Contract # USBE220004MA

USBE220004MA

STATE OF UTAH CONTRACT

UTAH STATE BOARD OF EDUCATION

1. CONTRACTING PARTIES: This contract is between the Utah State Board of Education, referred to as the State Entity or USBE, and the following Contractor:

Cowdell Woolley
Name

32 E Main St.
Address

Sandy	UT	84070
City	State	Zip

LEGAL STATUS OF CONTRACTOR
- ☐ Sole Proprietor
- ☐ Non-Profit Corporation
- ☐ For-Profit Corporation
- ☒ Partnership
- ☐ Government Agency

Point of Contact: Tracy Cowdell Phone # 801-550-9864 Email: tcowdell@me.com
Vendor # VC202630 Commodity Code # 96149E

2. GENERAL PURPOSE OF CONTRACT: The general purpose of this contract is to provide: UPPAC Hearing officer services

3. PROCUREMENT: This contract is entered into as a result of the procurement process of Solicitation # USBEZC21040RFP, in FY21.

4. CONTRACT PERIOD: Effective Date: 9/1/2021 Termination Date: 8/31/2026 unless terminated early or extended in accordance with the terms and conditions of this contract. Renewal options (if any): N/A.

5. CONTRACT COSTS: CONTRACTOR will be paid a maximum of $REQUIREMENTS for costs authorized by this contract. Additional information regarding cost may be found in the scope of work or other attachments.

6. ATTACHMENT A: State of Utah Standard Terms and Conditions for Goods and Services
ATTACHMENT B: SOW

The Order of Precedence, for any conflicts, shall be resolved in favor of 1) Attachment A, 2) other USBE terms and conditions, 3) Scope of Work, 4) this Contract signature page, then 5) Contractor terms and conditions, if any. Any limit of liability or limit of the State Entity's rights must be signed by USBE.

7. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:
   a. All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this contract.
   b. Utah State Procurement Code, Procurement Rules, and Contractor's response to, and, Solicitation #USBEZC21040RFP.

8. Each signatory below represents that he or she has the requisite authority to enter into this contract.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR

SIGN HERE

Contractor's signature Date

Tracy Scott Cowdell

Type or Print Name and Title

UTAH STATE BOARD OF EDUCATION

SIGN HERE

Jones, Scott Digitally signed by Jones, Scott Date: 2021.09.16 12:59:44 -06'00'

Agency's signature Date

Scott Jones, Deputy Superintendent

Type or Print Name and Title

ATTACHMENT A: UTAH STATE BOARD OF EDUCATION STANDARD TERMS AND CONDITIONS FOR GOODS AND SERVICES

1. **DEFINITIONS:** The following terms shall have the meanings set forth below:
   - **1.1.** "**Authorized Persons**" means Contractor's employees, officers, partners, Subcontractors or other agents of Contractor who require access to Data and have a legitimate educational interest in the education records to enable the Contractor to perform its responsibilities under this Contract.
   - **1.2.** "**Confidential Information**" means information that is deemed confidential under applicable state and federal laws. The State Entity reserves the right to identify, during and after this Contract, additional reasonable types of categories of information that must be kept confidential under federal and state laws.
   - **1.3.** "**Contract**" means the Contract Signature Page(s), including all referenced attachments and documents incorporated by reference. The term "Contract" shall include any purchase orders that result from this Contract.
   - **1.4.** "**Contract Signature Page(s)**" means the State of Utah cover page(s) that the State Entity and Contractor signed.
   - **1.5.** "**Contractor**" means the individual or entity delivering the Procurement Item identified in this Contract. The term "Contractor" shall include Contractor's agents, officers, employees, partners, and subcontractors.
   - **1.6.** "**Data**" includes Student Personally Identifiable Information and Educator Data, and may also include Confidential Information.
   - **1.7.** "**Destroy" or "Destruction**" means to remove Data such that it is not maintained in retrievable form and cannot be retrieved in the normal course of business.
   - **1.8.** "**Educator Data**" includes, but is not limited to, the educator's name; any unique identifier, including social security number; and other information that, alone or in combination, is linked or linkable to a specific educator.
   - **1.9.** "**Incident**" means the potentially unauthorized access to Data that Contractor believes could reasonably result in the use, disclosure, or theft of Data within the possession or control of Contractor or Contractor's Subcontractors.
   - **1.10.** "**Metadata**" includes all information created manually or automatically to provide meaning or context to other data.
   - **1.11.** **"Person"** shall have the same meaning as found in Administrative Rule R33-1-1.
   - **1.12.** **"Procurement Item," "Good," or "Service"** means a supply, a service, construction, or technology that Contractor is required to deliver to the State Entity under this Contract.
   - **1.13.** **"Response"** means the Contractor's bid, proposal, quote, or any other document used by the Contractor to respond to the State Entity's Solicitation.
   - **1.14.** "**Solicitation**" means an invitation for bids, request for proposals, notice of a sole source procurement, request for statements of qualifications, request for information, or any document used to obtain bids, proposals, pricing, qualifications, or information for the purpose of entering into this Contract.
   - **1.15.** "**State Entity**" means the department, division, office, bureau, agency, or other organization identified on the Contract Signature Page(s).
   - **1.16.** "**State of Utah**" **or "State"** means the State of Utah, in its entirety, including its institutions, agencies, departments, divisions, authorities, instrumentalities, boards, commissions, elected or appointed officers, employees, agents, and authorized volunteers.
   - **1.17.** "**Student Personally Identifiable Information**" or "**PII**" has the same meaning as that found in U.C.A § 53E-9-301 and 34 § CFR 99.3, and includes both direct identifiers (such as a student's or other family member's name, address, student number, or biometric number) and indirect identifiers (such as a student's date of birth, place of birth, or mother's maiden name). Indirect identifiers that constitute PII also include metadata or other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.
   - **1.18.** "**Subcontractor**" means a person under contract with Contractor or another subcontractor to provide services or labor as provided herein or for design or construction, including a trade contractor or specialty contractor.
   - **1.19.** "**Targeted Advertising**" means advertising to a student or a student's parent by Contractor if the advertisement is based on information or Data Contractor collected or received under this Contract.

1.20. **"USBE" or "Utah State Board of Education"** means the Utah State Board of Education, the board, and its elected or appointed officers, employees, agents, and authorized volunteers.

2. **GOVERNING LAW AND VENUE:** This Contract is governed by the laws, rules, and regulations of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** Contractor shall comply with all applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including applicable licensure and certification requirements. If this Contract is funded by federal funds, either in whole or in part, then any federal regulation related to the federal funding, including 2 CFR Appendix II to Part 200, will supersede this Attachment A.
4. **RECORDS ADMINISTRATION AND RIGHT TO AUDIT:**
   - **4.1.** Records: Contractor shall maintain records necessary to properly account for Contractor's compliance, performance, and the payments made by USBE to Contractor. These records shall be retained by Contractor for six years after final payment, or until all audits initiated within the six years have been completed, whichever is later.
   - **4.2.** Audit: Contractor agrees to provide, at no additional cost, the State of Utah, federal program staff, USBE staff, and their designees access to questionnaires and internal and external audit reports. This includes the right to audit all such records and Contractor's sites and environments during normal business hours, and to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to audit records and interview staff in any subcontract related to performance of this Contract.
5. **PERMITS:** Contractor shall, at its own expense, obtain all permits, licenses, and approvals necessary for the performance of this Contract.
6. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** Contractor shall comply with the requirements of the Status Verification System, also referred to as "E-verify," as required by Utah Code § 13-47-2 et seq.
7. **DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST:** Contractor shall disclose whether any of its officers or employees are current or former officers or employees of USBE or the State of Utah. Contractor shall disclose if a current USBE employee is hired during the Contract (*e.g.*, dual employment).
8. **INDEPENDENT CONTRACTOR:** Contractor is an independent contractor and shall not act or hold itself out as an officer, employee, or agent of USBE, except as to the specific and limited agency created by the section "Agent Designation" below.
9. **INDEMNITY:** Contractor shall be fully liable for its actions and shall fully indemnify USBE and the State of Utah from all claims arising out of Contractor's performance, without limitation, except for the portion of any claim that is the sole fault of USBE or the State of Utah. Any limitation of Contractor's liability shall not apply to injuries to persons, including death, or to damages to property.
10. **CONFIDENTIALITY**: Confidential Information obtained by the Contractor may only be used for the purposes identified in this contract. Contractor shall notify USBE within one calendar day of any potential or actual misuse or unauthorized disclosure of confidential information.
11. **AMENDMENTS:** Amendments to this Contract, including execution of renewal options and changes to the scope, must be made by signed written agreement of both parties.
12. **DEBARMENT/SUSPENSION:** Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, or declared ineligible by any governmental entity. Contractor shall notify USBE within 30 days if debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract by any governmental entity during this Contract.
13. **TERMINATION:**
   - **13.1.** Termination for Cause: This Contract may be terminated for cause by either party. A party in violation shall be given 10 days' written notice to correct and cease the violations, after which this Contract may be terminated immediately.
   - **13.2.** Termination for Convenience: This Contract may be terminated without cause (for convenience) by USBE upon 30 days' written notice to Contractor.
   - **13.3.** Termination by Mutual Agreement: USBE and Contractor may terminate this Contract, in whole or in part, at any time, by written amendment.
   - **13.4.** Termination For Nonappropriation of Funds: Upon 30 days' written notice to Contractor, this Contract may be amended or terminated by USBE if USBE reasonably determines: (i) a change in federal or state legislation or applicable laws materially affects the ability of either party to perform under

the terms of this Contract; or (ii) a change in available funds affects USBE's ability to perform under this Contract.

13.5. Contract Closeout: USBE shall pay Contractor for all Procurement Items ordered prior to termination of this Contract and accepted by USBE. USBE's exercise of its right to terminate this Contract shall not relieve the Contractor of any liability to USBE for any damages or claims arising under this Contract. USBE shall not be liable for any penalties or liquidated damages that accrue after the effective date of termination.

13.6. Return or Destruction of Data: Following the termination of this Contract, USBE reserves the right to request a complete and secure (*i.e.*, encrypted and appropriately authenticated) download file of all data. After USBE has accepted the return of data, declines the return of data, or provides other instructions, Contractor shall immediately destroy all data. If, after 30 days from termination, USBE has failed to make a request regarding data, Contractor shall immediately destroy the data. The Contractor shall notify USBE in writing of the date the data is destroyed.

14. SALES TAX EXEMPTION: USBE is a tax-exempt organization, and Contractor shall not include sales tax in any request for payment.

15. WARRANTY OF PROCUREMENT ITEMS: Unless a longer warranty period is contained in the Contract, Contractor warrants for a period of one year that: (i) the Procurement Items perform according to all specific claims that Contractor made in its Response; (ii) the Procurement Items are suitable for the ordinary purposes for which such Procurement Items are used; (iii) the Procurement Items are suitable for any special purposes identified in the Contractor's Response; (iv) the Procurement Items are designed and manufactured in a commercially reasonable manner; (v) the Procurement Items are manufactured and in all other respects create no harm to persons or property; and (vi) the Procurement Items are free of defects. Unless otherwise specified, all Procurement Items provided shall be new and unused of the latest model or design.

16. CONTRACTOR'S INSURANCE RESPONSIBILITY:

16.1. Contractor shall maintain insurance during this Contract. All insurance policies required by this Contract shall be issued by insurance companies with an AM Best rating of A-VIII or better.

16.2. The Contractor shall maintain the following insurance coverage:

16.2.1. Workers' compensation insurance during the term of this Contract for all its employees and any Subcontractor employees related to this Contract. Workers' compensation insurance shall cover full liability under the workers' compensation laws of the jurisdiction of the State of Utah at the statutory limits required by said jurisdiction.

16.2.2. Commercial general liability [CGL] insurance from an insurance company authorized to do business in the State of Utah. The limits of the CGL insurance policy shall be no less than $1,000,000.00 per person per occurrence and $3,000,000.00 aggregate per occurrence.

16.2.3. If Contractor uses a vehicle in the performance of this Contract, Contractor shall maintain Commercial Automobile Liability [CAL] insurance from an insurance company authorized to do business in the State of Utah. The CAL insurance policy must cover bodily injury and property damage liability and be applicable to all vehicles used in the performance of Services under this Contract. The minimum liability limit must be $1,000,000.00 per occurrence, combined single limit.

16.2.4. If Contractor has access to Data, Contractor shall maintain Protected Information Liability insurance covering all loss of Data and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits of $1,000,000.00 per occurrence and $2,000,000.00 aggregate per occurrence.

16.3. USBE shall be named as additional insured on all commercial general liability policies required of Contractor. Coverage required of Contractor shall be primary over any insurance or self-insurance program carried by Contractor or USBE.

16.4. The above insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without the insurer giving at least 30 days' prior notice to Contractor. Contractor shall forward such notice to the USBE's contact as listed in the Contract within seven days of Contractor's receipt of such notice.

16.5. All insurance policies secured or maintained by Contractor in relation to this Contract shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Contractor or USBE, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

16.6. Contractor shall provide to USBE certificates evidencing Contractor's insurance coverage required in this Contract within seven days following the effective date. No later than 15 days before the

expiration date of Contractor's coverage, Contractor shall deliver to USBE certificates of insurance evidencing renewals of coverage. At any other time during the term of this Contract, upon request by USBE, Contractor shall, within seven days following the request by USBE, supply to USBE evidence satisfactory to USBE of compliance with the provisions of this section.

16.7. USBE reserves the right to require higher or lower insurance limits where warranted.

17. **PUBLIC INFORMATION:** This Contract and all related solicitation documents, purchase orders, pricing documents, and invoices are public documents and may be available for public and private distribution in accordance with the State of Utah's Government Records Access and Management Act (GRAMA),
18. **DELIVERY:** All deliveries under this Contract shall be F.O.B. destination with all transportation and handling charges paid by Contractor. Risk of loss or damage shall remain with Contractor until final inspection and acceptance by USBE.
19. **ACCEPTANCE AND REJECTION:** USBE shall have 30 days after delivery of the Procurement Items to perform an inspection of the Procurement Items to determine if the Procurement Items conform to the standards specified in the Solicitation and this Contract prior to acceptance of the Procurement Items by USBE. If the Procurement Item is not rejected, it is presumed to be accepted.
    19.1. If Contractor delivers nonconforming Procurement Items, USBE may, at its option and at Contractor's expense: (i) return the Procurement Items for a full refund; (ii) require Contractor to promptly correct or replace the nonconforming Procurement Items; or (iii) obtain replacement Procurement Items from another source, subject to Contractor being responsible for any cover costs. Contractor shall not redeliver corrected or rejected Procurement Items without first, disclosing the former rejection or requirement for correction; and second, obtaining written consent of USBE to redeliver the corrected Procurement Items. Repair, replacement, and other correction and redelivery shall be subject to the terms of this Contract.
    19.2. If at any point a latent defect or fraud is identified, acceptance by USBE may be immediately nullified.
20. **PAYMENT:** USBE shall make payment within 60 days after it receives a correct invoice by a check sent through the mail, electronic funds transfer, or the State of Utah's Purchasing Card (major credit card). If payment has not been made 60 days after USBE receives a correct invoice, then Contractor may add interest in accordance with the Utah Prompt Payment Act. If the Contractor accepts final payment without a written protest to USBE within ten business days of receipt of final payment, Contractor releases USBE and the State of Utah from all claims for payment related to the Contract. USBE's payment for the Procurement Items shall not be deemed an acceptance of the Procurement Items as identified in the Contract and does not release any claims that USBE or the State of Utah may have against Contractor. Contractor shall not charge USBE electronic payment fees.
21. **INDEMNIFICATION RELATING TO INTELLECTUAL PROPERTY:** Contractor represents all Procurement Items are free of all liens and encumbrances and shall indemnify USBE and the State of Utah from any claim brought against USBE or the State of Utah for infringement of a third party's intellectual property. Any limitation of Contractor's liability does not apply to this section.
22. **OWNERSHIP OF PROCUREMENT ITEM:**
    22.1. Contractor conveys to USBE full ownership and title to all Procurement Items delivered under this Contract. Procurement Items shall be transferred to USBE as work for hire, unless otherwise agreed to in the Contract.
    22.2. Unless included in the Contract, neither party has any claim to the intellectual property of the other party.
23. **ASSIGNMENT:** Any assignment or delegation by Contractor must be made through an amendment to the Contract.
24. **DEFAULT AND REMEDIES:**
    24.1. Default: Any of the following events may constitute cause for USBE to declare Contractor in default of this Contract: (i) Contractor's non-performance of its contractual requirements or obligations under this Contract; or (ii) Contractor's material breach of any term or condition of this Contract. Termination or expiration of this Contract shall not extinguish or prejudice USBE's right to enforce this Contract with respect to any default of this Contract or defect in the Procurement Items that has not been cured.
    24.2. Opportunity to Cure: If the Contractor is in default for non-performance or breach, USBE may issue a written notice of default providing a ten-day period in which Contractor shall have an opportunity to cure. Contractor shall repair, replace, or reimburse USBE, at USBE's discretion, the cost to cover Procurement Items at no charge to USBE. Time allowed for cure will not diminish or eliminate

Contractor's liability for damages.

24.3. Additional Remedies: If the default remains after Contractor has been provided the opportunity to cure, USBE may: (i) exercise any remedy provided by law or equity; (ii) terminate this Contract; (iii) impose liquidated damages, if liquidated damages are listed in this Contract; (iv) debar/suspend Contractor from receiving future contracts from USBE or the State of Utah; and (v) demand a full refund of any payment USBE has made to Contractor under this Contract for Procurement Items that do not conform to this Contract.

25. FORCE MAJEURE: Neither party to this Contract shall be held responsible for unavoidable delay or default caused by circumstances, including fire, riot, an act of God, and/or war, that are beyond that party's reasonable control. USBE may terminate this Contract after determining such delay or default will prevent successful performance of this Contract.

26. PUBLICITY: Contractor shall not use USBE's name, logo, or endorsement (implied or actual) in any advertising, marketing, or publicity materials without prior written approval from USBE.

27. WORK ON STATE OF UTAH PREMISES: Contractor shall ensure that its personnel working on State of Utah premises: (i) abide by all of the rules, regulations, and policies of the premises; (ii) remain in authorized areas; (iii) follow all instructions from USBE; and (iv) if required by USBE, pass a background check prior to entering the premises. USBE may remove any individual for a violation hereunder.

28. CONTRACT INFORMATION: During the duration of this Contract, USBE is required to make available contact information of Contractor to the State of Utah Department of Workforce Services pursuant to Utah Code § 35A-2-203. The State of Utah Department of Workforce Services may contact Contractor during the duration of this Contract to inquire about Contractor's job vacancies within the State of Utah.

29. WAIVER: A waiver of any right under the Contract shall not be construed as a subsequent waiver of that right or as a waiver of any other right.

30. SUSPENSION OF WORK: USBE may suspend and reinstate work under this Contract by written notice to Contractor.

31. ATTORNEY'S FEES: The prevailing party in a judicial action to enforce rights under this Contract shall be entitled to its costs and expenses, including reasonable attorney's fees.

32. TRAVEL COSTS: Unless otherwise agreed, all travel costs must be pre-approved by USBE and may be booked by USBE at State of Utah per diem rates.

33. DISPUTE RESOLUTION: Prior to either party filing a judicial proceeding, the parties agree to participate in the mediation of any dispute. USBE and Contractor will mutually agree upon a mediator, or if a mutually agreeable mediator is not selected, USBE will select an independent third party, who shall be a Utah Courts certified mediator, to assist in the resolution of a dispute. USBE and Contractor agree to cooperate in good faith in mediation proceedings.

34. SURVIVAL OF TERMS: Termination or expiration of this Contract shall not diminish USBE's right to enforce any term of this Contract that by its nature would continue beyond termination, cancellation, or expiration.

35. SEVERABILITY: The invalidity or unenforceability of any term of this Contract shall not affect the validity or enforceability of any other term of this Contract.

36. ENTIRE AGREEMENT: This Contract constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.

37. GENERAL DATA PROVISIONS:

37.1. DATA OWNERSHIP: USBE retains all rights, title, and interest, including all intellectual property and proprietary rights, in and to system data, Data, and all related data and content.

37.2. AGENT DESIGNATION: Contractor is hereby designated as an agent of USBE pursuant to FERPA for the limited purpose of receiving Student Personally Identifiable Information to fulfill the purposes of this contract. Contractor may use the Student Personally Identifiable Information as provided herein, but may not transfer or otherwise convey Student Personally Identifiable Information to any other Person.

37.3. COMPLIANCE WITH DATA PRIVACY LAWS: Contractor, as USBE's agent, shall comply with all applicable data privacy laws, regulations, code, and rules including FERPA 20 U.S.C. § 1232g et seq. and 34 C.F.R. Part 99 et seq., the Individuals with Disabilities Education Act, 30 U.S.C. § 1400 et seq. and 34 C.F.R. Part 300 ("IDEA"), and the Utah Student Privacy and Data Protection Act , Utah Code § 53E-9 101 et seq.

37.4. DESTRUCTION OF DATA: If USBE requests the Destruction of PII in Contractor's possession as a result of this Contract, Contractor shall Destroy the information within five calendar days after the

date of the request. Contractor shall provide USBE with written confirmation of the date the data is Destroyed.

37.4.1. USBE retains the right to use the established operational services to access and retrieve Data stored on Contractor's infrastructure at its sole discretion.

37.5. ACCESS TO DATA:

37.5.1. Contractor shall limit access to Data to Authorized Persons only and shall require a non-disclosure agreement be signed by all Authorized Persons prior to being granted access to Data.

37.5.2. Contractor shall maintain past and current lists of all Authorized Persons, maintain each non-disclosure agreement, and shall permit inspection of the same by USBE upon request.

37.5.3. Contractor shall maintain an audit trail for the duration of this Contract, which reflects the granting and revoking of access privileges to Authorized Persons. A copy of this audit trail may be requested by USBE from Contractor at any time and shall be provided within 10 days of the USBE request.

37.5.4. Contractor shall have strong access controls in place. Contractor shall disable and/or immediately delete unused or terminated Authorized Persons' accounts and shall periodically assess account inactivity for potential stale accounts.

37.5.5. Contractor shall provide annual, mandatory privacy and security awareness and training for all Authorized Persons, maintain past and current lists of Authorized Persons that have completed training, and permit inspection of the same by USBE upon request.

37.6. USE AND DISCLOSURE OF DATA:

37.6.1. Contractor shall not collect, use, or share Data beyond the purposes set forth as follows:

37.6.1.1. To carry out the Contractor's responsibilities listed in the Statement of Work.

37.6.2. Contractor shall share Data only for the purposes stated in the Statement of Work and only with the following entities:

37.6.2.1. Law enforcement agencies or individuals only as authorized by law or court order. Contractor receives such a request, Contractor shall notify USBE within two business days of the receipt of the request, as permitted by law.

37.6.3. If Contractor seeks to publicly release Data, Contractor must aggregate the Data by totaling the Data and reporting it at the group, cohort, school, school district, region, or state level. Contractor shall, upon request of USBE, provide USBE with a document that lists the steps and methods the Contractor shall use to de-identify the information. Any aggregate data that is publicly released without being redacted using the methods in this section shall be considered an Incident. The following methods shall be used on any aggregated reports:

37.6.3.1. Aggregate data shall be reported publicly only if there is a sufficient number of individuals represented in any demographic or subgroup so that an individual cannot be identified.

37.6.3.2. Aggregated reports shall be redacted using complementary suppression methods that remove the risk of Data being identifiable using simple mathematics or formulas.

37.6.4. Contractor shall not use Data for any secondary use, including Targeted Advertising, except under the following conditions:

37.6.4.1. For adaptive learning or customized student learning purposes.

37.6.4.2. To market an educational application or product to a parent or legal guardian of a student if Contractor did not use Data, shared by or collected per this Contract, to market the educational application or product.

37.6.4.3. To use a recommendation engine to recommend to a student (i) content that relates to learning or employment, within the third-party contractor's application, if the recommendation is not motivated by payment or other consideration from another party; or (ii) services that relate to learning or employment, within the third-party contractor's application, if the recommendation is not motivated by payment or other consideration from another party;

37.6.4.4. To respond to a student request for information or feedback, if the content of the response is not motivated by payment or other consideration from another party.

37.6.4.5. To use Data to allow or improve operability and functionality of the third-party contractor's application.

37.6.5. Contractor shall not sell or otherwise monetize Data except Data transferred through the purchase of, merger with, or otherwise acquisition of Contractors provided that all parties remain in compliance with this Contract.

37.7. SECURITY AND PROTECTION OF DATA:

37.7.1. Contractor shall notify USBE of material system changes that may negatively impact the security

of Data prior to such changes being implemented.

37.7.2. If Contractor is given Data as part of this Contract, the protection of Data shall be an integral part of the business activities of Contractor to ensure that there is no inappropriate or unauthorized use of Data. Contractor shall safeguard the confidentiality, integrity, and availability of Data.

37.7.3. Contractor shall comply with and protect and maintain Data using methods that are at least as good as or better than that established in the State of Utah's Department of Technology Policies (https://dts.utah.gov/policies).

37.7.4. Contractor shall only transmit or exchange Data via secure means (ex. HTTPS or FTPS). Contractor shall not use, store or process Data on any unencrypted portable or laptop computing device or any portable storage medium.

37.7.5. Contractor shall store and maintain all Data in data centers located only within the United States.

37.7.6. Contractor shall permit its employees and Subcontractors to access Data remotely only via a secured manner, such as Virtual Private Networks (VPN).

37.7.7. Contractor shall store all Data, as well as any backups made of that data, in encrypted form using no less than 128-bit key and include all Data as part of a designated backup and recovery process.

37.7.8. Contractor shall enforce strong password protections on all devices and networks with access to or that store Data.

37.8. INCIDENTS:

37.8.1. If Contractor becomes aware of an Incident involving Data by either Contractor or any of Contractor's Subcontractors, Contractor shall notify USBE within one calendar day and cooperate with USBE regarding recovery, remediation, and the necessity to involve law enforcement, if any.

37.8.2. Contractor shall produce a written remediation plan that includes information about the cause and extent of the Incident, and the actions Contractor will take to remediate the Incident and reduce the risk of incurring a similar type of Incident in the future. Contractor shall present its analysis and remediation plan to USBE within ten calendar days of notifying USBE of an Incident. USBE reserves the right to adjust this plan, in its sole discretion. If Contractor cannot produce its analysis and plan within the allotted time, USBE, in its sole discretion, may perform such analysis and produce a remediation plan, and Contractor shall reimburse USBE for the reasonable costs thereof.

37.8.3. In the event of an Incident, Contractor shall provide USBE or its designated representatives with access 7 days a week, 24 hours a day, for the purpose of evaluating, mitigating, or resolving the Incident.

37.8.4. Unless Contractor can establish that Contractor or any of its Subcontractors is not the cause or source of the Incident, Contractor shall be responsible for the cost of notifying each person whose personal information may have been compromised by the Incident.

37.8.5. Disclosure of Data by Contractor or any Subcontractor for any reason may be cause for legal action by third parties against Contractor, the State, or their respective agents. Contractor shall indemnify, save, and hold harmless the State, its employees, and agents against any and all claims, damages, liability, and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by Contractor, or its employees, agents, Subcontractors, or assignees pursuant to this Contract. Notwithstanding any other provision of this Contract, Contractor shall be liable to the State for all direct, consequential, and incidental damages arising from an Incident caused by Contractor or its Subcontractors.

Attachment B: SCOPE OF WORK

1) **Introduction**

a) **Purpose and Background**

The Utah Professional Practices Advisory Commission ("UPPAC") investigates and makes recommendations to the Utah State Board of Education (“Board”) regarding background checks, educator misconduct, and licensure reinstatement. Hearing officers will conduct hearings in connection with these responsibilities. Hearing officers will handle pre-hearing issues between the parties, apply laws and Board rules, and draft hearing reports in conjunction with hearing panels comprised of members of UPPAC. There is a pool of hearing officers who will be used on a rotating/random basis as hearings are required.

UPPAC is an advisory commission to the Board and is charged by statute with promoting and maintaining the high degree of professional ethics and practice required in the education profession. UPPAC holds administrative hearings when allegations of misconduct are made against a licensed educator. UPPAC makes recommendations to the Board regarding unprofessional conduct. The Board takes final action in all cases.

UPPAC consists of six teachers, three educators who have assignments other than teaching, and two community members. They are appointed by the State Superintendent of Public Instruction to serve three-year staggered terms. Panels of three UPPAC members sit at hearings with the hearing officer and assist the hearing officer in preparing a report for consideration by the full UPPAC and the Board. UPPAC meets monthly and is assisted by staff of the Board.

b) **Key Personnel-**

The following key personnel are essential to the performance of the contract, and the only authorized individual from the law firm to perform the duties under this contract. If the authorized individual leaves the firm, this contract will no longer be effective.

i) Tracy S. Cowdell-

c) **Scope of Work**

The hearing officer will conduct administrative hearings to determine recommendations for discipline or reinstatement requests of educators.

The hearing officer will write the hearing report in consultation with commission members who have served as the hearing panel; the hearing officer is non-voting.

The hearing officer may also be required to respond to pre-hearing motions and make other prehearing decisions.

The hearings are held to determine whether disciplinary action should be taken against licensed educators alleged to have engaged in misconduct which would influence their effectiveness in the classroom.

UPPAC hearings most often follow disciplinary employment actions taken by school districts or following criminal charges.

The job requires flexibility and availability; sometimes hearings are scheduled or rescheduled on short notice and may run into the evenings.

Hearing officers may also be asked to other non-UPPAC administrative hearings or similar work for USBE as needed.

2) Project Management:

i) Any changes or deviation from the agreement must be agreed to in writing through a proper amendment to the agreement. Any technical and/or managerial exchange of information or advice shall not be construed as a change to any requirement and/or provision of this Contract unless the change is expressly directed by USBE's Procurement Representative in writing pursuant to the Changes clause of this Contract or by bilateral written agreement between the designated representatives of this Contract. The parties identified below are the points of contact for the agreement for the purpose of amending the contract.

ii) Utah State Board of Education:
  (a) Program Manager: Ben Rasmussen, Educational Director, ben.rasmussen@schools.utah.gov, 801-538-7835

  (b) Contract Manager: Zac Christensen, Director of Purchasing and Contracts, zac.christensen@schools.utah.gov, 801-538-7538

iii) Vendor:
  (a) Program & Contract Manager: Tracy Cowdell, Partner, tcowdell@me.com, 801-550-9864

3) Project Budget

i) The Contractor shall be paid as follows:
  (1) $200.00 per hour for pre-hearing and post hearing issues (including report drafting); and,
  (2) $250.00 per hour for actual hearing time.

ii) Any work must be invoiced after services have been rendered, at least monthly but no longer than by the end of the fiscal year (June 30) for any services rendered during the fiscal year.

iii) The costs identified above are inclusive of all expenses. Contractor is wholly responsible for its own travel arrangements and expenses and cannot invoice USBE for travel, unless authorized by USBE in advance for hearings outside of Salt Lake County.

4) Invoicing

a) All fees are due and payable prior to the first funds distribution

b) Contractor shall submit invoices electronically to the USBE email account at invoices@schools.utah.gov and the program manager for all goods and/or services provided in accordance with the terms on the agreement. Invoices will not be considered for payment if submitted by another method.

c) Invoices shall include the following:
  i) Contractor Name
  ii) Uniquely identifiable invoice number
  iii) Invoice date
  iv) Contract Number
  v) Recipient Entity's contact information (phone number and email address)
  vi) Contractor's authorized signature
  vii) Date(s) goods/services were provided
  viii) Description of goods and/or services for which payment is requested
  ix) Dollar amount requested.

d) Invoices submitted by Contractor to USBE without the required information will not be paid and shall be returned to the Contractor for completion.

e) All payments made to the Contractor under this agreement shall be made in the name of the Contractor, as it appears in this agreement. All payments will be sent to the Contractor will be sent to the address for the

Contractor as it appears in the agreement. Changes to the information identified in this section must be requested in writing.

f) To obtain payment for the goods and/or services authorized by this agreement, Contractor shall submit the itemized invoice together with supporting documentation of work performed.

g) USBE reserves the right to question or seek clarification for any cost invoiced if the invoice is not supported by proper documentation.

h) Contractor may be required to repay USBE if, during or after the contract period, an audit or other review determines that payments made by USBE to Contractor were incorrectly paid or were based on incorrect information received from the Contractor. USBE reserves the right to withhold any or all subsequent payments to the Contractor until the incorrect amounts paid have been fully recovered.