Appendix 8

**Memorandum of Understanding**

**English Language Proficiency Assessment
for the 21st Century State Consortium (ELPA21)**

**Enhanced Assessment Instruments Grant Program**

**– English Language Proficiency (ELP) Competition**

CFDA number 84.368A-1

This Memorandum of Understanding (MOU) is entered into as of **\_\_\_\_/\_\_\_\_/2012**, by and between the State of Oregon acting in its capacity as the Lead State of the English Language Proficiency Assessment for the 21st Century State Consortium (the “Consortium”), hereafter referred to as “Oregon”, and the State of **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, which has elected to participate in the Consortium pursuant to the requirements of the Enhanced Assessment Grant (EAG; CFDA 84.368A-1) competition for 2012.

The purpose of this MOU is to:

1. Describe the Consortium vision and principles,
2. Detail the responsibilities of States in the Consortium,
3. Detail the responsibilities of the Consortium,
4. Describe the management of Consortium funds,
5. Describe the governance structure and activities of States in the Consortium,
6. Describe State entrance, exit, and status change, and
7. Bind each State in the Consortium to every statement and assurance made in the application through the following signature blocks:

# A. Consortium Vision and Principles

The Consortium’s priorities for a new generation English language proficiency assessment system are rooted in a concern for the valid, reliable, and fair assessment of the critical elements associated with English language acquisition and mastery of the linguistic skills linked to success in mainstream classroom environments. These priorities are also rooted in a belief that assessment must support ongoing improvements in instruction and learning, and must be useful for all members of the educational enterprise: students, parents, teachers, school administrators, members of the public, and policymakers.

The Consortium intends to build a flexible system of assessment based upon a common set of English language proficiency (ELP) standards developed by the Council of Chief State School Officers (CCSSO) in the four domains of reading, writing, listening, and speaking that correspond to the college- and career-ready Common Core State Standards (CCSS). No grant funds received through the Enhanced Assessment Grant will be used in the development of these ELP standards.

The Consortium acknowledges the need for a system comprised of a summative assessment and diagnostic screener, using a common set of ELP standards as the basis. Additionally, the Consortium acknowledges the value of formative and interim assessment tools for use in the classroom that can assist educators monitoring student progress toward English language proficiency. These assessment tools must support high-quality learning, demands of accountability, and balance desires for innovative assessment tools against the need for a fiscally sustainable system. The efforts of the Consortium will strive to accomplish these goals with priority placed on the summative assessment and screener.

The assessment system developed by the Consortium will include the following key elements and principles:

1. A Comprehensive Assessment System grounded in a thoughtfully integrated learning system of standards, curriculum, assessment, instruction, and teacher development that will inform decision-making by including formative strategies, interim assessments, and summative assessments.
2. The assessment system will measure the full range of the common ELP standards adopted by the Consortium. The system will emphasize the critical elements of English language acquisition and the skills required to master the linguistic demands of the English language.
3. The assessment system will employ technology wherever possible and feasible to optimize the testing experience for the student and response time on reporting results. The Consortium will explore the extent to which computer-based delivery systems provide the appropriate levels of student engagement with the assessment and support the enhancement of English language proficiency measures. Technology applications will be designed to maximize interoperability across user platforms, including platforms emerging from the Smarter Balanced Assessment Consortium (Smarter) and Partnership for Assessment of Readiness for College and Career (PARCC) consortia, and will utilize open-source development to the greatest extent possible.
4. A sophisticated design will yield scores to support evaluations of student language proficiency growth, as well as efficiently provide input to states' educator effectiveness systems.
5. On-demand and curriculum-embedded assessments will be explored to support teachers in determining where students are on the continuum of English language acquisition and progress toward proficiency.
6. All components of the system will incorporate principles of Universal Design that seek to remove construct-irrelevant aspects of tasks that could increase barriers for students with other specific learning needs.

# B. Responsibilities of States in the Consortium

While a continuing member of the Consortium, each State agrees to the following elements of the Consortium’s proposed assessment system:

1. Adopt a common set of ELP standards that correspond to the college- and career-ready Common Core State Standards. This set of commonly adopted ELP standards will serve as the foundation for the development of the new English language proficiency assessment,
2. Fully implement statewide the Consortium’s diagnostic screener and summative English language proficiency assessment in grades K-12 during the first school year following the conclusion of the assessment development grant (projected to be the 2016–2017 school year), subject to legislative approval and budgetary appropriations and/or constraints,
3. Adhere to the Consortium’s governance structure as outlined in this document,
4. Participate in the decision-making process and uphold the decisions of the Consortium,
5. Agree to follow agreed-upon timelines, and
6. Identify and implement a plan to address barriers in State law, statute, regulation, or policy to adopting a common set of ELP standards for the purpose of this assessment or implementing the proposed assessment system and address any such barriers prior to full implementation of the summative assessment components of the system.

# C. Responsibilities of the Consortium

At the conclusion of the project grant period, the Consortium will provide the following:

1. A comprehensively designed system of assessments including a strategic variety of item types and performance assessments of modest scope to assess the full range of the common ELP standards in the four domains – reading, writing, listening, and speaking, as well as identifying mastery of linguistics.
2. A system of assessments which includes a diagnostic screener, for initial identification and placement of new English languages learners, and a required summative assessment which provides accurate assessment of student achievement, including for students with disabilities. The summative and screener assessments will be computer-administered to the extent practically feasible.
3. Reliable, valid, and fair scores, for students and groups, which can be used to evaluate student achievement and year-to-year growth; determine school/district/state effectiveness for Title III ESEA; and improve understanding of the effectiveness and professional development needs of teachers and principals.
4. Achievement standards and achievement level descriptors benchmarked across the widest feasible and practical array of recognized standards.
5. Access for the State or its authorized delegate to secure item and task banks, which include psychometrically sound scaling and equating procedures to provide comparable scoring across member States, subject to legislative approval and budgetary appropriations and/or constraints.
6. Professional development materials and protocols focused on scoring and examination of student work to impact curriculum and lesson development.
7. A representative governance structure that ensures a strong voice for State administrators, policymakers, school practitioners, and technical advisors to ensure an optimum balance of assessment quality, efficiency, costs, and time. The governance structure will be responsible for implementing plans that are consistent with this Memo of Understanding (MOU), but may make changes as necessary through a formal adoption process.
8. Documentation from a Project Management Partner (PMP) who will assist with management, organization, logistics, and planning on behalf of the Consortium, and who will monitor the progress of deliverables under the proposal for the U.S. Department of Education.
9. A financial analysis, approved by member States, which details the efficacy, efficiency, and sustainability of the assessment system. The analysis will propose options to member States to ensure effective administration of an operational assessment during the school year following conclusion of the grant period (projected to be the 2016-2017 school year).
10. A consolidated data reporting system that enhances parent, student, teacher, principal, district, and State understanding of student progress toward English language proficiency.

# D. Management of Consortium Funds

The laws and rules of the State of Oregon, acting in the role of Lead Procurement State/Lead State, and in accordance with 34 CFR 80.36, will govern all financial activities. Additionally, the State of Oregon will be legally responsible for the use of grant funds and for ensuring the Consortium uses funds received through an Enhanced Assessment Grant in accordance with Federal requirements to carry out the project. The State of Oregon will also be legally responsible for ensuring that indirect cost funds are determined as required under 34 CFR 75.564(e).

The State of Oregon will ensure that no grant funds received through the Enhanced Assessment Grant will be used in the development of ELP standards.

# E. Governance Structure and Activities of States in Consortium

As described in the Consortium governance structure, all member States share in the efforts and rewards of a collaborative team environment, where decisions on matters of policy, finance, or design are determined in a consensus manner.

To be considered a continuing member of the Consortium, each State, by signing this MOU, agrees it:

1. Is committed to the goals and objectives of the Consortium and met the qualifications specified in this document,
2. Will be active in policy decision-making for the Consortium,
3. Will provide a representative to serve on the Consortium Council,
4. Will assist, through representation on Task Management Teams, with the tasks associated in developing and implementing the project,
5. Will approve, via a voting process, the election of the Executive Board.
6. Will participate in final decision-making of the following:
	1. Changes in governance and other official documents,
	2. Specific design elements
	3. Financial adjustments from original budget in excess of $25,000, and
	4. Other issues, deemed pertinent by the leadership body, for the total membership to approve.

## Organizational Structure

### Consortium Council

The Consortium Council is comprised of one representative from each State in the Consortium. Members may be a chief or his/her designee. Consortium Council members must meet the following criteria:

* Have prior experience in either the design or implementation of curriculum, instructional supports to English language learners and/or assessment systems at the policy or implementation level.
* Must have a willingness to serve as the liaison between the total State membership and any established working groups.
* The Consortium Council shall meet bi-weekly on such schedule as its members shall determine.

### Consortium Council Responsibilities

* Determine the broad picture of what the assessment system will look like,
* Receive regular reports from the Project Management Partner, the Task Management Teams, and/or other assigned advisory positions or groups,
* Oversee the expenditure of funds in collaboration with the Lead Procurement State/Lead State and in compliance with federal requirements,
* As necessary, review Task Management Team recommendations of successful contract proposals for approval by the Executive Board and the Lead Procurement State/Lead State.

### Executive Board

* Governance of the ELPA21 Consortium will be vested in an Executive Board made up of a representative from the Lead Procurement State/Lead State (Oregon), a representative from the 2011 EAG Proposal Lead State (California), and five at-large representatives from the state membership, for a total of seven members.
* The five at-large positions to the Executive Board, with the exception of the Lead Procurement State/Lead State position, will be selected via voting process of the member states. The 2012 Lead State (Oregon) will facilitate the Executive Board nominations to encourage the Board to include states with small and large EL populations, and active membership in all consortia (PARCC, Smarter, DLM, and NCSC); the Executive Board will elect a Chairperson from the five at-large members by vote of all seven Executive Board members.
* Ex-officio Executive Board members will include up to three principals designated from the Project Management Partner (PMP), the Third-Party Evaluator, and the Technical Advisory Committee as either the Consortium Council or the Executive Board deem critical to guiding the work of the project.
* In the initial selection of membership, a rotation plan will be established, allowing the four selected representatives to serve for alternating spans of time to provide opportunity for broad state-member participation. The representatives with the two highest vote counts will serve for two years, while the remaining representatives will serve for one year. If an individual is unable to complete the full term of office, then the above process will occur to choose an individual to serve for the remainder of the term of office.
* The Executive Board will meet at least bi-weekly on such schedule as its members shall determine.

### Executive Board Responsibilities

* Oversee development of English language proficiency assessment system,
* Provide oversight of the Project Management Partner, and other ex-officio members,
* Provide oversight of the Lead Procurement State/Lead State,
* Work to develop project plans and agendas, and to resolve identified issues,
* Provide final determination on all issues/decisions brought forward from the Consortium Council,
* Oversee the expenditure of funds, in collaboration with the Lead Procurement State/Lead State and the Project Management Partner, and in compliance with federal requirements, and
* Receive and act on special and regular reports from various project support members (e.g., the Project Management Partner, the Technical Advisory Committee (TAC)), the USED, and member State SEAs.

### Decision-making

Consensus will be the goal of all decisions. Major decisions that do not reach consensus will go to a simple majority vote. The Executive Board will determine what issues will originate from the Consortium Council. Each Consortium Council member will have one vote; if any decision has a difference of three or fewer votes, the issue in question will be re-examined at the next regularly, or specially, scheduled meeting. The Executive Board may prepare additional information as to the pros and cons of the issue to inform members of the Consortium Council in reaching consensus and a final decision. The Executive Board will specify decision-making responsibilities assigned to the Consortium Council and to the Executive Board.

### Task Management Teams

Task Management Teams (TMT) are comprised of an advisor/expert contracted consultant skilled in the particular task area. Two to four state education agency (SEA) members from ELPA21 Consortium States will complete each TMT. Each TMT will specify, guide, review, and hold accountable contractors competitively selected to complete tasks within the TMT's responsibility area. State representatives may be members of the Consortium Council, the Executive Board, or other SEA employees with applicable experience and skills in the target area. State participation in a TMT will require a minimal amount of engagement to review task progress and materials developed to support project outcomes. Interested individuals will submit inquiries in writing to the Project Management Partner indicating a preferred group. The Consortium Council upon the collaborative recommendation of the PMP and each advisor/expert will appoint TMT members. All Member States are expected to commit support toward one or more of the Task Management Teams based on skills, expertise, and interest within the State to maximize contributions and distribute expertise and responsibilities efficiently and effectively. ELPA21 has established the following working list of Task Management Teams, which may be adjusted by action of the Consortium Council as project needs dictate without need for amendment to this MOU:

* Item Acquisition and Development TMT
* Assessment Design TMT
* Accommodations and Accessibility TMT
* Performance Standard (“cut score”) Setting TMT
* Field Testing TMT
* Technology Utilization TMT
* Data System and Reporting TMT
* Professional Development Support TMT
* Communications and Outreach TMT

The Consortium will also establish a Technical Advisory Committee (TAC) and as deemed necessary, other appropriate ex-officio members and/or groups as needed to advise the Executive Board and/or the Consortium Council.

# F. State Entrance, Exit, and Status Change

This MOU shall become effective as of the date first written above upon signature by both the Lead State designee and the Consortium state member applicant and remain in force until the conclusion of the Program, unless terminated earlier in writing as set forth below.

## Entrance into Consortium

Initial entrance into the Consortium as part of the EAG applicant group is assured when:

* A signature is secured on the MOU from the State’s chief, or appropriate designee;
* The signed MOU is submitted to the Consortium’s identified Project Management Partner;
* The State is committed to adopt the set of ELP standards that are held in common by all States in the Consortium and that correspond to the college- and career-ready Common Core State Standards. The State is not required to adopt the Common Core State Standards to which these English language proficiency standards correspond in order to enter the Consortium. In addition to the common set of ELP standards, the State may adopt additional standards so long as the common set of ELP standards makes up at least 85 percent of the state’s total ELP standards; the State would retain full responsibility for assessing any additional standards.
* The State is committed to implement a plan to identify any existing barriers in State law, statute, regulation, or policy to implementing the proposed assessment system and to addressing any such barriers prior to full implementation of the summative assessment components of the system;
* The State agrees to support all Consortium decisions made prior to the State joining the Consortium subject to state-level implementation policies.

After receipt of the grant award, the Executive Board must approve any request for entrance into the Consortium. Upon approval, the Project Lead will then submit a request for change of membership to the USED. A State may begin participating in the decision-making process after acceptance of their MOU.

## Exit from Consortium

Any State may leave the Consortium without cause, but must comply with the following exit process:

* A State requesting an exit from the Consortium must submit to the Project Management Partner a written request and reasons for the exit request;
* The written explanation must include the statutory, budgetary, or policy reasons for the exit;
* The written request must be submitted to the Project Management Partner with a signature from a person at the same or higher level of authority as originally signed for entering the Consortium;
* The Executive Board will approve the request within one week of the request; and
* The Project Management Partner will then submit a change of membership to the USED.

Any State that fails to adopt the common set of ELP standards by December 2013 or within one (1) year of joining the Consortium, whichever occurs later, must exit the Consortium following the process described above. Should the state later adopt the common set of standards, the State may re-enter the Consortium following the process described in “Entrance into Consortium” above.

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# G. Bind each State in the Consortium to every statement and assurance made in the application through the following signature block.

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| 1. **MEMBER STATE** Enhanced Assessment Instruments Grant Program – English Language Proficiency(ELP) Competition

As a Member State in the English Language Proficiency Assessment for the 21st Century State Consortium (ELPA21), I have read and understand the roles and responsibilities of Member States, and agree to be bound by the statements and assurances made in the application. I further certify in the continuing capacity of a Member State I am fully committed to the goals and objectives of the grant application and will support its implementation.  |
| State Name:  |
| Chief State School Officer/Designee: (Printed Name): | Telephone:  |
| Chief State School Officer/Designee:(Signature) | Date: \_\_\_\_\_\_\_\_/\_\_\_\_\_\_\_\_/\_2012 |