

CONTRACT FOR National Professional Qualifications Final Assessment delivery

THIS CONTRACT IS DATED 6th January 2017

Parties

- 1) **The Secretary of State for Education whose Head Office is at Sanctuary Buildings, Great Smith Street, London, SW1P 3BT acting as part of the Crown (“the Department”); and**
- 2) **EMLC, Company number: 04813638, whose registered office is at Bridge House, Bridge Street, Olney, MK46 4AB (“the Contractor”)**

Recitals

The Contractor has agreed to deliver the final assessments of the National Professional Qualifications on the terms and conditions set out in this Contract.

The Department's reference number for this Contract is RD1000457.

1 Interpretation

1.1 In this Contract the following words shall mean: -

“the Services”	the services to be performed by the Contractor as described in Schedule 1;
"Affiliate"	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time;
“Central Government Body”	means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: (a) Government Department; (b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); (c) Non-Ministerial Department; or (d) Executive Agency;

"the Contract Manager"	Lara Hughes National College for Teaching and Leadership Jubilee Conference Centre Triumph Road Nottingham NG8 1DH
"Contractor Personnel"	all employees, agents, Contractors and contractors of the Contractor and/or of any Sub-contractor;
"the Contractor's Contract Manager"	Jane Thomas EMLC Bridge House Bridge Street Olney MK46 4AB
"Confidential Information"	the Department's Confidential Information and/or the Contractor's Confidential Information;
"Contracting Department"	any contracting Department as defined in Regulation 5(2) of the Public Contracts (Works, Services and Supply) (Amendment) Regulations 2000 other than the Department;
"Contractor Personnel"	all employees, agents, consultants and contractors of the Contractor and/or of any Sub-contractor;
"Control"	means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and " Controls " and " Controlled " shall be interpreted accordingly;
"Crown"	means Queen Elizabeth II and any successor
"Crown Body"	any department, office or agency of the Crown;
"Department's Confidential Information"	all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the Department, including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered to be confidential;
"Environmental Information Regulations"	the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issues by the Information Commissioner or relevant Government Department in relation to such regulations;
"FOIA"	the Freedom of Information Act 2000 and any

	subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such legislation;
“Her Majesty's Government”	means the duly elected Government for the time being during the reign of Her Majesty and/or any department, committee, office, servant or officer of such Government
"Information"	has the meaning given under section 84 of the Freedom of Information Act 2000;
"Personal Data"	shall have the same meaning as set out in the Data Protection Act 1998;
"Property"	means the property, other than real property, issued or made available to the Contractor by the Client in connection with the Contract.
“Regulatory Bodies”	those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of the Department and "Regulatory Body" shall be construed accordingly.
"Request for Information"	a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations;
"SME"	means a micro, small or medium-sized enterprise defined in accordance with the European Commission Recommendation 2003/361/EC and any subsequent revisions.
"Sub-contractor"	the third party with whom the Contractor enters into a Sub-contract or its servants or agents and any third party with whom that third party enters into a Sub-contract or its servants or agents;
"Working Day"	any day other than a Saturday, Sunday or public holiday in England and Wales.

1.2 References to “Contract” mean this contract (and include the Schedules). References to “Clauses” and “Schedules” mean clauses of and schedules to this Contract. The provisions of the Schedules shall be binding on the parties as if set out in full in this Contract.

- 1.3 Reference to the singular include the plural and vice versa and references to any gender include both genders. References to a person include any individual, firm, unincorporated association or body corporate.

2 Commencement and Continuation

- 2.1 The Contractor shall commence the Services on 16th January 2017 and, subject to Clause 10.1 shall complete the Services on or before 16th January 2018.

3 Contractor's Obligations

- 3.1 The Contractor shall promptly and efficiently complete the Services in accordance with the provisions set out in Schedule 1.
- 3.2 The Contractor shall comply with the accounting and information provisions of Schedule 2.
- 3.3 The Contractor shall comply with all statutory provisions including all prior and subsequent enactments, amendments and substitutions relating to that provision and to any regulations made under it.

4 The Department's Obligations

- 4.1 The Department will comply with the payment provisions of Schedule 2 provided that the Department has received full and accurate information and documentation as required by Schedule 2 to be submitted by the Contractor for work completed to the satisfaction of the Department.

5 Changes to the Department's Requirements

- 5.1 The Department shall notify the Contractor of any material change to the Department's requirement under this Contract.
- 5.2 The Contractor shall use its best endeavours to accommodate any changes to the needs and requirements of the Department provided that it shall be entitled to payment for any additional costs it incurs as a result of any such changes. The amount of such additional costs to be agreed between the parties in writing.

6 Management

- 6.1 The Contractor shall promptly comply with all reasonable requests or directions of the Contract Manager in respect of the Services.
- 6.2 The Contractor shall address any enquiries about procedural or contractual matters in writing to the Contract Manager. Any correspondence relating to this Contract shall quote the reference number set out in the Recitals to this Contract.

7 Contractor's Employees and Sub-Contractors

7.1 Where the Contractor enters into a contract with a supplier or contractor for the purpose of performing its obligations under the Contract (the “**Sub-contractor**”) it shall ensure prompt payment in accordance with this clause 7.1. Unless otherwise agreed by the Department in writing, the Contractor shall ensure that any contract requiring payment to a Sub-contractor shall provide for undisputed sums due to the Sub-contractor to be made within a specified period from the receipt of a valid invoice not exceeding:

7.1.1 10 days, where the Sub-contractor is an SME; or

7.1.2 30 days either, where the sub-contractor is not an SME, or both the Contractor and the Sub-contractor are SMEs,

The Contractor shall comply with such terms and shall provide, at the Department’s request, sufficient evidence to demonstrate compliance.

7.2 The Department shall be entitled to withhold payment due under clause 7.1 for so long as the Contractor, in the Department’s reasonable opinion, has failed to comply with its obligations to pay any Sub-contractors promptly in accordance with clause 7.1. For the avoidance of doubt the Department shall not be liable to pay any interest or penalty in withholding such payment.

7.3 The Contractor shall take all reasonable steps to satisfy itself that its employees or sub-contractors (or their employees) are suitable in all respects to perform the Services.

7.4 The Contractor shall immediately notify the Department if they have any concerns regarding the propriety of any of its sub-contractors in respect of work/services rendered in connection with this Contract.

7.5 The Contractor, its employees and sub-contractors (or their employees), whilst on Departmental premises, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time.

7.6 The Contractor shall ensure the security of all the Property whilst in its possession, during the supply of the Services, in accordance with the Department’s reasonable security requirements as required from time to time.

8 **Copyright**

8.1 Copyright in all reports and other documents and materials arising out of the performance by the Contractor of their duties under this Contract are to be assigned to and shall vest in the Crown absolutely. This condition shall apply during the continuance of this Contract and after its termination howsoever arising.

9 **Warranty and Indemnity**

9.1 The Contractor warrants to the Department that the obligations of the Contractor under this Contract will be performed by appropriately qualified and trained personnel with reasonable skill, care and diligence and to such high standards of quality as it is reasonable for the Department to expect in all the circumstances. The Department will be relying upon the Contractor’s skill, expertise and experience in the performance of the Services and also upon the accuracy of all representations or statements made and the advice given by the Contractor in connection with the performance of the Services and the accuracy of any documents conceived, originated, made or developed by the

Contractor as part of this Contract. The Contractor warrants that any goods supplied by the Contractor forming a part of the Services will be of satisfactory quality and fit for their purpose and will be free from defects in design, material and workmanship.

9.2 Without prejudice to any other remedy, if any part of the Services is not performed in accordance with this Contract then the Department shall be entitled, where appropriate to:

9.2.1 require the Contractor promptly to re-perform or replace the relevant part of the Services without additional charge to the Department; or

9.2.2 assess the cost of remedying the failure (“the assessed cost”) and to deduct from any sums due to the Contractor the Assessed Cost for the period that such failure continues.

9.3 The Contractor shall be liable for and shall indemnify the Department in full against any expense, liability, loss, claim or proceedings arising under statute or at common law in respect of personal injury to or death of any person whomsoever or loss of or damage to property whether belonging to the Department or otherwise arising out of or in the course of or caused by the provision of the Services.

9.4 The Contractor shall be liable for and shall indemnify the Department against any expense, liability, loss, claim or proceedings arising as a result of or in connection with any breach of the terms of this Contract or otherwise through the default of the Contractor.

9.5 All property of the Contractor whilst on the Department's premises shall be there at the risk of the Contractor and the Department shall accept no liability for any loss or damage howsoever occurring to it.

9.6 The Contractor shall ensure that it has adequate insurance cover with an insurer of good repute to cover claims under this Contract or any other claims or demands which may be brought or made against it by any person suffering any injury damage or loss in connection with this Contract. The Contractor shall upon request produce to the Department, its policy or policies of insurance, together with the receipt for the payment of the last premium in respect of each policy or produce documentary evidence that the policy or policies are properly maintained.

10 Termination

10.1 This Contract may be terminated by the Department, at its sole discretion, giving 3 months' notice in writing.

10.2 In the event of any breach of this Contract by the contractor, the Department may serve a notice on the contractor requiring the breach to be remedied within a period specified in the notice which shall be reasonable in all the circumstances. If the breach has not been remedied by the expiry of the specified period, the Department may terminate this Contract with immediate effect by notice in writing.

10.3 In the event of a material breach of this Contract by the contractor, the Department may terminate this Contract with immediate effect by notice in writing.

10.4 Termination by the Department if monthly Performance Standards not met.

(a) If the Contractor fails to meet any of the monthly Performance Standards in any two

consecutive months, at either party's request to the other party, both parties must meet to work together in good faith to attempt to understand why the monthly Performance Standards have not been achieved and implement strategies jointly agreed between the parties to attempt to enable the Contractor to achieve the monthly Performance Standards.

(b) If the parties agree on a strategy under clause 10.4 (a) and, in the month following the implementation of the joint strategy under clause 10.4 (a), the Contractor fails to achieve any of the monthly Performance Standards, the Department may terminate this agreement on 30 days' notice to the Contractor.

(c) If the Contractor fails to meet any of the monthly Performance Standards in any three consecutive months, the Department may terminate this agreement on 10 Business Days' notice to the Contractor.

10.5 This Contract may be terminated by the Department with immediate effect by notice in writing if at any time: -

10.5.1 the Contractor passes a resolution that it be wound-up or that an application be made for an administration order or the Contractor applies to enter into a voluntary arrangement with its creditors; or

10.5.2 a receiver, liquidator, administrator, supervisor or administrative receiver be appointed in respect of the Contractor's property, assets or any part thereof; or

10.5.3 the court orders that the Contractor be wound-up or a receiver of all or any part of the Contractor's assets be appointed; or

10.5.4 the Contractor is unable to pay its debts in accordance with Section 123 of the Insolvency Act 1986.

10.5.5 there is a change in the legal or beneficial ownership of 50% or more of the Contractor's share capital issued at the date of this Contract or there is a change in the control of the Contractor, unless the Contractor has previously notified the Department in writing. For the purpose of this Sub-Clause 10.5.5 "control" means the power of a person to secure that the affairs of the Contractor are conducted in accordance with the wishes of that person by means of the holding of shares or the possession of voting power.

10.5.6 the Contractor is convicted (or being a company, any officers or representatives of the Contractor are convicted) of a criminal offence related to their business or professional conduct.

10.5.7 the Contractor commits (or being a company, any officers or representatives of the Contractor commit) an act of grave misconduct in the course of their business.

10.5.8 the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to fulfil his/their obligations relating to the payment of Social Security contributions.

10.5.9 the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to fulfil his/their obligations relating to payment of taxes.

10.5.10 the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to disclose any serious misrepresentation in supplying information required by the Department in or pursuant to this Contract.

10.6 Nothing in this Clause 10 shall affect the coming into, or continuance in force of any provision of this Contract which is expressly or by implication intended to come into force or continue in force upon termination of this Contract.

11 **Status of Contractor**

11.1 In carrying out its obligations under this Contract the Contractor agrees that it will be acting as principal and not as the agent of the Department.

11.2 The Contractor shall not say or do anything that may lead any other person to believe that the Contractor is acting as the agent of the Department.

12 **Confidentiality**

12.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each party shall:

12.1.1 treat the other party's Confidential Information as confidential and safeguard it accordingly; and

12.1.2 not disclose the other party's Confidential Information to any other person without the owner's prior written consent.

12.2 Clause 12 shall not apply to the extent that:

12.2.1 such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information or the Environmental Information Regulations pursuant to Clause 13 (Freedom of Information);

12.2.2 such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

12.2.3 such information was obtained from a third party without obligation of confidentiality;

12.2.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or

12.2.5 it is independently developed without access to the other party's Confidential Information.

12.3 The Contractor may only disclose the Department's Confidential Information to the Contractor Personnel who are directly involved in the provision of the Project and who need to know the information, and shall ensure that such Contractor Personnel are aware of and shall comply with these obligations as to confidentiality.

12.4 The Contractor shall not, and shall procure that the Contractor Personnel do not, use any of the Department's Confidential Information received otherwise than for the purposes of this Contract.

12.5 The Contractor shall ensure that their employees, servants or such professional advisors or consultants who are directly involved in the provision of the Project, are aware of the Contractor's obligations under this Contract.

- 12.6** Nothing in this Contract shall prevent the Department from disclosing the Contractor's Confidential Information:
- 12.6.1 on a confidential basis to any Central Government Body for any proper purpose of the Department or of the relevant Central Government Body;
- 12.6.2 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
- 12.6.3 to the extent that the Department (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
- 12.6.4 on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 12.6.1 (including any benchmarking organisation) for any purpose relating to or connected with this Contract;
- 12.6.5 on a confidential basis for the purpose of the exercise of its rights under this Contract, including audit rights, step-in rights and exit management rights; or
- 12.6.6 on a confidential basis to a proposed successor body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Contract.
- 12.7** The Department shall use all reasonable endeavours to ensure that any Central Government Body, Contracting Department, employee, third party or Sub-contractor to whom the Contractor's Confidential Information is disclosed pursuant to clause 12 is made aware of the Department's obligations of confidentiality.
- 12.8** Nothing in this clause 12 shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of Intellectual Property Rights.
- 12.9** The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Department shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.
- 12.10** Subject to Clause 12.9, the Contractor hereby gives his consent for the Department to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public.
- 12.11** The Department may consult with the Contractor to inform its decision regarding any redactions but the Department shall have the final decision in its absolute discretion.
- 12.12** The Contractor shall assist and cooperate with the Department to enable the Department to publish this Contract.

13 Freedom of Information

- 13.1** The Contractor acknowledges that the Department is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Department to enable the Department to comply with its information disclosure

obligations.

13.2 The Contractor shall and shall procure that its Sub-contractors shall:

13.2.1 transfer to the Department all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;

13.2.2 provide the Department with a copy of all Information in its possession, or power in the form that the Department requires within five Working Days (or such other period as the Department may specify) of the Department's request; and

13.2.3 provide all necessary assistance as reasonably requested by the Department to enable the Department to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

13.3 The Department shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether any Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.

13.4 In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Department.

13.5 The Contractor acknowledges that (notwithstanding the provisions of Clause 13) the Department may, acting in accordance with the Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("**the Code**"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Contractor or the Project:

13.5.1 in certain circumstances without consulting the Contractor; or

13.5.2 following consultation with the Contractor and having taken their views into account;

provided always that where 13.5.1 applies the Department shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor advanced notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.

13.6 The Contractor shall ensure that all Information is retained for disclosure and shall permit the Department to inspect such records as requested from time to time.

14 Access and Information

14.1 The Contractor shall provide access at all reasonable times to the Department's internal auditors or other duly authorised staff or agents to inspect such documents as the Department considers necessary in connection with this Contract and where appropriate speak to the Contractor's employees.

15 Transfer of Responsibility on Expiry or Termination

- 15.1** The Contractor shall, at no cost to the Department, promptly provide such assistance and comply with such timetable as the Department may reasonably require for the purpose of ensuring an orderly transfer of responsibility upon the expiry or other termination of this Contract. The Department shall be entitled to require the provision of such assistance both prior to and, for a reasonable period of time, after the expiry or other termination of this Contract.
- 15.2** Such assistance may include (without limitation) the delivery of documents and data in the possession or control of the Contractor which relate to this Contract, including the documents and data, if any, referred to in the Schedule.
- 15.3** The Contractor undertakes that it shall not knowingly do or omit to do anything which may adversely affect the ability of the Department to ensure an orderly transfer of responsibility.

16 **Tax Indemnity**

- 16.1** Where the Contractor is liable to be taxed in the UK in respect of consideration received under this contract, it shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) and all other statutes and regulations relating to income tax in respect of that consideration.
- 16.2** Where the Contractor is liable to National Insurance Contributions (NICs) in respect of consideration received under this contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration.
- 16.3** The Department may, at any time during the term of this contract, ask the Contractor to provide information which demonstrates how the Contractor complies with Clauses 16.1 and 16.2 above or why those Clauses do not apply to it.
- 16.4** A request under Clause 16.3 above may specify the information which the Contractor must provide and the period within which that information must be provided.
- 16.5** The Department may terminate this contract if-
- (a) in the case of a request mentioned in Clause 16.3 above, if the Contractor:
 - (i) fails to provide information in response to the request within a reasonable time, or
 - (ii) provides information which is inadequate to demonstrate either how the Contractor complies with Clauses 16.1 and 16.2 above or why those Clauses do not apply to it;
 - (b) in the case of a request mentioned in Clause 16.4 above, the Contractor fails to provide the specified information within the specified period, or
 - (c) it receives information which demonstrates that, at any time when Clauses 16.1 and 16.2 apply, the Contractor is not complying with those Clauses.
- 16.6** The Department may supply any information which it receives under Clause 16.3 to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.

- 16.7** The Contractor warrants and represents to the Department that it is an independent contractor and, as such, bears sole responsibility for the payment of tax and national insurance contributions which may be found due from it in relation to any payments or arrangements made under this Contract or in relation to any payments made by the Contractor to its officers or employees in connection with this Contract.
- 16.8** The Contractor will account to the appropriate authorities for any income tax, national insurance, VAT and all other taxes, liabilities, charges and duties relating to any payments made to the Contractor under this Contract or in relation to any payments made by the Contractor to its officers or employees in connection with this Contract.
- 16.9** The Contractor shall indemnify the Department against any liability, assessment or claim made by the HM Revenue and Customs or any other relevant authority arising out of the performance by the parties of their obligations under this Contract (other than in respect of employer's secondary national insurance contributions) and any costs, expenses, penalty fine or interest incurred or payable by the Department in connection with any such assessment or claim.
- 16.10** The Contractor authorises the Department to provide the HM Revenue and Customs and all other departments or agencies of the Government with any information which they may request as to fees and/or expenses paid or due to be paid under this Contract whether or not the Department is obliged as a matter of law to comply with such request.

17 Data Protection Act (DPA)

- 17.1** With respect to the parties' rights and obligations under this Contract, the parties agree that the Department is the Data Controller and that the Contractor is the Data Processor. For the purposes of this Clause 17, the terms "Data Controller", "Data Processor", "Data Subject", "Personal Data", "Process" and "Processing shall have the meaning prescribed under the DPA.
- 17.2** The Contractor shall:
- 17.2.1** Process the Personal Data only in accordance with instructions from the Department (which may be specific instructions or instructions of a general nature as set out in this Contract or as otherwise notified by the Department to the Contractor during the period of the Contract);
- 17.2.2** Process the Personal Data only to the extent, and in such manner as is necessary for the provision of the Services or as is required by law or any Regulatory Body;
- 17.2.3** Implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;
- 17.2.4** Take reasonable steps to ensure the reliability of any Contractor Personnel who have access to the Personal Data;

- 17.2.5 Obtain prior written consent from the Department in order to transfer the Personal Data to any Sub-contractors or Affiliates for the provision of the Services;
- 17.2.6 Ensure that all Contractor Personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Clause 17;
- 17.2.7 Ensure that none of the Contractor's Personnel publish, disclose or divulge any of the Personal Data to any third party, unless directed in writing to do so by the Department;
- 17.2.8 Notify the Department within five Working Days if it receives:
 - 17.2.8.1 a request from a Data Subject to have access to that person's Personal Data; or
 - 17.2.8.2 a complaint or request relating to the Department's obligations under Data Protection Legislation;
- 17.2.9 Provide the Department with full cooperation and assistance in relation to any complaint or request made, including by:
 - 17.2.9.1 providing the Department with full details of the complaint or request;
 - 17.2.9.2 complying with a data access request within the relevant timescales set out in Data Protection Legislation and in accordance with the Department's instructions;
 - 17.2.9.3 providing the Department with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Department); and
 - 17.2.9.4 providing the Department with any information requested by the Department;
- 17.2.10 Permit the Department or the Department's Representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit the Contractor's data processing activities (and/or those of its agents, subsidiaries and Sub-contractors) and comply with all reasonable requests or directions by the Department to enable the Department to verify and/or procure that the Contractor is in full compliance with its obligations under this Contract;
- 17.2.11 Provide a written description of the technical and organisational methods employed by the Contractor for processing Personal Data (within the timescales required by the Department); and
- 17.2.12 Not process, or otherwise transfer, any Personal Data outside the European Economic Area. If, after the Commencement Date, the Contractor (or any Sub-contractor) wishes to process and/or transfer any Personal Data outside the European Economic Area, the following provisions shall apply:
 - 17.2.12.1 the Contractor shall submit a request for change to the Department which shall be dealt with in accordance with any Change Control Procedure
 - 17.2.12.2 the Contractor shall set out in its request for change details of the following:

- (a) the Personal Data which will be processed and/or transferred outside the European Economic Area;
- (b) the country or countries in which the Personal Data will be processed and/or to which the Personal Data will be transferred outside the European Economic Area;
- (c) any Sub-contractors or other third parties who will be processing and/or transferring Personal Data outside the European Economic Area; and
- (d) how the Contractor will ensure an adequate level of protection and adequate safeguards (in accordance with Data Protection Legislation and in particular so as to ensure the Department's compliance with Data Protection Legislation) in respect of the Personal Data that will be processed and/or transferred outside the European Economic Area;

17.2.12.3 in providing and evaluating the request for change, the parties shall ensure that they have regard to and comply with then-current Department, Government and Information Commissioner Office policies, procedures, guidance and codes of practice on, and any approvals processes in connection with, the processing and/or transfers of Personal Data outside the European Economic Area and/or overseas generally; and

17.2.12.4 the Contractor shall comply with such other instructions and shall carry out such other actions as the Department may notify in writing, including:

- (a) incorporating standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under Data Protection Legislation) in this Contract or a separate data processing agreement between the parties; and
- (b) procuring that any Sub-contractor or other third party who will be processing and/or transferring the Personal Data outside the European Economic Area enters into a direct data processing agreement with the Authority on such terms as may be required by the Department, which the Contractor acknowledges may include the incorporation of standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation).

17.3 The Contractor shall comply at all times with Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause the Department to breach any of its applicable obligations under Data Protection Legislation.

18 Amendment and variation

18.1 No amendment or variation to this Contract shall be effective unless it is in writing and signed by or on behalf of each of the parties hereto. The Contractor shall comply with any formal procedures for amending or varying contracts which the Department may have in place from time to time.

19 Assignment and Sub-contracting

- 19.1** The benefit and burden of this Contract may not be assigned or sub-contracted in whole or in part by the Contractor without the prior written consent of the Department. Such consent may be given subject to any conditions which the Department considers necessary. The Department may withdraw its consent to any sub-contractor where it no longer has reasonable grounds to approve of the sub-contractor or the sub-contracting arrangement and where these grounds have been presented in writing to the Contractor.

20 The Contract (Rights of Third Parties) Act 1999

- 20.1** This Contract is not intended to create any benefit, claim or rights of any kind whatsoever enforceable by any person not a party to the Contract.

21 Waiver

- 21.1** No delay by or omission by either Party in exercising any right, power, privilege or remedy under this Contract shall operate to impair such right, power, privilege or remedy or be construed as a waiver thereof. Any single or partial exercise of any such right, power, privilege or remedy shall not preclude any other or further exercise thereof or the exercise of any other right, power, privilege or remedy.

22 Notices

- 22.1** Any notices to be given under this Contract shall be delivered personally or sent by post or by facsimile transmission to the Contract Manager (in the case of the Department) or to the address set out in this Contract (in the case of the Contractor). Any such notice shall be deemed to be served, if delivered personally, at the time of delivery, if sent by post, 48 hours after posting or, if sent by facsimile transmission, 12 hours after proper transmission.

23 Dispute resolution

- 23.1** The Parties shall use all reasonable endeavours to negotiate in good faith and settle amicably any dispute that arises during the continuance of this Contract.
- 23.2** Any dispute not capable of resolution by the parties in accordance with the terms of Clause 23 shall be settled as far as possible by mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure.
- 23.3** No party may commence any court proceedings/arbitration in relation to any dispute arising out of this Contract until they have attempted to settle it by mediation, but any such mediation may be terminated by either party at any time of such party wishing to commence court proceedings/arbitration.

24 Discrimination

- 24.1** The Contractor shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation or otherwise) in employment.

24.2 The Contractor shall take all reasonable steps to secure the observance of Clause 24.1 by all servants, employees or agents of the Contractor and all suppliers and sub-contractors employed in the execution of the Contract.

25 Law and Jurisdiction

This Contract shall be governed by and interpreted in accordance with English Law and the parties submit to the jurisdiction of the English courts.

As witness the hands of the parties

Authorised to sign for and on behalf of the Secretary of State

Signature *NR Amie*
Name in CAPITALS *VERITY PRIME*
Position in Organisation *DEPUTY DIRECTOR
DEPT FOR EDUCATION*
Address in full *SANCTUARY BUILDINGS
GREAT SMITH ST
LONDON*
Date *17 Jan 2017*

Authorised to sign for and on behalf of EMLC

Signature *Jan Marshall*
Name in CAPITALS *JAN MARSHALL*
Position in Organisation *CEO*
Address in full *EMLC, BRIDGE HOUSE
BRIDGE STREET,
OLNEY, BUCKS
MK46 4AB*
Date *10 JAN 2017*

Schedule 1 – Specification

Requirement background

Introduction

1. The Contractor is required to deliver final assessments for participants undertaking the National Professional Qualifications (NPQs).
2. The National Professional Qualifications are a suite of leadership programmes available to school leaders which were designed to promote leadership through improving the quality of the education workforce. The programmes – the National Professional Qualification for Middle Leadership (NPQML), National Professional Qualification for Senior Leadership (NPQSL) and National Professional Qualification for Headship (NPQH) - are licensed by NCTL to a range of delivery providers i.e. licensees.
3. These professional qualifications are delivered nationally through 30 regional licensees. Information about these licensees can be found by accessing DfE’s web pages at <https://www.gov.uk/government/publications/licensees-national-qualifications-and-study-modules-for-school-leaders>
4. Each qualification includes a final assessment that participants undertake when completing their period of professional development. The final assessment process acts as a quality indicator and supports progression to further study or more senior roles, including Headteacher.
5. The purpose of the assessment is to award qualifications that are linked to the leadership curriculum. The leadership curriculum is made up of a range of essential and elective modules on key leadership themes and competencies that reflect the needs of leaders at different stages in their careers – from middle leadership right through to readiness for headship.
6. A combination of essential and elective modules must be studied by candidates prior to assessment, which can lead to award of an NCTL qualification.

More information about the leadership curriculum can be found on our website at <https://www.gov.uk/government/collections/professional-development-for-school-leaders>

NCTL qualifications are:

Level	Name	Acronym	Audience	Qualification Composition
1	National Professional Qualification for Middle Leadership	NPQML	Qualification for middle leaders	2 essential modules 1 elective module
2	National Professional Qualification for Senior Leadership	NPQSL	Qualification for senior leaders	2 essential modules 2 elective module
3	National Professional Qualification for Headship	NPQH	Qualification for aspiring heads and principals of schools / academies	3 essential modules 2 elective modules

7. Final assessment submission windows have been agreed to take assessment to March 2017. However, following contract award, future assessment dates will need to be agreed with NCTL.

8. Historical final assessment data is set out in the table below for information.

Programme	13/14	14/15	15/16
NPQML	46	1851	2937
NPQSL	33	1467	2387
NPQH	203	1726	1447

9. Historical final assessment submission windows have been set out in the table below for information

NPQML & NPQSL

Booking for window closed on website	Paperwork required by 5pm on this date	Results week beginning
January 3 rd 2016	February 8 th 2016	March 28 th 2016
March 13 th 2016	April 18 th 2016	June 6 th 2016
May 16 th 2016	June 20 th 2016	August 8 th 2016
August 15 th 2016	September 19 th 2016	October 31 st 2016
October 10 th 2016	November 14 th 2016	January 9 th 2017
December 12 th 2016	January 23 rd 2017	March 13 th 2017

NPQH

Booking window closes	Paperwork for task 1 & 2 required	Face to Face assessment	Results
February 14 th 2016	May 9 th 2016	June 20 – July 15 th 2016	July 25 th 2016
April 18 th 2016	May 23 rd 2016	September 19 – October 21 st 2016	October 31 st 2016
September 12 th 2016	October 17 th 2016	January 16 th – February 10 th 2017	February 2017

10. A short glossary of terms is provided below to support understanding.

Term	Description / Definition
Licensees	The organisations who currently deliver the suite of leadership programmes nationally
Final Assessment Registration (FAR)	The point at which a participant registers with a licensee and subsequently chooses a window in which they plan to submit their paperwork for final assessment
Final Assessment Submission (FAS)	When a participant's evidence and supporting paperwork is assessed by the Contractor's assessors.

Leadership curriculum	A range of essential and electives modules on key leadership themes and competencies that reflect the needs of leaders at different stages in their careers – from just starting out to highly experienced. More information about the leadership curriculum is available on DfE's website .
Summative interview panel	Where NPQH participants are invited to a face to face interview with the Contractor's assessors

Detailed requirements (THE SERVICES)

Purpose

11. To deliver high quality final assessments to school leaders undertaking NPQs.

Summary of services

12. The requirement is to provide national assessment coverage throughout the whole of England (for avoidance of doubt, this excludes the Isle of Man and the Channel Islands). This will entail delivery of the following services:

- Recruitment and training of high quality assessors
- Delivery of a robust high quality assessment process to all
- Registration of candidates
- Moderation of participant assessments
- Monitoring of participant progress
- Effective communications including feedback loops to participants
- Management information and reporting
- Governance of the programme and contract
- Accurate and timely submission of invoices
- Governance of final assessment processes
- Data management and tracking

More detail on these can be found below:

Recruitment of high quality assessors

13. The Contractor will be responsible for recruiting; training, deploying and quality assuring the work of assessors and lead assessors at all levels in line with the Assessor Role and Person Specification document (Annex 2). NCTL expect assessors and lead assessors to demonstrate a commitment to the required Behaviours and Values (Annex 1) and to meet the Assessor Role and Person Specification (Annex 2) and to declare any potential conflicts of interest. Potential conflicts of interest include the following – this is not an exhaustive list: -

- A serving leader from a lead school in a licensing partnership must not assess within their 'home' region
- Assessors must not assess candidates they know personally or have worked within a professional development capacity within the preceding 3 years
- Assessors should also not be involved in front facing delivery of the programme they are assessing

14. In line with the principles of a self-improving school led system, at least one NPQH summative interview panel member should be a serving head teacher or principal. Marking of the assessment tasks does not have the same requirement and may be undertaken by trained assessors in line with the Assessor Role and Person Specification document. Marking of NPQML and NPQSL should be undertaken by trained assessors.
15. NCTL will expect to see a minimum level of 5 days per annum committed by each assessor to ensure that there is consistency in the assessor team.

Delivery of a robust high quality assessment process for all participants

16. It is important that all qualifications have a rigorous final assessment process that is consistent, fair and transparent, providing credibility to the programme. The Contractor is responsible for delivering high quality assessment services and key to this will be the use of school leaders in the assessment process. As part of the process we would expect the following as a minimum:
- A mechanism for registering participants
 - Robust assessment
 - Moderation and appeals
 - Distribution of results
 - Written or verbal feedback (upon request) to participants following results to support their development

Overview of the current final assessment processes

- 17.
- a) The final assessment process for NPQML comprises of an assessment written task drawn from work on a school improvement priority in a participant's school where the participant has to lead a team for an extended period and must provide demonstrable positive impact and sustainable change. It is anticipated that participants will present for final assessment between 6-18 months after programme commencement.
 - b) The final assessment process for NPQSL comprises of an assessment written task drawn from work on a school improvement priority in a participant's school where the participant has to lead a team for an extended period and must provide demonstrable positive impact and sustainable change. It is anticipated that participants will present for final assessment within 12 months of programme commencement.
 - c) The final assessment process for NPQH comprises of 2 stages: -
 - Stage 1 includes the assessment of a written task based on work undertaken by the participant in their own school on a school improvement priority. In addition, assessors will review a report submitted by the participant which details the task the participant has undertaken in partnership with a placement school where they have led for a short period on a school improvement priority working closely with the staff and school leadership team, both of which should be achieved within a 12-month period from programme commencement.

- Stage 2 involves a presentation and an interview by a panel of two assessors, one of whom must be a serving school leader, where participants need to demonstrate they have developed the competence to operate as a head teacher.

18. NCTL are ensuring that the assurance mechanisms are robust and are adhered to as part of the contract management and governance. These include but are not limited to:

- financial monitoring
- provision for clawback
- use of service credits

19. The Contractor will respond to 100% of initial enquiries within 24 hours and any other queries or complaints other than appeals are resolved within 3 days meeting the NCTL Service Level Agreement (Annex 3).

Appeals

20. NCTL have produced an appeals process suitable for all levels of the leadership curriculum. An example of how this might work is given below:

An appeal may be made on the basis of:

- a view that an incorrect judgement has been made against the written tasks
- a view that an incorrect judgement has been made at the interview
- a belief that incorrect procedures have been followed, resulting in a candidate being unsuccessful

21. The Contractor will be required to seek to address individual candidates' concerns informally. If not suitably resolved, candidates will be entitled to appeal the decision formally on the basis of the above. The Contractor is required to provide all reasonably requested assistance to NCTL's management of the appeals process.

22. NCTL will arrange for the paperwork (held by the Contractor) to be re-examined by an independent panel convened by NCTL. The Contractor will not be involved in this process other than to provide all paperwork associated with the appeal. This panel is responsible for the final decision regarding the appellant's case and may advise NCTL with regard to any process changes that require implementing.

Assessment

23. For NPQH assessments, planning assumptions should be as follows:

- one assessor can assess 4 written tasks per day
- 90% of candidates will pass these tasks and be able to present to the panel at stage 2.
- a panel of 2 assessors can assess 4 candidates per day at stage 2.
- NCTL will allow a window of up to 6 weeks to schedule NPQH summative interviews, following assessment of written tasks
- The NPQH summative interviews must take place within reasonable travelling distance for candidates

24. For NPQSL and NPQML assessments, the planning assumption should be that one assessor can assess 5 written tasks per day; and that all NPQML and NPQSL participants will present in

either 6 months, 12 months or 18 months after starting the programme

25. For all 3 qualifications, the planning assumption should be that 10% of the written tasks will be regarded as “borderline” and will need to be moderated.

26. A representative of NCTL will attend the national moderation process for all levels. The Contractor is required to moderate the assessments prior to a national moderation.

Moderation of participants’ assessments

27. The Contractor will undertake responsibility in carrying out its own moderation after each stage of the assessment process with an NCTL representative present. This moderation exercise will determine the final payment made to the provider for these participants.

Monitoring of participants’ progress

28. Once participants have registered with a licensee, it is the Contractor’s responsibility to ensure that all paperwork is submitted by each individual within the necessary timescales to enable sufficient time for assessing. The Contractor will monitor participants’ progress and follow up with the licensee if paperwork is not submitted in time for the individual’s chosen assessment window.

Effective Communications

29. The Contractor will develop and maintain effective working relationships with licensees to ensure an effective supplier/customer relationship. All personnel involved in the management and delivery of contracts will need to demonstrate active commitment to the values and behaviours included in the Behaviours and Values document included as part of the contract (Annex 1).

30. The Contractor will attend monthly meetings to discuss:

- Monthly expenditure/invoicing
- Management information and reporting
- Expected participant numbers
- Performance against KPIs
- Any issues relating to final assessment
- Cost down initiatives/improvement initiatives
- Escalation of issues

31. In the event of any issues in relation to the contract, NCTL will contact the Contractor’s contract manager in the first instance.

32. Should the Contractor have any concerns in relation to the contract, these should be raised with NCTL’s programme/Contract Manager in the first instance. In the event that the issue cannot be resolved at this level, then escalation to the SRO or the commercial team will be required.

Costs and Invoicing

33. NCTL will pay a fixed unit cost per participant undertaking final assessment. These costs are differentiated according to which programme the participant is undertaking.

34. Participants from the following will not have their costs for final assessment covered by NCTL and will self-fund.

1. an independent or non-maintained school
2. a school outside England (with the exception of British Forces Post Offices (BFPO) aka Service Children's Education (SCE) schools)

35. Payments to the Contractor for NPQML and NPQSL will be allocated on the following delivery milestones:

- Submission of the participant's paperwork for final assessment and will include all administration/activity up to when assessors receive paperwork (10%); and Following moderation with an NCTL representative which will include assessment and feedback (90%)

36. Payments to the Contractor for NPQH only will be allocated on the following delivery milestones:

- Submission of the participant's paperwork for final assessment and will include all administration/activity up to when assessors receive paperwork (10%);
- Completion of both written assessments (50%)
- Following completion of the face to face assessment, which will include feedback and moderation with an NCTL representative (40%).

37. The final payment will be subject to performance against KPIs and consequences applied for failure to meet agreed KPIs. Up to a maximum of 15% of the total invoice value may be deducted where KPIs are not met. The breakdown of the requirements is set out in full details with the KPIs under the quality section of the specification.

Invoicing process

38. The Contractor will confirm with NCTL how many participants they are going to invoice for, using a template provided by NCTL. On approval from NCTL, the Contractor will submit their invoice to the payments team for processing. The address to send the invoice is:

SSCL Accounts Payable Team
Room 6124
Tomlinson House
Norcross
Blackpool
FY5 3TA

Management information and reporting

39. The Contractor will be required to provide information as required by any parties appointed on behalf of NCTL to monitor final assessment – including, but not limited to, independent evaluator(s).

40. NCTL will expect timely responses to data requests, in particular, but not limited to, with regards to supporting NCTL and/or DfE in response to Parliamentary Questions; Freedom of Information requests and ministerial briefings.

41. More detail on reporting expectations is set out in Schedule 3 of the contract.

42. NCTL will expect accurate and timely data provided by the Contractor following each final assessment window as specified in the KPIs. NCTL will provide the data template to be completed and the Contractor must ensure that all fields are completed before submission.
43. Data provided to NCTL should be securely sent by email to a nominated NCTL representative through college.licensing@education.gov.uk

Governance of the programme and contract

44. The Contractor is expected to adhere to the agreed Project Implementation Plan which outlines key dependencies.
45. Risks and issues logs: The Contractor will be expected to identify and manage the key risks to this work, their impact and the proposed mitigations via a risk register. Risks and Issue logs are to be shared with NCTL on a regular and agreed basis.
46. Resource plan: The Contractor should maintain an organisation chart detailing the personnel deployed to ensure sound governance, strong leadership and effective operational management of the requirement. This will be kept under regular review.
47. NCTL and the Contractor will adhere to a programme of monthly contract meetings

Quantity

48. The Contractor is required to mobilise themselves quickly to deliver final assessment for a maximum of 15,000 NPQML, NPQSL and NPQH participants, broken down as follows:

NPQML	6800
NPQSL	5950
NPQH	2250

49. If a contract extension is required, assessment windows will be agreed in line with the contract extension.
50. Any 'mop-up' assessments that may be required beyond September 2017 will be agreed prior to contract award.

Equality and Diversity

51. All stages of the final assessment processes must offer equal opportunities to applicants from all backgrounds and avoid discrimination against participants for any reason other than their suitability to secure the qualification. The Contractor will be required to ensure that all aspects of the assessment process adhere to statutory legal requirements for equality and diversity. NCTL and the Contractor will take steps to measure the presence of adverse impact and where issues emerge, ensure progress in this area.
52. The Contractor must ensure that its team of assessors is (as far as possible) reflective of both the population and the profession. This includes representation in terms of current serving head teachers and in terms of characteristics under the Equality Act 2010. Further information about

the Equality Act 2010 is available at <https://www.gov.uk/guidance/equality-act-2010-guidance>.

Serving school leaders

53. In line with the principles of the self-improving system, at least one NPQH summative interview panel member should be a serving head teacher or principal. Marking of the assessment tasks does not have the same requirement and may be undertaken by credible trained assessors. Marking of NPQML and NPQSL assessment pieces should be undertaken by credible trained assessors.
54. The contractor will be required to design their internal operations so that they are able to respond rapidly and efficiently to both increased and decreased fluctuations in demand for assessment. The Contractor must be able to deliver a responsive service, to enable results to be made available to candidates within a reasonable timeframe from the date of submission of an assessment piece for NPQML, NPQSL and NPQH. The precise details of scheduling will be developed as part of Contract initiation/mobilisation activity.

Quality

Key Performance Indicators (KPIs). All KPIs will be measured annually.

KPI	Measure	Monitoring method	Financial Consequence
Adherence to schedule	<p>100% of participants registering for assessment within the deadline will be assessed in line with the assessment window.</p> <p>Confirmation of results must be sent to NCTL within 5 working days following moderation.</p> <p>Accurate and complete participant data must be submitted to NCTL 10 working days after the close of the submission window.</p> <p>Confirmation of results must be sent to participants within 10 working days following moderation.</p>	NCTL monitoring and validation of registration and completion data received by Contractor as per timings set out in the measure	✓
Accurate application of the assessment criteria	99.5% accuracy level (as verified through national moderation), applying agreed criteria to assessment i.e. 0.5% overturns occur at national moderations.	NCTL monitoring through the moderation process	✓
Representativeness of the assessor team and active inclusion of serving head teachers	50% or more of summative interview assessors for at least 20% of NPQH summative interview panels are currently serving head teachers or principals and 50% or more of task assessors are serving	Submission of workforce equality data is made monthly	N/A

	senior leaders for NPQSL and NPQML. The Contractor must meet both percentages or this constitutes KPI failure.		
Perceptions of fairness, rigour and robustness of the assessment process by all applicants	90% respondents to the QA questionnaire rate assessment process positively with respect to fairness and robustness. Not more than 2.5% provide a strong negative rating.	Survey pre-assessment linked to the assessment window	✓
Diversity: the application of assessment criteria without bias to specific groups	There are no significant differences in the pass/fail rates of different groups of candidates (e.g. ethnicity or gender). A variance in pass/fail rates of greater than 20% between groups indicates adverse impact, based on available data.	Survey post-assessment linked to the assessment window	✓
Upheld appeals	The maximum percentage of upheld appeals in any 1 year due to contractor error is 0% of the total number of assessments.	NCTL monitoring	N/A
Assessment completion	100% of participants who put themselves forward for assessment are fully assessed to completion.	NCTL monitoring through registration and completion data	N/A

55. A failure to meet at least the required performance level will be considered a 'service failure' in respect of the above Key Performance Indicators (KPIs). Each of the indicated KPIs is valued as a 5% financial consequence against the invoiced value.

56. If performance level is a service failure in one or more of the KPIs listed above in an assessment window, DfE will be entitled at its sole discretion, to reduce the total amount of its fees payable to the Contractor for that invoice by:

- 5% for one Key Performance Indicator failed;
- 10% for two Key Performance Indicators failed;
- To a maximum of 15% for three or more Key Performance Indicators failed.

57. Service Levels expected are set out in Schedule 3 of the contract.

Timescales

58. Proposed milestones for the delivery of services are shown in the table below. Assessment dates will be agreed upon contract award.

When	What
January 2017	Contract initiation and set-up phase
15 February - April 2017	First proposed submission windows for NPQH, NPQML and NPQSL.

Data handling

59. The Contractor will ensure access to raw data is available upon request and adherence to data clauses as set out in the contract.
60. As the Contractor will receive data regarding potential candidates throughout the course of this contract, they must adhere to data security standards (i.e. how and where it will store this data, how it will plan to dispose of it once the contract has expired) as outlined in the Terms and Conditions of the contract.

Security of Data

61. The Contractor will be required to submit a security plan that explains how they will ensure that departmental and personal data will be protected, including a risk assessment, within 30 days of contract award.
62. The Contractor will be expected to provide a strategy, during the contract mobilisation period, to ensure data will be appropriately disposed of in line with all relevant government standards.

Contract Term

63. The contract will have a duration of 1 year commencing ~~6th~~ ^{16th} January 2017, with an option to extend for a further year subject to contract negotiations and the agreement of DfE Ministers. The contract will include: initial set up phase following contract award, including readiness for marketing, assessor recruitment and training with delivery beginning no later than 1st April 2017; full handover of final assessment process to take place and may include some assessment activity for the latter 6 months of the contract.
64. NCTL/DfE reserves the right to terminate, or reduce the scope of, any agreement should funding be withdrawn, changed or there is a significant change in government policy relating to the delivery of the final assessment and outputs required as part of this contract, by giving 3 months' notice.
65. Please note that contract requirements will be subject to available financial resources, supplier performance and flexibility to meet changing demands.

Attachments

The following documents should be read in conjunction with this Requirement:

- Annex 1 - Behaviours and Values
- Annex 2 - Assessor Role and Person Specification
- Annex 3 - Service Level Agreements

Annex 1

Behaviours and Values

It is important that to ensure an effective supplier/customer relationship that all personnel involved in the management and delivery of contracts demonstrate active commitment to the following values and behaviours.

Openness, Excellent Communication, Mutual Trust and Sharing of Information

- Sharing all relevant information in a timely fashion both formally and informally
- Ensuring that communication is two way
- Surfacing and addressing issues and conflicts, recognising these as a natural part of a successful relationship
- Encouraging the Contractor to be a 'critical friend' in terms of ambitions to improve and to deliver commitments
- Being inclusive in terms of developing ideas and plans, not waiting until they are wholly formed
- Creating a 'NO surprise' culture

Developing Agreed and Clearly Understood Mutual Objectives

- All efforts applied to a common agenda which is clearly communicated, jointly monitored and fully explained when it needs to change
- Within this recognising that each party will have their specific goals which need to be compatible – for example the supplier has flexibility and the right to make reasonable decisions within the parameters of the contract whilst the customer has the right to seek efficiencies and value for money, and to challenge any deviations to delivery of the contract.

Commitment towards Continuous Improvement

- Creating a 'can do' culture where improvement is the norm
- Seeking best practice from all public and private sector sources and adopting these quickly.
- Being open to new approaches and techniques

Resolution of Problems in a Constructive and Collaborative Way

- Develop joint problem solving approaches
- Looking for 'win-win' outcomes
- Creating a 'can do' culture where problems are resolved quickly
- Recognising that problems highlight mistakes and this should be about resolution NOT apportioning blame, becoming protective and developing an adversarial approach
- Working together to anticipate potential problems and to take preventative action

Annex 2

Assessor Role and Person Specification

Assessors for final assessment

This person specification refers only to assessors working on the National Professional Qualifications final assessment. The role is to:

- assess written tasks in accordance with specified criteria
- attend, if required, national moderation sessions
- provide feedback for applicants upon request

Person Specification

An effective assessor for final assessment will demonstrate the ability to:

- identify and collect relevant evidence from a range of written sources
- scrutinise written evidence objectively and make sound judgements
- record evidence accurately and match to agreed national criteria
- make holistic judgements based on balanced evidence
- give accurate, constructive and behaviour-based feedback

To undertake the above, assessors will have the skills required to remain objective and impartial while accurately:

- gathering, synthesising and recording evidence
- making and recording judgements
- giving feedback

Professional Attributes (characteristics)

Effective assessors will display:

- high quality interpersonal skills and empathy
- professional integrity
- commitment to team work
- high energy levels and the ability to maintain focus and consistency
- excellent organisational and time-keeping skills
- respect for others and their work and a recognition that judgement is based on a professional process rather than a hierarchical relationship
- confidence in own abilities and accuracy of judgements
- capacity to continue learning and accepting feedback

Knowledge and understanding

Effective assessors will know and understand about the:

- the National Professional Qualification assessment and competency framework
- roles, responsibilities and challenges of school leadership
- current educational agenda and policy context/priorities
- ways in which school leadership impacts on the lives and life chances of children and adults

Assessors will need to:

- engage in continuing personal training and professional development
- implement the principles and practice of quality assurance and continuous quality improvement
- have the time and energy to focus on fulfilling the role with commitment and enthusiasm
- raise with the Contractor any conflict of interest.

Whilst NCTL will fund training for any newly appointed assessors, there is an expectation that recruited assessors will already possess the necessary skills and attributes required for the role.

Annex 3

Service Level Agreements

SLA	Measure	Compliance
Reporting and Meetings	<p>Provider will submit a programme report at key times of programme activity (expected to be monthly). Report should include any exception events and diversity data.</p> <p>Provider meetings by phone or face-to-face at key times of programme (expected to be monthly)</p> <p>Development and operations meetings – as required</p>	100% NCTL monitoring
Administration / Communication	<p>In delivering the Contract, the Provider will offer a responsive and supportive service to candidates and for NPQH their sponsors (line managers).</p> <p>The minimum response rate is 100% of initial enquiries within 1 working day.</p> <p>The minimum resolution rate is 95% of queries / complaints to be resolved (other than requests for feedback or appeals) within 3 working days.</p> <p>Provider to maintain accurate complaints and issues log</p>	
Contract management	<p>The attendance rate is 100% for all meetings where the contractor is expected to be present.</p> <p>Provision of information to an independent audit for compliance, QA and other reports at a minimum rate of 100%</p>	
Escalation policy	<p>Provider's named lead management contact to report all complaints in writing to National College within three working days. Ensure that all assessors and administrative staff are aware of and abide by the National College complaints procedure as detailed on National College website.</p>	
Applicant records and questionnaires	<p>Provider will ensure that all applicant records are maintained and kept up to date and data management is compliant with data handling schedule. Records must be updated within three working days of a request being made or an event taking place (subject to National College system availability).</p>	
Assessment delivery	<p>Provider will supply the appropriate equipment to support the delivery of the programme at the summative interview events as defined in the contract.</p> <p>Suitability of venue: events take place in venues and facilities which are fit for purpose and provide value for money. In all cases face-to-face provision must be within reasonable travelling distance for candidates.</p> <p>Candidates should receive notification of their outcome within 5 working days of the National College completing its national moderation activity.</p> <p>Candidates should receive feedback within 5 working days of requesting it.</p>	

Schedule 2 - Pricing

1 Table

- 2 Funds allocated to a particular expenditure heading in the table at paragraph 1 ("the Table") are available for that expenditure heading only. Funds allocated to a particular accounting year are available for that accounting year only. The allocation of funds in the Table may not be altered except with the prior written consent of the Department.
- 3 The Contractor shall maintain full and accurate accounts for the Service against the expenditure headings in the Table. Such accounts shall be retained for at least 6 years after the end of the financial year in which the last payment was made under this Contract. Input and output VAT shall be included as separate items in such accounts.
- 4 The Contractor shall permit duly authorised staff or agents of the Department or the National Audit Office to examine the accounts at any reasonable time and shall furnish oral or written explanations of the account if required. The Department reserves the right to have such staff or agents carry out examinations into the economy, efficiency and effectiveness with which the Contractor has used the Department's resources in the performance of this Contract.
- 5 Invoices shall be prepared by the Contractor within 30 days of activity taking place and shall be detailed against the expenditure headings set out in the Table. The Contractor or his or her nominated representative or accountant shall certify on the invoice that the amounts claimed were expended wholly and necessarily by the Contractor on the Service in accordance with the Contract and that the invoice does not include any costs being claimed from any other body or individual or from the Department within the terms of another contract.
- 6 Invoices shall be sent, *within 30 days* of the end of the relevant month where delivery has taken place to SSCL Accounts Payable Team, Room 6124, Tomlinson House, Norcross, Blackpool, FY5 3TA, quoting the Contract reference number. The Department undertakes to pay correctly submitted invoices within 5 days of receipt. The Department is obliged to pay invoices within 30 days of receipt from the day of physical or electronic arrival at the nominated address of the Department. Any correctly submitted invoices that are not paid within 30 days will be subject to the provisions of the Late Payment of Commercial Debt (Interest) Act 1998. A correct invoice is one that: is delivered in timing in accordance with the contract; is for the correct sum; in respect of goods/services supplied or delivered to the required quality (or are expected to be at the required quality); includes the date, supplier name, contact details and bank details; quotes the relevant purchase order/contract reference and has been delivered to the nominated address. If any problems arise, contact the Department's Contract Manager. The Department aims to reply to complaints within 10 working days. The Department shall not be responsible for any delay in payment caused by incomplete or illegible invoices.
- 7 The Contractor shall have regard to the need for economy in all expenditure. Where any expenditure in an invoice, in the Department's reasonable opinion, is excessive having due regard to the purpose for which it was incurred, the Department shall only be liable to reimburse so much (if any) of the expenditure disallowed as, in the Department's reasonable opinion after consultation with the Contractor, would reasonably have been required for that purpose.
- 8 If this Contract is terminated by the Department due to the Contractor's insolvency or default at any time before completion of the Service, the Department shall only be liable under paragraph 1 to reimburse eligible payments made by, or due to, the Contractor before the date of termination.

- 9** On completion of the Service or on termination of this Contract, the Contractor shall promptly draw-up a final invoice, which shall cover all outstanding expenditure incurred for the Service. The final invoice shall be submitted not later than 30 days after the date of completion of the Service.
- 10** The Department shall not be obliged to pay the final invoice until the Contractor has carried out all the elements of the Service specified as in Schedule 1.
- 11** It shall be the responsibility of the Contractor to ensure that the final invoice covers all outstanding expenditure for which reimbursement may be claimed. Provided that all previous invoices have been duly paid, on due payment of the final invoice by the Department all amounts due to be reimbursed under this Contract shall be deemed to have been paid and the Department shall have no further liability to make reimbursement of any kind.

Schedule 3 – Monthly Contract Meeting Agenda

An example of the monthly contract meeting agenda is below

Agenda

Item	Description
1	Welcome
2	Actions from previous meeting
3	Participant numbers
4	Data
5	KPIs
6	Finance, including Efficiency Savings
7	Risk and Issue management
8	AOB and forward plan next meeting
9	Close

