

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

imab-adad-nov22item02

# California State Board of Education November 2022 Agenda Item #06

## Subject

California Assessment of Student Performance and Progress and English Language Proficiency Assessments for California: Determination of the Release of the 10 Percent Withheld from the Educational Testing Service Contract for Fiscal Year 2021–22.

## Type of Action

Action, Information, Consent

## Summary of the Issue(s)

The state’s California Assessment System contract with Educational Testing Service (ETS), covering the California Assessment of Student Performance and Progress (CAASPP) and the English Language Proficiency Assessments for California (ELPAC), was approved by the California State Board of Education (SBE) on November 9, 2018. The contract specifies that on or before the annual November SBE meeting, the California Department of Education (CDE) shall present to the SBE a recommendation regarding ETS’s performance as to its compliance with the terms and conditions of the contract for the prior fiscal year (FY) for each test administration cycle. Contracted work completed for a test administration cycle spans multiple fiscal years; therefore, this item will present the work completed in FY 2021–22, which includes work that ETS completed for the 2021 and 2022 test administration cycles.

Per California *Education Code* Section 60643, the CDE must withhold 10 percent from progress payments invoiced for each component task. The California Assessment System contract establishes the process and criteria by which the CDE recommends, and the SBE approves, the annual release of the 10 percent withheld from progress payments.

The contractual California Assessment System completion criteria for component tasks are provided in Attachment 1.

## Recommendation

The CDE recommends releasing $10,010,833.60 to ETS from funds withheld during FY 2021–22 for the successful completion of component tasks as stated within the contract scope of work (SOW). The details of the amount per task, by administration, for FY 2021–22 are listed in Attachment 2.

## Brief History of Key Issues

The SOW encompasses both the CAASPP and the ELPAC. It describes the activities, assumptions, and requirements to manage and administer the California Assessment System for the 2018–19, 2019–20, 2020–21, and 2021–22 school years.

The CDE has reviewed ETS’s performance in complying with the California Assessment System contract and has determined that ETS satisfactorily performed contract component tasks 1 through 9 of the SOW during FY 2021–22. Therefore, the CDE recommends the release of the 10 percent of funds withheld from progress payments invoiced for those tasks to ETS. Descriptions of the contract tasks are provided in Attachment 2.

In 2018, 2019, and 2020, the SBE did not approve the full 10 percent withheld for release to ETS, due to specified work or deliverables not meeting the requirements outlined in Attachment 1. The SBE items for November 2020, September 2019, and November 2018 (see links below) provide the rationale for withholding these funds. In 2022, the CDE has not identified any work or deliverables not meeting the criteria provided in Attachment 1. The CDE is recommending releasing full payment of the withheld 10 percent to ETS for FY 2021–22.

## Summary of Previous State Board of Education Discussion and Action

In November 2021, the SBE approved the release of the 10 percent withheld for the 2020–21 ETS contract (<https://www.cde.ca.gov/be/ag/ag/yr21/documents/nov21item11.docx>).

In November 2020, the SBE approved the release of the 10 percent withheld for the 2019–20 ETS contract, less $119,807.41 (<https://www.cde.ca.gov/be/ag/ag/yr20/documents/nov20item06.docx>).

In June 2020, the CDE provided the SBE with an update on the revised scores for some of the grade six writing extended response (WER) items for the 2018–19 CAASPP Smarter Balanced English language arts/literacy (ELA) test and subsequent changes to the California School Dashboard (<https://www.cde.ca.gov/be/pn/im/documents/memo-imb-adad-jun20item01.docx>).

In February 2020, the CDE provided notification of an error with the scoring and reporting of the grade six WER items for the 2018–19 CAASPP Smarter Balanced ELA test and the CDE’s decision for remediation and a communication plan (<https://www.cde.ca.gov/be/pn/im/documents/feb20memoadad03.docx>).

In September 2019, the SBE approved the release of the 10 percent withheld for the 2018–19 ETS contract, less $176,207.10 (<https://www.cde.ca.gov/be/ag/ag/yr19/documents/sep19item06.docx>).

In November 2018, the SBE approved the release of the 10 percent withheld for the 2017–18 ETS contract, less $21,587.00 (<https://www.cde.ca.gov/be/ag/ag/yr18/documents/nov18item15.docx>).

In July 2018, the SBE approved a request for authority to enter into negotiations to amend ETS’s CAASPP contract to include the integration of the ELPAC assessments and enter into negotiations with the University of California, Santa Cruz for an interagency agreement to provide an educator reporting system (<https://www.cde.ca.gov/be/ag/ag/yr18/documents/jul18item03.docx>).

In January 2018, the SBE approved the proposed contract renewal with ETS for the CAASPP (<https://www.cde.ca.gov/be/ag/ag/yr18/documents/jan18item07.docx>).

In July 2017, the SBE gave the CDE the authority to begin the process of approving a renewal of ETS’s administration contract for an additional two years (<https://www.cde.ca.gov/be/ag/ag/yr17/documents/jul17item04.doc>).

In May 2017, the SBE approved the proposed contract amendment with ETS for the CAASPP contract (<https://www.cde.ca.gov/be/ag/ag/yr17/documents/may17item02.doc>).

In March 2017, the SBE gave the CDE the authority to begin negotiations with ETS to amend the existing SOW for the CAASPP contract (<https://www.cde.ca.gov/be/ag/ag/yr17/documents/mar17item06.doc>).

## Fiscal Analysis (as appropriate)

The funds to be released were withheld during 2021–22 from invoices paid with existing California Assessment System contract funding, as shown in Attachment 2. The CDE recommends the release of the 10 percent withheld, a total of $10,010,833.60, which includes $482,483.60 for the 2021 test administration cycle and $9,528,350.00 for the 2022 test administration cycle. The amounts per task are listed in Attachment 2.

## Attachment(s)

* Attachment 1: Educational Testing Service, CDE Agreement #CN150012, Exhibit E: California Assessment System for the California Assessment of Student Performance and Progress (CAASPP) and the English Language Proficiency Assessments for California (ELPAC) Completion Criteria (5 Pages)
* Attachment 2: California Assessment System Contract for Fiscal Year 2021–22 by Test Administration Year and Component Task Budget (3 Pages)

**Educational Testing Service**

**CDE Agreement # CN150012**

**Exhibit E**

**Attachment 1: California Assessment System  
 for the California Assessment of Student Performance and Progress (CAASPP)  
 and the English Language Proficiency Assessments for California (ELPAC) Completion Criteria**

The criteria by which the California Department of Education (CDE) will recommend and the State Board of Education (SBE) will determine the successful completion of each separate and distinct component task for payment of the final 10 percent is set forth in the following table for each test administration covered in Exhibit A, Scope of Work (SOW) of the Agreement.

If it is determined by the CDE that a certified deliverable submitted to the CDE by the contractor does not meet all of the criteria in Exhibit E, the CDE reserves the right to use this information as part of the criteria by which the CDE will recommend, and the SBE will determine, successful completion of each separate and distinct component task for payment of the final 10 percent for each applicable test administration as set forth in the attached California Assessment System Completion Criteria.

**CRITERIA FOR SUCCESSFUL COMPLETION OF COMPONENT TASKS**

| **Component Task** | **Criteria** |
| --- | --- |
| Task 1: Comprehensive Plan and Schedule of Deliverables | * The contractor provided all reports, plans and schedules required in the task as specified in the SOW. * All materials, documents, and/or deliverables developed in conjunction with this contract were submitted to the CDE for approval. * The contractor provided the local education agency (LEA) Coordinators with all data, forms, and agreements as outlined in the SOW. * The contractor provided and maintained a secure web-based project management system as specified in the SOW. * The contractor delivered all electronic data files and documentation as specified in the SOW. * At the end of the contract, should another vendor be selected as a result of the RFP process instead of ETS, ETS will develop and implement a plan and schedule for transition to another vendor, including the delivery of all California-owned materials, developed specifically for California Assessment System. This will not include any third party or previously developed, proprietary software embedded in the System. |
| Task 2: Program Support Services | * The contractor provided all trainings, focus groups, workshops, and webcasts as specified in the SOW. * The California Technical Assistance Center (CalTAC) provided assistance to local educational agencies as specified, and within the response times specified, in the SOW. * The CDE and LEAs received electronic files and other reports as specified in the SOW. |
| Task 3:  Technology Services | * The Assessment Technology Platform meets all system requirements as specified in the SOW. * The contractor provided an identity management system as detailed in the SOW. * Contractor provided and maintained a Project Management Plan as detailed in the SOW. * The Assessment Technology Platform supported up to 2 million concurrent users as specified in the SOW. * The Assessment Technology Platform system supported at least 99.982 percent availability as specified in the SOW. |
| Task 4: Test Security | * All test items, test materials, electronic files, data, (including student-identifiable data) were developed, used, transferred, delivered, and maintained in a secure manner as specified in the SOW. * The contractor completed all monitoring (including but not limited to on-site visits, social media monitoring, inventorying of materials) of schools before, during, and after testing as specified in the SOW. * The contractor conducted security breach investigations as specified in the SOW. * The contractor provided the CDE with summary reports of the results of each security breach investigation. |
| Task 5: Accessibility and Accommodations | * The contractor provided all universal tools, designated supports, and accommodations as required in the SOW. * All items developed (as specified in Task 6) include all the embedded accessibility supports, functionality, and render within the test delivery system as specified in the SOW. |
| Task 6: Assessment Development | * The contractor developed for all grades and subjects the number and types of items specified in the scope work. * The contractor pilot tested or field tested the minimum required number of items as specified in the SOW. * The contractor provided high-level test design and blueprints for new assessments as specified in the scope work. * A review of the scaling and equating processes showed items to meet or exceed industry standard. * The performance and achievement level settings generated results for all content areas and performance levels were reported to local educational agencies and the CDE. |
| Task 7: Test Administration | * All test materials required in the SOW were produced on time and in sufficient quantities. * All test materials were delivered to and retrieved from local educational agencies as specified in the SOW. * The contractor hosted the Assessment Delivery System as specified in the SOW. * The hosting systems (TOMS, Appeals, and Assessment Delivery System) were operational and functioned as specified in the SOW, including the authentication of users. * Smarter Balanced Interim Assessments were hosted and scoring provided as specified in the SOW. |
| Task 8: Scoring and Analysis | * All tests were correctly processed and scored within timelines specified in the SOW. * All data analyses were completed as specified in the SOW. * The contractor delivered all electronic data files and documentation as specified in the SOW. |
| Task 9: Reporting Results | * The contractor provided accurate and complete reports of test results to local educational agencies that met all reporting requirements as specified in the SOW. * The contractor provided accurate and complete data to the designated CDE vendor for the California Educator Reporting System that met all requirements as specified in the SOW. * The contractor provided accurate and complete reports of test results for the public reporting Web sites that met all reporting requirements as specified in the SOW. * The contractor met all reporting requirements to the CDE as specified in the SOW. * The annual technical reports were received by the CDE as specified in the SOW. |

**Attachment 2: California Assessment System Contract for Fiscal Year 2021–22, by Test Administration Year and Component Task Budget**

The California Department of Education (CDE) recommends releasing $482,483.60 for the 2021 California Assessment System test administration cycle and $9,528,350.00 for the 2022 California Assessment System test administration cycle, for a total of $10,010,833.60 to Educational Testing Service (ETS) from funds withheld during fiscal year (FY) 2021–22. Tables 1 and 2 display the tasks performed and completed during FY 2021–22 for the 2021 and 2022 California Assessment System test administrations.

## Table 1. Recommended Release of Amounts to ETS from Funds Withheld in FY 2021–22 for the 2021 California Assessment System Administrations

| **Component Task Scope of Work** | **2021 Test Administration Budget for FY 21–22** | **Amount Paid from Progress Payments** | **10 Percent Withheld (Pending Release)** | **Recommended Release** | **Recommended Withhold (Nonrelease)** |
| --- | --- | --- | --- | --- | --- |
| Task 1: Comprehensive Plan and Schedule of Deliverables | $1,551,725.00 | $1,396,552.50 | $155,172.50 | $155,172.50 | $0.00 |
| Task 2: Program Support Services | $394,478.00 | $355,030.20 | $39,447.80 | $39,447.80 | $0.00 |
| Task 3: Technology Services | $352,719.00 | $317,447.10 | $35,271.90 | $35,271.90 | $0.00 |
| Task 4: Test Security | $13,188.00 | $11,869.20 | $1,318.80 | $1,318.80 | $0.00 |
| Task 5: Accessibility and Accommodations | $171,030.00 | $153,927.00 | $17,103.00 | $17,103.00 | $0.00 |
| Task 6: Assessment Development | $953,153.00 | $857,837.70 | $95,315.30 | $95,315.30 | $0.00 |
| Task 7: Test Administration | $44,871.00 | $40,383.90 | $4,487.10 | $4,487.10 | $0.00 |
| Task 8: Scoring and Analysis | $547,078.00 | $492,370.20 | $54,707.80 | $54,707.80 | $0.00 |
| Task 9: Reporting | $796,594.00 | $716,934.60 | $79,659.40 | $79,659.40 | $0.00 |
| **Totals** | **$4,824,836.00** | **$4,824,836.00** | **$482,483.60** | **$482,483.60** | **$0.00** |

## Table 2. Recommended Release of Amounts to ETS from Funds Withheld in FY 2021–22 for the 2022 California Assessment System Administrations

| **Component Task Scope of Work** | **2022 Test Administration Budget for FY 21–22** | **Amount Paid Progress Payments** | **10 Percent Withheld (Pending Release)** | **Recommended Release** | **Recommended Withhold (Nonrelease)** |
| --- | --- | --- | --- | --- | --- |
| Task 1: Comprehensive Plan and Schedule of Deliverables | $7,089,064.00 | $6,380,157.60 | $708,906.40 | $708,906.40 | $0.00 |
| Task 2: Program Support Services | $9,699,836.00 | $8,729,852.40 | $969,983.60 | $969,983.60 | $0.00 |
| Task 3: Technology Services | $5,844,509.00 | $5,260,058.10 | $584,450.90 | $584,450.90 | $0.00 |
| Task 4: Test Security | $256,108.00 | $230,497.20 | $25,610.80 | $25,610.80 | $0.00 |
| Task 5: Accessibility and Accommodations | $22,517.00 | $20,265.30 | $2,251.70 | $2,251.70 | $0.00 |
| Task 6: Assessment Development | $6,689,623.00 | $6,020,660.70 | $668,962.30 | $668,962.30 | $0.00 |
| Task 7: Test Administration | $36,746,744.00 | $33,072,069.60 | $3,674,674.40 | $3,674,674.40 | $0.00 |
| Task 8: Scoring and Analysis | $25,955,855.00 | $23,360,269.50 | $2,595,585.50 | $2,595,585.50 | $0.00 |
| Task 9: Reporting | $2,979,244.00 | $2,681,319.60 | $297,924.40 | $297,924.40 | $0.00 |
| **Totals** | **$95,283,500.00** | **$85,755,150.00** | **$9,528,350.00** | **$9,528,350.00** | **$0.00** |