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Information

Professional Services Committee

Examinations Development Procedures and State Contracting Processes

Executive Summary: This agenda item provides information about the Commission's examination development procedures for educator licensing examinations and about state contracting requirements relating to examinations contracts.

Recommended Action: For information only

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Strategic Plan Goal: 1

Promote educational excellence through the preparation and certification of professional educators

- ◆ Sustain high quality standards for the preparation and performance of professional educators and for the accreditation of credential programs

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Introduction

The Commission sponsors a variety of examinations that are required of candidates for licensure purposes. This agenda item reviews the processes for the development of Commission-owned examinations and the applicable state contracting procedures relating to examinations contracts.

The Commission-owned examinations covered by this agenda item are the:

- CBEST (California Basic Educational Skills Test)
- CSET (California Subject Examinations for Teachers)
- RICA (Reading Instruction Competence Assessment)
- CTEL (California Teacher of English Learners)
- CalTPA (California Teaching Performance Assessment).

These Commission-developed examinations are used to determine the basic skills proficiency of candidates (CBEST), the subject matter competence of teacher candidates (CSET), the pedagogical competence of multiple subject and education specialist teacher candidates in the area of reading instruction (RICA), the pedagogical competence of teachers with respect to teaching English learners (CTEL), and the pedagogical competence of all multiple and single subject teacher candidates for teaching all learners in California public schools (CalTPA).

The Commission has approved the use of other licensing examinations such as the School Leaders Licensure Assessment (SLLA) and the Teaching Foundations Examination (TFE), but these examinations are “off the shelf” and the Commission does not have any contracts with the vendors of these examinations. These examinations are therefore not addressed in this agenda item.

Background

The primary purpose of each of the Commission’s examinations is to ensure that candidates have the required knowledge, skills, and abilities to assure effective instruction for K–12 students in accordance with California’s student academic content standards. To that end, each stage of the development process for Commission-developed examinations includes input from K–16 California educators regarding what both educators and students need to know to be successful. The inclusiveness of this process in involving California educators is a unique feature of Commission-developed examinations, and ensures that these examinations meet California’s needs and expectations.

Commission-developed examinations need to meet rigorous standards of validity, reliability, and legal defensibility. A description of the examinations development process showing how the process used by the Commission meets these rigorous standards follows.

Part I. How Commission Examinations are Developed

The process of developing and implementing a Commission-owned examination is complex, but follows a standardized, rigorous set of procedures in order to assure the validity, reliability and legal defensibility of the examination.

The development process and associated activities are typically facilitated through the assistance of an external contractor who (1) bids on this work through a publicly-advertised Request for Proposals (RFP) process, (2) is selected following a review of all bids received, and (3) is awarded a contract for this purpose. Because of the highly detailed and complex nature of the work to be performed, the RFP is extremely thorough to ensure that the winning bidder's work will comply with the needs and requirements of the Commission. The content specifications, test questions, and related test materials developed under the contract are owned by the Commission during and after the development process. Part II of this agenda item provides more details about state contracting requirements and procedures.

Described below are four major phases in the development of a Commission-owned examination.

Phase One: Establishing the Examination Content Expert Panel. To assure that the content of the new examination reflects California standards and expectations, the Commission advertises for applications and nominations for experts in the particular content area. These experts will constitute the examination's Content Expert Panel. Applications are received and reviewed blind (i.e., with names and other identifying information removed from the application) by staff using a rating rubric to assure that only the most qualified applicants are considered for appointment to the panel.

Applications are considered not only with respect to the applicant's experience and background, but also with respect to a balanced representation of K-12 and postsecondary, geographic, ethnic and gender, and other demographic factors reflective of the California population. The names of the most qualified individuals identified through this rigorous screening and evaluation process are forwarded to the Executive Director for review and appointment. In addition, the Commission has a standing Bias Review Committee that reviews all test materials for issues of bias. This committee is also notified of the pending examination development work.

For test security purposes, all panel and Bias Review Committee members sign confidentiality and non-disclosure agreements at the start of each meeting and again before looking at each draft document they review. Members may not take the examination on which they work for credentialing purposes for a period of three to five years, depending on which examination they worked on, and members may not use their inside knowledge of the examination content for candidate test preparation purposes.

Phase Two: Defining the Content for the Examination. The work of the panel begins with the identification and review of the most current California K-12 standards and other standards, frameworks, advisories, literature and research in the content area of the examination. Through reviews of these guiding documents, the Content Expert Panel drafts content specifications that define the content eligible to be assessed by the examination. Content specifications are typically structured by (1) domains, which are overarching content areas accepted by the field, (2)

competencies or divisions that reflect more detailed definitions of topics within each domain, and (3) descriptive statements or examples of each competency.

If an existing Commission examination is being updated through this process, the content specifications of the current examination are reviewed through an alignment and congruence study and compared to the most recent California frameworks and other relevant materials identified by the panel. From this initial work, new or revised content domains and competencies are identified that will be assessed by the examination.

In some instances, a job analysis may also be performed at the start of the process if the examination to be developed is in a new content area where there has not previously been a Commission examination. In the job analysis activity, input from K–16 practitioners is invited, as appropriate to the particular content area of the examination, where the respondents rate the job-relatedness of the specific competencies that would be expected of beginning practitioners of that content area.

The Content Expert Panel and Bias Review Committee activities are facilitated by the contractor, including correspondence to the members, and handling meeting and travel arrangements. Contractor staff facilitate the meetings, responding to technical and psychometric questions and documenting all recommendations of the groups.

After the draft of the content specifications has been reviewed by the panel and by the Bias Review Committee, a statewide content validation survey is developed and implemented to collect data on the importance and comprehensiveness of each competency of the content specifications. The following are sample questions from a content validation survey.

- How important are the knowledge, skills, or abilities addressed by this competency for performing the job of a California public school teacher providing instruction to K–8 students?
- How well does the set of descriptive statements represent important examples of the knowledge, skills, and abilities addressed by the competency?
- To what extent does the set of statements, as a whole, reflect the knowledge, skills, and abilities that are needed for effective job performance by a California public school teacher providing instruction to K–8 students?

Survey distribution is supervised by Commission staff and the responsibilities for implementation of the survey are shared by the Commission and the contractor. The Commission posts information on the CTC website regarding the survey and encourages site visitors to access and complete the survey. The contractor hosts the survey on its website, widely distributing the survey either online or in written form to stakeholders across the state, and collects and summarizes the survey data for review.

Results of the content validation survey are reviewed by the Content Expert Panel and used to assure that the finalized content specifications reflect what practitioners and other experts in the field identify as relevant, necessary and current knowledge that would be needed by a beginning, credentialed practitioner.

In the meanwhile, panel members work on establishing the recommended test structure (i.e., subtests, if any, and the types of questions that would best match the particular content such as multiple-choice and/or constructed-response questions). In addition, the final content specifications and test structure are reviewed by the Bias Review Committee. At that point, an agenda item is presented to the Commission by staff for review and approval of the content specifications, and the contractor begins to draft test questions for review by the Bias Review Committee and Content Expert Panel.

Phase Three: Developing Test Questions. Draft test questions are first reviewed by the Bias Review Committee and then by the Content Expert Panel. Test questions are then revised as approved by the panel and field tested. Field-test results, including the performance of individual test questions, are provided to the panel in finalizing test questions. Any modifications to questions are also reviewed by the Bias Review Committee.

Parallel Activity One Within Phase Three: Development of Program Standards.

If the content area of the examination also has a program option whereby candidates may complete an approved program in lieu of passing the examination (such as single subject candidates completing an approved single subject matter program in lieu of the CSET), simultaneous development of program standards takes place at the point at which the Commission approves the content specifications. The program standards, along with a transition plan for implementation of the new or revised standards, are subsequently presented to the Commission for review and approval.

Parallel Activity Two Within Phase Three: Development of Examination Information Materials for Candidates. Prior to the administration of a new or revised examination, the contractor develops and posts to the program website (www.ctcexams.nesinc.com) the full range of examination information and preparation materials for candidates. These materials include but are not limited to: registration information, examination information, content specifications, sample questions and responses, sample answer document(s), suggested bibliographic references, and test-taking tips and strategies.

Phase Four: Setting Passing Scores. After the first administration of the examination, a different group of experts is appointed by the Executive Director through an open application, nomination and review process to serve as a standard-setting panel to set the recommended passing scores for the examination. This panel will also include one or two liaison members from the original Content Expert Panel that worked on the development of the examination. The standard-setting panel's work includes:

- taking the examination from the first administration;
- in a first round of review, rating the difficulty level of each question relative to what knowledge and skills should be expected of beginning practitioners in that area;

- in a second round of review, systematically identifying for each section (e.g., multiple-choice versus constructed-response questions) the weighting of item types and a recommended passing standard;
- in a third and final review, confirming a recommended passing standard for each test or subtest on which scores can be earned by candidates.

As is required for the Content Expert Panel and the Bias Review Committee, all standard-setting panel members sign confidentiality and non-disclosure agreements at the start of each meeting and again before looking at each draft and each final document they review to ensure test security. The members may not take the examination on which they work for credentialing purposes for a period of three to five years (depending on the particular examination), and they may not use their inside knowledge of examination content and questions for candidate test preparation purposes.

An agenda item with the recommended passing scores and weighting for the examination is presented by staff to the Commission for approval. After the passing scores are approved by the Commission, the candidates who took the initial administration are notified as to their passing status, and the passing standards are made public.

Once this entire process has been completed, the examination is then ready for ongoing use with candidates. From beginning to end, the process of developing and implementing a new examination for general use takes approximately a year and a half to two and a half years, depending on the scope and complexity of the specific examination. In order for the Commission to maintain viable, legally defensible examinations, the content of these examinations must be periodically reviewed as part of a validity study that ensures that the examination reflects the most current California K–12 or other applicable standards, frameworks, and relevant documents.

How Commission-Owned Examinations are Funded

In accordance with the Education Code, the development and implementation of Commission-owned examinations are funded by candidate fees. The Education Code gives the Commission the authority to charge candidate fees for each examination in order to support the oversight, development, validity and other requested studies, registration, administration, scoring, score reporting, and program maintenance for these examinations. For example, EC §44253.8 requires the Commission to “charge examination fees that are sufficient to recover the costs of development and administering the examination, including the costs of periodic studies of the examinations, except to the extent that these costs are recovered by appropriation by another source of funds.” An exception to this process is the California Teaching Performance Assessment (CalTPA), for which the Commission has paid the development costs to the contractor and for which no fees are charged by the Commission to candidates since the assessment is administered to candidates by each local teacher preparation program rather than by the Commission.

The examinations funding process works as follows. When contractors bid on RFPs for Commission examination development work, and/or for examination administration, they estimate the costs of the entire development and/or administration process including their actual costs and reasonable profit, in the case of for-profit entities. The costs proposed by a successful

bidder who is awarded a contract for examination development work and/or examination administration are recovered subsequently by the contractor through candidate fees as applicants register with the contractor for the various examinations.

The lump sum examination registration fee paid by the candidate to the contractor is actually comprised of two parts: the portion paid to the contractor and the portion representing the Commission management fee. The contractor submits to the Commission that part of the registration fee paid by the candidate that constitutes the Commission management fee, which is and deposited into the Test Development and Administration Account and may be used according to EC §44235.1 (c) for examinations-related purposes, including “the development, agency-support, maintenance, or administration of tests or other assessments established, required, or administered by the commission.” The Commission sets the management fee for each examination on an annual basis.

II. State Contracting Processes Applicable to Examinations Contracts

Delegation of authority to the Commission to complete contracts for goods and services is a privilege. On an annual basis, Commission staff must submit a delegation package to the Department of General Services-Procurement Division to obtain the authority to procure goods and services by the Commission. Within this package the Commission outlines its policies and procedures for completing the procurement process. Each year the Commission has been successful in obtaining delegation and in addressing the several checks and balances within the delegation and procurement processes.

Part A: Competitive Bidding

Commission Practice with Respect to Examination-Related Requests for Proposals (RFPs)

The established Commission practice when issuing RFPs for examinations development and/or administration conforms to the requirements of the *State Contracting Manual* (<http://www.ols.dgs.ca.gov/Contract+Manual/default.htm>). For contracts subject to open bidding competition, Commission staff requests approval from the Commission to develop and release the RFP. The agenda item requesting approval for the RFP details the specifications for the work to be done by the contractor. Staff then develops and the Executive Director releases the RFP in compliance with public notice requirements as outlined in the *State Contracting Manual*. The text of the RFP has typically not been reviewed by the Commission prior to release since the Commission reviews and approves the specifications for the work to be done which are then incorporated within the text of the actual RFP.

As required in the *State Contracting Manual*, the RFP provides, among other contents, the purpose of the work to be performed by the contractor, a detailed scope of work, directions to bidders for responding to the scope of work, contractual information and requirements, proposal submission and organization requirements, corporate capability information requirements, and scoring criteria. The Commission’s process for conducting the RFP review process once the RFP has been publicly released is explained below.

Following the public release of the RFP, and as indicated in the RFP, potential bidders are encouraged to submit a Notice of Intent to Bid and also to submit substantive questions about the RFP or contract to the Commission staff contact person indicated in the RFP. Potential bidders

are informed that submission of a Notice of Intent to Bid does not obligate a potential bidder to submit a proposal, nor does lack of a Notice of Intent to Bid prevent a potential bidder from submitting a proposal. Those submitting a Notice of Intent to Bid, and any other interested parties, are also informed through the RFP of the opportunity to participate in a telephone Bidders Conference conducted by Commission staff. Following the bidders conference, bidders may also submit written questions to the Commission. In this instance, Commission staff sends to all potential bidders who submitted a Notice of Intent to Bid a written summary of the questions and answers that were submitted following the bidders conference.

It should be noted that examinations development and administration work relating to the Commission's examination programs is highly complex, and requires that a bidder have not only the extensive psychometric expertise to develop and validate licensing examinations that will stand up to standards of legal defensibility, but also the technical and facilities capacity to administer what may well be the largest licensing examination of its kind in the world. There are very few companies in the nation with this type of capacity, and typically the Commission will receive only one or two bids in response to an examinations-related RFP. The California Public Contract Code recognizes the difficulty inherent in letting examinations-related contracts and in response has exempted "Contracts for the development, maintenance, administration, or use of licensing or proficiency testing examinations" from the requirement to have three competitive bids or proposals for each contract (PUC 10340 (b)(7)). The Commission makes every attempt, however, to ensure a competitive process and uses the RFP process on the majority of its examination contracts.

Commission Practice with Respect to Proposal Review Process and Results

Proposals submitted in response to an RFP are reviewed in three stages, and this review process is also described in the RFP. The proposal review process is conducted according to guidelines established in the *State Contracting Manual* for conducting competitive bidding procedures. A Proposal Review Team comprised of Commission staff with expertise and knowledge in examinations and/or in the subject matter of the examination participates in the evaluation and scoring of the proposals. The *State Contracting Manual* specifies that "when an evaluation committee is appointed...voting members used in the selection process shall be from the agency soliciting the proposals or awarding the contract. Private consultants may not be voting members of the committee and may only be used to provide clarification or subject matter expertise to the committee members." (Section 5.15 E) Prior to its deliberations, the members of the Proposal Review Team read the RFP as well as any substantive questions submitted by bidders along with staff responses, and the summary of the bidders conference.

The proposal review is conducted in three stages: the processing of proposals upon receipt to ensure compliance with mandatory eligibility requirements; the initial review of the proposal individually by the members of the review team; and the final review of the proposal collaboratively by the members of the review team. Each of these processes is described below, and exemplifies the review process historically used by the Commission.

The RFP Review Process

In accordance with state contracting requirements, the proposed RFP contains explicit instructions to bidders as to the content that must be addressed within the body of the response, the technical compliance requirements (e.g., signatures, numbers of copies, required

documentation, organization of the written responses, deadline date, etc.), and the score points assigned to each required proposal section. These proposal sections include, but are not limited to: work plan and schedule requirements; examination administration; cost and financial arrangements; and corporate capability.

When responses are received for an RFP, the responses are logged as to date and time of arrival. Each response is initially reviewed by Commission staff for compliance with the technical requirements for eligibility. Responses that meet all of the technical requirements are then moved forward for proposal content review.

After the deadline for receipt of responses has passed, all of the responses that have met the technical requirements are organized for proposal content review by Commission staff members. Commission staff serving as reviewers receive extensive training on each aspect of the RFP requirements and on the scoring points criteria. Commission staff members then review each proposal independently, assigning preliminary score points during this phase of the application review process. In accordance with state contracting requirements, 70% or less of the total score points are assigned within the program-related categories, and at least 30% of the total score points are assigned within the cost category. Recent guidance from the Department of General Services has been that the cost category points should be not less than 50% of the total, a policy which the Commission follows. The reviewers use only the information provided in the written proposal application when considering the application and assigning points during the review process.

Following the independent review, the reviewers meet to discuss the proposals. Because these responses are lengthy and complex, the review process includes a discussion of the strengths and weaknesses of each proposal so that all reviewers can share their findings based on the information provided in the written proposal application as well as any concerns or questions the reviewers may have, in order to assure that each application receives the fullest possible consideration. Following the discussion, reviewers may adjust their score points to reflect the full range of information concerning each application. The final scores are then tallied and the application with the highest total point score is identified. Following the addition of the points for the cost aspect of the proposal (see below), the application with the highest total point score is the application that is then recommended to the Commission for award approval. Even if the Commission receives only one bid in response to an RFP, that bid is not automatically accepted, but instead it is reviewed according to the established process. However, if at the end of the review process the reviewers have serious concerns about the bid(s), including the scope or work and/or the costs, and the reviewers indicate that none of the proposals meets the Commission's specifications and performance expectations for the work, the reviewers may recommend to the Commission that no bid(s) be accepted.

Cost Considerations

The RFP for the administration of Commission-owned examinations asks the contractor to provide cost information based on the scope of work identified in the RFP. As provided for in Sections 5.20-5.25 of the *State Contracting Manual* and in accordance with guidance from the Department of General Services-Office of Legal Services, the cost proposal is provided in a sealed envelope which is not opened until the proposal has been reviewed by the reviewers and final points have been assigned based on the content of the proposal. The RFP competition

manager then opens the cost proposals and assigns the points for the cost aspect according to the formula provided in the *State Contracting Manual* (Section 5.25).

The costs proposed by a successful bidder who is awarded a contract for examinations administration are recovered subsequently by the contractor through candidate fees as applicants register with the contractor for the various examinations. No Commission funds are paid to the contractor. Commission staff time to oversee and monitor the process, and to monitor and process the revenue received from the contractor, is covered through the program management fee portion of the examinees' fees.

Part B: Non-Competitive Bidding

Although the Commission endeavors to use competitive bidding as much as possible with respect to examinations development and administration, sometimes due to the need to access proprietary information, proprietary processes and/or trade secrets in order to carry out the scope of work needed by the Commission only one entity can provide the service needed and competitive bidding is not possible. In these instances, the Commission may enter into a contract that is not competitively bid.

The following types of contracts are not subject to the state's competitive bidding requirements:

- Contracts or agreements with a Governmental Agency, including contracts or agreements with another state, local, or federal agency; the University of California, the California State University, or a California community college or any of their auxiliary organizations; or an organization acting as a governmental agency under a joint powers agreement.
- Contract amendments to a contract that only extends the original time for performance for a period of one year or less.
- Amendments to an existing competitively bid contract if the additional years or additional tasks were anticipated and evaluated in the RFP.
- Amendments to an existing competitively bid contract if the original contract did not allow for additional years.

There are specific processes outlined in the *State Contracting Manual* that govern non-competitive bidding, including detailed justification for using the non-competitive bidding procedure, the appropriateness or reasonableness of the contract cost, and any special factors affecting the costs under the contract (Section 5.70).

All of the Commission's bidding processes and resulting contract awards, including competitive and non-competitive bids, are reviewed and must be approved by the Department of General Services-Office of Legal Services. Non-competitive bids are also reviewed by the Department of General Services-Procurement Division.

Types of Contracts Resulting from the Bidding Process

Whether a bidding process has been competitive or non-competitive in nature, if a contract is awarded through a bidding process the contract may be of two different types. One is the *revenue-only contract*, and the other is the *fee for service* contract. In a revenue-only contract, the bidder assumes all of the costs of carrying out the scope of work outlined in the contract, and collects the total candidate fees, minus the Commission's portion representing the management fee, as full payment for the work. In this type of contract, the Commission does not expend any

funds on the contract or on any work done by a contractor pursuant to the contract. A revenue-only contract is often used for examinations development and administration, since the scope of work tends to be extensive and costly in nature. In a fee for service contract, the Commission outlines a scope of work that is to be done by the contractor and the contractor is paid directly by the Commission for that work. This type of contract may typically be used for a smaller scope of work that needs to be done to meet a specific need that has arisen outside of the scope of any of the Commission's existing contracts.

The continued approval by the Department of General Services for the Commission to conduct its own contracting process is testament to the Commission's consistent track record with respect to meeting all state requirements for conducting its bidding processes and contracts awards. In accordance with Commission policy, staff will continue to bring agenda items forward to the Commission for all examinations bid processes resulting in a contract award of over \$150,000.