6. Timeline

Include a detailed timeline describing the major milestones from award of contract to post-implementation follow-up.

7. Ongoing Technical Support

Include a description of the Proposer's capacity to provide technical support during and after implementation. The description should include:

- a. Extended warranties or maintenance agreements provided by the Proposer
- b. Time periods in which technical support is available on-site, by telephone, or online
- c. Description of the process used by technical support to identify and resolve problems. (i.e. GoToMeeting, Webex, remote desktop, remote diagnostic monitoring, etc)
- d. Description of how software updates and patches are provided

8. Cost Proposal

Include the total project cost to the SCCOE for first year implementation and separate annual costs. The Proposer should use their best judgment, based on the information contained in this RFP, to determine all hardware, software, and professional services needed for successful implementation. Cost should include, but may not be limited to the following:

- a. Hosted software licenses for all modules or services responsive to this RFP. Include a description of the licensing structure and the incremental costs for additional users or

additional meeting types, if any.

b. First year and annual hosted web streaming costs

c. Training costs

d. Professional services, programming and implementation services costs

e. Annual Maintenance / Service costs / update costs

9. Technical information

Provide specifications for the video encoder and any other hardware to be provided by

Proposer pursuant to this RFP.

SECTION 5: RFP GENERAL CONDITIONS

TIME OF DELIVERY

Time of submission is a part of the RFP and must be adhered to.

SIGNING OF RFP

The signature of all persons signing shall be in longhand and executed by principal duly authorized to make contracts. The Bidder's legal name shall be fully stated. Obligations assumed by such signature must be fulfilled.

TAXES, CHARGES, AND EXTRAS

1. Full contract price as RFP to include Sales Tax, Use Tax, or other taxes as identified on the RFP Form.
2. No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or any other purpose, except taxes legally payable by the Santa Clara County Office of Education, will be paid unless expressly included and itemized on the RFP.
3. The Santa Clara County Office of Education does not pay Federal Excise Taxes. Do not include these taxes in your RFP price; however do indicate on the RFP the amount of any such tax. The Santa Clara County Office of Education will sign an Exemption Certificate in lieu of such a tax.

QUALIFICATIONS

All Bidders may be required to furnish evidence of their technical ability, experience, and financial responsibility. No RFP will be accepted from, or a contract awarded to, any party or firm in arrears to the Santa Clara County Office of Education, or who is a defaulter as surety, contractor or otherwise within the past twelve (12) months.

AWARD OF CONTRACT

1. RFPs will be evaluated on basis of price, compliance to Specifications, and completion date.
2. The SCCOE reserves the right to award this RFP by section, line item, or by total, whichever is in the best interest of the SCCOE.

3. A written purchase order mailed or otherwise furnished to the successful Bidder within the time for acceptance specified, results in a binding contract without further action by either party. The contract shall be interpreted, construed, and given effect in all respects according to the laws of the State of California.

TERMINATION OF CONTRACT

If the contract is terminated, the successful vendor will work with the SCCOE to transition the project to another vendor or will assist with moving the data to an in-house based system.

ALTERATION OR VARIATION OF TERMS

It is mutually understood and agreed that no alteration or variation of the terms of this RFP or purchase order shall be valid unless made or confirmed in writing and signed by the parties hereto, and that no oral understanding or agreements not incorporated herein, and no alterations or variations of the terms hereof unless made or confirmed in writing between the parties hereto shall be binding on any of the parties hereto.

ASSIGNABILITY

A contract is not assignable by vendor either in whole or in part. The contract shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties hereto.

OSHA

All material, equipment, or labor shall comply with the required standards of OSHA and CAL OSHA 1973 as last revised.

WARRANTY

Vendor warrants to the Santa Clara County Office of Education and/or its customer that the goods and/or services covered by this order will conform to the drawings, Specifications, samples, description, and time provisions furnished by the Santa Clara County Office of Education and will be of first class material and workmanship and free from defects; and the Santa Clara County Office of Education reserves the right to cancel the unfilled portion of this order without liability to vendor for breach of this warranty. Goods will be received subject to inspection and acceptance at destination by the Santa Clara County Office of Education and risk of loss before acceptance shall be on vendor. Defective goods rejected by the Santa Clara County

Office of Education may without prejudice to any other legal remedy, be held at vendor's risk and returned at vendor's expense. Defects are not waived by acceptance of goods or by failure to notify vendor thereof.

The contractor shall warrant that all materials and workmanship shall be the quality, quantity and character specified and shown, and that any defect due to the use of any improper workmanship or materials discovered and made known to contractor within one (1) year from the filing of the Notice of Completion shall be made good by contractor without additional expense to the Owner.

COMPLIANCE WITH STATUTE

Vendor hereby warrants that all applicable Federal and State statutes and regulations and/or local ordinances will be complied with in connection with the sale and delivery of the property furnished.

RIGHTS & REMEDIES FOR DEFAULT

1. In the event any item furnished by the vendor in the performance of the contract or purchase order shall fail to conform to the Specifications thereof, or the same submitted by the vendor with his RFP, the Santa Clara County Office of Education may reject the same, and it shall thereupon become the duty of the vendor to reclaim and remove the same forthwith, without expense to the Santa Clara County Office of Education, and immediately to replace all such rejected items with others conforming to such Specifications or samples providing that should the vendor fail, neglect, or refuse to do so the Santa Clara County Office of Education shall thereupon have the right to purchase in the open market in lieu thereof, a corresponding quantity of any such items to deduct from any moneys due to that, may thereafter become due the vendor the difference between the prices named in the contract or purchase order and the actual cost thereof to the Santa Clara County Office of Education. In the event the vendor shall fail to make prompt delivery as specified of any item, the same condition as to the rights of the Santa Clara County Office of Education to purchase in the open market and to reimbursement set forth above shall apply, except when delivery is delayed by fire, strike, freight embargo, or Act of God, or the government.
2. Cost of inspection of materials and/or services provided which do not meet Specifications will be at the expense of the vendor.

3. The rights and remedies of the Santa Clara County Office of Education provided above shall be exclusive and are in addition to any other rights and remedies provided by the law or under the contract.

PRICE, TERMS, AND CONDITIONS

Price, terms, and conditions of this RFP are considered valid for ninety (90) days, from date of RFP opening, unless the offering party in writing allows for a longer period of time.

1. Any cash discounts given to the Santa Clara County Office of Education must be so stated on the RFP.
2. Cash discounts taken by the Santa Clara County Office of Education, unless otherwise stated on the RFP form shall be computed from the total invoice amount. This amount may include material, labor, taxes, shipping, storage and other related costs.
3. Prompt payment discounts offered for payment within less than thirty (30) calendar days will not be considered in evaluating offers for award. However, offered discounts of less than thirty (30) days will be taken if payment is made within the discount period, even though not considered in the evaluation of offers.
4. In connection with any discount offered, time will be computed from date of complete delivery of the supplies or equipment as specified, or from date correct invoices are received, if the latter is later than the date of delivery. Payment is deemed to be made for the purpose of earning the discount on the date of mailing the warrant or check.

PAYMENT

Payments to the vendor will only be made upon successful completion of the services and the receipt of an itemized invoice. No prepayments for services or materials not received will be made.

MODIFICATIONS

Changes in or additions to the RFP Form, recapitulations of the work RFP upon alternative proposals, or any other modifications of the RFP Form which is not specifically called for in the contract documents may result in the rejection of the RFP as not being responsive to the RFP. No oral or telephonic modification of any RFP submitted will be considered, and a telegraphic modification may be considered only if the postmark evidences that a confirmation of the

telegram duly signed by the Bidder was placed in the mail prior to the RFP opening.

ERASURES

The RFP submitted must not contain any erasures, interlineations, or other corrections unless each such correction is suitably authenticated by affixing in the margin immediately opposite the correction the initials of the persons signing the RFP.

WITHDRAWAL OF RFP

Bidders may withdraw their RFP either personally, by written request, or by telegraphic request confirmed in the manner specified above at any time prior to the scheduled closing time for receipt of RFPs.

INTERPRETATION OF PLANS AND DOCUMENTS

If a Bidder for the proposed contract is in doubt as to the true meaning of any part of the drawings, specifications, or other contract documents, or finds discrepancies in, or omissions from drawings and specifications, Bidder may submit to the Purchasing Manager a written request for an interpretation or correction thereof. The person submitting the request will be responsible for its prompt delivery. Any interpretation or correction of the contract documents will be made only by addendum duly issued and a copy of such addendum will be mailed or delivered to each person receiving a set of the contract documents. No oral interpretation of any provision in the contract documents will be made to any Bidder.

EVIDENCE OF RESPONSIBILITY

Upon the request of the Owner, a Bidder whose RFP is under consideration for award shall submit promptly to the Owner's satisfaction evidence showing the Bidder's financial resources, experience, and organization for the performance of the contract.

NO RFP

If you are unable to RFP, please return the RFP and/or Bidding Questionnaire stating reason; otherwise, your name may be removed from our RFP list.

APPENDIX A

Background Information

Company Name

Contact Person (for questions regarding this proposal)	
Title	
Office Location	
Telephone Number	
Email Address	

Project Manager	
Office Location	
Telephone Number	
Email Address	

1. How many years has the company been in business?
2. Is the company private or publicly traded?
3. How many years have the company provided agenda management and video streaming software similar to that being offered in this proposal?
4. How many clients does the company have in North America? In California?
5. Location of office from which maintenance and support services will be provided.
6. Location of servers hosting agenda management data and meeting video.
7. Relevant or noteworthy company statistics on the number of videos hosted, streamed, or downloaded. Percentage of video server up-time and/or failure rate.
8. Are there any current lawsuits against the company by current or former clients?
9. Is the company in the process of merging with another company or dividing into multiple companies?

APPENDIX B

Student Information Data	Comply	Comments
Ability to include sources of relevant data is required, and SCCOE shall have the flexibility to add new data points as needed.		
All student data shall be connected to the student over time.		
Inclusion of source of relevant background data that could impact achievement (detail)		
Student ethnicity		
Student gender		
Socioeconomic background		
Dropout rates and/or attendance data		
Student participation in special programs (Title 1, Sp. Ed., Gate, EL, et)		
Adequate Yearly Progress (API) rating for the school districts		
Discipline data		

State and National Testing Results, Performance Tests, Grades	Comply	Comments
Include historical state testing results dating back at least 5 school years. District will provide data files. Data must be able to be utilized with reporting features available at the district and school level.		
Upload and host current/future State and National testing results within 7 business days of receipt of data from the District with the ability to utilize with reporting features available at the district and school level.		
Inclusion of sources of student academic assessment data (detail)		
All state administered standardized tests		
California High School Exit Exam		
California English Language Development Test		
School or district performance tests		
Student grades		
District/School Generated Assessments/Tests		
Must include access to CA Standards-based aligned test bank items offered through the proposing company of affiliated vendor.		
Must include ability to create and host district created test bank items for use by all users.		
Must include the ability to create tests at the school or classroom level with a variety of questioning modalities, generate answer sheets and accurately scan scores, modify answer key, and link test items to the California Content Standards.		
Must allow users to create question groups for data reporting, and set performance level thresholds.		
Must include mechanism for creating scanner-readable (non-proprietary) answer sheets for district and classroom level assessments.		
Inclusion of standards used to guide design (detail)		

	For any test not part of the CA assessment program, documentation of alignment with the California Program Assessment Blueprints and/or the National Assessment of Educational Progress is provided.		
	Offers assessments or tests, reliability and validity information are provided.		
	Meets known and established standards for interoperability base on the Schools Interoperability Framework (SIF).		
	Meets the requirements of Family Education Rights and Privacy Act (FERPA).		
Features that allows users to modify or add elements(detail)			
	Reports on state assessments data can be locally customized.		
	Users can modify assessment items already included in the item-bank or database.		
	Users can customize the work flow		
	Users can easily link or add other web-resources.		
	Users can purchase desired components or features of larger comprehensive programs.		
	Users can input locally developed instructional intervention strategies.		
	Users can update student records, as needed, to ensure that reports are based on the most current information available.		
	Allows for linking to the CA School Information Service (CSIS)		
	Allows for linking to the CA Longitudinal Pupil Achievement Data System (CALPADS)		
	Any test item banks used are aligned to the CA Content Standards.		
	Capability for loading local assessments at the site		
	Drill down customization at the student level		

Reporting		Comply	Comments
Report features must include reports at the student, classroom, teacher, school, program and district levels for all national, state, local, school and teacher assessment data hosted in the System.			
Reports must be user friendly and include a variety of charts, tables, graphs, and colors, and accessible in Excel or .pdf format.			
Parent reports should also be available, and Spanish translation is highly desirable.			
The System should be set up for adhoc reporting and also contain an extensive amount of pre-built reports.			
Reporting and analysis capability (detail)			
	District-wide reporting and analysis of assessment results.		
	School level reports suitable for school/grade-level instructional planning.		
	Allows for disaggregation of student data according to background factors.		
	Allows for disaggregation by specific intervention or program participation.		
	Allows for analysis of data at the school level by grade and/or subject.		
	Allows for analysis of data at the classroom level.		
	Allows for analysis of data at the student level.		
End user access features (detail)			
	User-friendly program interface		
	Method for data input is clearly defined.		
	Charting and graphing functions are integrated into the system.		
Reports accessible in Excel and .pdf format			

Technical Criteria	Comply	Comments
The vendor must guarantee the safety of the data by providing dedicated hardware firewalls, virus protection, and offsite backup. The vendor must also supply a secure FTP link (minimum 128-bit encryption) for the uploading of confidential student data. The vendor must adhere to all rules and regulations related to the protection of confidential student information as described in FERPA and SCCOE Board Policies.		
If the proposal is for a hosted system, the System must be available online to all authorized SCCOE staff. Access security must include a validation login process that is linked to Microsoft Active Directory.		
Permission management should be easy to use, and access should be customizable, including tools to manage user/password information. Must support various roles such as councilor, nurse, principal, and teacher.		
Handheld access and integration with peripherals- such as Grade Cam and Response Systems is highly desirable.		
All updates to the System- including but not limited to maintenance releases, major revisions, and new releases – will be provided to the District at no additional cost.		
Technical requirements (details)		
Define the “total cost of ownership” to obtain, install, and maintain the necessary equipment as an itemized report (including licensing, technical support, additional network software/plugins, etc)		
Capability for home access.		
Help desk, technical support, online help that is user friendly and available will be included. (details)		
	Online “help-desk” is included.	
	Telephone “help-desk” is included.	
	Availability of tech support, hours, days.	

Training	Comply	Comments
Training is integral to the success of implementing a new System. The Proposal must include a proposed training program. The program training should include:		
Technical implementation: Technical training for initial setup and automated updates.		
Content user: Data input, manipulation, and assessment		
Interpreting reports: selection and interpretation of reports, creating reports, queries.		
A “train the trainer” model should be included as part of the proposal.		

Appendix C — Student Information System Proposal

Proposers are required to use the format in the following table to submit their Cost Proposals. Please add/delete lines as necessary to incorporate your fully-inclusive quotation.

Cost Proposal (EXAMPLE)			
DESCRIPTION	QTY	PRICE	TOTAL
Proposed Software Products (Proposer Owned)			
Software Name (Description)			
Software Name (Description)			
Total Proposed Software Products (Proposer Owned)			
Proposed Software Products (Third-Party Owned)			
Software Name (Description)			
Software Name (Description)			
Total Proposed Software Products (Third-party Owned)			
Proposed Software Licensing Costs			
Software Name (Description)			
Software Name (Description)			
Total Proposed Software Licensing Costs			
Proposed Professional Services			
<i>Installation services –</i>			
Installation service description			
Installation service description			
<i>Total Installation services</i>			
<i>Customization Services – Includes all mandatory items in the Requirements Matrix that are not included in the standard system configuration costs indicated above.</i>			
Customization service description			
Customization service description			
<i>Total Customization Services</i>			
<i>Implementation services – Includes items such as project management, and specialized consulting.</i>			
Implementation service description			
Implementation service description			
<i>Total Implementation Services</i>			
<i>Training and Documentation Services – Includes all items required to meet the training and Documentation needs outlines in this RFP.</i>			
Training service description			
Training service description			
<i>Total Training Services</i>			
<i>Maintenance and Support Services (1st year)</i>			
Maintenance and support service description			
Maintenance and support service description			
<i>Total Maintenance and Support Services</i>			
Total Professional Services (Please incorporate all travel and personal expenses into the fixed-bid amounts above)			
TOTAL COST PROPOSAL			

Appendix D – Non Collusion Affidavit

STATE OF CALIFORNIA
COUNTY OF _____

I, _____, being first duly sworn, deposes and says that I am _____ the of _____ submitting the Bid Proposal ("the Contractor"). In connection with the foregoing Bid Proposal, the undersigned declares, states and certifies that:

1. The Bid Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization or corporation.

2. The Bid Proposal is genuine and not collusive or sham.

3. The Contractor has not directly or indirectly induced or solicited any other Contractor to put in a false or sham RFP, and has not directly or indirectly colluded, conspired, connived, or agreed with any other Contractor or anyone else to put in sham RFI, or to refrain from submitting this Bid.

4. The Contractor has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the Bid price, or that of any other Contractor, or to fix any overhead, profit or cost element of the Bid price or that of any other Contractor, or to secure any advantage against the public body awarding the contract or of anyone interested in the proposed contract.

5. All statements contained in the Bid Proposal and related documents are true.

6. The Contractor has not, directly or indirectly, submitted the Bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any person, corporation, partnership, company, association, organization, Bid depository, or to any member or agent thereof to effectuate a collusive or sham Bid.

Executed this ____ day of _____, 20__

At _____ (City, County and State)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct

By: _____ Title _____

Appendix E- DRUG-FREE WORKPLACE CERTIFICATION

This Drug-Free Workplace Certification is required pursuant to Government Code sections 8350 et seq., the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract for the procurement of any property or services from any State agency must certify that it will provide a drug-free workplace by doing certain specified acts. In addition, the Act provides that each contract awarded by a State agency may be subject to suspension of payments or termination of the contract and the contractor may be subject to debarment from future contracting, if the state agency determines that specified acts have occurred.

Pursuant to Government Code section 8355, every person or organization awarded a contract from a State agency shall certify that it will provide a drug-free workplace by doing all of the following:

- a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the person's or organization's workplace and specifying actions which will be taken against employees for violations of the prohibition;
- b) Establishing a drug-free awareness program to inform employees about all of the following:
 - 1) The dangers of drug abuse in the workplace;
 - 2) The person's or organization's policy of maintaining a drug-free workplace;
 - 3) The availability of drug counseling, rehabilitation and employee-assistance programs;
 - 4) The penalties that may be imposed upon employees for drug abuse violations;
- c) Requiring that each employee engaged in the performance of the contract be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code section 8355 listed above and will publish a statement notifying employees concerning (a) the prohibition of controlled substance at the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the contract be given a copy of the statement required by section 8355(a) and requiring that the employee agree to abide by the terms of that statement.

I also understand that if the COUNTY determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of section 8355, that the contract awarded herein is subject to suspension of payments, termination, or both. I further understand that, should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of section 8350 et seq.

I acknowledge that I am aware of the provisions of Government Code section 8350 et seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

NAME OF CONTRACTOR

Signature

Print Name

Title

Date

The following is SCCOE's Professional Services Agreement that you are expected to sign after award of this RFP and the general conditions listed in the agreement apply to this proposal.

Following are the required documents in this agreement that you must sign and send back with your RFP response:

- NOTICE TO PARTIES
- CRIMINAL BACKGROUND CHECK / TUBERCULOSIS CLEARANCE
- DISCLOSURE FORM REGARDING SCCOE OFFICIALS
- W9 FORM

PROFESSIONAL SERVICES AGREEMENT

RM# _____

This Professional Services Agreement ("Agreement") is dated for convenience and is entered into between _____ (hereinafter "Contractor" or "Consultant") and the Santa Clara County Office of Education (hereinafter "SCCOE").

RECITALS

Whereas, the SCCOE desires Contractor to provide professional services as detailed in Appendix A ("Description of Services") herein, and

Whereas, Contractor represents itself as able and, for a consideration, willing to perform the services outlined in Appendix A ("Description of Services") herein,

Now, therefore, the parties enter into this Agreement for Contractor to provide professional services to the SCCOE as detailed herein. This Agreement attaches and incorporates by reference as though fully set forth herein the following documents: W-9 Form, Criminal Background/Tuberculosis Clearance Written Certification Form, Contractor's Disclosure Form Regarding SCCOE Officials, Appendix A – Description of Services, Appendix B – Calculation of Charges, and General Conditions to Professional Services Agreement, (collectively constituting the "Agreement"). The following documents shall also be attached to this Agreement: (1) Insurance certificates and (2) Endorsement (See Section 9 for Insurance and Endorsement requirements).

A. TERM: EFFECTIVE DATE

This Agreement shall become effective only upon proper execution by the parties and terminate on

B. SERVICES CONTRACTOR AGREES TO PERFORM

Contractor agrees to perform the services provided for in Appendix A ("Description of Services") of this Agreement.

C. COMPENSATION

The breakdown of costs and payment schedule associated with this Agreement are detailed in the attached Calculation of Charges. Contractor shall submit invoices for services rendered to the SCCOE within thirty (30) days of service rendered. Contractor shall furnish invoices in a form acceptable to the SCCOE. All rendering amounts paid by the SCCOE to the Contractor shall be subject to audit by the SCCOE. Upon receipt of an acceptable invoice, payment shall be made in a reasonable time upon approval by SCCOE Branch Chief or designee, in his or her sole discretion that the services, set forth in Section B Services Contractor Agrees to Perform of this Agreement, have been rendered satisfactorily, and in a professional and timely manner in accordance with this Agreement. Such payment shall be made to the address specified in Section 33 ("Notice to the Parties"). If the SCCOE and Contractor mutually agree that the scope of work described herein is increased, the Agreement may also be increased provided that there is a prior written modification to the Agreement in accordance with Section 24 Modification of Agreement of the General Terms and Conditions. It shall be the responsibility of the

Contractor to ensure that the total approved amount of the Agreement is not exceeded. Any work performed in excess of said amount may not be compensated. **In no event shall the SCCOE be liable for interest or late charges for late payments.**

GENERAL CONDITIONS TO PROFESSIONAL SERVICES AGREEMENT

1. AVAILABILITY OF FUNDS AND BUDGET AND FISCAL PROVISION ANP TERMINATION IN THE EVENT OF NON-APPROPRIATION

- a. This Agreement is subject to the budget and fiscal policies, regulations and practices of the SCCOE, and approval and appropriation of funds for this Agreement. Charges will accrue only after prior written authorization is provided by the authorized representative of SCCOE and proper execution of this Agreement by the parties.
- b. The amount of the SCCOE's obligation hereunder shall not at any time exceed the amount herein stated.
- c. The SCCOE has no obligation to renew this Agreement after expiration of its term. If funds are appropriated for a portion of a fiscal year, this Agreement will terminate, without penalty, at the end of the term for which funds are appropriated.
- d. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.
- e. This section controls against any and all other provisions of this Agreement.

2. DISALLOWANCE

- a. If Contractor claims or receives payment from the SCCOE for a service, reimbursement for which is later disallowed by the State of California or United States Government, Contractor shall promptly refund the disallowed amount to the SCCOE upon the SCCOE's request. At its option, the SCCOE may offset the amount disallowed from any payment due or to become due to Contractor under this Agreement or any other Agreement.
- b. By executing this Agreement, Contractor certifies that Contractor is not suspended, debarred or otherwise excluded from participation in federal or state programs. Contractor acknowledges that this certification of eligibility to receive state or federal funds is a material term of this Agreement.

3. SUBMITTING FALSE CLAIMS: MONETARY PENALTIES

Pursuant to Government Code §12650 any person, including a contractor, subcontractor or a consultant, who submits a false claim, shall be liable to the SCCOE for three times the amount of damages which the SCCOE sustains because of the false claim. A person who commits a false claim act shall also be liable to the SCCOE for the costs of a civil action brought to recover any of those penalties or damages, and may be liable to the SCCOE for a civil penalty of up to ten thousand dollars (\$10,000) for each false claim. A person will be deemed to have submitted a false claim to the SCCOE if the person:

- a. knowingly presents or causes to be presented to an officer or employee of the SCCOE, a false claim for payment or approval;
- b. knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the SCCOE;
- c. conspires to defraud the SCCOE by getting a false claim allowed or paid by the SCCOE;
- d. has possession, custody, or control of public property or money used or to be used by the SCCOE and knowingly delivers or causes to be delivered less property than the amount for which the person receives a certificate or receipt;
- e. is authorized to make or deliver a document certifying receipt of property used or to be used by the SCCOE and knowingly makes or delivers a receipt that falsely represents the property used or to be used;
- f. knowingly buys, or receives as a pledge of an obligation or debt, public property from any person who lawfully may not sell or pledge the property;
- g. knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the SCCOE; or
- h. is a beneficiary of an inadvertent submission of a false claim to the SCCOE, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the SCCOE within a reasonable time after discovery of the false claim

4. PAYMENT DOES NOT IMPLY ACCEPTANCE OF WORK

No payment shall in any way lessen the liability of Contractor to remedy or replace unsatisfactory

work, service, equipment, or materials, if the unsatisfactory character of such work, service, equipment or materials was not detected at the time of payment. Service, materials, equipment, components, or workmanship that do not conform to the requirements of this Agreement may be rejected by the SCCOE and in such case must be remedied or replaced by Contractor without delay at no additional cost to the SCCOE.

5. QUALIFIED PERSONNEL

Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor. Contractor will comply with the SCCOE's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at the SCCOE's request, and must be supervised by Contractor. Contractor shall commit adequate resources to complete the project schedule specified in this Agreement.

6. RESPONSIBILITY FOR EQUIPMENT

The SCCOE shall not be responsible for any damages to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or by any of its employees, even though such equipment be furnished, rented or loaned to Contractor by the SCCOE.

7. TAXES

Contractor shall pay all taxes levied in connection with this Agreement, or the services delivered pursuant hereto.

8. INDEPENDENT CONTRACTOR

- a. Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and not an employee of the SCCOE. Contractor shall be wholly responsible for the manner in which it performs the services required of it under this Agreement. Nothing contained in this Agreement shall be construed as creating an employment or agency relationship between the SCCOE and Contractor or its agents and employees.
- b. Any terms in this Agreement referring to direction from the SCCOE shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as the means by which such a result is obtained. The SCCOE does not retain the right to control the means or the method by which Contractor performs work under this Agreement. Nothing contained in this Agreement shall be construed as creating an employment or agency relationship between the SCCOE and Contractor or its agents and employees.
- c. If any governmental authority should, nevertheless, determine that Contractor is an employee, then the SCCOE's payment obligations hereunder shall be reduced so that the aggregate amount of payments directly to Contractor and to the applicable governmental authority does not exceed the maximum amount specified in this Agreement under Section C., "Compensation". Contractor shall refund any amounts necessary to effect such reduction.
- d. Contractor shall also complete and file with the SCCOE the attached W-9 form.

9. INSURANCE

Without in anyway limiting Consultant's liability pursuant to the "Indemnification" section of this Agreement, Consultant shall procure and maintain during the full term of this Agreement the following insurance amounts and coverage:

- 1) Commercial General Liability Insurance with limits not less than \$1,000,000 (one million dollars) each occurrence Combined Single Limit for Bodily Injury and Property Damage (including coverage for claims of sexual abuse and molestation).
- 2) Workers' Compensation Insurance, with Employer's Liability limits not less than \$1,000,000 (one million dollars) each accident.
- 3) Professional Liability Insurance with limits not less than \$1,000,000.00 (one million dollars) each occurrence and in the aggregate. Coverage must at a minimum apply to negligent Errors and Omissions arising out of professional services, performed under the contract, with any deductible not to exceed \$100,000 each claim.

Commercial General Liability policy must provide the following:

- 1) Name as Additional Insured the Santa Clara County Office of Education, its Board, officers and employees.
- 2) That such policy is primary insurance to any other insurance available to the Additional Insured,

with respect to any claims arising out of this Agreement and that such policies apply separately to each insured against who claim is made or suit is brought.

- c. If any policies are written on a claims-made form, Consultant agrees to maintain such insurance continuously in effect for three years following completion of this Agreement or extend the period for reporting claims for three years following the completion of this Agreement, such that occurrences which take place during the Agreement period shall be insured for three years following completion of the Agreement.
- d. The Consultant shall provide the SCCOE with the appropriate certificate(s) of insurance prior to commencing performance. The Consultant shall also be obligated to notify the SCCOE in writing at least 30 (thirty) days in advance of any cancellation, non-renewal of any of its insurance policies required under this Agreement. Consultant also understands and agrees that the SCCOE may withhold payment for services performed for any violations of the insurance provisions of this Agreement.

10. INDEMNIFICATION

- a. With respect to professional services to be provided under this Agreement, the Consultant shall indemnify and hold harmless the SCCOE, its Board, agents, and employees from and against any and all actions, claims, damages and losses, including attorney's fees that may arise out of or in any way result from the negligent or intentional acts, errors, or omissions of Consultant.
- b. With respect to claims arising under Consultant's general liability coverage, the Consultant shall indemnify and hold harmless the SCCOE, its agents, and employees from and against any actions, claims, damages or loss, including attorney's fees that may arise out of or in any way result from Consultant's activities in the performance of its services under this Agreement.
- c. The Consultant will not, and will not permit its officers, employees and/or agents, to infringe on any patent right, copyright, trade secret or any other proprietary right or trademark of the SCCOE in the Performance of services under this Agreement. The Consultant shall not disclose to third parties any details of its services for the SCCOE or the actions, inactions or decisions of the Agency, other than disclosure to third parties of the fact that the Consultant represented the SCCOE in the particular publicly known transactions on which the Consultant works on the SCCOE's, and to describe in general terms only, the Consultant's role, the services Consultant performed, and the nature of such transactions. Such disclosures may be made to current or prospective clients of the Consultant or to others, and may consist of announcements and advertisements placed at the Consultant's own expense in legal, business, financial and other periodicals and publications.

11. LIABILITY OF SCCOE

SCCOE'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT PROVIDED FOR IN SECTION C ("COMPENSATION") OF THIS AGREEMENT. SCCOE SHALL NOT BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING BUT NOT LIMITED TO, LOST PROFITS IN CONNECTION WITH THIS AGREEMENT.

12. DEFAULT REMEDIES

- a. Each of the following shall constitute an event of default ("Event of Default") under this Agreement:
 - 1) Contractor fails or refuses to perform or observe any term, covenant or condition contained in this Agreement.
 - 2) Contractor (A) is generally not paying its debts as they become due, (B) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement of any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (C) makes an assignment for the benefit of its creditors, (D) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property, (E) takes action for the purpose of any of the foregoing, or (F) is the subject of any order of a court or government authority related to the Federal Bankruptcy Act.
- b. On and after any Event of Default, the SCCOE shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement for cause or to seek specific performance of all or any part of this Agreement. In addition, SCCOE shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to the SCCOE on demand all costs and expenses incurred by the SCCOE in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. The SCCOE shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between SCCOE and Contractor all damages, losses, costs, or expenses incurred by the SCCOE as a result of such Event of Default

- due from Contractor pursuant to the terms of this Agreement.
- c. All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules, regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

13. **TERMINATION**

- a. It is expressly understood and agreed that in the event the Consultant fails to perform its obligations under this Agreement, this Agreement may be terminated for cause by the SCCOE and all the Consultant's rights hereunder ended. Termination for cause shall be upon ten (10) days written notice to Consultant, and no work will be undertaken by Consultant after receipt of the notice. In the event this Agreement is terminated by the SCCOE pursuant to this paragraph; the Consultant shall be paid for services performed up to the date of termination.
- b. It is further understood and agreed that the SCCOE may terminate this Agreement for the SCCOE's convenience and without cause at any time by giving the Consultant thirty (30) days written notice of such termination. In such an instance, the Consultant shall be entitled to compensation for services performed up to the effective date of termination.
- c. Upon receipt of written notice that this Agreement is terminated, the Consultant will submit an invoice to the SCCOE for an amount that represents the value of services actually performed up to the date of termination for which the Consultant has not previously been compensated as provided for herein. Upon approval and payment of this invoice by the SCCOE, the SCCOE shall be under no further obligation to the Consultant, monetarily or otherwise.

14. **CONFLICT OF INTEREST**

- a. Conflict of Interest Standards. The following is a brief overview of conflict of interest laws and policies. Contractor is responsible to know, and comply with, the full requirements of the law.
- 1) Under the California Political Reform Act (CPRA), codified in part as Government Code section 1090 and sequential, and section 87100 and sequential: No public official shall make, participate in making, or in any way attempt to use his or her official position, to influence a contract on behalf of the public agency when he or she knows, or has reason to know, that he or she has a personal financial interest in that contract.
 - 2) Government Code section 1090 defines "making" a contract broadly to include actions that are preliminary or preparatory to the selection of a contractor such as but not limited to: involvement in the reasoning, planning, and/or drafting of scopes of work, making recommendations, soliciting bids and requests for proposals, and/or participating in preliminary discussions or negotiations. (Cal. Govt. Code § 1090)
 - 3) State law limits the amount of gifts that may be received by public officials from a single source during a calendar year. In 2013, the gift limit is \$440 per source per calendar year. (See e.g. Cal. Govt. Code 89503; 2 CCR 18940.2. See also www.fppc.ca.gov)
 - 4) State law prohibits, with limited exceptions, certain former local public officials from appearing before their former public agency for the purpose of influencing a governmental decision for 12 months from the date the former employee left that public agency. (Cal. Govt. Code § 87406.3)
 - 5) State law bars a public agency employee from making governmental decisions regarding an organization which is engaged in employment negotiations with that public agency employee. (Cal. Govt. Code § 87407)
 - 6) Contractors and their representatives may be required to disclose economic interests that they hold that could foreseeably be affected by the exercise of their public duties. If applicable, Contractors/representatives must submit a disclosure filing called a Statement of Economic Interests or "Form 700." (Cal. Govt. Code §§ 81000-91015; SCCOE Board Rules and Procedures 9270, "Conflict of Interest Code")
- b. Obligations of Contractor. It is the obligation of the Contractor, as well as any subcontractors, to determine whether or not participation in a contract may constitute a conflict of interest. While the SCCOE staff maintains records regarding the award and execution of contracts, it does not have access to specific information concerning which entities, partners, subcontractors or team members perform specific work on these contracts. A conflict of interest or an unfair advantage may exist without any knowledge of the SCCOE. The determination of the potential for a conflict must be made by the Contractor. Contractor is responsible to notify the SCCOE immediately if it finds that a potential conflict may exist.
- c. Consultation with Counsel. The SCCOE strongly advises any Contractor, and any proposing/bidding firm, to consult with its legal counsel to determine whether a conflict of interest may exist. It is the responsibility of a Contractor, or a proposing/bidding firm, to make that determination.
- d. Consequences of a Violation. Any contract made in violation of Section 1090 is void and cannot be Contractor for any goods or services received under the void contract. The government agency can

seek repayment from the Contractor of any amounts already paid, and refer the matter to appropriate authorities for prosecution. Additional consequences may also apply.

- e. Disclosure Requirement. Contractor will submit to the SCCOE a list of all of Contractor's employees (including owners) who are also current SCCOE Board members or employees, or former SCCOE Board members or employees in the last year. Contractor will submit the attached "Contractor's Disclosure Form Regarding SCCOE Officials." Contractor will update this form with SCCOE, as needed, during the term of this Agreement. Exception: Public agencies that provide contract services to the SCCOE are not subject to this disclosure requirement.
- f. Compliance with Gift Limits. Contractor will abide by legal gift limits and use good judgment, discretion and moderation when offering gifts, meals or entertainment or other business courtesies to SCCOE officials, and in order not to place SCCOE officials in conflict with any specific gift restrictions: (1) No Contractor or representative thereof shall offer, give, or promise to offer or give, directly or indirectly, any money, gift or gratuity to any SCCOE contracting or procurement official at any time. (2) No Contractor or representative thereof shall offer or give, directly or indirectly, any gifts in a calendar year to a SCCOE official which exceed the allowable gift limit. (See e.g. Cal. Govt. Code 89503; 2 CCR 18940.2. See also www.fppc.ca.gov)

15. PROPRIETARY INFORMATION OF SCCOE

- a. Contractor understands and agrees that, in connection with this Agreement, the Contractor may have access to proprietary or confidential information which may be owned or controlled by the SCCOE and that such information may contain proprietary details, the disclosure of which to third parties will be damaging to the SCCOE, its employees or students. Contractor also understands and agrees that the disclosure of such information may violate state and/or federal law and may subject the Contractor to civil liability. Consequently, Contractor agrees that all information disclosed by the SCCOE to the Contractor shall be held in strict confidence and used only in performance of the Agreement, unless disclosure is required by law or court order. Contractor shall exercise the same standard of care to protect such information as is used to protect its own proprietary or confidential information.
- b. Contractor shall comply at all times with the requirements of the Family Educational Records Privacy Act ("FERPA") and relevant state law regarding the confidentiality and handling of student records, including but not limited to California Education Code sections 49073 and sequential. Contractor shall only access confidential student information pursuant to prior written parental consent, legitimate educational interest in performing duties on behalf of SCCOE under this Agreement, or other provisions of federal and state law permitting access to confidential student information. Contractor shall not use confidential student data for any purposes other than providing services to the SCCOE pursuant to this Agreement. Contractor shall not disclose confidential student information to any third party without the prior written consent of the SCCOE and any such re-disclosure shall be consistent with state and federal law.
- c. The confidentiality provisions of this Section shall survive the termination or expiration of this Agreement.

16. OWNERSHIP OF THE RESULTS

Any drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer data files and media or other documents prepared by Contractor in connection with services to be performed under this Agreement, shall be the property of and be promptly transmitted to the SCCOE. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities, but only to the extent that such retention and use complies with Section 15 of this Agreement ("Proprietary Information of SCCOE").

17. AUDIT AND INSPECTION OF RECORDS

The Consultant agrees to maintain and make available to the SCCOE accurate accounting and other records relative to its obligations under this Agreement. The Consultant will participate promptly and cooperatively in any audits conducted by the SCCOE or its nominee, and permit the SCCOE or a representative to audit, examine and make copies from such books and records, and to perform audits related to all matters covered by this Agreement, whether funded in whole or in part under this Agreement. The Consultant shall maintain such data and records in an accessible location and condition for a period of not less than three years after a final payment under this Agreement or until after final audit has been completed, whichever is later.

18. SUBCONTRACTING The Consultant is prohibited from subcontracting this Agreement or any services provided pursuant to this Agreement unless such subcontracting is agreed to in writing and executed in the same

manner as this Agreement. No party on the basis of this Agreement shall in any way contract on behalf of or in the name of the other party of this Agreement, and violation of this provision shall confer no rights on any party and shall be void.

19. **ASSIGNMENT**

It is not understood and agreed that the services to be performed by the Consultant are personal in character and neither this Agreement nor any duties or obligations hereunder shall be assigned or delegated by the Consultant without the prior written consent of the SCCOE.

20. **NON DISCRIMINATION**

Contractor agrees that it shall not discriminate on the basis of sex, race, religious creed, national origin, age, marital status, sexual orientation, gender, AIDS/ARC/HIV status, or disability, in its performance under this Agreement.

21. **CRIMINAL BACKGROUND CHECKS**

a. Criminal Background Check

- 1) Contractor is required to comply with the criminal background check provisions of Education Code Section 45125.1. Contractor will conduct criminal background checks with the California Department of Justice (CDOJ) for all Contractor employees, agents, and volunteers assigned to the SCCOE, and will certify that no employees, agents, or volunteers who have been convicted of serious or violent felonies as specified, will have contact with SCCOE pupils pursuant to this Agreement. This prohibition does not apply to an employee, agent or volunteer who has obtained a certificate of rehabilitation and pardon pursuant to California Penal Code Section 4852.01 et seq. for a serious or violent felony listed under EC 45122.1.
- 2) Contractor will provide the SCCOE with a list of all employees, agents and volunteers who have cleared the criminal background check, as detailed above, and who will have contact with SCCOE pupils pursuant to this Agreement, and specify to which sites they will be assigned.
- 3) Contractor will be responsible for the costs of the criminal background checks.
- 4) As written certification of its compliance with this Section, Contractor will complete and submit the Criminal Background Check/Tuberculosis Clearance Certification Form ("CBC/TB form") (ATTACHED).
- 5) For any Contractor employees, agents or volunteers that Contractor hires subsequent to Contractor's initial submission of the CBC/TB form to SCCOE, Contractor will conduct background checks and submit additional CBC/TB forms to SCCOE, as required.
- 6) The criminal background check requirement applies only to Contractor's employees, agents or volunteers who will have more than limited contact with students. Contractor's employees, agents or volunteers who will have no contact or only limited contact with students are not required to meet criminal background check requirements. If Contractor asserts that all of its employees, agents or volunteers will have no contact or only limited contact with SCCOE students, the SCCOE's Cabinet-level Administrator supervising this Agreement has the responsibility to make a reasonable determination of whether Contractor, its employees, agents or volunteers will have only limited contact with students.

b. Subsequent Arrest Notification

- 1) In addition to the initial criminal background check, Contractor will obtain subsequent arrest notification to monitor future arrests of employees, agents and volunteers who will have contact with SCCOE students, and is responsible for all costs associated with these subsequent notifications.
- 2) Upon receipt of notice that any of its employees, agents, or volunteers has been arrested or convicted of a serious or violent felony as described in EC 45125 .1 (citing 45122.1), a sexual offense as defined by EC 44010, or a controlled substance offense as described in EC 44011, Contractor will immediately prohibit such employee, agent, or volunteer from having any contact with pupils, and will immediately notify SCCOE.

c. Failure by Contractor to comply with this Section may result in termination of this Agreement at the SCCOE's sole discretion.

22. **TUBERCULOSIS TESTING**

- a. Contractor agrees that all of its employees, agents or volunteers whose functions require frequent or prolonged contact with students will complete tuberculosis testing the same as the testing that is described in California Education Code section 49406. The examination shall consist of an approved intradermal tuberculin test, which, if positive, shall be followed by an x-ray of the lungs. Thereafter, the Contractor shall ensure that its employees, agents or volunteers who are skin test negative have

undergone the foregoing examination at least once every four years if the Contractor is still rendering services to the SCCOE.

- b. The Contractor shall be responsible for the costs of the examination.
- c. Contractor shall submit written certification to the SCCOE, using the attached Criminal Background Check, tuberculosis Clearance Written Certification Form, that its employees, agents or volunteers who will have frequent or prolonged contact with students have passed the tuberculosis test requirements. Contractor shall list such employees, agents or volunteers by name and date of test on the Criminal Background Check, tuberculosis Clearance Written Certification Form.
- d. The tuberculosis testing requirement applies only to Contractor's employees, agents or volunteers who will have frequent or prolonged contact with students. Contractor's employees, agents or volunteers who will have no contact or only limited contact with students are not required to meet tuberculosis testing requirements. If Contractor asserts that all of its employees, agents or volunteers will have no contact or only limited contact with SCCOE students, the SCCOE's Cabinet-level Administrator supervising this Agreement has the responsibility to make a reasonable determination of whether Contractor, its employees, agents or volunteers will have no contact or only limited contact with students.
- e. Contractor shall ensure that only its employees, agents or volunteers who have submitted to and passed a TB test will have frequent or prolonged contact with students. Contractor will maintain on file in Contractor's offices current documentation that each of its employees, agents or volunteers who will have frequent or prolonged contact with students meets tuberculosis testing requirements.

23. **WAIVER**

Either party's failure at any time to enforce any default or right reserved to it, or to require performance of any of the Agreement's terms, covenants, or provisions by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

24. **MODIFICATION OF AGREEMENT**

This Agreement may only be modified or amended by written instrument executed and approved in the same manner as this Agreement.

25. **DISPUTE RESOLUTION**

- a. Prior to any action or resort to any legal remedy, SCCOE and Contractor agree to exercise reasonable efforts, and to negotiate in good faith, to amicably resolve any dispute that may arise concerning the performance by either party of their obligations under this Agreement. If SCCOE's and Contractor's project managers cannot resolve disputes through such negotiations, then the Parties' project managers will escalate the dispute to their respective executives who shall have authority to resolve the controversy and who are at a higher level of management than the project managers.
- b. In such event, either SCCOE or Contractor shall give the other party written notice of any dispute not resolved by good faith negotiations between the Parties' respective project managers. Within fifteen (15) days after delivery of such initial notice, the receiving party shall submit to the other a written response. Both the initial notice, and the response, shall include (i) a statement of that party's position, (ii) a summary of arguments supporting that position, and (iii) the name and title of the executive who will represent that party and of any other person who will accompany the executive.
- c. within thirty (30) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. All reasonable requests for information made by one party to the other shall be honored. All negotiations pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.
- d. If the executives cannot resolve the dispute to the satisfaction of both Parties, then SCCOE and Contractor may attempt to mutually agree on the conditions under which such unresolved disputes can be referred to mediation or non-binding arbitration. If the parties do not mutually agree to

Mediation or non-binding arbitration, or mutually select a mediator or arbitrator for the dispute, or such efforts do not resolve the dispute, then either party may pursue any remedy available under California law.

26. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT

Contractor acknowledges that, pursuant to the Americans Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agree that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

27. COMPLIANCE WITH LAWS

Contractor shall keep itself fully informed of the applicable state and federal law affecting the performance of this Agreement, and shall at all times comply with such laws as they may be amended from time to time.

28. GOVERNING LAW: VENUE

This Agreement shall be governed by the laws of the State of California. The venue for all litigation relative to this Agreement shall be Santa Clara County.

29. SECTION HEADINGS

The section headings contained herein are for convenience in reference and are not intended to define the scope of any provision of this Agreement.

30. ENTIRE AGREEMENT

The entire Agreement between the parties is included herein and no warranties expressed or implied, representations, promises, or statements have been made by either party unless endorsed herein in writing and no change or waiver of any provision hereof shall be valid unless made in writing and executed in the same manner as this Agreement.

31. EXECUTION OF THE AGREEMENT. EXECUTION IN COUNTERPARTS

a. Original copies of this Agreement shall be executed by the respective party's authorized signatory

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b. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original agreement, but all of which shall be considered one instrument and shall become a binding agreement when one or more counterparts have been signed by each of the parties and delivered to the other.

32. SEVERABILITY

If any term or provision of this Agreement shall be found illegal or unenforceable, this Agreement shall remain in full force and effect and such term or provision shall be deemed stricken.

33. NOTICE TO PARTIES

All notices to be given by the parties hereto shall be in writing and served by depositing the same in the United States Post Office, postage prepaid and registered, as follow

NOTICE TO THE SCCOE OFFICE

Santa Clara County Office of Education
Branch:
1290 Ridder Park Drive, MC San Jose, CA 95131
Fax:
Email:

NOTICE TO THE CONTRACTOR

Contractor
Contact Person Name
Street Address
City
State
Zip
Telephone
Fax
Email

34. SIGNATURES OF THE PARTIES

IN WITNESS WHEREOF the parties hereto have executed this Agreement on

APPROVED BY:

APPROVED BY:

Print Name Title

Print Name Title

Signature

Date

Signature

Date

All contractual agreements to exceed \$100,000 shall require prior approval of the Santa Clara County Board of Education (BP 3312, AR 3310).

Board Approval Date:
*If amount exceeds \$100,000

SCCOE USE ONLY:

Initiator:

Manager:

Director:

Chief