



National Office

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September 20, 2017

Mr. Phillip Uy
Executive Director
West Virginia Department of Education
East, Building 6
Charleston, WV 25305
puy@k12.wv.us

RE: ACT Protest of ARFP_EDD1800000003

Dear Mr. Uy:

ACT, Inc. (ACT) submits this letter and related documentation as our official protest of the West Virginia Department of Education (WVDE) decision that our proposal did not qualify as a Technical Minimum Acceptable Score.

Name and address of protestor: ACT, Inc., 500 ACT Drive, PO Box 168, Iowa City, IA 52243-0168

RFP Number: ARFP_EDD1800000003 ("RFP")

Statement of the grounds of protest: ACT protests WVDE's decision to consider our proposal as not successful primarily on two grounds.

1. ACT was the only bidder that submitted a proposal that adequately addressed WVDE's requirement for an assessment that measures science.
2. ACT has serious reservations about improper point deductions from our evaluation, as well as inconsistent point deductions—that if applied equally—would have also found College Board not qualifying.

Science Assessment

ACT's proposal was the only submission that included a science assessment that complies with the requirements of the RFP.

The State of West Virginia, through the WVDE, authorized the solicitation of an RFP for a high school summative assessment to measure the state's approved content standards in English language arts (ELA), mathematics, and **science**.

Section 4.5.2.5 of the RFP required an assessment that assessed all students in the content areas of English language arts (including writing) and mathematics in grade 11 and **science** in high school at the grade level determined by WVDE.

ACT is the only college entrance exam that contains a science assessment that derives a true science score. ACT met the requirements of the RFP by including science in the base offering. College Board did not do this. On page 26 of the College Board proposal they state: "... the SAT Analysis in Science items **do not focus on assessing the student's knowledge of science** content ..."

ACT cannot understand how our submission was considered not qualifying while College Board clearly states they do not have science content, which is non-compliant with a major requirement of the RFP. **ACT's response included a science assessment that met the requirements of the RFP, at no added cost.**

In section 4.4.1.2.2, WVDE actually deducted a point for our science submission. This deduction is shocking. **ACT's was the only proposal to include a proper science assessment.**

Furthermore, on page 5 of the College Board's response: "As part of this contract, we will partner with American Institutes for Research (AIR) to provide a digital test administration platform. AIR is also able to provide to WVDE a supplemental science assessment, if the state opts to administer an assessment that is more robust than what is offered by a college entrance exam. **The supplemental science assessment would be provided at added cost.**"

Improper and Inconsistent Deductions

ACT believes many of the points deducted from our proposal were not deducted properly. It appears that the proposal evaluators went out of their way to find ways to deduct points from ACT. Many of the reasons cited by the evaluators are subjective judgements that are hard to comprehend.

Furthermore, WVDE only provided feedback on Attachment B after the first cancellation. In WVDE's decision to disqualify ACT, ACT only received evaluation on Attachment A. ACT is not aware of what our score was or how we were evaluated on Attachment B, which was mandatory.

Following are examples of what we believe to be improper deductions. We are willing to provide additional specific instances should it be necessary.

- 4.4.1.1 A point was deducted because the evaluator **did not believe** the ACT aligns with West Virginia standards. There was no explanation on why the evaluator did not believe ACT's proposal, just a summary conclusion that they did not believe ACT without any substantiation.
- 4.4.1.1.2 A point was deducted because the evaluator wanted more detail on item development even though ACT's response provided information about content specifications. The evaluator decided to deduct a point because they wanted the detail related to items even though ACT provided detail about content.

- 4.4.1.1.4.2 A point was deducted because the evaluator felt there was an internal inconsistency on whether ACT considered writing as constructed-response or a performance item. ACT is not sure why the evaluator was confused by our response but we would be willing to clear up any confusion. Our preference would have been for the evaluator to ask ACT for a clarification instead of deducting a point.
- 4.4.1.15.3.2.4 ACT described our process for delivering the final test administration manuals. We do not believe a point should have been deducted.
- 4.4.1.15.3.4 ACT provided the hours the Help Desk will be available. We are confused why WVDE deducted a point because we have expanded hours instead of using the phrase “normal school hours.”
- 4.4.1.15.3.4.17 ACT does not understand why a point was deducted. We provided a description of the escalation process.
- 4.4.1.15.3.5.4 ACT does not understand why a point was deducted. We provided a description of how phone calls are responded to.
- 4.4.1.15.3.5.7.6 ACT does not understand why a point was deducted. We described how issues are resolved in a number of places within the proposal. This point seemed to be deducted because the evaluator was looking for the term “daily status report” in this section.

Additionally, points were not equally and consistency deducted for each proposal, raising questions of vendor bias. If the proposals had been evaluated consistently and equally, College Board would have received a non-qualifying score.

Examples in College Board’s scoring file include the following:

- 4.4.1.2.1: West Virginia commented, “Vendor did not address science standards. Point deduction includes 4.4.1.2.2., 4.4.1.2.2.1., 4.4.1.2.2.2., 4.4.1.2.2.3”.
 - Per 4.4.1.2.2–4.4.1.2.2.3: West Virginia commented for each item “Vendor did not address science standards”, but **did not deduct points for these four sub-requirements**
- Per 4.4.1.2.4: West Virginia commented, “The Vendor’s response explains that the SAT science score is derived from passages and select math items.” **However, no points were deducted.**

There were also inconsistencies in the way ACT and College Board points were deducted where we were scored the same. Examples include the following:

- Section 4.4.5 Goal 4: Transition Strategy and Maintenance Records:
 - ACT had 2 points deducted with a total of 4 “Y”s in the “Points Deducted” column
 - College Board had the same amount of “Y”s in the “Points Deducted” column, but West Virginia only deducted 1 point in total for this section. **There is no consistency in point deduction. If College Board would have received the same evaluation and point deduction as ACT, an additional point would have deducted for the same amount of “Y”s as ACT.**

Taken together these discrepancies in scoring should have made College Board’s response not qualifying.

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Supporting Documentation

Attached are copies of the relevant section of the RFP describing the science requirement. We have also included an explanation of why our science section is far superior to College Board's extrapolated science information.

Relief Sought

ACT asks for cancellation of the RFP and reissuing a new proposal. The fact that College Board does not have a science test (a requirement of the RFP)—and admits to such in its response—should have disqualified them at the beginning. Once West Virginia chose to evaluate College Board's response, inconsistent point deductions were made, that if applied consistently, would have made College Board not qualifying.

Respectfully,

A handwritten signature in black ink, appearing to read "Paul J. Weeks", written in a cursive style.

Paul J. Weeks

Senior Vice President, Client Relations
ACT, Inc.

enc: Section 4.5.2.5 of the RFP
ACT Science Differentiator