

ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
2100 CLARENDON BOULEVARD, SUITE 500
ARLINGTON, VIRGINIA 22201

NOTICE OF RIDER CONTRACT

TO: SHAW CONTRACT FLOORING SERVICES, INC. DBA SHAW SPORTS TURF 616 E WALNUT AVENUE DALTON, GA 30721	DATE ISSUED: _____ CURRENT REFERENCE NO: _____ CONTRACT TITLE: _____	MAY 22, 2020 20-259-R-1 ATHLETIC SURFACES
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**THIS IS A NOTICE OF A RIDER CONTRACT AND NOT AN ORDER. NO WORK IS AUTHORIZED UNTIL THE
VENDOR RECEIVES A VALID COUNTY PURCHASE ORDER ENCUMBERING CONTRACT FUNDS.**

Arlington rides the Lead Agency's contract referenced below for the goods and services so referenced. The contract documents consist of this notice and terms and conditions of the Lead Agency Agreement including any attachments or amendments thereto.

LEAD AGENCY NAME: FAIRFAX COUNTY PUBLIC SCHOOLS (AEPA LEAD AGENCY)

LEAD AGENCY CONTRACT NUMBER: 4400009598

EFFECTIVE DATE: MARCH 1, 2020

EXPIRES: FEBRUARY 28, 2021

RENEWALS: THREE (3) ONE (1) YEAR RENEWAL OPTIONS FROM MARCH 1, 2021 TO FEBRUARY 28, 2024

COMMODITY CODE(S): 80500

LIVING WAGE: N

ATTACHMENTS:

ATTACHMENT A – RIDER AGREEMENT NO. 20-259-R-1

EMPLOYEES NOT TO BENEFIT:

NO COUNTY EMPLOYEE SHALL RECEIVE ANY SHARE OR BENEFIT OF THIS CONTRACT NOT AVAILABLE TO THE GENERAL PUBLIC.

VENDOR CONTACT: JIMMY MARSHALL, DIR. OF SALES

VENDOR TEL. NO.: (615) 879-0136

EMAIL ADDRESS: JIMMY.MARSHALL@SHAWINC.COM

COUNTY CONTACT: AARON WOHLER, LANDSCAPE ARCHITECT

COUNTY TEL. NO.: (703) 228-7928

COUNTY CONTACT EMAIL: AWOHLER@ARLINGTONVA.US

**ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
2100 CLARENDON BOULEVARD, SUITE 500
ARLINGTON, VA 22201**

RIDER AGREEMENT NO. 20-259-R-1

THIS AGREEMENT (hereinafter "Agreement") is made, on May 22, 2020 by the County, between **Shaw Contract Flooring Services, Inc. dba Shaw Sports Turf** ("Contractor"), a Georgia stock corporation with a place of business at 616 E Walnut Avenue, Dalton, GA 30721 authorized to transact business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia ("County"). The County and the Contractor, for the consideration specified herein or specified in a County Purchase Order referencing this Agreement, agree as follows:

1. CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Exhibit A: Fairfax County Public Schools (AEPA Lead Agency) Contract 4400009598 Notice of Award, Exhibit B: AEPA IFB #020-A Natural and Synthetic Surfaces for Sport Fields, Tracks, Courts, Playground and Landscaping Applications, and Exhibit C: Fairfax County Public Schools Acceptance Agreement dated February 12, 2020, together with any exhibits and amendments issued or applicable thereto (collectively, "Contract Documents" or "Contract"). This Agreement rides a contract awarded to the Contractor by **Fairfax County Public Schools** (AEPA Lead Agency) and extended by the Contractor to the County on the same terms and conditions as the Contractor's agreement with Fairfax County Public Schools (AEPA Lead Agency). Where the terms of this Agreement vary from the terms and conditions of the other Contract Documents, the terms and conditions of this Agreement shall prevail.

The Contract Documents set forth the entire agreement between the County and the Contractor. The County and the Contractor agree that no representative or agent of either of them has made any representation or promise with respect to the parties' agreement which is not contained in the Contract Documents.

2. CONTRACT TERM

The Contractor's provision of goods and services for the County ("Work") shall commence upon May 22, 2020, and shall be completed no later than February 28, 2021 ("Contract Term"), subject to any modifications as provided for in the Contract Documents regarding the Contract Term. No aspect of the Work shall be deemed complete until it is accepted by the County's Project Officer.

Upon satisfactory performance by the Contractor, if the Fairfax County Public Schools renews their agreement identified in Exhibit A, the County may elect to renew this Agreement under the same contract terms for three (3) one-year renewal periods from March 1, 2021 to February 28, 2024 ("Subsequent Contract Term"). However, if Fairfax County Public Schools does NOT renew their agreement identified in Exhibit A, this Agreement shall automatically expire on the date of the contract expiration date.

3. PAYMENT

Payment will be made by the County to the Contractor within thirty (30) days after receipt by the County Project Officer of an invoice detailing the Work provided by the Contractor and accepted by the

County. Each invoice must certify that the invoice submitted is a true and accurate accounting of the work performed and goods and/or services provided and must be signed and attested to by the Contractor or authorized designee. The Project Officer will either approve the invoice or require corrections. The number of the County Purchase Order pursuant to which authority goods or services have been performed or delivered shall appear on all invoices.

4. SCOPE OF WORK

The Contractor agrees to perform the goods and/or services described in the Contract Documents (hereinafter "the Work"). The primary purpose of the Work is to furnish Athletic Surfaces.

The Contract Documents set forth the minimum Work estimated by the County and the Contractor to be necessary to complete the Work. It shall be the Contractor's responsibility, at the Contractor's sole cost, to provide the specific Work set forth in the Contract Documents sufficient to fulfill the purposes of the Work. Nothing in the Contract Documents shall be construed to limit the Contractor's responsibility to manage the details and execution of the Work.

5. PROJECT OFFICER

The performance of the Contractor is subject to the review and approval of the County Project Officer ("Project Officer") who shall be appointed by the Director of the Arlington County department or agency which seeks to obtain the Work pursuant to this Contract. However, it shall be the responsibility of the Contractor to manage the details of the execution and performance of its Work pursuant to the Contract Documents.

6. COUNTY PURCHASE ORDER REQUIREMENT

County purchases are authorized only if a County Purchase Order is issued in advance of the transaction. A Purchase Order must indicate that the ordering agency has sufficient funds available to pay for the purchase. Such a Purchase Order is to be provided to the Contractor by the ordering agency. The County will not be liable for payment for any purchases made by its employees without appropriate purchase authorization issued by the County Purchasing Agent. If the Contractor provides goods or services without a signed County Purchase Order, it does so at its own risk and expense.

7. NON-APPROPRIATION

All funds for payments by the County to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia. In the event of non-appropriation of funds by the County Board of Arlington County, Virginia for the goods or services provided under this Contract or substitutes for such goods or services which are as advanced or more advanced in their technology, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the then current fiscal year or when the appropriation made for the then current year for the services covered by this Contract is spent, whichever event occurs first. If funds are not appropriated at any time for the continuation of this Contract, cancellation will be accepted by the Contractor on thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the County shall not be obligated under this Contract beyond the date of termination specified in the County's written notice.

8. APPLICABLE LAW, FORUM, VENUE AND JURISDICTION

This Contract and the work performed hereunder shall be governed in all respects by the laws of the Commonwealth of Virginia, and the jurisdiction, forum, and venue for any litigation with respect thereto shall be in the Circuit Court for Arlington County, Virginia, and in no other court. In performing its Work pursuant to this Contract, the Contractor shall comply with applicable federal, state, and local laws, ordinances and regulations.

9. NOTICES

Unless otherwise provided herein, all notices and other communications required by this Contract shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered by an agent, such as an overnight or similar delivery service, or (c) deposited in the United States mail, postage prepaid, certified or registered, addressed as follows:

TO THE CONTRACTOR:

Jimmy Marshall, Director of Cooperative Sales
Shaw Contract Flooring Services, Inc.
616 E Walnut Ave.
Dalton, GA 30721
Phone: (615) 879-0136
Email: Jimmy.Marshall@shawinc.com

TO THE COUNTY:

Aaron Wohler, Landscape Architect
Arlington County Government
2100 Clarendon Blvd., Suite 414
Arlington, VA 22201
Phone: (703) 228-7928
Email: Awohler@arlingtonva.us

AND

Kaylin Schreiber, Procurement Officer
Arlington County Government
2100 Clarendon Boulevard, Suite 500
Arlington, Virginia 22201
Phone: (703) 228-3406
Email: Kschreiber@arlingtonva.us

10. ARLINGTON COUNTY BUSINESS LICENSES

The Contractor must comply with the provisions of Chapter 11 ("Licenses") of the Arlington County Code, if applicable. For information on the provisions of that Chapter and its applicability to this Contract, the Contractor must contact the Arlington County Business License Division, Office of the Commissioner of the Revenue, 2100 Clarendon Blvd., Suite 200, Arlington, Virginia, 22201, telephone number (703) 228-3060.

11. COUNTERPARTS

This Agreement may be executed in one or more counterparts and all of such counterparts shall together constitute one and the same instrument. Original signatures transmitted and received via facsimile or other electronic transmission, (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall be effective as delivery of a manually executed original counterpart.

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

SHAW CONTRACT FLOORING SERVICES, INC.
DBA SHAW SPORTS TURF

AUTHORIZED
SIGNATURE: Kaylin Schreiber

AUTHORIZED
SIGNATURE: 

NAME: Kaylin Schreiber
TITLE: Procurement Officer

NAME AND
TITLE: Chris Small - Director of specialty projects

DATE: 5/27/2020

DATE: 5/20/2020



Office of Procurement Services
8115 Gatehouse Road, Suite 4400
Falls Church, VA 22042

FEB 12 2020

NOTICE OF AWARD

CONTRACT TITLE: AEPA 020A - Athletic Surfaces - Natural & Synthetic Surfaces for Sport Fields, Tracks, Courts, Playground & Landscaping Applications

CONTRACT NUMBER: 4400009598

NIGP CODE(S): 96296

CONTRACT PERIOD: March 01, 2020 through February 28, 2021

RENEWALS: Three (3) one-year options

SOLICITATION NUMBER: AEPA IFB 020

SUPERCEDES CONTRACT(S): 4400006579

CONTRACTOR:

Shaw Sports Turf, (Shaw Contract Flooring Services, Inc)
185S Industrial Blvd
Calhoun, GA 30701

SUPPLIER ID:

1000020497

Contract /Purchase Orders:

Contact: Jimmy Marshall, Dir. Of Cooperative Sales
Telephone: 615-879-0136
Fax: N/A
Email: Jimmy.Marshall@shawinc.com

TERMS: Net 30

FOB: Destination

PRICES: See Pricing Schedule

Contract Pricing: Email Philomina Kwashie at pakwashie@fcps.edu or call 571-423-3594 if pricing is not attached
NOTE: Virginia's terms and conditions can be viewed at the AEPA website <http://www.aepacoop.org/> under AEPA IFB 020A

OPS CONTACT:

Michelle Pratt, Director
Telephone: 571-423-3550
Fax: 571-423-3587
E-mail: Michelle.pratt@fcps.edu

UO
2-13-20

Notice of Award
Contract 4400009598
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ORDERING INSTRUCTIONS:

Any county department may create a shopping cart into FOCUS (Fairfax County Unified System) indicating the item/service required, the quantity, the payment terms and the delivery date. The shopping cart must be annotated with the contract number.

Requests exceeding the small purchase threshold will be routed to OPS and a purchase order will be executed.



Michelle Pratt
Director, CPPB

DISTRIBUTION:

FCPS – Procurement Services – Contract File

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**PART A -
Instructions and General Terms and Conditions
AEPA IFB #020-A Natural and Synthetic Surfaces for Sport Fields,
Tracks, Courts, Playground and Landscaping Applications**

Notice to Bidders

Sealed bids will be received by the Association of Educational Purchasing Agencies (AEPA) on behalf of its Member Agencies until:

1:30 p.m. ET, Monday, September 16, 2019

For Bids: 020-A Natural and Synthetic Surfaces for Sport Fields, Tracks, Courts, Playground and Landscaping Applications, 020-B Carpet & Resilient Flooring, 020-C Digital Resources & Instructional Materials, 020-D Facility Management Software, 020-E Lawn & Groundskeeping Equipment, Supplies & Services, 020-F Digital Display Solutions, and 020-G Vehicles – Cars, SUVs, Crossovers, Light Duty Trucks, Vans, Police and Public Safety.

Each bid package consists of multiple parts:

- Part A – Terms and Conditions**
- Part B – Specifications**
- Part C – Member Agency (State) Terms and Conditions**
- Part D – Questionnaire**
- Part E – Signature Forms**
- Part F – Discount & Pricing Workbook**

All bids shall be submitted online via Public Purchase by the due date and time listed above. Note that Bidders must be able to provide their proposed products and services in up to 28 states including California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Jersey, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, Texas, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

AEPA bid documents can be downloaded after registering, at no cost, on Public Purchase at www.publicpurchase.com. AEPA and/or the respective Member Agencies reserve the right to reject any or all bids in whole or in part; to waive any formalities or irregularities in any bids, and to accept the bids, which in its discretion, within state law, are for the best interest of any of the AEPA Member Agencies and/or their Participating Entities. Bids will be opened and an opening record will be posted to Public Purchase. Bids will be publicly opened at 1:30 PM ET on September 16, 2019, at Oakland Schools, 2111 Pontiac Lake Road, Waterford, MI, 48328.

Bid & Contract Timeline:

Monday, July 22, 2019	Release of IFBs
Wednesday, August 14, 2019	Pre-Bid Conference Call (optional)
Thursday, September 12, 2019, at 1 p.m. ET	Deadline for questions from Bidders
Monday, September 16, 2019	Deadline for Bid Submittals and Bid Reading via Public Purchase

Friday, October 25, 2019	Contract Recommendations posted on Public Purchase and the AEPA website, www.aepacoop.org
December 2-4, 2019	AEPA Approval of bids
December 9, 2019	Vendor Partner's submit required documentation to Member Agencies
No later than May 1, 2020, to February 28, 2021	Initial contract term (up to fifteen months) – See Term of Contract and Extensions in General Terms & Conditions
March 1, 2021 - 2024	Annual contract renewal dates subject to approval by AEPA

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I. About AEPA

Welcome to The Association of Educational Purchasing Agencies (AEPA) annual bid solicitation. AEPA is a unique school procurement consortium established in 2000, and incorporated in 2007 under the state laws of Nevada. We are consortium of non-profit public agencies representing twenty-eight (28) states. We joined to issue simultaneous Invitations for Bids (IFB) generating sales for vendor partners in forty-nine (49) states. AEPA's mission is to cooperatively serve our members through a continuous effort to explore and solve present and future purchasing needs. Our goal is to secure multi-state volume purchasing contracts with benefits for our public members that are measurable, cost-effective, and exceed members' expectations for customer service and value. AEPA is committed to accomplish this mission lawfully and ethically, using leading edge technology and contemporary business practices.

The advantage for vendors to work with AEPA is that you respond to one bid that is legally performed across as many as 28 states, which have the potential to sell nationwide. You are working with up to 28 agencies with a long and trusted history with their public membership. Through our partnerships, AEPA

vendors have access to thousands of public agencies across the country. We are a multi-million-dollar procurement group through our current awarded vendors and are growing.

AEPA designates one Member Agency per state that is operating legally under the rules and regulations of that state. Any additional agencies that wish to participate will negotiate with the authorized Member Agency and participate through them in a manner in which they mutually agree is not in conflict with AEPA procedures. The Member Agency will be the only agency allowed to represent that state at AEPA and will be the only communication link between AEPA and that state.

Each Member Agency, along with the awarded Vendor Partner, represents, supports and promotes the AEPA contracts within their respective state. While the consortium was initially created to support educational entities, the Member Agency for each state determines which public entities (higher educational institutions, cities, counties, townships, states, etc.) can utilize the competitively bid contracts (see the Summary of State Participation by Bid Category Table). Participating entities may include Public and Private School Districts, Educational Service Agencies, Intermediate School Districts, Higher Education Institutions, Federal Agencies, State Agencies, Local Public Bodies and Nonprofit Non-Public Corporations, Organizations, other entities contracted to conduct business on behalf of a participating entity provided they are required to follow member state and local procurement regulations, etc. that have authorizations to utilize the AEPA Member Agencies' Awarded Contracts.

AEPA has an elected President, Vice President, Secretary and Treasurer. Operations are overseen by the Executive Director. The AEPA Board representing 28 states meets twice per year, and operates otherwise through a sophisticated committee structure.

AEPA Member Agency Information

State	Agency Name	Contact	Email	Students
California	Monterey County Office of Education d/b/a CalSAVE	Ted Witt	twitt@epylon.com	6,000,000
Colorado	Colorado BOCES Association	John Tillman	jtillman@my.amigo.net	889,000
Connecticut	Capitol Region Education Council (CREC)	Cara Hart	chart@crec.org	538,000
Florida	Panhandle Area Education Consortium	Larche Hardy	larche.hardy@paec.org	2,700,000
Georgia	Cooperative Purchasing Agency	Kevin Benson	kbenson@cpa4schools.com	1,600,000
Indiana	Wilson Education Center	Pam Clover	pclover@wesc.k12.in.us	1,046,026
Illinois	Illinois Learning Technology Purchase Program	Hope Hardin-Borbely	hhardinborbely@iltpp.org	2,001,548
Iowa	AEA Purchasing	Joni Puffett	joni@aeapurchasing.org	510,010
Kansas	Southeast Kansas Education Service Center	Tina Smith	tina.smith@greenbush.org	468,510
Kentucky	Green River Regional Educational Cooperative	Ann Burden	ann.burden@grrec.org	675,000
Massachusetts	The Education Cooperative	Joan Preble	jpreble@tec-coop.org	955,739
Michigan	Oakland Schools	Tim Loock	tim.loock@oakland.k12.mi.us	1,550,802
Minnesota	Cooperative Purchasing Connection	Jeremy Kovash	jkovash@lcsc.org	842,932
Missouri	EducationPlus	Steve Griggs	sgriggs@edplus.org	885,204
Montana	Montana Cooperative Service	Dave Puyear	dpuyear@mrea-mt.org	144,129
Nebraska	Nebraska ESU Cooperative Purchasing	Craig Peterson	Craig.peterson@esucc.org	300,000
New Jersey	Middlesex Regional Educational Services Commission	Pat Moran	pmoran@mresc.k12.nj.us	1,369,000
New Mexico	Cooperative Educational Services	Dotty McKinney	dotty@ces.org	338,307
North Dakota	North Dakota Educators Service Cooperative	Jane Eastes	jeastes@lcsc.org	106,863

Ohio	Ohio Council of Educational Purchasing Consortium	Elmo Kallner	elmo.kallner@epcschools.org	1,700,000
Oregon	IntermountainESD	Rob Naughton	rob.naughton@imesd.k12.or.us	570,857
Pennsylvania	Central Susquehanna Intermediate Unit d/b/a Keystone Purchasing Network	Jeff Kimball	jkimball@csiu.org	5,700,000
Texas	Region 16 Education Service Center d/b/a TexBuy	Andrew Pickens	andrew.pickens@esc16.net	5,232,065
Virginia	Fairfax County Public Schools	Michelle Pratt	MRPratt@fcps.edu	1,249,000
Washington	King County Directors Association	Dave Mahalko	dmahalko@kcda.org	1,000,000
West Virginia	Mountain State Educational Services Cooperative	Jan Hanlon	jhanlon@k12.wv.us	289,899
Wisconsin	Cooperative Educational Service Agency (CESA) #2	Jane Wray	jane.wray@cesa2.org	873,000
Wyoming	Northeast Wyoming Board of Cooperative Educational Services	Nita Werner	nwerner@newboces.com	91,000

II. Bid Procedures

A. Issuing Agency

The great benefit to the Bidder is that one response may be prepared for approval by AEPA and awarded by multiple AEPA Member Agencies and utilized by their Participating Entities located throughout many states. Bidders responding to this IFB will submit their response in the required formats (PDF, Word, Excel) of all files requested along with complete catalogs via Public Purchase, a free online bidding platform, by the due date and time of this IFB. Bidders selected in response to this single IFB have the potential to provide products and services to local education agencies serving over 36,000,000 (excludes non-represented AEPA states) students.

Each AEPA Member Agency will individually publish notice of the IFB. Bidders will submit their response online, electronically via Public Purchase (www.publicpurchase.com). Responses will be evaluated by bid category committees comprised of AEPA Member Agencies representatives who have indicated they will participate in the category of products and services being solicited, and after AEPA approval, individual AEPA Member Agencies may award contracts to the AEPA Approved Vendor Partners or reject their offers.

The procurement activities of AEPA are limited to document preparation, distribution of the IFB, initial evaluation, and recommendation for possible approval to AEPA Member Agencies. AEPA consists of agency officials who have agreed to assist one another in meeting the public purchasing needs of local school districts and other political subdivisions.

Contracts awarded through cooperative purchasing must meet the procurement laws of the states of each AEPA Member Agency. When these laws are satisfied, an individual entity using these contracts is deemed in compliance with bidding regulations. As allowed by specific state statutes, they can issue purchase orders for any amount without the necessity to prepare their own IFB, Request for Proposal (RFP), or Request for Quotations (RFQ). This saves the entity time and allows for economical and efficient purchasing.

AEPA requires that Bidders only respond if they are able to offer prices equal to or better than what they ordinarily offer to individual entities or cooperatives with equal or lesser volume. State laws that permit or encourage cooperative purchasing contracts do so in the belief that it saves the participants both time and money. Time is saved by having access to volume discounted contracts publicly solicited and being able to purchase what is needed without having to wade through the solicitation process (write solicitation, advertise the IFB, open each response, evaluate and make a selection). Money is saved in procurement cost and lower prices will be the result of volume purchasing. Therefore, a contract issued by a cooperative can be used by hundreds of separate political units; but if it has the same or higher prices than what a single agency or state contract can get through its own bid, a cooperatively bid contract may not

be attractive to these members. We request that bidders respond with an advantageous package so that together we can attract members to prefer the cooperatively awarded contract.

The AEPA policy for membership permits new agencies to become AEPA Member Agencies upon approval of existing members. If additional Agencies are added, they and their members may procure from existing contracts upon approval of the awarded Vendor Partners and in accordance with their state laws.

B. Questions

All questions from Bidders must be submitted online through Public Purchase, AEPA will not accept questions in any other format during the bid process. All questions received during the IFB process will be available via Public Purchase. All Bidders will be automatically notified through email when AEPA responds to a question asked by a Bidder. It is the Bidders responsibility to check Public Purchase for any questions and answers prior to the bid deadline. Questions received after the question deadline date will not be answered.

Should AEPA issue an addenda during the solicitation process, all Bidders will be automatically notified through email of the released addenda. AEPA is not responsible for Bidders not acknowledging the issued addenda and not submitting a response according to those changes.

Questions regarding this IFB after Bid Opening, but prior to the approval of the contract, should be submitted to questions@aepacoop.org.

Questions regarding this IFB after Notification of Approval should be submitted to bid-committee@aepacoop.org.

C. Bidder Qualifications

An essential part of the bid evaluation process is an evaluation to qualify the company being considered. All bids must contain answers, responses and/or documentation to the information requested in the Bid Documents. Any Bidder failing to provide the required information/documentation may be considered non-responsive, this includes submitting a response not in the proper format.

Bidders, within their response, must demonstrate their ability, capacity and available resources to provide the proposed products and services to 90% of the AEPA Member Agencies indicating an interest in participating in the categories being solicited, unless otherwise noted in Part B – Technical Specifications of the category being bid. The Bidders are required to communicate and demonstrate within their response they have extensive knowledge, background and at least five (5) years of experience with manufacturing, obtaining, delivering, installing, maintaining and/or supporting the product lines of products, equipment, services or software offered. AEPA and/or its Member Agencies reserve the right to accept or reject newly formed companies or companies failing to demonstrate their abilities or capacity solely based on information provided in the bid response and/or its own investigation of the company.

D. Bid Security

If required, bids shall be accompanied by a satisfactory bid security. This will vary by category and will be noted in Part B, Technical Specifications.

If a bid security is required, a hard copy of the bid security must be in the actual possession of AEPA at Oakland Schools, 2111 Pontiac Lake Road, Waterford, MI 48328, on or prior to the exact due date and time. Original copies of the bid security, must be submitted in a sealed envelope properly addressed to the Association of Educational Purchasing Agencies, with the Bid Number, Bid Category

and Bidder's name and address clearly indicated on the envelope or box. Bid securities received late will not be opened and will be deemed non-responsive.

A bidder must also include a PDF copy of the bid security with their response on Public Purchase. If a Bidder fails to submit a copy of the bid security via Public Purchase and/or fails to submit the bid security by the due date and time, its response shall be deemed non-responsive and will not be considered.

An acceptable bid security will have the principal being the Bidder and the Association of Educational Purchasing Agencies listed as the Agency of Record. Bid Security may be a one-time bid bond underwritten by a surety company licensed to issue bid bonds in the state of Nevada and said surety to be approved in federal circular 570 as published by the United States treasury department or the equivalent in cash or an irrevocable letter of credit from a FDIC financial institution. The bid security shall remain in force for one hundred twenty (120) days of bid opening.

E. Bid Submittal

1. Preparation of the Bid Response

- a. The IFB is published in multiple parts. Part A contains the general terms and conditions that apply to all IFB's in the current series of bids. Part B is the technical specifications for the individual bid commodity. Part C includes specific state terms and conditions. Part D, E and F are to be filled out in their entirety and submitted online via Public Purchase in their required formats with the Bidder's response. Some bid categories may contain additional Parts or Forms. All Forms must be uploaded prior to the published bid due date and time of opening.
- b. All bid responses must be on the forms provided by AEPA for each IFB found in Public Purchase, unless otherwise noted. Bidders will submit all documents, in their required formats, online via Public Purchase by the due date and time of the IFB.
- c. Bid Forms requiring signatures shall be submitted by the person authorized to sign the bid response. Failure to properly sign the bid documents will result in the response being deemed non-responsive.
- d. In case of an error in extension of prices in the bid, unit prices shall govern.
- e. Periods of time, stated as a number of days, shall be in calendar days, not business days.
- f. It is the responsibility of all Bidders to examine the entire IFB package, to seek clarification of any item or requirement that may not be clear, and to check all responses for accuracy before submitting a bid. Negligence in preparing a bid confers no right of withdrawal after due time and date.
- g. The Bidders' ability to follow the bid preparation instructions set forth in this solicitation will also be considered to be an indicator of the Bidders' ability to follow instructions should they receive an award as a result of this solicitation. Any contract between the AEPA Member Agency and a Bidder requires the delivery of information and data. The quality of organization and writing reflected in the bid will be considered to be an indication of the quality of organization and writing which would be prevalent if a contract was awarded. As a result, the bid will be evaluated as a sample of data submission.

2. **Document Development:** Bid forms for this IFB are published in Public Purchase, in Word, Excel and PDF formats. Bidders may download the documents once they are registered with AEPA on Public Purchase. All documents must be titled properly and submitted in their required format as noted in the Bid Proposal Checklist. Bidders must scan and upload all documents to Public Purchase following the Bidder's Proposal Checklist, along with any additional documents or files other than those listed below that may be requested and/or related to the this IFB.

- a. **Part C – Member Agency (State) Terms and Conditions:** Some states require additional documentation and signature forms. Review Part C and submit the required

state documents with your bid. Submit all state specific forms as one (1) form in PDF format.

- b. **Part D – Questionnaire:** Complete the form provided. The questionnaire seeks information about the Bidder’s pricing structure, service areas, past performance and commerce processes. The Company Information form provides background information on the Bidder’s company. Submit the form as one (1) individual form.
 - **NOTE: An attached letter of line of credit from the Bidder’s chief financial institution is required unless the company is publicly traded. If the company is publicly traded, a complete Annual Financial Report from the most recent year is REQUIRED.** Scan the Letter of Line of Credit and/or Annual Report into a PDF document and title as per the instructions. Alternatively, Bidders may choose to send the Letter of Line of Credit and/or Annual Report by email directly to the AEPA Executive Director, George Wilson, at georgewilson.aepa@outlook.com. The Letter of Line of Credit and/or Annual Report must be received by the Executive Director before the due date and time of the bid opening.
- c. **Part E – Signature Forms:** Complete the form provided. The signature form includes multiple areas where signatures are required. Submit the form as one (1) individual form in PDF format.
- d. **Part F – Discount & Pricing Schedules Workbook:** Complete the Excel workbook provided. Title the Excel document as per the instructions in Document Development above. Be sure to complete the required tabs as outlined in Part F.
 - **Warranties, Additional Services:** In response to Part F, the Bidder may be asked to provide a price schedule for warranties, or additional services, if applicable. This document is created by the Bidder (it is not provided by AEPA) and should be presented in an Excel workbook and titled as per the instructions in Document Development above.
 - **Additional Discounts:** In response to Part F, the Bidder may select to offer additional discounts/bonuses to AEPA members based on a dollar volume, sizes of orders or other criteria, and must state the formula for arriving at these discounts. This document is created by the Bidder (it is not provided by AEPA) and should be presented in an Excel workbook and titled as per the instructions in Document Development above.
- e. **Price Lists and/or Catalogs:** For catalog bids, PDFs of the Bidder’s most recent published catalog(s) or price lists must be included for catalog bids. Each PDF document must be titled as per the instructions in Document Development above.

3. Bid Transmittal

- a. It is the responsibility of the Bidder to be certain that the bid submittal has been uploaded in its entirety to Public Purchase, on or prior to the exact published due date and time.
- b. If required for the category to which you are responding, a hard copy of the bid security must be in the actual possession of AEPA at Oakland Schools, 2111 Pontiac Lake Road, Waterford, MI 48328, on or prior to the exact due date and time. Failure to submit a copy with the response and to send the official bid security to AEPA will result in the Bidder being deemed non-responsive and will not be considered. Bids and bid securities not meeting the due date and time will not be accepted.
- c. If the designated location for receiving the bid security is closed due to an unforeseen circumstance on the day the bid security is due (due date), the bid security will be due at the same time on the next day the building is open. Responsive bids will be opened and the name of each Bidder and other appropriate information will be posted to Public Purchase and the AEPA website.

- F. **Bid Evaluation, Approval and Award:** Bid responses received will be evaluated in accordance with acceptable standards of cooperative purchasing, set forth in and governed by the Procurement Codes of AEPA Member Agency’s states; AEPA by-laws, policies and procedures;

AEPA Member Agencies' policies and procedures. Approval of prospective Vendor Partners and recommendation of contracts will be made to the lowest responsive and responsible Bidder utilizing the criteria listed in this bid. Contract awards are made by individual AEPA Member Agencies.

1. **Responsive Bidder:** A responsive bid reasonably and substantially conforms to all material requirements of the solicitation. Bids must be responsive and approved by AEPA to receive award consideration by AEPA Member Agencies. To be determined responsive, the response must meet all of the requirements below:
 - a. Submitted on time.
 - b. Materially satisfy all mandatory requirements identified throughout the IFB.
 - c. Must substantially conform to all of the specified requirements in the IFB in the judgment of AEPA and its AEPA Member Agency representatives.
 - d. Any deviation from requirements indicated herein must be stated, in writing, and included with the bid submittal. Otherwise, it will be considered that bids are in strict compliance with all requirements, and any successful Bidder will be held responsible therefore.
 - e. Deviations or exceptions stipulated in Bidder's response may result in the bid being classified as non-responsive. Language to the effect that the Bidder does not consider this bid to be part of a contractual obligation will result in that Bidder's response being disqualified. Terms of the IFB that any Bidder considers particularly unwarranted, and to which that Bidder would have to take significant exception in his bid, should be stated clearly and concisely as exceptions and/or deviations.
 - f. In preparing a proposal, the Bidder's inability to follow the proposal preparation instructions set forth in this solicitation and its inability to provide written responses, narratives, requested and support documentation relating to the Bidder's qualifications; abilities; capacity; products; specifications; delivery, installation, setup, maintenance; support services and pricing utilized by AEPA evaluators may result in the Bidder's response to be deemed non-responsive.
2. **Non-responsive Bid:** Any bid that does not conform to all material requirements of the solicitation including, but not limited to: bids received after the deadline; bids that do not contain required items and/or provided in the format required, such as proper and/or signed forms, pricing, catalogs, electronic files; bids that do not contain the proper bid bond where required; failure to meet the specified qualifications, product specifications, stipulated documentation or pricing equal to or better than individual entities or cooperatives with equal or lesser volume. AEPA reserves the right to request documents that do not affect pricing, waive minor irregularities, and/or seek clarification following its Board approved procedures. Bids deemed non-responsive bids will not be considered for approval and award.
3. **Responsible Bidder:** A responsible Bidder is a firm or person with the qualifications, capability and capacity to perform the contract requirements with integrity and reliability, which will assure a good faith performance. AEPA's approval of a Bidder's response will make the Bidder available for consideration to the AEPA Member Agencies for contract award. If a Bidder is approved by AEPA, the AEPA Member Agency reserves the right to determine if said Vendor Partner is responsible in their respective state. Factors to be considered in determining whether the standard of responsibility has been met may include but is not limited to whether a Bidder has:
 - a. Submitted a responsive bid;
 - b. The qualifications stipulated herein that may include but are not limited to adequate financial resources, production or service facilities, personnel, service reputation and experience to make satisfactory delivery of the products, services, or construction, described in the invitation for bids to those AEPA member states who have indicated their participation;

- c. A demonstrated and documented satisfactory track record of performance in the national market place;
- d. A satisfactory record of integrity and a reputation of responding to and meeting educational institutions' needs, adherence of and compliance with federal, state, local and industry standards, rules, regulations and codes;
- e. Quality and suitability of products and services offered to meet and perform to the specifications, expectations and requirements identified in this bid;
- f. Supplied all necessary information and data in connection with determining whether a Bidder meets the standard of responsibility.

4. Cost Evaluation:

- a. Cost and price schedules conform to and provide the information required in Part B – Technical Specifications of this bid;
- b. Pricing offered that is equal to or better than what they ordinarily offer to individual entities or cooperatives with equal or lesser volume;
- c. Methodology used by AEPA and its AEPA Member Agencies to approve prospective Vendor Partners and award contracts;
- d. Line Item Bid: Lowest responsive, responsible Bidder(s); or
- e. Catalog Bid: Lowest responsive, responsible Bidder(s) is/are determined based on the price evaluation criteria; and by a “Core List” and/or by creating a “Market Basket Study” to compare overall pricing between Bidders. A “Market Basket” is a list of items typically purchased by AEPA Member Agencies and their Participating Entities that represent a cross-section of the types of those items purchased. The selection and quantity of line items evaluated will be at the sole discretion of the AEPA evaluators;
- f. The evaluation committee may consider such factors as life-cycle costs, total cost of ownership, quality, and the suitability of an offering in meeting AEPA members’ needs.
- g. Based on the cost evaluation, a recommendation will be made to approve a single Bidder or make a multiple Bidder award.

G. Contract Award and Implementation

An AEPA category committee will perform initial bid response review and evaluation and will prepare and make a recommendation to AEPA for its consideration and approval. Those selected Bidders who are approved by AEPA will then be considered by the individual AEPA Member Agencies for contract award. It should be noted that once AEPA has approved the bid response, a Bidder becomes a “Vendor Partner” for AEPA.

Recommendations for approval by AEPA will be posted to Public Purchase and the AEPA website.

Once the approved Bidders have been notified, it is their responsibility to contact those AEPA Member Agencies (up to 28) who had indicated an interest in participating and send Part C (if applicable), Part D, E and F to each of the participating AEPA Member Agencies. Each AEPA Member Agency will review, evaluate and determine which, if any, it will award contracts to.

The approved Vendor Partner and the AEPA Member Agency will hold final contract negotiations, if necessary, to work out state specific details of contract implementation including:

- 1. Acquiring additional information and having discussions on how the awarded contract will be executed.
- 2. Signing the contract with the AEPA Member Agency.
- 3. Jointly develop marketing strategies and a plan for contract roll-out activities to the AEPA Member Agency’s Participating Entities (Advertising, flyers, website access, etc.).
- 4. Establish how orders will be processed, handled and reported.
- 5. Contract management: Establish how and by whom the day-to-day contract management will be handled and who will be the AEPA Member Agency’s representative.

It is not guaranteed that each AEPA Member Agency will enter into a contract with AEPA approved Vendor Partners. The final decision as to the appropriateness of a contract for a Member Agency rests solely with that AEPA Member Agency.

III. Responsibilities of A Vendor Partner

- A. As an approved AEPA Vendor Partner, the following is expected in support of the contract:
1. Designate and assign a dedicated senior-level contract manager (one authorized to make decisions) to each of the Member Agency accounts. This employee will have a complete copy and must have working knowledge of the contract.
 2. Train and educate sales staff on what the AEPA cooperative contract is including pricing, who can order from the contract (by state), terms/conditions of the contract and the respective ordering procedures for each state. It is expected that Vendor Partners will lead with AEPA contracts.
 3. Develop a marketing plan to support the AEPA contract in collaboration with respective AEPA Member Agencies. Plan should include, but not be limited to, a website presence, electronic mailings, sales flyers, brochures, mailings, catalogs, etc.
 4. Create an AEPA-specific sell sheet with a space to add a Member Agency logo and contact information for use by the Member Agencies and the Vendor Partner's local sales representatives to market within each state.
 5. On a quarterly basis, complete the sales and administrative fee report (see PDF template) and submit to each Member Agency along with the respective administrative fees to be paid. If there are no sales, a \$0 report is required.
 6. Report sales and administrative fees by participating state if requested by AEPA.
 7. Have ongoing communication with the Category Committee Chairperson, AEPA Member Agencies and the Member Agencies Participating Entities.
 8. Annually attend two (2) AEPA meetings: Annual meeting which is typically in April and the Winter Meeting which is typically the end of November or early December and has historically been held in conjunction with the Association of Educational Service Agencies (AESAs) annual conference. At the Annual meeting, Vendor Partners participate in a round table meeting with each of the AEPA Member Agencies. Vendor Partners that have paid the registration fees can participate in the meetings.
 9. Trade show support: Strongly encourage participation in national and local conference trade shows to promote the AEPA contracts such as, but not limited to, the Association of School Business Officials (ASBO), the National Institute of Governmental Purchasing (NIGP), and the National Association of Educational Procurement (NAEP).
 10. Increasing sales over the term of the contract with all participating AEPA Member Agencies.

IV. Responsibilities of AEPA Member Agencies

- A. In support of the Vendor Partner and respective contract, each AEPA Member Agency should provide the following support:
1. Designate a staff member(s) that will serve as a point person for the AEPA program within that state.
 2. Provide a staff member to work collaboratively with the Vendor Partner to determine the best marketing plan for the respective Member Agency state. Marketing efforts may include but not be limited to the education and use of sales force, a website presence, electronic mailings, brochures, mailings, etc.
 3. Develop marketing materials for the Member Agency to use that would include representation of the awarded contracts. Materials may include, but not be limited to, a website presence, electronic mailings, sales flyers, brochures, mailings, catalogs, etc. as determined by the respective Member Agency and what works best within their state.
 4. Assist the Vendor Partner to jointly market the contract to potential Participating Entities within the state.

5. Work with the Vendor Partner to identify eligible Participating Entities within the state possibly including providing a list of potential customers.
6. Work with the Vendor Partner to identify and help manage costs associated with fulfilling this contract.
7. Attendance at the two (2) AEPA meetings which provides for opportunity to interact with Vendor Partners.

V. General Terms and Conditions for All Agencies

For the purposes of this INVITATION FOR BID, the following terms shall be defined as indicated below, and constitute the general terms and conditions for all AEPA Member Agencies:

Administrative Fee: The percentage of sales that each Vendor Partner pays the Member Agency for sales in their respective state or states that they extend the AEPA pricing to. Administrative Fees shall be paid to each Member Agency on a quarterly basis. See the Summary of State General Overview for the administrative fees by Member Agency (state).

Advertising: Vendor Partner shall not advertise or publish information concerning this contract prior to the award being announced by the AEPA Member Agencies. Once the award is made, the Vendor Partner may advertise to the individual Participating Entities that products/services are available. Vendor Partner shall submit ad copy to the AEPA Member Agency for review and approval prior to issuing the advertisement.

AEPA Bi-Annual Meetings: AEPA holds two general meetings each year: one in the Spring (usually in the months of April or May) and the other in the Fall (currently the week after Thanksgiving). AEPA requires that all successful contract holders attend both meetings and participate in the vendor round tables at the Spring meeting. AEPA request that all vendor partners register in advance and stay at the AEPA official hotel if rooms are available. All registrations for the meetings are required by the official registration due date as announced by AEPA.

AEPA Member Agency: Refers to the entities identified in the table in Part I of this document. Member Agencies participating in a particular bid category are listed on the table presented in Part B - Specifications, Item 3: Anticipated Member Agency Participation. "Direct or Indirect Participation" may include their involvement through the formulation of any part of a procurement activity; the influencing of the content of any term, condition and/or specification; the evaluation, investigation, auditing and/or the rendering, of advice, recommendation, decision, approval, disapproval and the award and implementation of procurement contract. Not every listed entity may elect to participate in this bid once the responses are reviewed and approved.

Affirmative Action: An Affirmative Action Plan, Certificate of Affirmative Action, or other documentation regarding Affirmative Action may be required by AEPA Member Agencies. Vendors must comply with requirements and/or requests for information regarding Affirmative Action by Member Agencies.

Amendment of Bid: A bid may be amended up to the time of opening by submitting a sealed letter to the place where the bids are received as indicated on the front of this solicitation.

Applicable Law: The laws of the state of the respective AEPA Member Agency shall govern any resulting contract of this bid. Suits pertaining to this contract may be brought only in courts in the County and State as prescribed by the AEPA Member Agency. Both parties agree that the Uniform Commercial Code, as adopted by the State of the AEPA Member Agency, shall fully apply. The Vendor Partner shall comply with any and all laws, whether local, state, federal or otherwise, applicable to any aspect of the work to be performed in relation to the resulting contract. It shall be the Vendor Partner's responsibility to identify, make themselves aware of and determine the applicability and requirements of any such laws and to abide by them.

Approval and Awarding of Contract: AEPA and its AEPA Member Agencies reserve the right to approve and award a contract to one Bidder, to make multiple approvals and awards, to reject any or all bids in whole or in part, to waive any minor formalities or irregularities in any bids, and to accept bids, which in its discretion and according to law may be in the best interest of the AEPA Member Agencies and their Participating Entities. A response to this solicitation is an offer to contract with the AEPA Member Agencies based upon the terms, conditions, and scope of work and specifications contained in this invitation. A solicitation does not become a contract unless and until it is accepted, recommended and approved by AEPA and awarded by the individual AEPA Member Agency. A contract is formed when an AEPA Member Agency administrator and, if required, an AEPA Member Agency Board approves and signs the Acceptance of Bid and Contract Award Form (see Form E) document, eliminating the need for a formal signing of a separate contract.

Assignment: No right or interest in this contract shall be assigned or transferred by the Vendor Partner without prior written permission by AEPA and its AEPA Member Agencies, and no delegation of any duty of the Vendor Partner shall be made without prior written permission by the AEPA Member Agency. AEPA and its AEPA Member Agencies shall not unreasonably withhold approval and shall notify the Vendor Partner within fifteen (15) days of receipt of written notice by the Vendor Partner.

Audit Rights: In accordance with applicable law of the State of the AEPA Member Agency, the Vendor Partner's books and pertinent records related to this contract may be audited at a reasonable time and place.

Authority: This solicitation, as well as any resulting contract/agreement, is issued under the general authority of the State laws of the AEPA Member Agency and those identified within the AEPA Member Agencies' Specific Terms and Conditions, Part C, (see also Procurement Code). Internal or external Cooperative Purchasing Agreements between the AEPA Member Agency and Participating Entities may exist.

Bid Opening: Bids shall be opened in the manner designated in this document.

Bidder/Vendor Partner Definitions:

Bidder, Offeror and Vendor Partner are interchangeable and are used to identify the person(s) or firm(s) submitting a response to an Invitation for Bid.

1. Prospective Bidder: has notified AEPA of a desire to bid by registering on the AEPA website. "Bidder" has submitted a bid to AEPA in response to an Invitation for Bid (IFB).
2. Recommended Bidder: has been approved by AEPA for its AEPA Member Agencies for contract consideration.
3. Vendor Partner: has entered into a contract with a participating AEPA Member Agency or subsequently a Participating Entity.

Bidder Acceptance Period: In order to allow AEPA Member Agencies the opportunity to evaluate the bids, AEPA requires that a bid in response to this solicitation be valid and irrevocable for one hundred twenty-days (120) after opening time and date.

Bonding (required for construction projects): The Vendor Partner agrees to provide all performance and payment bonds executed by a surety company authorized to do business in the individual AEPA Member's state and said surety to be approved in federal circular 570 as published by the United States treasury department, the state or the local governing authority, in an amount equal to one hundred percent of the price specified in the contract; when required by an AEPA Member Agency or Participating Entity at the time a contract is executed. If the Vendor Partner fails to deliver any required performance or payment bonds, the AEPA Member Agency or Participating Entity shall

not execute the contract with the Vendor Partner and the appropriate AEPA Category Committee shall be notified of such failure and shall take the appropriate action.

Brand Names: The use of the name of a manufacturer, brand, make or catalog number does not restrict the Bidder. Brand names and model numbers are used to indicate the character, quality and/or performance equivalence of the commodity on which bids are submitted. Bidders may submit alternates. However, the AEPA reserves the right to decide whether alternatives to the identified manufacturer and brand are in fact equal to the product, equipment and/or service described in the invitation. AEPA's decision shall be final.

Buyer: Identifies the AEPA Member Agencies and their Participating Entities that acquire and purchase commodities, supplies, materials, equipment and services under AEPA Member Agencies' awarded contracts.

Captions, Headings and Illustrations: The captions, illustrations, headings and subheadings in this solicitation are for explanation only and in no way define, limit or describe the scope or intent of the request.

Certification: By signature in the bid section of the Contract Award page, the Bidder certifies: the submission of the bid did not involve collusion or other anti-competitive practices; the Bidder shall not discriminate against any employee, or applicant for employment in violation of Federal and State Laws (see Federal Executive Order 11246); the Bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted bid; and the Bidder agrees to promote and offer to AEPA Member Agencies and Participating Entities only those materials and/or services as stated in and allowed under resultant contract(s) awarded.

Christian Doctrine: Any federal, state and local governing authority's/jurisdiction's statutes, codes, rules and regulations referenced and/or govern the products, services and activities relating to and are part of this solicitation, whether or not physically noted or included, shall be complied with and adhered to as required. It is sole responsibility of the Bidder to perform and complete any necessary research and investigation required to make themselves aware of and comply with this item.

Clarification: As used in this solicitation, clarification means communication with a Bidder for the sole purpose of eliminating minor irregularities, informalities or apparent clerical mistakes in the bid. It is achieved by explanation or substantiation, either in response to an inquiry by the AEPA Member Agency or as initiated by the Bidder. Clarification does not give the Bidder an opportunity to revise or modify its bid.

Commercially Available Catalog: A published paper catalog or an online website that is widely distributed or accessible. It is made available to the general public or schools and contains a verifiable price, along with product descriptions, SKU numbers, and photographs. A commercially available catalog is distinct from a custom catalog or website, whose prices and offerings are tailored to niche audiences.

Competitive Range: AEPA and its AEPA Member Agencies reserve the right to establish a competitive range of acceptable responses as part of the evaluation process as defined herein. Responses below the competitive range will be determined to be unacceptable and will not receive further consideration.

Contract Documents: AEPA Member Agency will review proposed contract documents. Vendor Partner's contract document shall not become part of AEPA Member Agency's contract with Vendor Partner unless and until an authorized representative of an AEPA Member Agency reviews and accepts it.

Construction: Each AEPA Member Agency within their state statutes defines what constitutes construction, identifies the policies, rules, regulations and codes that govern construction projects. AEPA has defined construction as building, altering, repairing, installing or demolishing in the ordinary course of business any road, highway, bridge, parking area or related project; building, stadium or other structure; airport, subway or similar facility; park, trail, athletic field, golf course or similar facility; dam, reservoir, canal, ditch or similar facility; sewage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility; sewage, water, gas or other pipeline; transmission line; radio, television or other tower; water, oil or other storage tank; shaft, tunnel or other mining appurtenance; electrical wiring, plumbing or plumbing fixture, gas piping, gas appliances or water conditioners; air conditioning conduit, heating or other similar mechanical work; or similar work, structures or installations. Construction shall also include: leveling or clearing land; excavating earth; drilling wells of any type, including seismographic shot holes or core drilling; and similar work, structures or installations.

Cooperative Procurement: Some individual state procurement codes may contain cooperative purchasing statutes that state any state agency or local public body may either participate in, sponsor or administer a cooperative procurement agreement for the procurement of any services, construction or items of tangible personal property with any other state agency, local public body or external procurement unit in accordance with an agreement entered into and approved by the governing authority of each of the state agencies, local public bodies or external procurement units involved. The cooperative procurement agreement shall clearly specify the purpose of the agreement and the method by which the purpose will be accomplished. Any power exercised under a cooperative procurement agreement entered into pursuant to each state's procurement code shall be limited to the central purchasing authority common to the contracting parties, even though one or more of the contracting parties may be located in different states.

Cooperative Purchasing Contracts: The Bidder agrees that all the prices, terms, warranties and benefits granted by the Bidder to AEPA Member Agencies or Participating Entities through this contract **will be equal to or better than** those offered to any individual entities or cooperatives that have equal or lesser volume. If the Bidder shall, during the term of this Contract, enter into arrangements with any customer or cooperative providing greater benefits or terms that are more favorable, the Bidder shall notify the AEPA category committee chairman and offer said prices, terms, warranties and benefits to all AEPA Member Agencies. The following shall be noted:

1. AEPA and its AEPA Member Agencies reserve the right to accept or reject the Bidder's response if it is determined it does not comply with the above based on their knowledge, investigation, review and findings of Bidders' submitted prices.
2. In the event the Vendor Partner offers lower prices to another customer or cooperative, AEPA and its AEPA Member Agencies shall notify the Vendor Partner of the deviation and request written justification. Based on AEPA and its AEPA Member Agencies' investigation, review and findings, AEPA reserves the right to take the following actions: to request the Vendor Partner to immediately adjust its AEPA's offered prices to match the lower prices offered, to work with the Vendor Partner to mediate and resolve the situation; or to notify the Vendor Partner that it intends to suspend and/or terminate their contract.

Cost of Bid Preparation: Neither AEPA nor any AEPA Member Agency shall reimburse the cost of developing, presenting or providing any response to this solicitation.

Credit Hold: The Bidder must agree not to place the AEPA Member Agency and/or its Participating Entity on "credit hold" without 10-days advanced notice in writing, either by letter, facsimile or email to the AEPA Member Agency and the Participating Entity. The AEPA Member Agencies believe it is better for the Vendor Partner if the AEPA Member Agency places the slow-paying Agency Member on "credit hold;" if a Vendor Partner places the Participating Entity on credit hold, agencies that pay

promptly are penalized. If, on the other hand, the Member Agency places the offending Participating Entity on "credit hold", payment is more likely to result and only the offender is disciplined.

Delivery Terms, Conditions and Requirements

1. **Delivery:** is to be made within the specified time identified in Part B Specifications for each bid category, unless otherwise stipulated in writing and accepted by all parties (Buyer placing order and Vendor Partner). The Vendor Partner agrees to notify Buyer if an order cannot be processed within the specified period and/or the agreed upon timelines.
2. **The title and risk of loss of material or service:** shall not pass to the Buyer purchasing the material or services until it actually receives the material or service at the point of delivery (FOB Destination) and they have been accepted, unless otherwise provided within this document or individual project's contract.
3. **Ownership of products and services:** happens only after receipt and acceptance of delivery by the Buyer. The Buyer will be the determining judge of whether materials and services delivered under the purchase order/contract satisfy the specifications and requirements as identified in the contract/order.
4. **Fungible Goods:** Title to an undivided share or quantity of an identified mass of fungible goods will not pass to a Buyer until a separation of the purchased share has been made, delivered and received.
5. **Shipping Terms:** (See Part B Specifications for specific instructions on shipping and handling costs for the individual category you are bidding on.) Vendor Partner shall retain title and control of all goods until they are delivered and received. All risk of transportation and all related charges shall be the responsibility of the Vendor Partner, unless other arrangements have been made between the vendor partner and the AEPA Member Agency. Shipping shall be F.O.B. destination. The Vendor Partner shall file all claims for visible or concealed damage. AEPA Member Agency, or the receiving Buyer, will notify the Vendor Partner and/or Freight Company promptly of any damaged goods and shall assist the freight company/Vendor Partner in arranging for inspection. No F.O.B. vessel, car or other vehicle terms will be accepted.
 - a. **Shipping Costs:** Products may be shipped without separate shipping costs. If shipping is allowed as a separate line item per Part B Specifications and charged, the actual cost of delivery may be added to an invoice. No COD orders will be accepted unless specifically requested by the AEPA Member Agency.
 - b. **Shipment under Reservation:** Vendor Partner is not authorized to ship materials under reservation and no tender of a bill of lading will operate as a tender of the materials.
 - c. **Shipping Errors:** Vendor Partner agrees that shipping errors will be at the expense of the Vendor Partner. For example, if a Vendor Partner ships a product that was not ordered, it is the responsibility of the Vendor Partner to pay for return mail or shipment.
6. **Stored Materials (Vendor managed inventory):** Upon prior written agreement between Vendor Partner and Buyer, payment may be made for materials not incorporated in the work but delivered and suitably stored at the site or some other location, for installation at a later date. An inventory of the stored materials must be provided to Buyer prior to payment. Such materials must be stored and protected in a secure location, and be insured for their full value by Vendor Partner against loss and damage. Vendor Partner agrees to provide proof of coverage and/or addition of Buyer as an additional insured upon Buyer's request. Additionally, if stored offsite, the materials must also be clearly identified as property of Buyer and be separated from other materials. Buyer must be allowed reasonable opportunity to inspect and take inventory of stored materials, on or offsite, as necessary. Until final acceptance by Buyer, it shall be Vendor Partner's responsibility to protect all materials and equipment. Vendor Partner warrants and guarantees that title for all work, materials and equipment shall pass to Buyer upon final acceptance. Payment for stored materials shall not constitute final acceptance of such materials.
7. **Improper delivery:** Unless contrary to other parts of this solicitation, if the goods, services or tender of delivery fail in any respect to conform and adhere to the terms, conditions, specifications of the resulting contract based on this solicitation and/or the individual Buyer's contract/order.

The Buyer may reject the whole, accept the whole, or accept any commercial unit or units and reject the rest.

8. **Defective Goods:** Vendor Partner agrees to pay for return shipment on goods that arrive in a defective or inoperable condition. Vendor Partner must agree to arrange for return shipment of damaged goods.
9. **Liquidated Damages:** The Buyer may suffer financial loss if the project is not substantially complete or products or services are not delivered on the established date. The Vendor Partner (if applicable Surety) shall be liable for and shall pay to the Buyer, not as a penalty, the sums that may be hereinafter agreed upon as liquidated damages per calendar day of delay until the work and/or delivery is determined by Buyer to be complete and/or delivered. Liquidated damages will be determined on a project-by-project basis.
10. **No Replacement of Defective Tender:** Every tender of materials must fully comply with all provisions of this contract. If tender is made which does not fully conform, this shall constitute a breach and Vendor Partner shall not have the right to substitute a conforming tender without written consent of all parties involved.
11. **Default in One Installment to Constitute Total Breach:** Vendor Partner shall deliver conforming materials in each installment or lot of this contract and may not substitute nonconforming materials. The AEPA Member Agency reserves the right to declare a breach of contract if the Vendor Partner delivers nonconforming materials or services to any Buyer under this contract.
12. **Restocking Fees:** A restocking fee may only be charged on products ordered and that have been delivered to the Buyer's site in accordance with the order/contract. Restocking fees in excess of 15% will not be allowed. Restocking fees may be waived, at the option of the Vendor Partner. The Vendor Partner must identify, specify and justify any exceptions or deviations taken.

Deviations or Exceptions to Requirements: Deviations or exceptions stipulated in a Bidder's proposal may result in rendering of the response non-responsive. AEPA and its AEPA Member Agencies reserve the right to determine whether the deviation or exception does or does not serve the interest of or is not advantageous or acceptable to AEPA, its AEPA Member Agencies or Participating Entities.

Disbarment and Suspension: By signature accepting Terms and Conditions, it is certified on behalf of the company and their key employees that neither the company nor its key employees have been proposed for debarment, debarred, or suspended by any State or Federal Agency within the last five (5) years.

EDGAR Compliance: Bidders are required to complete Education Department General Administrative Regulations (EDGAR) compliance certification. EDGAR regulations govern all federal grants awarded by the U. S. Department of Education on or after December 26, 2014.

Eligible Entities: The individual AEPA Member Agency's state procurement code and statutes provides for cooperative procurement and identifies those types of agencies, entities and organizations that are allowed to participate in and take advantage of cooperative procurement contracts solicited and approved by AEPA and awarded by AEPA Member Agencies. Therefore, depending on the individual state procurement codes and statutes federal agencies, state agencies, local public bodies and Non-Profit/Non-Public entities may be allowed to participate in and utilize AEPA solicited, approved and AEPA Member Agency awarded contracts.

Estimated Quantities: In Part B: Bid Specifications of this solicitation AEPA and AEPA Member Agencies have indicated their anticipated volume for the products and services being solicited in this solicitation. It is anticipated that a considerable amount of activity will result from this solicitation; however, there is no guarantee of future order quantities due to the fact that this is an indefinite quantity contract. Usage depends on the actual needs of the AEPA Member Agencies, their Participating Entities and the marketing by the Vendor Partner.

Experience, Proven Track Record and Past Performance Information: has been determined by AEPA and its AEPA Member Agencies to be a major factor in consideration if a Bidder possesses the ability, capacity and resources to acquire, manufacture, deliver, construct, install, services and support all of the procurement functions and activities involved in a national contract of this nature. AEPA and its AEPA Member Agencies reserve the right to accept or reject an offer, if in its judgment, the Bidder failed to demonstrate the following: a proven track record in the products and services offered (qualifications, knowledge and background); is willing and able to deliver the proposed products and/or services to ninety (90%) percent of those participating AEPA Member Agencies identified in Part B (unless otherwise noted in Part B.): Specifications; and has provided relevant information regarding its actions under previously awarded contracts to schools, local, state, or federal agencies. It includes the Bidder's record of conforming to specifications and to standards of good workmanship; the Bidder's record of containing and forecasting costs on any previously performed cost reimbursable contract schedules, including the administrative aspects of performance; the Bidder's history for reasonable and cooperative behavior and commitment to customer satisfaction; and generally, the Bidder's businesslike concern for the interests of the customer.

External Procurement Unit: means any procurement organization not located in a current AEPA Member Agency state which, if located in the state, would qualify as a federal or state agency or a local public body. Various state procurement codes allow external procurement units to offer their contracts and for agencies within those states to utilize those contracts to acquire goods and services.

Federal Agency [25] USC 3001 (4): Is defined as any department, agency, or instrumentality of the United States, any executive department, military department, government corporation, government-controlled corporation, or other establishment in the executive branch of government, including the Executive Office of the President or any independent regulatory agency established through legislative and/or administrative action.

Federal Requirements: Vendor Partner agrees, when working on any federally assisted projects with more than \$2,000 in labor costs, to comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 328 et seq.) and all applicable sections of the act and the Department of Labor's supplemental regulations (29 CFR parts 5 and 1926), the Civil Rights Act of 1964 as amended, the Davis-Bacon Act (Section 29, CFR Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in the Department of Labor regulation (29 CFR part 3), and the Equal Opportunity Employment requirements of Executive Order 11246 as amended by Executive Order 11375 (Labor regulations (41 CFR Part 60)). In such projects, the Vendor Partner agrees to post wage rates at the work site and submit a copy of their payroll to the AEPA Member Agency for their files. In addition, to comply with the Copeland Act, the Vendor Partner must submit weekly payroll records to the AEPA Member Agency. The Vendor Partner must keep records for three (3) years and allow the federal grantor agency access to these records, upon demand. All federally assisted contracts to an AEPA Member Agency that exceed \$10,000 may be terminated by the federal grantee for noncompliance by the Vendor Partner. In projects that are not federally funded, Bidder must agree to meet any federal, state or local requirements, as necessary. In addition, if compliance with the federal regulations increases the contract costs beyond the agreed on costs in this solicitation, the additional costs may only apply to the portion of the work paid by the federal grantee. On all other projects, the prices must agree with this contract. Vendor Partner shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C.) 187 [h], and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et. Seq.); and, Executive Order 11738 and Environmental Protection Agency (EPA) regulations (40 CFR Part 15), which prohibit the use under non-exempt federal contracts, grants, or loans of facilities included in the EPA list of violated facilities

Force Majeure: Except for payments of sums due, neither party shall be liable to the other, nor be deemed in default under this contract, if, and to the extent, that such party's performance of this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence, including, but not

limited to the following: acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; blizzards; earthquakes; tornadoes or violent winds; hail storms; lockouts; injunctions-intervention-acts, or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure, which such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence when the party declaring it notifies the other party of the existence of the force majeure, and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with the contract. Force majeure shall not include late deliveries of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences. If either party is delayed at any time by force majeure, the delayed party shall notify the other party in writing of such delay within forty-eight (48) hours.

Form of Contract: The form of contract for this solicitation shall be the Invitation for Bid, the awarded Bidder response and properly issued purchase orders and/or contracts in accordance with this Invitation for Bid. If a firm submitting a bid requires AEPA Member Agency and/or Participating Entities to sign an additional contract, a copy of the proposed contract must be included with the bid.

Gratuities: AEPA Member Agency may, by written notice, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Vendor Partner or any agent or representative of the Vendor Partner, to any employee of the AEPA Member Agency with a view toward securing a contract or with respect to the performance of this contract. However, paying the expenses of normal business meals, which are generally made available to all eligible school and government employees, shall not be prohibited by this paragraph. Samples of software, equipment, or hardware provided to the AEPA Member Agency for demonstration, evaluation, or loan purposes are not considered gratuities.

Indemnification: Vendor Partner will indemnify, defend and save harmless AEPA, its Members, Participating Entities, its employees from any and all claims, demands, suits, proceedings, loss, cost and damages of every kind and description, including any attorney's fees and/or litigation expenses, which might be brought or made against or incurred by, AEPA, its Members, Participating Entities, its employees on account of loss or damage to any property or for injuries to or death of any person, caused by, arising out of, or contributed to, in whole or in part, by reasons of any act, omission, professional error, fault, mistake, or negligence of Vendor Partner, its employees, agents, representatives, or Subcontractors, their employees, agents, or representatives in connection with or incident to the performance of this agreement, or arising out of worker's compensation claims, unemployment compensation claims, or unemployment disability compensation claims of employees of Vendor Partner, and/or its Subcontractors or claims under similar such laws or obligations. Vendor Partner's obligation under this section will not extend to any liability caused by the sole negligence of AEPA, its Members, participating Entities, its employees. The liability of AEPA, its Members, Participating Entities or its employees will be subject in all cases to the immunities and limitations of Nevada or the AEPA Member Agency's state laws. Installation: Equipment and items of construction shall be installed in accordance with the manufacturer's instructions, specifications, in accordance with any federal, state, local rules, regulations, codes and the schedule determined by the AEPA Member Agency and/or Participating Entity.

Insurance: Prior to executing a contract with the AEPA Member Agency or a Participating Entity under this solicitation, if required, the Vendor Partner shall procure, maintain and provide certification from insurer(s) for minimal coverage during the life of any resulting contract/agreement, to include but not limited to comprehensive public and/or commercial liability, errors and omissions, workman's compensation, unemployment and other insurance coverage required by and applicable to each AEPA Member Agency state's statutes and federal laws in which proposed products and services will be offered and provided. Evidence of the required insurance for each of those AEPA Member Agencies' state, who indicated an interest to participate in this solicitation, identified in Part B: Specifications by

providing written evidence and/or documentation from your insurer(s) indicating your firm has in place the type and amount of coverage required by each of the states. The Bidder has the sole responsibility to conduct and perform the necessary research to make themselves aware of and to understand each states requirements.

1. **Certificate of Insurance:** The Vendor Partner shall provide, as required, a certificate of insurance for commercial liability insurance naming the AEPA Member Agency and or its Participating Entity as the certificate holder (co-insurer). All insurance policies are to be executed by an insurance company authorized to do business in those AEPA Member Agencies' states participating in this solicitation.
2. **Subcontractor's Insurance:** Prior to commencing any work, any Subcontractor shall procure and maintain, at its own expense until final acceptance of the work, insurance coverage in a form and from insurers acceptable to the prime Vendor Partner. All Subcontractors shall hold the appropriate type and amount of insurance coverage required by the AEPA Member Agency state in which the work is being done and will provide insurance, which waives all subrogation rights against the prime Vendor Partner, AEPA Member Agency and its Participating Entities.

Invalid Term or Condition: If any term or condition of this solicitation and any resulting contract shall be held invalid or unenforceable, the remainder of this solicitation and any resulting contract shall not be affected and shall be valid and enforceable.

Late Bids: Late bids will not be accepted. All bids must be submitted online via Public Purchase by the due date and time of this IFB.

Leases and Rentals: Vendor Partner may allow AEPA Member Agency or Participating Entity to rent, lease or lease purchase. Buyer must receive a copy of the executed leasing documents prior to processing a purchase order. Vendor Partner agrees that leases will be in compliance with the Uniform Commercial Code and the Buyer's individual state laws. All terms of leasing must be included in the bid, with interest rates described as related to a published government standard. Vendor Partner must indicate in their response to this solicitation and in any leasing/rental agreement, all costs (must be itemized) associated with early termination and/or the returning of leased or rented equipment that are the responsibility of the Buyer. No sale of a contract to a third party will be made without informing the Buyer of the transfer. If Vendor Partner sells a lease contract to a third party, the cost of return of the product must not be greater than the cost of return to the original Vendor Partner.

Legal Remedies: All claims and controversies shall be subject to the Procurement Code of the state in which the AEPA Member Agency or Participating Entity resides.

Licenses and Registration: Each state and local jurisdictions in which a transaction may occur may require various types of licenses and/or registrations (business, construction Vendor Partner, etc). Likewise, there are various policies, procedures, rules, regulations, codes and laws that govern such licensing/registration within federal, state and local jurisdictions, therefore, it is the Bidder's/Vendor Partner's responsibility to be aware of, obtain and maintain in current status all federal, state and local licenses, registrations and bonds required for the performance and delivery of any and all products and services offered in its response to this solicitation. It is also the responsibility of the Bidder/Vendor Partner to ensure that any Subcontractors performing under this bid hold and maintain the appropriate licenses/registrations. The Bidder will submit copies of licenses, registration and/or other documentation to substantiate they hold the appropriate licenses/registration required by individual jurisdictions covered by this solicitation.

Liens: All materials and services shall be free of all liens.

Local Public Body: A political subdivision of the state and the agencies, instrumentalities and institutions thereof. Such agencies may include but are not limited to two-year and four-year post-secondary educational institutions, pre-k-12 institutions, counties, cities and municipalities, except as

exempted pursuant to the Procurement Code within each state. Entities within these groups may include but are not limited to political subdivisions, administrative units, councils, commissions, boards and organizations that either by federal, state or local legislative or administrative action or appointment and have been established or given the responsibility and authority to act, conduct and perform various activities on behalf of the federal or state agency or local public body.

Manufacturer's Representative: Dealers, distributors and installers of specialized facility technology, electrical, mechanical systems and equipment, who, if permitted by the Scope of Work, submit an offer as a manufacturer's representative, must be able to provide documented evidence from and/or between it and the manufacturer certifying that the Bidder is a bona fide manufacturer's agent for the specific products/services proposed, the Bidder is authorized to submit an offer on such products/services, and a guarantee that, should the Bidder fail to satisfactorily fulfill any obligations established as a result of the award of contract, the manufacturer will either assume and discharge such obligations covered by warranties or provide for their competent assumption by one or more bona fide representatives for the term of the contract/warranty period. Bidders of software, mechanical devices, electrical products/systems and other commodities that make up systems/networks must be able to provide the same information from a manufacturer.

Modification by Buyer: Vendor Partner shall have no obligation with respect to any patent and copyright infringement claim based upon Buyer's modification of the equipment and/or software, or its operation or use with apparatus, data or programs not furnished by Vendor Partner. However, one Buyer's action will not preclude Vendor Partner's obligation to others not having modified their equipment or software.

Money: All transactions are payable in U.S. currency only. **Multiple Approvals and Awards:** Throughout the United States, AEPA Member Agencies have a large number of Participating Entities who take advantage of and utilize awarded contracts. In order to assure that any issued contract will allow these entities to fulfill current and future needs and requirements, AEPA and its AEPA Member Agencies reserve the right at its discretion to approve and/or award one contract, multiple contracts or no contracts. The actual use of any contract will be at the sole discretion of the AEPA Member Agency or the Participating Entity.

Nonexclusive Contract: Any contract resulting from this solicitation shall be approved and awarded with the understanding and agreement that it is for the sole convenience of the AEPA, its AEPA Member Agencies, their Participating Entities and they reserve the right to obtain like goods and services from another source.

Nonprofit, Non-Public Educational Institutions and other Nonprofit Organizations (Section 501(c)(3) of the Internal Revenue Code, Federal Tax Code): is defined as charitable, religious, educational, public service, support and scientific organizations, entities, corporations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code, or corresponding section of the Federal Tax Code.

Notice: Notices under this solicitation/contract will be in writing and will, for all purposes, be deemed to have been fully given when sent by registered or certified mail, return receipt requested, postage prepaid, email with appropriate verification, properly addressed to the respective parties as specified herein or at such other address as may be specified by either party from time to time.

Novation: If the original Vendor Partner sells or transfers all assets or the entire portion of the assets used to perform this contract, a successor in interest must guarantee to perform all obligations under this contract. AEPA and its AEPA Member Agencies reserves the right to recommend approval, acceptance or rejection of the new party. A simple change of name agreement will not change the contractual obligations of the Vendor Partner.

Ordering Procedures: AEPA has established a standard and special ordering process as defined below. Additionally, some AEPA Member Agencies also prefer or utilize electronic ordering as the method for the transactions. For details on the ordering processes utilized for each AEPA Member Agency, please reference the Summary of State General Overview.

1. **Standard Ordering Process:** Buyer will select items for purchase from provided published catalog/price list or Vendor Partner will issue a quote upon request; the vendor will also send a copy of their quote to the state AEPA Member Agency for all construction related bids. Buyer will prepare and issue a purchase order to the Vendor Partner based on the product catalog, pricelist or Vendor Partner's quote. Vendor Partner will deliver and invoice the Buyer; Buyer will acknowledge delivery and acceptance by issuing the Vendor Partner payment. Vendor Partner, based on the agreed to process, will report and submit payment for the AEPA Member Agency's administrative fee to the AEPA Member Agency (quarterly). Vendor Partner shall provide the transaction and volume reporting in the AEPA report format.
2. **Special Ordering Process:**
 - a. Buyer will select items for purchase from provided published catalog/price list or Vendor Partner will issue a quote upon request;
 - b. Buyer will prepare and issue a purchase order to the AEPA Member Agency based on the product catalog, pricelist or Vendor Partner's quote;
 - c. Vendor Partner will deliver the goods and/or service to the Buyer and will invoice the AEPA Member Agency;
 - d. AEPA Member will invoice the Buyer and add their administrative fee to the invoice price;
 - e. AEPA Member will pay Vendor Partner for the goods and/or service once the Buyer has confirmed acceptance.
 - f. Vendor Partner shall provide the transaction and volume reporting as stipulated on a quarterly basis in the AEPA report format.
3. **Electronic Ordering (Optional by AEPA Member Agency):**
 - a. When a Vendor Partner based online ordering system is available, the following functionality is preferred:
 - b. Electronic ordering systems shall be secure and password protected. Entering the system with the designated password shall automatically send the user to AEPA contract pricing.
 - c. When the Buyer requires purchase orders, electronic ordering system shall require entry of a purchase order number, credit card or purchasing card prior to accepting an order.
 - d. Electronic ordering systems shall block excluded items not covered by the AEPA contract from any order.
 - e. Electronic ordering systems shall automatically assign correct contract prices to applicable orders.
 - f. Electronic ordering systems that list catalog price and AEPA discounted price.
 - g. Electronic ordering systems shall track orders and purchases covered by the AEPA contract for reporting and audit purposes. Vendor Partner shall provide the transaction and volume reporting in the AEPA format.
 - h. Electronic ordering systems' pricing shall include the AEPA Member Agencies administrative fee required by the AEPA Member Agencies.
 - i. Electronic ordering systems that allow AEPA Member Agencies to print an archived (historical) copy of a Buyer's order.

Order of Precedence: In the event a conflict occurs the following order of precedence shall prevail:

1. Member Agency Specific terms and conditions
2. Specifications and scope of work
3. General terms and conditions
4. Attachments and exhibits
5. Documents referenced or included in the solicitation

Overcharges by Antitrust Violations: Member Agency maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the Buyer. Therefore, to the extent permitted by law,

the Vendor Partner hereby assigns to the Member Agency any and all claims for such overcharges as to the goods or services used to fulfill the contract.

Parole Evidence: This contract represents the final written expression of agreement. All agreements are contained herein and no other agreements or representations that materially alter it are acceptable.

Participating Entity: Those Public and Private School Districts, Educational Service Agencies, Intermediate School Districts, Higher Education Institutions, Federal Agencies, State Agencies, Local Public Bodies and Nonprofit Non-Public Corporations, Organizations, other entities contracted to conduct business on behalf of a participating entity provided they are required to follow member state and local procurement regulations, etc. that have authorizations to utilize the AEPA Member Agencies' Awarded Contracts.

Patent and Copyright Indemnification: To the extent permitted by law, Vendor Partner shall indemnify and hold harmless Member Agency and its Participating Entities against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of contract performance or use by Member Agency and its Participating Entities of materials furnished or work performed under this contract. Member Agency and its Participating Entities shall reasonably notify Vendor Partner of any claim for which it may be liable under this paragraph.

Piggy Back Contracts: In the event a new Member Agency joins AEPA, the Member Agency may elect to award any and all existing contracts if permissible by their State laws.

Prevailing Wage: Where applicable, the Vendor Partner must comply with prevailing wage legislation in effect in the jurisdiction of the awarding AEPA Member Agency.

Pricing: AEPA has identified and stipulated the type of bid and the pricing methodologies that are to be utilized to price and submit bid prices. The Vendor Partner agrees that the cost for any item bid or offered on this contract will be uniform for all states, and that any differences in pricing are due to state specific installation and labor costs, AEPA Member Agency's Administrative Fee, or other approved reasons. The Bidder must provide their pricing as requested utilizing the various pricing methodologies specified. **The Bidder/Vendor Partner must agree that they will not offer or provide a better price to any individual entities or cooperatives with equal or lesser volume than that through AEPA.** Please note the following that relate to pricing:

1. **Primary Pricing Strategies:** All Bidders will be required to submit "Primary Pricing" in the form of either "Catalog Pricing" or "Line-Item Pricing" or a combination of these two pricing strategies as defined in Part B, bid specifications. Bidders are also encouraged to offer OPTIONAL pricing strategies including "Hot List" and "Volume Discounts".
 - a. **Catalog Pricing:** Catalog pricing is utilized when the products and/or services solicited are clearly identified with set and specific characteristics, attributes and configurations that are identifiable as a stand-alone single unit and can be listed and priced as a single unit with options that can be added to enhance and/or improve its operation and functionality. The Bidder offers a fixed discount(s) off retail price, catalog price, published price or list price. The discounts may be for the entire commercially available catalog, for specific products, product lines, manufacturers or category of products as determined by the Bidder.
 - i. **Discounts:** Discount offers must clearly identify percent of discount to apply to a commercially available catalog, manufacturer, MSRP, retail or nationally published price lists. Bidders shall identify and stipulate if the discounts apply to the entire catalog/price list, specific product lines, manufacturers and/or categories of products. Bidder shall agree that there will be no reduction in discount(s) during the term of the contract.

- ii. **New Catalogs/Price Changes:** New catalogs and corresponding nationally published price lists may be submitted throughout the term of the contract and shall be submitted to the AEPA Category Committee for review prior to release to all AEPA Member Agencies. Prices may change based on manufacturer's price changes, new published pricing or price lists, but the original discount bid shall remain firm for the duration of the contract.
 - iii. **Core List:** In a Catalog Priced bid, a category (i.e. office supplies) may include a "core list" which contains a selection of the most commonly used products/services with the expectation that a deeper discount would be bid for these items. If a new catalog and price list is published during the contract term, the original discounts shall be applied to the new published prices to establish the AEPA price for these core items.
 - iv. **Product Addition/Discontinuation:** New products, within the same scope of work, may be added at the established percentage discounts at any time. Discontinued products may be dropped at any time during the year. In the event a Core item is discontinued by the manufacturer during the term of the contract, Vendor Partner is required to add a functionally equivalent substitute at the same discount structure.
- b. **Line-Item Pricing:** Line-item pricing is utilized when products and/or services that are broken down in detail by element, component, product categories, product type and each product and/or service is presented as an individual item which needs to be combined with other items to make up a final project or solution. The Bidder offers firm pricing for specific line items in response to this bid; a project's cost is derived by the Vendor Partner preparing and providing a quote based on the project's terms, conditions and requirements based on the line item pricing provided in the bid. The information provided in this bid for each item includes: Product Category, Product Description, Manufacturer, Manufacturer SKU, Vendor SKU, Unit of Measure, Item List Price, AEPA Bid Price.
- i. **Fixed prices:** Prices bid shall be firm until each anniversary date of contract, unless there is an occurrence of one or more economic price adjustment contingencies outlined in the bid. Fixed price offers shall include prices for any and all items.
 - ii. **Routine Price Adjustments (Without Economic Price Adjustment):** Vendors may request adjustments to the prices by submitting a fully documented written request to the AEPA Category Committee Chairperson. The request must specifically detail and document the cause and/or reason for price changes and include any supporting documentation (manufacturer's letter, indexes, etc.). All price changes require approval by the AEPA Category Committee and Member Agencies.
 - iii. **Unpredictable Economic Price Adjustment:** If economic price adjustment contingencies occur, Vendor Partner may submit a fully documented request (manufacturer's letter, indexes, etc.) for price adjustment to AEPA Category Committee for review and approval by the committee and the AEPA Member Agencies. The documentation must substantiate the cause and/or reason for the requested price increase and demonstrate that it was unpredictable at the time of bid submittal and/or contract renewal and out of the Vendor Partner's control. Pricing will take effect thirty (30) days after approval and acceptance.
 - iv. **New Products/Services:** Vendor Partner may submit new products or technologies that are within the original scope of work for the bid, to be added to the contract pending review and approval of the AEPA Category Committee. Requests should be submitted to the AEPA Category Committee for review and written approval.
- c. **Automated System for Pricing (ASP):** The method consisting of an ASP and/or software application (e.g. RSMeans) that is self-contained and consists of a turn-key solution that includes a complete line-item listing of all of the products, supplies, materials, equipment, services, accessories and options with their description, specifications, terms, conditions and associated pricing for each item, sub-assemblies and/or assemblies. The Bidder provides a percent of discount or fixed multiplier/factor to be applied to total project cost to allow for

individual state conditions and requirements and to arrive at the AEPA price.

- d. **RSMeans (Construction Related Bids only):** It is important for Vendor Partners to breakout all costs (quantity and price) of all items listed under RS Means or an Alternative Pricing method. This includes all quoted items not on the approved AEPA bid submittal. The following are minimum requirements for using RSMeans for quoting projects to AEPA Member Agencies:
- i. The Contractors must use the current year and standard cost data. Only the following cost data titles will be excepted:
 - a. Building Construction Cost Data Book
 - b. Facilities Construction Cost Data
 - c. Facilities Maintenance & Repair Cost Data
 - d. Site Work & Landscape Cost Data Book
 - ii. All work proposed under RSMeans must use RSMeans format, even if subcontractors are used.
 - iii. An RSMeans spreadsheet must be submitted to substantiate the quote given to the AEPA Member Agency. The spreadsheet columns must reveal the full RSMeans number and a sufficient amount of the description. This also applies to change orders.
 - iv. Pricing must be done by Location codes. National Average will not be allowed. In order to choose the "closest" location code, the first three (3) numbers of the zip code will be used to determine the city location index in the AEPA Member Agency State.
 - v. The AEPA contract holder factor, bonding cost, AEPA discount and taxes if applicable must be shown as separate line items at the bottom of the RSMeans spreadsheet. This information can be shown on a separate summary sheet. The summary sheet must start with the RSMeans spreadsheet total and show the detail for each of the items stated above. This detail will be provided to that AEPA State Agency and the AEPA Buyer as required.
 - vi. All change orders which list items covered by RSMeans must be supported by an RSMeans spreadsheet.
- e. **Alternative Method of Costing:** This method covers any product and/or service not covered by catalog pricing, published price list, line-item price list, automated system for pricing, or is a product and/or service due to the projects or applications specifications, conditions and /or requirements that need to be custom designed, developed, manufactured and/or produced to meet the requirements of an individual, project or sole source. The alternative pricing is calculated as follows:
- i. The Bidder must prepare, issue and receive three written quotes from available suppliers and select the supplier that offers the products and services that meet the stipulated requirements and specifications, offers the best value, and the most cost effective solution. All quotes must be made available upon request.
 - ii. The Bidder must indicate the percent of overhead and /or markup as part of their response to be added to these costs to obtain the normal and customary retail price.
 - iii. The AEPA price is calculated by taking the product and services to cost to the Contractor plus the indicated percent of profit/overhead to equal the normal and customary retail price. The Contractor will then subtract the approved AEPA discount to obtain the AEPA price. Example: item cost \$1,000; percent of profit/overhead of 20% equals retail price of \$1,200; less the AEPA discount of 10% or \$120 equals the AEPA price of \$1,080.
2. **Secondary Pricing Strategies (Catalog Bids only, see Part B for category designation):** Bidders are required to offer Customized Price Lists (Catalog Bids ONLY) and encouraged to offer Hot Lists and Volume Discounts as follows:
- a. **Customized Price List:** Bidders are required to offer customized price lists to Participating Entities for items within the Bidder's Commercially Available Catalog for Catalog Bids ONLY (not pertinent to Line Item Bids). Customized price lists shall be allowed under the following

conditions:

- i. Items within the Vendor Partner's Commercially Available Catalog may be included on the customized price list providing they are not already on the Core Item list.
 - ii. Items are to be determined by the Participating Entity; Vendor Partner may object to up to ten (10) of the suggested items proposed by the customer and must offer substitutes until an agreement of the customized list is reached.
 - iii. Items on the customized price list shall be sold with an additional discount (deeper than what was originally bid on the non-core or catalog discount)
 - iv. Items may not include special order or customized service products unless agreed to by the Vendor Partner.
- b. **Hot List Pricing:** Bidders are invited, at their option, to offer a selection of products/services, defined as a Hot List, at greater discounts than those listed in the standard catalog or core list discounts. Special, time-limited reductions are permissible under the following conditions: The price reduction is available to all AEPA Member Agencies equally. The price reduction is for a specific time period, no less than thirty (30) days. May be used to discount and liquidate close-out and discontinued products/services as long as those items are clearly labeled as such. The original price for products/services is not exceeded after the time limit. The AEPA Category Committee and all AEPA Member Agencies shall be notified of any special or time limited price reduction. New prices must be on record fifteen (15) days prior to any offer of the new prices being proposed or offered to AEPA Member Agencies and Participating Entities. Pricing for all Hot List items must be updated on the Vendor Partner's online catalog and submitted to all AEPA Member Agencies in an electronic format that can be posted to websites, emailed and shared with Participating Entities/Buyers.
- c. **Volume Price Discounts:** Bidders are encouraged to offer additional pricing discounts that may be offered for a group of agencies in a local geographic area that desire to combine requirements (one time purchase or annual spend), i.e. local city, county, school district(s), etc. and/or for large one time purchases. Additional volume price discounts are permissible under the following conditions: Discounts should be tiered and based on spend ranges as established by the Bidder on the Pricing Forms. Volume determination shall be determined between the Vendor Partner and the individual Buyers on a case-by-case basis. All additional discounts are to be offered equally to all AEPA Member Agencies and Participating Entities and be based on the Volume Price Discounts originally bid providing the same or similar volume commitment, specific needs, terms and conditions, a similar time frame, seasonal considerations and provided the same manufacturer support is available to the Vendor Partner.

Prime Vendor Partner: For the purpose of this bid, a Vendor Partner will be considered a prime Vendor Partner and not a Subcontractor. Any Vendor Partner paid directly by the AEPA Member Agency or Participating Entity is a prime Vendor Partner; a Vendor Partner pays a Subcontractor. Prime Vendor Partners using Subcontractors are responsible for all actions of its Subcontractors.

Procurement Code: All Bidder/Vendor Partner's must make themselves aware of and comply with all federal, state, and local statutes and regulations.

Products and Services

1. **Product Line:** If applicable, contracts will be awarded to Bidders able to provide their complete product line(s) of commodities, supplies, equipment, software and services that meets the scope of work and specifications of this solicitation. Bidders with a published, priced catalog may submit their entire catalog; AEPA reserves the right to select or reject products within the catalog for recommendation without having to award all the contents.
2. **Serial Numbers:** Bids must be for equipment on which the original manufacturer's serial number has not been altered in any way.

3. **Current Products:** All bids shall be for commodities, supplies, equipment, supplies and software in current production; meet or exceed commercial and industry standards; and marketed and provided nationally to the general public and/or educational/governmental agencies.
4. **Construction Products and/or Services:** Are associated with building, erecting, altering, repairing, installing or demolishing in the ordinary course of business any: (1) road, highway, bridge, parking area or related project; (2) building, stadium or other structure; (3) airport, subway or similar facility; (4) park, trail, athletic field, golf course or similar facility; (5) dam, reservoir, canal, ditch or similar facility; (6) sewage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility; (7) radio, television or other tower; (8) shaft, tunnel or other mining appurtenance; (9) electrical wiring, plumbing or plumbing fixture, gas piping, gas appliances or water conditioners; (10) air conditioning conduit, heating or other similar mechanical work; or similar work, structures or installations; (11) leveling or clearing land; (12) excavating earth; (13) drilling, wells of any type, including seismographic shot holes or core drilling; and similar work, structures or installations.
5. **Services:** Are defined as the furnishing of labor, time or effort by a Vendor Partner not involving the delivery of a specific tangible product other than reports and other materials which are merely incidental to the required performance.
6. **Professional Services:** Services relating to architects, archeologists, engineers, surveyors, landscape architects, medical arts practitioners, scientists, management and systems analysts, certified public accountants, registered public accountants, lawyers, psychologists, planners, researchers, educational specialist, construction managers and other persons or businesses providing similar professional services, which may be designated as part of this solicitation.
7. **Peripheral & Optional Items:** Bidder can include various peripheral products, equipment, accessories, services, deliverables and related items that are associated with and function with the primary offering. Optional equipment or products may be added to the contract during the term of the contract. AEPA reserves the right to accept or reject such offerings under the following conditions: the enhancement is recommended by AEPA and approved by the Member Agency; the option is priced at a discount similar to other options; and the option is an enhancement to the unit.
8. **Descriptive Literature and Brand Names:** All bids are to include a complete set of the manufacturer's descriptive literature regarding the commodities, supplies, materials, equipment and software offered. Brand names, trade names and/or catalog numbers used in the solicitation will be intended to describe and identify the type, level and quality of products, equipment and software being requested.
9. **Discontinued Products:** If a product or model is discontinued by the manufacturer, Vendor Partner may substitute a new product or model if the replacement product meets or exceeds the specifications and performance of the discontinued model and if the discount is the same or greater than the discontinued model.
10. **Product Specifications:** This solicitation is designed to enable a Bidder to satisfy a requirement for a commodity, supply, material, equipment, software, process, or service. A specification may be expressed as a standard, a part of a standard, or independent of a standard; by specifying a manufacturer's brand and model. No specification is intended to unnecessarily limit competition by eliminating items capable of satisfactorily and/or meeting the actual needs of the procurement. When a brand name product is specified and is only available for a single source, Bidders are encouraged to offer alternative products which they believe to adhere to and comply materially, functionally and operationally equal to or better than the brand name product specified. Any Bidder believing a specification is unnecessarily restrictive, shall indicate such in the form of a question during the solicitation process and prior to bid due date. The fact that a manufacturer or supplier chooses not to produce or supply the commodity, supply, material, equipment, software or services to meet these specifications will not be considered sufficient cause to adjudge these specifications as restrictive. If the Bidder deviates from these specifications, reasons must be stated for such deviation and state why, in their opinion, the commodity, supply, material, equipment, software or services they bid will render equivalent reliability, coverage, performance

and/or service. Failure to detail all such deviations may comprise sufficient grounds for rejection of the entire bid.

11. **Quality:** Unless otherwise modified elsewhere in this solicitation, Vendor Partner warrants the commodities, supplies, materials, equipment, and services delivered as stipulated in the Buyer's purchase order/contract, shall be: of a quality to pass without objection in the industry and professional standards normally associated with them; fit for the intended purpose(s) for which they are used; of even kind, quantity and quality within each unit and among all units, within the variations permitted by the contract; adequately offered, presented, delivered, accomplished and complete as the contract may require; and conform to the written promises and/or oral affirmations of fact made by Vendor Partner.

Product Information, Catalogs and Price Lists: Bidders shall include an electronic copy of the latest edition of the commercially available catalog and price lists that the discount will be applied to with the bid response. Throughout the term of the contract, Vendor Partner(s) shall furnish all AEPA Member Agencies and their Participating Entities with copies of approved commercially available catalogs and price lists in the format desired (electronic, paper, online shopping cart, etc.).

Progress Payments: Progress payments are allowed on purchases for goods and services under the following conditions: The Buyer and the Vendor Partner agree to the terms of the progress payments prior to issuing a purchase order; the purchase order describes the amounts to be paid and the date of payment; the Buyer has a satisfactory method of verifying progress described in writing in a letter or on the purchase order; that payments will only be made when actual goods and/or services are verified/received; and that any such payments be made in full compliance of Buyer's local board rules and any and all other applicable state rules and regulations.

Protests: Under this public procurement and AEPA's Solicitation, any Bidder who is aggrieved in connection with this procurement, can file a protest in accordance with (1) AEPA's Solicitation Document; (2) AEPA's Policies and Procedures; and (3) AEPA Member Agency's State Procurement Code and Board Policies. Venue for any and all legal actions regarding or arising out of the transactions covered herein shall be solely in the court of jurisdiction located in the state and county of the AEPA Member Agency and will govern any resulting transactions.

1. **Procurement Phases:** AEPA's solicitation process is broken down into three (3) phases. Any Bidder who is aggrieved in connection with any of the three (3) procurement/solicitation phases listed below and/or any functions or activities associated with each shall file their protest with the AEPA representative indicated below.
 - a. **Bid Due Date:** The preparation and contents of the solicitation, its terms, conditions and specifications, the notification, distribution of solicitation documents and addendums (date published through the bid due date and time).
 - b. **AEPA Approval:** The receiving, opening, recording, evaluating, recommending and approving Bidders to be considered for AEPA approval and/or actions relating to contract renewal and extension. (Date received and opened through date of individual contract award and future renewals).
 - c. **Contract Award:** The awarding, implementing and administering of resulting contracts and the disclosure of confidential data. (Date individual contracts awarded by AEPA Member Agencies or 120 days from AEPA approval).
2. **Protest contents:** Protests shall be in writing and must be filed with the appropriate AEPA represented below. A protest must include:
 - a. The name, address and telephone number of the protester;
 - b. The original signature of the protester or its representative;
 - c. Identification of the procurement function and/or contract activity with the solicitation or the contract number;
 - d. A detailed statement of the factual grounds or legal basis for the protest;
 - e. Supporting exhibits, evidence or documents to substantiate any claim unless not available within the filing time, in which case, the expected availability date shall be indicated; and

- f. The form of relief requested.
3. **Protest Submittal:** Protester shall submit the bid protest in accordance with the requirements of the above three (3) procurement functions immediately or within ten (10) days of the date the protester knows or should have known the basis of the protest per the following:
 - a. Bid Due Date: Knows or should have known the basis of the protest upon the bid due date or ten (10) days after the bid due date, send protest to Bid Question Coordinator (bid-committee@aepacoop.org).
 - a. AEPA Approval: Knows or should have known the basis of the protest upon notification from AEPA of the bid category approval, send protest to AEPA President (protests@aepacoop.org).
 - b. Contract Award: Knows or should have known the basis of the protest or ten days after the notification from the AEPA Member Agency award, send protest to Individual AEPA Member Agency; see AEPA Member Agency information sheet.
4. **Protest Resolution:** Protest shall be resolved, in accordance with AEPA's Board Policies, Procedures and/or the appropriate state statutes where the AEPA Member resides. It is the intent of AEPA that all bid protest decisions from the point a bid has been published through contract approval or rejection, will be resolved by AEPA. Bid protests concerning contract award by AEPA Member Agencies will be resolved by the respective AEPA Member Agency.
5. **Protest Costs:** The losing party to the protest shall be responsible for the reasonable and justifiable costs of the protest. The protest costs shall be based on the costs and expenses incurred by the AEPA and its Member Agencies, including but not limited to staff salaries, attorneys' fees, hearing, reproduction, transcription and travel costs.

Provisions Required by Law: By submitting a response to this solicitation, bidders are acknowledging they have conducted and performed the required research to make themselves aware and knowledgeable of all federal, state and local laws/statutes that are referenced herein, may pertain to and/or govern the procurement activities and transactions covered by this bid. These provisions of law and any clause required by law that is associated with and relates to this bid and any resulting contract will be read and enforced as though it were included herein.

Public Purchase: An easy-to-use platform that provides Bidders with the automatic notification of open solicitations, automatic notification of answered questions and issued addenda, and a way to electronically submit an organization's solicitation response. All changes, updates, uploads, and downloads are time stamped and logged as part of the solicitation process.

Public Record: All bids submitted to this invitation shall become the property of the AEPA and will become a matter of public record, available for review, subsequent to the bid due date. Bids may be viewed, by appointment only, at the Oakland Schools, 2111 Pontiac Lake Road, Waterford, MI 48328, under the supervision of the AEPA Executive Director or his/her designee, from 8:30 a.m. to 3:30 p.m., Monday through Friday. Within fifteen days, the Bid Receipt Summary Report will be posted to the AEPA website (www.aepacoop.org).

Questions: Inquiries and questions related to this solicitation, must be submitted online in Public Purchase per IFB and be submitted as follows:

1. From the time the solicitation is published until the deadline for questions for Bidders, questions should be submitted online via Public Purchase.
2. From the time bids are opened but prior to the approval of the contract by AEPA, questions should be submitted to bid-committee@aepacoop.org.
3. After notification of AEPA contract approval, questions should be submitted via email to questions@aepacoop.org.
4. Once a contract has been awarded by an individual AEPA Member Agency any inquiries and questions relating to contract implementation, execution, transactions and/or concerns/issues occurring within that state should be addressed to the individual AEPA Member Agency.

Reporting: Vendor Partners are required to submit quarterly detailed sales reports to all AEPA Member Agencies. Access to reports will be granted after contract approval. If there are no sales, \$0 reports are required.

Right to Assurance: Whenever one party to this contract in good faith has reason to question the other party's intent to perform, he/she may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within ten (10) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

Right to Request Additional Information: AEPA, and its respective bid representatives, reserves the right to request any additional information during the procurement process that might be deemed necessary to better understand the submitted bid response including, but not limited to, clarifying questions. Bidders may be requested to submit such answers in writing but will not be allowed to change or alter their bid.

Safety Measures: Vendor Partners shall take all necessary precautions for the safety of employees on the worksite, and shall erect and properly maintain at all times, as required by job conditions and progress of the work, all necessary safeguards for the protection of the workers and public. They shall post danger-warning signs against the hazards created by their operation and work in progress. Proper precautions shall be taken pursuant to state law and standard construction practices in order to protect workers, the general public and existing structures from injury or damage.

Safety Standards: All items supplied on this contract shall comply with the current applicable Occupational Safety and Health Standards, the National Electric Code, and the National Fire Protection Association Standards.

Severability: The provisions of this contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the contract that may remain in effect without the invalid provision or application.

Substance Use & Conduct: All Vendor Partners and Subcontractors must adhere to local substance (alcohol, drug, smoking, etc.) and conduct (dress code, language, parking, etc.) policies while on AEPA Member Agencies and Participating Entities premises.

State Agency: means any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of this state.

Survival: All applicable software license agreements, warranties or service agreements that were entered into between Vendor Partner and Buyer under the terms and conditions of the Contract shall survive the expiration or termination of the Contract. All Purchase Orders issued and accepted by Vendor Partner shall survive expiration or termination of the Contract.

Suspension or Debarment Status: If within the past five (5) years, any Bidder has been barred, suspended or otherwise lawfully precluded from participating in any public procurement activity with a federal, state or local government, the Bidder must include a letter with its response or bid setting forth the name and address of the public procurement unit, the effective date of the suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. Any failure to supply such a letter or to not disclose in the letter all the pertinent information may result in the cancellation of any resulting contract. By signing the bid section, the Bidder certifies that no current suspension or debarment exists.

Tare: If the Vendor Partner requires the Buyer to pay for shipping, the weight of the empty container and any material used for packing shall be of the lightest weight practical for safe delivery of the contents.

Taxes: Different jurisdictions taxing authorities have different tax laws, rules, regulations and processes, therefore, prices offered will not include applicable federal, state and local taxes. All applicable taxes must be listed as a separate item on all cost proposals, invoices.

Term of Contract and Extensions: The initial term of the contract shall be for up to fifteen (15) months and will commence on the date as indicated by each Participating Member Agency on the Acceptance of Bid and Contract Award (Form B). The contract shall continue in accordance with the dates stipulated in the Bid and Timeline schedule located in Part A of this bid unless terminated, cancelled or extended. By mutual written agreement, the contract may be extended for three additional 12-month periods, ending on the last day of February. AEPA may choose to recommend the contract extension. If so recommended, an individual Member Agency may choose, at their sole discretion, to extend the contract. In the event AEPA does not recommend or approve a contract extension, a Member Agency reserves the right to offer month-by-month extensions not to exceed six (6) months until a new contract is awarded by that Member Agency.

Termination by Non-Approval of AEPA: AEPA Member Agencies on annual basis assess, evaluate and review existing AEPA vendors to determine if the organization as a whole desire to extend its approval of those vendors. If an existing AEPA vendor's approval is not extended for an additional term, the AEPA Member Agencies can not extend the dis-approved vendor's contract. (See Term of Contract and Extensions)

Termination by AEPA Member Agency: An AEPA Member Agency may cancel any contract secured by the solicitation without any further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract on behalf of the AEPA Member Agency is or becomes, at any time while the contract or any extensions of the contract is in effect, an employee of, or a consultant to any other party to this contract with respect to the subject matter of the contract. Such cancellation shall be effective when the parties to this contract receive written notice from the AEPA Member Agency unless the notice specifies a later time. Cancellation by one AEPA Member Agency does not require other Agencies to cancel their contracts.

Termination for Convenience: AEPA Member Agency reserves the right to immediately terminate this contract, without penalty or recourse, in whole or in part, if the AEPA Member Agency determines that termination is in the best interest of Participating Entities. The Vendor Partner, after receipt of a "Notice of Termination," shall not accept any new orders after the termination date specified in the notice. Any termination shall have no effect on projects that are in progress at the time the cancellation is received by the AEPA Member Agency. Vendor Partner shall be entitled to receive just and equitable compensation in accordance with applicable contract pricing for work in progress, work completed and materials accepted before the effective date of the cancellation. The Vendor Partner will not be reimbursed for any anticipated profit. The AEPA Member Agency reserves the right to cancel, or suspend the use thereof, any contract resulting from this IFB if the Vendor Partner files for bankruptcy protection, or is acquired by an independent third party. Vendor Partner may cancel this contract upon written notice to the AEPA Member Agency prior to the intended termination date (or on the yearly anniversary of the bid). Any termination shall have no effect on projects that are in progress at the time the cancellation is received by the AEPA Member Agency.

Termination for Default: If either party is in default under this contract, it shall have an opportunity to cure the default within the time indicated (ten business days in most states) after it is given written notice of default by the other party, specifying the nature of the default. Upon receipt of the notice of default, the defaulting party shall have ten business days to provide a satisfactory response to the AEPA Member Agency. Failure on the part of the defaulting party to adequately address all issues of concern

may result in contract termination. If the default is not cured within the time specified in the notice of default, the non-defaulting party shall have the right, in addition to all other remedies at law or equity, to immediately terminate this contract. Failure to complain of any action, non-action or default under this Agreement shall not constitute a waiver of any of the parties' rights hereunder. The AEPA Member Agency reserves the right to terminate this contract, or any part hereof, for cause in the event of any default by the Vendor Partner, or if the Vendor Partner fails to comply with any contract terms and conditions, or fails to provide the AEPA Member Agency, upon request, with adequate assurances of future performance. In the event of termination for cause, the AEPA Member Agency shall not be liable to the Vendor Partner for any amount for supplies or services not accepted, and the Vendor Partner shall be liable to the AEPA Member Agency or any Participating Entity for any and all rights and remedies provided by law. If it is determined that the AEPA Member Agency improperly terminated this contract for default, such termination shall be deemed a termination for convenience. The AEPA Member Agency will issue written notice to the Vendor Partner for acting or failing to act in any of the following:

1. The Vendor Partner provides material that does not meet the specifications of the contract;
2. The Vendor Partner fails to adequately perform the services set forth in the specifications of the contract;
3. The Vendor Partner fails to complete the work required or to furnish the materials required within a reasonable amount of time;
4. The Vendor Partner fails to make progress in the performance of the contract and/or gives the AEPA Member Agency reason to believe that the Vendor Partner will not or cannot perform to the requirements of the contract;
2. The Vendor Partner fails to extend lower pricing that has been offered to another customer or cooperative that have equal or lesser volume.
3. The Vendor Partner fails to observe any of the terms and conditions of the contract;
4. The Vendor Partner fails to follow the established procedure for purchase orders, invoices and receipt of funds as stipulated by the AEPA Member Agency.

Termination for Non-Appropriation: Any individual Buyer's procurement/contract covered by this bid and executed in accordance with resulting contract may be terminated if insufficient appropriations and/or authorizations do not exist due to changes in state or federal law, or because of court order, or because of insufficient appropriations made available to the Buyer's governing board and/or its State Legislature. Such termination will be effected by sending fifteen (15) days written notice to the Vendor Partner. The Buyer's decision as to whether sufficient appropriations and authorizations are available shall be accepted by the Vendor Partner and shall be final.

Title and Risk of Loss: The title and risk of loss of material or service shall not pass to the Buyer purchasing the material or services until it actually receives the material or service at the point of delivery, unless otherwise provided within this document.

Trade-in Equipment: Equipment for trade-in shall be dismantled by the Vendor Partner and removed at its expense. The conditions of the trade-in equipment at the time it is turned over to the Vendor Partner shall be the same as when the original agreement was made, except as affected by normal wear and tear from use between the time of the bid and the trade-in. Values placed on trade-in products are between the Buyer purchasing the new unit and the Vendor Partner.

Type of Bids: Due to the various types, kinds and levels of products and services solicited by AEPA in its IFBs; the various pricing methodologies and/or methods utilized and offered to price the various products and services offered; and the type of contracts that results from any one of AEPA's/bids, AEPA has established the following two (2) types of bids.

1. Catalog Bid: A catalog bid is utilized when the products and /or services solicited are clearly identified with set and specific characteristics, attributes and configurations that are identifiable as a stand-alone single unit and can be listed and priced as a single unit with options that can be added to enhance and/or improve its operation and functionality. The Bidder offers a fixed

discount(s) off retail price or prices in a Commercially Available Catalog. The discounts may be for the entire Catalog for specific products, product lines, manufacturers or category of products as determined by the Bidder. See the Pricing section for detailed information on Catalog pricing.

2. Line Item Bid: A Line-item bid is utilized when the products and services solicited cannot be identified or listed as a single unit; consists of a number of different variable and configurations, it is necessary to identify the specific project or application; the end product or solution is made of individually priced elements or components and the end product's or solutions' cost is derived by the Vendor Partner specially prepared and providing a quote based on the project's terms, conditions and requirements. See the Pricing section for detailed information on Line-Item pricing.

Vendor Partner: Bidder who has been approved and awarded a contract for the delivery of construction, tangible personal property, supplies, or services in response to this IFB.

Vendor Partner Contact: Vendor Partner will designate one individual who will represent them to the AEPA, its AEPA Member Agencies during the contract period. This contact person will correspond with each AEPA Member Agency for technical assistance, problems, or questions that may arise. If other staff, distributors and/or independent Vendor Partners will be performing the sales or support functions for different geographical areas (states), Vendor Partner shall include instructions and contact information that can be distributed to AEPA Member Agencies upon approval of this bid.

Warranty: Vendor Partner warrants that all commodities, supplies, materials, equipment, software and service delivered under this contract shall conform to the specifications of this contract. All items should carry a warranty equal to the intended life cycle or a minimum 12-month manufacturer's warranty that includes parts and labor unless otherwise specified and agreed to. The manufacturer has the primary responsibility to honor a manufacturer's warranty; a distributor or dealer agrees to assist the purchaser reach a solution in a dispute with the manufacturer over a warranty's terms. Any extended manufacturer's warranty will be passed on to the Buyer. For example, if a voice board has a three-year warranty, but the board is in a turnkey system that has a one-year warranty, the voice board's three-year warranty must be honored by the manufacturer and the Vendor Partner. All extended warranties must be passed on, without exception. If, upon discovery, the Vendor Partner charges a Buyer for a replacement part that the Vendor Partner actually received at no cost under a warranty, the Vendor Partner will rebate the amount billed and the Buyer reserves the right to cancel the contract.

**PART A -
Instructions and General Terms and Conditions
AEPA IFB #020-A Natural and Synthetic Surfaces for Sport Fields,
Tracks, Courts, Playground and Landscaping Applications**

Notice to Bidders

Sealed bids will be received by the Association of Educational Purchasing Agencies (AEPA) on behalf of its Member Agencies until:

1:30 p.m. ET, Monday, September 16, 2019

For Bids: 020-A Natural and Synthetic Surfaces for Sport Fields, Tracks, Courts, Playground and Landscaping Applications, 020-B Carpet & Resilient Flooring, 020-C Digital Resources & Instructional Materials, 020-D Facility Management Software, 020-E Lawn & Groundskeeping Equipment, Supplies & Services, 020-F Digital Display Solutions, and 020-G Vehicles – Cars, SUVs, Crossovers, Light Duty Trucks, Vans, Police and Public Safety.

Each bid package consists of multiple parts:

- Part A – Terms and Conditions**
- Part B – Specifications**
- Part C – Member Agency (State) Terms and Conditions**
- Part D – Questionnaire**
- Part E – Signature Forms**
- Part F – Discount & Pricing Workbook**

All bids shall be submitted online via Public Purchase by the due date and time listed above. Note that Bidders must be able to provide their proposed products and services in up to 28 states including California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Jersey, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, Texas, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

AEPA bid documents can be downloaded after registering, at no cost, on Public Purchase at www.publicpurchase.com. AEPA and/or the respective Member Agencies reserve the right to reject any or all bids in whole or in part; to waive any formalities or irregularities in any bids, and to accept the bids, which in its discretion, within state law, are for the best interest of any of the AEPA Member Agencies and/or their Participating Entities. Bids will be opened and an opening record will be posted to Public Purchase. Bids will be publicly opened at 1:30 PM ET on September 16, 2019, at Oakland Schools, 2111 Pontiac Lake Road, Waterford, MI, 48328.

Bid & Contract Timeline:

Monday, July 22, 2019	Release of IFBs
Wednesday, August 14, 2019	Pre-Bid Conference Call (optional)
Friday, August 23, 2019	Deadline for questions from Bidders
Monday, September 16, 2019	Deadline for Bid Submittals and Bid Reading via Public Purchase

Friday, October 25, 2019	Contract Recommendations posted on Public Purchase and the AEPA website, www.aepacoop.org
December 2-4, 2019	AEPA Approval of bids
December 9, 2019	Vendor Partner's submit required documentation to Member Agencies
No later than May 1, 2020, to February 28, 2021	Initial contract term (up to fifteen months) – See Term of Contract and Extensions in General Terms & Conditions
March 1, 2021 - 2024	Annual contract renewal dates subject to approval by AEPA

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I. About AEPA

Welcome to The Association of Educational Purchasing Agencies (AEPA) annual bid solicitation. AEPA is a unique school procurement consortium established in 2000, and incorporated in 2007 under the state laws of Nevada. We are consortium of non-profit public agencies representing twenty-eight (28) states. We joined to issue simultaneous Invitations for Bids (IFB) generating sales for vendor partners in forty-nine (49) states. AEPA’s mission is to cooperatively serve our members though a continuous effort to explore and solve present and future purchasing needs. Our goal is to secure multi-state volume purchasing contracts with benefits for our public members that are measurable, cost-effective, and exceed members’ expectations for customer service and value. AEPA is committed to accomplish this mission lawfully and ethically, using leading edge technology and contemporary business practices.

The advantage for vendors to work with AEPA is that you respond to one bid that is legally performed across as many as 28 states, which have the potential to sell nationwide. You are working with up to 28 agencies with a long and trusted history with their public membership. Through our partnerships, AEPA vendors have access to thousands of public agencies across the country. We are a multi-million-dollar procurement group through our current awarded vendors and are growing.

AEPA designates one Member Agency per state that is operating legally under the rules and regulations of that state. Any additional agencies that wish to participate will negotiate with the authorized Member Agency and participate through them in a manner in which they mutually agree is not in conflict with AEPA procedures. The Member Agency will be the only agency allowed to represent that state at AEPA and will be the only communication link between AEPA and that state.

Each Member Agency, along with the awarded Vendor Partner, represents, supports and promotes the AEPA contracts within their respective state. While the consortium was initially created to support educational entities, the Member Agency for each state determines which public entities (higher educational institutions, cities, counties, townships, states, etc.) can utilize the competitively bid contracts (see the Summary of State Participation by Bid Category Table). Participating entities may include Public and Private School Districts, Educational Service Agencies, Intermediate School Districts, Higher Education Institutions, Federal Agencies, State Agencies, Local Public Bodies and Nonprofit Non-Public Corporations, Organizations, other entities contracted to conduct business on behalf of a participating entity provided they are required to follow member state and local procurement regulations, etc. that have authorizations to utilize the AEPA Member Agencies' Awarded Contracts.

AEPA has an elected President, Vice President, Secretary and Treasurer. Operations are overseen by the Executive Director. The AEPA Board representing 28 states meets twice per year, and operates otherwise through a sophisticated committee structure.

AEPA Member Agency Information

State	Agency Name	Contact	Email	Students
California	Monterey County Office of Education d/b/a CalSAVE	Ted Witt	twitt@epylon.com	6,000,000
Colorado	Colorado BOCES Association	John Tillman	jtillman@my.amigo.net	889,000
Connecticut	Capitol Region Education Council (CREC)	Cara Hart	chart@crec.org	538,000
Florida	Panhandle Area Education Consortium	Larche Hardy	larche.hardy@paec.org	2,700,000
Georgia	Cooperative Purchasing Agency	Kevin Benson	kbenson@cpa4schools.com	1,600,000
Indiana	Wilson Education Center	Pam Clover	pclover@wesc.k12.in.us	1,046,026
Illinois	Illinois Learning Technology Purchase Program	Hope Hardin-Borbely	hhardinborbely@iltpp.org	2,001,548
Iowa	AEA Purchasing	Joni Puffett	joni@aeapurchasing.org	510,010
Kansas	Southeast Kansas Education Service Center	Tina Smith	tina.smith@greenbush.org	468,510
Kentucky	Green River Regional Educational Cooperative	Ann Burden	ann.burden@grrec.org	675,000
Massachusetts	The Education Cooperative	Joan Preble	jpreble@tec-coop.org	955,739
Michigan	Oakland Schools	Tim Loock	tim.loock@oakland.k12.mi.us	1,550,802
Minnesota	Cooperative Purchasing Connection	Jeremy Kovash	jkovash@lcsc.org	842,932
Missouri	EducationPlus	Steve Griggs	sgriggs@edplus.org	885,204
Montana	Montana Cooperative Service	Dave Puyear	dpuyear@mrea-mt.org	144,129
Nebraska	Nebraska ESU Cooperative Purchasing	Craig Peterson	Craig.peterson@esucc.org	300,000
New Jersey	Middlesex Regional Educational Services Commission	Pat Moran	pmoran@mresc.k12.nj.us	1,369,000
New Mexico	Cooperative Educational Services	Dotty McKinney	dotty@ces.org	338,307
North Dakota	North Dakota Educators Service Cooperative	Jane Eastes	jeastes@lcsc.org	106,863
Ohio	Ohio Council of Educational Purchasing Consortium	Elmo Kallner	elmo.kallner@epcschools.org	1,700,000
Oregon	Intermountain ESD	Rob Naughton	rob.naughton@imesd.k12.or.us	570,857

Pennsylvania	Central Susquehanna Intermediate Unit d/b/a Keystone Purchasing Network	Jeff Kimball	jkimball@csiu.org	5,700,000
Texas	Region 16 Education Service Center d/b/a TexBuy	Andrew Pickens	andrew.pickens@esc16.net	5,232,065
Virginia	Fairfax County Public Schools	Michelle Pratt	MRPratt@fcps.edu	1,249,000
Washington	King County Directors Association	Dave Mahalko	dmahalko@kcda.org	1,000,000
West Virginia	Mountain State Educational Services Cooperative	Jan Hanlon	jhanlon@k12.wv.us	289,899
Wisconsin	Cooperative Educational Service Agency (CESA) #2	Jane Wray	jane.wray@cesa2.org	873,000
Wyoming	Northeast Wyoming Board of Cooperative Educational Services	Nita Werner	nwerner@newboces.com	91,000

II. Bid Procedures

A. Issuing Agency

The great benefit to the Bidder is that one response may be prepared for approval by AEPA and awarded by multiple AEPA Member Agencies and utilized by their Participating Entities located throughout many states. Bidders responding to this IFB will submit their response in the required formats (PDF, Word, Excel) of all files requested along with complete catalogs via Public Purchase, a free online bidding platform, by the due date and time of this IFB. Bidders selected in response to this single IFB have the potential to provide products and services to local education agencies serving over 36,000,000 (excludes non-represented AEPA states) students.

Each AEPA Member Agency will individually publish notice of the IFB. Bidders will submit their response online, electronically via Public Purchase (www.publicpurchase.com). Responses will be evaluated by bid category committees comprised of AEPA Member Agencies representatives who have indicated they will participate in the category of products and services being solicited, and after AEPA approval, individual AEPA Member Agencies may award contracts to the AEPA Approved Vendor Partners or reject their offers.

The procurement activities of AEPA are limited to document preparation, distribution of the IFB, initial evaluation, and recommendation for possible approval to AEPA Member Agencies. AEPA consists of agency officials who have agreed to assist one another in meeting the public purchasing needs of local school districts and other political subdivisions.

Contracts awarded through cooperative purchasing must meet the procurement laws of the states of each AEPA Member Agency. When these laws are satisfied, an individual entity using these contracts is deemed in compliance with bidding regulations. As allowed by specific state statutes, they can issue purchase orders for any amount without the necessity to prepare their own IFB, Request for Proposal (RFP), or Request for Quotations (RFQ). This saves the entity time and allows for economical and efficient purchasing.

AEPA requires that Bidders only respond if they are able to offer prices equal to or better than what they ordinarily offer to individual entities or cooperatives with equal or lesser volume. State laws that permit or encourage cooperative purchasing contracts do so in the belief that it saves the participants both time and money. Time is saved by having access to volume discounted contracts publicly solicited and being able to purchase what is needed without having to wade through the solicitation process (write solicitation, advertise the IFB, open each response, evaluate and make a selection). Money is saved in procurement cost and lower prices will be the result of volume purchasing. Therefore, a contract issued by a cooperative can be used by hundreds of separate political units; but if it has the same or higher prices than what a single agency or state contract can get through its own bid, a cooperatively bid contract may not be attractive to these members. We request that bidders respond with an advantageous package so that together we can attract members to prefer the cooperatively awarded contract.

The AEPA policy for membership permits new agencies to become AEPA Member Agencies upon approval of existing members. If additional Agencies are added, they and their members may procure from existing contracts upon approval of the awarded Vendor Partners and in accordance with their state laws.

B. Questions

All questions from Bidders must be submitted online through Public Purchase, AEPA will not accept questions in any other format during the bid process. All questions received during the IFB process will be available via Public Purchase. All Bidders will be automatically notified through email when AEPA responds to a question asked by a Bidder. It is the Bidders responsibility to check Public Purchase for any questions and answers prior to the bid deadline. Questions received after the question deadline date will not be answered.

Should AEPA issue an addenda during the solicitation process, all Bidders will be automatically notified through email of the released addenda. AEPA is not responsible for Bidders not acknowledging the issued addenda and not submitting a response according to those changes.

Questions regarding this IFB after Bid Opening, but prior to the approval of the contract, should be submitted to questions@aepacoop.org.

Questions regarding this IFB after Notification of Approval should be submitted to bid-committee@aepacoop.org.

C. Bidder Qualifications

An essential part of the bid evaluation process is an evaluation to qualify the company being considered. All bids must contain answers, responses and/or documentation to the information requested in the Bid Documents. Any Bidder failing to provide the required information/documentation may be considered non-responsive, this includes submitting a response not in the proper format.

Bidders, within their response, must demonstrate their ability, capacity and available resources to provide the proposed products and services to 90% of the AEPA Member Agencies indicating an interest in participating in the categories being solicited, unless otherwise noted in Part B – Technical Specifications of the category being bid. The Bidders are required to communicate and demonstrate within their response they have extensive knowledge, background and at least five (5) years of experience with manufacturing, obtaining, delivering, installing, maintaining and/or supporting the product lines of products, equipment, services or software offered. AEPA and/or its Member Agencies reserve the right to accept or reject newly formed companies or companies failing to demonstrate their abilities or capacity solely based on information provided in the bid response and/or its own investigation of the company.

D. Bid Security

If required, bids shall be accompanied by a satisfactory bid security. This will vary by category and will be noted in Part B, Technical Specifications.

If a bid security is required, a hard copy of the bid security must be in the actual possession of AEPA at Oakland Schools, 2111 Pontiac Lake Road, Waterford, MI 48328, on or prior to the exact due date and time. Original copies of the bid security, must be submitted in a sealed envelope properly addressed to the Association of Educational Purchasing Agencies, with the Bid Number, Bid Category and Bidder's name and address clearly indicated on the envelope or box. Bid securities received late will not be opened and will be deemed non-responsive.

A bidder must also include a PDF copy of the bid security with their response on Public Purchase. If a Bidder fails to submit a copy of the bid security via Public Purchase and/or fails to submit the bid security by the due date and time, its response shall be deemed non-responsive and will not be considered.

An acceptable bid security will have the principal being the Bidder and the Association of Educational Purchasing Agencies listed as the Agency of Record. Bid Security may be a one-time bid bond underwritten by a surety company licensed to issue bid bonds in the state of Nevada and said surety to be approved in federal circular 570 as published by the United States treasury department or the equivalent in cash or an irrevocable letter of credit from a FDIC financial institution. The bid security shall remain in force for one hundred twenty (120) days of bid opening.

E. Bid Submittal

1. Preparation of the Bid Response

- a. The IFB is published in multiple parts. Part A contains the general terms and conditions that apply to all IFB's in the current series of bids. Part B is the technical specifications for the individual bid commodity. Part C includes specific state terms and conditions. Part D, E and F are to be filled out in their entirety and submitted online via Public Purchase in their required formats with the Bidder's response. Some bid categories may contain additional Parts or Forms. All Forms must be uploaded prior to the published bid due date and time of opening.
- b. All bid responses must be on the forms provided by AEPA for each IFB found in Public Purchase, unless otherwise noted. Bidders will submit all documents, in their required formats, online via Public Purchase by the due date and time of the IFB.
- c. Bid Forms requiring signatures shall be submitted by the person authorized to sign the bid response. Failure to properly sign the bid documents will result in the response being deemed non-responsive.
- d. In case of an error in extension of prices in the bid, unit prices shall govern.
- e. Periods of time, stated as a number of days, shall be in calendar days, not business days.
- f. It is the responsibility of all Bidders to examine the entire IFB package, to seek clarification of any item or requirement that may not be clear, and to check all responses for accuracy before submitting a bid. Negligence in preparing a bid confers no right of withdrawal after due time and date.
- g. The Bidders' ability to follow the bid preparation instructions set forth in this solicitation will also be considered to be an indicator of the Bidders' ability to follow instructions should they receive an award as a result of this solicitation. Any contract between the AEPA Member Agency and a Bidder requires the delivery of information and data. The quality of organization and writing reflected in the bid will be considered to be an indication of the quality of organization and writing which would be prevalent if a contract was awarded. As a result, the bid will be evaluated as a sample of data submission.

2. **Document Development:** Bid forms for this IFB are published in Public Purchase, in Word, Excel and PDF formats. Bidders may download the documents once they are registered with AEPA on Public Purchase. All documents must be titled properly and submitted in their required format as noted in the Bid Proposal Checklist. Bidders must scan and upload all documents to Public Purchase following the Bidder's Proposal Checklist, along with any additional documents or files other than those listed below that may be requested and/or related to the this IFB.

- a. **Part C – Member Agency (State) Terms and Conditions:** Some states require additional documentation and signature forms. Review Part C and submit the required state documents with your bid. Submit all state specific forms as one (1) form in PDF format.
- b. **Part D – Questionnaire:** Complete the form provided. The questionnaire seeks information about the Bidder's pricing structure, service areas, past performance and

commerce processes. The Company Information form provides background information on the Bidder's company. Submit the form as one (1) individual form.

- ***NOTE: An attached letter of line of credit from the Bidder's chief financial institution is required unless the company is publicly traded. If the company is publicly traded, a complete Annual Financial Report from the most recent year is REQUIRED.*** Scan the Letter of Line of Credit and/or Annual Report into a PDF document and title as per the instructions. Alternatively, Bidders may choose to send the Letter of Line of Credit and/or Annual Report by email directly to the AEPA Executive Director, George Wilson, at georgewilson.aepa@outlook.com. The Letter of Line of Credit and/or Annual Report must be received by the Executive Director before the due date and time of the bid opening.
- c. **Part E – Signature Forms:** Complete the form provided. The signature form includes multiple areas where signatures are required. Submit the form as one (1) individual form in PDF format.
- d. **Part F – Discount & Pricing Schedules Workbook:** Complete the Excel workbook provided. Title the Excel document as per the instructions in Document Development above. Be sure to complete the required tabs as outlined in Part F.
- **Warranties, Additional Services:** In response to Part F, the Bidder may be asked to provide a price schedule for warranties, or additional services, if applicable. This document is created by the Bidder (it is not provided by AEPA) and should be presented in an Excel workbook and titled as per the instructions in Document Development above.
 - **Additional Discounts:** In response to Part F, the Bidder may select to offer additional discounts/bonuses to AEPA members based on a dollar volume, sizes of orders or other criteria, and must state the formula for arriving at these discounts. This document is created by the Bidder (it is not provided by AEPA) and should be presented in an Excel workbook and titled as per the instructions in Document Development above.
- e. **Price Lists and/or Catalogs:** For catalog bids, PDFs of the Bidder's most recent published catalog(s) or price lists must be included for catalog bids. Each PDF document must be titled as per the instructions in Document Development above.

3. Bid Transmittal

- a. It is the responsibility of the Bidder to be certain that the bid submittal has been uploaded in its entirety to Public Purchase, on or prior to the exact published due date and time.
- b. If required for the category to which you are responding, a hard copy of the bid security must be in the actual possession of AEPA at Oakland Schools, 2111 Pontiac Lake Road, Waterford, MI 48328, on or prior to the exact due date and time. Failure to submit a copy with the response and to send the official bid security to AEPA will result in the Bidder being deemed non-responsive and will not be considered. Bids and bid securities not meeting the due date and time will not be accepted.
- c. If the designated location for receiving the bid security is closed due to an unforeseen circumstance on the day the bid security is due (due date), the bid security will be due at the same time on the next day the building is open. Responsive bids will be opened and the name of each Bidder and other appropriate information will be posted to Public Purchase and the AEPA website.

- F. **Bid Evaluation, Approval and Award:** Bid responses received will be evaluated in accordance with acceptable standards of cooperative purchasing, set forth in and governed by the Procurement Codes of AEPA Member Agency's states; AEPA by-laws, policies and procedures; AEPA Member Agencies' policies and procedures. Approval of prospective Vendor Partners and recommendation of contracts will be made to the lowest responsive and responsible Bidder utilizing the criteria listed in this bid. Contract awards are made by individual AEPA Member

Agencies.

1. **Responsive Bidder:** A responsive bid reasonably and substantially conforms to all material requirements of the solicitation. Bids must be responsive and approved by AEPA to receive award consideration by AEPA Member Agencies. To be determined responsive, the response must meet all of the requirements below:
 - a. Submitted on time.
 - b. Materially satisfy all mandatory requirements identified throughout the IFB.
 - c. Must substantially conform to all of the specified requirements in the IFB in the judgment of AEPA and its AEPA Member Agency representatives.
 - d. Any deviation from requirements indicated herein must be stated, in writing, and included with the bid submittal. Otherwise, it will be considered that bids are in strict compliance with all requirements, and any successful Bidder will be held responsible therefore.
 - e. Deviations or exceptions stipulated in Bidder's response may result in the bid being classified as non-responsive. Language to the effect that the Bidder does not consider this bid to be part of a contractual obligation will result in that Bidder's response being disqualified. Terms of the IFB that any Bidder considers particularly unwarranted, and to which that Bidder would have to take significant exception in his bid, should be stated clearly and concisely as exceptions and/or deviations.
 - f. In preparing a proposal, the Bidder's inability to follow the proposal preparation instructions set forth in this solicitation and its inability to provide written responses, narratives, requested and support documentation relating to the Bidder's qualifications; abilities; capacity; products; specifications; delivery, installation, setup, maintenance; support services and pricing utilized by AEPA evaluators may result in the Bidder's response to be deemed non-responsive.
2. **Non-responsive Bid:** Any bid that does not conform to all material requirements of the solicitation including, but not limited to: bids received after the deadline; bids that do not contain required items and/or provided in the format required, such as proper and/or signed forms, pricing, catalogs, electronic files; bids that do not contain the proper bid bond where required; failure to meet the specified qualifications, product specifications, stipulated documentation or pricing equal to or better than individual entities or cooperatives with equal or lesser volume. AEPA reserves the right to request documents that do not affect pricing, waive minor irregularities, and/or seek clarification following its Board approved procedures. Bids deemed non-responsive bids will not be considered for approval and award.
3. **Responsible Bidder:** A responsible Bidder is a firm or person with the qualifications, capability and capacity to perform the contract requirements with integrity and reliability, which will assure a good faith performance. AEPA's approval of a Bidder's response will make the Bidder available for consideration to the AEPA Member Agencies for contract award. If a Bidder is approved by AEPA, the AEPA Member Agency reserves the right to determine if said Vendor Partner is responsible in their respective state. Factors to be considered in determining whether the standard of responsibility has been met may include but is not limited to whether a Bidder has:
 - a. Submitted a responsive bid;
 - b. The qualifications stipulated herein that may include but are not limited to adequate financial resources, production or service facilities, personnel, service reputation and experience to make satisfactory delivery of the products, services, or construction, described in the invitation for bids to those AEPA member states who have indicated their participation;
 - c. A demonstrated and documented satisfactory track record of performance in the national market place;

- d. A satisfactory record of integrity and a reputation of responding to and meeting educational institutions' needs, adherence of and compliance with federal, state, local and industry standards, rules, regulations and codes;
- e. Quality and suitability of products and services offered to meet and perform to the specifications, expectations and requirements identified in this bid;
- f. Supplied all necessary information and data in connection with determining whether a Bidder meets the standard of responsibility.

4. Cost Evaluation:

- a. Cost and price schedules conform to and provide the information required in Part B – Technical Specifications of this bid;
- b. Pricing offered that is equal to or better than what they ordinarily offer to individual entities or cooperatives with equal or lesser volume;
- c. Methodology used by AEPA and its AEPA Member Agencies to approve prospective Vendor Partners and award contracts;
- d. Line Item Bid: Lowest responsive, responsible Bidder(s); or
- e. Catalog Bid: Lowest responsive, responsible Bidder(s) is/are determined based on the price evaluation criteria; and by a “Core List” and/or by creating a “Market Basket Study” to compare overall pricing between Bidders. A “Market Basket” is a list of items typically purchased by AEPA Member Agencies and their Participating Entities that represent a cross-section of the types of those items purchased. The selection and quantity of line items evaluated will be at the sole discretion of the AEPA evaluators;
- f. The evaluation committee may consider such factors as life-cycle costs, total cost of ownership, quality, and the suitability of an offering in meeting AEPA members' needs.
- g. Based on the cost evaluation, a recommendation will be made to approve a single Bidder or make a multiple Bidder award.

G. Contract Award and Implementation

An AEPA category committee will perform initial bid response review and evaluation and will prepare and make a recommendation to AEPA for its consideration and approval. Those selected Bidders who are approved by AEPA will then be considered by the individual AEPA Member Agencies for contract award. It should be noted that once AEPA has approved the bid response, a Bidder becomes a “Vendor Partner” for AEPA.

Recommendations for approval by AEPA will be posted to Public Purchase and the AEPA website.

Once the approved Bidders have been notified, it is their responsibility to contact those AEPA Member Agencies (up to 28) who had indicated an interest in participating and send Part C (if applicable), Part D, E and F to each of the participating AEPA Member Agencies. Each AEPA Member Agency will review, evaluate and determine which, if any, it will award contracts to.

The approved Vendor Partner and the AEPA Member Agency will hold final contract negotiations, if necessary, to work out state specific details of contract implementation including:

- 1. Acquiring additional information and having discussions on how the awarded contract will be executed.
- 2. Signing the contract with the AEPA Member Agency.
- 3. Jointly develop marketing strategies and a plan for contract roll-out activities to the AEPA Member Agency's Participating Entities (Advertising, flyers, website access, etc.).
- 4. Establish how orders will be processed, handled and reported.
- 5. Contract management: Establish how and by whom the day-to-day contract management will be handled and who will be the AEPA Member Agency's representative.

It is not guaranteed that each AEPA Member Agency will enter into a contract with AEPA approved Vendor Partners. The final decision as to the appropriateness of a contract for a Member Agency rests solely with that AEPA Member Agency.

III. Responsibilities of A Vendor Partner

A. As an approved AEPA Vendor Partner, the following is expected in support of the contract:

1. Designate and assign a dedicated senior-level contract manager (one authorized to make decisions) to each of the Member Agency accounts. This employee will have a complete copy and must have working knowledge of the contract.
2. Train and educate sales staff on what the AEPA cooperative contract is including pricing, who can order from the contract (by state), terms/conditions of the contract and the respective ordering procedures for each state. It is expected that Vendor Partners will lead with AEPA contracts.
3. Develop a marketing plan to support the AEPA contract in collaboration with respective AEPA Member Agencies. Plan should include, but not be limited to, a website presence, electronic mailings, sales flyers, brochures, mailings, catalogs, etc.
4. Create an AEPA-specific sell sheet with a space to add a Member Agency logo and contact information for use by the Member Agencies and the Vendor Partner's local sales representatives to market within each state.
5. On a quarterly basis, complete the sales and administrative fee report (see PDF template) and submit to each Member Agency along with the respective administrative fees to be paid. If there are no sales, a \$0 report is required.
6. Report sales and administrative fees by participating state if requested by AEPA.
7. Have ongoing communication with the Category Committee Chairperson, AEPA Member Agencies and the Member Agencies Participating Entities.
8. Annually attend two (2) AEPA meetings: Annual meeting which is typically in April and the Winter Meeting which is typically the end of November or early December and has historically been held in conjunction with the Association of Educational Service Agencies (AESAs) annual conference. At the Annual meeting, Vendor Partners participate in a round table meeting with each of the AEPA Member Agencies. Vendor Partners that have paid the registration fees can participate in the meetings.
9. Trade show support: Strongly encourage participation in national and local conference trade shows to promote the AEPA contracts such as, but not limited to, the Association of School Business Officials (ASBO), the National Institute of Governmental Purchasing (NIGP), and the National Association of Educational Procurement (NAEP).
10. Increasing sales over the term of the contract with all participating AEPA Member Agencies.

IV. Responsibilities of AEPA Member Agencies

A. In support of the Vendor Partner and respective contract, each AEPA Member Agency should provide the following support:

1. Designate a staff member(s) that will serve as a point person for the AEPA program within that state.
2. Provide a staff member to work collaboratively with the Vendor Partner to determine the best marketing plan for the respective Member Agency state. Marketing efforts may include but not be limited to the education and use of sales force, a website presence, electronic mailings, brochures, mailings, etc.
3. Develop marketing materials for the Member Agency to use that would include representation of the awarded contracts. Materials may include, but not be limited to, a website presence, electronic mailings, sales flyers, brochures, mailings, catalogs, etc. as determined by the respective Member Agency and what works best within their state.
4. Assist the Vendor Partner to jointly market the contract to potential Participating Entities within the state.
5. Work with the Vendor Partner to identify eligible Participating Entities within the state possibly including providing a list of potential customers.
6. Work with the Vendor Partner to identify and help manage costs associated with fulfilling this contract.

7. Attendance at the two (2) AEPA meetings which provides for opportunity to interact with Vendor Partners.

V. General Terms and Conditions for All Agencies

For the purposes of this INVITATION FOR BID, the following terms shall be defined as indicated below, and constitute the general terms and conditions for all AEPA Member Agencies:

Administrative Fee: The percentage of sales that each Vendor Partner pays the Member Agency for sales in their respective state or states that they extend the AEPA pricing to. Administrative Fees shall be paid to each Member Agency on a quarterly basis. See the Summary of State General Overview for the administrative fees by Member Agency (state).

Advertising: Vendor Partner shall not advertise or publish information concerning this contract prior to the award being announced by the AEPA Member Agencies. Once the award is made, the Vendor Partner may advertise to the individual Participating Entities that products/services are available. Vendor Partner shall submit ad copy to the AEPA Member Agency for review and approval prior to issuing the advertisement.

AEPA Bi-Annual Meetings: AEPA holds two general meetings each year: one in the Spring (usually in the months of April or May) and the other in the Fall (currently the week after Thanksgiving). AEPA requires that all successful contract holders attend both meetings and participate in the vendor round tables at the Spring meeting. AEPA request that all vendor partners register in advance and stay at the AEPA official hotel if rooms are available. All registrations for the meetings are required by the official registration due date as announced by AEPA.

AEPA Member Agency: Refers to the entities identified in the table in Part I of this document. Member Agencies participating in a particular bid category are listed on the table presented in Part B - Specifications, Item 3: Anticipated Member Agency Participation. "Direct or Indirect Participation" may include their involvement through the formulation of any part of a procurement activity; the influencing of the content of any term, condition and/or specification; the evaluation, investigation, auditing and/or the rendering, of advice, recommendation, decision, approval, disapproval and the award and implementation of procurement contract. Not every listed entity may elect to participate in this bid once the responses are reviewed and approved.

Affirmative Action: An Affirmative Action Plan, Certificate of Affirmative Action, or other documentation regarding Affirmative Action may be required by AEPA Member Agencies. Vendors must comply with requirements and/or requests for information regarding Affirmative Action by Member Agencies.

Amendment of Bid: A bid may be amended up to the time of opening by submitting a sealed letter to the place where the bids are received as indicated on the front of this solicitation.

Applicable Law: The laws of the state of the respective AEPA Member Agency shall govern any resulting contract of this bid. Suits pertaining to this contract may be brought only in courts in the County and State as prescribed by the AEPA Member Agency. Both parties agree that the Uniform Commercial Code, as adopted by the State of the AEPA Member Agency, shall fully apply. The Vendor Partner shall comply with any and all laws, whether local, state, federal or otherwise, applicable to any aspect of the work to be performed in relation to the resulting contract. It shall be the Vendor Partner's responsibility to identify, make themselves aware of and determine the applicability and requirements of any such laws and to abide by them.

Approval and Awarding of Contract: AEPA and its AEPA Member Agencies reserve the right to approve and award a contract to one Bidder, to make multiple approvals and awards, to reject any or all bids in whole or in part, to waive any minor formalities or irregularities in any bids, and to accept

bids, which in its discretion and according to law may be in the best interest of the AEPA Member Agencies and their Participating Entities. A response to this solicitation is an offer to contract with the AEPA Member Agencies based upon the terms, conditions, and scope of work and specifications contained in this invitation. A solicitation does not become a contract unless and until it is accepted, recommended and approved by AEPA and awarded by the individual AEPA Member Agency. A contract is formed when an AEPA Member Agency administrator and, if required, an AEPA Member Agency Board approves and signs the Acceptance of Bid and Contract Award Form (see Form E) document, eliminating the need for a formal signing of a separate contract.

Assignment: No right or interest in this contract shall be assigned or transferred by the Vendor Partner without prior written permission by AEPA and its AEPA Member Agencies, and no delegation of any duty of the Vendor Partner shall be made without prior written permission by the AEPA Member Agency. AEPA and its AEPA Member Agencies shall not unreasonably withhold approval and shall notify the Vendor Partner within fifteen (15) days of receipt of written notice by the Vendor Partner.

Audit Rights: In accordance with applicable law of the State of the AEPA Member Agency, the Vendor Partner's books and pertinent records related to this contract may be audited at a reasonable time and place.

Authority: This solicitation, as well as any resulting contract/agreement, is issued under the general authority of the State laws of the AEPA Member Agency and those identified within the AEPA Member Agencies' Specific Terms and Conditions, Part C, (see also Procurement Code). Internal or external Cooperative Purchasing Agreements between the AEPA Member Agency and Participating Entities may exist.

Bid Opening: Bids shall be opened in the manner designated in this document.

Bidder/Vendor Partner Definitions:

Bidder, Offeror and Vendor Partner are interchangeable and are used to identify the person(s) or firm(s) submitting a response to an Invitation for Bid.

1. Prospective Bidder: has notified AEPA of a desire to bid by registering on the AEPA website. "Bidder" has submitted a bid to AEPA in response to an Invitation for Bid (IFB).
2. Recommended Bidder: has been approved by AEPA for its AEPA Member Agencies for contract consideration.
3. Vendor Partner: has entered into a contract with a participating AEPA Member Agency or subsequently a Participating Entity.

Bidder Acceptance Period: In order to allow AEPA Member Agencies the opportunity to evaluate the bids, AEPA requires that a bid in response to this solicitation be valid and irrevocable for one hundred twenty-days (120) after opening time and date.

Bonding (required for construction projects): The Vendor Partner agrees to provide all performance and payment bonds executed by a surety company authorized to do business in the individual AEPA Member's state and said surety to be approved in federal circular 570 as published by the United States treasury department, the state or the local governing authority, in an amount equal to one hundred percent of the price specified in the contract; when required by an AEPA Member Agency or Participating Entity at the time a contract is executed. If the Vendor Partner fails to deliver any required performance or payment bonds, the AEPA Member Agency or Participating Entity shall not execute the contract with the Vendor Partner and the appropriate AEPA Category Committee shall be notified of such failure and shall take the appropriate action.

Brand Names: The use of the name of a manufacturer, brand, make or catalog number does not restrict the Bidder. Brand names and model numbers are used to indicate the character, quality and/or performance equivalence of the commodity on which bids are submitted. Bidders may submit alternates. However, the AEPA reserves the right to decide whether alternatives to the identified manufacturer and brand are in fact equal to the product, equipment and/or service described in the invitation. AEPA's decision shall be final.

Buyer: Identifies the AEPA Member Agencies and their Participating Entities that acquire and purchase commodities, supplies, materials, equipment and services under AEPA Member Agencies' awarded contracts.

Captions, Headings and Illustrations: The captions, illustrations, headings and subheadings in this solicitation are for explanation only and in no way define, limit or describe the scope or intent of the request.

Certification: By signature in the bid section of the Contract Award page, the Bidder certifies: the submission of the bid did not involve collusion or other anti-competitive practices; the Bidder shall not discriminate against any employee, or applicant for employment in violation of Federal and State Laws (see Federal Executive Order 11246); the Bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted bid; and the Bidder agrees to promote and offer to AEPA Member Agencies and Participating Entities only those materials and/or services as stated in and allowed under resultant contract(s) awarded.

Christian Doctrine: Any federal, state and local governing authority's/jurisdiction's statutes, codes, rules and regulations referenced and/or govern the products, services and activities relating to and are part of this solicitation, whether or not physically noted or included, shall be complied with and adhered to as required. It is sole responsibility of the Bidder to perform and complete any necessary research and investigation required to make themselves aware of and comply with this item.

Clarification: As used in this solicitation, clarification means communication with a Bidder for the sole purpose of eliminating minor irregularities, informalities or apparent clerical mistakes in the bid. It is achieved by explanation or substantiation, either in response to an inquiry by the AEPA Member Agency or as initiated by the Bidder. Clarification does not give the Bidder an opportunity to revise or modify its bid.

Commercially Available Catalog: A published paper catalog or an online website that is widely distributed or accessible. It is made available to the general public or schools and contains a verifiable price, along with product descriptions, SKU numbers, and photographs. A commercially available catalog is distinct from a custom catalog or website, whose prices and offerings are tailored to niche audiences.

Competitive Range: AEPA and its AEPA Member Agencies reserve the right to establish a competitive range of acceptable responses as part of the evaluation process as defined herein. Responses below the competitive range will be determined to be unacceptable and will not receive further consideration.

Contract Documents: AEPA Member Agency will review proposed contract documents. Vendor Partner's contract document shall not become part of AEPA Member Agency's contract with Vendor Partner unless and until an authorized representative of an AEPA Member Agency reviews and accepts it.

Construction: Each AEPA Member Agency within their state statutes defines what constitutes construction, identifies the policies, rules, regulations and codes that govern construction projects.

AEPA has defined construction as building, altering, repairing, installing or demolishing in the ordinary course of business any road, highway, bridge, parking area or related project; building, stadium or other structure; airport, subway or similar facility; park, trail, athletic field, golf course or similar facility; dam, reservoir, canal, ditch or similar facility; sewage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility; sewage, water, gas or other pipeline; transmission line; radio, television or other tower; water, oil or other storage tank; shaft, tunnel or other mining appurtenance; electrical wiring, plumbing or plumbing fixture, gas piping, gas appliances or water conditioners; air conditioning conduit, heating or other similar mechanical work; or similar work, structures or installations. Construction shall also include: leveling or clearing land; excavating earth; drilling wells of any type, including seismographic shot holes or core drilling; and similar work, structures or installations.

Cooperative Procurement: Some individual state procurement codes may contain cooperative purchasing statutes that state any state agency or local public body may either participate in, sponsor or administer a cooperative procurement agreement for the procurement of any services, construction or items of tangible personal property with any other state agency, local public body or external procurement unit in accordance with an agreement entered into and approved by the governing authority of each of the state agencies, local public bodies or external procurement units involved. The cooperative procurement agreement shall clearly specify the purpose of the agreement and the method by which the purpose will be accomplished. Any power exercised under a cooperative procurement agreement entered into pursuant to each state's procurement code shall be limited to the central purchasing authority common to the contracting parties, even though one or more of the contracting parties may be located in different states.

Cooperative Purchasing Contracts: The Bidder agrees that all the prices, terms, warranties and benefits granted by the Bidder to AEPA Member Agencies or Participating Entities through this contract **will be equal to or better than** those offered to any individual entities or cooperatives that have equal or lesser volume. If the Bidder shall, during the term of this Contract, enter into arrangements with any customer or cooperative providing greater benefits or terms that are more favorable, the Bidder shall notify the AEPA category committee chairman and offer said prices, terms, warranties and benefits to all AEPA Member Agencies. The following shall be noted:

1. AEPA and its AEPA Member Agencies reserve the right to accept or reject the Bidder's response if it is determined it does not comply with the above based on their knowledge, investigation, review and findings of Bidders' submitted prices.
2. In the event the Vendor Partner offers lower prices to another customer or cooperative, AEPA and its AEPA Member Agencies shall notify the Vendor Partner of the deviation and request written justification. Based on AEPA and its AEPA Member Agencies' investigation, review and findings, AEPA reserves the right to take the following actions: to request the Vendor Partner to immediately adjust its AEPA's offered prices to match the lower prices offered, to work with the Vendor Partner to mediate and resolve the situation; or to notify the Vendor Partner that it intends to suspend and/or terminate their contract.

Cost of Bid Preparation: Neither AEPA nor any AEPA Member Agency shall reimburse the cost of developing, presenting or providing any response to this solicitation.

Credit Hold: The Bidder must agree not to place the AEPA Member Agency and/or its Participating Entity on "credit hold" without 10-days advanced notice in writing, either by letter, facsimile or email to the AEPA Member Agency and the Participating Entity. The AEPA Member Agencies believe it is better for the Vendor Partner if the AEPA Member Agency places the slow-paying Agency Member on "credit hold;" if a Vendor Partner places the Participating Entity on credit hold, agencies that pay promptly are penalized. If, on the other hand, the Member Agency places the offending Participating Entity on "credit hold", payment is more likely to result and only the offender is disciplined.

Delivery Terms, Conditions and Requirements

1. **Delivery:** is to be made within the specified time identified in Part B Specifications for each bid category, unless otherwise stipulated in writing and accepted by all parties (Buyer placing order and Vendor Partner). The Vendor Partner agrees to notify Buyer if an order cannot be processed within the specified period and/or the agreed upon timelines.
2. **The title and risk of loss of material or service:** shall not pass to the Buyer purchasing the material or services until it actually receives the material or service at the point of delivery (FOB Destination) and they have been accepted, unless otherwise provided within this document or individual project's contract.
3. **Ownership of products and services:** happens only after receipt and acceptance of delivery by the Buyer. The Buyer will be the determining judge of whether materials and services delivered under the purchase order/contract satisfy the specifications and requirements as identified in the contract/order.
4. **Fungible Goods:** Title to an undivided share or quantity of an identified mass of fungible goods will not pass to a Buyer until a separation of the purchased share has been made, delivered and received.
5. **Shipping Terms:** (See Part B Specifications for specific instructions on shipping and handling costs for the individual category you are bidding on.) Vendor Partner shall retain title and control of all goods until they are delivered and received. All risk of transportation and all related charges shall be the responsibility of the Vendor Partner, unless other arrangements have been made between the vendor partner and the AEPA Member Agency. Shipping shall be F.O.B. destination. The Vendor Partner shall file all claims for visible or concealed damage. AEPA Member Agency, or the receiving Buyer, will notify the Vendor Partner and/or Freight Company promptly of any damaged goods and shall assist the freight company/Vendor Partner in arranging for inspection. No F.O.B. vessel, car or other vehicle terms will be accepted.
 - a. **Shipping Costs:** Products may be shipped without separate shipping costs. If shipping is allowed as a separate line item per Part B Specifications and charged, the actual cost of delivery may be added to an invoice. No COD orders will be accepted unless specifically requested by the AEPA Member Agency.
 - b. **Shipment under Reservation:** Vendor Partner is not authorized to ship materials under reservation and no tender of a bill of lading will operate as a tender of the materials.
 - c. **Shipping Errors:** Vendor Partner agrees that shipping errors will be at the expense of the Vendor Partner. For example, if a Vendor Partner ships a product that was not ordered, it is the responsibility of the Vendor Partner to pay for return mail or shipment.
6. **Stored Materials (Vendor managed inventory):** Upon prior written agreement between Vendor Partner and Buyer, payment may be made for materials not incorporated in the work but delivered and suitably stored at the site or some other location, for installation at a later date. An inventory of the stored materials must be provided to Buyer prior to payment. Such materials must be stored and protected in a secure location, and be insured for their full value by Vendor Partner against loss and damage. Vendor Partner agrees to provide proof of coverage and/or addition of Buyer as an additional insured upon Buyer's request. Additionally, if stored offsite, the materials must also be clearly identified as property of Buyer and be separated from other materials. Buyer must be allowed reasonable opportunity to inspect and take inventory of stored materials, on or offsite, as necessary. Until final acceptance by Buyer, it shall be Vendor Partner's responsibility to protect all materials and equipment. Vendor Partner warrants and guarantees that title for all work, materials and equipment shall pass to Buyer upon final acceptance. Payment for stored materials shall not constitute final acceptance of such materials.
7. **Improper delivery:** Unless contrary to other parts of this solicitation, if the goods, services or tender of delivery fail in any respect to conform and adhere to the terms, conditions, specifications of the resulting contract based on this solicitation and/or the individual Buyer's contract/order. The Buyer may reject the whole, accept the whole, or accept any commercial unit or units and reject the rest.
8. **Defective Goods:** Vendor Partner agrees to pay for return shipment on goods that arrive in a defective or inoperable condition. Vendor Partner must agree to arrange for return shipment of damaged goods.

9. **Liquidated Damages:** The Buyer may suffer financial loss if the project is not substantially complete or products or services are not delivered on the established date. The Vendor Partner (if applicable Surety) shall be liable for and shall pay to the Buyer, not as a penalty, the sums that may be hereinafter agreed upon as liquidated damages per calendar day of delay until the work and/or delivery is determined by Buyer to be complete and/or delivered. Liquidated damages will be determined on a project-by-project basis.
10. **No Replacement of Defective Tender:** Every tender of materials must fully comply with all provisions of this contract. If tender is made which does not fully conform, this shall constitute a breach and Vendor Partner shall not have the right to substitute a conforming tender without written consent of all parties involved.
11. **Default in One Installment to Constitute Total Breach:** Vendor Partner shall deliver conforming materials in each installment or lot of this contract and may not substitute nonconforming materials. The AEPA Member Agency reserves the right to declare a breach of contract if the Vendor Partner delivers nonconforming materials or services to any Buyer under this contract.
12. **Restocking Fees:** A restocking fee may only be charged on products ordered and that have been delivered to the Buyer's site in accordance with the order/contract. Restocking fees in excess of 15% will not be allowed. Restocking fees may be waived, at the option of the Vendor Partner. The Vendor Partner must identify, specify and justify any exceptions or deviations taken.

Deviations or Exceptions to Requirements: Deviations or exceptions stipulated in a Bidder's proposal may result in rendering of the response non-responsive. AEPA and its AEPA Member Agencies reserve the right to determine whether the deviation or exception does or does not serve the interest of or is not advantageous or acceptable to AEPA, its AEPA Member Agencies or Participating Entities.

Disbarment and Suspension: By signature accepting Terms and Conditions, it is certified on behalf of the company and their key employees that neither the company nor its key employees have been proposed for debarment, debarred, or suspended by any State or Federal Agency within the last five (5) years.

EDGAR Compliance: Bidders are required to complete Education Department General Administrative Regulations (EDGAR) compliance certification. EDGAR regulations govern all federal grants awarded by the U. S. Department of Education on or after December 26, 2014.

Eligible Entities: The individual AEPA Member Agency's state procurement code and statutes provides for cooperative procurement and identifies those types of agencies, entities and organizations that are allowed to participate in and take advantage of cooperative procurement contracts solicited and approved by AEPA and awarded by AEPA Member Agencies. Therefore, depending on the individual state procurement codes and statutes federal agencies, state agencies, local public bodies and Non-Profit/Non-Public entities may be allowed to participate in and utilize AEPA solicited, approved and AEPA Member Agency awarded contracts.

Estimated Quantities: In Part B: Bid Specifications of this solicitation AEPA and AEPA Member Agencies have indicated their anticipated volume for the products and services being solicited in this solicitation. It is anticipated that a considerable amount of activity will result from this solicitation; however, there is no guarantee of future order quantities due to the fact that this is an indefinite quantity contract. Usage depends on the actual needs of the AEPA Member Agencies, their Participating Entities and the marketing by the Vendor Partner.

Experience, Proven Track Record and Past Performance Information: has been determined by AEPA and its AEPA Member Agencies to be a major factor in consideration if a Bidder possesses the ability, capacity and resources to acquire, manufacture, deliver, construct, install, services and support all of the procurement functions and activities involved in a national contract of this nature. AEPA and its AEPA Member Agencies reserve the right to accept or reject an offer, if in its judgment, the Bidder

failed to demonstrate the following: a proven track record in the products and services offered (qualifications, knowledge and background); is willing and able to deliver the proposed products and/or services to ninety (90%) percent of those participating AEPA Member Agencies identified in Part B (unless otherwise noted in Part B.): Specifications; and has provided relevant information regarding its actions under previously awarded contracts to schools, local, state, or federal agencies. It includes the Bidder's record of conforming to specifications and to standards of good workmanship; the Bidder's record of containing and forecasting costs on any previously performed cost reimbursable contract schedules, including the administrative aspects of performance; the Bidder's history for reasonable and cooperative behavior and commitment to customer satisfaction; and generally, the Bidder's businesslike concern for the interests of the customer.

External Procurement Unit: means any procurement organization not located in a current AEPA Member Agency state which, if located in the state, would qualify as a federal or state agency or a local public body. Various state procurement codes allow external procurement units to offer their contracts and for agencies within those states to utilize those contracts to acquire goods and services.

Federal Agency [25] USC 3001 (4): Is defined as any department, agency, or instrumentality of the United States, any executive department, military department, government corporation, government-controlled corporation, or other establishment in the executive branch of government, including the Executive Office of the President or any independent regulatory agency established through legislative and/or administrative action.

Federal Requirements: Vendor Partner agrees, when working on any federally assisted projects with more than \$2,000 in labor costs, to comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 328 et seq.) and all applicable sections of the act and the Department of Labor's supplemental regulations (29 CFR parts 5 and 1926), the Civil Rights Act of 1964 as amended, the Davis-Bacon Act (Section 29, CFR Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in the Department of Labor regulation (29 CFR part 3), and the Equal Opportunity Employment requirements of Executive Order 11246 as amended by Executive Order 11375 (Labor regulations (41 CFR Part 60)). In such projects, the Vendor Partner agrees to post wage rates at the work site and submit a copy of their payroll to the AEPA Member Agency for their files. In addition, to comply with the Copeland Act, the Vendor Partner must submit weekly payroll records to the AEPA Member Agency. The Vendor Partner must keep records for three (3) years and allow the federal grantor agency access to these records, upon demand. All federally assisted contracts to an AEPA Member Agency that exceed \$10,000 may be terminated by the federal grantee for noncompliance by the Vendor Partner. In projects that are not federally funded, Bidder must agree to meet any federal, state or local requirements, as necessary. In addition, if compliance with the federal regulations increases the contract costs beyond the agreed on costs in this solicitation, the additional costs may only apply to the portion of the work paid by the federal grantee. On all other projects, the prices must agree with this contract. Vendor Partner shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C.) 187 [h], and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et. Seq.); and, Executive Order 11738 and Environmental Protection Agency (EPA) regulations (40 CFR Part 15), which prohibit the use under non-exempt federal contracts, grants, or loans of facilities included in the EPA list of violated facilities

Force Majeure: Except for payments of sums due, neither party shall be liable to the other, nor be deemed in default under this contract, if, and to the extent, that such party's performance of this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence, including, but not limited to the following: acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; blizzards; earthquakes; tornadoes or violent winds; hail storms; lockouts; injunctions-intervention-acts, or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure, which such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence

when the party declaring it notifies the other party of the existence of the force majeure, and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with the contract. Force majeure shall not include late deliveries of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences. If either party is delayed at any time by force majeure, the delayed party shall notify the other party in writing of such delay within forty-eight (48) hours.

Form of Contract: The form of contract for this solicitation shall be the Invitation for Bid, the awarded Bidder response and properly issued purchase orders and/or contracts in accordance with this Invitation for Bid. If a firm submitting a bid requires AEPA Member Agency and/or Participating Entities to sign an additional contract, a copy of the proposed contract must be included with the bid.

Gratuities: AEPA Member Agency may, by written notice, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Vendor Partner or any agent or representative of the Vendor Partner, to any employee of the AEPA Member Agency with a view toward securing a contract or with respect to the performance of this contract. However, paying the expenses of normal business meals, which are generally made available to all eligible school and government employees, shall not be prohibited by this paragraph. Samples of software, equipment, or hardware provided to the AEPA Member Agency for demonstration, evaluation, or loan purposes are not considered gratuities.

Indemnification: Vendor Partner will indemnify, defend and save harmless AEPA, its Members, Participating Entities, its employees from any and all claims, demands, suits, proceedings, loss, cost and damages of every kind and description, including any attorney's fees and/or litigation expenses, which might be brought or made against or incurred by, AEPA, its Members, Participating Entities, its employees on account of loss or damage to any property or for injuries to or death of any person, caused by, arising out of, or contributed to, in whole or in part, by reasons of any act, omission, professional error, fault, mistake, or negligence of Vendor Partner, its employees, agents, representatives, or Subcontractors, their employees, agents, or representatives in connection with or incident to the performance of this agreement, or arising out of worker's compensation claims, unemployment compensation claims, or unemployment disability compensation claims of employees of Vendor Partner, and/or its Subcontractors or claims under similar such laws or obligations. Vendor Partner's obligation under this section will not extend to any liability caused by the sole negligence of AEPA, its Members, participating Entities, its employees. The liability of AEPA, its Members, Participating Entities or its employees will be subject in all cases to the immunities and limitations of Nevada or the AEPA Member Agency's state laws. Installation: Equipment and items of construction shall be installed in accordance with the manufacturer's instructions, specifications, in accordance with any federal, state, local rules, regulations, codes and the schedule determined by the AEPA Member Agency and/or Participating Entity.

Insurance: Prior to executing a contract with the AEPA Member Agency or a Participating Entity under this solicitation, if required, the Vendor Partner shall procure, maintain and provide certification from insurer(s) for minimal coverage during the life of any resulting contract/agreement, to include but not limited to comprehensive public and/or commercial liability, errors and omissions, workman's compensation, unemployment and other insurance coverage required by and applicable to each AEPA Member Agency state's statutes and federal laws in which proposed products and services will be offered and provided. Evidence of the required insurance for each of those AEPA Member Agencies' state, who indicated an interest to participate in this solicitation, identified in Part B: Specifications by providing written evidence and/or documentation from your insurer(s) indicating your firm has in place the type and amount of coverage required by each of the states. The Bidder has the sole responsibility to conduct and perform the necessary research to make themselves aware of and to understand each states requirements.

1. **Certificate of Insurance:** The Vendor Partner shall provide, as required, a certificate of insurance for commercial liability insurance naming the AEPA Member Agency and or its Participating Entity as the certificate holder (co-insurer). All insurance policies are to be executed by an insurance company authorized to do business in those AEPA Member Agencies' states participating in this solicitation.
2. **Subcontractor's Insurance:** Prior to commencing any work, any Subcontractor shall procure and maintain, at its own expense until final acceptance of the work, insurance coverage in a form and from insurers acceptable to the prime Vendor Partner. All Subcontractors shall hold the appropriate type and amount of insurance coverage required by the AEPA Member Agency state in which the work is being done and will provide insurance, which waives all subrogation rights against the prime Vendor Partner, AEPA Member Agency and its Participating Entities.

Invalid Term or Condition: If any term or condition of this solicitation and any resulting contract shall be held invalid or unenforceable, the remainder of this solicitation and any resulting contract shall not be affected and shall be valid and enforceable.

Late Bids: Late bids will not be accepted. All bids must be submitted online via Public Purchase by the due date and time of this IFB.

Leases and Rentals: Vendor Partner may allow AEPA Member Agency or Participating Entity to rent, lease or lease purchase. Buyer must receive a copy of the executed leasing documents prior to processing a purchase order. Vendor Partner agrees that leases will be in compliance with the Uniform Commercial Code and the Buyer's individual state laws. All terms of leasing must be included in the bid, with interest rates described as related to a published government standard. Vendor Partner must indicate in their response to this solicitation and in any leasing/rental agreement, all costs (must be itemized) associated with early termination and/or the returning of leased or rented equipment that are the responsibility of the Buyer. No sale of a contract to a third party will be made without informing the Buyer of the transfer. If Vendor Partner sells a lease contract to a third party, the cost of return of the product must not be greater than the cost of return to the original Vendor Partner.

Legal Remedies: All claims and controversies shall be subject to the Procurement Code of the state in which the AEPA Member Agency or Participating Entity resides.

Licenses and Registration: Each state and local jurisdictions in which a transaction may occur may require various types of licenses and/or registrations (business, construction Vendor Partner, etc). Likewise, there are various policies, procedures, rules, regulations, codes and laws that govern such licensing/registration within federal, state and local jurisdictions, therefore, it is the Bidder's/Vendor Partner's responsibility to be aware of, obtain and maintain in current status all federal, state and local licenses, registrations and bonds required for the performance and delivery of any and all products and services offered in its response to this solicitation. It is also the responsibility of the Bidder/Vendor Partner to ensure that any Subcontractors performing under this bid hold and maintain the appropriate licenses/registrations. The Bidder will submit copies of licenses, registration and/or other documentation to substantiate they hold the appropriate licenses/registration required by individual jurisdictions covered by this solicitation.

Liens: All materials and services shall be free of all liens.

Local Public Body: A political subdivision of the state and the agencies, instrumentalities and institutions thereof. Such agencies may include but are not limited to two-year and four-year post-secondary educational institutions, pre-k-12 institutions, counties, cities and municipalities, except as exempted pursuant to the Procurement Code within each state. Entities within these groups may include but are not limited to political subdivisions, administrative units, councils, commissions, boards and organizations that either by federal, state or local legislative or administrative action or

appointment and have been established or given the responsibility and authority to act, conduct and perform various activities on behalf of the federal or state agency or local public body.

Manufacturer's Representative: Dealers, distributors and installers of specialized facility technology, electrical, mechanical systems and equipment, who, if permitted by the Scope of Work, submit an offer as a manufacturer's representative, must be able to provide documented evidence from and/or between it and the manufacturer certifying that the Bidder is a bona fide manufacturer's agent for the specific products/services proposed, the Bidder is authorized to submit an offer on such products/services, and a guarantee that, should the Bidder fail to satisfactorily fulfill any obligations established as a result of the award of contract, the manufacturer will either assume and discharge such obligations covered by warranties or provide for their competent assumption by one or more bona fide representatives for the term of the contract/warranty period. Bidders of software, mechanical devices, electrical products/systems and other commodities that make up systems/networks must be able to provide the same information from a manufacturer.

Modification by Buyer: Vendor Partner shall have no obligation with respect to any patent and copyright infringement claim based upon Buyer's modification of the equipment and/or software, or its operation or use with apparatus, data or programs not furnished by Vendor Partner. However, one Buyer's action will not preclude Vendor Partner's obligation to others not having modified their equipment or software.

Money: All transactions are payable in U.S. currency only. **Multiple Approvals and Awards:** Throughout the United States, AEPA Member Agencies have a large number of Participating Entities who take advantage of and utilize awarded contracts. In order to assure that any issued contract will allow these entities to fulfill current and future needs and requirements, AEPA and its AEPA Member Agencies reserve the right at its discretion to approve and/or award one contract, multiple contracts or no contracts. The actual use of any contract will be at the sole discretion of the AEPA Member Agency or the Participating Entity.

Nonexclusive Contract: Any contract resulting from this solicitation shall be approved and awarded with the understanding and agreement that it is for the sole convenience of the AEPA, its AEPA Member Agencies, their Participating Entities and they reserve the right to obtain like goods and services from another source.

Nonprofit, Non-Public Educational Institutions and other Nonprofit Organizations (Section 501(c)(3) of the Internal Revenue Code, Federal Tax Code): is defined as charitable, religious, educational, public service, support and scientific organizations, entities, corporations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code, or corresponding section of the Federal Tax Code.

Notice: Notices under this solicitation/contract will be in writing and will, for all purposes, be deemed to have been fully given when sent by registered or certified mail, return receipt requested, postage prepaid, email with appropriate verification, properly addressed to the respective parties as specified herein or at such other address as may be specified by either party from time to time.

Novation: If the original Vendor Partner sells or transfers all assets or the entire portion of the assets used to perform this contract, a successor in interest must guarantee to perform all obligations under this contract. AEPA and its AEPA Member Agencies reserves the right to recommend approval, acceptance or rejection of the new party. A simple change of name agreement will not change the contractual obligations of the Vendor Partner.

Ordering Procedures: AEPA has established a standard and special ordering process as defined below. Additionally, some AEPA Member Agencies also prefer or utilize electronic ordering as the

method for the transactions. For details on the ordering processes utilized for each AEPA Member Agency, please reference the Summary of State General Overview.

1. **Standard Ordering Process:** Buyer will select items for purchase from provided published catalog/price list or Vendor Partner will issue a quote upon request; the vendor will also send a copy of their quote to the state AEPA Member Agency for all construction related bids. Buyer will prepare and issue a purchase order to the Vendor Partner based on the product catalog, pricelist or Vendor Partner's quote. Vendor Partner will deliver and invoice the Buyer; Buyer will acknowledge delivery and acceptance by issuing the Vendor Partner payment. Vendor Partner, based on the agreed to process, will report and submit payment for the AEPA Member Agency's administrative fee to the AEPA Member Agency (quarterly). Vendor Partner shall provide the transaction and volume reporting in the AEPA report format.
2. **Special Ordering Process:**
 - a. Buyer will select items for purchase from provided published catalog/price list or Vendor Partner will issue a quote upon request;
 - b. Buyer will prepare and issue a purchase order to the AEPA Member Agency based on the product catalog, pricelist or Vendor Partner's quote;
 - c. Vendor Partner will deliver the goods and/or service to the Buyer and will invoice the AEPA Member Agency;
 - d. AEPA Member will invoice the Buyer and add their administrative fee to the invoice price;
 - e. AEPA Member will pay Vendor Partner for the goods and/or service once the Buyer has confirmed acceptance.
 - f. Vendor Partner shall provide the transaction and volume reporting as stipulated on a quarterly basis in the AEPA report format.
3. **Electronic Ordering (Optional by AEPA Member Agency):**
 - a. When a Vendor Partner based online ordering system is available, the following functionality is preferred:
 - b. Electronic ordering systems shall be secure and password protected. Entering the system with the designated password shall automatically send the user to AEPA contract pricing.
 - c. When the Buyer requires purchase orders, electronic ordering system shall require entry of a purchase order number, credit card or purchasing card prior to accepting an order.
 - d. Electronic ordering systems shall block excluded items not covered by the AEPA contract from any order.
 - e. Electronic ordering systems shall automatically assign correct contract prices to applicable orders.
 - f. Electronic ordering systems that list catalog price and AEPA discounted price.
 - g. Electronic ordering systems shall track orders and purchases covered by the AEPA contract for reporting and audit purposes. Vendor Partner shall provide the transaction and volume reporting in the AEPA format.
 - h. Electronic ordering systems' pricing shall include the AEPA Member Agencies administrative fee required by the AEPA Member Agencies.
 - i. Electronic ordering systems that allow AEPA Member Agencies to print an archived (historical) copy of a Buyer's order.

Order of Precedence: In the event a conflict occurs the following order of precedence shall prevail:

1. Member Agency Specific terms and conditions
2. Specifications and scope of work
3. General terms and conditions
4. Attachments and exhibits
5. Documents referenced or included in the solicitation

Overcharges by Antitrust Violations: Member Agency maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the Buyer. Therefore, to the extent permitted by law, the Vendor Partner hereby assigns to the Member Agency any and all claims for such overcharges as to the goods or services used to fulfill the contract.

Parole Evidence: This contract represents the final written expression of agreement. All agreements are contained herein and no other agreements or representations that materially alter it are acceptable.

Participating Entity: Those Public and Private School Districts, Educational Service Agencies, Intermediate School Districts, Higher Education Institutions, Federal Agencies, State Agencies, Local Public Bodies and Nonprofit Non-Public Corporations, Organizations, other entities contracted to conduct business on behalf of a participating entity provided they are required to follow member state and local procurement regulations, etc. that have authorizations to utilize the AEPA Member Agencies' Awarded Contracts.

Patent and Copyright Indemnification: To the extent permitted by law, Vendor Partner shall indemnify and hold harmless Member Agency and its Participating Entities against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of contract performance or use by Member Agency and its Participating Entities of materials furnished or work performed under this contract. Member Agency and its Participating Entities shall reasonably notify Vendor Partner of any claim for which it may be liable under this paragraph.

Piggy Back Contracts: In the event a new Member Agency joins AEPA, the Member Agency may elect to award any and all existing contracts if permissible by their State laws.

Prevailing Wage: Where applicable, the Vendor Partner must comply with prevailing wage legislation in effect in the jurisdiction of the awarding AEPA Member Agency.

Pricing: AEPA has identified and stipulated the type of bid and the pricing methodologies that are to be utilized to price and submit bid prices. The Vendor Partner agrees that the cost for any item bid or offered on this contract will be uniform for all states, and that any differences in pricing are due to state specific installation and labor costs, AEPA Member Agency's Administrative Fee, or other approved reasons. The Bidder must provide their pricing as requested utilizing the various pricing methodologies specified. **The Bidder/Vendor Partner must agree that they will not offer or provide a better price to any individual entities or cooperatives with equal or lesser volume than that through AEPA.** Please note the following that relate to pricing:

1. **Primary Pricing Strategies:** All Bidders will be required to submit "Primary Pricing" in the form of either "Catalog Pricing" or "Line-Item Pricing" or a combination of these two pricing strategies as defined in Part B, bid specifications. Bidders are also encouraged to offer OPTIONAL pricing strategies including "Hot List" and "Volume Discounts".
 - a. **Catalog Pricing:** Catalog pricing is utilized when the products and/or services solicited are clearly identified with set and specific characteristics, attributes and configurations that are identifiable as a stand-alone single unit and can be listed and priced as a single unit with options that can be added to enhance and/or improve its operation and functionality. The Bidder offers a fixed discount(s) off retail price, catalog price, published price or list price. The discounts may be for the entire commercially available catalog, for specific products, product lines, manufacturers or category of products as determined by the Bidder.
 - i. **Discounts:** Discount offers must clearly identify percent of discount to apply to a commercially available catalog, manufacturer, MSRP, retail or nationally published price lists. Bidders shall identify and stipulate if the discounts apply to the entire catalog/price list, specific product lines, manufacturers and/or categories of products. Bidder shall agree that there will be no reduction in discount(s) during the term of the contract.
 - ii. **New Catalogs/Price Changes:** New catalogs and corresponding nationally published price lists may be submitted throughout the term of the contract and

shall be submitted to the AEPA Category Committee for review prior to release to all AEPA Member Agencies. Prices may change based on manufacturer's price changes, new published pricing or price lists, but the original discount bid shall remain firm for the duration of the contract.

- iii. **Core List:** In a Catalog Priced bid, a category (i.e. office supplies) may include a "core list" which contains a selection of the most commonly used products/services with the expectation that a deeper discount would be bid for these items. If a new catalog and price list is published during the contract term, the original discounts shall be applied to the new published prices to establish the AEPA price for these core items.
 - iv. **Product Addition/Discontinuation:** New products, within the same scope of work, may be added at the established percentage discounts at any time. Discontinued products may be dropped at any time during the year. In the event a Core item is discontinued by the manufacturer during the term of the contract, Vendor Partner is required to add a functionally equivalent substitute at the same discount structure.
- b. **Line-Item Pricing:** Line-item pricing is utilized when products and/or services that are broken down in detail by element, component, product categories, product type and each product and/or service is presented as an individual item which needs to be combined with other items to make up a final project or solution. The Bidder offers firm pricing for specific line items in response to this bid; a project's cost is derived by the Vendor Partner preparing and providing a quote based on the project's terms, conditions and requirements based on the line item pricing provided in the bid. The information provided in this bid for each item includes: Product Category, Product Description, Manufacturer, Manufacturer SKU, Vendor SKU, Unit of Measure, Item List Price, AEPA Bid Price.
- i. **Fixed prices:** Prices bid shall be firm until each anniversary date of contract, unless there is an occurrence of one or more economic price adjustment contingencies outlined in the bid. Fixed price offers shall include prices for any and all items.
 - ii. **Routine Price Adjustments (Without Economic Price Adjustment):** Vendors may request adjustments to the prices by submitting a fully documented written request to the AEPA Category Committee Chairperson. The request must specifically detail and document the cause and/or reason for price changes and include any supporting documentation (manufacturer's letter, indexes, etc.). All price changes require approval by the AEPA Category Committee and Member Agencies.
 - iii. **Unpredictable Economic Price Adjustment:** If economic price adjustment contingencies occur, Vendor Partner may submit a fully documented request (manufacturer's letter, indexes, etc.) for price adjustment to AEPA Category Committee for review and approval by the committee and the AEPA Member Agencies. The documentation must substantiate the cause and/or reason for the requested price increase and demonstrate that it was unpredictable at the time of bid submittal and/or contract renewal and out of the Vendor Partner's control. Pricing will take effect thirty (30) days after approval and acceptance.
 - iv. **New Products/Services:** Vendor Partner may submit new products or technologies that are within the original scope of work for the bid, to be added to the contract pending review and approval of the AEPA Category Committee. Requests should be submitted to the AEPA Category Committee for review and written approval.
- c. **Automated System for Pricing (ASP):** The method consisting of an ASP and/or software application (e.g. RSMean) that is self-contained and consists of a turn-key solution that includes a complete line-item listing of all of the products, supplies, materials, equipment, services, accessories and options with their description, specifications, terms, conditions and associated pricing for each item, sub-assemblies and/or assemblies. The Bidder provides a percent of discount or fixed multiplier/factor to be applied to total project cost to allow for individual state conditions and requirements and to arrive at the AEPA price.

- d. **RSMeans (Construction Related Bids only):** It is important for Vendor Partners to breakout all costs (quantity and price) of all items listed under RS Means or an Alternative Pricing method. This includes all quoted items not on the approved AEPA bid submittal. The following are minimum requirements for using RSMeans for quoting projects to AEPA Member Agencies:
- i. The Contractors must use the current year and standard cost data. Only the following cost data titles will be excepted:
 - a. Building Construction Cost Data Book
 - b. Facilities Construction Cost Data
 - c. Facilities Maintenance & Repair Cost Data
 - d. Site Work & Landscape Cost Data Book
 - ii. All work proposed under RSMeans must use RSMeans format, even if subcontractors are used.
 - iii. An RSMeans spreadsheet must be submitted to substantiate the quote given to the AEPA Member Agency. The spreadsheet columns must reveal the full RSMeans number and a sufficient amount of the description. This also applies to change orders.
 - iv. Pricing must be done by Location codes. National Average will not be allowed. In order to choose the "closest" location code, the first three (3) numbers of the zip code will be used to determine the city location index in the AEPA Member Agency State.
 - v. The AEPA contract holder factor, bonding cost, AEPA discount and taxes if applicable must be shown as separate line items at the bottom of the RSMeans spreadsheet. This information can be shown on a separate summary sheet. The summary sheet must start with the RSMeans spreadsheet total and show the detail for each of the items stated above. This detail will be provided to that AEPA State Agency and the AEPA Buyer as required.
 - vi. All change orders which list items covered by RSMeans must be supported by an RSMeans spreadsheet.
- e. **Alternative Method of Costing:** This method covers any product and/or service not covered by catalog pricing, published price list, line-item price list, automated system for pricing, or is a product and/or service due to the projects or applications specifications, conditions and /or requirements that need to be custom designed, developed, manufactured and/or produced to meet the requirements of an individual, project or sole source. The alternative pricing is calculated as follows:
- i. The Bidder must prepare, issue and receive three written quotes from available suppliers and select the supplier that offers the products and services that meet the stipulated requirements and specifications, offers the best value, and the most cost effective solution. All quotes must be made available upon request.
 - ii. The Bidder must indicate the percent of overhead and /or markup as part of their response to be added to these costs to obtain the normal and customary retail price.
 - iii. The AEPA price is calculated by taking the product and services to cost to the Contractor plus the indicated percent of profit/overhead to equal the normal and customary retail price. The Contractor will then subtract the approved AEPA discount to obtain the AEPA price. Example: item cost \$1,000; percent of profit/overhead of 20% equals retail price of \$1,200; less the AEPA discount of 10% or \$120 equals the AEPA price of \$1,080.
2. **Secondary Pricing Strategies (Catalog Bids only, see Part B for category designation):** Bidders are required to offer Customized Price Lists (Catalog Bids ONLY) and encouraged to offer Hot Lists and Volume Discounts as follows:
- a. **Customized Price List:** Bidders are required to offer customized price lists to Participating Entities for items within the Bidder's Commercially Available Catalog for Catalog Bids ONLY (not pertinent to Line Item Bids). Customized price lists shall be allowed under the following conditions:
 - i. Items within the Vendor Partner's Commercially Available Catalog may be included on

- the customized price list providing they are not already on the Core Item list.
- ii. Items are to be determined by the Participating Entity; Vendor Partner may object to up to ten (10) of the suggested items proposed by the customer and must offer substitutes until an agreement of the customized list is reached.
 - iii. Items on the customized price list shall be sold with an additional discount (deeper than what was originally bid on the non-core or catalog discount)
 - iv. Items may not include special order or customized service products unless agreed to by the Vendor Partner.
- b. **Hot List Pricing:** Bidders are invited, at their option, to offer a selection of products/services, defined as a Hot List, at greater discounts than those listed in the standard catalog or core list discounts. Special, time-limited reductions are permissible under the following conditions: The price reduction is available to all AEPA Member Agencies equally. The price reduction is for a specific time period, no less than thirty (30) days. May be used to discount and liquidate close-out and discontinued products/services as long as those items are clearly labeled as such. The original price for products/services is not exceeded after the time limit. The AEPA Category Committee and all AEPA Member Agencies shall be notified of any special or time limited price reduction. New prices must be on record fifteen (15) days prior to any offer of the new prices being proposed or offered to AEPA Member Agencies and Participating Entities. Pricing for all Hot List items must be updated on the Vendor Partner's online catalog and submitted to all AEPA Member Agencies in an electronic format that can be posted to websites, emailed and shared with Participating Entities/Buyers.
- c. **Volume Price Discounts:** Bidders are encouraged to offer additional pricing discounts that may be offered for a group of agencies in a local geographic area that desire to combine requirements (one time purchase or annual spend), i.e. local city, county, school district(s), etc. and/or for large one time purchases. Additional volume price discounts are permissible under the following conditions: Discounts should be tiered and based on spend ranges as established by the Bidder on the Pricing Forms. Volume determination shall be determined between the Vendor Partner and the individual Buyers on a case-by-case basis. All additional discounts are to be offered equally to all AEPA Member Agencies and Participating Entities and be based on the Volume Price Discounts originally bid providing the same or similar volume commitment, specific needs, terms and conditions, a similar time frame, seasonal considerations and provided the same manufacturer support is available to the Vendor Partner.

Prime Vendor Partner: For the purpose of this bid, a Vendor Partner will be considered a prime Vendor Partner and not a Subcontractor. Any Vendor Partner paid directly by the AEPA Member Agency or Participating Entity is a prime Vendor Partner; a Vendor Partner pays a Subcontractor. Prime Vendor Partners using Subcontractors are responsible for all actions of its Subcontractors.

Procurement Code: All Bidder/Vendor Partner's must make themselves aware of and comply with all federal, state, and local statutes and regulations.

Products and Services

1. **Product Line:** If applicable, contracts will be awarded to Bidders able to provide their complete product line(s) of commodities, supplies, equipment, software and services that meets the scope of work and specifications of this solicitation. Bidders with a published, priced catalog may submit their entire catalog; AEPA reserves the right to select or reject products within the catalog for recommendation without having to award all the contents.
2. **Serial Numbers:** Bids must be for equipment on which the original manufacturer's serial number has not been altered in any way.
3. **Current Products:** All bids shall be for commodities, supplies, equipment, supplies and software in current production; meet or exceed commercial and industry standards; and marketed and provided nationally to the general public and/or educational/governmental agencies.

4. **Construction Products and/or Services:** Are associated with building, erecting, altering, repairing, installing or demolishing in the ordinary course of business any: (1) road, highway, bridge, parking area or related project; (2) building, stadium or other structure; (3) airport, subway or similar facility; (4) park, trail, athletic field, golf course or similar facility; (5) dam, reservoir, canal, ditch or similar facility; (6) sewage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility; (7) radio, television or other tower; (8) shaft, tunnel or other mining appurtenance; (9) electrical wiring, plumbing or plumbing fixture, gas piping, gas appliances or water conditioners; (10) air conditioning conduit, heating or other similar mechanical work; or similar work, structures or installations; (11) leveling or clearing land; (12) excavating earth; (13) drilling, wells of any type, including seismographic shot holes or core drilling; and similar work, structures or installations.
5. **Services:** Are defined as the furnishing of labor, time or effort by a Vendor Partner not involving the delivery of a specific tangible product other than reports and other materials which are merely incidental to the required performance.
6. **Professional Services:** Services relating to architects, archeologists, engineers, surveyors, landscape architects, medical arts practitioners, scientists, management and systems analysts, certified public accountants, registered public accountants, lawyers, psychologists, planners, researchers, educational specialist, construction managers and other persons or businesses providing similar professional services, which may be designated as part of this solicitation.
7. **Peripheral & Optional Items:** Bidder can include various peripheral products, equipment, accessories, services, deliverables and related items that are associated with and function with the primary offering. Optional equipment or products may be added to the contract during the term of the contract. AEPA reserves the right to accept or reject such offerings under the following conditions: the enhancement is recommended by AEPA and approved by the Member Agency; the option is priced at a discount similar to other options; and the option is an enhancement to the unit.
8. **Descriptive Literature and Brand Names:** All bids are to include a complete set of the manufacturer's descriptive literature regarding the commodities, supplies, materials, equipment and software offered. Brand names, trade names and/or catalog numbers used in the solicitation will be intended to describe and identify the type, level and quality of products, equipment and software being requested.
9. **Discontinued Products:** If a product or model is discontinued by the manufacturer, Vendor Partner may substitute a new product or model if the replacement product meets or exceeds the specifications and performance of the discontinued model and if the discount is the same or greater than the discontinued model.
10. **Product Specifications:** This solicitation is designed to enable a Bidder to satisfy a requirement for a commodity, supply, material, equipment, software, process, or service. A specification may be expressed as a standard, a part of a standard, or independent of a standard; by specifying a manufacturer's brand and model. No specification is intended to unnecessarily limit competition by eliminating items capable of satisfactorily and/or meeting the actual needs of the procurement. When a brand name product is specified and is only available for a single source, Bidders are encouraged to offer alternative products which they believe to adhere to and comply materially, functionally and operationally equal to or better than the brand name product specified. Any Bidder believing a specification is unnecessarily restrictive, shall indicate such in the form of a question during the solicitation process and prior to bid due date. The fact that a manufacturer or supplier chooses not to produce or supply the commodity, supply, material, equipment, software or services to meet these specifications will not be considered sufficient cause to adjudge these specifications as restrictive. If the Bidder deviates from these specifications, reasons must be stated for such deviation and state why, in their opinion, the commodity, supply, material, equipment, software or services they bid will render equivalent reliability, coverage, performance and/or service. Failure to detail all such deviations may comprise sufficient grounds for rejection of the entire bid.
11. **Quality:** Unless otherwise modified elsewhere in this solicitation, Vendor Partner warrants the commodities, supplies, materials, equipment, and services delivered as stipulated in the Buyer's

purchase order/contract, shall be: of a quality to pass without objection in the industry and professional standards normally associated with them; fit for the intended purpose(s) for which they are used; of even kind, quantity and quality within each unit and among all units, within the variations permitted by the contract; adequately offered, presented, delivered, accomplished and complete as the contract may require; and conform to the written promises and/or oral affirmations of fact made by Vendor Partner.

Product Information, Catalogs and Price Lists: Bidders shall include an electronic copy of the latest edition of the commercially available catalog and price lists that the discount will be applied to with the bid response. Throughout the term of the contract, Vendor Partner(s) shall furnish all AEPA Member Agencies and their Participating Entities with copies of approved commercially available catalogs and price lists in the format desired (electronic, paper, online shopping cart, etc.).

Progress Payments: Progress payments are allowed on purchases for goods and services under the following conditions: The Buyer and the Vendor Partner agree to the terms of the progress payments prior to issuing a purchase order; the purchase order describes the amounts to be paid and the date of payment; the Buyer has a satisfactory method of verifying progress described in writing in a letter or on the purchase order; that payments will only be made when actual goods and/or services are verified/received; and that any such payments be made in full compliance of Buyer's local board rules and any and all other applicable state rules and regulations.

Protests: Under this public procurement and AEPA's Solicitation, any Bidder who is aggrieved in connection with this procurement, can file a protest in accordance with (1) AEPA's Solicitation Document; (2) AEPA's Policies and Procedures; and (3) AEPA Member Agency's State Procurement Code and Board Policies. Venue for any and all legal actions regarding or arising out of the transactions covered herein shall be solely in the court of jurisdiction located in the state and county of the AEPA Member Agency and will govern any resulting transactions.

1. **Procurement Phases:** AEPA's solicitation process is broken down into three (3) phases. Any Bidder who is aggrieved in connection with any of the three (3) procurement/solicitation phases listed below and/or any functions or activities associated with each shall file their protest with the AEPA representative indicated below.
 - a. **Bid Due Date:** The preparation and contents of the solicitation, its terms, conditions and specifications, the notification, distribution of solicitation documents and addendums (date published through the bid due date and time).
 - b. **AEPA Approval:** The receiving, opening, recording, evaluating, recommending and approving Bidders to be considered for AEPA approval and/or actions relating to contract renewal and extension. (Date received and opened through date of individual contract award and future renewals).
 - c. **Contract Award:** The awarding, implementing and administering of resulting contracts and the disclosure of confidential data. (Date individual contracts awarded by AEPA Member Agencies or 120 days from AEPA approval).
2. **Protest contents:** Protests shall be in writing and must be filed with the appropriate AEPA represented below. A protest must include:
 - a. The name, address and telephone number of the protester;
 - b. The original signature of the protester or its representative;
 - c. Identification of the procurement function and/or contract activity with the solicitation or the contract number;
 - d. A detailed statement of the factual grounds or legal basis for the protest;
 - e. Supporting exhibits, evidence or documents to substantiate any claim unless not available within the filing time, in which case, the expected availability date shall be indicated; and
 - f. The form of relief requested.
3. **Protest Submittal:** Protester shall submit the bid protest in accordance with the requirements of the above three (3) procurement functions immediately or within ten (10) days of the date the protester knows or should have known the basis of the protest per the following:

- a. Bid Due Date: Knows or should have known the basis of the protest upon the bid due date or ten (10) days after the bid due date, send protest to Bid Question Coordinator (bid-committee@aepacoop.org).
 - a. AEPA Approval: Knows or should have known the basis of the protest upon notification from AEPA of the bid category approval, send protest to AEPA President (protests@aepacoop.org).
 - b. Contract Award: Knows or should have known the basis of the protest or ten days after the notification from the AEPA Member Agency award, send protest to Individual AEPA Member Agency; see AEPA Member Agency information sheet.
4. **Protest Resolution:** Protest shall be resolved, in accordance with AEPA's Board Policies, Procedures and/or the appropriate state statutes where the AEPA Member resides. It is the intent of AEPA that all bid protest decisions from the point a bid has been published through contract approval or rejection, will be resolved by AEPA. Bid protests concerning contract award by AEPA Member Agencies will be resolved by the respective AEPA Member Agency.
 5. **Protest Costs:** The losing party to the protest shall be responsible for the reasonable and justifiable costs of the protest. The protest costs shall be based on the costs and expenses incurred by the AEPA and its Member Agencies, including but not limited to staff salaries, attorneys' fees, hearing, reproduction, transcription and travel costs.

Provisions Required by Law: By submitting a response to this solicitation, bidders are acknowledging they have conducted and performed the required research to make themselves aware and knowledgeable of all federal, state and local laws/statutes that are referenced herein, may pertain to and/or govern the procurement activities and transactions covered by this bid. These provisions of law and any clause required by law that is associated with and relates to this bid and any resulting contract will be read and enforced as though it were included herein.

Public Purchase: An easy-to-use platform that provides Bidders with the automatic notification of open solicitations, automatic notification of answered questions and issued addenda, and a way to electronically submit an organization's solicitation response. All changes, updates, uploads, and downloads are time stamped and logged as part of the solicitation process.

Public Record: All bids submitted to this invitation shall become the property of the AEPA and will become a matter of public record, available for review, subsequent to the bid due date. Bids may be viewed, by appointment only, at the Oakland Schools, 2111 Pontiac Lake Road, Waterford, MI 48328, under the supervision of the AEPA Executive Director or his/her designee, from 8:30 a.m. to 3:30 p.m., Monday through Friday. Within fifteen days, the Bid Receipt Summary Report will be posted to the AEPA website (www.aepacoop.org).

Questions: Inquiries and questions related to this solicitation, must be submitted online in Public Purchase per IFB and be submitted as follows:

1. From the time the solicitation is published until the deadline for questions for Bidders, questions should be submitted online via Public Purchase.
2. From the time bids are opened but prior to the approval of the contract by AEPA, questions should be submitted to bid-committee@aepacoop.org.
3. After notification of AEPA contract approval, questions should be submitted via email to questions@aepacoop.org.
4. Once a contract has been awarded by an individual AEPA Member Agency any inquiries and questions relating to contract implementation, execution, transactions and/or concerns/issues occurring within that state should be addressed to the individual AEPA Member Agency.

Reporting: Vendor Partners are required to submit quarterly detailed sales reports to all AEPA Member Agencies. Access to reports will be granted after contract approval. If there are no sales, \$0 reports are required.

Right to Assurance: Whenever one party to this contract in good faith has reason to question the other party's intent to perform, he/she may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within ten (10) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

Right to Request Additional Information: AEPA, and its respective bid representatives, reserves the right to request any additional information during the procurement process that might be deemed necessary to better understand the submitted bid response including, but not limited to, clarifying questions. Bidders may be requested to submit such answers in writing but will not be allowed to change or alter their bid.

Safety Measures: Vendor Partners shall take all necessary precautions for the safety of employees on the worksite, and shall erect and properly maintain at all times, as required by job conditions and progress of the work, all necessary safeguards for the protection of the workers and public. They shall post danger-warning signs against the hazards created by their operation and work in progress. Proper precautions shall be taken pursuant to state law and standard construction practices in order to protect workers, the general public and existing structures from injury or damage.

Safety Standards: All items supplied on this contract shall comply with the current applicable Occupational Safety and Health Standards, the National Electric Code, and the National Fire Protection Association Standards.

Severability: The provisions of this contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the contract that may remain in effect without the invalid provision or application.

Substance Use & Conduct: All Vendor Partners and Subcontractors must adhere to local substance (alcohol, drug, smoking, etc.) and conduct (dress code, language, parking, etc.) policies while on AEPA Member Agencies and Participating Entities premises.

State Agency: means any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of this state.

Survival: All applicable software license agreements, warranties or service agreements that were entered into between Vendor Partner and Buyer under the terms and conditions of the Contract shall survive the expiration or termination of the Contract. All Purchase Orders issued and accepted by Vendor Partner shall survive expiration or termination of the Contract.

Suspension or Debarment Status: If within the past five (5) years, any Bidder has been disbarred, suspended or otherwise lawfully precluded from participating in any public procurement activity with a federal, state or local government, the Bidder must include a letter with its response or bid setting forth the name and address of the public procurement unit, the effective date of the suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. Any failure to supply such a letter or to not disclose in the letter all the pertinent information may result in the cancellation of any resulting contract. By signing the bid section, the Bidder certifies that no current suspension or debarment exists.

Tare: If the Vendor Partner requires the Buyer to pay for shipping, the weight of the empty container and any material used for packing shall be of the lightest weight practical for safe delivery of the contents.

Taxes: Different jurisdictions taxing authorities have different tax laws, rules, regulations and processes, therefore, prices offered will not include applicable federal, state and local taxes. All applicable taxes must be listed as a separate item on all cost proposals, invoices.

Term of Contract and Extensions: The initial term of the contract shall be for up to fifteen (15) months and will commence on the date as indicated by each Participating Member Agency on the Acceptance of Bid and Contract Award (Form B). The contract shall continue in accordance with the dates stipulated in the Bid and Timeline schedule located in Part A of this bid unless terminated, cancelled or extended. By mutual written agreement, the contract may be extended for three additional 12-month periods, ending on the last day of February. AEPA may choose to recommend the contract extension. If so recommended, an individual Member Agency may choose, at their sole discretion, to extend the contract. In the event AEPA does not recommend or approve a contract extension, a Member Agency reserves the right to offer month-by-month extensions not to exceed six (6) months until a new contract is awarded by that Member Agency.

Termination by Non-Approval of AEPA: AEPA Member Agencies on annual basis assess, evaluate and review existing AEPA vendors to determine if the organization as a whole desire to extend its approval of those vendors. If an existing AEPA vendor's approval is not extended for an additional term, the AEPA Member Agencies can not extend the dis-approved vendor's contract. (See Term of Contract and Extensions)

Termination by AEPA Member Agency: An AEPA Member Agency may cancel any contract secured by the solicitation without any further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract on behalf of the AEPA Member Agency is or becomes, at any time while the contract or any extensions of the contract is in effect, an employee of, or a consultant to any other party to this contract with respect to the subject matter of the contract. Such cancellation shall be effective when the parties to this contract receive written notice from the AEPA Member Agency unless the notice specifies a later time. Cancellation by one AEPA Member Agency does not require other Agencies to cancel their contracts.

Termination for Convenience: AEPA Member Agency reserves the right to immediately terminate this contract, without penalty or recourse, in whole or in part, if the AEPA Member Agency determines that termination is in the best interest of Participating Entities. The Vendor Partner, after receipt of a "Notice of Termination," shall not accept any new orders after the termination date specified in the notice. Any termination shall have no effect on projects that are in progress at the time the cancellation is received by the AEPA Member Agency. Vendor Partner shall be entitled to receive just and equitable compensation in accordance with applicable contract pricing for work in progress, work completed and materials accepted before the effective date of the cancellation. The Vendor Partner will not be reimbursed for any anticipated profit. The AEPA Member Agency reserves the right to cancel, or suspend the use thereof, any contract resulting from this IFB if the Vendor Partner files for bankruptcy protection, or is acquired by an independent third party. Vendor Partner may cancel this contract upon written notice to the AEPA Member Agency prior to the intended termination date (or on the yearly anniversary of the bid). Any termination shall have no effect on projects that are in progress at the time the cancellation is received by the AEPA Member Agency.

Termination for Default: If either party is in default under this contract, it shall have an opportunity to cure the default within the time indicated (ten business days in most states) after it is given written notice of default by the other party, specifying the nature of the default. Upon receipt of the notice of default, the defaulting party shall have ten business days to provide a satisfactory response to the AEPA Member Agency. Failure on the part of the defaulting party to adequately address all issues of concern may result in contract termination. If the default is not cured within the time specified in the notice of default, the non-defaulting party shall have the right, in addition to all other remedies at law or equity, to immediately terminate this contract. Failure to complain of any action, non-action or default under this Agreement shall not constitute a waiver of any of the parties' rights hereunder. The AEPA Member

Agency reserves the right to terminate this contract, or any part hereof, for cause in the event of any default by the Vendor Partner, or if the Vendor Partner fails to comply with any contract terms and conditions, or fails to provide the AEPA Member Agency, upon request, with adequate assurances of future performance. In the event of termination for cause, the AEPA Member Agency shall not be liable to the Vendor Partner for any amount for supplies or services not accepted, and the Vendor Partner shall be liable to the AEPA Member Agency or any Participating Entity for any and all rights and remedies provided by law. If it is determined that the AEPA Member Agency improperly terminated this contract for default, such termination shall be deemed a termination for convenience. The AEPA Member Agency will issue written notice to the Vendor Partner for acting or failing to act in any of the following:

1. The Vendor Partner provides material that does not meet the specifications of the contract;
2. The Vendor Partner fails to adequately perform the services set forth in the specifications of the contract;
3. The Vendor Partner fails to complete the work required or to furnish the materials required within a reasonable amount of time;
4. The Vendor Partner fails to make progress in the performance of the contract and/or gives the AEPA Member Agency reason to believe that the Vendor Partner will not or cannot perform to the requirements of the contract;
2. The Vendor Partner fails to extend lower pricing that has been offered to another customer or cooperative that have equal or lesser volume.
3. The Vendor Partner fails to observe any of the terms and conditions of the contract;
4. The Vendor Partner fails to follow the established procedure for purchase orders, invoices and receipt of funds as stipulated by the AEPA Member Agency.

Termination for Non-Appropriation: Any individual Buyer's procurement/contract covered by this bid and executed in accordance with resulting contract may be terminated if insufficient appropriations and/or authorizations do not exist due to changes in state or federal law, or because of court order, or because of insufficient appropriations made available to the Buyer's governing board and/or its State Legislature. Such termination will be effected by sending fifteen (15) days written notice to the Vendor Partner. The Buyer's decision as to whether sufficient appropriations and authorizations are available shall be accepted by the Vendor Partner and shall be final.

Title and Risk of Loss: The title and risk of loss of material or service shall not pass to the Buyer purchasing the material or services until it actually receives the material or service at the point of delivery, unless otherwise provided within this document.

Trade-in Equipment: Equipment for trade-in shall be dismantled by the Vendor Partner and removed at its expense. The conditions of the trade-in equipment at the time it is turned over to the Vendor Partner shall be the same as when the original agreement was made, except as affected by normal wear and tear from use between the time of the bid and the trade-in. Values placed on trade-in products are between the Buyer purchasing the new unit and the Vendor Partner.

Type of Bids: Due to the various types, kinds and levels of products and services solicited by AEPA in its IFBs; the various pricing methodologies and/or methods utilized and offered to price the various products and services offered; and the type of contracts that results from any one of AEPA's/bids, AEPA has established the following two (2) types of bids.

1. Catalog Bid: A catalog bid is utilized when the products and /or services solicited are clearly identified with set and specific characteristics, attributes and configurations that are identifiable as a stand-alone single unit and can be listed and priced as a single unit with options that can be added to enhance and/or improve its operation and functionality. The Bidder offers a fixed discount(s) off retail price or prices in a Commercially Available Catalog. The discounts may be for the entire Catalog for specific products, product lines, manufacturers or category of products as determined by the Bidder. See the Pricing section for detailed information on Catalog pricing.

2. **Line Item Bid:** A Line-item bid is utilized when the products and services solicited cannot be identified or listed as a single unit; consists of a number of different variable and configurations, it is necessary to identify the specific project or application; the end product or solution is made of individually priced elements or components and the end product's or solutions' cost is derived by the Vendor Partner specially prepared and providing a quote based on the project's terms, conditions and requirements. See the Pricing section for detailed information on Line-Item pricing.

Vendor Partner: Bidder who has been approved and awarded a contract for the delivery of construction, tangible personal property, supplies, or services in response to this IFB.

Vendor Partner Contact: Vendor Partner will designate one individual who will represent them to the AEPA, its AEPA Member Agencies during the contract period. This contact person will correspond with each AEPA Member Agency for technical assistance, problems, or questions that may arise. If other staff, distributors and/or independent Vendor Partners will be performing the sales or support functions for different geographical areas (states), Vendor Partner shall include instructions and contact information that can be distributed to AEPA Member Agencies upon approval of this bid.

Warranty: Vendor Partner warrants that all commodities, supplies, materials, equipment, software and service delivered under this contract shall conform to the specifications of this contract. All items should carry a warranty equal to the intended life cycle or a minimum 12-month manufacturer's warranty that includes parts and labor unless otherwise specified and agreed to. The manufacturer has the primary responsibility to honor a manufacturer's warranty; a distributor or dealer agrees to assist the purchaser reach a solution in a dispute with the manufacturer over a warranty's terms. Any extended manufacturer's warranty will be passed on to the Buyer. For example, if a voice board has a three-year warranty, but the board is in a turnkey system that has a one-year warranty, the voice board's three-year warranty must be honored by the manufacturer and the Vendor Partner. All extended warranties must be passed on, without exception. If, upon discovery, the Vendor Partner charges a Buyer for a replacement part that the Vendor Partner actually received at no cost under a warranty, the Vendor Partner will rebate the amount billed and the Buyer reserves the right to cancel the contract.

**Invitation for Bid
AEPA IFB #020-A
NATURAL AND SYNTHETIC SURFACES FOR SPORT FIELDS, TRACKS,
COURTS, PLAYGROUND AND LANDSCAPING APPLICATIONS**

THIS BID REQUIRES A \$25,000 BID BOND

Part B – Technical Specifications

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1. Scope of Bid

AEPA is seeking qualified, experienced contractor(s) who possess the necessary resources and capabilities to acquire, deliver and perform the required supplies, materials equipment and labor to all participating member states (up to 28) necessary to:

- a. Respond to request from a number of different types of educational, governmental and public institutions seeking Natural and Synthetic Surfaces for Sport Fields, Tracks, Courts, Playground and Landscaping Applications.
- b. These items will include but are not limited to: Natural or Synthetic Turf for Sport Fields, Running Tracks, Tennis and Basketball Courts, Synthetic Turf for Playground and Landscaping Surfaces.
- c. Types of services may include, but are not limited to: Construction, Site Preparation, Installation, Engineering, Design, Surface Testing, Field Certification, Repair Services etc.
- d. Each Category stands by its self and a bidder can either bid on one or more categories. The categories are:
 - a. Category 1- Synthetic Turf for Sport Fields,
 - b. Category 2 - Natural Turf for Sport Field,
 - c. Category 3 - Running Track, Tennis and Athletic Courts
 - d. Category 4 – Synthetic Turf for Playground, Pet, Commercial, Landscaping Applications

AEPA and Member Agencies prefer a single vendor with a comprehensive array of products. However, because of the unique nature of vehicle distribution, Member Agencies will consider multiple awards based on a national or regional basis. See 7.1.20 below for regions.

2. Type of Bid

This bid is considered a:

YES	NO	TYPE OF BID
X		CATALOG: A catalog bid is utilized when the products and/or services solicited are clearly identified with set and specific characteristics, attributes and configurations that are identifiable as a stand-alone single unit and can be listed and priced as a single unit with options that can be added to enhance and/or improve its operation and functionality. The Bidder offers a fixed discount(s) off retail price or prices in a Commercially Available Catalog. The discounts may be for the entire Commercially Available Catalog, for specific products, product lines, manufacturers or category of products as determined by the Bidder. See Pricing section for detailed information on Catalog Pricing.
X		LINE ITEM: A line-item bid is utilized when the products and services solicited cannot be identified or listed as a single unit; consists of a number of different variables and configurations, it is necessary to identify the specific project or application; the end product or solution is made of individually priced elements or components and the end product's or solution's cost is derived by the Vendor Partner specially prepared and providing a quote based on the project's terms, conditions and requirements. See Pricing section for detailed information on Line-Item Pricing.

3. Anticipated AEPA Member Agency Participation

State	Participate? Yes/No/ Undecided	Other States Member Sells In
California	Yes	AZ, NV
Colorado	Yes	
Connecticut	Yes	MA, ME, NH, NY, RI, VT
Florida	Yes	AL
Georgia	Yes	
Illinois	No	
Indiana	Yes	
Iowa	No	IL, SD
Kansas	Yes	OK
Kentucky	Yes	AL, LA, MS, NC, SC, TN, WV
Massachusetts	No	
Michigan	Yes	
Minnesota	Yes	SD
Missouri	Yes	AR, IL, LA, SD
Montana	Yes	ID
Nebraska	Yes	
New Jersey	Yes	
New Mexico	Yes	
North Dakota	Yes	
Ohio	Yes	
Oregon	Yes	
Pennsylvania	No	DE, HI, MD, NY
Texas	Yes	
Virginia	Yes	
Washington	Yes	AK, ID
West Virginia	Yes	
Wisconsin	Yes	
Wyoming	Yes	SD,UT
Total	24	

Please note that individual AEPA Member Agencies that have indicated that they intend to participate in any contract approved under this solicitation, does not guarantee or mean that the individual AEPA

Member Agency will enter into a contract with any AEPA approved Vendor Partner. Each AEPA Member Agency will make that determination after reviewing Vendor Partner responses and AEPA's recommendation for acceptance and bid award. The AEPA Member Agency's contracting decision shall be final.

4. Anticipated Volume

Natural and Synthetic Surfaces for Sport Fields, Tracks, Courts, Playground and Landscaping Applications is a currently held category for AEPA. The resulting bid will be an Indefinite Delivery, Indefinite Quantity (IDIQ) contract(s). AEPA Member Agencies estimate approximately \$65 million in turf sales and \$21.3 million in tracks and courts in the first contract term. AEPA Member Agencies anticipate that purchase volumes will increase over the course of contract years two (2) through four (4). This information is provided as an aid to Bidders in preparing responses only. It is not to be considered a guarantee of volume under this IFB. The successful Vendor Partner's discount and pricing schedule shall apply regardless of the volume of business under the contract.

5. Voluntary Pre-Bid Conference Call

AEPA will host a voluntary pre-bid conference call on Wednesday, August 14, 2019, for any interested Bidders or potential Bidders. The conference call times are set in the following schedule for each of the four contiguous United States time zones. No pre-registration will be required. Recording of the conference call will be posted on the AEPA Website.

Voluntary Pre-Bid Conference Call Schedule (All Categories)

IFB	Eastern	Central	Mountain	Pacific
020-A Natural and Synthetic Surfaces for Sport Fields, Tracks, Courts, Playground and Landscaping Applications	11:00 AM	10:00 AM	9:00 AM	8:00 AM
020-B Carpet & Resilient Flooring	11:30 AM	10:30 AM	9:30 AM	8:30 AM
020-C Digital Resources & Instructional Materials	12:00 PM	11:00 AM	10:00 AM	9:00 AM
020-D Facility Management Software	12:30 PM	11:30 AM	10:30 AM	9:30 AM
020-E Lawn & Groundskeeping Equipment, Supplies & Services	1:00 PM	12:00 PM	11:00 AM	10:00 AM
020-F Digital Display Solutions	1:30 PM	12:30 PM	11:30 AM	10:30 AM
020-G Vehicles – Cars, SUVs, Crossovers, Light Duty Trucks, Vans, Police and Public Safety	2:00 PM	1:00 PM	12:00 PM	11:00 AM

Join Zoom Meeting: <https://zoom.us/j/770090798>

Conference Call Number: +1 929 436 2866

Meeting ID: 770 090 798

6. Glossary of Terms and Abbreviations and Acronyms for Standards and Regulations: Where abbreviations and acronyms are used in specifications or other contract documents, they shall mean the recognized name of the organizations responsible for the standards and regulations in the following list. Names, telephone numbers, and websites are subject to change and are believed to be accurate and up-to-date as of the date of the contract documents.

Item	Description
6.1.1.	Base Materials: Materials that provide porosity and stability such as crushed aggregate or porous pavement.
6.1.2.	Denier: The weight in grams of 9,000 meters of fiber
6.1.3.	Drainage System: A method of removing surface and subsurface moisture/water.
6.1.4.	Fiber: A specific form of fibrous textile material that has a length at least 100 times its

Item	Description
	diameter or width.
6.1.5.	Fiber Thickness: A measurement in microns (metric) or mils. (U.S.) of the thinnest cross section of a fiber.
6.1.6.	G-Max: A measurement of impact (shock absorption) in terms of gravity units as a ratio of deceleration.
6.1.7.	Infill: Loosely dispersed materials that are added to the synthetic turf system, typically sand, rubber, other suitable material, or a combination thereof.
6.1.8.	Knitted: A process in which the yarn fibers of the pile are tied to the backing which was simultaneously constructed by transforming continuous strands of multi-filaments into a series of interlocking loops, each row of such loops hanging from the row immediately preceding it.
6.1.9.	Water Permeability: The rate at which water flows through a surface or system cross-section or components of the cross-section.
6.1.10.	Planarity: Uniformity of the surface as compared to certain fixed predetermined points or prescribed slopes.
6.1.11.	Primary Backing System: A single or multiple layers of woven or non-woven materials, into which the fiber is either tufted or knitted, to provide the initial construction of the synthetic turf.
6.1.12.	Secondary Backing System: A coating and/or woven or non-woven fabric layer(s) applied to the primary backing after the fiber pile has been tufted or knitted into place, which serves to enhance tuft bind and provide additional structural integrity.
6.1.13.	Shock Absorbing System: Component(s) that add resiliency to the system.
6.1.14.	Sub-grade: A stabilized foundation onto which the base materials and field systems are installed.
6.1.15.	Synthetic Pile Fiber: Grass-like blades made of synthetic materials.
6.1.16.	Synthetic Turf Systems: These systems are comprised of synthetic grass like surface piles, tufted, or knitted into a primary backing system to which a secondary backing system has been applied; with or without infill material (s); a shock absorbing system, and suitable base materials with an appropriate drainage system.
6.1.17.	Tufted: A process by which the fiber yarns that form the pile are inserted into a previously prepared blanket-like primary backing.
6.1.18.	Abbreviations that may be referenced in the specifications.
6.1.19.	Amateur Athletic Union (AAU)
6.1.20.	American Society for Testing and Materials (ASTM)
6.1.21.	Deutsches Institut für Normung (DIN)
6.1.22.	Federation of International Football Association (FIFA)
6.1.23.	International Amateur Athletic Federation (IAAF)
6.1.24.	National Collegiate Athletic Association (NCAA)
6.1.25.	Synthetic Turf Council (STC)
6.1.26.	American Sport Builder Association
6.1.27.	National Federation of State High School Associations (NFH)
6.1.28.	ASTM - Test method published by the American Society for Testing and Materials
6.1.29.	EN - Test method published by the European Standards Organization
6.1.30.	FIFA - Test method described in FIFA Handbook of Test Methods and Requirements for Artificial Turf Football Surfaces
6.1.31.	FIH - International Hockey Federation
6.1.32.	ASTM - Test method published by the American Society for Testing and Materials
6.1.33.	ASTM Standards lines 6.1.34 to 6.1.42
6.1.34.	ASTM D 1557 – Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort - These test methods cover laboratory compaction methods used to determine the relationship between molding water content and dry unit weight of soils

Item	Description
	(compaction curve) compacted in a 4- or 6-in. (101.6- or 152.4-mm) diameter mold with a 10.00-lbf. (44.48-N) rammer dropped from a height of 18.00 in. (457.2 mm) producing a compactive effort of 56 000 ft-lbf/ft ³ (2700 kN-m/m ³). Effort.
6.1.35.	ASTM F 1015-03(2009) - Standard Test Method for Relative Abrasiveness of Synthetic Turf Playing Surfaces. This test method is applicable to both laboratory and field measurement of synthetic turf surfaces used for sports. Data obtained from the procedure of this test method are indicative of the relative abrasiveness of fabric or carpet type synthetic playing surfaces.
6.1.36.	ASTM F 1162/F1162M-12 Standard Specification for Pole Vault Landing Systems. This specification covers minimum requirements of size, physical characteristics of materials, standard testing procedures, labeling, and identification of pole vault landing systems.
6.1.37.	ASTM F 1551-09 Standard Test Methods for Comprehensive Characterization of Synthetic Turf Playing Surfaces and Materials. These test methods are used to identify physical property characteristics and comparison of the performance properties of synthetic turf systems or components for athletic and recreational uses, or both.
6.1.38.	ASTM F 1632-10 Standard Test Method for Particle Size Analysis and Sand Shape Grading of Golf Course Putting Green and Sports Field Rootzone Mixes - This test method covers the determination of particle size distribution of putting green and other sand-based root- zone mixes. Particles larger than 0.05 mm (retained on a No. 270 sieve) are determined by sieving. The silt and clay percentages are determined by a sedimentation process, using the pipet method. This procedure was developed for putting green rootzone mixes, those assumed to have sand contents of 80 % by weight or greater. Particle size analysis of soils may be performed by this test method or Test Method D 422. This test method also describes a qualitative evaluation of sand particle shape.
6.1.39.	ASTM F 1647-11 Standard Test Methods for Organic Matter Content of Putting Green and Sports Turf Root Zone Mixes - These test methods cover the determination of the percent organic matter of a putting green root zone mixture using a loss on ignition method or the Walkley Black method. These test methods are useful for quantifying the organic matter content of volume ratio mixed root zone mixes. Test Methods D 2974 is recommended for peat and other organic soils.
6.1.40.	ASTM F 1702-10 - Measuring Impact-Attenuation Characteristics of Natural Playing Surface Systems Using Lightweight Portable Apparatus. This test method is used to determine the impact-attenuation characteristics of natural turfgrass and soil playing surface systems with a lightweight portable apparatus. This test method can be used to compare the impact attenuation characteristics of natural playing surface systems, as well as assessing the effects of management practices on the impact attenuation characteristics. This test method also can be used to assess the compatibility of natural playing surfaces by recording g-max values or penetration of successive impacts, or both. This test method provides a procedure for assessing impact attenuation characteristics in the field, on both actual playing surfaces and research plots.
6.1.41.	ASTM F 1815-11 Standard Test Methods for Saturated Hydraulic Conductivity, Water Retention, Porosity, and Bulk Density of Putting Green and Sports Turf Root Zones - These test methods cover the measurements of saturated hydraulic conductivity, water retention, porosity (including distribution of capillary and air-filled porosity at a known soil suction), and bulk density on sand-based root zone mixes to be used for construction and topdressing of golf course putting greens including United States Golf Association (USGA) recommended greens, golf course tees, sand-based sports fields, or other highly trafficked turfgrass areas. These test methods are designed for sand-based mixes and are not intended for use with fine or medium textured soils, for example, sandy loams and loams.
6.1.42.	ASTM F 1936-10 Standard Specification for Impact Attenuation of Turf Playing Systems as Measured in the Field. This specification establishes an in situ test method and maximum impact attenuation value for all types of turf playing systems and for a number of sport specific field layouts. It also includes a protocol for determining test point locations on fields

Item	Description
	that are lined for multiple sports.
6.1.43.	ASTM F 1953-10 - Construction and Maintenance of Grass Tennis Courts. This standard outlines technique that are appropriate for the construction and maintenance of grass tennis courts. The standard provides guidance for the selection of soil materials and turfgrass species to be used.
6.1.44.	ASTM F 2000-10 Standard Guide for Fencing for Baseball and Softball Fields. This standard provides recommended minimum requirements for various types of fences used in softball and baseball ballfields and other sports facilities.
6.1.45.	ASTM F 2056-09 Standard Safety and Performance Specification for Soccer Goals. This standard outlines safety and performance requirements for soccer goals aimed at providing for safer use of soccer goals and reducing injuries and fatalities. Properties such as strength, stability, and weight are discussed.
6.1.46.	ASTM F 2060-11 Standard Guide for Maintaining Cool Season Turfgrasses on Athletic Fields - This guide covers the minimum requirements for maintaining cool season turfgrasses used for natural surface athletic fields. Practices covered include mowing, fertilization, irrigation, core cultivation, overseeding, and pest management.
6.1.47.	ASTM F 2107-08 Construction and Maintenance of Skinned Areas on Baseball and Softball Fields This standard covers technique for constructing and maintaining skinned areas on baseball and softball fields. The standard provides guidance for selecting suitable construction materials (soil, sand, etc.). Construction techniques are outlined along with minimum maintenance procedures such as scarification, irrigation, and the use of conditioners.
6.1.48.	ASTM F 2157-09 Standard Specification for Synthetic Surfaced Running Tracks. This specification establishes the minimum performance requirements and classification when tested in accordance with the procedures outlined within this specification. All documents referencing this specification must include classification required.
6.1.49.	ASTM F 2269-11 Standard Guide for Maintaining Warm Season Turfgrasses on Athletic Fields - This guide covers the minimum requirements for maintaining warm-season turfgrasses used for natural surface athletic fields. Practices covered include mowing, fertilization, irrigation, core cultivation, winter overseeding, pest management, and requirements for management of dormant turf winter overseeded with cool-season turf (see also Guide F 2060).
6.1.50.	ASTM F 2270-12 - Construction and Maintenance of Warning Track Areas on Sports Fields. This guide covers techniques that are appropriate for the construction and maintenance of warning track areas on sports fields. This guide provides guidance for the selection of materials, such as soil and sand for use in constructing or reconditioning warning track areas and for selection of management practices that will maintain a safe and functioning warning track. Although this guide has applications to all sports where a warning track surface may be required or desired, it has specific applications to baseball/softball.
6.1.51.	ASTM F 2396-11 Standard Guide for Construction of High-Performance Sand-Based Rootzones for Sports Fields - This guide covers techniques that are appropriate for the construction of high-performance sand-based rootzones for sports fields. This guide provides guidance for the selection of materials, including soil, sand, gravel, peat, and so forth, for use in designing and constructing sand-based sports turf rootzones.
6.1.52.	ASTM F 2569-11 Standard Test Method for Evaluating the Force Reduction Properties of Surfaces for Athletic Use. This test method covers the quantitative measurement and normalization of impact forces generated through a mechanical impact test on an athletic surface. The impact forces simulated in this test method are intended to represent those produced by lower extremities of an athlete during landing events on sport or athletic surfaces.
6.1.53.	ASTM F 2631-07 Standard Practice for Installation of Chain-Link Fence for Outdoor Sports Fields, Sports Courts, and Other Recreation Facilities. This practice is designed to be used for

Item	Description
	developing the chain-link fence, design, layout and installation for sports and recreation facilities such as sports fields and sports courts. It includes the internal fencing required for safety, separation of activities, security, crowd control, access, or other requirements.
6.1.54.	ASTM F 2650-07 Standard Terminology Relating to Impact Testing of Sports Surfaces and Equipment. This terminology covers terms related to impact test methods and impact attenuation specifications of sports equipment and surfaces.
6.1.55.	ASTM F 2651-10 Standard Terminology Relating to Soil and Turfgrass Characteristics of Natural Playing Surfaces. This terminology covers terms related to characteristics of soils and turfgrass for use in the development of standards and specifications for natural playing surfaces. Terms pertain to natural playing surfaces used for sports and may include those surfaces supporting the growth of turfgrass or bare soil playing surfaces that are constructed with natural materials.
6.1.56.	ASTM F 2673-08 Standard Safety Specification for Special Tip-Resistant Movable Soccer Goals. This specification covers safety requirements aimed at providing for safer use of soccer goals and reducing injuries and fatalities. It addresses the risk of accidental tip over or pull over of soccer goals. This specification applies only to movable goals whose inside measurements are 6½ to 8 ft (2 to 2.4 m) high and 18 to 24 ft (5.5 to 7.3 m) wide.
6.1.57.	ASTM F 2765-09 Standard Specification for Total Lead Content in Synthetic Turf Fibers. This specification applies to the maximum content of lead in fibers used in synthetic turf. This specification outlines a test method for sample preparation and a test method for analyzing the total lead content in synthetic turf fibers. This specification outlines guidelines for reporting total lead content in synthetic turf fibers. This specification applies only to synthetic turf fibers manufactured after Sept. 1, 2009.
6.1.58.	ASTM F 2898-11 Standard Test Method for Permeability of Synthetic Turf Sports Field Base Stone and Surface System by Non-Confined Area Flood Test Method. This test method can be used to determine in-place permeability of synthetic turf playing field systems, playing field systems with pad and/or premolded drainage boards, playing field systems with premolded panel base systems, porous and non-porous pavement systems in order to confirm compliance with design specifications and or evaluate existing as-built conditions. Synthetic turf field systems tend to drain under several flow regimes and this test method can provide a clear indication of actual in-field permeability flow rates with limited effect of lateral flow through base systems and no effect from head pressure.
6.1.59.	ASTM F 2949-12 Standard Specification for Pole Vault Box Collars. This specification covers minimum requirements of size, physical characteristics of materials, standard testing procedures, labeling and identification of pole vault box collars.
6.1.60.	ASTM F 355-16 Standard Test Method for Impact Attenuation of Playing Surface Systems, Other Protective Sport Systems, and Materials Used for Athletics, Recreation and Play - This test method measures the impact attenuation of surface systems and materials, specifically the peak impact acceleration (“impact shock”) produced under prescribed impact conditions. This test method is applicable to natural and artificial surface systems intended to provide impact attenuation, including natural and artificial turf sports fields.
6.1.61.	ASTM F 969-11 Standard Practice for Construction of Chain-Link Tennis Court Fence. This standard covers proper techniques for constructing chain-link fencing around tennis courts.

7. Special Terms and Conditions

Item	Description
7.1.1.	A \$25,000 dollar bid bond with the principal being the Bidder and the Association of Educational Purchasing Agencies being the Agency of Record. Acceptable bid bond forms are AIA Document A310-2010 Bid Bond or NASBP that includes the same language as the AIA Document A310-2010. You will need to identify on the Bid Bond what category or categories it will cover. The bid bond underwritten by a surety company licensed to issue bid bonds in the state of Nevada and said surety to be approved in federal circular 570 as published by

Item	Description
	the United States treasury department or the equivalent in cash or an irrevocable letter of credit from a FDIC financial institution. The bid security shall remain in force for one hundred twenty (120) days of bid opening. This is a requirement to submit a response.
7.1.2.	Bidder will endeavor to supply products that are made in the United States of America.
7.1.3.	If the Bidder intends to utilize independent agents/distributors, subcontractors and/or third-party agents to perform and/or provide any part of the products and services offered herein, the Vendor Partner must identify all providers and any and all associated costs with these providers.
7.1.4.	Optional services must be identified separately, and must include clear descriptions of proposed services.
7.1.5.	Contractor's License: Each of the AEPA states covered by this solicitation has its own state licensing qualifications, requirements and processes. The offeror is responsible for knowing each state's requirements and codes. For those states where licenses are required, a copy of the appropriate contractor licenses will need to be included in your response to this bid. If the Bidder is using one of its distributors or dealers a copies of their licenses shall be submitted to the AEPA Member Agency as part of their quote submission or upon request. All required licenses will be kept current and in compliance with the rules and regulations of each state's regulatory agency.
7.1.6.	Any contract awarded under any of the four (4) Categories of this bid is an indefinite-quantity contract with or without installation. All costs associated with preparing quotes/job orders/cost proposals shall be the responsibility of the contractor and must be based on a detailed scope of work and in compliance with one of the approved pricing methodologies.
7.1.7.	The standards and specifications provided and each Category are intended to establish minimum requirements and provide a general overview of the quality and type of products and services being requested.
7.1.8.	Any products and services offered are to meet or exceed all local and state building codes.
7.1.9.	The Bidder must be willing and able to demonstrate its past experience on at least five (5) acceptable project in each of the Categories that they will be submitting a bid within the past three (3) years.
7.1.10.	The Bidder must have the capacity to provide design, site inspection, site preparation and construction services for Categories that they will be submitting a bid. These services may be provided by the Bidder's own staff or by subcontractors contracted and supervised by the Bidder.
7.1.11.	The Bidder or its partner is responsible for ensuring that the design and construction drawings and manual clearly indicate, identify and communicate the products, services and testing requirements that must be provided to deal with site preparation, public utilities; sub-base-works, drainage systems; etc. for the Categories they are submitting a bid.
7.1.12.	For any project the proposer must comply with the Americans with Disabilities Act (ADA) (42 USC Section 12101 et seq.) and the Americans with Disabilities Act Architectural Guidelines (ADAAG), as well as the implementing requirements, 28 CFR Part 36, Federal Register, Vol. 56, No. 144, July 26, 1991, as amended.
7.1.13.	The Bidder must possess a knowledge and understanding of all federal, state, and local government codes, regulations and building codes dealing with the construction and installation of athletic running tracks or court surfaces.
7.1.14.	If any specifications is in conflict with the manufacturer specifications, the manufacturer specifications will prevail.
7.1.15.	The Bidder will provide at a minimum a written maintenance manual to the AEPA Member on completion of the project that includes day-to-day operating instructions, maintenance and repair methods.
7.1.16.	Provide required manufacturer's Product Data and Material Safety Data Sheets (MSDS) for

Item	Description
	products provided.
7.1.17.	The Bidder as part of its response to the Categories that a bid will be submitted, written specifications for each type of surface that it is offering.
7.1.18.	Delivery, Storage and Handling <ol style="list-style-type: none"> 1. Store packaged products in original, unopened packaging until ready for installation. 2. Store and dispose of solvent-based materials and materials used with solvent-based materials in accordance with requirements of AEPA Member State. 3. Protect all products from weather as specified by manufacturer instructions.
7.1.19.	All equipment will conform to the most recent Consumer Product Safety Commission (CPSC); American Society for Testing and Materials (ASTM) standards specifications; governing bodies' such as AAU, NCAA, NFHSA, and state requirements governing their level of athletic competition; and American Sports Builders Association (ASBA) guidelines and performance specification for synthetic surfaced athletics tracks, courts and fields; and American Disabilities Act (ADA) regulations.
7.1.20.	AEPA Vehicle Bid Regions: This solicitation may be awarded on a national or at a regional level. See regions below. AEPA reserves the right to modify the regions below after recommendation of award.
7.1.21.	Region 1: New England (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont)
7.1.22.	Region 2: Mid-Atlantic (New Jersey, New York, Maryland, Delaware and Pennsylvania)
7.1.23.	Region 3: East North Central (Illinois, Indiana, Michigan, Ohio, Wisconsin)
7.1.24.	Region 4: West North Central (Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota)
7.1.25.	Region 5: South Atlantic (Florida, Georgia, North Carolina, South Carolina, Virginia, District of Columbia, Kentucky and West Virginia)
7.1.26.	Region 6: East South Central (Alabama, Mississippi, Tennessee, Arkansas and Louisiana)
7.1.27.	Region 7: Mountain (Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah Wyoming, Texas and Oklahoma)
7.1.28.	Region 8: Pacific (Alaska, California, Hawaii, Oregon and Washington)

8. Standard Specifications for all Categories

Item	Description
8.1.1.	General Requirements for all Categories
8.1.2.	All charges and components necessary for performance of a contract shall be clearly identified even if such are not specifically addressed in any paragraph or sub-paragraph or form that is a part of this request.
8.1.3.	Vendor Partner shall provide a Material Safety Data Sheet (MSDS) for all items sold, if required. A separate sheet shall be provided for each individual item when purchase is made.
8.1.4.	Provide technical and consulting services to AEPA Members relating to athletic, recreational, landscaping surface design, characteristics, and construction.
8.1.5.	Provide existing site inspection and investigation to identify soil conditions existing at the site in order to take into account the conditions found in the designing of athletic and recreational fields. The investigation shall include, but not be limited to: <ol style="list-style-type: none"> a. Stripping, placement of backfill and base construction in order to ensure the minimization of the risk of problems due to subsoil and subgrade conditions. b. Soil inspection for the existence of peat or other organic soils at the site. c. Inspection for uncontrolled fill materials or waste materials at the site. d. Inspection for expansive soils at the site. e. High ground water conditions or surface water retention areas (low area flooding). f. Special usage of the facility (i.e., using tennis courts, playgrounds, etc).

Item	Description
8.1.6.	Provide all labor, materials, equipment and drawings required to provide design services for a project cost proposal with a complete scope of work, including all products, services and with their associated costs. A preliminary construction time schedule shall be a part of the project proposal.
8.1.7.	Provide all labor, materials and equipment required to assess and evaluate existing facilities and develop and establish a plan of action for maintenance, repair and/or renovation of the existing athletic and recreational field to condition as required by the AEPA Member .
8.1.8.	Provide ongoing technical support and training services for AEPA Members' staff relating to the maintenance and operation of these types of facilities to ensure their good operational condition.
8.1.9.	Provide all labor, materials, equipment and drawings required to provide design services for a project cost proposal with a complete scope of work, including all products, services and surface specifications with their associated costs. A preliminary construction time schedule shall be a part of the project proposal.
8.1.10.	Provide all labor, materials, equipment, project drawings and construction documents necessary to install lines and markings required to complete the athletic or recreational field, running track, tennis and basketball court, etc. as identified within the project documents for the AEPA Member's project scope of work and documents.
8.1.11.	Provide all labor, materials and equipment required to assess and evaluate existing facilities and develop a plan of action for maintenance, repair and/or renovation of surfaces the existing as required by the AEPA Member .
8.1.12.	Provide ongoing technical support and training services for AEPA Members' staff relating to the maintenance and operation of these types of facilities to ensure their good operational condition.
8.1.13.	Assisting AEPA Members in assessing, evaluating and determining the safety and operational status of the various types of synthetic turf products. Providing AEPA Member with a complete and comprehensive report identifying areas of concern and equipment needing maintenance, repair and/or replacement.
8.1.14.	Assisting AEPA Members in developing a short-term action plan to remediate, resolve and/or remove any unsafe conditions and establish a long-term maintenance program for maintaining AEPA Member's turf installation in good working conditions.
8.1.15.	Upon request, assist the AEPA Members and its design professional in design of athletic and non-athletic surface or facilities for new and current public facilities.
8.1.16.	Provide AEPA Members with necessary construction services for demolition, site preparation and athletic and non-athletic surfaces and accessories.
8.1.17.	Provide AEPA Members with the necessary training and support services to allow their staff to conduct safety inspections, perform maintenance, install equipment, structures and fixtures according to manufacturer's specifications..
8.1.18.	All material shall be guaranteed to the extent that: <ol style="list-style-type: none"> 1. Installed in accordance and the manufacturer's specifications. 2. Will perform as specified per the manufacturer's specifications
8.1.19.	Project Site <ol style="list-style-type: none"> 1. The contractor shall hold AEPA Member harmless from damage from trespassing on property by others. 2. There shall be no dumping of construction debris or other material on AEPA Member's or Participating Entity's property. 3. Any material that requires special handling as dictated by federal or state law shall be removed and disposed by the contractor at the end of the project. 4. Project site to meet all OSHA requirements. 5. Provide pedestrian protection and warnings during construction which comply with local, Federal, and OSHA codes.

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	<ol style="list-style-type: none"> 6. Prior to erection of any kind, the Contractor shall grade, backfill, and otherwise prepare the job site to ensure safe working conditions. 7. Any grade or elevation situations which deviate from the approved plans and drawings shall be approved by the AEPA Member representative and the equipment manufacturer prior to installation. 8. Dumpster for trash and debris shall be provided by the Contractor.
8.1.20.	<p>Utility Services</p> <ol style="list-style-type: none"> 1. Cost for temporary utility services electrical, water, gas, etc., that is utilized during the construction process will be identified and agreed upon in writing by the AEPA Member. 2. Utility services (electrical, water, gas, etc.) utilized by the contractor to maintain a project office trailer, maintenance shop, storage facilities, security lighting, etc., will be the responsibility of the contractor and can only be transferred to the AEPA Member on written agreement between AEPA Member and Contractor. 3. All work will be in compliance with OSHA safety requirements and any additional applicable federal, state, or local fire and safety requirements. When specifications or scope of work will result in a violation of a code or result in an unsafe condition, the contractor must inform the AEPA Member representative of the situation. The contractor will not work that intentionally violates a fire, health, safety or UBC code or safety standard.

9. Product/Category Specific Specifications

Category 1 Synthetic Turf Category

Item	Description
9.1.1.	The standards and specifications provided below are intended to establish minimum requirements and provide a general overview of the quality and type of products and services being requested.
9.1.2.	Any products and services offered are to meet or exceed all local and state building codes.
9.1.3.	<p>The products and services may include, but are not limited to, the following:</p> <ol style="list-style-type: none"> 1. Provide technical and consulting services relating to athletic and recreational field surface design, characteristics, construction, and integration into the development of a new athletic or recreational facility. 2. Provide existing site inspection and investigation to identify soil conditions existing at the site in order to take into account the conditions found in the designing of athletic and recreational fields. The investigation shall include, but not be limited to: <ol style="list-style-type: none"> a. Stripping, placement of backfill and base construction in order to ensure the minimization of the risk of problems due to subsoil and subgrade conditions. b. Soil inspection for the existence of peat or other organic soils at the site. c. Inspection for uncontrolled fill materials or waste materials at the site. d. Inspection for expansive soils at the site. e. High ground water conditions or surface water retention areas (low area flooding).
9.1.4.	Provide ongoing technical support and training services for AEPA Member's staff relating to the maintenance and operation of these types of facilities to ensure their good operational condition.
9.1.5.	The synthetic turf surface should provide the performance characteristics, components, and construction that meet the needs of the declared use and/or functions.
9.1.6.	The synthetic turf system and all of its components should be resistant to moisture, rot, mildew, bacteria, fungus growth, ultraviolet ray degradation, non-toxic, not cause commonly known allergic reactions at all field locations, and meet AEPA Member local state and environmental requirements.
9.1.7.	Each synthetic turf system should be constructed to provide dimensional stability and resist

Item	Description
	damage from wear and tear during athletic and recreational usage.
9.1.8.	The standards and specifications provided below are intended to establish minimum requirements and provide a general overview of the quality and type of products and services being requested.
9.1.9.	Any products and services offered are to meet or exceed all local and state building codes.
9.1.10.	The products and services may include, but are not limited to, the following.
9.1.11.	Provide technical and consulting services relating to athletic and recreational field surface design, characteristics, construction, and integration into the development of a new athletic or recreational facility.
9.1.12.	Provide existing site inspection and investigation to identify soil conditions existing at the site in order to take into account the conditions found in the designing of athletic and recreational fields. The investigation shall include, but not be limited to:
9.1.13.	Stripping, placement of backfill and base construction in order to ensure the minimization of the risk of problems due to subsoil and subgrade conditions.
9.1.14.	Soil inspection for the existence of peat or other organic soils at the site.
9.1.15.	Inspection for uncontrolled fill materials or waste materials at the site.
9.1.16.	Inspection for expansive soils at the site.
9.1.17.	High ground water conditions or surface water retention areas (low area flooding).
9.1.18.	Provide all labor, materials, equipment and drawings required to provide design services for a project cost proposal with a complete scope of work, including all products, services and athletic and recreational field specifications with their associated costs. A preliminary construction time schedule shall be a part of the project proposal.
9.1.19.	Provide ongoing technical support and training services for AEPA Member's staff relating to the maintenance and operation of these types of facilities to ensure their good operational condition.
9.1.20.	The synthetic turf surface should provide the performance characteristics, components, and construction that meet the needs of the declared use and/or functions.
9.1.21.	The synthetic turf system and all of its components should be resistant to moisture, rot, mildew, bacteria, fungus growth, ultraviolet ray degradation, non- toxic, not cause commonly known allergic reactions at all field locations, and meet AEPA Member local state and environmental requirements.
9.1.22.	Each synthetic turf system should be constructed to provide dimensional stability and resist damage from wear and tear during athletic and recreational usage.
9.1.23.	The standards and specifications provided below are intended to establish minimum requirements and provide a general overview of the quality and type of products and services being requested.
9.1.24.	Any products and services offered are to meet or exceed all local and state building codes.
9.1.25.	The products and services may include, but are not limited to, the following.
9.1.26.	Provide technical and consulting services relating to athletic and recreational field surface design, characteristics, construction, and integration into the development of a new athletic or recreational facility.
9.1.27.	Provide existing site inspection and investigation to identify soil conditions existing at the site in order to take into account the conditions found in the designing of athletic and recreational fields. The investigation shall include, but not be limited to:
9.1.28.	Stripping, placement of backfill and base construction in order to ensure the minimization of the risk of problems due to subsoil and subgrade conditions.
9.1.29.	Soil inspection for the existence of peat or other organic soils at the site.
9.1.30.	Inspection for uncontrolled fill materials or waste materials at the site.
9.1.31.	Inspection for expansive soils at the site.
9.1.32.	High ground water conditions or surface water retention areas (low area flooding).
9.1.33.	Provide all labor, materials, equipment and drawings required to provide design services for

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	a project cost proposal with a complete scope of work, including all products, services and athletic and recreational field specifications with their associated costs. A preliminary construction time schedule shall be a part of the project proposal.
9.1.34.	<p>Any Project to Include:</p> <ol style="list-style-type: none"> 1. Assess and determine existing site conditions and AEPA Member's expectations for the project. 2. Develop a proposed solution to conform to and meet the AEPA Member's expectations while considering and ensuring the following: <ol style="list-style-type: none"> a. The solution proposed is adequate and functional within the existing site conditions and will comply with all building codes. b. Provide labor, materials, equipment and supervision necessary to complete installation of synthetic turf, including the following: <ol style="list-style-type: none"> i. Site inspection and investigation. ii. Site preparation and sub-base. iii. Inspection and approval of sub-base. iv. Installation of proposed synthetic turf system with accessories, striping and equipment. c. Provide cost estimates and information relating to after-the-sale ongoing inspection and maintenance services to ensure proper
9.1.35.	Construction and installation services to prepare and install proposed synthetic turf system on the designated site in accordance with the shop drawings, striping plan and manufacturer's instructions and specifications.
9.1.36.	<p>Warranty</p> <ol style="list-style-type: none"> 1. Guarantee the usability and playability of the synthetic turf system for its intended uses for an eight (8) year period commencing with the date of substantial completion and acceptance by the AEPA Member. The warranty coverage shall not be limited to the amount of usage. 2. Warranties for the synthetic turf field systems should be clearly understood and may include the following: <ol style="list-style-type: none"> a. Acceptable uses for the field b. Fading c. Color match within specifications d. Excessive fiber wear e. Acceptable loss of pile height over time f. Wrinkling and panel movement g. Shock absorbency (g-max) h. Seam integrity i. Drainage j. Response time for required repairs/replacement k. Approved maintenance equipment l. Other items deemed relevant m. What conditions void a warranty 3. Warranty for all structures and components must be direct from the manufacturer and non-prorated for the entire term. 4. Extended warranties can be offered and provide a detailed description along with their associated costs. Include what is and is not covered. 5. G-Max Warranty should not-to-exceed STC's guideline for the life of the field warranty. The STC's guideline is that G-Max should be below 165 for the life of the field.
9.1.37.	<p>Prior to order of materials, the contractor shall submit the following:</p> <ol style="list-style-type: none"> 1. Sample warranty. 2. Seam layout of the field and striping plans.

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	3. Details on construction, especially any details that may deviate from plans and specifications.
9.1.38.	Prior to the beginning of installation, the manufacturer/installer of the synthetic turf shall inspect the sub-base and supply a Certificate of Sub-Base Acceptance for the purpose of obtaining manufacturer's warranty for the finished synthetic playing surface.
9.1.39.	<p>Components for Synthetic Turf Systems to include but not limited to:</p> <ol style="list-style-type: none"> 1. Synthetic Turf Types: There are several different types of synthetic turf available. They are distinguishable through the use of different fibers and different construction. Differentiated by construction are the tufted or the knitted synthetic turf systems. Both systems are comprised of synthetic fibers with primary and secondary backing systems and a resilient shock absorbing system. The shock absorbing system can consist of infill, a padding system, or a combination of both. 2. Fiber: Typically, the fiber used in synthetic turf is textured and/or non-textured polypropylene, polyester, polyethylene, nylon or other suitable performing hybrid or copolymer in tape form or monofilament. Minimum fiber sizes are 50 microns for polypropylene or polyester, 100 microns for tape form (slit-film) polyethylene, 140-300 for monofilament polyethylene (shape dependent) and 500 denier for nylon. Fiber sizes for hybrids or copolymer will comply with the most closely related fiber type. Ideally, all fibers should be of the same chemical composition, shape, and texture. Fibers should be compliant to ASTM guideline for total lead content. 3. Fiber: Typically, the fiber used in synthetic turf is textured and/or non-textured polypropylene, polyester, polyethylene, nylon or other suitable performing hybrid or copolymer in tape form or monofilament. Minimum fiber sizes are 50 microns for polypropylene or polyester, 100 microns for tape form (slit-film) polyethylene, 140-300 for monofilament polyethylene (shape dependent) and 500 denier for nylon. Fiber sizes for hybrids or copolymer will comply with the most closely related fiber type. Ideally, all fibers should be of the same chemical composition, shape, and texture. Fibers should be compliant to ASTM guideline for total lead content. 4. Primary Backing Systems Material: The primary backing materials are of a woven or non-woven fabric in one or more layers which are utilized in the tufting process, or of high strength polyester multi-filament fiber utilized in the knitting process. This backing material provides the initial dimensional stability for the system. 5. Secondary Backing Systems Material: The secondary backing materials are applied through a coating process with a single or multiple applications of one or various materials. 6. Perforations: Depending on the final construction of the turf system, the system may or may not be permeable to water. Perforations are typically required of fully coated system backings to provide adequate vertical drainage throughout the system. Some turf systems may allow for drainage without perforations by employing a process of partial coating or other system designs. Developments in coating systems have provided for lighter weight and aqueous permeable chemicals; however, the drainage criteria must be met. 7. Infill Materials: The most recent generation of synthetic turf systems utilizes a long pile height and needs to be supported with infill materials for directional stability and structural integrity, as well as resiliency. The infill materials commonly used are EDPM, TPE, natural cork, ground fibers from coconut shells, coated and non-coated silica sand, crumb and coated rubber, other suitable materials, or combinations of sand, rubber, or other suitable materials
9.1.40.	<p>Synthetic Turf Performance</p> <ol style="list-style-type: none"> 1. Traction: The surface should provide good traction in all types of weather with the use of conventional athletic type shoes applicable to the sports and/or activity specified. 2. Rotational Resistance: The surface should allow for twisting movements as is common

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	<p>in athletic activities. Rotational resistance measures the ability of the user to perform twisting motions when in contact with the surface.</p> <ol style="list-style-type: none"> 3. Slip Resistance Component: The system should enable a predictable range of movement between the user and the surface uniformly throughout. The surface should balance traction and slippage by way of the sliding coefficient. 4. Surface Abrasiveness: The field surface should have fibers and infill materials that minimize skin abrasions. 5. Impact Attenuation (g-max): The field surface should have the ability to adequately absorb player impact with the surface. The g-max and force reduction tests are two tests typically used. G-Max values may vary from location to location on a playing surface. Such variances shall be taken into account when setting maximum test values. A maximum, not-to-exceed limit should be specified for the life of the warranty. The STC's guideline is that g- max should be below 165 for the life of the field. 6. Surface Stability (vertical deformation): The surface should provide adequate stability so that the athlete can maintain body control to help prevent or properly control contact between athletes. This is an important consideration that should be balanced with the surfaces' ability to absorb impact. If the surface is too soft, the stability provided by the field may not be optimal for player movement and body control. 7. Ball-Surface Interaction: The synthetic turf playing field should provide consistent and predictable ball performance reaction characteristics. 8. Surface Uniformity: The synthetic turf playing field should be as level as practical. The synthetic surface shall provide a true and uniform playing surface throughout. 9. Ball Bounce: The synthetic turf field should provide a ball bounce as close to the optimal playing characteristics of the sport or sports. The published standards for the regulatory organizations as applicable for each sport should be referenced. 10. Ball Roll: The synthetic turf field should provide a ball roll as close to optimal playing characteristics of the intended sport or sports. The published standards for the regulatory organizations as may be applicable for each sport should be referenced. 11. Appearance: Unless otherwise dictated by design, the synthetic turf should have a consistent color, texture, and shade without significantly noticeable streaks or other irregularities when observed in any direction.
9.1.41.	<p>Warranties for the synthetic turf field systems should include the following:</p> <ol style="list-style-type: none"> 1. Acceptable uses for the field 2. Expected number of yearly hours of use of the field 3. Type of shoes used 4. Fading 5. Color match within specifications 6. Excessive fiber wear 7. Acceptable loss of pile height over time 8. Wrinkling and panel movement 9. Shock absorbency (g-max) 10. Seam integrity 11. Drainage 12. Response time for required repairs/replacement 13. Approved maintenance equipment 14. Other items deemed relevant
9.1.42.	<p>Maintenance:</p> <ol style="list-style-type: none"> 1. A regular schedule of maintenance should include but not limited to surface cleaning, debris removal, grooming, and infill replenishment, redistribution, and de-compaction. 2. The maintenance procedures and equipment, as specified by the synthetic turf manufacturer or Synthetic Turf Council's Guidelines for the Maintenance of Infilled

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	Synthetic Turf Surfaces, January 2013, for additional information.
9.1.43.	<p>Other Considerations:</p> <ol style="list-style-type: none"> 1. The synthetic turf supplier, unless the base is part of their scope of work, should perform an inspection of the field planarity base on to which the synthetic turf system is to be installed and to examine the finished surface for required compaction, water permeability, and grade tolerances. After any discrepancies between the required materials, application, and tolerance requirements noted have been corrected, the owner's representative (architect/engineer) should review and approve for compliance with documents. The acceptance of the base construction should be included in the certification for warranty validation. 2. Extra Materials: the synthetic turf manufacturer and installation contractor can provide extra sections of synthetic turf material for future repairs. If necessary, this should include materials for all colors used with any lines, markings, and logos. Quantities to be predetermined. This allows for materials from the same manufacturing run to be utilized for minor repairs.
9.1.44.	<p>Drainage System Components</p> <ol style="list-style-type: none"> 1. The system chosen will depend on the use of the field, climate, amount of rainfall, and other factors. 2. The drainage system may include but not limited to the synthetic turf, pad, base materials, and collector pipes that collect and remove storm water from the playing field. The design of the drainage system is dependent upon local conditions, climates, and site constraints. The Rational Method, Hydrograph Analysis, or Time Series Method may be used to determine the rainfall run-off that must be accommodated by collector pipes. 3. Site Conditions: Rainfall duration intensity curves can be developed from the National Weather Service Technical Paper TP-40 Rainfall Frequency Atlas for the United States or coordinated with the local weather statistics at the location of the project site. Otherwise, unless agreed to by the end user, the design storm frequency should be as required by local regulations. Where no local regulation exists, a minimum 5-year design storm frequency is recommended for playing fields at grade. For fields requiring pump stations, a more conservative design frequency that is compatible with the design capacity of the pump station should be used. 4. Flow Time: The time interval for water to flow through the complete system to the collector pipes is based on permeability tests conducted in the laboratory for the design of the complete system. Flow through the base material can be enhanced by the use of composite drainage materials or lateral drain pipes that intercept the normal flow of water in the complete system and flow directly to the collector pipes. Flow rate into the lateral drainage system is dependent on the amount of available open space for water to enter the pipe. The geotextile cover on many composite drains can have varying effects on how fast water can enter the system over time. Care should be taken in evaluating these products and how the chosen base materials can affect water in-flow over time. 5. Collector Pipes: Collector pipes are typically perforated polyvinyl chloride (PVC) or polyethylene (PE) pipes. Size and type of perforations are dependent upon the size of the pipe. If perforations are larger than the smallest aggregate in the base material, then a geo-textile sock filter may be used to encapsulate the pipe care should be taken to ensure that the openings in the geo-textile fabric are compatible with the granular smaller components so that they do not block the pores and reduce water flow. A qualified civil or geotechnical engineer should be consulted to determine the suitability of using a product with a geo-textile sock in conjunction with the selected base materials as they can clog the sock over time and severely impede the performance of the system. Additionally, the compressive strength of various systems

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	<p>can differ greatly, and care should be taken to keep construction traffic off the systems until enough stone has been placed and compacted.</p> <p>6. The expected performance evaluation and the systems used should undergo an independent engineering analysis.</p>
9.1.45.	<p>Base Materials</p> <ol style="list-style-type: none"> 1. The aggregate base on which the synthetic turf is installed provides a structurally sound foundation for field construction, and a media for drainage of the field. The base materials should contain the necessary components and characteristics to satisfy local conditions. A good geotechnical report will provide essential information for a firm and stable base for the synthetic turf. 2. Soil Separator: Depending on the local site conditions, a geo-textile fabric may be placed over the entire sub-grade and within the pipe trenches prior to the installation of the base materials to minimize contamination of the aggregate and possible clogging of the perforated drainage pipes. Where soil conditions warrant, a polyethylene, PVC, or other impermeable sheet liner may be used in lieu of the geo-textile to inhibit storm water infiltration into the subsoil. 3. Aggregate: The aggregate materials utilized to construct the field base must be a properly graded washed crushed stone to provide a balance between stability and permeability. A highly fractured material is desirable to provide the surface stability required for the synthetic turf surfacing, supplemental padding or porous paving as applicable. The graded aggregate particle sizes must be tightly controlled to fall within the bandwidth for all specified sieve sizes with just enough fines to provide stability while still allowing for sufficient drainage. Minimum stability and permeability requirements should be determined and confirmed by an independent certified laboratory prior to construction of the base course. 4. Compaction: The base materials should be thoroughly compacted to prevent differential settlement across the field area. Minimum compaction levels typically should not be less than 95% density as measured by a standard proctor test. Special attention should be given to backfill compaction of any utility trenches that cross the field area. Care should also be taken not to over compact, which could affect drainage. 5. Pavement: If pavement is required by design, the base materials may be porous or conventional asphalt. This material is installed over a permeable aggregate base and a subsurface drainage system. The porous pavement material must be manufactured with tight quality control on asphalt content, as well as the gradation of the aggregate used in the mix. This aggregate should have a limited amount of fines to allow for efficient water permeability. Use of conventional asphalt paving will require a sloped field with either a crown or a cross slope. Consideration should be given to the use of a drainage mat or an elastic layer pad system between the turf backing and the surface of the pavement. This, along with the installation of periodic interceptor drains, should allow for horizontal water movement below the field's surface. Without the use of these materials, the infill layer will become saturated during periods of heavy rainfall and there may be migration of the infill materials with the surface water movement. 6. Water permeability rates for both the field's surfacing and the field base materials should be designed to accommodate the local weather patterns and storm water management regulations. The permeability of both the field surface and the base materials will typically decrease over the life of the field. An adequate factor of safety should be utilized to provide initial infiltration rates for the completed field above those required by the local weather conditions.
9.1.46.	<p>Shock Absorbing Resilient Underlayment Systems</p> <ol style="list-style-type: none"> 1. In situ Cushion Layer (elastic layer pad): If included in the design, these cushion systems should be installed in place with specialized paving equipment.

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	<ol style="list-style-type: none"> 2. Physical Characteristics: These systems are typically comprised of SBR rubber granules bound with a single component polyurethane binder. Small rounded pea gravel aggregate or other suitable materials can also be incorporated with the rubber and urethane materials. The firmness of the system can be adjusted with the size and the proportions of the rubber granules and aggregate materials, as well as with the amount of polyurethane binder used and the thickness of the layer. 3. Performance Characteristics: The selection of the cushion layers should be closely coordinated with the performance characteristics of the synthetic turf utilized. The cushion layers should provide shock absorption without compromising footing and surface stability. 4. Prefabricated Cushion Layers (Pad): If included in the design, these cushion layers are rolls or tiles of resilient material installed under and occasionally adhered to the synthetic turf backing. <ol style="list-style-type: none"> a. Physical Characteristics: Prefabricated cushion layers are typically comprised of rubber, polyurethane foam, or other suitable materials. The rubber pads are SBR rubber fibers or granules bound together with a polyurethane binder and usually come as roll or piece goods and should be permeable. The foam cushion layers are typically polyurethane or polyvinyl chloride and should be water permeable for drainage. b. Performance Characteristics: The selection of the cushion layers should be closely coordinated with the performance characteristics and requirements of the synthetic turf system utilized. The cushion layers should provide shock absorption without compromising footing and/or surface stability. c. Water Permeability Rate: The system is to be permeable by design with adequate drainage, perforations through all of the cushioning layers to provide for adequate drainage through the system as specified.
9.1.47.	<p>Irrigation System:</p> <ol style="list-style-type: none"> 1. The installation of a manual or automatic irrigation system can be considered for synthetic turf installations. Guidelines on whether synthetic fields are watered are determined by factors such as region, climate, turf material, player traffic type, and level of games played. 2. It is recommended that the design be reviewed and approved by a recognized irrigation consultant or landscape designer.
9.1.48.	<p>Seams:</p> <ol style="list-style-type: none"> 1. Each panel or roll should be attached to the next with a seam to form the playing substrate of the field. Seams should be glued with a supplemental backing material or sewn with high strength sewing thread. The bonding or fastening of all system material components should provide a permanent, tight, secure, and hazard-free athletic playing surface. 2. Adhesive: Synthetic turf adhesives should be applied by experienced, professional installers. The adhesives should provide a strong, hazard-free, and durable bond between the adjacent turf panels or sections and to be usable for installation under variable weather conditions. The adhesive should also be resistant to water, fungus, and mildew. Synthetic turf adhesives include: one- part adhesives (urethanes), two- part (epoxy or urethane), hot melt, and water- based (latex). 3. Seaming Tape: The tape is comprised of a fabric that should be installed below the backing material on both sides of a seam or inlay. The fabric used for seaming tape should provide dimensional strength and enough surface texture and width to bond well with the adhesive and the turf backing material on each side of the seam.
9.1.49.	<p>Field Lines and Markings:</p> <ol style="list-style-type: none"> 1. Installation: Lines and markings should be installed on the synthetic turf surface in one of three methods: with paint, with colored fiber that is either tufted or knitted into

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	<p>the synthetic turf panels, or installed as inlays. Tufted in or inlaid lines and markings are a permanent part of the surface.</p> <ol style="list-style-type: none"> 2. Painted lines and markings installed with either permanent or temporary paint require maintenance. Even permanently painted lines require additional paint on a periodic basis. 3. Synthetic turf and fibers utilized for the tufted or inlaid lines and markings should be similar to that used in all other areas of the field and installed to the same tolerances. 4. A complete field "Lining, Marking, and Field Boundary" system will be provided with the installation of the surfacing system. 5. Field markings are to be installed in accordance with approved project shop drawings and marking plan. 6. Tufted lines, hash marks, ticks, and number markings, shall conform to the manufacturers' specifications and recommendations. 7. Striping layouts shall be accurately surveyed by the Contractor before installation of tufted field markings. 8. Install tufted lines and markings only when the surface is completely dry. 9. AEPA Member will provide logos as required in a format that the contractor requires. The Contractor shall submit shop drawing of logo to include colors, dimensions and locations for approval prior to ordering and installation.
9.1.50.	<p>Inserts:</p> <ol style="list-style-type: none"> 1. They can include covers for goal sleeves and anchors and conversion of baseball infield clay areas to synthetic turf. 2. The synthetic turf used for the inserts should be similar to that used in the area adjacent to the insert. 3. The inserts should be anchored securely to the surrounding areas so that they cannot be displaced by the activities occurring on the field and installed to the same tolerances. 4. Synthetic Turf Material Production Quality Assurance. 5. Testing of materials should be performed prior to shipment of product to the job site. 6. The synthetic turf rolls should be randomly sampled and tested by the manufacturer who will certify that they meet the specification. 7. Testing may include pile composition, pile weight, total weight, pile height, tuft bind (without infill), and grab/tear strength. 8. The manufacturer, to certify in writing at the owner request that the test results meet or exceed the synthetic turf specification.
9.1.51.	<p>Construction and Installation</p> <ol style="list-style-type: none"> 1. Inspection: Synthetic materials should be inspected prior to installation for: <ol style="list-style-type: none"> a. Damaged or defective goods b. Missing goods or quantities c. Correct fiber type d. Correct turf pile height and weight e. Proper tuft bind f. Correct backing perforation diameter and spacing, if applicable g. Materials out of tolerance with the specification h. Sub-Grade Preparation: The sub-grade should provide a stabilized foundation upon which base materials and subsequent components of playing field systems will be installed. i. Function: It should also provide the pitched surface on which storm water is directed toward the active drainage system for evacuation. j. Shape and Compaction: Prior to placement of base materials, the sub-grade should be shaped to an appropriate profile and compacted by proof rolling to obtain a firm even surface. Depressed areas should be filled, and unsuitable

Item	Description
	<p>materials removed and replaced with clean fill or aggregate. Compaction should be performed to achieve a minimum of 95% in accordance with ASTM D698 Standard Proctor Method. The appropriate moisture content must be maintained in the field sub-grade to allow for optimal levels of compaction.</p> <p>k. Sub-Grade (Rough) Planarity: The tolerances for the finished sub-grade should not exceed one-half (1/2") inch as measured by a 10-foot straight edge (13mm in 3m). Grading of the sub-grade shall minimize pending to the extent practical. The use of laser guided, and controlled equipment is highly recommended for sub-grade preparation.</p>
9.1.52.	<p>Sub-Grade Preparation</p> <ol style="list-style-type: none"> 1. The sub-grade should provide a stabilized foundation upon which base materials and subsequent components of playing field systems will be installed. 2. It should also provide the pitched surface on which storm water is directed toward the active drainage system for evacuation. 3. Shape and Compaction: Prior to placement of base materials, the sub-grade should be shaped to an appropriate profile and compacted by proof rolling to obtain a firm even surface. Depressed areas should be filled and unsuitable materials removed and replaced with clean fill or aggregate. Compaction should be performed to achieve a minimum of 95% in accordance with ASTM D698 Standard Proctor Method. The appropriate moisture content must be maintained in the field sub-grade to allow for optimal levels of compaction. 4. Sub-Grade (Rough) Planarity: The tolerances for the finished sub-grade should not exceed one-half (1/2") inch as measured by a 10-foot straight edge. Grading of the sub-grade shall minimize pending to the extent practical. The use of laser guided and controlled equipment is highly recommended for sub-grade preparation.
9.1.53.	<p>Aggregate:</p> <ol style="list-style-type: none"> 1. Installation of the aggregate base should provide a close, evenly textured surface meeting the required tolerances. 2. Extreme care should be taken to ensure that there is no disturbance to the sub- grade and that there is no displacement of the soil separator. All disturbed, displaced, or damaged material is to be repaired or replaced. 3. The aggregate base should be placed in a manner that will produce a uniform and evenly graded mass to the specified depth. The material should be placed and spread by the appropriate equipment and methods in successive horizontal layers not exceeding the depth per synthetic turf manufacturer's specifications. Pockets that occur as a result of stone segregation during installation should be removed and replaced. After correct placement, each lift shall be uniformly compacted with a self-propelled roller to achieve the specified density. 4. The field base materials should be thoroughly compacted to prevent any significant differential settlement across the area of synthetic turf surfacing. The appropriate moisture content must be maintained in the base materials to allow for optimal levels of compaction. 5. Finish-Grade Planarity (surface tolerances): Irregularities in the surface of the base materials are typically reflected in the finished field surface. To controlled tolerances the contractor is to use a laser guided and controlled equipment for subgrade preparation. The local deviation of the finished surface of the base stone should not exceed ¼ in. in any direction when measured beneath a 10-foot long straight edge. Hollows and depressions, which may have developed during the process of compacting the base, should be filled with acceptable material and re-compacted.
9.1.54.	<p>Shock Absorbing Resilient Underlayment System:</p> <ol style="list-style-type: none"> 1. Cushion-Layer (Elastic Layer Pad) Installation: If required by design, the in situ cushion layers should be installed with specialized paving equipment used only for in

Item	Description
	<p>situ pad. All paving seams should be hand rolled and troweled. All cold joints in the pad should be pretreated with a polyurethane primer. The specified thickness of the in situ pad should be continuously monitored for consistency. The components of the in situ cushion layers should be thoroughly mixed. The mixing ratios should also be monitored for consistency. The cushion-layer system should be securely placed on the field base materials. The in situ cushion surface should not vary more than ¼ in. in 10 ft. as measured in any direction with a string line or straight edge.</p> <ol style="list-style-type: none"> 2. Seam Installation: If required by design, prefabricated cushion-layer systems are typically installed as roll or piece goods. The head seams at the end of each roll should be staggered across the field. When required by the padding manufacturer, all glued cushion-layer seams should be butted together and a permeable or mesh type fabric should be adhered to the surface of the cushion layer at all seam locations to bridge the cushion-layer joints. (This does not apply to sewn seams). 3. Resilient Infill: If required by design, the infill material should be applied when in a dry condition and should not be applied unless the synthetic turf is also dry. The infill material should be applied in consistent layers with multiple applications. It is critical to insure that synthetic fibers are not trapped underneath the infill. After application of each layer, the synthetic turf should be dragged and/or brushed according to the manufacturer's recommendations in order to lift the fibers and distribute the infill material into the turf system in a consistent manner.
9.1.55.	<p>Synthetic Turf Material Production Quality Assurance/Quality Control: Testing of materials should be performed prior to shipment of product to the job site to avoid additional costs or delay.</p> <ol style="list-style-type: none"> 1. Quality Assurance Testing: Prior to shipment of the synthetic turf and components to the job site, the synthetic turf rolls should be randomly sampled and tested by the manufacturer who will certify that they meet the specification. 2. Relevant Characteristics: Testing to be conducted should be a provision in the agreement between the parties and may include pile composition, pile weight, total weight, pile height, tuft bind (without infill), and grab/tear strength. 3. Labeling: The manufacturer, at his option, should convey in writing the test results of the relevant characteristics and certify that they meet or exceed the specification requirements.
9.1.56.	<p>Synthetic Turf Installation:</p> <ol style="list-style-type: none"> 1. All synthetic turf systems should be installed to provide stability that will prevent panels from shifting or bunching. 2. The synthetic turf panels should be securely fastened together for the warranted life of the system. These seams can be glued or sewn depending upon the synthetic turf system. Seam gaps should be minimal and uniform. For tufted infill systems the gap between the fibers should not exceed the gauge of the tufting. For other synthetic turf systems, the seam gaps should not exceed 1/16 in. 3. Edge anchoring may consist of a concrete curb, a treated wood header, a composite material, or a trench drain. These may vary by design and region, but should always provide a secure anchor. 4. Inlaid lines and markings should consist of synthetic turf with contrasting colored fiber installed in lieu of painted fiber. Inlay gaps should be uniform. For tufted systems, the gap between the fibers should not exceed the gauge of the tufting. Lines and markings must conform to the appropriate association or organization suggested guidelines for the intended level of use. 5. Care should be taken during installation to account for rapid fluctuations in temperature to avoid expansion and/or contraction which can affect the final installation. Temperature extremes should also be carefully monitored. The carpet should never be rolled or unrolled when frozen, which can cause cracking and

Item	Description
	irreparable damage to the secondary backing. 6. Infill material installation to follow the manufacturer's installation recommendations. 7. G-Max testing to be performed by an independent testing company or lab.
9.1.57.	Infill Material Installation: Correct installation is critical to performance of these systems and should follow the manufacturer's recommendations. <ol style="list-style-type: none"> 1. Environmental Conditions: It is recommended infill materials should be installed under dry field conditions. 2. Method of Application: The infill material should be installed uniformly. The equipment used for the application of the infill materials should erect the fiber, place the infill materials, and should incorporate a metering method to provide consistent distribution. The equipment utilized should not distort or displace any base materials or damage the system in any way. 3. Infill Depth: The depth of infill can be measured by taking the depth from the top of the primary backing to the top of the infill or subtracting the length of exposed fiber from the known pile height. 4. G-Max Testing: G-Max testing should always be performed by an independent testing company or lab.
9.1.58.	Fiber Conditioning: It is essential to maintain the integrity and uniformity of the fiber throughout the manufacturing, shipping and handling, installation and maintenance processes in order to prevent damage, which could alter the specified performance and void the warranty.
9.1.59.	Clean-Up <ol style="list-style-type: none"> 1. Turf contractor shall provide the labor, supplies and equipment as necessary for final cleaning of surfaces and installed items. 2. All usable remnants of new material shall become the property of the AEPA Member . 3. The turf contractor shall keep the area clean throughout the project and clear of debris. 4. Surfaces, recesses, enclosures, etc., shall be cleaned, as necessary, to leave the work area in a clean, immaculate condition ready for immediate occupancy and use by the AEPA Member .
9.1.60.	Field Quality Control <ol style="list-style-type: none"> 1. At the time of substantial completion and bi-annually during the life of the warranty, the Contractor shall perform a series of tests using an independent testing agency to evaluate the shock absorption characteristics of the field. The tests shall be performed on a 50-foot grid in both directions using an accelerometer in accordance with ASTM F1936 and ASTM F355. Test the field at a minimum of 12 points and submit the results to the Owner within 30 days of testing. At no point shall any reading exceed 160 Gmax during the life of the warranty. If any point exceeds the maximum deceleration, the Contractor shall make corrections to provide the allowable Gmax deceleration at the Contractor's expense. Owner has the option to engage a qualified independent testing and inspecting agency to perform field tests and inspections and prepare test reports. 2. Testing and inspecting of completed applications of synthetic turf system shall take place in suggestive states, in areas of extent and using methods that are industry standard. 3. The Contractor is to remove and replace items where test results indicate that it does not comply with specified Gmax requirements.
9.1.61.	Synthetic Turf Maintenance <ol style="list-style-type: none"> 1. The turf manufacturer to provide detailed written maintenance instructions and training of maintenance personnel. Maintenance to include but not limited to cleaning, stain removal, minor seam repair, dragging, or redistribution of any infill material, and management of infill compaction. The Vendor Partner can offer equipment and supplies that are required for the maintenance of the synthetic turf surface. Utilizing

Item	Description
	<p>this equipment as recommended by the turf manufacturer will generate the proper maintenance in relation to any future warranty claims.</p> <p>2. Seam Repair: Seams that open or become loose may require some immediate and temporary gluing until they can be inspected and corrected by the installation builder. The gluing should conform to the written maintenance suggested guide- lines provided by the synthetic turf vendor.</p>
9.1.62.	<p>Quality Assurance</p> <ol style="list-style-type: none"> 1. Manufacturer - Proposed solutions must be equal to or better than those available from nationally-recognized manufacturers specializing in outdoor synthetic turf products for athletic and recreational facilities. 2. Manufacturer Qualifications - Manufacturer must have ten (10) years of experience in the manufacture of synthetic turf systems which meet and/or exceed the standards and guidelines presented herein. 3. Engineering Qualifications - The Vendor Partner must have a professional engineer, licensed in the state where the field is to be installed to review and certify that the proposed site, site conditions and synthetic turf system being supplied and installed meets or exceeds the design criteria of the specifications, and the site conditions exceed the minimum requirements of the system's design performance standards set by the manufacturer. 4. Installer Qualifications - Factory-trained and certified with a minimum of three (3) years' experience of successfully installing synthetic turf systems. Must have the appropriate contractor's license as required by the state or local jurisdiction where the field will be installed and be a certified synthetic turf installer.
9.1.63.	<p>Project Documents and Submittals</p> <ol style="list-style-type: none"> 1. Design Documents <ol style="list-style-type: none"> a. Planning b. Grading Plan c. Drainage Plan d. Edge Details e. Installation Instructions and standards 2. Project Schedule <ol style="list-style-type: none"> a. Shop Drawings - Show all site preparation, materials, supplies and fixtures to be furnished even if provided by others. b. Synthetic Turf Product Data Sheet and Specifications. c. Material Safety Data Sheets (MSDS) d. Testing Requirements <ol style="list-style-type: none"> i. G-Max Testing ii. Lead and Heavy Metal Testing iii. All turf fiber, infill, base and subbase, etc 3. Maintenance Manual and Instructions 4. Samples - Samples of materials and colors as requested by the owner or owner's representative. 5. Detail information on all items and work to be provided and/or performed by the AEPA Member and stipulate minimum requirements. 6. Warranty <ol style="list-style-type: none"> a. Written warranty documents b. Warranty insurance policy. 7. Cost Proposal - Detail breakdown of all costs associated with the design, manufacture, delivery, installation, and warranty of the proposed solution per contract documents.
9.1.64.	<p>Project Close-out</p> <ol style="list-style-type: none"> 1. The Contractor and the AEPA Member's representative shall conduct a complete and extensive site inspection of all work performed and products provided and installed.

Item	Description												
	<ol style="list-style-type: none"> 2. The Contractor shall provide the necessary testing data to the owner that the finished field installed meets the required shock attenuation, as per ASTM F1936. 3. The turf material shall be non-combustible and pass the DIN standard Pill Burn test or ASTM D 2859. 4. The Contractor to provide a written acceptance by the turf manufacturer that the turf and base system is installed in accordance with their recommendations prior to final completion. 5. Upon completion of the work, the Vendor Partner will present the AEPA Member with all documents necessary. to close out the project. Including, but not limited to: 6. Certificate of occupancy. 7. Maintenance manuals. 8. Up to four (4) complete sets of "as built" project drawings, showing the actual locations of seams, drains, in-ground equipment and other accessories installed/provided as required by AEPA Member. 9. Minimum of two (2) copies each of any installed equipment as required by AEPA Member. 10. Manufacturer's Instructions and Maintenance Manuals, which will include all necessary instructions for the proper care and preventative maintenance of the synthetic turf system, including painting and markings, procedures of use and executed warranties on installed products and equipment. 11. Any state, local and/or manufacturer's inspection report or certificate certifying that all state, local and manufacturer's standards, codes and requirements have been met. 12. All warranty information. 												
9.1.65.	<p>Material Specification, Performance Guidelines, Properties and Lab and Field Tests Requirements</p> <ol style="list-style-type: none"> 1. All minimum and maximum values take into account acceptable industry manufacturing tolerances plus or minus 2% of the variance. 2. Testing to meet the minimum standards of the Synthetic Turf Council recommendations are for specific purposes such as the following. 3. All minimum values should be evaluated as they relate to the system performance. 4. Site testing shall be at ambient shaded air temperature of 40 - 100°F. Laboratory testing shall be at ambient indoor temperature unless otherwise specified by the test method. 												
9.1.66.	<p>Base Materials Test Requirements</p> <table border="1" data-bbox="334 1367 1482 1753"> <thead> <tr> <th data-bbox="334 1367 548 1436">Test Property</th> <th data-bbox="548 1367 922 1436">Method of Determination</th> <th data-bbox="922 1367 1230 1436">STC Guidelines</th> <th data-bbox="1230 1367 1482 1436">Lab/Field Test</th> </tr> </thead> <tbody> <tr> <td data-bbox="334 1436 548 1528">Size of particle mix</td> <td data-bbox="548 1436 922 1528">ASTM D422 Particle size analysis</td> <td data-bbox="922 1436 1230 1528">As per specification</td> <td data-bbox="1230 1436 1482 1528">Lab (on site material)</td> </tr> <tr> <td data-bbox="334 1528 548 1753">Drainage</td> <td data-bbox="548 1528 922 1753">ASTM F1551/DIN 18035:6 Permeability to water* ASTM D2434 Permeability of Granular Soils (Constant Head)</td> <td data-bbox="922 1528 1230 1753">Min. of 0.01 cm/s (14 in. per hour)</td> <td data-bbox="1230 1528 1482 1753">Lab or Field **</td> </tr> </tbody> </table>	Test Property	Method of Determination	STC Guidelines	Lab/Field Test	Size of particle mix	ASTM D422 Particle size analysis	As per specification	Lab (on site material)	Drainage	ASTM F1551/DIN 18035:6 Permeability to water* ASTM D2434 Permeability of Granular Soils (Constant Head)	Min. of 0.01 cm/s (14 in. per hour)	Lab or Field **
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Item	Description			
	Compaction (Density)	ASTM D698 Compaction Using Standard Effort	To set criteria for ASTM D2922	Lab/Field
		ASTM D2922 Compaction of Soil In Place by Nuclear Methods	Min. 90% Standard Proctor	
	Final Grade	ASTM F2157 Test method for Base Material Evenness	Less than 1/4 in. over 10 ft 6mm over 1m	Field
	<ol style="list-style-type: none"> 1. Determination in the lab: It is necessary to seal the test ring to the base of the sample. The edges of the sample must also be sealed to prevent any water from flowing around rather than through the sample. 2. ** Determination in the field: An exact seal is typically not attainable and the test is not as accurate/reproducible due to the lateral flow of water and the problems of determining the areas through which the water is flowing. 			

Item	Description		
9.1.67.	Turf Characteristics For Tufted Infill Systems (Typical for High School, Collegiate, and Professional Playing Fields).		
	Test Property	Method of Determination	STC Guidelines
	Manufacturer of System (name)	Manufacturer Declaration	Not Specified
	Pile Fiber ID	Manufacturer Declaration	Not Specified
	Primary Backing System ID	Manufacturer Declaration	Not Specified
	Secondary Backing System ID	Manufacturer Declaration	Polyurethane/Latex/Fabrics
	Pile (face weight)	ASTM D5848	Min. 30 oz./sq. yd.
	Primary Backing System Weight	ASTM D5848	Min. 5.5 oz./sq. yd.
	Secondary Backing System Weight	ASTM D5848	Min. 16 oz./sq. yd.
	Pile Height	ASTM D5823	Sport specific or as specified
	Pile Height above infill	Measurement	Must meet system specs
	Yarn Thickness	ASTM D3218	Min. 75 microns
	Yarn Denier	ASTM D1577	Min. 500 (nylon)
	Grab Tear Strength	ASTM D5034	Min. 150 lbs.
	Tuft Bind	ASTM D1335	Min. Avg. 6 pounds
	Flammability	ASTM D2859 "Burning Pill"	Passing result tested as installed
	Color Uniformity	Visual	No significant change

Item	Description			
9.1.68.	Turf Characteristics for Knitted Turf Systems			
	Test Property	Method of Determination	STC Guidelines	Lab/Field Test
	Manufacturer of System (name)	Manufacturer Declaration	Not Specified	N/A
	Pile Fiber ID	Manufacturer Declaration	Not Specified	N/A
	Primary Backing System ID	Manufacturer Declaration	Not Specified	N/A
	Secondary Backing System ID	Manufacturer Declaration	Glued: Acrylic Loose laid: Polyurethane, or Acrylic	N/A
	Pile (face weight)	ASTM D5848	Min. 55 oz./sq. yd.	Lab
	Primary Backing System Weight	ASTM D5848	Min. 8 oz./sq. yd.	Lab
	Secondary Backing System Weight	ASTM D5848	Glued: Min. 3 oz./sq. yd. Loose laid: 1/4 in. (6 mm) pre-coat & attached cushion weight combined is min. 50 oz./sq. yd.	Lab
	Pile Height	ASTM D5823	Min. 0.5 in.	Lab/Field
	Pile Height above infill	Measurement	N/A	Lab/Field
	Yarn Denier	ASTM D1907	Min. 500 (nylon)	Lab
	Yarn Thickness	ASTM D3218	Min. 75 microns PE Min. 50 microns PP	Lab
	Grab Tear Strength	ASTM D5034	Min. 350 pounds	Lab
	Tuft Bind	ASTM D1335	Min. Avg. 6 lbs.	Lab
Flammability	ASTM D2859 "Burning Pill"	Passing result tested as installed	Lab	
Relative Abrasiveness	ASTM F1015	Measurement	Lab	
Color Uniformity	Visual	No significant changes	Lab & Field	
9.1.69.	Turf Characteristics for Tufted Polypropylene (Pp), Polyethylene (Pe), Or Nylon Systems (Non-Infill Systems).			
	Test Property	Method of Determination	STC Guidelines	Lab/Field Test
	Manufacturer of System (name)	Manufacturer Declaration	Not Specified	N/A
	Pile Fiber ID	Manufacturer Declaration	Nylon 6 or 6,6; PP, PE	N/A
	Primary Backing System ID	Manufacturer Declaration	Not Specified	N/A
	Secondary Backing System ID	Manufacturer Declaration	Polyurethane	N/A
	Pile (face weight)	ASTM D5848	Min. 48 oz./sq. yd.	Lab
	Primary Backing Weight	ASTM D5848	Min. 6 oz./sq. yd.	Lab
	Secondary Backing System Weight	ASTM D5848	Min. 16 oz./sq. yd.	Lab
	Pile Height	ASTM D5823 or D6859	Min. 0.45 in.	Lab/Field
	Pile Height above infill	Measurement	N/A	Lab/Field

Item	Description			
	Fiber Conditioning	Manufacturer Declaration Texturized	Texturized	N/A
	Yarn Denier	ASTM D1907	Min. 500 Nylon	Lab
	Yarn Thickness	ASTM D3218	Min. 75 microns PE Min. 50 microns PP	Lab
	Yarn Elongation	ASTM D2256	N/A	Lab
	Grab Tear Strength	ASTM D5034	Min. 150 pounds	Lab
	Yarn Breaking Load (Tensile strength)	ASTM D2256	Mfr. recommended spec	Lab
	Tuft Bind	ASTM D1335	Min. Avg. 6 lbs.	Lab
	Flammability	ASTM D2859 "Burning Pill"	Passing result tested as installed	Lab
	Color Uniformity	Visual	No significant changes	Lab & Field

9.1.70. **INFILL Materials**

1. Infill Materials: The most recent generation of synthetic turf systems utilizes a long pile height and needs to be supported with infill materials for directional stability and structural integrity, as well as resiliency. The infill materials commonly used are sand, rubber, other suitable materials, or combinations of the following:
2. EPDM (Ethylene Propylene Diene Monomer) is a polymer elastomer with high resistance to abrasion and wear and will not change its solid form under high temperatures. Typical EPDM colors are green and tan. EPDM has proven its durability as an infill product in all types of climates. Its excellent elasticity properties and resistance to atmospheric and chemical agents provide a stable, high performance infill product.
3. TPE (Thermo plastic elastomer) infill is non-toxic, heavy metal free, available in a variety of colors that resist fading, very long lasting, and 100% recyclable and reusable as infill when the field is replaced. TPE infill, when utilizing virgin--- based resins, will offer consistent performance and excellent g-max over a wide temperature range.
4. Organics: There are several organic infill utilizing different organic components, such as natural cork and or ground fibers from the outside shell of the coconut. These products can be utilized in sports applications as well as for landscaping.
5. Silica Sand: This product is a natural infill that is non-toxic, chemically stable, and fracture resistant. Silica sand infills are typically tan, off-tan or white in color and depending upon plant location, may be round or sub-round in particle shape. As a natural product there is no possibility of heavy metals, and the dust/turbidity rating is less than 100. It can be used in conjunction with many other to provide a safe and more realistic playing surface. The round shape plays an integral part in the synthetic turf system. Silica sand have a high purity (greater than 90%) to resist crushing and absorption of bacteria and other field contaminants. Silica sand can either be coated with different materials as a standalone product or can be used to firm up in combination with traditional crumb rubber infill systems.
6. Coated Silica Sand: This class of infill consists of coated, high purity silica sand with either a soft or rigid coating specifically engineered for synthetic turf.
7. These coatings are either elastomeric or acrylic in nature (non---toxic) and form a bond with the sand grain sealing it from bacteria to provide superior performance and durability over the life of a field. Coated sand is available in various sizes to meet the application's needs.
8. Crumb Rubber: Two types of crumb rubber infill exist: Ambient and Cryogenic. Crumb rubber infill is substantially metal free, and, according to the STC's Guidelines for Crumb Rubber Infill Used in Synthetic Turf Fields, should not contain liberated fiber

Item	Description																												
	<p>in an amount that exceeds .01% of the total weight of crumb rubber, or .6 lbs. per ton.</p> <p>9. Coated Rubber: Both ambient and cryogenic rubber can be coated with colorants, sealers, or anti---microbial substances if desired. Coated rubber provides additional aesthetic appeal, reduction of dust by products during the manufacturing process and complete encapsulation of the rubber particle.</p> <p>10. Hybrid: Constitutes the use of sand, rubber, or other suitable materials in various combinations. (This should not be confused with hybrid carpet systems that consist of a combination of fiber types.)</p> <table border="1" data-bbox="386 443 1482 932"> <thead> <tr> <th data-bbox="386 443 610 527">Test Property</th> <th data-bbox="610 443 935 527">Method of Determination</th> <th data-bbox="935 443 1305 527">STC Guidelines</th> <th data-bbox="1305 443 1482 527">Lab/Field Test</th> </tr> </thead> <tbody> <tr> <td data-bbox="386 527 610 621">Material Identification</td> <td data-bbox="610 527 935 621">Manufacturer Declaration</td> <td data-bbox="935 527 1305 621">Must meet system specifications</td> <td data-bbox="1305 527 1482 621">N/A</td> </tr> <tr> <td data-bbox="386 621 610 695">Grain Size (Particle Size)</td> <td data-bbox="610 621 935 695">ASTM D442 (soil) ASTM D5644 (rubber)</td> <td data-bbox="935 621 1305 695">Must meet system specifications</td> <td data-bbox="1305 621 1482 695">Lab</td> </tr> <tr> <td data-bbox="386 695 610 789">Depth</td> <td data-bbox="610 695 935 789">Measurement from top of infill to surface of fabric</td> <td data-bbox="935 695 1305 789">Must meet system specification at all locations 3/8 in. (± 9 mm)</td> <td data-bbox="1305 695 1482 789">Lab/Field</td> </tr> <tr> <td data-bbox="386 789 610 863">Flammability</td> <td data-bbox="610 789 935 863">ASTM D2859 "Burning Pill"</td> <td data-bbox="935 789 1305 863">Passing result tested as installed</td> <td data-bbox="1305 789 1482 863">Lab</td> </tr> <tr> <td data-bbox="386 863 610 932">Color Uniformity</td> <td data-bbox="610 863 935 932">Visual</td> <td data-bbox="935 863 1305 932">No significant changes</td> <td data-bbox="1305 863 1482 932">Lab/Field</td> </tr> </tbody> </table>	Test Property	Method of Determination	STC Guidelines	Lab/Field Test	Material Identification	Manufacturer Declaration	Must meet system specifications	N/A	Grain Size (Particle Size)	ASTM D442 (soil) ASTM D5644 (rubber)	Must meet system specifications	Lab	Depth	Measurement from top of infill to surface of fabric	Must meet system specification at all locations 3/8 in. (± 9 mm)	Lab/Field	Flammability	ASTM D2859 "Burning Pill"	Passing result tested as installed	Lab	Color Uniformity	Visual	No significant changes	Lab/Field				
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9.1.71.	<p>Shock Pad Layer Properties</p> <table border="1" data-bbox="386 968 1482 1577"> <thead> <tr> <th data-bbox="386 968 610 1031">Test Property</th> <th data-bbox="610 968 935 1031">Method of Determination</th> <th data-bbox="935 968 1305 1031">STC Guidelines</th> <th data-bbox="1305 968 1482 1031">Lab/Field Test</th> </tr> </thead> <tbody> <tr> <td data-bbox="386 1031 610 1104">Material Identification</td> <td data-bbox="610 1031 935 1104">Manufacturer Declaration</td> <td data-bbox="935 1031 1305 1104">Must meet system specifications</td> <td data-bbox="1305 1031 1482 1104">N/A</td> </tr> <tr> <td data-bbox="386 1104 610 1167">Mix Design</td> <td data-bbox="610 1104 935 1167">Manufacturer Declaration</td> <td data-bbox="935 1104 1305 1167">Must meet system specifications</td> <td data-bbox="1305 1104 1482 1167">N/A</td> </tr> <tr> <td data-bbox="386 1167 610 1262">Drainage</td> <td data-bbox="610 1167 935 1262">ASTM F1551/DIN 18035-6 Water Permeability</td> <td data-bbox="935 1167 1305 1262">Min. of 14 in. per hour</td> <td data-bbox="1305 1167 1482 1262">Lab/Field</td> </tr> <tr> <td data-bbox="386 1262 610 1367">Components Size Rubber / Stone (gravel)</td> <td data-bbox="610 1262 935 1367">ASTM F1508 Sieve Analysis</td> <td data-bbox="935 1262 1305 1367">Must meet system specifications</td> <td data-bbox="1305 1262 1482 1367">Lab</td> </tr> <tr> <td data-bbox="386 1367 610 1472">Evenness</td> <td data-bbox="610 1367 935 1472">ASTM 2157: Test method for Base Material Evenness</td> <td data-bbox="935 1367 1305 1472">Less than 1/4 in. over 10 ft. (6 mm over 3 m)</td> <td data-bbox="1305 1367 1482 1472">Field</td> </tr> <tr> <td data-bbox="386 1472 610 1577">Thickness</td> <td data-bbox="610 1472 935 1577">Measurement</td> <td data-bbox="935 1472 1305 1577">Meet system spec at every point measured (+1/4 in./-0) (+6 mm/-0 mm) cushion layer</td> <td data-bbox="1305 1472 1482 1577">Lab/Field</td> </tr> </tbody> </table>	Test Property	Method of Determination	STC Guidelines	Lab/Field Test	Material Identification	Manufacturer Declaration	Must meet system specifications	N/A	Mix Design	Manufacturer Declaration	Must meet system specifications	N/A	Drainage	ASTM F1551/DIN 18035-6 Water Permeability	Min. of 14 in. per hour	Lab/Field	Components Size Rubber / Stone (gravel)	ASTM F1508 Sieve Analysis	Must meet system specifications	Lab	Evenness	ASTM 2157: Test method for Base Material Evenness	Less than 1/4 in. over 10 ft. (6 mm over 3 m)	Field	Thickness	Measurement	Meet system spec at every point measured (+1/4 in./-0) (+6 mm/-0 mm) cushion layer	Lab/Field
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9.1.72.	<p>Performance Guidelines for (North American) Football Fields</p> <table border="1" data-bbox="386 1633 1482 1921"> <thead> <tr> <th data-bbox="386 1633 610 1696">Property</th> <th data-bbox="610 1633 935 1696">Description</th> <th data-bbox="935 1633 1248 1696">Test Method</th> <th data-bbox="1248 1633 1482 1696">STC Guidelines</th> </tr> </thead> <tbody> <tr> <td data-bbox="386 1696 610 1791">Shock Absorption</td> <td data-bbox="610 1696 935 1791">A measure of the surface's ability to absorb impact energy</td> <td data-bbox="935 1696 1248 1791">ASTM F1936 (<i>g-max</i>)</td> <td data-bbox="1248 1696 1482 1791">Shall not exceed 200 at each test point*</td> </tr> <tr> <td data-bbox="386 1791 610 1921">Deformation</td> <td data-bbox="610 1791 935 1921">A measure of the degree a surface deforms when a player runs across it</td> <td data-bbox="935 1791 1248 1921">ASTM F2157-02**</td> <td data-bbox="1248 1791 1482 1921">≤ 10 mm</td> </tr> </tbody> </table>	Property	Description	Test Method	STC Guidelines	Shock Absorption	A measure of the surface's ability to absorb impact energy	ASTM F1936 (<i>g-max</i>)	Shall not exceed 200 at each test point*	Deformation	A measure of the degree a surface deforms when a player runs across it	ASTM F2157-02**	≤ 10 mm																
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Item	Description																															
	Drainage	Measure of water passage	ASTM F1551	14 in./hr. Base 10 in./hr. Turf																												
9.1.73.	Performance Guidelines for Soccer Fields																															
	Property	Description	Test Method	STC Guidelines																												
	Ball Rebound	A measure of how high a ball bounces vertically	ASTM F2117	30% - ≤ 50%																												
	Ball Roll	A measure of how far a ball rolls	EN 12234	4m - 10m																												
	Force Reduction	A measure of the impact energy absorption of a surface when a player runs across it	ASTM F2157-02	55% - 70%																												
	Deformation	A measure of the degree a surface deforms when a player runs across it	ASTM F2157-02*	≤ 10mm																												
	Rotational Resistance	A measure of the foot grip provided by the surface	EN 15301 Method 1	25Nm - 50Nm																												
	Drainage	Measure of water passage	ASTM F1551	14 in./hr. Base 10 in/hr. Turf System																												
	<ol style="list-style-type: none"> 1. *To prevent compaction the mass must be caught after each impact 2. Legend <ol style="list-style-type: none"> a. ASTM - Test method published by the American Society for Testing and Materials b. EN -Test method published by the European Standards Organization c. FIFA -Test method described in FIFA Handbook of Test Methods and Requirements for Artificial Turf Football Surfaces 																															
9.1.74.	Materials Specifications																															
	<ol style="list-style-type: none"> 1. The reference specifications, as established by the Synthetic Turf Council, are "typical" examples of minimums that are most commonly encountered and have fulfilled reasonable expectations for successful performance. Deviations from these minimums can be expected due to product innovations or quality upgrades and can be considered when properly justified in terms of their expected performance. 2. All tests prior to, during, or after installation are to be specifically listed and understood by all parties as to their execution and financial responsibility. 3. Environmental Conditions: Suitable weather conditions are important for the successful installation of the systems. 4. In the event of questionable conditions, the manufacturer's recommendation should be obtained to prevent the possible voiding of any warranties (particularly as it applies to adhesives). 																															
9.1.75.	Synthetic Turf Specification																															
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" data-bbox="386 1686 683 1713">FIBER:</td> <td colspan="2" data-bbox="683 1686 1479 1713"></td> </tr> <tr> <td data-bbox="386 1713 683 1749">Material</td> <td colspan="3" data-bbox="683 1713 1479 1749">PE, PP, Nylon 6, or Nylon 6.6</td> </tr> <tr> <td data-bbox="386 1749 683 1785">Denier</td> <td colspan="3" data-bbox="683 1749 1479 1785">Must meet system specs</td> </tr> <tr> <td colspan="2" data-bbox="386 1785 683 1854">BACKING (primary/secondary):</td> <td colspan="2" data-bbox="683 1785 1479 1854"></td> </tr> <tr> <td data-bbox="386 1854 683 1890">Weight primary</td> <td colspan="3" data-bbox="683 1854 1479 1890">Not less than 5.5 oz. Per sq. Yd.</td> </tr> <tr> <td data-bbox="386 1890 683 1925">Weight secondary</td> <td colspan="3" data-bbox="683 1890 1479 1925">Not less than 16 oz. Per sq. Yd.</td> </tr> <tr> <td data-bbox="386 1925 683 1957">Additional backings</td> <td colspan="3" data-bbox="683 1925 1479 1957">Optional</td> </tr> </table>				FIBER:				Material	PE, PP, Nylon 6, or Nylon 6.6			Denier	Must meet system specs			BACKING (primary/secondary):				Weight primary	Not less than 5.5 oz. Per sq. Yd.			Weight secondary	Not less than 16 oz. Per sq. Yd.			Additional backings	Optional		
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Item	Description	
	FABRIC:	
	Width	12 ft. to 15 ft.
	Tuft bind	> 6.8 lbs. or 30 N
	Pile height	Sport specific or as specified
	Pile weight	Not less than 30 oz./per sq. yd. Must meet system specifications.
	Grab tear strength	Not less than 150 lbs.
	Pill burn test	Passing results tested as installed.
	INFILL SYSTEM:	Depending on Manufacturer's recommendation.
	Depth of infill	Nominal, per Manufacturer's recommendation.
	Impact attenuation	The standard for G-max is a maximum value of 165 at each test point. G-max values may vary from location to location on a playing surface. Such variances should be taken into account when
	Water Permeability	Turf cushion layer - min. 10 in./hour
	7.45.6.	Knitted Synthetic Turf Specification - Short pile
	FIBER:	
	Material	PE, PP, Nylon 6, or Nylon 6.6
	Denier	Min. 500 Nylon
	Thickness	Min. 75 microns PE or PP
	BACKING (primary/secondary):	
	Ground Yarn	Polyester multi-filaments
	Weight primary	Min. 8 oz./sq. yd.
	Acrylic	Min. 3 oz./sq. yd.
	Polyurethane attached cushion	optional
	FABRIC:	
	Width	Typically 15 ft.
	Tuft bind	N/A
	Pile height	Sport specific or as specified
	Pile weight	Min. 55 oz./sq. yd.
	Grab tear strength	Min. 350 lbs.

Item	Description																																								
9.1.76.	<p data-bbox="326 176 902 205">Tufted Synthetic Turf Specification - Short pile</p> <table border="1" data-bbox="386 205 1479 1178"> <tr> <td colspan="2" data-bbox="386 205 1479 235">FIBER:</td> </tr> <tr> <td data-bbox="386 235 683 268">Material</td> <td data-bbox="683 235 1479 268">Nylon 6, Nylon 6.6, PE or PP</td> </tr> <tr> <td data-bbox="386 268 683 302">Denier</td> <td data-bbox="683 268 1479 302">Min. 500 nylon</td> </tr> <tr> <td data-bbox="386 302 683 373">Thickness</td> <td data-bbox="683 302 1479 373">Min. 75 microns</td> </tr> <tr> <td colspan="2" data-bbox="386 373 1479 445">BACKING (primary/secondary):</td> </tr> <tr> <td data-bbox="386 445 683 478">Woven PP/non- woven</td> <td data-bbox="683 445 1479 478">Single or multiple</td> </tr> <tr> <td data-bbox="386 478 683 512">Weight</td> <td data-bbox="683 478 1479 512">Min. 6 oz./sq. yd.</td> </tr> <tr> <td data-bbox="386 512 683 546">Scrap Coat</td> <td data-bbox="683 512 1479 546">Min. 16 oz./sq. yd.</td> </tr> <tr> <td data-bbox="386 546 683 638">Attached cushion Secondary and/or cushion</td> <td data-bbox="683 546 1479 638">Min. 32 oz./sq. yd. (as required)</td> </tr> <tr> <td colspan="2" data-bbox="386 638 1479 672">FABRIC:</td> </tr> <tr> <td data-bbox="386 672 683 705">Width</td> <td data-bbox="683 672 1479 705">12-15 ft.</td> </tr> <tr> <td data-bbox="386 705 683 739">Tuft Bind</td> <td data-bbox="683 705 1479 739">>6.8 lbs. or 30 N</td> </tr> <tr> <td data-bbox="386 739 683 772">Pile Height</td> <td data-bbox="683 739 1479 772">Sport specific or as specified</td> </tr> <tr> <td data-bbox="386 772 683 806">Pile Weight</td> <td data-bbox="683 772 1479 806">Min. 48 oz./sq. yd.</td> </tr> <tr> <td data-bbox="386 806 683 877">Grab Tear Strength</td> <td data-bbox="683 806 1479 877">Min. 150 lbs.</td> </tr> <tr> <td data-bbox="386 877 683 911">Pill Burn Test</td> <td data-bbox="683 877 1479 911">Passing results tested as installed</td> </tr> <tr> <td data-bbox="386 911 683 945">Total Weight</td> <td data-bbox="683 911 1479 945">Depending on individual construction</td> </tr> <tr> <td colspan="2" data-bbox="386 945 1479 978">SYSTEM:</td> </tr> <tr> <td data-bbox="386 978 683 1108">Impact attenuation</td> <td data-bbox="683 978 1479 1108">The standard for <i>G-max</i> is a maximum value of 165 at each test point. <i>G-max</i> values may vary from location to location on a playing surface. Such variances should be taken into account when setting maximum values.</td> </tr> <tr> <td data-bbox="386 1108 683 1178">Water Permeability</td> <td data-bbox="683 1108 1479 1178">Turf/cushion layer: min. 10 in./hour Base</td> </tr> </table>	FIBER:		Material	Nylon 6, Nylon 6.6, PE or PP	Denier	Min. 500 nylon	Thickness	Min. 75 microns	BACKING (primary/secondary):		Woven PP/non- woven	Single or multiple	Weight	Min. 6 oz./sq. yd.	Scrap Coat	Min. 16 oz./sq. yd.	Attached cushion Secondary and/or cushion	Min. 32 oz./sq. yd. (as required)	FABRIC:		Width	12-15 ft.	Tuft Bind	>6.8 lbs. or 30 N	Pile Height	Sport specific or as specified	Pile Weight	Min. 48 oz./sq. yd.	Grab Tear Strength	Min. 150 lbs.	Pill Burn Test	Passing results tested as installed	Total Weight	Depending on individual construction	SYSTEM:		Impact attenuation	The standard for <i>G-max</i> is a maximum value of 165 at each test point. <i>G-max</i> values may vary from location to location on a playing surface. Such variances should be taken into account when setting maximum values.	Water Permeability	Turf/cushion layer: min. 10 in./hour Base
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9.1.77.	<p data-bbox="326 1194 980 1224">Shock Pad-Pre-Fabricated Pad Systems Specification</p> <table border="1" data-bbox="386 1224 1479 1476"> <tr> <td colspan="2" data-bbox="386 1224 1479 1257">Typical Requirement</td> </tr> <tr> <td data-bbox="386 1257 1040 1291">Thickness</td> <td data-bbox="1040 1257 1479 1291">0.375 in. ± 10%</td> </tr> <tr> <td data-bbox="386 1291 1040 1325">Density</td> <td data-bbox="1040 1291 1479 1325">4.0 lbs./cu. ft. ±10%</td> </tr> <tr> <td data-bbox="386 1325 1040 1358">Weight</td> <td data-bbox="1040 1325 1479 1358">38 oz./sq. yd.</td> </tr> <tr> <td data-bbox="386 1358 1040 1392">Width</td> <td data-bbox="1040 1358 1479 1392">4 ft.</td> </tr> <tr> <td data-bbox="386 1392 1040 1425">25% Compression Resistance (ASTM D1667)</td> <td data-bbox="1040 1392 1479 1425">10-12 psi</td> </tr> <tr> <td data-bbox="386 1425 1040 1476">Tensile Strength (ASTM D412)</td> <td data-bbox="1040 1425 1479 1476">Typically 75 psi</td> </tr> </table>	Typical Requirement		Thickness	0.375 in. ± 10%	Density	4.0 lbs./cu. ft. ±10%	Weight	38 oz./sq. yd.	Width	4 ft.	25% Compression Resistance (ASTM D1667)	10-12 psi	Tensile Strength (ASTM D412)	Typically 75 psi																										
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9.1.78.	<p data-bbox="326 1488 1021 1518">Shock Pad-In Situ Systems Specification (typical ranges)</p> <table border="1" data-bbox="386 1518 1479 1734"> <tr> <td data-bbox="386 1518 789 1551">Thickness:</td> <td data-bbox="789 1518 1029 1551">35 mm</td> <td data-bbox="1029 1518 1269 1551">25 mm</td> <td data-bbox="1269 1518 1479 1551">20 mm</td> </tr> <tr> <td data-bbox="386 1551 789 1585">Density:</td> <td data-bbox="789 1551 1029 1585">2 lbs./cu. ft.</td> <td data-bbox="1029 1551 1269 1585">1.5 lbs./cu. ft.</td> <td data-bbox="1269 1551 1479 1585">1.2 lbs./cu. ft.</td> </tr> <tr> <td data-bbox="386 1585 789 1619">Weight:</td> <td data-bbox="789 1585 1029 1619">56 lbs./sq. yd.</td> <td data-bbox="1029 1585 1269 1619">40 lbs./sq. yd.</td> <td data-bbox="1269 1585 1479 1619">32 lbs./sq. yd.</td> </tr> <tr> <td data-bbox="386 1619 789 1652">Component:</td> <td data-bbox="789 1619 1029 1652">SBR</td> <td data-bbox="1029 1619 1269 1652">Aggregate</td> <td data-bbox="1269 1619 1479 1652">PU Binder</td> </tr> <tr> <td data-bbox="386 1652 789 1686">Thickness</td> <td data-bbox="789 1652 1029 1686">1-5 mm</td> <td data-bbox="1029 1652 1269 1686">1-3 mm</td> <td data-bbox="1269 1652 1479 1686"></td> </tr> <tr> <td data-bbox="386 1686 789 1734">Percentages (by weight):</td> <td data-bbox="789 1686 1029 1734">60-63%</td> <td data-bbox="1029 1686 1269 1734">30-32%</td> <td data-bbox="1269 1686 1479 1734">5-10%</td> </tr> </table>	Thickness:	35 mm	25 mm	20 mm	Density:	2 lbs./cu. ft.	1.5 lbs./cu. ft.	1.2 lbs./cu. ft.	Weight:	56 lbs./sq. yd.	40 lbs./sq. yd.	32 lbs./sq. yd.	Component:	SBR	Aggregate	PU Binder	Thickness	1-5 mm	1-3 mm		Percentages (by weight):	60-63%	30-32%	5-10%																
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9.1.79.	<p data-bbox="326 1761 808 1791">Mix Design (all percentages by weight)</p> <ol data-bbox="375 1791 1479 1959" style="list-style-type: none"> <li data-bbox="375 1791 1479 1892">1. Note: Typically, the mix design is determined first, to satisfy the needs of the field in relation to its declared use. The mix design then will determine the weight, density, and thickness which should fall within the parameters indicated. <li data-bbox="375 1892 1479 1925">2. SBR granules to be dust free, no elongated particles are allowed. <li data-bbox="375 1925 1479 1959">3. Aggregate to be washed/clean, preferably round (pea gravel). 																																								

Item	Description
	4. Application to be performed by the use of continuous mixing device and suitable paving equipment.
9.1.80.	<p>Warranty</p> <ol style="list-style-type: none"> 1. The Prime Contractor shall provide a warranty to the owner that covers defects in the prep-work, installation and workmanship, and further warrant that the installation was done in accordance with both the manufacturer's recommendations and any written directives of the manufacturer's onsite representative. 2. Manufacturer's warranty shall include for a period of eight (8) years: 3. General wear and damage caused from UV degradation. 4. The artificial grass field turf must maintain an ASTM 355 G-max in accordance with product specifications for the life of the warranty. 5. The warranty shall specifically exclude vandalism and acts of God beyond the control of the owner or the manufacturer. 6. Surface and the adhesives used in the installation are and will be free from defects in material and workmanship. 7. All defects for failures relating to field construction, drainage, synthetic grass seam rupture, and synthetic yarn UV stability, excessive wear and tensile strength. 8. The warranty must be supported by a paid-up insurance policy from an A.M. Best A-Rated insurance company to ensure that, if warranty work is required during the full eight (8) year required warranty period, the work can be obtained even if the manufacturer/Vendor Partner shall go out of business or no longer exist. 9. 100% of field is covered for the entire warranty period in case of catastrophic failure. 10. There are no periods of non-coverage during the warranty period. 11. No annual deductible per field for warranty repairs. 12. The Prime Contractor shall provide a warranty to the owner that covers defects in the prep-work, installation, and workmanship, and further warrant that the installation was done in accordance with both the manufacturer's recommendations and any written directives of the manufacturer's on-site representative. 13. The Vendor Partner may offer extended warranties or maintenance agreements if available at an additional cost to AEPA Member s. The maintenance contract must be offered as a separate line item.
9.1.81.	The Contractor shall provide the necessary training for the proper care and maintenance for all material and equipment in order for them to develop a complete knowledge and understanding of the supplies, materials and equipment required to maintain and keep the synthetic turf system in good working condition through its product lifecycle.
9.1.82.	<p>The Vendor Partner can offer and install in-ground equipment and accessories to include but is not limited to:</p> <ol style="list-style-type: none"> 1. Pole Vault Pit -The Vendor Partner shall provide synthetic surfacing material plugs, which are to be installed level to the surfacing of the respective runway and be of similar texture as the surrounding synthetic surfacing. 2. Take-Off Boards 3. Shot Put Toe Boards 4. Shot Put Rings 5. Discus Rings 6. Combination Hammer/Discus Cage and cage must meet IAAF rules 7. Hammer/Discus Conversion Ring 8. Water Jump Hurdle with sleeves 9. Water Jump Cover - The Vendor Partner is to install track surfacing onto the cover. The cover, when installed with synthetic surfacing on it, shall be flush with the surrounding area. 10. Removable Track Curbing. The curb shall meet the requirements of the IAAF. 11. Long Jump Sandpits and Traps.

Item	Description
	<p>12. Sand - All sand for the long/triple jump sand pits shall be clean, washed, white sand, containing not more than five percent (5%) clay and shall be free of trash, organic matter, and rock. Installed sand shall meet all specifications of the IAAF - washed river sand, 0 to 2mm graining, no organic components, max 5% of weight up to 0.2mm. Prior to installation, the Vendor Partner shall provide the AEPA Member with a one (1) gallon sample for approval.</p> <p>13. Football goal posts and soccer goals</p> <p>14. Batting Cages</p> <p>15. Field groomer and sweeper</p> <p>16. Replacement of grass or re-seeding of natural grass as part of the synthetic turf project.</p>

Category 2 - Natural Turf for Sport Field

Item	Description
9.2.1.	<p>General Requirements</p> <ol style="list-style-type: none"> 1. Provide technical and consulting services to AEPA Members relating to athletic and recreational field surface design, characteristics, construction, and integration into the development of a new athletic or recreational facility. 2. Provide existing site inspection and investigation to identify soil conditions existing at the site in order to take into account the conditions found in the designing of athletic and recreational fields. The investigation shall include, but not be limited to: <ol style="list-style-type: none"> a. Stripping, placement of backfill and base construction in order to ensure the minimization of the risk of problems due to subsoil and subgrade conditions. b. Soil inspection for the existence of peat or other organic soils at the site. c. Inspection for uncontrolled fill materials or waste materials at the site. d. Inspection for expansive soils at the site. e. High ground water conditions or surface water retention areas (low area flooding). 3. Provide all labor, materials, equipment and drawings required to provide design services for a project cost proposal with a complete scope of work, including all products, services and athletic and recreational field specifications with their associated costs. A preliminary construction time schedule shall be a part of the project proposal. 4. Provide all labor, materials, equipment, project drawings and construction documents necessary to establish, construct, install lines and markings required to complete the athletic or recreational field as identified and specified within the project documents for the individual AEPA Member's project scope of work and documents. 5. Provide all labor, materials and equipment required to assess and evaluate existing facilities and develop and establish a plan of action for maintenance, repair and/or renovation of the existing athletic and recreational field to condition as required by the AEPA Member. 6. Provide ongoing technical support and training services for AEPA Members' staff relating to the maintenance of this type of athletic field. 7. Assisting AEPA Members in developing a short-term action plan to remediate, resolve and/or remove any unsafe conditions and establish a long-term maintenance program for maintaining AEPA Member's turf installation in good working conditions. 8. Upon request, assist the AEPA Member and its design professional in design of turf field or facilities for new schools and public facilities. 9. Provide AEPA Members with necessary construction services for demolition, site preparation and installation of turf and accessories. 10. Provide AEPA Members with the necessary training and support services to allow their staff to conduct safety inspections, to perform maintenance, install equipment, structures and fixtures according to manufactures specifications and instructions.

Item	Description																																				
	11. Upon request, provide the labor, equipment, supplies and materials to inspect and take any maintenance actions to bring the turf field into good working order. 12. All material shall be guaranteed to the extent that: <ol style="list-style-type: none"> a. Installed in accordance and the manufacturer's specifications. b. Will perform as specified per the manufacturer's specifications 																																				
9.2.2.	<p>General Requirement for Seeded and Sodded Athletic Fields</p> <ol style="list-style-type: none"> 1. Base Grading <ol style="list-style-type: none"> a. Native soil fields high in silt and clay are not suitable for intensive use because they provide poor drainage and easily compact during use. Therefore, native soil will likely have to be excavated from the site. b. If topography permits, sand can be placed directly on the surface without excavation after level grading at a considerably reduced cost. c. If excavation is necessary, it should be performed so that the finished grade at time of planting conforms to the sidelines or track area. d. Optimum grading depth for high-quality fields should be 16 inches. This depth will be replaced with 4 inches of base material (pit-run gravel) and then 12 inches of sand. e. Drain tiles are typically trenched into the subsoil at the bottom of this grading depth. Bases should be graded flat or have a crown of 6 inches from the center to the sidelines. f. The drain lines are trenched, and the drains should be covered with fine gravel or coarse sand material before the sand is installed. 2. Base Material <ol style="list-style-type: none"> a. "Base material" is defined as sand or pit-run gravel (naturally occurring deposits of sand and gravel) placed over the drain lines and the graded sub-base. b. Base materials can include pit-run gravel with a maximum of 2 to 3 percent total silt and clay. Typical specifications for pit-run gravel are listed in Table 1. c. Other materials may include pea gravel or coarse sand, with particles ranging from No. 8 to No. 3/8 screen. d. Try to maintain textural uniformity in the profile. e. The depth of base material can vary from 4 to 12 inches. f. Deposit base material over the field to avoid disruption of the base grades and to prevent damage to the drainage lines. g. During installation, never run wheeled equipment across drainage lines. h. The base material can be brought to grade with light, tack-type equipment or light grading equipment. i. Normal grading operations can be used to bring the field to grade, but never heavily compact the base material. <p>Table 1. Particle-size Specifications for Base Material</p> <table border="1" data-bbox="435 1507 1507 1938"> <thead> <tr> <th colspan="3" data-bbox="435 1507 1507 1539">Pit-run sand/gravel – base specifications</th> </tr> <tr> <th data-bbox="435 1539 732 1619">Sieve Size</th> <th data-bbox="732 1539 1094 1619">Tyler Standard Screen U.S. Series Equiv. No.</th> <th data-bbox="1094 1539 1507 1619">Particles Passing</th> </tr> <tr> <th data-bbox="435 1619 732 1650">Millimeters</th> <th data-bbox="732 1619 1094 1650">Inches</th> <th data-bbox="1094 1619 1507 1650">Percentage</th> </tr> </thead> <tbody> <tr> <td data-bbox="435 1650 732 1682">87</td> <td data-bbox="732 1650 1094 1682">3½</td> <td data-bbox="1094 1650 1507 1682">100</td> </tr> <tr> <td data-bbox="435 1682 732 1713">40</td> <td data-bbox="732 1682 1094 1713">1½</td> <td data-bbox="1094 1682 1507 1713">80-100</td> </tr> <tr> <td data-bbox="435 1713 732 1745">20</td> <td data-bbox="732 1713 1094 1745">3/8</td> <td data-bbox="1094 1713 1507 1745">70-100</td> </tr> <tr> <th colspan="3" data-bbox="435 1745 1507 1776">Meshes/inch</th> </tr> <tr> <td data-bbox="435 1776 732 1808">1.0</td> <td data-bbox="732 1776 1094 1808">16</td> <td data-bbox="1094 1776 1507 1808">0-100</td> </tr> <tr> <td data-bbox="435 1808 732 1839">0.25</td> <td data-bbox="732 1808 1094 1839">60</td> <td data-bbox="1094 1808 1507 1839">0-30</td> </tr> <tr> <td data-bbox="435 1839 732 1871">0.15</td> <td data-bbox="732 1839 1094 1871">100</td> <td data-bbox="1094 1839 1507 1871">0-15</td> </tr> <tr> <td data-bbox="435 1871 732 1902">0.10</td> <td data-bbox="732 1871 1094 1902">140</td> <td data-bbox="1094 1871 1507 1902">0-10</td> </tr> <tr> <td data-bbox="435 1902 732 1938">0.07</td> <td data-bbox="732 1902 1094 1938">200</td> <td data-bbox="1094 1902 1507 1938">0-5</td> </tr> </tbody> </table>	Pit-run sand/gravel – base specifications			Sieve Size	Tyler Standard Screen U.S. Series Equiv. No.	Particles Passing	Millimeters	Inches	Percentage	87	3½	100	40	1½	80-100	20	3/8	70-100	Meshes/inch			1.0	16	0-100	0.25	60	0-30	0.15	100	0-15	0.10	140	0-10	0.07	200	0-5
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9.2.3.	<p data-bbox="326 176 586 205">Subsurface Drainage</p> <ol style="list-style-type: none"> <li data-bbox="375 212 1520 411">1. Installation of drainage lines is necessary when water tables are too close to the surface and must be lowered. Drainage should also be installed when subsoils are impermeable or so slowly permeable that turfgrass root zones remain saturated for extended periods. Subsoils that are moderately permeable (1/2 inch per hour or greater) do not require extensive drainage installation. A standard percolation test conducted at about 30 inches deep will help determine the need for drainage lines. <li data-bbox="375 417 1520 512">2. When drainage is necessary, install drain lines on 15-foot centers arranged longitudinally on the football field. This spacing will allow free movement of vehicles during the construction process and will facilitate rapid water movement into the drain lines. <li data-bbox="375 518 1520 579">3. Install drain lines 16 to 24 inches below the grassed surface at a 1- to 2-percent minimum grade. <li data-bbox="375 585 1520 821">4. Drainage trenches should be 6 to 8 inches wide and should be dug with laser-controlled machines. This will ensure the proper grade and depth of drain lines. Drainage trenches should be dug with a wheel ditcher with a cleaning shoe, which leaves a V-shaped, clean, and graded trench bottom. If other types of trenchers are used, the contractor should cut a level (flat) bottom and excavate 2 inches deeper than the required invert elevations and place 1/8-inch minus to 5/16-inch minus pea gravel 2 inches deep, leveled to grade for placement of the drain lines. <li data-bbox="375 827 1520 921">5. Try to select trenchers that will place the base material into a truck or trailer, or as far away from the trench as possible for easier removal and to prevent it from falling back into the trenches. <li data-bbox="375 928 1520 989">6. Remove from the site all material dug from the base or uniformly spread it over the area if it does not interfere with the final base grades. <li data-bbox="375 995 1520 1056">7. Drain lines can be placed longitudinally from end to end on naturally sloping terrain or crowned fields, but this is not practical on flat terrain. <li data-bbox="375 1062 1520 1092">8. The herringbone method is a typical alternative to longitudinally oriented drain lines. <li data-bbox="375 1098 1520 1262">9. Typically, the field should be divided from the center and trenched in each direction, reducing the length of run in half. Since a perimeter drain should be installed around the football field to facilitate drainage of both the field and the running track, these longitudinal drain lines can be coupled with the perimeter drain and discharged into storm sewers or other suitable sites <li data-bbox="375 1268 1520 1398">10. Drain Lines Types <ol style="list-style-type: none"> <li data-bbox="467 1304 1442 1333">a. Drainage lines are manufactured with slits 360 degrees around the tubing. <li data-bbox="467 1339 1520 1398">b. Drainage lines with holes only on one side at 45-degree angles. This type always places the holes downward. <li data-bbox="375 1404 1520 1499">11. During installation, attempt to keep soil off the drain lines and trenches. Carefully cap blind ends and properly connect and tape all joints to prevent entrance of soil material or animals. <li data-bbox="375 1505 1520 1566">12. Drainage lines spaced on 15-foot centers should be installed with 3- or 4-inch, semi-rigid drainage tubes with slits or drilled holes to facilitate inflow of water. <li data-bbox="375 1572 1520 1667">13. After the drain lines are in place, backfill trenches with pea gravel (1/8 to 5/16 inch) or coarse sand to a depth of 2 to 4 inches over the top of the drain tubing to avoid migration of fine sand particles into the drain line, causing clogging of the drains. <li data-bbox="375 1673 1520 1768">14. Attach filter devices and wrapped around the tile or placed over the tile to prevent migration of the fine particles since they can clog the filter with fine particles and seal the drain lines. <li data-bbox="375 1774 1520 1869">15. Extend drainage lines through the end ends of the field and tie in with the perimeter drains near the running track. The drainage line surrounding the running track will intercept all field drains and should be 6 inches in diameter. <li data-bbox="375 1875 1520 1944">16. Install catch basins around the perimeter of the field over the 6-inch drain at strategic locations for rapid evacuation of water from running tracks.

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9.2.4.	<p>Irrigation Installation</p> <ol style="list-style-type: none"> Irrigation is essential on sand-based fields. Irrigation systems should be designed and installed by competent irrigation specialists. Automatic irrigation systems with safety pop-up heads are best for sand-based athletic fields. Irrigation water can be more carefully controlled from this type of system. Install irrigation heads at a grade somewhat higher than the finished surface; after the soil has settled and the grass has become well established, these heads can be lowered to their proper final height. 																					
9.2.5.	<p>Sand Selection</p> <ol style="list-style-type: none"> The sand rooting medium specifications are listed in Table 2 below. Sand particles should fall between the ranges of No. 16 and No. 60 screen; however, sands with most of the particles between a No. 60 and No. 140 screen may be used for the rooting medium. Always specify sand by sieve size. Surface sand depth will vary from 4 to 12 inches depending upon the quality of the base material. Pit-run materials with high proportions of properly sized sand will allow the use of perhaps as little as 4 inches of finest quality sand for the surface. The addition of organic material, mixed off-site into the surface sand medium, is optimal. Materials such as well-composted organic matter or fibrous sphagnum peat moss are acceptable for the organic matter amendment. Organic matter particle sizes should range from 1/8 to 3/16 inch. Avoid all materials that are coarser or finer than those indicated. Under no circumstances should decomposed peat material be used as an organic amendment on high traffic sports fields. If organic materials are included with the sand top mix, do the premixing off-site with bucket loaders or other mixing equipment to get a homogeneous mixture of sand and organic matter, then place the mix over the playing surface. Incorporate no more than 20 percent organic material by a loose volume with the surface mixture. It is best to have samples of both the sand and organic material sent to a qualified soil testing lab to ensure the best sand and organic material combination that will give the optimum water holding capacity and drainage for the field. Each batch of root-zone mix should be tested before it is placed on the athletic field. Bring the surfacing or rooting medium to a flat grade over the playing surface and moisten to permit easier grading and movement without severe rutting. Fields built to these specifications do not need to be crowned because of the porous root-zone medium and installed drain lines. Practice care and caution to avoid damage to installed sprinklers and drains. Do not use compaction devices on the surface material except for normal grading and tillage equipment. <p style="text-align: center;">Table 2. Particle-size Specifications for Sand Rooting</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th colspan="3" style="text-align: center;">Rooting Medium Sand Specifications</th> </tr> <tr> <th style="text-align: center;">Sieve Size</th> <th style="text-align: center;">Tyler Standard Screen U.S. Series Equiv. No.</th> <th style="text-align: center;">Particles Passing</th> </tr> <tr> <th style="text-align: center;">Millimeters</th> <th style="text-align: center;">Meshes/inch</th> <th style="text-align: center;">Percentage</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">4.5</td> <td style="text-align: center;">4</td> <td style="text-align: center;">100</td> </tr> <tr> <td style="text-align: center;">2.0</td> <td style="text-align: center;">10</td> <td style="text-align: center;">95-100</td> </tr> <tr> <td style="text-align: center;">1.0</td> <td style="text-align: center;">16</td> <td style="text-align: center;">85-100</td> </tr> <tr> <td style="text-align: center;">0.5</td> <td style="text-align: center;">30</td> <td style="text-align: center;">50-70</td> </tr> </tbody> </table>	Rooting Medium Sand Specifications			Sieve Size	Tyler Standard Screen U.S. Series Equiv. No.	Particles Passing	Millimeters	Meshes/inch	Percentage	4.5	4	100	2.0	10	95-100	1.0	16	85-100	0.5	30	50-70
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	0.25	60	0-30
	0.10	140	0-10
	0.07	200	0.5
	0.01	270	0
9.2.6.	<p>Turfgrass</p> <ol style="list-style-type: none"> 1. Seeding the Field <ol style="list-style-type: none"> a. Must be able to grow in the AEPA Member State. b. If the site is not sodded, seeding rates for football and other sports fields should be 4 to 6 pounds per 1,000 square feet of certified seed. c. Mixtures should be for the type of athletic field and usage by the AEPA Member. 2. Turfgrass Establishment <ol style="list-style-type: none"> a. Nutrient applications should be based on soil tests. b. Do not apply fertilizer materials until the field is brought to its final grade. c. Lightly rototill all fertilizing materials and soil amendments into the top 4 inches of the final mix. d. After the fertilizer materials have been incorporated, no surface sand movement should be allowed. e. Fertilize the field and slightly moisten the field and roll with a light roller or with a Brillion drill or suitable lightweight packing device to slightly firm the surface prior to seeding. 3. Planting <ol style="list-style-type: none"> a. Use a Brillion drill or comparable landscape seeder for to uniformly spreads the seed and presses it into close contact with the soil surface. b. Divide the seed in half and sow in opposite directions. This will ensure fewer skips in the planting. c. In areas of considerable wind movement, hydroseeding with grass seed and approximately 1,200 pounds of fiber mulch per acre has been most successful in preventing the blowout of seed and sand. Another advantage of hydroseeding is that additional starter fertilizer can be added to the hydroseeder's tank mixture and applied at the time of seeding. Broadcast methods of planting are less desirable than the methods mentioned. d. After planting with a Brillion drill, no subsequent rolling is necessary. The addition of organic mulches to the surface is not necessary if automatic irrigation is available. Planting can be done anytime during the normal growing season in the Pacific Northwest. The ideal time is late summer or mid-spring. After the seed has germinated, or immediately before, apply a quick-release nitrogen source, such as urea ammonium nitrate or ammonium sulfate, at the rate of 1 pound of product per 1,000 square feet to provide soluble nitrogen for the emerging seedlings. e. After the seed has been planted, it is important that the surface be kept continuously moist. This is one of the most important steps in establishing an athletic field. Exercise extreme care not to overwater the field, since nutrient leaching will occur. Apply frequent, small amounts of water until germination and seedling emergence is complete; these applications must be made frequently (i.e., 6 to 8 times per 24 hours) to ensure surface dampness at all times. Uneven germination and possibly no germination will occur if the surface dries. 		
9.2.7.	<p>Turf Sod (Sod)</p> <ol style="list-style-type: none"> 1. Sod Types <ol style="list-style-type: none"> a. Thin-cut sod, which usually has about ¼ - ½" of soil, is easier to handle and will root faster than thick cut sod. 		

Item	Description
	<p>b. Thick-cut sod can have as much as 1-2" of soil which makes it much heavier to handle and once laid properly it is ready for play immediately.</p> <ol style="list-style-type: none"> 2. Prepare soil and surface before sod arrives. 3. Sod should be protected during transportation. 4. Sod shall be delivered to the site specified By the AEPA Member and off-loaded using equipment furnished by the sod supply contactor. Palletized or large-roll sod shall be off-loaded at the location(s) designated for this purpose at the installation site. 5. Time Limitations: Sod shall be harvested, delivered and installed/transplanted within a period of 24 hours, unless a suitable preservation method is approved prior to delivery. Sod not transplanted within this period shall be inspected and approved by the inspecting officer or his representative prior to its installation. 6. Pad Size: Individual pieces of turfgrass sod shall be cut to the supplier's standard width and length. Maximum allowable deviation from standard widths and lengths shall be plus or minus 0.5 inch (15 mm) on width and plus or minus five percent on length. Broken pads and torn or uneven ends will not be acceptable. 7. Strength of Turf Sod Sections: Standard size sections of turfgrass sod shall be strong enough that it can be picked up and handled without damage. 8. Moisture Content: Sod shall not be harvested or transplanted when its moisture content (excessively dry or wet) may adversely affect its survival. 9. Mowing Height: Before harvesting, the sod shall be mowed uniformly at a height of 1 to 2.5 inches. 10. Sod shall be reasonably free of diseases, nematodes and soil-borne insects. Specific nursery and/or plant materials laws may require that all sod entering inter-state commerce be inspected and approved for sale. 11. Installing of Sod <ol style="list-style-type: none"> a. All areas to be sodded shall be free of construction debris, stones, living vegetation, etc. All grades shall be established and maintained in accordance with the drawings and/or applicable specifications prior to installation. b. Properly grade and level the area to maximize surface drainage. c. Immediately prior to sodding apply starter fertilizer. d. Install sod to conform with irrigation zones, lightly watering immediately after installation of each zone. e. Till compost into 4-6" of soil. f. In case of clay subsoil add a high-quality compost. g. Lightly moisten the soil if the soil is dry at the time of sodding. h. The sod should be placed in a brick-like pattern, staggered so the edges do not line up. i. Minimize the number of edges that are exposed that could lead to desiccation. j. A light rolling could be helpful at this time to eliminate any air pockets. k. Watering is key now and important in promote rooting. l. Check to make sure that the watering has gone deeper than just the surface and has thoroughly wetted the underlying soil. m. Keep the soil moist and periodically check on sod to see how it is rooting. n. Avoid traffic until the sod is rooted which could take 1 week or so. o. To avoid layering problems once the turf is rooted core cultivate and remove the cores. p. Mowing can begin once the area is firm enough to handle traffic. q. A light application of nitrogen (½ lb./1,000 sq. ft.) may be beneficial 3-4 weeks after the sod has been laid.
9.2.8.	<p>Delivery, Storage and Handling</p> <ol style="list-style-type: none"> 1. Turf (Sod) to be installed within 12 hrs. of delivery.

Item	Description
	<ol style="list-style-type: none"> 2. Store and dispose of herbicides and fertilizer in accordance with requirements of the AEPA Member State. 3. Protect all products from weather as specified by manufacturer instructions.
9.2.9.	<p>Clean-Up</p> <ol style="list-style-type: none"> 1. Turf contractor shall provide the labor, supplies and equipment as necessary for final cleaning of surfaces and installed items. 2. The turf contractor shall keep the area clean throughout the project and clear of debris. 3. Surfaces, recesses, enclosures, etc., shall be cleaned, as necessary, to leave the work area in a clean, immaculate condition ready for immediate occupancy and use by the AEPA Member .
9.2.10.	<p>Field Quality Control</p> <ol style="list-style-type: none"> 1. At the time of substantial completion and biannually during the life of the warranty, the Contractor shall perform a series of tests using an independent testing agency to evaluate the shock absorption characteristics of the field. The tests shall be performed on a 50-foot grid in both directions using an accelerometer in accordance with ASTM F1936 and ASTM F355. Test the field at a minimum of 12 points and submit the results to the Owner within 30 days of testing. At no point shall any reading exceed 160 Gmax during the life of the warranty. If any point exceeds the maximum deceleration, the Contractor shall make corrections to provide the allowable Gmax deceleration at the Contractor's expense. Owner has the option to engage a qualified independent testing and inspecting agency to perform field tests and inspections and prepare test reports. 2. Testing and inspecting of completed applications of synthetic turf system shall take place in suggestive states, in areas of extent and using methods that are industry standard. 3. The Contractor is to remove and replace items where test results indicate that it does not comply with specified G-Max requirements.
9.2.11.	<p>Field Markings and Decorations</p> <ol style="list-style-type: none"> 1. A complete field "Lining, Marking, and Field Boundary" system will be provided with the installation of the surfacing system. 2. Field markings are to be installed in accordance with approved project shop drawings and marking plan. 3. Lines, hash marks, ticks, and number markings, shall be per AEPA Member Specifications and the sport governing body. 4. Striping layouts shall be accurately surveyed by the Contractor before installation of tufted field markings.
9.2.12.	<p>Equipment and Accessories</p> <ol style="list-style-type: none"> 1. The Offeror can offer and install in-ground equipment and accessories to include but is not limited to: <ol style="list-style-type: none"> a. Pole Vault Pit –The Offeror shall provide synthetic surfacing material plugs, which are to be installed level to the surfacing of the respective runway and be of similar texture as the surrounding synthetic surfacing. b. Take-Off Boards c. Shot Put Toe Boards d. Shot Put Rings e. Discus Rings f. Combination Hammer/Discus Cage and cage must meet IAAF rules g. Hammer/Discus Conversion Ring h. Water Jump Hurdle with sleeves i. Water Jump Cover - The Offeror is to install track surfacing onto the cover. The cover, when installed with synthetic surfacing on it, shall be flush with the surrounding area. j. Removable Track Curbing. The curb shall meet the requirements of the IAAF.

Item	Description
	<ul style="list-style-type: none"> k. Long Jump Sandpits and Traps. l. Sand – All sand for the long/triple jump sand pits shall be clean, washed, white sand, containing not more than five percent (5%) clay and shall be free of trash, organic matter, and rock. Installed sand shall meet all specifications of the IAAF – washed river sand, 0 to 2mm graining, no organic components, max 5% of weight up to 0.2mm. Prior to installation, the Offeror shall provide the AEPA Member with a one (1) gallon sample for approval. m. Football goal posts and soccer goals n. Batting Cages o. Mowers and striping equipment
9.2.13.	<p>Project Close-out</p> <ol style="list-style-type: none"> 1. The Contractor and the AEPA Member’s representative shall conduct a complete and extensive site inspection of all work performed and products provided and installed. 2. The Contractor shall provide the necessary testing data to the owner that the finished field installed meets the required shock attenuation, as per ASTM F1936. 3. Upon completion of the work, the Offeror will present the AEPA Member with all documents necessary to close out the project. Including, but not limited to: <ol style="list-style-type: none"> a. Maintenance manuals. b. Up to four (4) complete sets of “as built” project drawings, showing the actual locations of seams, drains, in-ground equipment and other accessories installed/provided. c. Minimum of two (2) copies each of any installed equipment. <ol style="list-style-type: none"> i. Manufacturer’s Instructions and Maintenance Manuals, which will include all necessary instructions for the proper care and preventative maintenance of the synthetic turf system, including painting and markings, procedures of use and executed warranties on installed products and equipment. ii. Any state, local and/or manufacturer’s inspection report or certificate certifying that all state, local and manufacturer’s standards, codes and requirements have been met. d. All drawings, maintenance manuals, drawings and warranties for the installed equipment shall be provided electronic format on a flash drive or CD or DVD. 4. The Contractor shall provide AEPA Member’s personnel with the necessary training for the proper care and maintenance for turf, material and equipment installed.
9.2.14.	<p>Warranty</p> <ol style="list-style-type: none"> 1. The Prime Contractor shall provide a warranty to the owner that covers defects in the prep-work, installation, and workmanship, and further warrant that the installation was done in accordance with both the AEPA Member project documents and all equipment manufacturer’s recommendations. 2. The Offeror may offer extended warranties or maintenance agreements if available at an additional cost to AEPA Member.

Category 3 - Running Track, Tennis and Athletic Courts

Item	Description
9.3.1.	General Requirements
9.3.2.	The Offeror must have the ability and capacity to provide all labor, materials, and equipment required to provide, site inspection and preparation and construction services for track, basketball, and tennis court construction. These services may be provided by the Offeror’s own crews and staff or by subcontractors contracted and supervised by the Offeror.
9.3.3.	The Offeror is responsible for ensuring that the design and construction drawings and manual clearly indicate, identify and communicate the products, services and testing that must be provided to deal with site preparation and public utilities; track/court/field sub-base-works,

Item	Description
	drainage systems, concrete and asphalt base-works; and track/court/field surfaces that are in accordance and comply with ASBA, AAU, NCAA, NFHSA and state requirements.
9.3.4.	Assisting AEPA Members in assessing, evaluating and determining the safety and operational status of the various types of equipment, structures and surfaces found within educational playgrounds and recreational facilities. Providing AEPA Member with a complete and comprehensive report identifying areas of concern and surfaces needing maintenance, repair and/or replacement.
9.3.5.	Assisting AEPA Members in developing a short-term action plan to remediate, resolve and/or remove any unsafe conditions and establish a long-term maintenance program for maintaining AEPA Member's facilities in good working conditions.
9.3.6.	Upon request, assist the AEPA Member and its design professional in design new track and recreational courts for new schools and public facilities.
9.3.7.	Provide AEPA Member s with necessary construction services for demolition, site preparation and installation of all products offered under this RFP.
9.3.8.	Documentation signed by an authorized representative of the manufacturer will be provided to the Member stating that the track, basketball, or tennis court has no measurable traces of heavy metals, leachable mercury, or any other hazardous materials identified by the EPA. For comparison testing prior to installation and randomly during installation, an 8" x 10" sample of the material to be furnished to the Member's independent laboratory prior to installation if required.
9.3.9.	An additional 8" x 10" product sample, the same color, texture, thickness, etc. as the type of surfacing to be installed for this project shall be provided to the Member. This must be a representative sample of the product for comparison of color and texture during installation. This sample must be submitted and approved by the Member prior to installation.
9.3.10.	Upon completion of any line markings, the Offeror shall obtain written acceptance and approval of the markings by the AEPA Member's designated representative as being complete and meeting their requirements. This document shall state that the track, basketball, or tennis court markings and layout meets and complies with the governing bodies' such as AAU, NCAA, NFHSA, State Activity Association, etc.
9.3.11.	Provide AEPA Members with the necessary training and support services to allow their staff to conduct safety inspections, to perform maintenance according to manufactures instructions.
9.3.12.	Upon request, provide the labor, equipment, supplies and materials to inspect existing facilities and make any maintenance and repairs required to bring the facility into good working order.
9.3.13.	All material shall be guaranteed to the extent that:
9.3.14.	Installed in accordance and the manufacturer's specifications.
9.3.15.	Will perform as specified per the manufacturer's specifications
9.3.16.	The Offeror must have the ability and capacity to provide all labor, materials, and equipment required to provide, site inspection and preparation and construction services for track, basketball, and tennis court construction. These services may be provided by the Offeror's own crews and staff or by subcontractors contracted and supervised by the Offeror.
9.3.17.	The Offeror is responsible for ensuring that the design and construction drawings and manual clearly indicate, identify and communicate the products, services and testing that must be provided to deal with site preparation and public utilities; track/court/field sub-base-works, drainage systems, concrete and asphalt base-works; and track/court/field surfaces that are in accordance and comply with ASBA, AAU, NCAA, NFHSA and state requirements.
9.3.18.	Assisting AEPA Member s in assessing, evaluating and determining the safety and operational status of the various types of equipment, structures and surfaces found within educational playgrounds and recreational facilities. Providing Member with a complete and comprehensive report identifying areas of concern and surfaces needing maintenance, repair and/or

Item	Description
	replacement.
9.3.19.	Assisting AEPA Member s in developing a short-term action plan to remediate, resolve and/or remove any unsafe conditions and establish a long-term maintenance program for maintaining AEPA Member 's facilities in good working conditions.
9.3.20.	Upon request, assist the AEPA Member and its design professional in design new track and recreational courts for new schools and public facilities.
9.3.21.	Provide AEPA Member s with necessary construction services for demolition, site preparation and installation of all products offered under this RFP.
9.3.22.	Documentation signed by an authorized representative of the manufacturer will be provided to the Member stating that the track, basketball, or tennis court has no measurable traces of heavy metals, leachable mercury, or any other hazardous materials identified by the EPA. For comparison testing prior to installation and randomly during installation, an 8" x 10" sample of the material to be furnished to the Member's independent laboratory prior to installation if required.
9.3.23.	An additional 8" x 10" product sample, the same color, texture, thickness, etc. as the type of surfacing to be installed for this project shall be provided to the Member. This must be a representative sample of the product for comparison of color and texture during installation. This sample must be submitted and approved by the Member prior to installation.
9.3.24.	Upon completion of any line markings, the Offeror shall obtain written acceptance and approval of the markings by the AEPA Member's designated representative as being complete and meeting their requirements. This document shall state that the track, basketball, or tennis court markings and layout meets and complies with the governing bodies' such as AAU, NCAA, NFHSA, State Activity Association, etc.
9.3.25.	Provide AEPA Member s with the necessary training and support services to allow their staff to conduct safety inspections, to perform maintenance according to manufactures instructions.
9.3.26.	Upon request, provide the labor, equipment, supplies and materials to inspect existing facilities and make any maintenance and repairs required to bring the facility into good working order.
9.3.27.	All material shall be guaranteed to the extent that: <ol style="list-style-type: none"> 1. Installed in accordance and the manufacturer's specifications. 2. Will perform as specified per the manufacturer's specifications.
9.3.28.	<p>Quality Assurance</p> <ol style="list-style-type: none"> 1. Offeror must demonstrate through documentation: 2. The products offered shall meet or exceed the American Sports Builders Association (ASBA) guidelines and all requirements of the ASBA performance specification for synthetic surfaced athletics tracks, courts and fields. 3. The Offeror will only utilize factory certified tradesmen that are licensed in AEPA Member State to perform all work performed under this RFP. 4. The Offeror shall make its' own site visit to fully acquaint themselves with the construction site, existing facilities and utilities, and shall fully understand the difficulties and restrictions attending the execution of the work under this RFP. Offeror shall advise the Member in writing and receive its' acceptance of any restrictions and/or anticipated difficulties prior to accepting a contract to do the individual project. 5. The prime Contractor shall maintain ASBA Certified Track Builder or Certified Tennis Court Builder on staff to ensure quality control in all aspects of a project conducted under this solicitation. 6. All material shall be guaranteed to the extent that the surfacing: <ol style="list-style-type: none"> a. Has been manufactured and applied in accordance with these and the manufacturer's specifications. b. Will hold fast and/or adhere to the asphalt, concrete, edging, filler and patches or overlay materials.

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	<ul style="list-style-type: none"> c. Will perform as specified in these specifications and the specifications of the product manufacturer in the current standard product information literature and specification sheets. d. Is ultra-violet resistant and will not de-laminate, bubble, blister, fade, crack or wear excessively during the guarantee period, as determined by the Member. e. That the base meets or exceeds manufacturers specifications and meets all building code requirements for drainage, sub-base and base construction requirements. f. All machinery and materials used must be only those approved by the track and field manufacturer.
9.3.29.	Outdoor Running Tracks-Track Surfacing Systems
9.3.30.	Furnish all required labor, materials, equipment, implements, parts and supplies necessary to inspect/investigate site conditions, obtain, deliver, install required track surface, line and mark track for appropriate
9.3.31.	<p>Due to the wide range of needs and requirements of AEPA Members, AEPA is seeking track surfaces of various types and the following descriptions are given as a general guide and standard of the surfaces being requested. The Offeror is encouraged to propose a complete line of track surfaces that meet or exceed the listed surfaces and the standards and specifications established by the National Federation of State High Association, American Sports Builders Association, state and local Uniform Building Codes. The track surface will be applied by a firm licensed in AEPA Member State, which has been installing the material for the past five (5) years. Types for track surfaces to include but not limited to:</p> <ol style="list-style-type: none"> 1. Pour-in-place, all-weather synthetic track surface consisting of permeable polyurethane bound rubber base mat and a structural spray coating of pigmented polyurethane and rubber. 2. Pour-in-place, all-weather synthetic track re-surface consisting of structural spray coatings of pigmented polyurethane and rubber. 3. Pour-in-place, all-weather synthetic track surface consisting of impermeable polyurethane bound rubber base mat and a solid pour polyurethane coating with rubber granules in a light encapsulating finish. 4. Pour-in-place, all-weather synthetic track re-surface consisting of a solid pour polyurethane coating with embedded rubber granule finish. 5. Impermeable polyurethane synthetic track system comprised of a base layer of polyurethane bound SBR rubber granules, an impermeable layer (seal coat) of a two-component urethane and topped with a spray-applied coating of single-component polyurethane and EPDM granules. 6. A porous, paved-in-place system, utilizing a machine installed base of single compound polyurethane binder and SBR rubber granules. The surface is finished with multiple spray applications of 100% solids, pigmented polyurethane and EPDM granules or water-based structural spray. 7. Impermeable polyurethane synthetic track system consisting of SBR Rubber, a single-component polyurethane binder and, a poured-in-place, two-component U.V. stabilized elastomeric polyurethane wearing layer with an embedded textured finish. 8. Full depth poured-in-place two component, UV stabilized elastomeric polyurethane Dual Durometer synthetic surfacing system with embedded textured finish. 9. A full depth poured-in-place two component, UV stabilized elastomeric polyurethane Tri-Durometer synthetic surfacing system with embedded textured finish and contain no SBR granulate in the system. 10. Pour-in-place, all-weather synthetic track surface consisting of polymer resin binders and rubber granules. 11. Pour-in-place, all-weather synthetic track surface consisting of polymer resin binders and rubber granules and multiple sprays of polymer resin coating.

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9.3.32.	<p data-bbox="326 176 735 212">Site Inspection and Investigation</p> <ol style="list-style-type: none"> <li data-bbox="375 212 1520 653">1. The ultimate performance and lifecycle of any running/jogging track depends on a significant degree on the subsoil and drainage conditions of the site. The stability of the subsoil also has a direct influence on the ability to properly prepare the site, construct the track and to maintain design grades under the deformations generated by the construction equipment itself. Such site condition as: expansive soils or plastic soils and use of base course materials consisting of these types of soils can create problems and frost action is exaggerated where frost susceptible materials exist with moisture available to generate frost heave. It is, therefore, necessary for Offeror in cooperation with the AEPA Member in ensure that a complete and accurate site inspection/investigation has been performed to identify soil conditions existing at the site and to take these conditions into account in designing the project. Site preparation, including stripping, placement of backfill and base construction must be properly performed to minimize the risk of problems due to subsoil and subgrade conditions. <ol style="list-style-type: none"> <li data-bbox="467 653 1520 919">a. The scope of and level of any site inspection/investigation must be flexible and dependent on the nature of the conditions that exist at a particular site, and the degree of risk that the AEPA Member is willing to acknowledge, accept and take regarding adverse effects of subsoil conditions. During the design and development of the project, the Offeror will advise and consult with the AEPA Member to determine the scope and level of site inspection required. Obviously, the more serious site conditions that require an adequate study includes, but is not limited to: <ol style="list-style-type: none"> <li data-bbox="573 926 1284 961">i. The existence of peat or other organic soils at the site; <li data-bbox="573 961 1317 997">ii. Uncontrolled fill materials or waste materials at the site; <li data-bbox="573 997 938 1033">iii. Expansive soils at the site; <li data-bbox="573 1033 1520 1098">iv. High ground water conditions or surface water retention areas (low area flooding); or <li data-bbox="573 1098 1263 1134">v. Special usage of the facility for a variety of activities. <li data-bbox="467 1134 1520 1367">b. Soils should be classified, in general, in accordance with the visual manual method of identification of soils, utilizing the Unified Soil Classification System (ASTM Methods D 2488 "Description of Soil Visual Manual Procedure", and D 2487 "Classification of Soils for Engineering Purposes"). It is not intended, however, that a rigorous use of these methods be required, but only use of terminology that will describe the soil conditions in terms of soil types using the Unified Soil Classification symbols, such as CL, CH, etc. <li data-bbox="467 1367 1520 1503">c. Data obtained from this investigation should be prepared and submitted as part of the project record documents for later reference, if necessary, or for review by a qualified engineer if an evaluation is decided upon by the AEPA Member and/or the Contractor. <li data-bbox="467 1503 1520 1713">d. Once a site study has been completed, identified risks require the AEPA Member and the Offeror to make a joint decision as to the level site preparation is required before the project is started. This is done so that an adequate site can be available for the tract construction, and in the event of any problems developing because of subgrade conditions, the responsibility can be clearly allocated between the AEPA Member and the Contractor. <li data-bbox="467 1713 1520 1946">e. Where any site and/or soil conditions are suspect for problems, such as existence of fill material, organic material or expansive soils are known or believed to exist at a site, then it is required that the AEPA Member and Contractor shall review, assess and discuss the pros and cons of the condition and the AEPA Member may choose to retain a geotechnical consultant to obtain samples in accordance with ASTM Method D 1587 in cohesive soils, and D 1586 in granular soils, with borings to a depth of at least 10 ft. or into firm materials. This should be followed by

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	<p>appropriate unconfined compressions tests, water content and density determinations on cohesive soils, and penetration resistances and blows per foot for granular soils, plus water level determinations, again with borings at each corner of the tennis court or at each quadrant of the track and intermediate borings not greater than 200 ft. apart outside the pavement area.</p> <p>f. All information and communications relating to the site inspection and investigation shall become part of the project's documentation.</p>
9.3.33.	<p>Site Preparation, Earthwork, Drainage and Sub-base Construction</p> <ol style="list-style-type: none"> 1. For new track construction, the site must be properly prepared in accordance with project design documents that were prepared based on the site inspection and investigation which addressed: <ol style="list-style-type: none"> a. Site grade and elevations; b. The sub soil, topsoil and drainage conditions; c. The existence of peat or other organic soils at the site; d. Uncontrolled fill materials or waste materials at the site; e. Expansive soils at the site; f. High ground water conditions or surface water retention areas (low area flooding). 2. If an existing athletic facility, type of facility, how is it being utilized and by whom.
9.3.34.	<p>Stripping and excavation - Unless otherwise specified, topsoil and other unsuitable materials at the site, and to a minimum distance of 5' beyond the surfaced area, should be removed in such a manner as to minimize disturbance of the remaining subgrade soils, and to facilitate placement of embankment materials and/or base course materials. Topsoil should be stored at the site and reused for landscaping at the completion of construction.</p>
9.3.35.	<p>Subsurface Drainage</p> <ol style="list-style-type: none"> 1. Where surface inlets are provided on or near the courts or track, drain lines to carry the water to appropriate discharge channels should be in accordance with local building codes and regulations. 2. Where it is necessary or otherwise decided to lower the water table at the site, French drains (permeable, properly graded, gravel-filled trenches), geocomposites or perforated drain lines surrounded with a stone material, should be utilized, discharging to appropriate channels. Non-woven geotextile fabric may be used, depending on the stone materials available. 3. Backfill of all trenches should be granular material, placed in layers not to exceed 6" in thickness, compacted with appropriate compaction equipment to 95% of the maximum density determined by ASTM Method D 698 (Modified Proctor). This compaction is necessary to minimize the risk of subsequent settlement of the surface over the trench. 4. When trenching or drain tile is used under existing permanent pavement, it is recommended that this area be compacted to 100% of the maximum density determined by ASTM Method D 698 (Modified Proctor). This method will reduce the amount of settlement that may occur in these trenches, which will reflect on the final surface.
9.3.36.	<p>Sub-base Embankment</p> <ol style="list-style-type: none"> 1. Embankment is fill material necessary to raise the grade at the site, after removal of unsuitable materials identified during the site investigation, to provide the surface on which to place the base course for the running track. 2. While well-graded granular soil is preferred for embankment fill, normally locally available soil is used for economic reasons. The material should be free of organic or expansive material, and of particles greater than 1 1/2" in dimension. It should be placed in lifts not to exceed 6" in thickness and compacted to 95% of the maximum density determined by ASTM Method D 698 (Modified Proctor). The water content of the fill should be reduced by aeration or increased by adding water, as necessary to achieve the required compaction.

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	<p>3. Where the natural soil at the bottom of the sub-base course is stable, as evidenced by stability under construction equipment, hand auger or other exploration, base course materials can be placed on this soil. Soft clay and plastic soils should be appropriately stabilized.</p>
9.3.37.	<p>1. Vegetation control or vegetation regrowth prevention - Soil conditions vary from area to area. Where problems exist, it may be necessary to sterilize the soil. The Offeror should during project development or construction recognize and determine when soil sterilization is necessary and offer methods and options to the AEPA Member for rectifying problems caused by vegetation.</p> <ol style="list-style-type: none"> a. Concrete Curbs and Drains b. Furnish all required labor, materials, equipment implements, parts and supplies necessary to prepare the site and install curbs and drainage systems. c. Cement shall conform to one of the standard specifications for Portland Cements, ASTM C-150, pr specification for blending hydraulic cements, ASTM C-595, excluding slag cements types S and SA. d. Air entrainment by total volume of concrete shall be: 4 – 6% for 1 1/2” maximum size coarse aggregate; 5 – 7% for 3/4” or 1” maximum size coarse aggregate; 6 1/2” – 8 1/2” for 3/8” or 1/2” maximum size coarse; 1/2 – 8 1/2% for 3/8” or 1/2” maximum size coarse aggregate. e. Aggregate shall conform to standard specifications for concrete aggregates ASTM C-33. For concrete work that is 5” thick, the normal size of the coarse aggregate shall not exceed 1 1/2”. For concrete work that is 4” thick, the normal size of the coarse aggregate shall not be greater than 1”. f. Concrete work shall be 5” thick if the location of the structure is such that it will be subject to more than three freeze-thaw cycles annually. If the location is such that not more than three freeze-thaw cycles occur annually, concrete work may be 4” thick. g. Steel reinforcement bars shall conform to standard specifications for deformed and plain billet-steel bard for concrete reinforcement ASTM A-615, grade 60 or 40. h. For concrete work that is 5” thick, the recommended bars shall be No. 5 size in both directions at 12” on center. For concrete work that is 4” thick, the recommended bars shall be No. 5 size in both directions at 15” on center. Bars shall be accurately positioned at mid-depth, terminating 2” away from edges and joints, and shall be adequately supported by chairs with sand plates provided to prevent bar supports from sinking into the sub-base. i. Bars shall be lapped 18” and be securely tied or otherwise secured so that there is no possibility of displacement when concrete is placed. Reinforcement at time of concrete placement shall be free of loose, flaky rust and other coatings or films that could interfere with bonding to the concrete. j. The concrete shall have a compressive strength of not less than 3,000 psi at the 29th day after casting. The minimum cement content for finish ability shall not be less than 470 lb. per cubic yard for 1 1/2” maximum size coarse aggregate or 520 lb. for 1”. In freeze-thaw environments, the minimum cement content shall not be less than 560 lb. per cubic yard. The slump shall not be more than 4”. Ready-mixed concrete shall be mixed and delivered in accordance with ASTM C-94, specification for ready-mixed concrete. k. Concrete shall be spread, consolidated, screened, bull-floated and finished in accordance with Section 7.2 of ACT Standard 302, recommended practice for concrete floor and slab construction. l. When concrete is sufficiently set to withstand foot pressure with only about 1/4” indentation and the water sheen has left the surface, the slab shall be uniformly

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	<p>finished by power floating and trawling. The final finish texture shall have at least a medium broom finish to improve the mechanical bond to the surface.</p> <ul style="list-style-type: none"> m. Immediately after brooming, the concrete shall be kept continuously moist for seven (7) days by covering with polyethylene film or waterproof curing paper. Curing compounds will not be used. Curing time shall be in accordance with surfacing systems manufacturer's recommendations, but in not less than 28 days. n. The concrete surface shall be finished so that the tolerance shall not vary more than 1/4" in 10' when measured with a 10' straightedge in all directions. o. Perimeter edging shall be constructed using one of the following methods: pavement extension, flush curb, permanent raised curb or removable raised curb. p. A pavement extension shall have an aggregate base course constructed so that the inside perimeter is parallel to and 28" inside of the track measure line, and 16" from the outer side of the outside lane line. q. A pavement extension shall have an asphaltic concrete course(s) constructed so that the inside perimeter is parallel to and 22" inside of the track measure line, and its outside perimeter parallel to and 10" from the outer side of the outside lane line. r. A pavement extension shall have a synthetic surfacing course constructed so that the inside perimeter is parallel to and 16" inside of the track measure line, and its outside perimeter parallel to and 4" from the outer side of the outside lane line. s. A flush curb shall be solid, installed for both the inside and outside (or inside only) perimeter of the trade. The curb shall be flush with either the asphalt or the top elevation of the synthetic surface for an impermeable installation. For a permeable installation, the curb is to be flush with the final elevation of the asphalt. The distance between the track side of the inside curb and the measure line shall be less than the distance between the track side of the outside curb and the line shall not be less than 4". t. A permanent raised curb shall be solid and be installed to provide a curb for both the outside and inside perimeter of the track. The distance between the trackside of the curb and the track measure line shall be 30 cm. The distance between the trackside of the outside curb and the lane line shall not be less than 4". u. Removable raised curbs shall be available in various materials, including, but not limited to: aluminum, polyurethane or aluminum with a firm rubber top. These removable curbs shall sit on pads that allow movement of water from the track surface to the drain channel or infield. v. Drainage systems shall utilize a perimeter drain tile system, catch basin, curb and gutter drainage system, permeable system or continuous trench drains.
9.3.38.	<p>Hot mix asphaltic concrete base course and leveling course for running tracks and/or field events areas.</p> <ul style="list-style-type: none"> 1. The components and methods utilized to install and complete the base and leveling course must be in accordance with the individual project's design documents. The success of any installation of base or leveling course is dependent upon a properly constructed sub-base and a good drainage system. <ul style="list-style-type: none"> a. Minimum recommended base course thickness shall be based on the specifications established by the geotechnical engineer. b. Minimum recommended leveling course thickness shall be based on the specifications established by the geotechnical engineer 2. Quality Assurance - For installation of running track and field event hot mix asphalt, utilize only thorough, highly-trained personnel experienced and familiar with running track and field event paving and with the tolerances required by the appropriate federal, state and local governing bodies.

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	<p>3. Asphalt - The proper type of asphalt used will vary from state to state if using the standard norm of the Department of Transportation (DOT) or State Highway Department standards. The following is a typical mix design for example only:</p> <ol style="list-style-type: none"> Thickness: No less than 1". Liquid Asphalt or Bitumen: 5.5% by weight (+/- 0.5%). Asphalt Penetration or Type: 85 - 100 penetration. Cure Time: Follow coating manufacturer's recommendations (typically 14 to 30 days), depending on the time of year and rainfall. Asphalt will cure more slowly in cooler temperatures, i.e. the Spring and Fall. Aggregate Type: Crushed stone, gravel, shale, limestone, etc. Foreign materials, i.e., pyrite, clay, ferrous compounds, dirt and organic material are not acceptable. <table border="1" data-bbox="565 583 1154 1045"> <thead> <tr> <th>Aggregate Sieve Analysis</th> <th>% Passing</th> </tr> </thead> <tbody> <tr> <td>1/2"</td> <td>100%</td> </tr> <tr> <td>3/8"</td> <td>70 - 80%</td> </tr> <tr> <td>1/4"</td> <td>60 - 80%</td> </tr> <tr> <td>No. 4</td> <td>60 - 70%</td> </tr> <tr> <td>No. 8</td> <td>40 - 60%</td> </tr> <tr> <td>No. 12</td> <td>30 - 50%</td> </tr> <tr> <td>No. 16</td> <td>20 - 40%</td> </tr> <tr> <td>No. 30</td> <td>20 - 30%</td> </tr> <tr> <td>No. 50</td> <td>10 - 20%</td> </tr> <tr> <td>No. 100</td> <td>2 - 6%</td> </tr> <tr> <td>No. 200</td> <td>60 - 70%</td> </tr> <tr> <td>Washed</td> <td>0 - 2%</td> </tr> </tbody> </table> <ol style="list-style-type: none"> Plant, equipment, machines, and tools - The bituminous plant should be capable of producing the quantities of bituminous mixtures required. Hauling, placing and compaction equipment should be provided in sufficient numbers that the placement capacity at the site is equal to, or greater than, the planned plant output to the site. Paver - All pavements, where applicable, should be placed with a self-propelled asphalt paver. The screed width should be adjustable to no less than eight feet (8'). Only hydraulic screed and auger extensions to achieve widths greater than that of the main screed are acceptable. Compaction Equipment - Compaction equipment should consist of steel drum asphalt rollers of sufficient size and width to properly compact the hot mix asphalt to the required compaction, while providing a smooth surface free from bumps, marks and creases. Transportation Equipment - Transportation of the hot mix asphalt to the site from the asphalt plant should be in trucks having tight, clean, smooth beds lightly coated with an approved releasing agent. Each load should be covered with a canvas or other approved material of ample size to protect the mixture from cooling. Straightedge - The contractor should furnish and maintain at the site, in good working condition, one 10' straightedge for each paver. <p>4. Placement and Compaction</p> <ol style="list-style-type: none"> Hot mix asphalt courses should only be placed on the specified base, free from contamination and with no free water on the surface. Paving operations should not be scheduled unless there is ample time to place, compact and finish roll the hot mix asphalt. 	Aggregate Sieve Analysis	% Passing	1/2"	100%	3/8"	70 - 80%	1/4"	60 - 80%	No. 4	60 - 70%	No. 8	40 - 60%	No. 12	30 - 50%	No. 16	20 - 40%	No. 30	20 - 30%	No. 50	10 - 20%	No. 100	2 - 6%	No. 200	60 - 70%	Washed	0 - 2%
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	<ul style="list-style-type: none"> c. The range of temperatures for mixtures to be dumped into the paver should be determined by State Department of Transportation guidelines, and in no case should they be cooler than 225 degrees F. d. Paving operations should provide a mat that is smooth, dense and of the proper thickness, slope and plane. e. The leveling course should be placed such that the longitudinal joints of the leveling course are offset from that of the base course. Transverse joints should be offset a minimum of 24". f. In placing each succeeding pass after the initial one, the screed of the paver should be set so that it overlaps the preceding pass by 2" and be sufficiently high so that when compacted, a smooth joint is produced. Prior to pinching the joint, the excess material should be pushed onto the edge of the new pass with a lute. Excess material should be removed and wasted. g. Breakdown rolling should begin as soon after the placement as the mixture will allow without undue displacement. No delays in rolling should be permitted. After breakdown rolling has been completed, preliminary testing of grade, slope and planarity should be done. Any deficiencies should be immediately corrected in accordance with "Acceptability of Work." When the paving contractor is assured that all tolerances are being met, finish rolling should begin. h. Deficient areas within the base course should be corrected by saw cutting or milling high spots and/or by truing and leveling low spots. i. Deficient areas in the leveling course should be corrected by saw cutting or milling to a depth equal to the thickness of the mat. Tack coat should be applied to all edges and the pavement should be replaced. Skin patching of the leveling course should only be done with materials acceptable to the track surfacing contractor. <p>5. Acceptance of work – Upon completion of the work and/or prior to installing the track surface system, the base and leveling course should be inspected for:</p> <ul style="list-style-type: none"> a. Grade conformance tests should be conducted on both the base course and the leveling course. The entire surface should have positive drainage. b. Planarity - After completion of the finish rolling operations on each course, the compacted surface should be tested with a 10' straightedge. Measurements should be made perpendicular to and across all mats at a distance not to exceed 25'. The track surfacing contractor and/or AEPA Member 's representative should be present when these measurements are made. The maximum allowable planarity deviation within a pass should be 1/8" in 10' when measured in any direction.
9.3.39.	<p>Quality Assurance</p> <ul style="list-style-type: none"> 1. The work shall conform to the USTC & ASBA's standards for track construction. The track surface will be applied by a licensed firm, which has been installing the material for the past five (5) years. 2. Installing foreman must have at least five (5) years' experience installing this type of system.
9.3.40.	<p>Guarantee – The Contractor is to provide a written guarantee against defective materials or faulty workmanship, excessive color change, excessive wear, and any other feature which is not deemed ordinary wear on running tracks and court surfaces for a period of not less than five (5) years.</p>
9.3.41.	<p>Job Conditions – Surfacing shall not be done if a threat of freezing exists within the next 24 hours, rain is imminent, or gusting winds are forecasted. While surfacing and striping are being done, sprinkler systems must be curtailed, shut off or controlled so that no water falls on the track or event area surfaces. Other tradesmen, school district personnel and students must stay off the wet or curing surfaces.</p>

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9.3.42.	Track systems shall be asphalt, latex, polyurethane or per manufactured rubber. Installed depth of all systems, depending on the AEPA Member requirements, will be 3/8" to 1/2". <ol style="list-style-type: none"> 1. Asphalt track surfacing systems shall be either a SAR or asphalt emulsion and rubber system constructed in accordance with ASBA standards. 2. Latex track surfacing systems shall be available in black or use a colored binder, color sandwich or full-depth color system. It shall be mixed and installed on-site meet or exceed ASBA standards. 3. Polyurethane track surfacing systems shall be available in either permeable or impermeable forms. They will utilize a base mat, structural spray, and sandwich or full-pour application process. The polyurethane system shall be mixed and installed onsite or per manufacturer's specifications and instructions and must meet ASBA standards.
9.3.43.	The asphalt or concrete base must be properly cured in accordance with all general specifications referenced above prior to the application of the synthetic surface.
9.3.44.	The asphalt or concrete base shall be inspected for conformity to allow tolerances for inclination. Also, the surface shall not deviate more than 1/4" in 10' from the specified grade when checked with a 10' straightedge in all directions. The surface should also be flooded with water to detect low areas. If, after 20 minutes of drying time, there are birdbaths evident, it shall be the responsibility of the AEPA Member and/or Member's representative, in conjunction with the surfacing contractor, to determine the method of correction. No cold tar patching, skin patching or sand mix patching will be acceptable.
9.3.45.	The area to be surfaced shall be clean and free of any loose or foreign particles prior to the synthetic surface installation. Any oil spills (hydraulic, diesel, motor oil, etc.) must be completely removed, either by chipping out or removing and replacing with new, keyed in asphalt. The minimum depth of any asphalt replacement shall be one inch. The curing time for the asphalt base is 28 days. It shall be the responsibility of the surfacing contractor to determine if the asphalt substrate has cured sufficiently prior to the application of polyurethane surfacing system.
9.3.46.	A primer or K coat may need to be applied to the asphalt or concrete base in accordance with the system specifications. Some systems will not require this primer coat.
9.3.47.	The track surface shall be installed in strict compliance with the manufacturer's specifications. All equipment is to be kept clean. All daily work shall be finished in a uniform manner. All cured joints are to be properly prepared prior to commencement of new work. All layers are to be properly cured prior to subsequent applications.
9.3.48.	Delaminating Surfaces – Any surfaces not adhered to the concrete or asphalt substrate need to be removed. If only a few small areas are involved, they can be patched with an appropriate compatible material. If large sections are loose and adjacent areas can be easily pulled loose, the entire surface should be removed.
9.3.49.	Striping – AEPA Member personnel will be consulted to determine the levels of competition and the governing organization's (NMAA/NCAA) standards must be utilized for the placement of the finish line(s), events to be run, location of lane numbers and any other painted markings. A computerized set of calculations will be created to enable accurate layout of the selected markings. Layout of markings will be done with a steel tape calibrated to .01". The markings on the curve will be sighted-in with a theodolite capable of direct reading to 20 seconds of arc. Markings shall conform to NFSHSA, NCAA or AAU regulations. The paint shall be semi-gloss urethane compatible with the surface. The Offeror will supply a scaled drawing of all markings. All calculations, measurements and markings will be done by qualified and experienced specialists with a minimum of three (3) years of experience in this field. All markings shall be painted, using an application process applied at approximately 200 to 250 square feet per gallon of paint.
9.3.50.	Post-Tension Concrete Tennis and/or Basketball Courts

Item	Description
	<ol style="list-style-type: none"> 1. Furnish all required labor, materials, equipment, implements, parts and supplies necessary for, or appurtenant to, the site preparation, grading and installation of play courts (tennis and/or basketball) equal to or better than the following specifications. <ol style="list-style-type: none"> a. Guarantee – The contractor shall guarantee the work against defective material or faulty workmanship for a period of one (1) year from the date of completion. b. Quality Assurance – The work shall conform to the USTC and TBA’s standards for tennis and/or basketball court construction. The court will be applied by a licensed firm, which has been installing the material for the past five (5) years. c. Site preparation may include removing trees, bushes and a minimum of 4” of topsoil if existing conditions require such action. The area will be graded to the required depth to accommodate the base and concrete thickness and provide a uniform 1% slope at ±.1’ in one plane. All fills will be placed in 6” layers and will be compacted to 90% standard density at optimum moisture. The contractor will alert the AEPA Member of any “soft spots” or structures that could affect the stability of the slab. The site preparation will be done to provide positive drainage away from the play courts and, if needed, to provide intercepting swales to prevent drainage on to the court. The final grade base material shall be placed with automatic laser-regulated equipment capable of providing a true accurate plane to a 1/4”. The depth of the fine grade base material shall be sufficient to develop 1/4” accuracy. d. Site preparation materials may consist of the existing sub-grade material unless a soil engineer specifies import fill. The fine grade base materials shall be an approved compactable, free-draining base material (sand, fine gravel, etc.). e. Vegetation control or vegetation regrowth prevention - Soil conditions vary from area to area. Where problems exist, it may be necessary to sterilize the soil. The Offeror should, during project development or construction, recognize and determine when soil sterilization is necessary and offer methods and options to the AEPA Member for rectifying problems caused by vegetation.
9.3.51.	<p>Court paving materials specifications may include:</p> <ol style="list-style-type: none"> 1. Post-tensioning and anchorages will conform to the “PTI Guide Specifications for Post-Tensioning Materials”. The tensioning strands shall consist of 1/2” diameter, 7-wire, stress-relieved strands, having a guaranteed ultimate tensile strength of 270,000 psi. Strands shall conform to ASTM-416. Cables shall be fabricated to proper length for each slab, coated with a permanent rust preventative lubricant and encased in slippage sheathing. All breaks in the sheathing shall be repaired with tape prior to concrete placement. A maximum of 6” exposed strands is permitted at the dead-end anchor. 2. The concrete shall have a compressive strength of not less than 3,500 psi after 28 days. Ready-mixed concrete shall be mixed and delivered according to ASTM C-94 specifications for ready-mixed concrete with a 4” maximum slump. Mix design as follows: cement – Type 1, six sack unit weight – 140.3 lbs. per cubic foot, air entrainment – 6.0%, water/cement ration – 0.52/1. 3. Court paving execution shall consist of the following: <ol style="list-style-type: none"> a. Forms shall be accurately set to the lines and to +/- 1/4” of finish grade indicated on drawings and be securely staked to prevent settlement or movement during placement of concrete. Forms shall remain until concrete has taken final set. b. Tensioning cables and anchors shall be supported on chains and loosely tied 2” high at all intersections to prevent vertical and horizontal movement during concrete placement. Strands shall be placed with no greater spacing than 2’6” wide on lengths over 100’ and 3’4” on lengths under 100’. After forms are removed and the concrete has set to a minimum of 2,000 psi, the tensioning procedure may be applied approximately one week later. Each tendon may

Item	Description						
	<p>initially be tensioned to a maximum of 80% ultimate breaking strength and anchored at a minimum of 70% ultimate breaking strength.</p> <table border="1" data-bbox="456 243 1386 331"> <tr> <td data-bbox="456 243 951 289">Ultimate Breaking Strength</td> <td data-bbox="951 243 1170 289">80%</td> <td data-bbox="1170 243 1386 289">70%</td> </tr> <tr> <td data-bbox="456 289 951 331">41,300</td> <td data-bbox="951 289 1170 331">33,000</td> <td data-bbox="1170 289 1386 331">28,900</td> </tr> </table> <p>c. The cable ends shall be cut off and cone holes grouted flush with edge of slab. Grout shall be non-shrink grout.</p> <p>d. Joints – Between each court or at net line ±1', there shall be a keyed construction joint.</p> <p>e. Placing – A full court shall be placed in one continuous operation without intervening joints of any kind. The 4" thick slab will be placed with a 60' mechanical screed capable of providing a surface true to 3/8" at a 1% slope. Note: Finish surface shall not have a water-holding area greater than 1/8" deep. This is to be determined by flooding the court with water, allowing it to drain for one hour on a 70° or warmer day.</p> <p>f. Curing – Immediately after finishing, the concrete shall be kept moist by covering with polyethylene, by sprinkling, by pounding or by curing compound (must be compatible with acrylic tennis surfacing material).</p>	Ultimate Breaking Strength	80%	70%	41,300	33,000	28,900
Ultimate Breaking Strength	80%	70%					
41,300	33,000	28,900					
9.3.52.	<p>Court Surfacing Materials</p> <ol style="list-style-type: none"> 1. Playing Lines - Playing lines shall be painted per manufacturer specifications. 2. Surface will be installed per surface manufacturer specifications. 3. Court Surfacing Surface Preparation - Prior to the surfacing application, the concrete will be thoroughly cleaned by using a power broom or power washer. Subsequent to the cleaning of the court surface, a prime coat will be broom applied. Pools of the prime coat will be swept out to eliminate black "fatty" spots. 4. 1/2" Emulsion Lift - The mixture will be agitated in a mixer capable of providing a consistent and homogeneous solution of the binder and aggregates. The mixture will be screed over the entire surface using 1/2" rods; other methods of placing will not be allowed. After the lift has cured (approximately one week), it will be compacted by a vibratory roller or with a static roller weighing 3,000 lbs. The resulting surface shall be free of depressions more than 1/8" deep. Any areas holding more water than 1/8" in depth will be filled with the leveling course. 5. Leveling Course(s) - Once the 1/2" lift has been rolled, the contractor shall flood courts, mark and fill all water-holding depressions with the leveling course mixture. 6. Any remaining water-holding depressions greater than 1/8" deep will be marked and filled with the leveling mix, again using a 14' straightedge squeegee. Water holding areas will be determined by flooding the court with water and allowing it to drain for one hour on a 70° or warmer day. The court will be reflooded and refilled as necessary. Note: Water holding areas can only be removed where positive and adequate slope exists. 7. Finishing Courses - Contractor shall blend in water-holding patches and surface defects and provide for a wearing base with the finishing courses. 8. After each finishing application has been cured, any ridges will be removed with scrapers, and the application will be compacted with a minimum 3,000 lb. static roller. One finishing course will be applied and additional application will be made as necessary to provide a uniform, ridge-free surface. 						
9.3.53.	<p>Hot Mix Asphalt Tennis and/or Basketball Courts</p> <ol style="list-style-type: none"> 1. Guarantee – The contractor shall guarantee the work against defective material or faulty workmanship for a period of one (1) year from the date of completion. 2. Hot Mix Asphalt to meet the surface supplier specifications. 						

Item	Description
	<ol style="list-style-type: none"> 3. Quality Assurance – The work shall conform to the USTC and TBA’s standards for tennis and/or basketball court construction. The court will be applied by a licensed firm, which has been installing the material for the past five (5) years. 4. The following descriptions are given as a general guide and standard of the surfaces being requested. The Offeror is encouraged to propose a complete line of tennis/basketball court surfaces that meet or exceed the listed surfaces, the standards and specifications established by the National Federation of State High School Association, American Sports Builders Association, state and local Uniform Building Codes.
9.3.54.	<p>Submittals</p> <ol style="list-style-type: none"> 1. The Offeror must provide written documentation for each tennis/basketball surface offered, the installers authorization and certification by the surface manufacturer and licensed in the AEPA State to install, maintain and/or repair the proposed court system. 2. For the court surfaces offered, provide written documentation of its proven track record for performance and durability by listing 3 installations that are a minimum of three (3) years old that contain the same court surface materials and use the same method of installation showing locations, installation dates and owner representatives contact information. Tracks listed are to have been provided by the Offeror making a response to this solicitation. 3. The Contractor will provide at a minimum a written maintenance manual to the AEPA Member on completion of the project that includes day-to-day operating instructions, maintenance and repair methods and availability of repair materials, including cost. 4. Provide required manufacturer’s Product Data and Material Safety Data Sheets for products provided. 5. For the all-weather court system proposed and/or provided under this solicitation, the Offeror must provide written documentation describing and laying out of all the terms, conditions, stipulations and requirements of the warrantee for each and any associated costs, if applicable. 6. The Offeror must provide a written proposal to the AEPA Member that includes all the necessary information required for the Member to: <ol style="list-style-type: none"> a. Have a complete understanding of the scope of work to be performed and timelines. b. Understand the physical layout of the proposed project in relationship to existing site conditions. c. Be aware of the type, level, quality and performance standards of products to be utilized and/or provided in completing the project. d. Understand the roles, responsibilities and commitments of all parties during the tennis/basketball construction process. e. Be aware of and understand all the costs associated to site inspection/investigation, site preparation, court construction, lining and marking the court for events and other related materials and/or construction costs.
9.3.55.	<p>Hot mix asphaltic base course and leveling course for basketball and tennis courts.</p> <ol style="list-style-type: none"> 4. The components and methods utilized to install and complete the base and leveling course must be in accordance with the individual project’s design documents. The success of any installation of base or leveling course is dependent upon a properly constructed sub-base and a good drainage system. <ol style="list-style-type: none"> a. Minimum recommended base course thickness shall be based on the specifications established by the geotechnical engineer. b. Minimum recommended leveling course thickness shall be based on the specifications established by the geotechnical engineer.

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	<p>5. Quality Assurance - For installation of running track and field event hot mix asphalt, utilize only thorough, highly-trained personnel experienced and familiar with running track and field event paving and with the tolerances required by the appropriate federal, state and local governing bodies.</p> <p>6. Asphalt - The proper type of asphalt used will vary from state to state if using the standard norm of the Department of Transportation (DOT) or State Highway Department standards. The following is a typical mix design for example only:</p> <ol style="list-style-type: none"> Thickness: No less than 1". Liquid Asphalt or Bitumen: 5.5% by weight (+/- 0.5%). Asphalt Penetration or Type: 85 - 100 penetration. Cure Time: Follow coating manufacturer's recommendations (typically 14 to 30 days), depending on the time of year and rainfall. Asphalt will cure more slowly in cooler temperatures, i.e. the Spring and Fall. Aggregate Type: Crushed stone, gravel, shale, limestone, etc. Foreign materials, i.e., pyrite, clay, ferrous compounds, dirt and organic material are not acceptable. <table border="1" data-bbox="613 684 1248 1146"> <thead> <tr> <th>Aggregate Sieve Analysis</th> <th>% Passing</th> </tr> </thead> <tbody> <tr> <td>1/2"</td> <td>100%</td> </tr> <tr> <td>3/8"</td> <td>70 - 80%</td> </tr> <tr> <td>1/4"</td> <td>60 - 80%</td> </tr> <tr> <td>No. 4</td> <td>60 - 70%</td> </tr> <tr> <td>No. 8</td> <td>40 - 60%</td> </tr> <tr> <td>No. 12</td> <td>30 - 50%</td> </tr> <tr> <td>No. 16</td> <td>20 - 40%</td> </tr> <tr> <td>No. 30</td> <td>20 - 30%</td> </tr> <tr> <td>No. 50</td> <td>10 - 20%</td> </tr> <tr> <td>No. 100</td> <td>2 - 6%</td> </tr> <tr> <td>No. 200</td> <td>60 - 70%</td> </tr> <tr> <td>Washed</td> <td>0 - 2%</td> </tr> </tbody> </table> <ol style="list-style-type: none"> Plant, equipment, machines, and tools - The bituminous plant should be capable of producing the quantities of bituminous mixtures required. Hauling, placing and compaction equipment should be provided in sufficient numbers that the placement capacity at the site is equal to, or greater than, the planned plant output to the site. Paver - All pavements, where applicable, should be placed with a self-propelled asphalt paver. The screed width should be adjustable to no less than eight feet (8'). Only hydraulic screed and auger extensions to achieve widths greater than that of the main screed are acceptable. Compaction Equipment - Compaction equipment should consist of steel drum asphalt rollers of sufficient size and width to properly compact the hot mix asphalt to the required compaction, while providing a smooth surface free from bumps, marks and creases. Transportation Equipment - Transportation of the hot mix asphalt to the site from the asphalt plant should be in trucks having tight, clean, smooth beds lightly coated with an approved releasing agent. Each load should be covered with a canvas or other approved material of ample size to protect the mixture from cooling. Straightedge - The contractor should furnish and maintain at the site, in good working condition, one 10' straightedge for each paver. 	Aggregate Sieve Analysis	% Passing	1/2"	100%	3/8"	70 - 80%	1/4"	60 - 80%	No. 4	60 - 70%	No. 8	40 - 60%	No. 12	30 - 50%	No. 16	20 - 40%	No. 30	20 - 30%	No. 50	10 - 20%	No. 100	2 - 6%	No. 200	60 - 70%	Washed	0 - 2%
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9.3.56.	Placement and Compaction																										

Item	Description
	<ol style="list-style-type: none"> 1. Hot mix asphalt courses should only be placed on the specified base, free from contamination and with no free water on the surface. 2. Paving operations should not be scheduled unless there is ample time to place, compact and finish roll the hot mix asphalt. 3. The range of temperatures for mixtures to be dumped into the paver should be determined by State Department of Transportation guidelines, and in no case should they be cooler than 225 degrees F. 4. Paving operations should provide a mat that is smooth, dense and of the proper thickness, slope and plane. 5. The leveling course should be placed such that the longitudinal joints of the leveling course are offset from that of the base course. Transverse joints should be offset a minimum of 24”. 6. In placing each succeeding pass after the initial one, the screed of the paver should be set so that it overlaps the preceding pass by 2” and be sufficiently high so that when compacted, a smooth joint is produced. Prior to pinching the joint, the excess material should be pushed onto the edge of the new pass with a lute. Excess material should be removed and wasted. 7. Breakdown rolling should begin as soon after the placement as the mixture will allow without undue displacement. No delays in rolling should be permitted. After breakdown rolling has been completed, preliminary testing of grade, slope and planarity should be done. Any deficiencies should be immediately corrected in accordance with "Acceptability of Work." When the paving Contractor is assured that all tolerances are being met, finish rolling should begin. 8. Deficient areas within the base course should be corrected by saw cutting or milling high spots and/or by truing and leveling low spots. 9. Deficient areas in the leveling course should be corrected by saw cutting or milling to a depth equal to the thickness of the mat. Tack coat should be applied to all edges and the pavement should be replaced. Skin patching of the leveling course should only be done with materials acceptable to the track surfacing contractor.
9.3.57.	<p>Acceptance of work – Upon completion of the work and/or prior to installing the surface system, the base and leveling course should be inspected for:</p> <ol style="list-style-type: none"> 1. Grade conformance tests should be conducted on both the base course and the leveling course. The entire surface should have positive drainage. 2. Planarity - After completion of the finish rolling operations on each course, the compacted surface should be tested with a 10’ straightedge. Measurements should be made perpendicular to and across all mats at a distance not to exceed 25’. The track surfacing contractor and/or AEPA Member ’s representative should be present when these measurements are made. The maximum allowable planarity deviation within a pass should be 1/8" in 10’ when measured in any direction. 3. Quality Assurance <ol style="list-style-type: none"> a. The work shall conform to the USTC & ASBA’s standards for court construction. The court surface will be applied by a licensed firm, which has been installing the material for the past five (5) years. b. Installing foreman must have at least five (5) years’ experience installing this type of system. c. Site preparation may include removing trees, bushes and a minimum of 4” of topsoil if existing conditions require such action. The area will be graded to the required depth to accommodate the base and concrete thickness and provide a uniform 1% slope at ±.1’ in one plane. All fills will be placed in 6” layers and will be compacted to 90% standard density at optimum moisture. The contractor will alert the AEPA Member of any “soft spots” or structures that could affect the stability of the slab. The site preparation will be done to provide positive drainage

Item	Description
	<p>away from the play courts and, if needed, to provide intercepting swales to prevent drainage on to the court. The final grade base material shall be placed with automatic laser-regulated equipment capable of providing a true accurate plane to a 1/4". The depth of the fine grade base material shall be sufficient to develop a 1/4" accuracy.</p> <p>d. Site preparation materials may consist of the existing sub-grade material unless a soil engineer specifies import fill. The fine grade base materials shall be an approved compactable, free-draining base material (sand, fine gravel, etc.).</p>
9.3.58.	<p>Quality Assurance</p> <ol style="list-style-type: none"> 1. The work shall conform to the USTC & ASBA's standards for court construction. The court surface will be applied by a licensed firm, which has been installing the material for the past five (5) years. 2. Installing foreman must have at least five (5) years' experience installing this type of system. 3. Site preparation may include removing trees, bushes and a minimum of 4" of topsoil if existing conditions require such action. The area will be graded to the required depth to accommodate the base and concrete thickness and provide a uniform 1% slope at ±.1' in one plane. All fills will be placed in 6" layers and will be compacted to 90% standard density at optimum moisture. The contractor will alert the AEPA Member of any "soft spots" or structures that could affect the stability of the slab. The site preparation will be done to provide positive drainage away from the play courts and, if needed, to provide intercepting swales to prevent drainage on to the court. The final grade base material shall be placed with automatic laser-regulated equipment capable of providing a true accurate plane to a 1/4". The depth of the fine grade base material shall be sufficient to develop a 1/4" accuracy. 4. Site preparation materials may consist of the existing sub-grade material unless a soil engineer specifies import fill. The fine grade base materials shall be an approved compactable, free-draining base material (sand, fine gravel, etc.).
9.3.59.	<p>Guarantee – The Contractor is to provide a written guarantee against defective materials or faulty workmanship, excessive color change, excessive wear, and any other feature which is not deemed ordinary wear of an all-weather tennis/basketball court for a period of not less than five (5) years.</p>
9.3.60.	<p>Tennis Court Accessory Materials to include but not limited to:</p> <ol style="list-style-type: none"> 1. Net Posts and Sleeves Equipment 2. Center Strap Anchor 3. Tennis Nets 4. Wind Screens 5. Backdrop Curtains 6. Court Dividers 7. Crack repair
9.3.61.	<p>Basketball Court Accessory Materials to include but not limited to:</p> <ol style="list-style-type: none"> 1. Goal Post 2. Backboards 3. Mesh nets 4. Hoop rings 18" 5. Crack repair
9.3.62.	<p>Tracks Accessory Materials to include but not limited to:</p> <ol style="list-style-type: none"> 1. Cages for Discus, Hammer, and Shot Put 2. Hammer and Discus Conversion 3. Discus Rings 4. Long and Triple Jump Take-off Systems 5. Pole Vault Boxes and Pits

Item	Description
	<ol style="list-style-type: none"> 6. Long Jump Sandpits and Traps 7. Shot Put Toe Boards 8. Shot Put Rings 9. Throws Circles 10. Running Track Covers 11. Re-Striping Existing Running Tracks 12. Take-Off Boards 13. Water Jump Hurdle with Sleeves 14. Water Jump Cover 15. Removable Track Curbing 16. Sand – All sand for the long/triple jump sand pits shall be clean, washed, white sand, containing not more than five percent (5%) clay and shall be free of trash, organic matter, and rock. Installed sand shall meet all specifications of the IAAF – washed river sand, 0 to 2mm graining, no organic components, max 5% of weight up to 0.2mm. Prior to installation, the Offeror shall provide the AEPA Member with a one (1) gallon sample for approval.
9.3.63.	<p>Warranty</p> <ol style="list-style-type: none"> 1. All warranties will begin on the date of final acceptance by the AEPA Member. The minimum warranty for systems offered is Ten (10) years non-prorated warranty. 2. All products and services offered must be guaranteed free from defects and faulty workmanship for a minimum period of One (1) year after final acceptance by the AEPA Member. The Offeror agrees to fix, resolve, and make right any claims at no additional cost to AEPA Member during this period. 3. Contractor will pay for any failure to conform or for any defect. In addition, Contractor will fix any damage to AEPA Member controlled, real or personal property when that damage is the result of Contractor’s failure to conform to contract requirements or any defect in equipment, material, workmanship, or design furnished or in compliance with federal, state and local laws, codes, regulations and standards. Contractor’s warranty with respect to work done, repaired or replaced under these conditions will run for One (1) year from the date of repair or replacement or completion. 4. If Contractor fails to remedy any failure, defect or damage within a reasonable time after receipt of notice, the AEPA Member will have the right to replace, repair or otherwise remedy the failure, defect or damage at the Contractor’s expense in accordance with laws of the AEPA Member State 5. Contractor will pay for any failure to conform or for any defect. In addition, Contractor will fix any damage to AEPA Member controlled, real or personal property when that damage is the result of Contractor’s failure to conform to contract requirements or any defect in equipment, material, workmanship, or design furnished or in compliance with federal, state and local laws, codes, regulations and standards. Contractor’s warranty with respect to work done, repaired or replaced under these conditions will run for One (1) year from the date of repair, replacement or completion. 6. If Contractor fails to remedy any failure, defect or damage within a reasonable time after receipt of notice, the AEPA Member will have the right to replace, repair or otherwise remedy the failure, defect or damage at the Contractor’s expense in accordance with laws of the AEPA Member State.

Category 4 – Synthetic Turf for Playground, Pet, Commercial, Landscaping Applications

Item	Description
9.4.1.	<p>These guidelines apply to synthetic grass for commercial or municipal landscape applications. Types of applications to include but not limited to:</p> <ol style="list-style-type: none"> 1. Playgrounds 2. Landscaping

Item	Description
	<ol style="list-style-type: none"> 3. Pet system for dog parks 4. Putting Greens and Golf Practice Tee 5. Bocce, Croquet Volleyball, Tennis Courts and Multi-use Area 6. Roofs 7. Decks and Patio 8. Non-athletic field applications 9. To cover Landfill Cells 10. Synthetic turf made from plant-based materials
9.4.2.	<p>Components for Synthetic Turf Systems to include but not limited to:</p> <ol style="list-style-type: none"> 1. Finished Pile Height form 3/8" to 2.5". 2. To have U.V. inhibitors to prevent grass from fading. 3. Seams can either be taped, glued or nailed and shall provide a resilient continuous surface over the entire project surface. 4. Synthetic Turf Types: There are several different types of synthetic turf available. They are distinguishable through the use of different fibers and different construction. Differentiated by construction are the tufted or the knitted synthetic turf systems. Both systems are comprised of synthetic fibers with primary and secondary backing systems and a resilient shock absorbing system. The shock absorbing system can consist of infill, a padding system, or a combination of both. 5. Fiber: Typically, the fiber used in synthetic turf is textured and/or non-textured polypropylene, polyester, polyethylene, nylon or other suitable performing hybrid or copolymer in tape form or monofilament. Minimum fiber sizes are 50 microns for polypropylene or polyester, 100 microns for tape form (slit-film) polyethylene, 140-300 for monofilament polyethylene (shape dependent) and 500 denier for nylon. Fiber sizes for hybrids or copolymer will comply with the most closely related fiber type. Ideally, all fibers should be of the same chemical composition, shape, and texture. Fibers should be compliant to ASTM guideline for total lead content. 6. Fiber: Typically, the fiber used in synthetic turf is textured and/or non-textured polypropylene, polyester, polyethylene, nylon or other suitable performing hybrid or copolymer in tape form or monofilament. Minimum fiber sizes are 50 microns for polypropylene or polyester, 100 microns for tape form (slit-film) polyethylene, 140-300 for monofilament polyethylene (shape dependent) and 500 denier for nylon. Fiber sizes for hybrids or copolymer will comply with the most closely related fiber type. Ideally, all fibers should be of the same chemical composition, shape, and texture. Fibers should be compliant to ASTM guideline for total lead content. 7. Primary Backing Systems Material: The primary backing materials are of a woven or non-woven fabric in one or more layers which are utilized in the tufting process, or of high strength polyester multi-filament fiber utilized in the knitting process. This backing material provides the initial dimensional stability for the system. 8. Secondary Backing Systems Material: The secondary backing materials are applied through a coating process with a single or multiple applications of one or various materials. 9. Perforations: Depending on the final construction of the turf system, the system may or may not be permeable to water. Perforations are typically required of fully coated system backings to provide adequate vertical drainage throughout the system. Some turf systems may allow for drainage without perforations by employing a process of partial coating or other system designs. Developments in coating systems have provided for lighter weight and aqueous permeable chemicals; however, the drainage criteria must be met. 10. Infill Materials: The most recent generation of synthetic turf systems utilizes a long pile height and needs to be supported with infill materials for directional stability and structural integrity, as well as resiliency. The infill materials commonly used are EDPM,

Item	Description
	TPE, natural cork, ground fibers from coconut shells, coated and non-coated silica sand, crumb and coated rubber, other suitable materials, or combinations of sand, rubber, or other suitable materials
9.4.3.	<p>Synthetic Turf Performance</p> <ol style="list-style-type: none"> 1. Traction: The surface should provide good traction in all types of weather. 2. Slip Resistance Component: The system should enable a predictable range of movement between the user and the surface uniformly throughout. The surface should balance traction and slippage by way of the sliding coefficient. 3. Surface Abrasiveness: The field surface should have fibers and infill materials that minimize skin abrasions. 4. The field surface should have the ability to adequately absorb user impact with the surface. 5. Surface Uniformity: Synthetic turf should be uniform and as level as practical. 6. Appearance: Unless otherwise dictated by design, the synthetic turf should have a consistent color, texture, and shade without significantly noticeable streaks or other irregularities when observed in any direction.
9.4.4.	<p>Reference Specifications and Standards</p> <ol style="list-style-type: none"> 1. Materials and methods of construction shall comply with the latest provisions of the following standards: 2. ASTM F1292-04: Standard Specification for Impact Attenuation of Surface Systems Under and Around Playground Equipment. 3. ASTM D2859: Standard Test Method for Ignition Characteristics of Finished Textile Floor Covering Materials (Pill Flammability). 4. ASTM F1951-99: Standard Specification for Determination of Accessibility of Surface Systems Under and Around Playground Equipment. 5. Toxic Characteristic Leaching Procedure (TCLP) by Method 6010B.
9.4.5.	<p>For all Synthetic Surfaces, provide the following information:</p> <ol style="list-style-type: none"> 1. Product Data: Materials certificates, certifying each material item complies with, or exceeds, specified requirements. Certificates of compliance must be signed by materials producer and contractor. 2. Laboratory Testing Reports: Testing reports for turf material including Impact Attenuation, Flammability, Handicap Accessibility, and Lead (Pb). 3. Sample: 12" x 12" sample of turf material. 4. Warranties: Product and maintenance warranties must be provided to the Owner prior to installation. 5. Product verification: Delivery slip and item list for each material shipment, including turf and infill material. 6. Grass Installer Qualifications and certifications. IPEMA certified to install are preferred.
9.4.6.	<p>Workmanship And Quality Assurance:</p> <ol style="list-style-type: none"> 1. The artificial grass is to be installed per manufacturer's plans and specifications. 2. All artificial grass and components shall be provided by a single source.
9.4.7.	<p>Delivery and Storage of Materials:</p> <ol style="list-style-type: none"> 1. Artificial grass will be delivered in rolls 15' in length, wrapped in plastic. Rubber buffing's, performance pads, drain pads, or foam pads for under the grass will be delivered on pallets or in rolls wrapped in plastic to the job site. 2. Products will be stored in a dry, secure area. 3. Warranty of the Material and Workmanship <ol style="list-style-type: none"> a. The artificial grass installed under this contract will be warranted for a period of eight (8) years from the date of manufacturing against defects in material or workmanship, resulting in premature wear, deterioration and excessive fading/UV degradation during ordinary and normal use of the product(s).

Item	Description
	<ul style="list-style-type: none"> b. Warranty will be provided to the AEPA Member by contract holder. warranty, by the installer 4. When defective material or workmanship is discovered requiring repair or replacement, all such repair work or replacement work shall be done by the CONTRACTOR at its own expense after written notification is given of such required repairs. However, if the CONTRACTOR fails to comply with the requirements of the above guarantee within reasonable time after notification is given, the owner shall proceed to have the repairs made by others at the CONTRACTOR'S expense. 5. Any unsafe conditions that arise shall be secured and maintained by the installer until all required repairs or replacements have been completed. 6. All resurfacing will conform in kind and quality to the specifications set forth in the plans and specifications, and will be free of defects in workmanship and material.
9.4.8.	<p>Warranty of the Material and Workmanship</p> <ul style="list-style-type: none"> 1. The artificial grass installed under this contract will be warranted for a period of eight (8) years from the date of manufacturing against defects in material or workmanship, resulting in premature wear, deterioration and excessive fading/UV degradation during ordinary and normal use of the product(s). 2. Warranty will be provided to the AEPA Member by contractor. 3. When defective material or workmanship is discovered requiring repair or replacement, all such repair work or replacement work shall be done by the Contractor at its own expense after written notification is given of such required repairs. However, if the Contractor fails to comply with the requirements of the above guarantee within reasonable time after notification is given, the owner shall proceed to have the repairs made by others at the Contractor's expense. <ul style="list-style-type: none"> a. Any unsafe conditions that arise shall be secured and maintained by the Contractor until all required repairs or replacements have been completed. b. All resurfacing will conform in kind and quality to the specifications set forth in the plans and specifications, and will be free of defects in workmanship and material.
9.4.9.	Minimum Base Requirements per turf manufacturer specifications.
9.4.10.	<p>Installation</p> <ul style="list-style-type: none"> 1. Per turf manufacturer specifications. 2. Fall Height if required. <ul style="list-style-type: none"> a. Resilient safety surface – Thickness may vary according to fall height, but will typically be a depth of 4". Foam Pad or Performance Pad subsurface thickness may vary according to fall-height and may be achieved by using multiple layers of padding. 3. Protection – Surface installer shall be responsible for the protection of the resilient safety surface during the installation process. Surface installer shall be responsible for the protection of the surface during the curing period upon completion of the installation.
9.4.11.	<p>Grooming Equipment and Supplies to include but not limited to:</p> <ul style="list-style-type: none"> 1. Groomers (pull behind a utility vehicle) 2. Brooms 3. Tow-behind magnet 4. Gum remover

[Freight & Delivery]

Item	Description
9.5.1.	Freight for this bid will be FOB Destination, freight prepaid and added to invoice. The Vendor Partner will maintain risk on all product until the goods are received and inspected by the Buyer. The Vendor Partner will pay shipping costs and add the cost to the Buyers invoice.

Item	Description
9.5.2.	All freight charges must be quoted to the Buyer prior to any purchase order being issued by the Buyer.
9.5.3.	A packing slip must be provided with all deliveries including the purchase order number. Orders not filled and partial shipments shall be indicated on the packing list. Buyers must be notified of an anticipated availability date within three (3) business days of receipt of order.
9.5.4.	All product, equipment, supplies and related accessories must be delivered during normal hours of operation on weekdays, unless at the convenience of the Buyer and through mutual agreement with the Vendor Partner.
9.5.5.	Stored Materials. Upon prior written agreement between Vendor Partner and Buyer, payment may be made for materials not incorporated in the work but delivered and suitably stored at the site or some other location, for installation at a later date. An inventory of the stored materials must be provided to Buyer prior to payment. Such materials must be stored and protected in a secure location and be insured for their full value by Vendor Partner against loss and damage. Vendor Partner agrees to provide proof of coverage and/or addition of Buyer as an additional insured upon Buyer's request. Additionally, if stored offsite, the materials must also be clearly identified as property of Buyer and be separated from other materials. Buyer must be allowed reasonable opportunity to inspect and take inventory of stored materials, on or offsite, as necessary. Until final acceptance by Buyer, it shall be Vendor Partner's responsibility to protect all materials and equipment. Vendor Partner warrants and guarantees that title for all work, materials and equipment shall pass to Buyer upon final acceptance. Payment for stored materials shall not constitute final acceptance of such materials.

10. Pricing

The Bidder must provide their pricing as requested utilizing the various pricing methodologies specified in this section. The Vendor Partner agrees that the cost for any item bid or offered on this contract will be uniform for all states, and that any differences in pricing are due to state specific installation and labor costs, AEPA Member Agency's Administrative Fee, etc. The Bidder/Vendor Partner must agree that they will offer prices equal to or better than what they ordinarily offer to individual entities or cooperatives with equal or lesser volume.

- A. Line-Item Pricing:** Line-item pricing is utilized when products and/or services that are broken down in detail by element, component, product categories, product type and each product and/or service is presented as an individual item which needs to be combined with other items to make up a final project or solution. The Bidder offers firm pricing for specific line items in response to this bid; a project's cost is derived by the Vendor Partner preparing and providing a quote based on the project's terms, conditions and requirements based on the line item pricing provided in the bid. The information provided in this bid for each item includes: Product Category, Product Description, Manufacturer, Manufacturer SKU, Vendor SKU, Unit of Measure, Item List Price, AEPA Bid Price.
- i. **Fixed prices:** Prices bid shall be firm until each anniversary date of contract, unless there is an occurrence of one or more economic price adjustment contingencies outlined in the bid. Fixed price offers shall include prices for any and all items.
 - ii. **Routine Price Adjustments (Without Economic Price Adjustment):** Vendors may request adjustments to the prices twice a year at the time of renewal at the AEPA Spring and Winter meetings. Vendor Partner's must submit a fully documented written request to the AEPA Category Committee Chairperson thirty (30) days prior to the AEPA meeting. The request must specifically detail and document the cause and/or reason for price changes and include any supporting documentation (manufacturer's letter, indexes, etc.). All price changes require approval by the AEPA Member Agencies.
 - iii. **Unpredictable Economic Price Adjustment:** If economic price adjustment contingencies occur, Vendor Partner may submit a fully documented request (manufacturer's letter, indexes, etc.) for price adjustment to AEPA Contract Oversight Committee for review and approval by the

committee and the AEPA Member Agencies. The documentation must substantiate the cause and/or reason for the requested price increase and demonstrate that it was unpredictable at the time of bid submittal and/or contract renewal and out of the Vendor Partner's control. Pricing will take effect thirty (30) days after approval and acceptance.

- iv. **New Products/Services:** Vendor Partner may submit new products or technologies that are within the original scope of work for the bid, to be added to the contract pending review and approval of the AEPA Bid Oversight Committee and AEPA Membership. Requests should be submitted to the AEPA Contract Oversight Committee thirty (30) days prior to the AEPA Winter or Spring meeting.

B. Automated System for Pricing (ASP): The method consisting of an ASP and/or software application (RSMMeans, Gordian) that is self-contained and consists of a turn-key solution that includes a complete line-item listing of all of the products, supplies, materials, equipment, services, accessories and options with their description, specifications, terms, conditions and associated pricing for each item, sub-assemblies and/or assemblies. The Bidder provides a percent of discount or fixed multiplier/factor to be applied to total project cost to allow for individual state conditions and requirements and to arrive at the AEPA price.

C. R.S. Means (Construction Related Bids only): It is important for Vendor Partners to breakout all costs (quantity and price) of all items listed under R.S. Means or an Alternative Pricing method. This includes all quoted items not on the approved AEPA bid submittal.

- i. R.S. Means Option for Construction Delivery Service
 - a. R.S. Means is an indefinite delivery-indefinite quantity contract for construction services delivered on an on-call basis through firm, fixed price delivery orders based on pre-established unit prices for a catalog of pre-priced construction tasks. These tasks are based on local labor material & equipment. The catalog and is organized by Construction Specifications Institute (CSI) numbering system. The price of all materials include delivery to the job site including unloading, shop drawings, fasteners and normal installation. Items not included are extending warranties and sales tax.
 - b. RSMMeans Procurement Catalog
 - Catalog of Pre-Priced Construction Tasks
 - Labor, Material& Equipment Costs will be localized
 - The tasks represent the "Scope of Work" for the contract
 - 60,000+ tasks
 - Published for the last 77 years
- ii. R.S. Means Procurement Catalog General Rules
 - a. Unit price includes:
 - Complete and in-place construction - unit prices are for complete and in-place construction and include all labor, equipment and material.
 - Labor, material and equipment - for example do not add labor to masonry repointing task. Do not add bobcat for concrete side.
 - Cost of delivery to site, unloading, storage and handling. delivery height is up to 2 ½ stories.
 - Testing, calibration, balancing, etc. for new work.
 - All fasteners, bolts, anchors, adhesives, etc. for new work.
 - Tasks such as windows, doors, frames, and countertops, etc. - include sealant and caulk.
 - b. Demo price includes - loading into truck or dumpster. Also, if item demolished as part of different task, it will not be paid for separately.
 - c. Contractor paid for installed quantities only - no waste. Waste must be taken into account in the contractor's adjustment factor.
 - d. Assembly prices - take precedence over component pricing.
 - e. Working height - 14' for all work except masonry and 4' working height for masonry.

- Tasks to mobilize excavation equipment, paving equipment.
 - f. Minimum set up charges for core drilling, saw cutting, etc.
 - g. Minimum charge for small area pavement repair - up to 3 tons.
 - h. Separate tasks for removing demolition material and waste material from site e.g. dumpsters.
 - i. Paid to haul imported materials, asphalt, concrete and certain other materials over 10 or 15 mile
- iii. R.S. Means Procurement Catalog General Rules
- a. This pricing methodology is utilized to price a project, Contractors must use the current year and standard cost data.
 - b. Only the following cost data titles will be accepted:
 - Building Construction Cost Data
 - Facilities Construction Cost Data
 - Facilities Maintenance & Repair Cost Data
 - Site Work & Landscape Cost Data
- iv. What is Included in Contractor's Adjustment Factors?
- a. Include overhead, profit and administrative fee that will be added to or subtracted from the R.S. Means line item cost.
 - b. Business costs include overhead, profit, management, insurance, meetings, subcontractor's overhead and profit.
 - c. Project related costs include trailer, portable toilets, pm and project supervision, gang boxes, storage containers, basic safety, daily clean-up, etc.
 - d. Price variations - direct costs may differ from construction task catalog. It is the contractor's responsibility to review and analyze the unit prices before bidding adjustment factors.
 - e. All costs in excess of the unit prices, must be included in the adjustment factor.
- v. Contractor to bid the following Adjustment Factors.
- a. Normal working hours requiring state wage rates.
 - b. Normal working hours not requiring state wage rates.
 - c. Other than normal working hours requiring state wage rates.
 - d. Other than normal working hours not requiring state wage rates.
- vi. Contractor Adjustment Factors
- a. Applies to every line item in the R.S. Means Procurement Catalog.
 - b. Used to price individual work orders.
 - c. Price proposal to become the lump sum work order amount.
 - d. Contractor must include contract and license fee in their adjustment factor.
- vii. R.S. Means Quote
- a. All work proposed under R.S. Means must use R.S. Means format, even if subcontractors are used. Subcontractor's invoices must tie to the R.S. Means spreadsheet.
 - b. R.S. Means spreadsheet, which is created in the R.S. Means system, must be submitted to substantiate the quote given to the AEPA Member.
 - c. R.S. Means spreadsheet must reveal the R.S. Means line number, unit of measure, cost and a sufficient amount of the description of the task to be performed. This also applies to any change orders.
 - d. Pricing must be done by National Average of Location Code. For Location Code, the first three (3) numbers of the zip code will be used to determine the city location index for the AEPA Member.
 - e. The AEPA contract holder factor, bonding cost, AEPA discount and taxes, if applicable, must be shown as separate line terms at the bottom of the R.S. Means spreadsheet. This information can be shown on a separate summary sheet. The summary sheet must start with the R.S. Means spreadsheet total and show the detail for each of the items stated above. This detail will be provided to the AEPA State Agency as required.
 - f. All change orders will be done in the R.S. Means format using the Contractor Adjustment

Factors.

D. Alternative Method of Costing: This method covers any product and/or service not covered by catalog pricing, published price list, line-item price list, automated system for pricing, or is a product and/or service due to the projects or applications specifications, conditions and /or requirements that need to be custom designed, developed, manufactured and/or produced to meet the requirements of an individual, project or sole source. The alternative pricing is calculated as follows:

- i. The Bidder must prepare, issue and receive three written quotes from available suppliers and select the supplier that offers the products and services that meet the stipulated requirements and specifications and the most cost effective solution. All quotes must be made available upon request.
- ii. The Bidder must indicate the percent of overhead and /or markup as part of their response to be added to these costs to obtain the normal and customary retail price.
- iii. The AEPA price is calculated by taking the product and services to cost to the Contractor plus the indicated percent of profit/overhead to equal the normal and customary retail price. The Contractor will then subtract the approved AEPA discount to obtain the AEPA price. Example: item cost \$1,000; percent of profit/overhead of 20% equals retail price of \$1,200; less the AEPA discount of 10% or \$120 equals the AEPA price of \$1,080.

E. Part F - Pricing Workbook

Pricing shall be completed on the provided pricing sheets (Microsoft Excel Workbook) with the individual tabs to be completed as follows:

- i. F.1.1 Base Bid Pricing Category 1 (Required), All product offering will need to be added.
- ii. F.1.2 Base Bid Pricing Category 2 (Required), All product offering will need to be added.
- iii. F.1.3 Base Bid Pricing Category 3 (Required), All product offering will need to be added.
- iv. F.1.4 Base Bid Pricing Category 4 (Required), All product offering will need to be added.
- v. F.2.1 State Multiplier & Labor Rates Category 1 (Required)
- vi. F.2.2 State Multiplier & Labor Rates Category 2 (Required)
- vii. F.2.3 State Multiplier & Labor Rates Category 3 (Required)
- viii. F.2.4 State Multiplier & Labor Rates Category 4 (Required)
- ix. F.3.1 Volume Discounts Category 1(Optional)
- x. F.3.2 Volume Discounts Category 2(Optional)
- xi. F.3.4 Volume Discounts Category 3(Optional)
- xii. F.3.1 Volume Discounts Category 4(Optional)

Bid pricing will be evaluated on a combination of items from both the Base Bid Pricing and State Multiplier pricing submittal. AEPA will also include as part of the evaluation process a hypothetical specified project on a site ready for installation at a specific location. Bidder must respond with pricing. This exercise will be used to compare costs between bid responses.

11. Progress Payments

Progress payments are allowed on purchases for goods and services under the following conditions: The Buyer and the Vendor Partner agree to the terms of the progress payments prior to issuing a purchase order; the purchase order describes the amounts to be paid and the date of payment; the Buyer has a satisfactory method of verifying progress described in writing in a letter or on the purchase order; that payments will only be made when actual goods and/or services are verified/received; and that any such payments be made in full compliance of Buyer's local board rules and any and all other applicable state rules and regulations.

12. Warranty

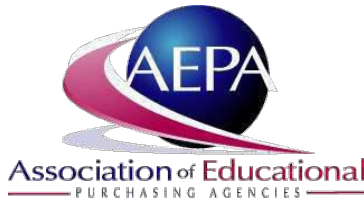
Vendor Partner warrants that all commodities, supplies, materials, equipment, software and service delivered under this contract shall conform to the specifications of this contract. All items should carry a

warranty equal to the intended life cycle or a minimum 12-month manufacturer’s warranty that includes parts and labor unless otherwise specified and agreed to. The manufacturer has the primary responsibility to honor a manufacturer’s warranty; a distributor or dealer agrees to assist the purchaser reach a solution in a dispute with the manufacturer over a warranty’s terms. Any extended manufacturer’s warranty will be passed on to the Buyer. For example, if a voice board has a three-year warranty, but the board is in a turnkey system that has a one-year warranty, the voice board’s three-year warranty must be honored by the manufacturer and the Vendor Partner. All extended warranties must be passed on, without exception. If, upon discovery, the Vendor Partner charges a Buyer for a replacement part that the Vendor Partner actually received at no cost under a warranty, the Vendor Partner will rebate the amount billed and the Buyer reserves the right to cancel the contract.

13. Evaluation

The AEPA Committee for this category will evaluate bid responses based on the entire response, and according to the criteria detailed in Part A for AEPA’s definition of Responsive and Responsible bids. A recommendation may be made to recommend a single response, or to recommend multiple bidders based on differentiation of product or service between bidders. AEPA will vote as a whole to accept or not accept a committee’s recommendation. Once accepted, each recommended bid response will go to the individual states for contract approval. Please note, pricing evaluation may include other considerations, including the total cost of the acquisition and whether the Proposer’s offering represents the best value. The evaluation committee may consider such factors as life-cycle costs, total cost of ownership, quality, and the suitability of an offering in meeting AEPA members’ needs.

Evaluation Criteria
Cost Evaluation
Complete Response to Bid
Conformance to Bid Terms and Conditions
Pricing Equal to or Better Than That Offered to Individual Entities or Cooperatives With Equal or Lesser Volume
Quality and Suitability of products offered
Marketing plan
Financial Viability
Demonstrated Track Record of Performance in the public marketplace
Value Added attributes
Commitment to lead with the AEPA contract



Invitation for Bid AEPA IFB # 020-A Natural & Synthetic Surfaces for Sports Fields, Tracks, Courts, Playgrounds and Landscaping Applications

Part C – Member Agency (State) Terms and Conditions

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1. Member Agency (State) Terms and Conditions

A single IFB is being published and distributed on behalf of the Member Agencies in many states. Differences in contract implementation and operation will exist between the Member Agencies. Each state may have special laws relating to this procurement that must be adhered to in addition to the previously stated constraints. *When Member Agency/State Specific Terms and Conditions differ from the General Terms and Conditions, the Member Agency/State Specific Terms and Conditions will prevail.*

2. Common Terms and Conditions

Active Promotion of Contract: Agencies require that the Vendor Partner take ownership and actively promote the contract in cooperation with the AEPA Member Agency to all of the Agencies' qualified Participating Entities.

Sales to Participating Entities: AEPA Member Agencies require that all awarded Vendor Partners offer the Member Agency contract opportunity to all qualified Participating Entities of the cooperative.

Legal Obligations: All Vendor Partners shall comply with all applicable Federal, State and Local Laws, Codes and Regulations while fulfilling the contract. It is the Bidder's responsibility to be aware of and comply with all state and local laws governing this procurement. Applicable laws, codes, and regulations (etc.) must be followed even if not specifically identified herein.

Administrative Fees: AEPA Member Agencies charge Vendor Partners an administrative fee (a percentage of sales in their respective state or states that they extend the AEPA pricing to). Administrative Fees are generally paid to each Member Agency on a quarterly basis. Additional details of how these fees are charged may be found under each state's Terms and Conditions.

A summary of each State's Administrative Fee, any special terms and conditions, and special ordering process requirements is listed here for the convenience of the Bidders.

3. Member Agency General Overview Summary

AEPA Member Agency State	General			Ordering Process			Construction Products and Services									Potential Customers						
	Administrative Fee	Bid Security Required on bid due date	Special Reporting Requirements	Standard Ordering Process	Electronic Ordering	Special Ordering Process	Davis Bacon and State Wage Rates	Payment & Performance Bonds Required	Contractor's Licensing Required	Permits and/or Registration Required	Construction Project Cost Limitations	Participate in Construction Services	Participate in Construction Products Only	Products are taxable	Service is Taxable	K-12 Education	Higher Ed.	Private Schools	Non-Profits	Federal Agencies	State Agencies	Cities & Counties
CA	2%	N	N	Y	Y	N	-	-	-	-	Y	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
CO	2%	N	N	Y	N	N	N	N	N	N	N	Y	Y	N	N	Y	Y	Y	Y	Y	N	Y
CT	2%	N	N	Y	Y	N	Y	N	Y	Y	N	Y	N	N	N	Y	Y	Y	Y	Y	Y	Y
FL	2%	N	N	Y	Y	N	Y	N	Y	Y	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
IA	2%	N	Y	Y	Y	N		**			Y	Lim	Lim	**		Y	Y	Y	N	Y	Y	Y
IL	2%	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	N	N	Y	Y
IN	Var	N	N	N	N	Y	-	-	-	-	-	-	-	-	-	Y	Y	Y	Y	Y	Y	Y
KS	2%	N	n	Y	Y	Y	Y	Y	Y	Y	N	Y	N	N	N	Y	Y	Y	Y	Y	Y	Y
KY	2%	N	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
MA	2%	N	N	Y	Y	Y	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y
MI	2%	N	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	TBD	Y	Y
MN	2%	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y/N*	N	Y	Y	Y	Y	Y	Y	Y
MO	2%	N	Y	Y	Y	N	Y	N	N	Y	N	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y
MT	2%	Y	N	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
NE	2%	N	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	N	N	Y	Y
NJ	2%	N	N	Y	Y	N	Y	Y	Y	Y	Y	N	Y	N	N	Y	Y	Y	Y	N	N	Y
NM	2%	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y
ND	2%	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y/N*	N	Y	Y	Y	Y	Y	Y	Y
OH	2%	Y	Y	Y	Y	N	Y	Y	Y	Y	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
OR	2%	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
PA	2%	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	N	N	Y	Y	Y	Y	Y	Y	Y
TX	2%	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
VA	2%	N	N	Y	Y	Y	N	N	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
WA	2%	N	Y	N	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N	N	N	Y	Y
WV	2%	Y	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
WI	2%	N	N	Y	Y	N	Y	Y	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
WY	2%	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y			Y	Y	Y	Y	Y	Y	Y

4. State Specific Terms and Conditions

1. California, Monterey County Office of Education dba CalSave

1) Governing Law and Venue

The laws of the State of California govern the Contract and prevail in the interpretation and administration of the Contract. California-specific Terms and Conditions prevail over any General Terms and Conditions. Each and every provision of law and clause required by law to be included in the Contract shall be deemed to be inserted herein, and the Contract shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction.

The venue for any litigation arising out of or related to the Contract shall be with either the Superior Court in and for the County of Monterey, State of California or the Federal District Court for the Northern District of California, San Jose Division.

2) Authority

For California, this bid is issued under the authority of the elected Monterey County Superintendent of Schools, who administers the Monterey County Office of Education (MCOE), located at 901 Blanco Circle, Salinas California, 93912. In this document, MCOE may be referred to as Agency, being distinct from other parties who may use this contract who are hereinafter referred to as Local Education Agencies (LEAs), regardless of their hierarchy or their political and organizational status as schools or municipalities.

3) CalSAVE, Administration, and Agent

Contracts awarded and Awarded Contractors/Vendors will automatically be part of the CalSAVE program, and by bidding a vendor must agree to participate. CalSAVE is the cooperative purchasing program founded by the Monterey County Office of Education and administered by the Epylon Corporation under a contract with MCOE, in cooperation with the California County Superintendents Educational Services Association (CCSESA). MCOE is the lead agency for all Contracts, and the Monterey County Superintendent of Schools is the authority for the solicitation, evaluation and award of all contracts. Epylon serves as MCOE's agent, but only the Monterey County Superintendent of Schools has the authority to award contracts. Correspondence and communication related to the contract award or administration of the program should be directed to Epylon, 630 San Ramon Valley Blvd., Suite 210, Danville, CA 94526.

MCOE reserves the right to change agents or to change the contact name of existing Agent's personnel administering the contract. If Agent or Agent's personnel change, Awarded Contractors/Vendors will be notified with new instructions.

4) Transaction Fees

Transaction Fees are the funding source for the operation of the self-supporting CalSAVE cooperative purchasing program. Awarded Contractors/Vendors shall be required to pay a Transaction Fee for all purchases by LEAs made through the awarded Contract. For the purpose of this bid through Monterey County Office of Education and all Contracts awarded using this document, the Transaction Fee shall be 2 percent of Net Sales, which means gross sales less returns and cancelled orders within 30 days, shipping and sales and other taxes (excluding taxes based on net income). Transaction Fees will not be charged to or paid by the buyers themselves. Neither Awarded Contractor/Vendor nor its designated authorized reseller(s) shall include any additional amount corresponding to the Transaction Fees in the awarded Contract prices. This Transaction Fee applies to all orders, regardless of the method used to submit the order, or the quantity or dollar amount of the order.

Epylon will collect the full Transaction Fee on behalf of the CalSAVE program, unless otherwise advised by Epylon. The Contractor/Vendor will make all participation fee payments within two weeks after sending the quarterly report. Checks are to be made payable to the Epylon Corporation and sent to 630 San Ramon Valley Blvd., Suite 210, Danville, CA 94526.

5) Non-Conforming Jurisdictions

Notwithstanding Section A.4 (immediately above) no Transaction Fee is authorized to be charged to Awarded Contractors/Vendors for sales within any jurisdiction where prohibited by law or local- government policy. Instead, the cost of products, services, licenses and goods sold under this contract in such jurisdictions shall be the same as for all school districts in all other counties of California. However, any LEA using this contract where Section 4 fees are not permitted shall be required to pay a 2 percent fee for use of the contract, imposed by MCOE on the authority of Public Contract Code Section 20118 and 20652, which allows MCOE to charge reasonable costs to the public corporation or agency for furnishing the services incidental to the purchase of items under contract.

6) Reports

The Contractor/Vendor will compile a quarterly report listing each purchase made by participating Agencies under this contract, and send them by the 15th of April, July, October, and January to Racquel Landolf with the e-mail address of

rlandolf@epylon.com. These reports shall be in Microsoft Excel format and shall have file names that identify the contractor/vendor and the month being reported. The file at a minimum shall include the fields listed below and shall allow for sorting on any of these fields:

- Date of Order
- Name of Participating Agency (LEA)
- Description of Item Purchased
- Manufacturer's SKU Number
- Quantity
- Contract Unit Price
- Extended Price
- List Price Before AEPA Discount

7) Length of Term

The term of the agreement shall commence on the date of the award and continue as stipulated in General Terms and Conditions, unless terminated, canceled or extended. Contract may be terminated by MCOE if LEAs have not used the contract in any 12-month period, or if orders from participating LEAs do not total \$10,000 in any 12-month period. California statutory term limits and extensions shall apply.

8) Marketing and Advertising under this Agreement

Vendor will actively promote the use of this contract by LEAs in California. Vendor must comply with the marketing plan offered as part of its bid submission. Unless other arrangements are made with the CalSAVE administrator, vendor is also required to perform the following:

- a. Vendor will include the approved CalSAVE logo, web address, and toll free number in all print electronic mail and other advertising and promotion intended for release to California K-12 schools, excluding national marketing releases.
- b. The CalSAVE logo and associated CalSAVE information shall be of a clearly readable size and in appropriate proportion to other elements in the printed material.
- c. Vendor agrees to provide CalSAVE with a copy or proof sheet of the advertisement or promotion material. Vendor will provide CalSAVE with date of release and name of publication, journal, etc.
- d. Vendor shall place a supplied CalSAVE vendor sign on booths, tables, etc. of any or all exhibits for which the vendor displays/participates at California tradeshows, conventions and the like. Vendor will supply in advance scheduled exhibit dates. Vendor agrees to make available at the exhibit CalSAVE supplied brochures or other promotion materials.
- e. Vendor agrees to insert the approved CalSAVE logo, web address, and toll free number on the vendor's web site promoting or a specific CalSAVE landing page and providing a link to the CalSAVE website.
- f. Vendor will supply product catalog information, product description, pricing, etc., in a spreadsheet format as specified by CalSAVE for inclusion on the CalSAVE website.
- g. Vendor agrees to cooperate in developing appropriate website content to promote its products, services and their advantages to school districts.
- h. Requested materials will be submitted to CalSAVE within 30 days.

A. Additional Member Agency Terms and Conditions for Non-Construction Products and Services

1) Conformance to Public Contract Code 20111

An award by the Monterey County Superintendent of Schools under this solicitation will be for the purchase of equipment, materials, supplies, services or repairs to be furnished, sold, or leased in accordance with Public Contract Code 20111 and 20650. Awards shall include allowance for installation and assembly services incidental and necessary to the use of the equipment, materials, supplies and repairs purchased or leased.

2) Conformance to Public Contract Code 20118 and 20652

All public agencies (LEAs) are authorized by law to purchase off a contract awarded by an agency that has itself gone to bid, including all K-12 schools districts, community college districts, special districts and JPAs serving education, pursuant to Public Contract Code Sections 20118 and 20652. Using these statutes, the Monterey County Office of Education hereby declares its intent and authorization to make all contracts awarded under this contract "piggybackable" by other agencies in the state. The Agency waives any right to receive payment from other California agencies making purchases off the awarded contracts and those agencies will make payment directly to the vendors. Any legislative changes to Public Contract Codes 20118 and 20652 during the term of the contract(s) with Award Vendor(s) shall apply to the contract(s) immediately when such changes become law.

3) Additional Piggyback and Standard School Supply and Equipment Authority

The Monterey County Office of Education declares that items, materials, personal property, equipment and licenses under Contract as a result of this Invitation to Bid will qualify as items to be included within its Standard School Supply and Equipment List. Because many County Offices of Education have banded together to create both the EdBuy and the CalSAVE programs for the purpose of collectively creating both a standard School Supply & Equipment List and cooperative contracts, the items solicited and awarded through this bid may also constitute a portion of an official Standard School Supply and Equipment List for other participating County Offices of Education and County Superintendents of Schools. Purchases by other County Offices of Education and LEAs may be made, not only in accordance with Public Contract Code 20118 and 20652, but also in accordance with Education Code 38110 and 38112 dealing with cooperatives and Standard School Supplies & Equipment.

B. Additional Member Agency Terms and Conditions for Construction Products and Services

1) Intended for Personal Property

An award by the Monterey County Superintendent of Schools under this solicitation will be for the purchase of equipment, materials, supplies, services or repairs to be furnished, sold, or leased in accordance with Public Contract Code 20111 and 20650. Awards shall include allowance for installation and assembly services incidental and necessary for use of the equipment, materials, supplies and repairs purchased or leased. When any services or repairs fall into a category of Public Works as defined in Public Contract Code 22002, an LEA may use this California contract only up to \$14,999 for labor and services, but for an unlimited dollar amount for any supplies, materials, equipment or personal property to be staged and ready for use in a local Public Works project.

2) Public Works Limitations

When Public Works services cost \$15,000 or more, an LEA, under most situations, must bid itself independently for the services and labor related to the public work, but may use this contract for the contracted supplies, material or equipment related to the project. If circumstances allow, LEAs may also combine this competitively bid contract with other alternative authorities for Public Works projects as may be allowed by law, such as Public Contract Code 22030, Education Code 17406 or Government Code 1466. LEAs should consult with their own legal counsel to see if such statutes apply to their Public Works projects.

C. Procedure for Processing Orders

1) Start date

Once the award is made to the Contractor/Vendor and signatures have been placed on the contract from both parties, the Awarded Contractor/Vendor is authorized to begin selling to eligible Agencies. MCOE will begin informing LEAs of the Contract once the Contract has been signed.

2) Prices and Requests for Quotes

The Awarded Contractor/Vendor, in cooperation with MCOE's agent, must make provision for LEAs to quickly ascertain bid prices by posting prices, posting a link or contact for prices, distributing catalogs and price lists, responding to requests for quotations, or participating in eCommerce.

The 2 percent Transaction Fee on all sales is a cost of doing business to the vendor and the requirement for the fee is publicly disclosed in these bid documents for the edification of all buying agencies and LEAs. Transaction fees should not appear as a line item on a quotation or on listed bid pricing. The final price quoted or displayed must be inclusive of the participation fee on all pricing and quotations.

3) Submission of Orders and Delivery

After entering into an agreement with MCOE, an LEA electing to use this Contract will enter into a separate contract with the Vendor by way of a purchase order or separate contracting document ("Separate Contract"). Purchase orders will be issued by participating LEAs to contractor/vendor.

LEAs will fax or mail purchase orders directly to the CalSAVE office fax at (866) 488-3729), unless other arrangements have been made and agreed to by the CalSAVE Administrator. LEAs may also use Epylon eCommerce software for transmission of purchase orders. Standard business practice is for all purchase orders received by 3:00 p.m. Pacific Time to be logged and forwarded to the appropriate vendor on the same day received, unless unusual circumstances occur. It is the responsibility of the awarded/Vendor contractor to track any purchase order received directly from an LEA and to include that order on quarterly reports.

Awarded Contractor/Vendor will deliver goods, services and corresponding invoices directly to the participating LEAs and receive payments directly from the participating LEAs as per bid specifications.

D. Agencies Allowed to Purchase under the Member Agency

1) Other Agencies' Right to Purchase.

CalSAVE is a self-supporting contracting program led by the Monterey County Office of Education. Contracts are made available to all California public school districts, private and non-public schools registered with a county office of education or state Department of Education, charter schools, community college districts, eligible state agencies, non-profits (particularly those such as PTAs buying on behalf of schools or government), and any other agency allowed by law – all referred to as LEAs.

Subject to the following terms and conditions, the Monterey County Office of Education (MCOE) consents to LEAs purchasing items at the same unit price(s) or pricing formula under the terms and conditions of this Contract, as may be authorized by Sections 20118 and 20652 of the Public Contract Code or other legal authority:

a) Any other agency (LEA) authorized by law to use this Contract for its own purchase(s) from the Awarded Contractor/Vendor or their authorized resellers shall by default enter into a standard agreement with MCOE, which *inter alia* will include the terms, conditions, and information set forth in this paragraph *a* and paragraphs *b* through *i* below.

After entering into a standard agreement with MCOE, an Other Agency electing to use this Contract will enter into a separate contract or purchase order ("Separate Contract") with the contractor/vendor. The Separate Contract is subject to and includes and/or incorporates all applicable terms of this Contract and the specific requirement that the Awarded Contractor/Vendor comply with the provisions set forth in the paragraph regarding payment of the 2 percent Transaction Fee (or the non-conforming jurisdiction fee) to be collected by the Epsilon Corporation. MCOE will not be a party to any Separate Contract, but will be considered a third party beneficiary of such Separate Contract.

- a) The Awarded Contractor/Vendor understands and agrees that failure or refusal to comply with the provisions set forth in this agreement regarding payment of the 2 percent Transaction Fee in conjunction with any Separate Contract or any other use of this Contract by an "Other Agency" is grounds for cancellation of the Contract. The Contractor/Vendor also understands and agrees that if the Contract is cancelled for this or any other reason, MCOE may give notice of such cancellation by any other means appropriate to inform LEAs of that cancellation.
- b) The MCOE waives any right it may have to require any LEA using this Contract to draw its warrants for the purchase(s) in its favor and consents to each agency making such payment(s) directly to the contractor/vendor.
- c) Sales tax and freight/shipping charges included in the Contract apply to the MCOE only. Additional sales tax and freight/shipping charges may be required on purchases by any LEA and are outside the scope of this Contract, unless specifically addressed elsewhere in Part A or Part B of the Terms and Conditions.
- d) This Contract and any Separate Contract are for the purchase of the items covered by Contract. An LEA may, however, exercise its authority under Education Code section 17597 or 81645 or other legal authority to sell and lease back any item owned by, or to be owned by, it pursuant to any Separate Contract. The contractor/vendor agrees to take any and all actions requested by any LEA that are necessary to effect any such transfer, by way of example only, accepting payment under the Separate Contract from any third party to whom any such transfer is made.
- e) Both the contractor/vendor and any LEA using this Contract agree that the MCOE makes no representation that use of this Contract by any Other Agency is, in fact, authorized by law. In this regard, the MCOE suggests that, at a minimum, Contractor/Vendor and any LEA considering such use consult with their own legal counsels before doing so.
- f) Both the contractor/vendor and any LEA using this Contract agree to defend, indemnify and hold the MCOE, the Monterey County Superintendent of Schools, and the Monterey County Board of Education and its members, as well as all of their respective officers, employees and agents, free and harmless from any claims, liabilities, costs, penalties, or interest arising out of any such use.
- g) MCOE reserves the right to cancel the whole or any part of this contract due to failure by the contractor to carry out any obligation, term or condition of the contract. MCOE will issue written notice to the contractor for acting or failing to act in any of the following:
 - a. The vendor fails to adequately perform the services set forth in the contract
 - b. The vendor fails to make progress in the performance of the contract and/or gives MCOE reason to believe that the contractor will not or cannot perform to the requirements of the contract
 - c. The contractor fails to observe any of the terms and conditions of the contract

d. The contract fails to pay Transaction Fees

e. The contractor fails to follow the established procedure for purchase orders, invoices and receipt of funds as stipulated by the MCOE. MCOE shall follow the following procedure if the contract is to be terminated:

- Step 1 - Issue a warning letter of concern outlining the violations and length of time to correct the problem(s).
- Step 2 - Issue a letter of intent to cancel the contract, if the problem(s) is not resolved by a given date.
- Step 3 - Issue letter to cancel the contract. Upon receipt of the written notice of concern, the contractor shall have ten (10) business days to provide a satisfactory response to MCOE.

Failure on the part of the contractor to address adequately all issues of concern may result in contract cancellation.

2) Other Agencies, Constitutionally Independent Agencies, and Out-of-State Agencies

Other agencies and out-of-state agencies and LEAs may use the contract as allowed by California Government Code Section 6502, which says, "If authorized by their legislative or other governing bodies, two or more public agencies by agreement may jointly exercise any power common to the contracting parties, even though one or more of the contracting agencies may be located outside this state. It shall not be necessary that any power common to the contracting parties be exercisable by each such contracting party with respect to the geographical area in which such power is to be jointly exercised. For purposes of this section, two or more public agencies having the power to conduct agricultural, livestock, industrial, cultural, or other fairs or exhibitions shall be deemed to have common power with respect to any such fair or exhibition conducted by any one or more of such public agencies or by an entity created pursuant to a joint powers agreement entered i

2. Colorado - Colorado BOCES Association (CBA)

A. *Additional Agency Terms and Conditions*

Advertising: CBA will require a marketing flier, in electronic format, and timely updates from each vendor promoting the contract and AEPA/CBA relationship. CBA will assist in the development of the marketing flier and other appropriate materials which will include logos representing the vendor/AEPA/CBA. This flier will be for distribution and dissemination to all qualified customers through the CBA website and other appropriate and available methods.

Sales to Qualified Customers: Boards of Cooperative Educational Services (BOCES) in Colorado are legislatively created cooperative organizations directed by Colorado state statute 22-105 to serve all qualified agencies in a cooperative manner. BOCES are governed by publicly elected officials and by state and federal laws. No agency is obligated to use these services and contracts, but they find the benefits of low price and the satisfied bidding process most advantageous. Qualified agencies in Colorado include all public or private educational institutions, K-12 and higher education, all non-profit organizations, and all county or local governmental agencies. CBA requires that all participating vendors offer the Agency contract opportunities to all qualified customers.

B. *Procedure for Processing Orders:* Once the award is made to the vendor.

- CBA will inform its members of the contract by:
 - i.* Including the contract in the agency database that is available on the CBA website
 - ii.* Announcing the award through normal communication channels, CBA member presentations as well as regular electronic and direct mail communications.
 - iii.* Offering the opportunity to the vendor to publish their marketing information on the CBA website link to cooperative purchasing opportunities.
- A listing of CBA members, institutional names, contact names, addresses and phone numbers is available to the vendors through the CBA website. At this point the vendor must contact the members and qualified customers; and the customers have the right to contact the vendors directly. Note: CBA requires the awarded vendors to take ownership and actively promote the contract in cooperation with CBA to all members and qualified customers.
- When the customer identifies a desired product or service as available through the AEPA/CBA contract and agrees on price as presented to the customer by the awarded AEPA/CBA vendor, the customer then issues to the vendor a purchase order for that item or service.
- The awarded price must include an additional two percent (2%) administrative fee in the total cost (not as a separate line item), based on the total cost of goods and services including installation. This fee is to be forwarded by the vendor to CBA after the sale and payment is made to the vendor. Payment shall be made to CBA on a quarterly basis along with the complete sale report as specified in the general terms and conditions.
- The sale and transaction may continue without delay or anticipation of the CBA denial of said transaction.
- The administrative fee percentage (2%) is based on the total sale of goods and services including installation and must be included in the original cost quoted to the customer. In the event of a lease, the total administrative fee for the value of goods and services shall be paid to CBA by the vendor at the front end of the lease.
- Vendor makes all deliveries and installation of products and services. CBA does not warehouse items nor provide services.

3. Connecticut, Capitol Region Education Council (CREC)

A. ADDITIONAL MEMBER AGENCY GENERAL TERMS AND CONDITIONS

Affirmative Action - The Contractor must have an employment policy that there shall be no discrimination against anyone on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, physical disability or sexual orientation in the hiring, upgrading, demotions, recruitment, termination and selections for training, in any manner prohibited by the laws of the United States or of the State of Connecticut. The Contractor further agrees to be an "affirmative action-equal opportunity employer."

Applicability of Contract Provisions to Connecticut Participants - The Capitol Region Education Council (CREC) is the AEPA Member Agency. Any entity that uses the contract awarded by CREC under this document is referred to as a "Participant." The bidder that is awarded the contract by CREC is referred to as the "Contractor."

Conflict of Interest

The Contractor shall disclose any relationship with a CREC employee that would not be considered an "arms-length" or independent transaction, as described below. This disclosure must be made in writing to CREC for an evaluation. CREC will respond to this disclosure in writing.

A CREC employee (including independent contractors for purposes of this definition) placing an order or recommending a vendor must disclose any relationship with that vendor which would not be considered an "arms-length" or independent transaction. This disclosure must be made in writing to CREC for an evaluation. CREC will respond to this disclosure in writing.

For a transaction to be considered "arms-length" or "independent", a CREC employee should not be influenced, dependent upon, guided or controlled by a vendor into choosing that vendor, or item to purchase; nor should it appear to a third party that a CREC employee made a purchasing decision which appears to be based upon a personal relationship between the CREC employee and vendor.

The following are examples when a transaction is NOT considered arms-length or independent: (1) when there exists a personal relationship between a CREC employee and a vendor, (2) when there exists the potential for a personal benefit to a CREC employee, or (3) the parties to a business deal are dependent upon one another for "something" other than the purchase itself.

In addition, the Contractor shall, if given a copy of the potential Participant's conflict of interest policy, follow the process in that policy, or otherwise disclose to a potential Participant any relationship that would not be considered an "arms-length" or independent transaction with that Participant, as described above. This disclosure must be made in writing to the chief official (for example, the Superintendent at a board of education) at the potential Participant.

Determination of the existence of a conflict of interest does not prohibit CREC and/or a Participant from entering into the contract and purchase order, respectively.

Financing Arrangements - Any financing arrangements (including lease purchasing arrangements) will be made directly between the Contractor and a Participant. Financing arrangements may be subject to additional laws, rules and regulations, terms and conditions not described in this document and are subject to separate negotiation with each Participant that is interested in such an arrangement. Each Participant should seek its own legal advice prior to entering into a financing arrangement. CREC must receive a report annually summarizing the executed lease purchases along with the summary of the customer purchases. CREC will not collect lease payments or be involved

in the terms and conditions of the lease. All lease arrangements are between the Contractor and the Participant only.

Freedom of Information Act - The Contractor acknowledges that CREC and some Participants are subject to the Freedom of Information Act, Connecticut General Statutes Sections 1-200 et seq., and submitted to CREC and/or such Participants may be made available to the public under the provisions of the Freedom of Information Act.

Incorporation of Bid Documents - The bid documents, including all appendices executed by Contractor that have been accepted by CREC (the "Bid") are specifically incorporated into this Contract.

Independent Contractor - The Contractor shall not be held or deemed in any way to be the agent or employee of CREC and/or a Participant. It is the intention of the parties that the Contractor shall be and is to be considered an independent contractor.

Marketing and Advertising - Contractor agrees to provide CREC with a copy or proof sheet of all advertisements, customer communications or promotional material for prior approval.

Modification to Bid Language in the AEPA Invitation for Bid - The Bidder by submitting its bid hereby declares that this Bid is made without any connection with any other person or persons making any proposal for the same items, that it is in all respects fair and without collusion or fraud and that no person acting for or employed by CREC or a Participant is directly or indirectly interested in the proposal or in the goods or services to which it relates, or in any portion of the profits therefrom.

5. ADDITIONAL MEMBER AGENCY TERMS AND CONDITIONS FOR NON-CONSTRUCTION PRODUCTS AND SERVICES

None

6. ADDITIONAL MEMBER AGENCY TERMS AND CONDITIONS FOR CONSTRUCTION PRODUCTS AND SERVICES

CT Commission on Human Rights and Opportunities

Municipal Public Works contracts funded in whole or in part by the State of Connecticut are subject to contract compliance requirements and set-aside goals as follows:

The contractor who is selected to perform this State project must comply with CONN. GEN. STAT. §§ 4a-60, 4a-60a, 4a-60g, and 46a-68b through 46a-68f, inclusive, as amended by June 2015 Special Session Public Act 15-5.

State law requires a minimum of twenty-five (25%) percent of the state-funded portion of the contract for award to subcontractors holding current certification from the Connecticut Department of Administrative Services ("DAS") under the provisions of CONN. GEN. STAT. § 4a-60g. (25% of the work with DAS certified Small and Minority owned businesses and 25% of that work with DAS certified Minority, Women and/or Disabled owned businesses.) The contractor must demonstrate good faith effort to meet the 25% set-aside goals.

For municipal public works contracts and quasi-public agency projects, the contractor must file a written or electronic non-discrimination certification with the Commission on Human Rights and Opportunities. Forms can be found at:

http://www.ct.gov/opm/cwp/view.asp?a=2982&q=390928&opmNav_GID=1806

7. PROCEDURES FOR PROCESSING ORDERS

1. Purchase orders will not be accepted or processed by CREC. All business will be contracted directly with the Participant, which will issue a purchase order and provide payment for the applicable good or service directly to the Contractor.
2. To the extent not otherwise described in this document, once a purchase order is issued by a Participant to a Contractor, all of the provisions of the contract shall benefit and be enforceable by such Participant, unless specifically identified as applying to CREC only.

8. AGENCIES ALLOWED TO PURCHASE UNDER THE MEMBER AGENCY

There are 169 school districts in Connecticut and all are eligible for membership. No district is obligated to use these services. Additional members may include other public educational institutions, public colleges or universities, community colleges, vocational or technical schools, municipal governments, and other governmental, quasi-governmental, or non-profit organizations.

Work in Other States

CREC is making the CT AEPA contract available for vendors to use in all New England states – CT, ME, NH, RI, VT – and New York, and any other state without AEPA member representation. Our contract is also available in MA for vendors who TEC has been unable to sign with.

Sales made in any of these states using the AEPA contract are to be reported to CREC, with the 2.0% administrative fee made payable to CREC. The Contractor must advise CREC its intent to use the contract in any of these states.

All Terms and Conditions for Connecticut apply to work in these states. It is the Contractor's obligation to ensure that the purchaser fully understands the AEPA contract, including whether it is allowable under applicable state regulations.

4. Florida, Panhandle Area Education Consortium Florida Buy

A. Additional Agency Terms and Conditions

Vendor Contact: Vendor will designate to the Panhandle Area Educational Consortium Florida Buy, one individual who will represent them during the agreement period. This contact person will correspond with each ordering member for technical assistance, problems, or questions that may arise, including instructions if different contacts for different geographical areas are needed. This information will be distributed to all school districts upon award of this bid. Vendors may use this contract to sell products or services in addition to school districts to any government agency, non-profit organizations or institutions.

Vendor agrees to abide by all federal, state and local laws and regulations. It is the responsibility of the Vendor to determine applicability and requirements of any such laws and to abide by them.

All terms and conditions may be modified and revised by PAEC Florida Buy with the written consent of both PAEC Florida Buy and the Awardee.

PAEC Florida Buy, at its discretion, may offer the use of the awarded agreement to governmental entities such as state agency purchasing programs, to extend the use of the contract to eligible users. This option will be referred to as an Interlocal Agreement. Under such conditions, the participating agency may, with written consent from the Awardee, modify and revise the terms and conditions of the master agreement.

Other state and public agency purchasing program agreements may require additional administrative fees, associated with sales, to be paid by the Awardee for the management of the contract. The Awardee will be notified in writing and will have the option of accepting or rejecting the Interlocal Agreement program fees.

No right or interest in the Contract shall be assigned or transferred by the Contractor without the prior written consent of the PAEC Florida Buy program. No delegation of any duty of the Contractor shall be assigned without prior written permission of PAEC Florida Buy. If the original Vendor/Contractor sells or transfers all assets or the entire portion of the assets used to perform this Contract, a successor in interest must guarantee to perform all obligations under this Contract. PAEC Florida Buy reserves the right to reject the acquiring person or entity as a Vendor/Contractor. A change of name agreement will not change the contractual obligations of the Vendor/Contractor.

The Awardee, may, upon entering into negotiations with qualified buyers, amend their prices to offer volume discounts below the lowest unit rates established in the pricing portion of this agreement.

B. Procedures For Processing Orders

Once the award is made to the Vendor, PAEC Florida Buy will inform all school districts of the contract by:

1. Including the award information on the PAEC Web site at www.floridabuy.org
2. Announcing the award in its PAEC Florida Buy website
3. Announcing the award via electronic mail to all members

Any members, contact names, addresses and phone numbers will be available at the PAEC Web site www.floridabuy.org. At this point, the Vendor may contact the members and the members may contact the Vendor. The member will identify a desired product or service available through the AEPA contract and agrees on the price and conditions as presented to the member by the awarded AEPA Vendor. The member then issues to the Vendor a purchase order for that item or service. The purchase order must include an additional (2%) administrative fee built into the total invoiced cost, based on the total costs of good, services and installation. A final copy of the customer purchase order or sales summary must be sent to PAEC Florida Buy by the Vendor after completion of the service or installation. The Vendor has (30) thirty days to forward this purchase order. This will insure compliance of the contract.

Vendor makes all deliveries and installations of products and services. PAEC Florida Buy does not warehouse items. All participating Vendors agree to and are subject to audit proceedings of the AEPA sales to members.

The Vendors price will include a (2%) administrative fee that the Vendor shall collect from the member and remit to PAEC Florida Buy on a quarterly basis. The Vendor will produce and provide to PAEC Florida Buy quarterly reports ending March 31, June 30, September 30 and December 31 throughout the contract period. The reports shall identify the Vendor and the quarter being reported, shall include a minimum of the fields listed below:

1. Date of Order
2. School district
3. List or academic price sales totals
4. PAEC Florida Buy price sales totals

5. Member savings total

Quarterly reports and administrative fee payments to PAEC Florida Buy are due the 15th of the succeeding month, and all checks are to be made payable to the Panhandle Area Educational Consortium and sent to: PAEC, 753 West Blvd, Chipley, Florida 32428 and Attention: Florida Buy. PAEC may designate another agent for collecting and administrative fee that will be negotiated with Vendor for e-commerce transactions.

C. Agency Members Purchasing Under The Member Agency

The Panhandle Area Educational Consortium is a fourteen-member consortium that includes a voluntary purchasing program developed for schools in Florida. All other school districts in Florida are participating members in the programs of the Panhandle Area Educational Consortium (PAEC), including participation in the statewide cooperative purchasing program. Agencies that use this contract will be in compliance with FS1001.42. PAEC was established to provide easily accessible information for our member and participating public school districts and the communities we serve. Since the creation of PAEC in 1967, our school districts have benefitted from shared services made available through leading edge technology. While school districts access our teaching and learning, training and technology, and business operations services in varying degrees of need, all come for the mutually beneficial purpose of reaching their goals together.

5. Georgia, Cooperative Purchasing Agency (CPA)

1. General Overview

- a. Cooperative Purchasing Agency is now the AEPA representative for the state of Georgia. In Georgia we advertise our bids on the state procurement registry website:
<http://doas.ga.gov/state-purchasing/georgia-procurement-registry-for-local-governments>
- b. In 1971 several small school systems in North Georgia decided to work together & form **Cooperative Purchasing Agency (CPA)**, a non-profit organization built by & for the school systems to combine their purchasing power. As a division of North Georgia, Northeast Georgia, & Pioneer RESA; Pioneer RESA serves as our fiscal agent and as such we currently show up on the Georgia Procurement Registry as Pioneer RESA. CPA serves as a purchasing agent for classroom & office supplies for its 35-member school systems plus neighboring ones who choose to take advantage of cooperative buying. CPA also serves as a recipient agency for USDA commodities that member systems receive through the USDA school lunch program. In addition to items included in our catalog & website, CPA has access to brands, custom items, & entire product categories that meet systems' office & classroom needs – including furniture options (indoor & outdoor), playground equipment, shelving installations, print supplies, & more.

2. Additional Participating Agency Terms and Conditions for Construction Related Products and Services

- a. Georgia requires all local school boards to post any bids requiring capital improvements / public works construction over \$100,000.00 to be posted on the Georgia procurement website, regardless of who they are purchasing through.

3. Local Government Provisions - Provisions Applicable to Counties, Municipal Corporations, And Other Governmental Entities

- a. § 36-91-20. Written contract required; advertising; competitive sealed bidding; timing of addendums; prequalification
 - i. All public works construction contracts subject to this chapter entered into by a governmental entity with private persons or entities shall be in writing and on file and available for public inspection at a place designated by such governmental entity. Municipalities and consolidated governments shall execute and enter into contracts in the manner provided in applicable local legislation or by ordinance.
 - ii. Prior to entering into a public works construction contract other than those exempted by Code Section 36-91-22, a governmental entity shall publicly advertise the contract opportunity. Such notice shall be posted conspicuously in the governing authority's office and shall be advertised in the legal organ of the county or by electronic means on an Internet website of the governmental entity or an Internet website identified by the governmental entity which may include the Georgia Procurement Registry as provided by Code Section 50-5-69.
 1. Contract opportunities that are advertised in the legal organ shall be advertised a minimum of two times, with the first advertisement occurring at least four weeks prior to the opening of the sealed bids or proposals. The second advertisement shall follow no earlier than two weeks from the first advertisement.
 2. Contract opportunities that are advertised solely on the Internet shall be posted continuously for at least four weeks prior to the opening of sealed bids or proposals. Inadvertent or unintentional loss of Internet service during the advertisement period shall not require the contract award or bid or proposal opening to be delayed.
 3. Contract opportunities that will be awarded by competitive sealed bids shall have plans and specifications available on the first day of the advertisement and shall be open to inspection by the public. The plans and specifications shall indicate if the project will be awarded by base bid or base bid plus selected alternates and:
 - a. A statement listing whether all anticipated federal, state, or local permits required for the project have been obtained or an indication of the status of the application for each such permit including when it is expected to be obtained; and

- b. A statement listing whether all anticipated rights of way and easements required for the project have been obtained or an indication of the status as to when each such rights of way or easements are expected to be obtained.
 - 4. Contract opportunities that will be awarded by competitive sealed proposals shall be publicly advertised with a request for proposals which request shall include conceptual program information in the request for proposals describing the requested services in a level of detail appropriate to the project delivery method selected for the project.
 - 5. The advertisement shall include such details and specifications as will enable the public to know the extent and character of the work to be done.
 - 6. All required notices of advertisement shall also advise of any mandatory prequalification requirements or pre-bid conferences as well as any federal requirements pursuant to subsection (d) of Code Section 36-91-22. Any advertisement which provides notice of a mandatory prebid conference or prequalification shall provide reasonable advance notice of said conference or for the submittal of such prequalification information.
- iii. Governmental entities are authorized to utilize any construction delivery method, provided that all public works construction contracts subject to the requirements of this chapter that:
 - 1. Place the bidder or offeror at risk for construction; and
 - 2. Require labor or building materials in the execution of the contract shall be awarded on the basis of competitive sealed bidding or competitive sealed proposals. Governmental entities shall have the authority to reject all bids or proposals or any bid or proposal that is nonresponsive or not responsible and to waive technicalities and informalities.
- iv. No governmental entity shall issue or cause to be issued any addenda modifying plans and specifications within a period of 72 hours prior to the advertised time for the opening bids or proposals, excluding Saturdays, Sundays, and legal holidays. However, if the necessity arises to issue an addendum modifying plans and specifications within the 72 hour period prior to the advertised time for the opening of bids or proposals, excluding Saturdays, Sundays, and legal holidays, then the opening of bids or proposals shall be extended at least 72 hours, excluding Saturdays, Sundays, and legal holidays, from the date of the original bid or proposal opening without need to readvertise as required by subsection (b) of this Code section.
- v. Bid and contract documents may contain provisions authorizing the issuance of change orders, without the necessity of additional requests for bids or proposals, within the scope of the project when appropriate or necessary in the performance of the contract. Change orders may not be used to evade the purposes of this article.
- vi. Any governmental entity may, in its discretion, adopt a process for mandatory prequalification of prospective bidders or offerors; provided, however, that:
 - 1. Criteria for prequalification must be reasonably related to the project or the quality of work;
 - 2. Criteria for prequalification must be available to any prospective bidder or offeror requesting such information for each project that requires prequalification;
 - 3. Any prequalification process must include a method of notifying prospective bidders or offerors of the criteria for or limitations to prequalification; and

Any prequalification process must include a procedure for a disqualified bidder to respond to his or her disqualification to a representative of the governmental entity; provided, however, that such procedure shall not be construed to require the governmental entity to provide a formal appeals procedure. A prequalified bidder or offeror can not be later disqualified without cause. History Code 1981, § 36-91-20, enacted by Ga. L. 2000, p. 498, § 1; Ga. L. 2001, p. 820, § 12; Ga. L. 2007, p. 640, §

6. Indiana, Wilson Education Service Center (WESC)

A. Additional Agency Terms and Conditions

Participating entities and approved vendors must be in full compliance with statutory requirements of all applicable federal, state, and local laws, rules, regulations, and ordinances including applicable public works and prevailing wage projects. All provisions required thereby to be included herein and are hereby incorporated for reference. This contract shall be construed in accordance with and governed by the laws of the State of Indiana. Awarded pricing must be made available to all participating entities regardless of size.

B. Procedure for Processing Orders

Wilson Education Service Center will inform all public school corporations, private/parochial schools, charter schools, nonprofit entities, municipalities, other governmental entities and higher education entities of contract awards via web sites and various marketing strategies. Vendors will have the primary responsibility to market contracts to eligible buyers within Indiana. After contracts are awarded and product information is available on our e-procurement sites vendors are free to contact eligible buyers and vice versa. The Wilson Education Service Center utilizes an e-procurement facilitation system as the primary mechanism for ordering and the primary method of marketing. Vendors are required to use the IAESC Procurement System and GovPro systems upon award. A 2.25% administrative fee will be assessed on gross monthly sales for IAESC Procurement (used by schools) and a 3.25% administrative fee will be assessed on gross monthly sales on GovPro (all other entities) after a 1% price increase. Vendors shall not include shipping and handling charges, federal excise tax, or state sales tax on invoices. Taxes do not apply to purchases by the participating entities. All participating entities have a "Not for Profit Tax Exemption Certificate" which will be furnished by the buyer upon request by the vendor. Quantities shipped in excess of quantities designated in the Purchase Order, or unapproved product substitutions will be returned at the vendor's expense.

C. Members Purchasing Under the Agency

All public school corporations, private/parochial schools, charter schools, nonprofit entities, municipalities, other governmental entities and higher education entities are eligible buyers. The Wilson Education Center as established by Indiana Code 20-1-11.3- 1 with Inter-local Agreement Powers as established by Indiana Code 36-1-7-2 represents all eligible buyers in this program within Indiana.

7. Illinois, Illinois Learning Technology Purchase Program

The following State Specific Terms and Conditions shall apply to all contracts involving public schools and/or other educational entities operating in Illinois, (hereinafter "Illinois Customers") and shall prevail over any General Terms and Conditions if/when they differ.

Illinois Law to Govern.

The Agreement, as modified by these Illinois Terms & Conditions, is (and shall be) governed by, construed under, subject to compliance with, and interpreted in accordance with, the laws and regulations of the State of Illinois, expressly including, (but not limited to): the Illinois School Code, 105 ILCS 5/1-1 *et seq.*; its procurement and bidding standards and prerequisites delineated at 105 ILCS 5/10-20.21; the Illinois Public Officer Prohibited Activities Act, 50 ILCS 105/0.01 *et seq.*; the Illinois Criminal Code, 720 ILCS 5/1-1 *et seq.*; its prohibitions against interference with public contracting delineated at 720 ILCS 5/33E-1, *et seq.*; the Illinois State Officials and Employees Ethics Act, 5 ILCS 430/1 *et seq.*; the Illinois Public Officer Prohibited Activities Act, 50 ILCS 105/1 *et seq.*; the Illinois Drug-Free Workplace Act, 30 ILCS 580/1 *et seq.*; the Illinois Business Enterprises for Minorities, Females and Persons with Disabilities Act, 30 ILCS 575/0.01 *et seq.*; the Illinois Human Rights Act, 775 ILCS 5/2-105 *et seq.*; and policies of the Illinois Customer relating to the subject matter of the Agreement with Contractor.

When Contractor and/or its agents will be on an Illinois Customer's premises (whether for delivery, installation, the provision of contractual services, or otherwise), Contractor shall also comply in all respects with: all background check requirements set forth at 105 ILCS 5/10-21.9; the Illinois Smoke Free Illinois Act, 410 ILCS 82/1 *et seq.*, and the Illinois Firearm Concealed Carry Act, 430 ILCS 66/1 *et seq.*

Any contractual payment requested of an Illinois Customer shall be invoiced, processed, and remitted to a Contractor in accordance with the requirements and provisions of the Illinois Local Government Prompt Payment Act, 50 ILCS 505/1 *et seq.*

This Agreement shall be construed and incorporated in accordance with the laws of the State of Illinois, regardless of any choice of law provision that might otherwise authorize construction of its terms in accordance with the law(s) of another state, states, or federal law.

By entering into this Agreement with an Illinois Customer, the Contractor's signature on the executed contract shall serve as Contractor's certification of Contractor's compliance with the foregoing laws and all requirements thereunder.

Entire Agreement and Construction

The Agreement, as modified by these Illinois Terms & Conditions, represents the entire agreement between Contractor and the Illinois Customer, and supersedes all prior negotiations or agreements, written or oral, which are not included herein. This Agreement may only be amended by written instrument executed by the Illinois Customer and Contractor. In the event of a conflict between the Agreement, as modified by these Illinois Terms & Conditions, and a proposal from Contractor, the terms of this modified Agreement will take precedence.

Each party has reviewed and approved the Agreement, and no rule of construction that resolves ambiguities against the drafting party will be employed in the interpretation of this Agreement.

Dispute Resolution.

Any dispute arising in any manner hereunder shall be subject to resolution by litigation, unless all

involved parties consent to an alternative means of dispute resolution. Venue for any legal action brought hereunder shall be the Illinois state circuit court of the county in which the Illinois Customer's administrative office is located or (if different and only if the Illinois Customer so elects) the Illinois state circuit court of the county where the Project is performed. Any provision of the General Terms purporting to change, limit, restrict, or shorten any Illinois period of repose and/or the duration of any applicable Illinois statute of limitation shall be of no force or effect against an Illinois Customer, it being understood by the parties that the Illinois periods of repose and statutes of limitation applicable to the subject matter hereof shall govern actions relating to this Agreement. No provision from the General Conditions shall limit, restrict, or shorten the duration of any period of repose or statute of limitation applicable under Illinois law.

Termination of the Agreement.

The Illinois Customer may terminate this Agreement at any time, in whole or in part, with or without cause, upon providing written notice to Contractor. If this Agreement is terminated by the Illinois Contractor for cause, the Contractor shall be liable to the Owner for any increase in cost incurred by the Owner in replacing the goods under contract and/or completing the contractual work, and for any additional or other damages the Illinois Customer suffers. In the event this Agreement is terminated by the Illinois Customer solely for the Illinois Customer's convenience, Contractor shall be compensated for items properly provided and/or work properly rendered through the date of termination, as can be documented to the reasonable satisfaction of the Illinois Customer. The Illinois Customer shall have no liability to Contractor beyond the date of termination. In no event shall Contractor be compensated for anticipated profit or lost opportunity.

Insurance and Indemnification Provisions.

Contractor hereby agrees to indemnify and hold the Illinois Customer, its board members, officers, agents, employees, administrators, attorneys, and any other parties designated by the Illinois Customer (hereinafter collectively called the Indemnitees@) harmless from all losses, claims, liabilities, injuries, damages and expenses, including (but not limited to) all attorneys= fees and defense and court costs and expenses, that the Indemnitees may incur arising out of, or occurring in connection with, the performance, acts, omissions, negligence, willful and/or wanton behavior, and/or breaches by Contractor of its duties and obligations under or pursuant to this Agreement. This indemnification obligation shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers= or workmen=s compensation acts, disability benefit acts or other employee benefit acts.

Contractor shall procure, at no expense to the Illinois Customer, the insurance coverages set forth in the General Conditions. In each such instance, Contractor shall, by endorsement, name the Illinois Customer as an additional insured and shall provide copies of said policies and endorsements to the Illinois Customer prior to commencement under this Agreement.

Funding Contingencies for Multi-Year Projects.

All contracts with Illinois Customers that call for performance, or otherwise extend, beyond the Illinois Customers' current fiscal year, are, and shall be, expressly contingent upon annual appropriations. In the event an Illinois Customer's entry into an Agreement with Contractor constitutes a lease purchase (whether for financing purposes or otherwise), that Agreement shall be subject to the provisions of 105 ILCS 5/10-22.25a in addition to all other terms set forth in this Agreement.

Warranties and Claims.

No provision(s) set forth in the General Conditions shall serve to limit the Contractor's liability with respect to damages of any sort (whether actual, incidental, consequential, or otherwise) suffered by an Illinois Customer, nor will any disclaimer of warranties be effective against an Illinois Customer.

Attorney Fee Provisions.

No provision providing for the payment of prevailing party costs and expenses (including legal fees) resulting from litigation or other method of dispute resolution shall be applicable to Illinois Customers.

Automatic Renewals.

No provision calling for automatic renewals or "evergreen" renewals, (wherein the term of the agreement automatically renews for a period beyond the initial term unless a party provides affirmative advance notice of termination to the other party) shall be effective in an Agreement with an Illinois Customer, it being the parties' understanding, instead, that the contractual arrangements with Illinois Customers will terminate upon completion of the initial term or satisfaction of the original scope, unless the parties subsequently and affirmatively agree to supplemental renewal provisions.

Successors and Assigns; No Subcontracting.

Contractor shall not assign any rights under, or interest in, this Agreement, nor may Contractor subcontract any duties arising hereunder, without the prior written consent of the Illinois Customer. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

8. Iowa, AEA Purchasing

A. Additional Member Agency General Terms and Conditions that apply for all categories

Right to Assign

AEA Purchasing specifically reserves the right, in its sole discretion, to assign and transfer its interest in the Contract with the Vendor Partner, consistent with the terms and conditions of said Contract, to any organization, along with all corresponding duties, responsibilities, and obligations of both parties, and under the terms provided herein.

B. Additional Member Agency Terms and Conditions for Non-Construction Products and Services

None.

C. Additional Member Agency Terms and Conditions for Construction Products and Services

AEA Purchasing may participate in Construction Products and Services bids through AEPA on a limited basis due to the restrictions mandated in the Iowa Code, Chapter 26 and 573.

D. Procedure for Processing Orders

AEA Purchasing's eligible clients follow a standard or electronic ordering process. The awarded Contractor will invoice and deliver products and services directly to AEA Purchasing's eligible clients. All invoices for payment shall be sent directly to the AEA Purchasing eligible client ordering under the terms and conditions of this agreement. The AEA Purchasing eligible client will make payment directly to the awarded Contractor(s). AEA Purchasing does not process any orders.

E. Agencies Allowed to Purchase under the Member Agency

- K-12 Public & Private Schools
- Area Education Agencies
- Colleges & Universities
- Public Libraries
- City, County & State Government
- Non-Profit Education Organizations

9. Kansas, Greenbush-Southeast Kansas Education Service Center (SEKESC)

A. Additional Member Agency General Terms and Conditions that apply for all categories

Kansas Mandatory Contract Provisions

Terms Herein Controlling Provisions: It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.

Kansas Law and Venue: This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.

Termination Due To Lack Of Funding Appropriation: If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

Disclaimer Of Liability: No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

Anti-Discrimination Clause: The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.

Acceptance Of Contract: This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

Arbitration, Damages, Warranties: Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

Representative's Authority To Contract: By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

Responsibility For Taxes: The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

Insurance: The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.

Information: No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.

The Eleventh Amendment: "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

Campaign Contributions / Lobbying: Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

Assignment - SEKESC Right to Assign

In the event of a cancellation, the SEKESC specifically reserves the right, in its sole discretion, to assign and transfer its interest in any contract, consistent with the terms and conditions of any contract, to any organization, along with all corresponding duties, responsibilities for both parties and provisions contained herein.

Purchase Orders

Any purchase order issued by SEKESC, or one of its eligible entities, is cancelable under provisions of K.S.A. 10-1113. All purchase orders shall be issued by the SEKESC or its participating eligible entities desiring to acquire the products or services under the contract. Said purchase order shall include adequate reference to identify the bid to which it relates.

Marketing

- Awarded Vendor will proactively market the awarded contract to all eligible entities. The SEKESC will enhance the Awarded Vendor's marketing efforts through communication and meetings with eligible entities, participation in marketing events and tradeshow, through its website and social media resources and through day-to-day customer support activities.
- Awarded Vendor will train its professional staff and sales force in the provisions and benefits of the awarded contract. The SEKESC will enhance such effort by providing joint trainings and participating in joint sales calls as needed.
- The SEKESC and Awarded Vendor will jointly design presentations, documents, and other promotional material to assist in the promotion of the awarded contract.
- Awarded Vendor will include the SEKESC (Greenbush) logo on all sales materials targeted to eligible entities for the awarded contract. The SEKESC hereby grants to Awarded Vendor a non-exclusive, revocable, non-transferable, permission to use the SEKESC (Greenbush) name and logo during the term of this Agreement. Likewise, during the term of this agreement, the Awarded Vendor grants the SEKESC (Greenbush) permission to reproduce their name and logo in connection with marketing and promotion of the awarded contract.

B. Additional Member Agency Terms and Conditions for Non-Construction Products and Services
SEKESC has no additional terms and conditions for non-construction products and services.

C. Additional Member Agency Terms and Conditions for Construction Products and Services

K.S.A. 60-1111. Public works bond. (a) Bond by contractor. Except as provided in this section, whenever any public official, under the laws of the state, enters into contract in any sum exceeding \$100,000 with any person or persons for the purpose of making any public improvements, or constructing any public building or making repairs on the same, such officer shall take, from the party contracted with, a bond to the state of Kansas with good and sufficient sureties in a sum not less than the sum total in the contract, conditioned that such contractor or the subcontractor of such contractor shall pay all indebtedness incurred for labor furnished, materials, equipment or supplies, used or consumed in connection with or in or about the construction of such public building or in making such public improvements.

A contract which requires a contractor or subcontractor to obtain a payment bond or any other bond shall not require that such bond be obtained from a specific surety, agent, broker or producer. A public official entering into a contract which requires a contractor or subcontractor to obtain a payment bond or any other bond shall not require that such bond be obtained from a specific surety, agent, broker or producer.

(b) Filing and limitations. The bond required under subsection (a) shall be filed with the clerk of the district court of the county in which such public improvement is to be made. When such bond is filed, no lien shall attach under this article. Any liens which have been filed prior to the filing of such bond shall be discharged. Any person to whom there is due any sum for labor or material furnished, as stated in subsection (a), or such person's assigns, may bring an action on such bond for the recovery of such indebtedness but no action shall be brought on such bond after six months from the completion of such public improvements or public buildings.

(c) In any case of a contract for construction, repairs or improvements for the state or a state agency under K.S.A. 75-3739 or 75-3741, and amendments thereto, a certificate of deposit payable to the state may be accepted in accordance with and subject to K.S.A. 60-1112, and amendments thereto. When such certificate of deposit is so accepted, no lien shall attach under this article. Any liens which have been filed prior to the acceptance of such certificate of deposit shall be discharged. Any person to whom there is due any sum for labor furnished, materials, equipment or supplies used or consumed in connection with or for such contract for construction, repairs or improvements shall make a claim therefor with the director of purchases under K.S.A. 60-1112, and amendments thereto.

D. Procedure for Processing Orders

The SEKESC utilizes the following ordering/delivery procedures:

- Purchase orders will be issued by the individual eligible entity.
- Vendors must issue invoices directly to the ordering eligible entity as specified on each purchase order.
- Delivery of all items included in this solicitation will be made to the locations within each eligible entity as will be specified on the purchase order.
- Each order shall contain a packing slip of its contents to assist in prompt processing of payments to Vendor.

Additionally

- Awarded Vendor agrees to demonstrate the benefit of the pricing agreement with the SEKESC over alternative options, including competitive solicitation pricing.
- Awarded Vendor agrees to proactively offer terms and pricing under this agreement to eligible entities and a more effective alternative to the cost and time associated with alternate bids and solicitation.
- When responding to third party procurement solicitations, Awarded Vendor may:
 - Choose not to respond and make this agreement available as an alternative and comparison to the agency's solicitation responses.
 - Respond with pricing, terms, and conditions of this agreement. If awarded the contract, sales will be reported as defined in the solicitation.
 - Provide lower prices when the competitive process requires without being required to extend the lower pricing to all eligible entities. In such case, if Awarded Vendor is awarded the contract, the sales will be reported as defined in the solicitation.
 - Respond to the solicitation with higher pricing than is available through this agreement and if an alternative response is permitted, may offer the pricing under this agreement as an alternative for consideration. If Awarded Vendor is awarded the contract with alternative SEKESC pricing, the resulting sales will be reported as defined in the solicitation.
- Provide notification to the SEKESC of the response to a solicitation, including but not limited to the name of the soliciting agency, general description of scope, timeline, and resulting award or non-award. Such notification shall be submitted to Tina Smith at tina.smith@greenbush.org within 5 business days of the proposal submission and resulting award information within 5 business days of agency's notification to Awarded Vendor.

E. Agencies Allowed to Purchase under the Member Agency

Eligible Entities: Entities eligible to purchase from Southeast Kansas Education Service Center (Greenbush) cooperative purchasing contracts include but may not be limited to:

- K-12 Public Schools
- K-12 Private Schools
- Colleges & Universities
- City, County, and State Governments
- Public Libraries
- Non-profit organizations holding form #501C3

10. Kentucky, Green River Regional Educational Cooperative (GRREC)

A. Additional Member Agency General Terms and Conditions that apply for all categories

The Green River Regional Educational Cooperative, Inc. (GRREC) is one of eight educational cooperatives in Kentucky, all of which are participants in the AEPA bids. GRREC serves as contact agency for all AEPA correspondence for all eight educational cooperatives. For the Kentucky Educational Cooperatives, the collective bidding process is conducted consistent with KRS Chapter 45A, the Kentucky Model Procurement Code. Contracts with GRREC shall include the provision granting GRREC employees the right to access to the Contractor's records.

Vendor Contact: Vendor will designate to GRREC one individual who will represent them to Kentucky Bidding Cooperative members during the agreement period. This contact person will correspond with each ordering member for technical assistance, problems, or questions that may arise. Include instructions if different contacts for different geographical areas are needed; this information will be distributed to Kentucky Bidding Cooperative members upon award of this bid.

The following Federal Clauses are required as a part of KY bid documents:

1. **CLEAN AIR/CLEAN WATER**
 - A. Vendor Partner agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 et seq). Vendor Partner agrees to report each violation to the USDA and the appropriate EPA Regional Office.
 - B. Vendor Partner agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. Vendor Partner agrees to report each violation to the USDA and the appropriate EPA Regional Office.
2. **SUSPENSION AND DEBARMENT**

Vendor Partner understands that a contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." By signing and submitting its bid or proposal, the bidder or proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by GRREC. If it is later determined that Vendor Partner knowingly rendered an erroneous certification, in addition to remedies available to GRREC, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Vendor Partner agrees to comply with the requirements of 2 CFR 180.220 while the above-referenced contract is valid. Vendor Partner further agrees to include a provision requiring such compliance in its lower tier covered transactions.
3. **LOBBYING**

Vendor Partner will comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352) and the New Restrictions on Lobbying and has signed and attached to this Addendum the Certificate Regarding Lobbying and, if applicable, the Disclosure of Lobbying Activities (Forms SF-LLL) and annually will sign and submit a certificate, if applicable, Form SF-LLL to GRREC.
4. **PROCUREMENT OF RECOVERED MATERIALS PURSUANT TO 2 C.F.R. § 200.322**

Vendor Partner agrees to comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.
5. **BUY AMERICAN**

"Domestic Commodity or Product" are defined as an agricultural commodity that is produced in the United States and a food product that is processed in the United States using substantial agricultural commodities that are produced in the United States. "Substantial" means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically.

Products from Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowed under this provision as territories of the United States.

The Buy American provision (7 CFR Part 210.21(d)) is one of the procurement standards School Food Authorities ("SFAs") must comply with when purchasing commercial food products served in the school meals programs.

Buy American: AEPA Member Agencies or Participating Entities participating in the federal school meal programs are required to purchase domestic commodities and products for school meals to the maximum extent practicable. Domestic commodity or product means an agricultural commodity that is produced in the US and a food product that is processed in the US substantially (at least 51 percent) using agricultural commodities that are produced in the US.

Federal regulations require that all foods purchased for Child Nutrition Program be of domestic origin to the maximum extent practicable. While rare, two (2) exceptions may exist when: the product is not produced or

Manufactured in the US in sufficient, reasonable and available quantities of a satisfactory quality, such as bananas and pineapple; and competitive proposals reveal the cost of a domestic product is significantly higher than a non-domestic product.

ALL products that are normally purchased by Vendor Partner as non-domestic and proposed as part of this contract must be identified with the country of origin. Vendor Partner shall outline their procedures to notify GRREC when products are purchased as non-domestic.

Any substitution of a non-domestic product for a domestic product (which was originally a part of the solicitation), must be approved, in writing, by GRREC, prior to the delivery of the product to the AEPA Member Agency or Participating Entities. Any non-domestic product delivered to the AEPA Member Agencies or Participating Entities, without the prior, written approval of GRREC will be rejected.

Vendor Partner must affirm its willingness to assert its best and reasonable efforts to ensure compliance with this federal rule.

6. COST REIMBURSEMENT CONTRACTS

Solicitation Requirements for cost reimbursable contracts:

- A. Allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates and other applicable credits accruing to or received by the contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the school food authority;
- B. Contractor will separately identify for each cost submitted for payment to the school food authority the amount of that cost that is allowable (can be paid from the nonprofit school food service account) and the amount that is unallowable (cannot be paid from the nonprofit school food service account); or (B) Contractor will exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification;
- C. Contractor's determination of its allowable costs will be made in compliance with the applicable Departmental and Program regulations and Office of Management and Budget cost circulars;
- D. Contractor will identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the school food authority for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit;
- E. Contractor must identify the method by which it will report discounts, rebates and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract; and
- F. Contractor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the school food authority, the State agency, or the Department.

B. Additional Member Agency Terms and Conditions for Construction Products and Services

The Contractor and subcontractors shall pay all laborers, workmen and mechanics performing work under this contract not less than the rate of wages set forth in the prevailing wage schedule incorporated in the contract conditions as determined by the Kentucky Department of Labor in accordance with the provisions of KRS 337.505 through KRS 337.550.

Bidders are informed that construction contracts of the Commonwealth of Kentucky and political subdivisions are not exempt from the provisions of the Kentucky Sales and/or Use Tax. Current sales and/or Use Tax shall be provided for and included in the bid amount as no adjustments will be permitted nor made after receipt of bids.

1. It should be noted that where performance bonds are required, it should include both performance and payment bonds.
2. State Prevailing Wages shall apply for projects of \$250,000.00 or more, or Davis Bacon wages (when federal funds are utilized) if higher than State Prevailing Wages.
3. All work shall be in accordance with necessary approvals from the Kentucky Department of Housing, Buildings and Construction and the Kentucky Building Code.
4. All processes of the project comply with 702 KAR 4:160, the Capital Construction Process, including necessary approvals from the Kentucky Department of Education.
5. Performance and payment bond on AIA document 312 must be provided for all projects that exceed \$25,000. (Also provide that the Surety shall comply with state requirements.)
6. In accordance with 702 KAR 4:160, AIA and KDE documents be utilized on all projects including but limited to:

- a. A 101 Standard form of Agreement between Owner and Contractor (including KDE amendments)
 - b. A 201 General Conditions of the Standard Form of Agreement between Owner and Contractor (including KDE amendments)
 - c. AIA A701 Instructions to bidders, with KDE amendment and KDE Form of proposal (may require editing AEPA instructions to bidders to eliminate conflicts).
 - d. KDE purchase Order (for direct purchase of materials with tax number, to exempt materials from state sales tax)
 - e. If applicable, where architectural services are provided by the Owner, Form B141, Standard Form of Agreement between Owner and Architect
7. Architectural services shall be provided in accordance with KRS 322.360 and other relevant Kentucky Revised Statutes by the vendor or the Owner at the Owner's preference.

C. Procedure for Processing Orders

Once the award is made to the Contractor/vendor, GRREC and Kentucky's other cooperatives will inform their members (school districts and other entities) of the contract by: 1) including the contract in the Current Bids section on their websites and 2) publishing the contract information in catalogs disseminated to all members. A list of members, contact names, addresses and phone numbers is made available to the Contractor. At this point the Contractor/vendor contacts the members and members may contact the Contractor/vendor. When the member identifies a product or service, it will issue a purchase order for that item to the vendor. The vendor's price will include a two percent (2%) administrative fee that the vendor will collect from the member and remit to GRREC on a quarterly basis. Municipal and county governments, and other governmental, quasi-governmental, or nonprofit organization price will reflect a two percent (2%) administrative fee. On the occasion that an AEPA contract awarded by Kentucky is utilized by public school and public non-school entities in other states, purchases in these instances will also reflect a two percent (2%) administrative fee. The vendor will also compile and provide to GRREC a quarterly report showing all purchases made by Kentucky members (with specific detail as to what purchases were made by which members) under this contract. Further, if no purchases are made in any given quarter, the Vendor shall remit a "No Activities" statement to GRREC for that quarter. The vendor will also produce and provide to GRREC an annual summary report for all purchases made under this contract for a period of beginning with the award of the contract through December 31st and all consecutive annual periods if contract is extended. The vendor will make all administrative fee payments to the GRREC by the 15th of the month following the end of the quarter (i. e. April 15th, July 15th, October 15th and January 15th). All checks are to be made payable to GRREC and sent to GRREC, 230 Technology Way, Bowling Green, KY 42101 and Attention: Bids Coordinator. GRREC may designate another agent for collecting an administrative fee that will be negotiated with vendor for e-commerce transaction. GRREC will share information from the quarterly and annual reports and distribute the administrative fee among the other KY Educational Cooperatives according to membership.

D. Members Purchasing under the Agency

Currently there are 8 Bidding Cooperatives in Kentucky and all are participating in this invitation through GRREC's solicitation. There are 170+ independent and county school districts and all are eligible for membership in a Bidding Cooperative and approximately 98% of the districts are members of one of the cooperatives. No district is obligated to use these services. Additional members may include other public educational institutions in the state, public colleges or universities, community colleges, vocational or technical schools, municipal and county governments, and other governmental, quasi-governmental or non-profit organizations. Kentucky currently shares its AEPA contracts with the following states: AL, GA, LA, MS, NC, SC, and TN. Only those districts or institutions listed on an approved Bidding Cooperative membership list are eligible to purchase under these contracts. This list may change during the contract period

11. Massachusetts, The Education Cooperative

This Commonwealth Terms and Conditions form is jointly issued by the Executive Office for Administration and Finance (ANF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD) for use by all Commonwealth of Massachusetts ("State") Departments and Contractors. **Any changes or electronic alterations by either the Department or the Contractor to the official version of this form, as jointly published by ANF, CTR and OSD, shall be void.** Upon execution of these Commonwealth Terms and Conditions by the Contractor and filing as prescribed by the Office of the Comptroller, these Commonwealth Terms and Conditions will be incorporated by reference into any Contract for Commodities and Services executed by the Contractor and any State Department, in the absence of a superseding law or regulation requiring a different Contract form. Performance shall include services rendered, obligations due, costs incurred, commodities and deliverables provided and accepted by the Department, programs provided or other commitments authorized under a Contract. A deliverable shall include any tangible product to be delivered as an element of performance under a Contract. The Commonwealth is entitled to ownership and possession of all deliverables purchased or developed with State funds. Contract shall mean the Standard Contract Form issued jointly by ANF, CTR and OSD.

1. Contract Effective Start Date. Notwithstanding verbal or other representations by the parties, or an earlier start date indicated in a Contract, the effective start date of performance under a Contract shall be the date a Contract has been executed by an authorized signatory of the Contractor, the Department, a later date specified in the Contract or the date of any approvals required by law or regulation, whichever is later.

2. Payments And Compensation. The Contractor shall only be compensated for performance delivered and accepted by the Department in accordance with the specific terms and conditions of a Contract. All Contract payments are subject to appropriation pursuant to M.G.L. C. 29, §26, or the availability of sufficient non-appropriated funds for the purposes of a Contract, and shall be subject to intercept pursuant to M.G.L. C. 7A, §3 and 815 CMR 9.00. Overpayments shall be reimbursed by the Contractor or may be offset by the Department from future payments in accordance with state finance law. Acceptance by the Contractor of any payment or partial payment, without any written objection by the Contractor, shall in each instance operate as a release and discharge of the State from all claims, liabilities or other obligations relating to the performance of a Contract.

3. Contractor Payment Mechanism. All Contractors will be paid using the Payment Voucher System unless a different payment mechanism is required. The Contractor shall timely submit invoices (Payment Vouchers - Form PV) and supporting documentation as prescribed in a Contract. The Department shall review and return rejected invoices within fifteen (15) days of receipt with a written explanation for rejection. Payments shall be made in accordance with the bill paying policy issued by the Office of the Comptroller and 815 CMR 4.00, provided that payment periods listed in a Contract of less than forty-five (45) days from the date of receipt of an invoice shall be effective only to enable a Department to take advantage of early payment incentives and shall not subject any payment made within the forty-five (45) day period to a penalty. The Contractor Payroll System, shall be used only for "Individual Contractors" who have been determined to be "Contract Employees" as a result of the Department's completion of an Internal Revenue Service SS-8 form in accordance with the Omnibus Budget Reconciliation Act (OBRA) 1990, and shall automatically process all state and federal mandated payroll, tax and retirement deductions.

4. Contract Termination Or Suspension. A Contract shall terminate on the date specified in a Contract, unless this date is properly amended in accordance with all applicable laws and regulations prior to this date, or unless terminated or suspended under this Section upon prior written notice to the Contractor. The Department may terminate a Contract without cause and without penalty, or may terminate or suspend a Contract if the Contractor breaches any material term or condition or fails to perform or fulfill any material obligation required by a Contract, or in the event of an elimination of an appropriation or availability of sufficient funds for the purposes of a Contract, or in the event of an unforeseen public emergency mandating immediate Department action. Upon immediate notification to the other party, neither the Department nor the Contractor shall be deemed to be in breach for failure or delay in performance due to Acts of God or other causes factually beyond their control and without their fault or negligence. Subcontractor failure to perform or price increases due to market fluctuations or product availability will not be deemed factually beyond the Contractor's control.

5. Written Notice. Any notice shall be deemed delivered and received when submitted in writing in person or when delivered by any other appropriate method evidencing actual receipt by the Department or the Contractor. Any written notice of termination or suspension delivered to the Contractor shall state the effective date and period of the notice, the reasons for the termination or suspension, if applicable, any alleged breach or failure to perform, a reasonable period to cure any alleged breach or failure to perform, if applicable, and any instructions or restrictions concerning allowable activities, costs or expenditures by the Contractor during the notice period.

6. Confidentiality. The Contractor shall comply with M.G.L. C. 66A if the Contractor becomes a "holder" of "personal data". The Contractor shall also protect the physical security and restrict any access to personal or other Department data in the Contractor's possession, or used by the Contractor in the performance of a Contract, which shall include, but is not limited to the Department's public records, documents, files, software, equipment or systems.

7. Record-keeping And Retention, Inspection Of Records. The Contractor shall maintain records, books, files and other data as specified in a Contract and in such detail as shall properly substantiate claims for payment under a Contract, for a minimum retention period of seven (7) years beginning on the first day after the final payment under a Contract, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving a Contract. The Department shall have access, as well as any parties identified under Executive Order 195, during the Contractor's regular business hours and upon reasonable prior notice, to such records, including on-site reviews and reproduction of such records at a reasonable expense.

8. Assignment. The Contractor may not assign or delegate, in whole or in part, or otherwise transfer any liability, responsibility, obligation, duty or interest under a Contract, with the exception that the Contractor shall be authorized to assign present and prospective claims for money due to the Contractor pursuant to a Contract in accordance with M.G.L. C. 106, §9-318. The Contractor must provide sufficient notice of assignment and supporting documentation to enable the Department to verify and implement the assignment. Payments to third party assignees will be processed as if such payments were being made directly to the Contractor and these payments will be subject to intercept, offset, counter claims or any other Department rights which are available to the Department or the State against the Contractor.

9. Subcontracting By Contractor. Any subcontract entered into by the Contractor for the purposes of fulfilling the obligations under a Contract must be in writing, authorized in advance by the Department and shall be consistent with and subject to the provisions of these Commonwealth Terms and Conditions and a Contract. Subcontracts will not relieve or discharge the Contractor from any duty, obligation, responsibility or liability arising under a Contract. The Department is entitled to copies of all subcontracts and shall not be bound by any provisions contained in a subcontract to which it is not a party.

10. Affirmative Action, Non-Discrimination In Hiring And Employment. The Contractor shall comply with all federal and state laws, rules and regulations promoting fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation or for exercising any rights afforded by law. The Contractor commits to purchasing supplies and services from certified minority or women-owned businesses, small businesses or businesses owned by socially or economically disadvantaged persons or persons with disabilities.

11. Indemnification. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, including the Department, its agents, officers and employees against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement or other damages that the State may sustain which arise out of or in connection with the Contractor's performance of a Contract, including but not limited to the negligence, reckless or intentional conduct of the Contractor, its agents, officers, employees or subcontractors. The Contractor shall at no time be considered an agent or representative of the Department or the State. After prompt notification of a claim by the State, the Contractor shall have an opportunity to participate in the defense of such claim and any negotiated settlement agreement or judgment. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph. Any indemnification of the Contractor shall be subject to appropriation and applicable law.

12. Waivers. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies

available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach.

13. Risk Of Loss. The Contractor shall bear the risk of loss for any Contractor materials used for a Contract and for all deliverables, Department personal or other data which is in the possession of the Contractor or used by the Contractor in the performance of a Contract until possession, ownership and full legal title to the deliverables are transferred to and accepted by the Department.

14. Forum, Choice of Law And Mediation. Any actions arising out of a Contract shall be governed by the laws of Massachusetts, and shall be brought and maintained in a State or federal court in Massachusetts which shall have exclusive jurisdiction thereof. The Department, with the approval of the Attorney General's Office, and the Contractor may agree to voluntary mediation through the Massachusetts Office of Dispute Resolution (MODR) of any Contract dispute and will share the costs of such mediation. No legal or equitable rights of the parties shall be limited by this Section.

15. Contract Boilerplate Interpretation, Severability, Conflicts With Law, Integration. Any amendment or attachment to any Contract which contains conflicting language or has the affect of a deleting, replacing or modifying any printed language of these Commonwealth Terms and Conditions, as officially published by ANF, CTR and OSD, shall be interpreted as superseded by the official printed language. If any provision of a Contract is found to be superseded by state or federal law or regulation, in whole or in part, then both parties shall be relieved of all obligations under that provision only to the extent necessary to comply with the superseding law, provided however, that the remaining provisions of the Contract, or portions thereof, shall be enforced to the fullest extent permitted by law. All amendments must be executed by the parties in accordance with Section 1. of these Commonwealth Terms and Conditions and filed with the original record copy of a Contract as prescribed by CTR. The printed language of the Standard Contract Form, as officially published by ANF, CTR and OSD, which incorporates by reference these Commonwealth Terms and Conditions, shall supersede any conflicting verbal or written agreements relating to the performance of a Contract, or attached thereto, including contract forms, purchase orders or invoices of the Contractor. The order of priority of documents to interpret a Contract shall be as follows: the printed language of the Commonwealth Terms and Conditions, the Standard Contract Form, the Department's Request for Response (RFR) solicitation document and the Contractor's Response to the RFR solicitation, excluding any language stricken by a Department as unacceptable and including any negotiated terms and conditions allowable pursuant to law or regulation.

IN WITNESS WHEREOF, The Contractor certify under the pains and penalties of perjury that it shall comply with these Commonwealth Terms and Conditions for any applicable Contract executed with the Commonwealth as certified by their authorized signatory below:

CONTRACTOR AUTHORIZED SIGNATORY: _____
(signature)

Print Name:

Title:

Date:

(Check One): Organization Individual

Full Legal Organization or Individual Name:

Doing Business As: Name (If Different):

Tax Identification Number:

Address:

Telephone: FAX:

INSTRUCTIONS FOR FILING THE COMMONWEALTH TERMS AND CONDITIONS

A "Request for Verification of Taxation Reporting Information" form (Massachusetts Substitute W-9 Format), that contains the Contractor's correct TIN, name and legal address information, must be on file with the Office of the Comptroller. If the Contractor has not previously filed this form with the Comptroller, or if the information contained on a previously filed form has changed, please fill out a W-9 form and return it attached to the executed COMMONWEALTH TERMS AND CONDITIONS.

If the Contractor is responding to a Request for Response (RFR), the COMMONWEALTH TERMS AND CONDITIONS must be submitted with the Response to RFR or as specified in the RFR. Otherwise, Departments or Contractors must timely submit the completed and properly executed COMMONWEALTH TERMS AND CONDITIONS (and the W-9 form if applicable) to the: **Payee and Payments Unit, Office of the Comptroller, 9th Floor, One Ashburton Place, Boston, MA 02108** in order to record the filing of this form on the MMARS Vendor File. Contractors are required to execute and file this form only once.

12. Michigan, Oakland Schools, (OS)

A. Additional Member Agency General Terms and Conditions that apply for all categories:

1. Conflict of Interest

Contractor shall disclose in writing to Buyer any conflicts of interest with Board members, administrators, and or employees of any Participating Entity (as defined below). A conflict of interest may include, but is not limited to, a financial ownership interest in, or employment with Contractor or Subcontractor by a Participating Entity' Board member, administrator, or employee or their family member. A "family member" means a person's spouse or spouse's sibling or child; a person's sibling or sibling's spouse or child; a person's child or child's spouse; or a person's parent or parent's spouse, and includes these relationships as created by adoption or marriage. Determination of the existence of a conflict of interest does not prohibit the Participating Entity from entering into a contract with the Contractor (MCL 380.634; MCL 15.322 et seq).

2. Termination of Buyer's Purchase Order

Default is defined as the failure of a Contractor to fulfill the contract, including but not limited to, not honoring bid prices, failure to deliver on time, or the unauthorized substitution of items or failure to comply with any or all of the specifications and/or terms and conditions contained in this solicitation or the contract/purchase order of a Participating Entity.

Should the Contractor fail to satisfactorily resolve the default, the contract/purchase order may be terminated with thirty (30) days written notice. In that event, the Contractor shall be held liable to the Participating Entity for all costs and expenses incurred by the Participating Entity arising out of said default. Notwithstanding the foregoing, each Participating Entity may terminate their contract/purchase order, with or without cause, or discontinue purchasing from the Contractor at any time.

3. Iran Economic Sanctions Act

Public Act 517 of 2012, commonly known as the "Iran Economic Sanctions Act" (the "Act"). The Act provides that beginning April 1, 2013, an "Iran Linked Business" is not eligible to submit a bid on a request for proposal with a "public entity" (OS). The Act also requires that a person that submits a proposal in response to an OS request for proposal must certify to the public entity that it is not an Iran Linked Business. This requirement applies to all requests for proposals issued by OS, and not just to construction projects.

The Act defines an Iran Linked Business as:

- a. A person engaging in investment activities in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran;
- b. A financial institution that extends credit to another person, if that person will use the credit to engage in investment activities in the energy sector of Iran.

If the OS determines, using credible information available to the public, that a person or entity has submitted a false certification, OS must provide written notice to the person or entity of its determination and of its intent not to enter into or renew the contract. The notice must include information on how to contest the determination. The notice must also specify that the individual or entity may become eligible for future contracts with the public entity if the activities that caused it to be an Iran Linked Business are ceased.

4. Taxes

The Participating Entities are exempt from State Sales Taxes and such taxes shall not be included in any solicitation prices. Exemption certificates will be provided upon request.

5. Hazardous Materials

If any hazardous chemicals are supplied under a contract/purchase order arising out of this solicitation, a Material Safety Data Sheet (MSDS) shall accompany the delivery of any hazardous chemicals supplied by the Contractor. All MSDS sheets shall be sent to the attention of the Participating Entity. Ref: State of Michigan Act 154, Section 14, P.A. 1974 as amended. Copies of MSDS for all purchased hazardous materials must be provided prior to delivery of any

items by the Contractor. Additionally, the MSDS needs to be attached to the invoice and all products delivered must be labeled according to Section 14 of Act 154, of the public Acts of 1974, as amended. Any appropriate products not labeled will be refused and the Contractor will be responsible for additional freight charges. Payment may be withheld until the Participating Entity receives the MSDS.

6. Modifications to Contracts

No modifications to a contract/purchase order with a Participating Entity shall be binding upon such Participating Entity unless agreed to in writing signed by an authorized representative of the Participating Entity.

7. Indemnification

Contractor agrees to indemnify, defend and hold harmless OS, each Participating Entity and each Other Agency, including their Board of Educations or governing body, in their official and individual capacities, employees, agents, successors and assignees, from and against any and all costs, expenses, damages, and liabilities, including reasonable attorney's fees, arising out of the: (i) negligent act or omission or willful misconduct of the Contractor, its officers, directors, employees, successors, assignees, Contractors and agents; (ii) any breach of the terms of the contract between the Participating Entity and the Contractor; or (iii) any breach of any representation or warranty by Contractor under the contract with a Participating Entity or this solicitation.

8. Anti-discrimination

The Contractor hereby agrees to comply with all federal, state and municipal equal opportunity and antidiscrimination guidelines and regulations, and covenants that the Contractor will not discriminate against an employee or applicant for employment with respect to hire, tenure terms, conditions or privileges of employment, or in a manner directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, marital status or disability. Failure on the part of the Contractor to comply with said guidelines and regulations shall, upon reasonable notice, constitute grounds for a Participating Entity to revoke and otherwise terminate the contract and all obligations of the Participating Entity hereunder.

9. Local Contract Terms and Conditions

For procurements of supplies, materials, equipment and/or services resulting from this solicitation, it is clearly understood and agreed to by the Contractor that any clause, term, or condition not addressed in this solicitation, but required by a Participating Entity, shall be adhered to by said Contractor. Participating Entities, other than from K-12, choosing to purchase from awarded AEPA contracts are subject to their own respective laws, and/or local policy, procedures, and/or Charters

10. Governing Law

Any contract arising out of this solicitation shall be governed by and construed under the laws of the State of Michigan. In the event of any legal action to enforce or interpret any contract arising out of this solicitation, the sole and exclusive venue shall be the state or federal court of the local jurisdiction where the Participating Entities located.

B. Additional Member Agency Terms and Conditions for:

1. Non-Construction Products and Services:

All supplies, materials, and equipment sold or leased to Michigan intermediate school districts or K-12 public school districts must be in accordance with MCL 380.623a and 380.1274, respectively. The procurement of supplies, materials and/or equipment in a single transaction costing more than the State of Michigan Competitive Bidding threshold set forth in MCL 380.623a and 380.1274 by an intermediate school districts or K-12 public school districts requires the district to obtain competitive bids and the purchase must be approved by the district's Board of Education.

2. Construction Products and Services:

All Contractors understand and agree that the use of AEPA contracts is not intended for use by Michigan intermediate school districts or public K-12 school districts for construction, renovation or remodeling projects under MCL 380.1267 and agree to comply with all applicable standards and statutes for said construction projects.

C. Procedure for Processing Orders:

Once the award is made to a Contractor, OS will inform the Participating Entities and Other Agencies of the award by announcing the award through its general and usual methods of disseminating information.

1. OS follows the AEPA Standard Ordering Process (see Part A, General Terms and Conditions for All Agencies, “Ordering Procedures”).
2. Contractors shall be required to pay a two percent (2%) administrative fee (the “Fee”) based on the total cost of goods or services purchased, including installation and freight, if applicable. In the event of a lease arrangement, the total Fee for the value of goods leased shall be paid to OS by the Contractor at the front end of the lease. Contractor or its designated authorized reseller(s) shall not include any additional amount corresponding to the Fee in the bid responses or awarded prices.

D. Agencies Allowed to Purchase under the Member Agency:

OS serves all local school districts located in Oakland County, Michigan. In addition to, and in accordance with the terms and conditions set forth in this solicitation, all **public school districts, private schools, public school academies, intermediate school districts colleges, universities, counties, cities, townships, villages, and non-profit organization** in the State of Michigan shall be permitted to use AEPA solicitations approved by OS.

It should be clearly understood that OS is assisting these Participating Entities as a service to procure selected supplies, materials and equipment and services desired by the Participating Entity. Both the Contractor and any Participating Entity using this solicitation agree that the OS makes no representation that use of this solicitation by any Participating Entity is, in fact, in compliance with rules, regulations, policy or procedures of the Participating Entity. In this regard, the OS strongly suggests that, at a minimum, the Contractor and any Participating Entity considering such use consult with their own legal counsels before doing so. All Participating Entities using AEPA solicitations shall be responsible for adhering to their own applicable rules, regulations, policies, procedures and state statutes, etc., which may govern the use of cooperative purchasing contracts within their respective jurisdictions.

13. Minnesota, Cooperative Purchasing Connection (CPC)

General Terms and Conditions that apply for all categories

Governing Law: The laws of the State of Minnesota govern all contracts resulting from this IFB. Each and every provision of law and clause required by law to be included in a contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction.

Governing Venue: The resulting contract award shall be deemed to have been made and performed in Otter Tail County, Minnesota. For the purpose of venue, all legal arbitration or causes for action arising out of the resulting agreement shall be brought to the courts of Otter Tail County, Minnesota.

Hazardous Substances: All hazardous products purchased by members shall include a Safety Data Sheet (SDS) with the delivery.

Lease and Rental Agreements: The Vendor may allow participating agencies to enter into a rental, lease, or lease purchase agreements, providing such agreements are in compliance with Minnesota Statutes and guidelines. CPC must receive a report annually, summarizing the executed lease purchases along with a summary of the participating agencies' purchases. CPC will not collect lease payments or be involved in the terms and conditions of the lease. All lease arrangements are between the Vendor and the participating agency. The Vendor agrees that leases will be in compliance with the Uniform Commercial Code. The applicable administrative fee must be included in the lease cost based on the total value of the goods and applicable services purchased. This fee is referred to under the Technical Specifications. The Vendor should attempt to work with CPC's current leasing vendor. Note, the current leasing vendor may require a minimum purchase amount to begin the leasing process. Should the Vendor be required to utilize their own financial leasing company, this should be noted/requested as an exception. In the event of a lease, the total administrative fee for the value of goods shall be paid to CPC by the vendor at the front end of the lease. CPC reserves the right to review all purchase orders, lease documents and invoices to insure contract compliance.

Marketing and Promotion: Upon award and completion of the vendor orientation, CPC will promote the contract opportunity via its websites. CPC will also announce the new partnership in its newsletters and will publish the contract and marketing information through hard copy marketing items (i.e. flyers, postcard) and electronic email. Contracts will also be promoted at applicable trade shows, conferences, and meetings on a regular basis. CPC may assist in the development of these materials if requested by the Vendor, but in all cases shall have the authority to review and approve any marketing materials. If a website is used, the link will be made available from the CPC and NDESC websites. Any web page or link, or other marketing tools shall be dedicated to CPC information only.

Non-Discrimination: Any resulting contract for on or behalf of participating agencies, said Vendor agrees to:

- That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;
- That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color;
- That a violation of this section is a misdemeanor; and
- That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

Participating Agency: A participating agency shall be defined in accordance with the, Minnesota Statutes M.S. §471.59, and M.S. §123A.21, Sub. 11 and South Dakota Statutes §5-18A-37. An eligible agency includes any school, higher education, city, county, other governmental agency, nonprofit organization, or other entity contracted to conduct business on behalf of a participating agency provided that they are required to follow state and local procurement regulations.

Prompt Payment: Participating Agencies will follow M.S. §471.425 regarding prompt payment of local government bills.

Substance Use and Conduct: All Vendor partners and subcontractors must adhere to local substance (alcohol, drug, smoking, etc.) and conduct (dress code, language, parking, etc.) policies while on a participating agencies' premises.

Vendor Orientation (CPC 101): The Vendor and their participating resellers/sub-contractors will be required to participate in an online training session that is designed to educate the Vendor and resellers/sub-contractors on the

purpose and nature of CPC. The Vendor will not be marketed to participating agencies until they have completed the vendor orientation session.

2. Additional Participating Agency Terms and Conditions for Non-Construction Products and Services

If requested by CPC, the contracted vendor will work with CPC to develop an order form, or order forms, containing the most commonly purchased items, that CPC can utilize to market the contracted vendor to its participating agencies.

3. Additional Participating Agency Terms and Conditions for Construction Related Products and Services

Upon acceptance and approval of the Vendor's offer by AEPA, CPC will independently consider the offer and conduct a conference call with the Vendor to determine if the Vendor is able to meet the necessary requirements for construction related products and services and to enter and execute a contract in the state of Minnesota. The contracted vendor will be required to work with CPC's participating agencies and require that an architect's signature or certification is noted on the specifications as required by Minnesota Statute §326.12 subd. 3. With certain exceptions, Minnesota Rules part 1800.5200, subpart 1, requires a licensed architect or engineer to prepare and certify specifications for building alterations or renovations. Once CPC and the Vendor are able to confirm that business is able to be conducted in Minnesota, CPC will make a final decision to complete the contract execution process.

For all quotes provided to participating agencies, for construction related projects, products and services, the contracted vendor must also send a duplicate quote to CPC. The quote provided to CPC must include the contact information of the participating agency.

Performance Bond (for construction and/or installation related projects): Performance bonds will be required on all projects valued at fifty-thousand dollars (\$50,000) or more in Minnesota and North Dakota and, twenty-five thousand dollars (\$25,000) or more in South Dakota. All performance bonds will be issued by a corporate surety authorized to do business in the state in which the work will be conducted and by a surety listed in the US Treasury Circular 570. Performance bonds will be posted by the Vendor and submitted to the specific participating agency for the assigned project. Should the contract be the result of a piggyback agreement, performance bonds will reflect each state's bonding requirements.

The Vendor will execute a performance bond in an amount equal to one hundred percent (100%) of the value specified in the contract between the participating agency and the Vendor, unless the participating agency requires less to be posted. This bond will protect all persons supplying labor and material to the Vendor for the performance of the work provided in the contract. Subcontractors who may work on the contract may have to provide the Vendor with a performance bond. If the contract price increases after the bond is provided, the participating agency may consider obtaining additional bonds from the Vendor.

The Vendor will deliver the performance bond to the eligible participating agency at the time the contract is executed between the agency and the Vendor. Work will not commence between the Vendor and the eligible participating agency until the performance bond is received by the participating agency and a copy has been sent to CPC via email (info@purchasingconnection.org). The Vendor will be responsible for providing CPC with a copy of all contracts and bonds in accordance with CPC purchasing procedures. Should the Vendor fail to satisfactorily perform the contract, the bonding company that provided the performance bond will be required to pay the dollar amount of the bond to the participating agency.

It is the Vendor's responsibility to ensure that they can obtain the required bonding for all construction products based on an awarded contract arising from this solicitation. Payment will not be issued for any project for which the required bonds have not been received.

4. Procedure for Contract Award, Notification and Processing Orders

Once the award is recommended by the AEPA Review Committee, CPC considers the recommendation based on the value of the potential contract for its participating agencies. Participating agency is defined as any city, county, public or private educational agency, nonprofit or governmental agency that is a participant of CPC. In the event of an award by the Board of Directors, CPC will inform its members of the award and contract by the following methods

along with contract instructions and ordering process.

- a. The contract is listed and promoted on the CPC website (www.purchasingconnection.org).
- b. Announcing the award in CPC newsletters.
- c. CPC will publish the contract and marketing information through a hard copy marketing flier and electronic email. Contracts are promoted through PDF and a hard copy product catalog distributed at statewide trade shows and agency meetings on a regular basis. CPC will require a marketing flier, brochure, or other similar marketing pieces, in an editable, electronic format, from each vendor promoting the available contract with the vendor, and/or a web page or link. CPC may assist in the development of the marketing flier and material (if requested by vendor), but in all cases shall have authority to review and approve any marketing materials. If a web site is used, the link will be made available from the CPC web page. Any web page or link, or other marketing tool shall be dedicated to AEPA information only.
- d. When the member identifies a desired product or service, the member and the vendor may negotiate with each other to establish a description of items and/or services. The vendor shall quote a price to the member, in writing, using AEPA established discounts and including the two percent (2%) administrative fee in the quoted price. The administrative fee shall be based upon the total cost of goods and/or services including installation costs. The administrative fee shall not be listed as a separate line item on the quote. When a member decides to purchase through the CPC-AEPA contract, the member issues the purchase order directly to the vendor. The purchase order must include the total invoiced cost, based on
 - i. The total cost of goods, service, and installation, including the 2% administrative fee.
 - ii. Notification will be made to the vendor in the event the purchase order is not in compliance with the contract and adjustments will be made at that time. CPC and the vendor will mutually resolve any issues with regard to past purchases. The purchase orders are to continue to be processed and viewed as approved unless notified by CPC otherwise. All sales and transactions may continue without delay or in anticipation of the CPC purchase order verification.
 - iii. Once all the items and services on the purchase order have been delivered to the member in a complete and satisfactory manner, the vendor then files a copy of the final invoice, which is available to CPC by request in support of the quarterly sales summary. The invoice is to be marked "Copy".
 - iv. Vendor makes all deliveries and installations of products and services. CPC does not warehouse items or provide installation services.
 - v. This administrative fee is to be paid by the vendor to CPC, quarterly, within 20 working days after the end of each fiscal quarter. The AEPA vendor shall also submit to CPC a sales report, in Excel format, listing the following information:
 1. Name of purchasing agency
 2. Address of purchasing agency
 3. Date of purchase
 4. Invoice number
 5. Amount of purchase
 6. Administrative fee generated by sale
 7. Savings generated by sale
 8. This report shall include all sales made and payments received by the vendor in said quarter. The sales report shall be emailed to Melissa Mattson at mmattson@lcsc.org and copied to Lori Mittelstadt at lmittelstadt@lcsc.org. The administrative fee payment shall be delivered to Melissa Mattson, CPC, 1001 East Mt. Faith, Fergus Falls, MN 56537. The check shall be made out to Lakes Country Service Cooperative.
 - vi. CPC requires that all participating vendors offer the contract opportunity to all CPC participating agencies.
5. **Express Online Marketplace:** CPC provides participating agencies with an online purchasing platform called Express, powered by EqualLevel. Through Express, agencies are able to search for and purchase items. Essentially, Express is a one-stop shop for many of CPC's commodity based contracts. A Vendor does not have to have an e-commerce site to be included in Express. Express offers integration into two (2) of the main K-12 school financial systems in Minnesota, CPC expects growth in the number of agencies utilizing the marketplace and the volume of sales to grow significantly. CPC will work with the Vendor to determine if the contract agreement is suitable for the online platform. If deemed suitable, CPC will require integration into Express within a timely manner.

14. Missouri, Cooperating School Districts of the Greater St. Louis Area, (CSD)

A. Additional Agency Terms and Conditions

Lease and Rentals: Vendor may allow EDPLUS members to enter into rental, lease, or lease purchase agreements, providing such agreements are in compliance with Missouri statutes and State Department of Education policies, rules and regulations. EDPLUS must receive a copy of the executed leasing documents prior to processing a purchase order. EDPLUS will not collect lease payments. Bidder agrees that leases will be in compliance with the Uniform Commercial Code. All terms of leasing must be included in the proposal, with interest rates described as related to a government standard. Bidder must indicate in its response to this solicitation if the shipping costs for the return of leased or rented equipment are the responsibility of the EDPLUS member, and what that cost will be. No sale of a contract to a third party will be made without first informing EDPLUS and the EDPLUS member of the sale. If Bidder sells a lease contract to a third party, the cost of return must not be greater than the cost of return to the original vendor. A 2% administrative fee must be included in the lease cost based on the total value of the goods purchased. This fee is referred to under ordering process.

B. Procedure for Processing Orders

(1.) Once the award is made to the vendor, EDPLUS will inform its members (and non-members eligible to purchase from EDPLUS) of the contract by announcing the award in its periodic newsletter and other EDPLUS presentations as well as regular electronic communications.

(2.) EDPLUS may require a marketing flier from each vendor promoting the contract and AEPA relationship. EDPLUS will assist in the development of the marketing flier and material. This flier will be for distribution as well as posting on the EDPLUS website and disseminated to potential customers. Note: EDPLUS requires the awarded vendor to take ownership and actively promote the contract in cooperation with EDPLUS to all qualified customers.

(3.) When the member identifies a desired product or service as available through the AEPA contract and makes a purchase on the EDPLUS online Marketplace or agrees on price as presented to the member by the awarded AEPA vendor, the member then issues to the vendor a purchase order for that item or service.

(4.) The purchase order must include an additional two percent (2%) administrative fee in the total cost, based on the total cost of goods and service including installation and freight if applicable. This fee is to be forwarded by the vendor to EDPLUS after the sale and payment is made to vendor. Payment shall be made to EDPLUS on a quarterly basis along with complete sales history during that period.

(5.) Vendor makes all deliveries and installations of products and services. EDPLUS does not warehouse items nor provide services.

(6.) All participating vendors agree to and are subject to audit proceedings of AEPA member sales.

C. Members Purchasing Under the Agency

We take great pride in the fact that EducationPlus is providing a complete line of purchasing services to our 50+ member school districts and hundreds of additional school districts, educational institutions, and nonprofit organizations throughout Missouri and Illinois. EducationPlus was created in 1928 with its primary focus aimed at improving educational opportunities for all students. Our goal is to promote efficient use of educational dollars, and simultaneously provide an ongoing market for those vendors doing business with EducationPlus. EducationPlus serves schools and political subdivisions in Missouri and Illinois.

D. Governing Law

MO. REV. STAT. §70.220. 1. Any municipality or political subdivision of this state, as herein defined, may contract and cooperate with any other municipality or political subdivision, or with an elective or appointive official thereof, or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions, or with any private person, firm, association or corporation, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service; provided, that the subject and purposes of any such contract or cooperative action made and entered into by such municipality or political subdivision shall be within the scope of the powers of such municipality or political subdivision.

15. **Montana, Montana Cooperative Services (MCS)**

General Standards: Purchases by public entities in excess of \$80,000 are subject to public bid; purchases under this amount are subject to requirements of public contracts. See Sections 7-5-230 I and 7- 5-2304, Montana Code Annotated (Counties); Sections 7-5-4302 and 7-5-4303, Montana Code Annotated (Municipalities).

Note: purchases of less than \$80,000 are not subject to public bid requirements, which provides local government entities with considerable flexibility to make purchases. Public bidding requirements do not appear to prohibit local government entities who are members of AEPA or MCS from soliciting bids from approved vendors for purchases in excess of \$80,000.

Local Government Cooperative Purchasing Authority: Local governments may also elect to purchase cooperatively through the Montana Department of Administration in lieu of soliciting their own bids. 51 A.G. Op. 15 (2006). Procurement by government entities generally falls within the Montana Procurement Act, Section 18-4-10 I, MCA, et seq.

Local Governments are authorized to adopt and implement the rules and standards of the Act:

18-4-124. Local government adoption of procurement provisions -- alternative project delivery contracts. (1) A political subdivision or school district may adopt any or all parts of this chapter and the accompanying rules promulgated by the department.

Local governmental entities and school districts are specifically authorized to purchase cooperatively in the public interest:

18-4-401. Definitions. As used in this part, the following definitions apply:

(1) "Cooperative purchasing" means procurement conducted by or on behalf of more than one public procurement unit.

"Local public procurement unit" means a county, city, town, or other subdivision of the state or a public agency of any such subdivision; public authority; educational, health, or other institution; to the extent provided by law, any other entity that expends public funds for the procurement of supplies and services; and any nonprofit corporation operating a charitable hospital.

"Public procurement unit" means a local or state public procurement unit of this or any other state, including an agency of the United States, or a tribal procurement unit.

"State public procurement unit" means a state department, agency, or official that expends public funds for the procurement of supplies and services.

"Tribal procurement unit" means a tribal government, tribal entity, or official of a tribal government located in Montana that expends tribal funds or funds administered by a tribe for the procurement of supplies and services to the extent provided by tribal or federal law.

18-4-402. Cooperative purchasing authorized. The department may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies or services with one or more public procurement units in accordance with an agreement entered into between the participants independent of the requirements of part 3. Cooperative purchasing may include purchasing through federal supply schedules of the United States general services administration, joint or multiparty contracts between public procurement units, open-ended state public procurement unit contracts that are made available to local public procurement units, and competitive contracts established by for-profit, not-for-profit, or nonprofit cooperative entities. (emphasis added).

Note: Cooperative purchasing by local governmental entities may require entering into an agreement with the Montana Department of Administration. This requirement does not appear to preclude local entities from participating as members of purchasing groups.

Local governmental entities are authorized to enter agreements with each other in order to purchase cooperatively.

7-11-104. Authorization to create interlocal agreements -- issuance of bonds for joint construction -- hiring of teacher, specialist, or superintendent. One or more public agencies may contract with any one or more other public agencies to perform any administrative service, activity, or undertaking or to participate in the provision or maintenance of any public infrastructure facility, project, or service, including the issuance of bonds for the joint construction of a facility under 20-9-404, the hiring of a teacher or specialist under 20-4-201 or a superintendent under 20-4-401, or the hiring of or contracting with any other professional person licensed under Title 37, that any of the public agencies entering into the contract is authorized by law to perform. The contract must be authorized and approved by the governing body of each party to the contract. The contract must outline fully the purposes, powers, rights, obligations, and responsibilities of the contracting parties. (emphasis added).

School and school district cooperative purchasing authority: Schools and school districts are specifically authorized to purchase cooperatively utilizing qualifying purchasing entities:

"A [school] district may enter into a cooperative purchasing contract for the procurement of supplies or services with one or more districts. A district participating in a cooperative purchasing group may purchase supplies and services through the group without complying with the provisions of [soliciting public bids and awarding a contract] if the cooperative purchasing group has a publicly available master list of items available with pricing included and provides an opportunity at least twice yearly for any vendor, including a Montana vendor, to compete, based on a lowest responsible bidder standard, for inclusion of the vendor's supplies and services on the cooperative purchasing group's master list." Section 20-9-204(4), Montana Code Annotated (emphasis added).

Note: Montana's AEPA member, Montana Cooperative Services, meets all of the statutory requirements of Section 20-9-204(4), MCA, with respect to cooperative purchasing groups.

Cooperative purchasing is another tool in the bag for local governmental entities, including school districts, to acquire services and supplies at better prices than may otherwise be available. Membership in MCS provides access to AEPA-approved vendors as well as in-state suppliers who have been carefully vetted for reliability and quality.

Disclaimer: The above discussion is for informational purposes only and does not constitute legal advice.

16. Nebraska, Educational Service Unit Coordinating Council (ESUCC)

A. Additional Agency Terms and Conditions

1) Bid Award Determination: The bidder hereby agrees to these bidding conditions by virtue of submitting this signed document on or before the Bid Opening date as specified below.

2) Natural Gas Contractors: Any bids relating to natural gas shall be based upon an awareness of NEB. REV. STAT. § 75-501, adopted in conformity with Rules, Regulations, and Interpretations of Federal Agencies with authority to regulate pipeline common carriers and interstate commerce.

3) Performance and Payment Bonds: Upon execution of a contract between an ESUCC member and the prime contractor for construction or public improvement, performance and payment bonds described above in the AEPA General Terms and Condition shall be provided to the member. Performance and payment bonds between the member and the prime contractor shall be on standard forms. The prime contractor shall deliver copies of both the performance and payment bonds to ESUCC at the time the contract between the member and the prime contractor is executed. All suits for nonpayment or nonperformance shall be filed as allowed under Nebraska law.

4) Insurance: Contractors shall secure and keep in force during the term of any awarded agreement the following insurance coverages from insurance companies authorized to do business in Nebraska:

- Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$1,000,000 per person for any number of claims arising out of a single occurrence and \$5,000,000 for all claims arising out of a single occurrence.
- Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$1,000,000 per person for any number of claims arising out of a single occurrence and \$5,000,000 for all claims arising out of a single occurrence.
- Workers compensation coverage meeting all statutory requirements.

5) Debarment and Suspension: Contractors shall comply with Executive Orders 12549 and 12689 as applicable. Contractors may be debarred for a period of two (2) years, unless earlier modified by the Special Awards Committee of ESUCC for any of the following conduct: (a.) Repeatedly not following the bid process. (b.) Repeatedly submitting non-responsive bids. (c.) Any behavior, which has as its effect injuring the integrity of the bid process. (d.) Failure to deliver goods pursuant to a successful bid. (e.) Repeated lack of acceptable handling and delivery of goods pursuant to a successful bid. (f.) Repeatedly not meeting delivery deadlines. (g.) Repeated failure to timely rectify damages of goods, or shortages of goods when it is the responsibility of the contractor to take such action. (h.) Conviction of a crime of dishonesty. (i.) Debarment or suspension by any agency or Federal Agency by the contractor or any of its key employees. (j.) Other conducts which materially and adversely affects the services of ESUCC Cooperative Purchasing program.

6) Statement Filed: A bidder who is awarded a contract for any goods or services pursuant to this IFB shall file with ESUCC a statement as required by NEB. REV. STAT. § 73-102.

7) Nondiscrimination: The Contractor and all subcontractors, if any, shall not discriminate against any employee or applicant who is to be employed for performance of any awarded bid or agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.

8) Employment Eligibility Verification: The Contractor shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If the Contractor employs or contracts with any subcontractor in connection with any awarded bid or agreement, the Contractor shall include a provision in the contract requiring the subcontractor to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

9) Federal Funding. It is understood that purchases may be funded in whole or in part with funds allocated by the Federal government, including the U.S. Department of Education and is therefore subject to those regulations, restrictions, and conditions normally associated with federally funded programs and any other requirements that the state or federal government may prescribe including, but not necessarily limited to, the "Federal Requirements" listed above in the AEPA Terms and Conditions and the following:

- **Lobbying:** The Bidder agrees and understands that under the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) that Bidders that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352.
- **Patent Rights:** The USDOE's and any other federal agency's requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course or under this Agreement include, but are not necessarily limited to, 34 CFR Part 80.
- **Copyrights and Right in Data:** The USDOE's and any other federal agency's requirements and regulations pertaining to copyrights and rights in data include, but are not necessarily limited to, 34 CFR Part 80.
- **Access to Documents:** The Parties and their grantees, the USDOE and/or other federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives shall have access

to any books, documents, papers, and records of the Bidder which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions.

- **Energy Policy and Conservation Act:** The parties shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).
-
- **Buy American:** To the maximum extent practicable, the Bidder will purchase domestic commodities or products produced in the United States or processed substantially using commodities produced in the United States
- **Minority Business Owners:** The ESUCC will contract with minority-owned businesses, women's business enterprises, and labor surplus firms when possible. Steps to ensure compliance with this provision will include:
 - .1 Qualified small, minority, and women's businesses on solicitation lists so that when such businesses are potential vendors, they are included in ESUCC solicitations.
 - .2 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation for such businesses.
 - .3 Establishing delivery schedules, where requirement permits, which encourage such enterprises
 - .4 Use services of Small Business Administration, Minority Development Agency, or similar state agency to maximize participation.
 - .5 Require prime Bidder, if subcontracts are to be let, to follow the above steps

11) Governing Law and Venue: All bids and contracts shall be governed by and construed in accordance with the laws of the State of Nebraska. The venue for any litigation arising out of or related to a bid or contract will be in any eligible state or federal court of Nebraska.

12) Public Records: The Contractor acknowledges that the ESUCC and its affiliated schools and members must comply with NEB. REV. STAT. § 84-712 through § 84-713 and release public records as defined law upon request, which may include any bid documents or contracts and all records created and maintained in relation to them.

13) Conflict of Interest: By submitting a proposal, Contractor certifies that there does not now exist any relationship between the Contractor and any person or entity which is or gives the appearance of a conflict of interest related to this Request for Proposal. The Bidder certifies that it shall not take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its services hereunder or which creates an actual or appearance of conflict of interest. The Bidder certifies that it will not employ any individual known by Bidder to have a conflict of interest.

The Contractor shall not, at any time, recruit or employ any employee or agent who has worked on the Request for Proposal or project, or who had any influence on decisions affecting the Request for Proposal or project.

The submission of the offer did not involve collusion or other anti-competitive practices. Neither signatory nor any person on his behalf, has not agreed, connived or colluded to produce a deceptive show of competition in the matter of the bidding or award of a contract under this solicitation.

The Contractor, by submitting a bid, certifies that it has not had a contract with education organizations in State of Nebraska terminated early. If Contractor has had a contract terminated early within the State of Nebraska, Contractor must provide the contract number, along with an explanation of why the contract was terminated early.

Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.

Contractor certifies that Contractor and Contractor's employees, officers, and associates directly involved in obtaining contracts with the State of Nebraska, ESUCC, or any subdivision of the state have not been convicted of false pretenses, attempted false pretenses, or conspiracy to commit false pretenses, bribery, attempted bribery or conspiracy to bribe under the laws of any state or federal government for acts or omissions after January 1, 1985

ESUCC may cancel any contract if it is found that gratuities in the form of entertainment, gifts or otherwise, were offered or given by Contractor or any agent or representative of Contractor, to any employee of ESUCC with a view toward securing a contract or with respect to the performance of this contract. Paying the expenses of normal business meals, which are generally made available to all eligible school and government employees, shall not be prohibited by this paragraph. Samples of software, equipment or hardware provided to ESUCC for demonstration or evaluation are not considered gratuities.

B. Procedure for Processing Orders

ESUCC affiliated schools or members send their purchase orders both directly and electronically to the vendor, the vendor ships directly to the school/member, and direct bills the schools/members the cost of merchandise plus the ESUCC 2% administrative fee. Vendors must provide a quarterly report to ESUCC Cooperative Purchasing. The report will include: Date of sales, school name, ESU affiliation, selling price, list price and savings. The ESUCC Cooperative Purchasing administrative Fee of 2% will accompany each quarterly report.

C. Members Purchasing Under the Agency

ESUCC represents 17 Educational Service Units statewide who in turn service Nebraska school districts with over 300,000 students. ESUCC is authorized to coordinate purchases for public school districts, nonpublic school systems, other ESUs, and

other public agencies, including any county, city, village, school district, or agency of the state government, any drainage district, sanitary and improvement district, or other Municipal Corporation or political subdivision of the State of Nebraska.

D. Procedure for Processing Orders

All purchase orders will be submitted directly from the purchasing entity to the vendor. ESUCC will not facilitate the processing of purchase orders unless the offering is service related. If it is a service related purchase then the purchase order shall be submitted by ESUCC.

E. Agencies Allowed to Purchase under the Member Agency

Purchases through ESUCC contracts are to be primarily for K-12. However other state entities may use the ESUCC contracts. All inquiries to purchase on the behalf of a non-profit group not in state statute or receiving state funding must be approved by ESUCC.

17. New Jersey, The Educational Services Commission of New Jersey (ESCNJ)

A. Additional Agency Terms and Conditions

Applicability of Contract Provisions to New Jersey Participants

ESCNJ is the AEPA Member Agency. Any entity that uses the contract awarded by ESCNJ under this document is referred to as a "New Jersey Participant." To be a New Jersey Participant the entity must be a member of the ESCNJ Cooperative Pricing System. The bidder that is awarded the contract by ESCNJ is referred to as the "Contractor."

Once a contract is awarded by ESCNJ, a New Jersey Participant may enter into a purchase order agreement directly with the Contractor. To the extent not otherwise described below or in this document, once a purchase order is issued by a New Jersey Participant to a Contractor, all of the provisions of the contract shall benefit and be enforceable by such New Jersey Participant, unless specifically identified as applying to ESCNJ only.

1. The Bidder by submitting its bid hereby declares that this Bid is made without any connection with any other person or person making any proposal for the same items, that it is in all respects fair and without collusion or fraud and that no person acting for or employed by ESCNJ or a New Jersey Participant is directly or indirectly interested in the proposal or in the goods or services to which it relates, or in any portion of the profits there from.

2. **Event of default and termination of Contract:**

ESCNJ shall have the right to cancel the contract based upon a default by Contractor. A New Jersey Participant shall have the right to cancel its purchase arrangement based on a default by the Contractor with regard to such purchase arrangement. In addition, ESCNJ and each New Jersey Participant reserves the right to withhold payments for goods and services that are not in compliance with the terms of the contract or if the Contractor is in default. Any of the following shall be a default under the contract: 1) The Contractor fails to adequately perform the services set forth in the contract; 2) Contractor fails to deliver all or any part of the goods, or delivers defective goods; 3) The Contractor fails to make progress in the performance of the contract and/or does not deliver within the agreed-upon schedules; 4) The Contractor fails to observe any of the terms and conditions of the contract, including, without limitation, assigning the contract and/or failing to deliver required insurance or performance bonds; 5) The Contractor fails to follow the established procedure for purchase orders, invoices and receipt of funds as stipulated by the New Jersey Participant; or 6) the Contractor has become insolvent, makes an assignment for the benefit of creditors, files a voluntary petition in bankruptcy or is subject to an involuntary petition in bankruptcy not discharged within thirty (30) days. ESCNJ and each New Jersey Participant shall follow the following procedure if the contract or purchase order is to be terminated:

Step 1 - Issue a warning letter of concern outlining the violations and length of time to correct the problem(s). The length of time to correct the problem shall be determined by ESCNJ or the New Jersey Participant, as applicable, in its sole discretion, based on the problem.

Step 2 - Issue a letter of intent to cancel the contract or purchase order, if the problem(s) is not resolved by the given date.

Step 3 - Issue the letter to cancel contract or purchase order.

Upon receipt of the written notice of concern, the Contractor shall have ten (10) business days to provide a satisfactory response to ESCNJ and the New Jersey Participant that provided the notices. Failure on the part of the Contractor to address adequately all issues or concerns may result in contract cancellation.

The remedy to terminate and withhold payments is in addition to any other remedies ESCNJ and the New Jersey Participants may have. In the event of Contract termination by a New Jersey Participant, such New Jersey Participant's payment obligation shall cease as of the final date on which services in accordance with this Contract are last performed by the Contractor. Upon termination of this Contract under this section, the Contractor (and its surety) will be responsible for all of such New Jersey Participant's expenses, losses and damages incurred in replacing Contractor for the remainder of the term of the Contract.

3. **Assignment:**

Contractor shall not subcontract, assign, transfer, convey, sublet or otherwise dispose of its/his/her contractual duties to any other person, firm, or corporation, without the previous written consent of ESCNJ and any New Jersey Participant that has an outstanding open purchase order or financing arrangement. If the Contractor wants to assign its/his/her right to payment of the Contract, Contractor shall notify ESCNJ and any New Jersey Participant that has an outstanding open purchase order or financing arrangement immediately, in writing, of such assignment of right to payment. In no case shall such assignment of Contract relieve the Contractor from its/his/her obligations or change the terms of the Contract.

4. Indemnification:

Contractor shall indemnify, defend, keep and save harmless ESCNJ, each New Jersey Participant and its respective agents, officials, employees and volunteers (each an "Indemnified Party") against claims of injuries, death, damage to property, patent claims, suits, liabilities, judgments, cost and expenses (including attorneys' fees) which result from, arise out of, or in connection with the performance, or breach of performance, under the Contract of Contractor and any of its/his/her employees, agents or personnel. The Contractor shall, at its/his/her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising there from or incurred in connection therewith; and if any judgment shall be rendered against the Indemnified Party in any such action, the Contractor shall, at its/his/her own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Indemnified Party as herein provided.

5. New Jersey Participant Policies:

The Contractor must be familiar with a New Jersey Participant's policies or regulations which affect the services provided under this Contract and that have been or will be distributed during the term of this Contract. Policies and regulations include, but are not limited to, New Jersey Public Contracts Law, school district policies, municipality policies, charters school policies, and county ordinances.

As each board of education, municipality governmental agency, educational institution in the State of New Jersey may have or may be required to have individual policies and procedures for the procurement of goods and services; and as one of the aforementioned institutions/agencies may be dependent upon the policies/procedures of another institution or agency, it is required for the Contractor to be familiar with the policies of the New Jersey Participant that impact the purchase. In limited situations, there may be State statutes which govern the allowability of purchases to be reimbursed by State funding. The New Jersey Participant should obtain its own legal advice on these statutes prior to purchasing under a contract.

The following documentation will be required prior to the award of any contract for New Jersey Participants:

1. New Jersey Business Registration Certificate - Before award in NJ, not at time of bid
2. New Jersey Contractors Registration Certificate (All time and material bids.) Before award in NJ not at time of bid
3. New Jersey Pay-to-Play Documentation (Political Contribution Disclosure)
4. Statement of Ownership (Ownership Declaration Certification)
5. New Jersey Affirmative Language (Exhibit A) and (Exhibit B) for construction repair and maintenance contracts
6. Acknowledgement of the Contractor's/Vendor's responsibility to pay prevailing wage.
http://lwd.dol.state.nj.us/labor/wagehour/wagerate/prevailing_wage_determinations.html
(Time and material bids.)
7. New Jersey Affirmative Action Questionnaire/Documentation
8. Disclosure of Investment Activities in Iran
9. Years of experience is not a criteria for the evaluation of bids to be awarded for the State of New Jersey. For additional information visit www.nj.gov/dca/divisions/dlgs
10. W9
11. Certificate of Insurance with the ESCNJ named as insured and the bid title/# listed - Before award in NJ, not at time of bid
12. DPMC - (All time and material bids.) Before award in NJ, not at time of bid
13. Total Amount of Uncompleted Contracts (All time and material bids.) Before award in NJ, not at time of bid
14. Americans with Disabilities ACT of 1990
15. Attachment B - New Jersey Anti-discrimination Provisions
16. Statement of Suspension or Debarment Form
17. Sworn Contractor Certification; Qualifications Credentials
18. Subcontractor Disclosure Statement
19. Prevailing Wages Certification—Submission with Bid_

6. Performance Bonds:

Each New Jersey Participant may require a performance bond in the case of services to be performed under the Contract if required. The Contractor shall furnish to the New Jersey Participant a Surety Performance Bond ("Performance Bond") with an option to renew each succeeding year of the Contract in a form satisfactory to the New Jersey Participant assuring the faithful performance of the Contract. The Bond shall be equal to one hundred percent (100%) of each year's estimated Contract price as reviewed and agreed upon by the New Jersey Participant, and shall be continued for the life of the Contract in amounts equal to one hundred percent (100%) of each year's estimated Contract price as reviewed and

agreed upon by the New Jersey Participant. The Contractor must send such Performance Bond to the New Jersey Participant prior to the commencement of any services under the Contract. Each such Performance Bond shall be furnished by a surety company acceptable to the New Jersey Participant and licensed or authorized to do business in New Jersey. Failure to deliver the bond shall be considered a default under the Contract, at the discretion of and upon notice by the New Jersey Participant.

7. Governing Law:

This Contract shall be governed by, and construed and enforced in accordance with, the laws of the State of New Jersey without regard to its conflicts of laws principles.

8. Financing Arrangements:

Any financing arrangements (including lease purchasing arrangements) may be made directly between the Contractor and a New Jersey Participant or with the free ESCNJ Leasing Program. Financing arrangements may be subject to additional laws, rules and regulations, terms and conditions not described in this document and are subject to separate negotiation with each New Jersey Participant that is interested in such an arrangement. Each New Jersey Participant should seek its own legal advice prior to entering into a financing arrangement. ESCNJ must receive a report annually summarizing the executed lease purchases along with the summary of the customer purchases. ESCNJ will not collect lease payments or be involved in the terms and conditions of the Contractor lease. All lease arrangements are between the Contractor and the New Jersey Participant only.

9. Affirmative Action:

The Contractor/Vendor must have an employment policy that there shall be no discrimination against anyone on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, physical disability or sexual orientation in the hiring, upgrading, demotions, recruitment, termination and selections for training, in any manner prohibited by the laws of the United States or of the State of New Jersey. The Contractor/Vendor further agrees to be an "affirmative action-equal opportunity employer." The Contractor/Vendor must provide one of the following: "Letter of Federal Affirmative Action Plan Approval", "Certificate of Employee Information Report" or a completed "Employee Information Report Form AA302" prior to award bid.

10. Independent Contractor:

The Contractor shall not be held or deemed in any way to be the agent or employee of ESCNJ and/or a New Jersey Participant. It is the intention of the parties that the Contractor shall be and is to be considered an independent contractor.

11. Incorporation of Bid Documents:

The bid documents, including all appendices executed by Contractor that have been accepted by ESCNJ (the "Bid") are specifically incorporated into this Contract.

12. New Jersey Public Records Act:

The Contractor acknowledges that ESCNJ and New Jersey Participants are subject to the New Jersey Public Records Act, New Jersey Public Contracts Law and information submitted to ESCNJ and/or such New Jersey Participants may be made available to the public under the provisions of the this Act.

Marketing and Advertising under this Contract - applicable to Member Agency (ESCNJ) contract only:

1. Contractor agrees to provide ESCNJ with a copy or proof sheet of all advertisements, customer communications or promotional material for approval. Contractor will provide ESCNJ with date of release and name of publication, journal, etc. if applicable.
2. Contractor will include the approved ESCNJ logo, web address, bid #, bid title, bid term, NJ State Approved Co-op #65MCESCCPS and contact information in all print, electronic mail and other advertising and promotion intended for release in New Jersey.
3. The ESCNJ logo and information shall be of a clearly readable size and in appropriate proportion to other elements in the print material.
4. Contractor agrees to make available ESCNJ supplied brochures or other promotional materials on booths, tables, etc. of any or all exhibits for which the Contractor displays/participates at tradeshow, conventions and the like. Contractor will supply scheduled exhibit dates in advance.
5. Contractor agrees to insert the approved ESCNJ logo, web address, NJ State Approved Co-op #65MCESCCPS bid #, bid term and contact information on the Contractor's website promoting and providing a link to the ESCNJ website. Contractor will also provide ESCNJ with text, links and logos to be posted on the ESCNJ website.

B. Procedures for Processing Orders

1. Once the award is made to the Contractor, ESCNJ will inform the potential New Jersey Participants of the Contract, including a webpage dedicated to the contract on the ESCNJ website. At this point, the Contractor may directly contact

- any potential New Jersey Participant and any potential New Jersey Participant may directly contact the Contractor.
2. Purchase orders will not be accepted or processed by ESCNJ. All business will be contracted directly with the New Jersey Participant, which will issue a purchase order and provide payment for the applicable good or service directly to the Contractor.
 3. The total cost of ESCNJ's program is funded through a 2.2% participation fee paid to ESCNJ quarterly by the participating Contractors. The administrative fee percentage is based upon the total sale or lease of goods and services, including installation, if included. This fee shall be included in all price quotations to New Jersey Participants and shall not be printed as a line item on the quotation.
 4. Along with the participation fee, the Contractor will produce and provide to ESCNJ quarterly reports ending March 31, June 30, September 30 and December 31 throughout the contract period. The reports shall be in Microsoft Excel and be available in electronic form, shall identify the Contractor and the quarter being reported, shall be delivered to ESCNJ on the 15th of the month, shall include a minimum of the fields listed below and shall allow for sorting on any of these fields:
 1. Date of order.
 2. The name of the New Jersey Participant.
 3. ESCNJ Bid Number
 4. ESCNJ Co-op Number (New Jersey State Approved Cooperative Pricing System #65MCESCCPS)
 5. List (or academic) price sales totals.
 6. New Jersey Participant price sales totals.
 7. New Jersey Participant savings totals to be sent to the ESCNJ in summary and to each individual New Jersey Participant.
 5. Quarterly reports and administrative fee payments are to be made payable to ESCNJ and sent to ESCNJ, 1660 Stelton Road, Piscataway, NJ 08854, Attn: Patrick M. Moran, or such other address that ESCNJ will provide from time to time.
 6. If no purchases are made in any given quarter, the Contractor shall remit a "No Activities" statement to ESCNJ for that quarter. The Contractor will also produce and provide to ESCNJ an annual summary report for all purchases made under each contract awarded by ESCNJ pursuant to this document for a period beginning with the award of the contract and ending December 31 and all consecutive annual periods, if the contract is extended.
 7. New Jersey School Districts and other eligible New Jersey Participants are normally exempt from sales tax. The Contractor/Vendor should confirm this exemption and collect a tax-exempt letter from each New Jersey Participant.

C. Members Purchasing Under the Agency

There are 596 operating school districts in New Jersey and all are eligible for membership. No district is obligated to use these services. Additional New Jersey Participants may include other public educational institutions, public colleges or universities, community colleges, vocational or technical schools, municipal governments, and other governmental, quasi-governmental, or non-profit organizations. The ESCNJ Cooperative Pricing System currently has 1,250+ New Jersey Participants located in all 21 Counties of the State of New Jersey.

CONFLICT OF INTEREST

An ESCNJ employee (including independent contractors for purposes of this definition) placing an order or recommending a vendor must disclose any relationship with that vendor which would not be considered an "arms-length" or independent transaction. This disclosure must be made in writing to the Business Administrator and/or Chief Financial Officer for an evaluation. The Business Administrator and/or the Chief Financial Officer will respond to this disclosure in writing.

For a transaction to be considered "arms-length" or "independent", an ESCNJ employee should not be influenced, dependent upon, guided or controlled by a vendor into choosing that vendor, or item to purchase; nor should it appear to a third party that an ESCNJ employee made a purchasing decision which appears to be based upon a personal relationship between the ESCNJ employee and vendor.

The following are examples when a transaction is NOT considered arms-length or independent: (1) when there exists a personal relationship between an ESCNJ employee and a vendor, (2) when there exists the potential for a personal benefit to an ESCNJ employee, or (3) the parties to a business deal are dependent upon one another for "something" other than the purchase itself.

The Contractor shall disclose any relationship with an ESCNJ employee that would not be considered an "arms-length" or independent transaction, as described above. This disclosure must be made in writing to the Business Administrator and/or the Chief Financial Officer for an evaluation. The Business Administrator and/or the Chief Financial Officer will respond to this disclosure in writing.

In addition, the Contractor shall, if given a copy of the potential New Jersey Participant's conflict of interest policy, follow the process in that policy, or otherwise disclose to a potential New Jersey Participant any relationship that would not be considered an "arms-length" or independent transaction with that New Jersey Participant, as described above. This disclosure must be made in writing to the chief official (for example, the Superintendent at a board of education) at the potential New Jersey Participant.

Determination of the existence of a conflict of interest does not prohibit ESCNJ and/or a New Jersey Participant from entering into the contract and purchase order, respectively.

American Goods - American Goods Clause—N.J.S.A. 18A:18A-20 - American goods and products to be used where possible

All contracts for work for which it will pay any part of the cost or work which by contract it will ultimately own and maintain, that only manufactured and farm products of the United States, wherever available, to be used in such work.

Anti-discrimination - All parties to any contract with the ESCNJ agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference.

Debarment/Suspension - N.J.A.C. 17:19-1.1 et seq. The ESCNJ will not enter into a contract for work with any person, company or firm that is on the State Department of Labor and Workforce Development; Prevailing Wage Debarment List, or the State of New Jersey Consolidated Debarment Report (www.state.nj.us/treasury/debarred) or the Federal System for Award—SA (www.state.nj.us/treasury/debarred) or the Federal System for Award—SA

For Time and Material bids - DPMC - There is a non-refundable fee of \$100.00 which must be submitted to the State with your application. All payments must be made on company checks (no-cash) made payable to "Treasurer, State of New Jersey". No application will be processed without the fee. If you have any questions, please contact the Contractor Classification unit by accessing the DPMC web site at www.state.nj.us/treasury/dpmc/. NOTE: It is suggested that a photocopy of this completed form be retained for your records. Please submit the completed application and all required documentation to the Treasurer, State of New Jersey. Upon review and approval of this application, your firm will be notified by mail of the effective and expiration dates, type of work, and rating assigned to your firm. Please submit your certificate with your bid package.

Any contractor who submits a bid for a public works contract the amount which exceeds **\$20,000**, pursuant to N.J.S.A. 18A:18A-26, 27 et seq., shall be classified by the Department of Treasury, Division of Property Management (DPMC) as to the type of work and trades (character) and the aggregate rating (amount) of public work they are qualified to submit bids.

The ESCNJ may only accept bids from contractors that are qualified.

Notice of Classification—DPMC-27

The Notice of Classification is a document issued by the DPMC that provides the following information about the qualified contractor:

- Trade(s) classification held by the contractor

The contractor is classified by the trade and trade number as found in Form DPMC-27. For example

Trade Number	Trade
C030	Plumbing
C032	HVACR

The contractor is therefore qualified to submit bids (exceeding \$20,000) to the board of education that pertain to plumbing and heating, ventilation, air conditioning and refrigeration.

For Time and Material bids Equipment Certification 18A:18A-23. A certificate showing that the bidder owns, leases, or controls all the necessary equipment required by the plans, specifications and advertisements under which bids are asked for and if the bidder is not the actual owner or lessee of any such equipment, his certificate shall state the source from which the equipment will be obtained, and shall be accompanied by a certificate from the owner or person in control of the equipment definitely granting to the bidder the control of the equipment required during such time as may be necessary for the completion of that portion of the contract for which it is necessary.

For Time and Material bids - Total Amount of Uncompleted Contracts - DPMC 701

This document is completed by the contractor submitting a bid, on the form provided by the DPMC. The document lists the amount of uncompleted contracts held by the contractor and a certification that the amount of uncompleted contracts, added to the bid amount for the ESCNJ Participant project, does not exceed the Aggregate Amount rating as assigned by the DPMC.

For Time and Material bids - Pre-qualification Affidavit/No Material Adverse Change

Pursuant to N.J.S.A. 18A:18A-32, no bidder is qualified to bid on any public work contract unless they provide an affidavit that there has been no material adverse change in his qualification information pursuant to N.J.S.A. 18A:18A-28.

For Time and Material bids - Prevailing wages; Alterations and repairs - The State of New Jersey Prevailing Wage Act, Chapter 150 Laws of 1963 with applicable statewide wage rates and for the wage rates for the county of the location of the New

Jersey Participant, as published by the Department of Labor and Workforce Development in conformance with N.J.S.A. 34:11-56-25 et seq. Copies of these wage rates may be obtained from the State Department of Labor and Workforce Development, and/or viewed at <http://lwd.dol.state.nj.us/> the Prevailing Wages Determination Section.

For Time and Material bids - Compliance with New Jersey Prevailing Wage Act

Every contractor and subcontractor performing services in connection with this project, shall pay all workers a wage rate not less than the published prevailing wage rates, for the locality the work is being performed, as designated by the New Jersey Department of Labor and Workforce Development.

For Time and Material bids - Certified Payrolls

Every contractor agrees to submit to the New Jersey Participant a certified payroll for each payroll period within ten (10) days of the payment of wages. The contractor further agrees that no payments will be made to the Contractor by the New Jersey Participant, if certified payrolls are not received by the New Jersey Participant. It is the Contractor's responsibility to insure timely receipt by the district of certified payrolls.

For Time and Material bids - Submission of Affidavit

Before final payment, the contractor shall furnish the New Jersey Participant with an affidavit stating that all workers have been paid the prevailing rate of wages in accordance with State of New Jersey requirements. The contractor shall keep an accurate record showing the name, craft, or trade and actual hourly rate of wages paid to each workman employed by him in connection with this work. Upon request, the Contractor(s) and each Subcontractor shall file written statements certifying to the amounts then due and owing to any and all workmen for wages due on account of the work. The statements shall be verified by the oaths of the Contractor or Subcontractor, as the case may be.

18. New Mexico, Cooperative Educational Services (CES)

Cooperative Educational Services (CES) is the administering agency of a Joint Powers Agreement as authorized by Section 11-1-1, et. seq. NMSA 1978, which is based in Albuquerque, New Mexico, and is composed of 180 New Mexico public educational institutions (Members) such as K-12 public school districts; charter schools; colleges and universities and their branch campuses; community colleges and vocational schools; Bureau of Indian Education (BIE) schools; that are parties to the Revised and Amended Joint Powers Agreement (JPA) to establish an educational cooperative. CES was organized in 1979 as a direct response to the needs of small and rural Local Education Agencies (LEA's). CES offers numerous programs and services in the following areas: administrative support, special education services, and cooperative purchasing.

A. CES General Terms and Conditions

Arbitration: This contract is subject to arbitration to the extent required by the New Mexico Procurement Code, 13-1-21 to 13-1-199. NMSA 1978.

Assignment of CES Payments: If the Contractor requests that its payment from CES/CES Members be issued to a third party or that a joint check be issued to the Contractor and a third party, this request must be submitted and approved by the agency prior to the Contractor accepting a purchase order. The agency reserves the right to assess a special handling charge of thirty-five dollars (\$35) per check. The special handling charge will be deducted from the amount of the invoice being paid. If the Contractor wishes to have all payments under this contract made to a third party, Contractor must state this in his response.

Background Checks - Per 22-10A-5 NMSA 1978, the New Mexico Public Education Department (NMPED) mandates security and background checks for individuals working and/or providing services within public school grounds and buildings. Specifically, part C of the sections states, "Local school boards and regional education cooperatives shall develop policies and procedures to require background checks on an applicant who has been offered employment, a Contractor or a Contractor's employee with unsupervised access to students at a public school." Describe how your company will comply with the CES Member's or Participating Entity's policies and procedures in regard to background checks.

CES Members: Are the parties to the CES Joint Powers Agreement (JPA) and consist of public educational institutions within the State of New Mexico and include public school districts as defined in NMSA 1978 § 22-1-2, State Institutions as defined in NMSA 1978 § 22-1-2, State Educational Institutions defined under Article XII, Section 11 of the New Mexico Constitution, most of the community colleges defined by the "Community College Act" as defined in NMSA 1978 § 21-13-1 et seq., their branch community colleges as defined in NMSA 1978 § 21-14-1 et seq., technical and vocational institutes defined in NMSA 1978 § 21-16-1, area vocational schools defined in NMSA 1978 § 21-17-4, off campus community colleges or instructional facilities as defined in NMSA 1978 § 21-14A-1, charter schools as defined in NMSA 1978 § 22-8A-1, Regional Center Cooperatives as set forth in Section 22-2B-1 et seq., and 638 schools and grant schools. Each public educational institution is authorized by its governing body and the Procurement Code 13-1-135 NMSA 1978 to enter into cooperative purchasing agreements, pursuant to Sec. 11-1-1 et seq. 1978 Comp. and Sec. 108 of Ch. 65 of the Laws of 1984 (The Procurement Code).

CES Participating Entities: Is defined as non-public educational agencies and/or organizations classified as follows, that may participate in and purchase tangible personal property, professional, non-professional and construction services through their cooperative purchasing agreement with CES.

1. Federal Agency [25 USC 3001 (4)] is defined as any department, agency, or instrument of the United States, any executive department, military department, government corporation, government-controlled corporation, or other establishment in the executive branch of government, including the Executive Office of the President or any independent regulatory agency established through legislative and/or administrative action.
2. State Agency [13-1-90 NMSA 1978] is defined as any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or office of the executive, legislative or judicial branch of the government of this State. "State agency" includes the purchasing division

of the General Services Department (GSD) and the state purchasing agent but does not include local public bodies.

3. Local Public Body [13-1-67 NMSA 1978] is defined as a political subdivision of the State and the agencies, instruments and institutions thereof, including: two-year post-secondary educational institutions, school districts and local school boards and municipalities, except as exempted pursuant to the Procurement Code [13-1-28 NMSA 1978].
4. Non-Profit, Non-Public Educational Institutions and other Non-Profit Organizations (Section 501(c)(3) of the Internal Revenue Code, Federal Tax Code) is defined as charitable, religious, educational, public service, support and scientific organizations, entities, corporations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code, or corresponding section of the Federal Tax Code.

CES Supplemental Packet: Upon acceptance and approval of the Contractor's offer by AEPA, CES will independently consider the offer and issue a Contractor's supplemental packet requesting specific information necessary to enter and execute a contract in the state of New Mexico including information relating to: the Contractor's qualifications; ability to conduct business in the state of New Mexico; and who will be coordinating, promoting, receiving, and processing orders; and providing the prime Contractor's goods and services in New Mexico. Once the prime Contractor provides this information, CES will review, seek clarification (if needed), and conduct a Contractor conference to complete the contract execution process.

CFR - Code of Federal Regulations www.gpoaccess.gov/cfr/index.html

Civil and Criminal Penalties: The New Mexico Procurement Code, Sections 13-1-21 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

Commencement Date/Substantial Completion Date: CES's purchase order establishes the Notice to Proceed. The Substantial Completion Date refers to a stage of a construction or building project or a designated portion of the project that is sufficiently complete, in accordance with the construction contract documents, so that the owner may use or occupy the building project or designated portion thereof for the intended purpose. The allowed duration for each project will be determined by the Contract Documents between the CES Agency and the Contractor.

Confidential Information and Disclosure of Proposal Contents: For the purposes of this procurement, the provisions of the "New Mexico Inspection of Public Records Act" (NMSA 1978, Chapter 14, Article 2) will be in effect. Pursuant to this Act, all proceedings, records, contracts, and other public documents relating to this procurement shall be open to public inspection. Proposers are reminded, that while trade secrets and other proprietary information they submit in conjunction with this procurement may not be subject to public disclosure, protections must be claimed by the proposer at the time of submission of its Technical Proposal. Proposers should refer to the New Mexico Inspection of Public Records Act for further clarification.

The designation of certain information as trade secrets and/or privileged or confidential proprietary information shall only apply to the technical portion of your proposal. Your cost proposal will not be considered confidential under any circumstance. Any proposal copyrighted or marked as confidential or proprietary in its entirety may be rejected without further consideration or recourse.

The Proposer must clearly designate the part of the proposal that contains a trade secret and/or privileged or confidential proprietary information as "confidential" in order to claim protection, if any, from disclosure. The proposer shall provide a sheet with the following legend, specifying the specific section(s) of his proposal sought to be restricted in accordance with the conditions of the legend:

"The data contained in pages ____ of the proposal have been submitted in confidence and contain trade secrets and/or privileged or confidential information and such data shall only be disclosed for evaluation purposes, provided that if a contract is awarded to this Proposer as a result of or in connection with the submission of this proposal, CES and its Members and Participating Entities shall have the right to use or disclose the data therein to the extent provided in the contract. This restriction does not limit CES and its Members and Participating Entities the right to use or disclose data obtained from any source, including the proposer, without restrictions."

Further, to protect such data, each page containing such data shall be specifically identified and marked "CONFIDENTIAL". Within the required electronic submission, any item marked as confidential will need to be submitted in a separate folder marked "Confidential information".

The CES Executive Director will review the statement and will determine in writing whether the information will be withheld. If the Executive Director determines that the information should be disclosed, the Contractor will be informed in writing of such determination. Contractor may object in writing within five (5) days after notification of determination, no disclosure will be made and the bid response may be rejected.

Contract Non-Exclusive: Any contract resulting from this solicitation will be awarded with the understanding and agreement that it is for the sole convenience of CES, its Members or Participating Entities in New Mexico. CES reserves the right to obtain like goods and services from another source when necessary.

Contractor: As defined in Construction Industries Licensing Act, 60-13-1 NMSA 1978: "contractor" means any person who undertakes, offers to undertake by bid or other means, or purports to have the capacity to undertake, by himself or through others, contracting. Contracting includes constructing, altering, repairing, installing or demolishing any: road, highway, bridge, parking area or related project; building, stadium or other structure; airport, subway or similar facility; park, trail, bridle path, athletic field, golf course or similar facility; dam, reservoir, canal, ditch or similar facility; sewerage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility; sewerage, water, gas or other pipeline; transmission line; radio, television or other tower; water, oil or other storage tank; shaft, tunnel or mining appurtenance; leveling or clearing land; excavating earth; air conditioning, conduit, heating or other similar mechanical works; electrical wiring, plumbing or plumbing fixture, consumers' gas piping, gas appliances or water conditioners; or similar work, structures or installations which are covered by applicable codes adopted under the provisions of the Construction Industries Licensing Act.

The Act includes subcontractor and specialty contractor; and includes a construction manager who coordinates and manages the building process; who is a member of the construction team with the owner, architect, engineer and other consultants required for the building project; and who utilizes their skill and knowledge of general contracting to develop schedules, prepare project construction estimates, study labor conditions and advise concerning construction.

Contractor Invoice: The Contractor will send an invoice to CES or a CES Member after the delivery of goods and/or services. Goods and services will be invoiced at current contract pricing approved by AEPA including the 2% administrative fee and if applicable, the local New Mexico Gross Receipts Tax.

Contractor's Quote to CES Member or Participating Entity: When preparing a proposal under a CES awarded contract, the Contractor must clearly identify and break out supplies, materials, equipment, services, labor, and local New Mexico Gross Receipt Tax into individual line items as they appear on the Contractor's awarded price schedule or pricing methodology. Stated prices must include the CES two percent (2%) administrative fee. All costs associated with preparing cost proposals and job orders shall be the responsibility of the Contractor and must be based on a detailed scope of work and in compliance with an approved pricing methodology.

Credit Hold: The Contractor must agree not to place CES, its Member or Participating Entity on "credit hold" without ten (10) days advanced notice in writing to all parties, by letter or e-mail. Before CES can pay a Contractor's invoice, it must collect payment from the CES Member or Participating Entity that received the product. CES believes it is better for the Contractor if CES places the slow-paying agency on "credit hold". If a Contractor places CES on "credit hold," agencies that pay promptly are penalized. If, on the other hand, CES places the offending agency on "credit hold", payment is more likely to result and only the offender is punished.

Disclosure of Confidential Information: Any confidential information provided to the Contractor by CES, its Members or Participating Entities or developed by the Contractor based on information provided by CES, its Members or Participating Entities in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of CES, its Members or Participating Entities. Upon termination of this Agreement, Contractor shall deliver all confidential material in its possession to CES, its Members or Participating Entities within thirty (30) business days of such termination. Contractor acknowledges that failure to deliver such confidential information to CES, its Members or Participating Entities will result in direct, special and incidental damages.

Indemnification: To the fullest extent permitted by law, Contractor must, defend, indemnify and hold harmless

CES, its Members, its Participating Entities, its officers and employees, against any and all liability, claims, demands, actions, damages, losses, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, government action and all expenses, including attorneys' fees and litigation expenses, demands or expenses asserted by a third-party, caused by, or resulting from, Contractor 's and/or its employees, act(s) or omissions(s) while Contractor, and/or its employees, perform(s) or fails to perform its obligations and duties under this agreement or acts or omissions occurring outside of this agreement Any equipment or facilities damaged by Contractor s' operation shall be repaired and/or restored to their original condition at Contractors' expense. Contractor shall at all times keep in force liability insurance limits as outlined in this solicitation. Failure to maintain current coverage in the amounts stated may result in termination of this agreement. CES shall be named as a co-insured on the insurance policy and the policy shall provide that the policy cannot be modified or cancelled without the approval of CES.

"This provision shall survive any termination of this Agreement. Contractor will promptly advise CES in writing of any action, administrative or legal proceedings or investigation as to which defense and indemnification shall apply."

Indemnification Intellectual Property: The Contractor shall defend, at its own expense, CES, its Members and Participating Entities against any claim that any product or service provided under this Agreement infringes any patent, copyright or trademark, and shall pay all costs, damages and attorney's fees that may be awarded as a result of such claim. In addition, if any third party obtains a judgment against CES, its Members and Participating Entities based upon Contractor's trade secret infringement relating to any product or services provided under this Agreement, the Contractor agrees to reimburse CES, its Members and Participating Entities for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, CES, its Members and Participating Entities shall:

1. Give the Contractor written notice, within forty-eight (48) hours, of its notification of any claim;
2. Allow the Contractor to manage the defense and settlement of the claim as permitted by law; and
3. Cooperate with the Contractor, in a reasonable manner, to facilitate the defense or settlement of the claim.

CES, its Members and Participating Entities Rights: If any product or service becomes, or in the Contractor's opinion is likely to become, the subject of a claim of infringement, the Contractor shall, at its sole expense:

1. Provide CES, its Members and Participating Entities the right to continue using the product or service and fully indemnify CES, its Members and Participating Entities against all claims that may arise out of CES, its Members and Participating Entities use of the product or service;
2. Replace or modify the product or service so that it becomes non-infringing; or
3. Accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any product or service modified by CES, its Members and Participating Entities to the extent such modification is the cause of the claim

Insurance: On contract award, the Contractor will, at its own expense, purchase and maintain insurance that will protect it from claims that may arise out of or as a result from its activities under this contract, where those activities are performed by it, by any Subcontractor, by anyone directly or indirectly employed by any of the Contractors or by anyone for whose acts the Contractor may be liable during the entire performance period of this contract. The Contractor must furnish a Certificate of Insurance to the CES procurement officer prior to official award. If policy changes occur during the life of the contract, it is the Contractor's responsibility to provide updated proof of coverage to the CES procurement officer.

1. Will provide to CES proof of coverage under the Workman's Compensation Insurance, as required by the Labor Laws and New Mexico Statutes.
2. Bidders will submit a certificate of general liability insurance for personal injury, occupational disease, sickness or death, and property damage. Insurance will include "occurrence" claim provisions. Minimum acceptable coverage is one million dollars (\$1,000,000) combined single limit for bodily injury and property damage, or seven hundred fifty thousand dollars (\$750,000) bodily injury and two hundred fifty thousand dollars (\$250,000) property damage (each occurrence). **The Contractor will name CES and the CES Member as co-insured up to the limits of the Tort Claims Act.**

3. Will provide to CES a certificate of comprehensive vehicle liability insurance, for both owned and non-owned vehicles, shall be one million dollars (\$1,000,000) per occurrence combined single limit for both personal injury and property damage.
4. If required for professional services, will provide a certificate of errors and omissions insurance for damages caused by an error, omission, or any negligent acts caused by the Contractor and its Subcontractors in the performance under this agreement. Combined singled limit per occurrence is one million dollars (\$1,000,000) and the annual aggregate limit of not less than two million dollars (\$2,000,000). The bidder will provide "tail" coverage at the completion of any contract entered into by CES or its Members for a minimum of 12 months, or the maximum time period reasonably available in the marketplace. The Contractor shall furnish certification of "tail" coverage as described following contract completion. This will be a condition of the final acceptance of work or services.
5. In addition, Contractor must provide, upon request, identical certification of insurance to any CES Member or Participating Entity using this contract. Prior to commencing any work, all Subcontractors must procure and maintain at its own expense until final acceptance of the work, written insurance coverage, and insurer's acceptance to the prime Contractor. All Subcontractors will provide workers' compensation insurance, which waives all subrogation rights against the prime Contractor and CES/CES Member/Participating Entities.

Lease and Rentals: Contractor can allow CES Members to enter into rent, lease or lease/purchase agreements, providing such agreements are in compliance with 6-6-12 NMSA 1978 Exemption from Bateman Act, 13-1-67 NMSA1978 Definition; local public body, and Public Education Department policies, rules and regulations. CES will not collect lease payments. Contractor agrees that leases will be in compliance with the Uniform Commercial Code. All terms of leasing must be included in the proposal with interest rates described as related to a government standard. Contractor must indicate in its response to this solicitation if the shipping costs for the return of leased or rented equipment are the responsibility of the CES Member and what that cost will be. No sale of a contract to a third party will be made without informing CES and the CES Member of the transfer. If Contractor sells a lease contract to a third party, the cost of return must not be greater than the cost of return to the original Contractor.

As required by New Mexico law, the lease agreement with the CES Member or Participating Entity will need to contain a termination provision for Non-Appropriation of Funds. In the event no funds or insufficient funds are appropriated and budgeted by CES, its Members or Participating Entities (Lessee) governing body or are otherwise unavailable in any fiscal year for the payment of lease and other amounts due under any lease, the lease shall terminate on the last day of the fiscal period for which appropriations were received or other amounts are available to pay amounts due under the lease without penalty or expense to the Lessee. It is the decision of CES, its Members, or Participating Entities to determine the sufficiency of funds, which determination shall be accepted by the Lesser and is final. The Lessee shall give the Lesser or its Assignee written notice at least thirty (30) days in advance of such occurrence.

Legal Remedies: All claims and controversies are subject to the New Mexico Procurement Code, NMSA 1978, and Sections 13-1-21 through 13-1-199.

Liens: All materials and services will be free of all liens.

Local Representation: Depending on the type and level of products and services offered, the Contractor must demonstrate their sales, support, and service staff are physically located where they can respond to and deliver services in a timely and cost-effective manner.

Manufacturer Endorsement: The Contractor must demonstrate it is an authorized distributor of the products and services offered, has access to manufacturer's technical support and warranty services, and possesses the certifications required to install, configure, and maintain the products offered within the state of New Mexico.

New Mexico Procurement Code: Sections 13-1-21 through 13-1-199 NMSA 1978 may be cited as the "Procurement Code".

Offer Acceptance Period to Execute a Contract with CES: In order to allow CES the opportunity to evaluate

the bids approved by AEPA, CES requires that the AEPA approved Contractor submit to CES a complete electronic copy of its response to AEPA's solicitation with original signatures within fifteen (15) days of CES's request. CES will issue its supplemental packet within thirty (30) days after receipt and review of the approved Contractor response. The approved Contractor will have fifteen (15) days to return the CES supplemental packet. After CES receives the request information in the supplemental packet, CES issue a contract for the products and services as approved by AEPA.

Ordering Process: Contractor agrees to adhere to CES' ordering process(es).

Ownership of Materials and Documents: CES, its Members or Participating Entities shall be the sole owner of all right, title and interest, including copyright, in and to all software, plans, diagrams, facilities, and tools (hereafter "**materials**") which are originated or created through Contractor's work pursuant to this Contract. Contractor, for valuable consideration herein provided, shall execute all **documents** necessary to assign and transfer to, and vest in CES, its Members or Participating Entities all Contractor's rights, title and interest in and to such original **materials**, including any copyright, patent and trade secret rights which arise pursuant to Contractor's work under this Contract.

Patent and Copyright Infringement: Contractor will, at their expense, defend CES and its Members and Participating Entities against any claim that any equipment or software supplied hereunder (even if such equipment or software are modified by CES or its Members, subject to the last paragraph of this section) infringe a patent or copyright in the United States, or a U.S. Territory, and will pay all costs, damages and attorney's fees that a court finally awards as a result of such a claim. To qualify for such a defense and payment, CES must:

1. Give Contractor prompt written notice of any such claim after becoming aware of such claim.
2. Allow Contractor to control and fully cooperate with Contractor in the defense and all related settlement negotiations.

CES will be reimbursed for all expenses incurred by CES in fully cooperating with Contractor as specifically requested by contract. CES is not required to incur any expenses specified in this paragraph, which are not reimbursable, by the Contractor. If any CES Member and Participating Entities are involved by any party in any way, the same provisions that apply to CES in this paragraph will apply to the CES Member or Participating Entity. Contractor's obligation under this section is conditioned on CES' agreement that if the subject of such a claim, CES will permit the Contractor, at its expense and option, either to procure the right for CES and its Members or Participating Entity to continue using the equipment and/or software, or to replace or so modify with equipment or software which are functionally equivalent so that they become non-infringing. If neither of the foregoing alternatives is available on terms which are reasonable in Contractor's judgment and satisfactory to CES, CES will request its Members or Participating Entity to return the equipment or software on written request by Contractor at Contractor's expense.

Contractor agrees to refund CES, its Members or Participating Entities a refund for returned equipment as depreciated unless otherwise mutually agreeable in writing. The depreciation will be an equal amount per year over six (6) years. In the event that Contractor's written request for return is made after full depreciation, the Contractor will pay CES, or its Members who purchased the equipment, an amount equivalent to the fair market value of the returned equipment. If CES, or any of its Members or Participating Entities, fails to return the equipment, the Contractor is not obligated to that Member under this clause.

Contractor will have no obligation with respect to any such claim based upon a Member's or Participating Entity's modification of the equipment or software or combination, operation or use with apparatus, data or programs not furnished by Contractor. However, one Member's or Participating Entity's action will not preclude Contractor's obligation to others not having modified their equipment or software.

Payment by CES: CES will make every effort to collect payment from Members or Participating Entities for the purchase of goods and services within thirty (30) days after the receipt of goods or services and a correct invoice of amount due, unless a good faith dispute exists as to any obligation to pay all or a portion of the account. Any offer that requires payment in less than forty-five (45) days shall not be considered. CES must first receive payment from the Member or Participating Entity in order to process payment to the Contractor. Any Contractor whose business would be in jeopardy due to slow payments is encouraged not to respond. It has been CES' experience that public agencies always pay, but many are slow in processing payments.

Payments by Member or Participating Entities: For the purchase by a Member or Participating Entity directly from the Contractor for goods and services that have been received and accepted. Payment from the Member or Participating Entity to the Contractor will be made within forty-five (45) days after the receipt of a correct invoice, unless a good faith dispute exists as to any obligation to pay all or a portion of the account. If a dispute arises or an agency's account becomes delinquent, the Contractor is encouraged to contact and request assistance from CES. Any offer that requires payment in less than forty-five (45) days shall not be considered.

Payment of Administrative Fee: When a CES Members or Participating Entities issue payment directly to the Contractor for goods and services received and accepted. The Contractor will, upon receipt of payment from a CES Member or Participating Entity, issue payment to CES for an administrative fee in an amount equal to two percent (2%) of the total invoice amount.

Price List: The AEPA Contractor will submit to CES and/or its Members and Participating Entities (if requested) or make available on its website all applicable pricing for all products and services proposed, approved, and awarded under this solicitation. Price lists submitted must be in accordance and comply with the AEPA's terms, conditions, and the requirements of the CES purchasing process utilized to facilitate eligible procurement agencies' staff to place and process orders. When utilizing any of the pricing methodologies identified and required within this solicitation, such discounts and pricing will include the CES two (2%) percent administrative fee, must be submitted in the format required, and can be audited by CES.

Public Record: All documents associated with this AEPA contract will become the property of CES and be a matter of public record available for review, after the final award notification according to the "New Mexico Inspection of Public Records Act" (NMSA 1978, Chapter 14, Article 2). All proposals may be reviewed under the supervision of CES staff by appointment, from 9:00 a.m. to 4:00 p.m., Monday through Friday, at 4216 Balloon Park Road NE, Albuquerque, New Mexico, 87109.

Safety Measures: Contractor will comply with all federal and state of New Mexico safety regulations.

Severability: The provisions of this contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract, which may remain in effect without the invalid provision or application.

Smoking: All Contractors and subcontractors must adhere to CES Member or Participating Entity smoking policies.

Taxes: Prices offered will not include applicable State of New Mexico Gross Receipts Tax (NMGR). All applicable NMGR must be listed as a separate line item on all invoices. No gross receipts taxes can be collected on delivery charges to the agency's location.

1. There is no NM State Gross Receipt Taxes NMGR applied to the price of non-construction supplies, materials, and equipment.
2. There will be NM State Gross Receipt Taxes NMGR applied to any non-construction services and professional services based on the location of the provider.
3. There will be NM State Gross Receipt Taxes NMGR applied to any construction product and/or service based on the physical location of the construction site.
4. Indian Reservation or Tribal Tax: If goods or services are delivered to locations on a Indian reservation or purchased by tribal governments, they are subject to tribal taxes.

5. A Bidder will be required to provide tax indemnification number (CRS) issued by New Mexico Taxation and Revenue Department at time of contract award.

Termination for Convenience: CES can, by written notice stating the effective date, terminate the contract issued for convenience in whole or in part, at any time. CES shall pay Contractor as full compensation for performance until such termination as follows:

1. The unit or pro-rata order price for the delivered and accepted portion; and
2. A reasonable amount, not otherwise recoverable from other sources by Contractor as approved by CES with respect to the undelivered or unaccepted portion of the service, provided compensation shall in no event exceed the total contract price.

Termination for Default: CES reserves the right to terminate in whole or any part of the contract due to the failure of the Contractor to carry out any obligation, term or condition of the contract. CES may issue written notice to the Contractor for acting or failing to act under the following conditions.

1. The Contractor provides material that does not meet the specifications of the contract.
2. The Contractor fails to complete the services set forth in the specifications of the contract.
3. The Contractor fails to complete the work required or to furnish the materials required within the specified time.
4. The Contractor fails to make progress in the performance of the contract and/or gives CES cause to believe that the contractor will not or cannot perform the requirements of the contract.
5. The Contractor fails to observe any or all of the terms and conditions of the contract.
6. The Contractor accepts purchase orders, based on this contract, directly from a CES Member or Participating Entity and then invoices them directly.
7. Any other conditions that, in the opinion of CES, warrants such action.

Upon receipt of a written notice, the Contractor will have ten (10) days to provide a satisfactory response in writing to CES. Failure on the part of the Contractor to satisfactorily respond can result in CES terminating the contract.

Termination for Gratuity: CES shall, by written notice, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any employee of CES with a view toward securing a contract or the respect to the performance of the contract. Paying the expenses of normal business meals, which are generally made available to all eligible school and government employees, shall not be prohibited by this paragraph. Samples of software, equipment, or hardware provided to CES for demonstration, evaluation, or loan purposes are not considered gratuities.

Termination for Non-Performance or Contractor Deficiency: CES can terminate any contract if CES Members have not used the contract in any 12-month period, or if purchase orders total less than \$10,000 per year. CES reserves the right to cancel the whole or any part of this contract due to failure by Contractor to carry out any obligation, term or condition of the contract. CES may issue a written notice to Contractor for acting or failing to act in any of the following:

1. Providing material that does not meet the specifications of the contract;
2. Failing to adequately perform the services set forth in the scope of work, specifications or contract;
3. Failing to complete required work or furnish required materials within a reasonable amount of time;
4. Failing to make progress in performance of the contract and/or giving CES reason to believe that contractor will not or cannot perform the requirements of the contract;
5. Performing work or providing services under the contract prior to receiving a purchase order from CES for such work;
6. Accepting purchase orders based on this contract from CES Members and/or invoicing CES Members directly.
7. Fails to observe any or all of the terms and conditions of the contract.
8. Any other conditions that, in the opinion of CES, warrants such action.

Upon receipt of a written notice, contractor will have ten (10) days to provide a satisfactory response to CES. Failure to adequately address all issues of concern may result in contract cancellation. Upon cancellation under

this paragraph, all goods, materials, work, documents, data, and reports prepared by Contractor under the contract will become the property of the CES Member on demand.

Termination for Non-Appropriation: Any individual Member's or Participating Entities' project may be terminated if insufficient appropriations or authorizations do not exist due to changes in state or federal law, or because of court order, or because of insufficient appropriations made available to Members or Participating Entities governing board and/or the New Mexico State Legislature. Such termination will be effected by sending fifteen (15) days written notice to the Contractor. The CES Members or Participating Entities decision as to whether sufficient appropriations and authorizations are available shall be accepted by the Contractor and shall be final.

B. Construction Terms and Conditions – For construction products and services.

Additional Contract: A contract between the CES Member or Participating Entity and the Contractor for construction will be an industry standard agreement. The parties may agree to use the American Institute of Architects (AIA) General Conditions of Contract for Construction Form A201 as a guide.

Bonds:

1. Upon execution of a contract between a CES Member/Participating Entity and the prime Contractor for a project with a value twenty-five thousand (\$25,000) or more, will provide performance and payment bonds from a surety company authorized to do business in New Mexico in accordance with the New Mexico Insurance Code and be a surety listed in the US Treasury Circular 570.
2. The prime Contractor will execute a performance bond in an amount equal to one hundred percent (100%) of the price specified in the contract between the CES Member or Participating Entity and the prime Contractor by a surety company authorized to do business in New Mexico in accordance with the New Mexico Insurance Code and be a surety listed in the US Treasury Circular 570. Performance bonds between the CES Member or Participating Entity and the prime Contractor will be on standard AIA or similar forms.
3. All suits for nonpayment or nonperformance will be filed as allowed under New Mexico law.
4. Any Subcontractor providing or performing one hundred and twenty-five thousand dollars (\$125,000) or more of work for an individual project, must submit to the prime Contractor a performance and payment bond equal to one hundred percent (100%) of the subcontract cost from a surety company authorized to do business in New Mexico in accordance with the New Mexico Insurance Code and be a surety listed in the US Treasury Circular 570.
5. Acceptable forms of bonds are AIA Document A310-2010 Bid Bond or NASBP that includes the same language as the AIA Document A310-2010.

Construction: As defined in the New Mexico Procurement Code Regulations under 13-1-40 NMSA 1978. Definition: "construction" means building, altering, repairing, installing or demolishing in the ordinary course of business any road, highway, bridge, parking area or related project; building, stadium or other structure; airport, subway or similar facility; park, trail, athletic field, golf course or similar facility; dam, reservoir, canal, ditch or similar facility; sewage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility; sewage, water, gas or other pipeline; transmission line; radio, television or other tower; water, oil or other storage tank; shaft, tunnel or other mining appurtenance; electrical wiring, plumbing or plumbing fixture, gas piping, gas appliances or water conditioners; air conditioning conduit, heating or other similar mechanical work; or similar work, structures or installations. Construction shall also include: leveling or clearing land; excavating earth; drilling wells of any type, including seismographic shot holes or core drilling; and similar work, structures or installations.

Construction Contractor and Subcontractor Licenses: The prime Contractor and any Subcontractors shall possess the appropriate New Mexico Construction Industries Division (NMCID) Contractor's license required to provide the construction products services. Any Contractor using subcontractors must hold a current and appropriate Contractor's license, as defined in Construction Industries Licensing Act, 60-13-1 NMSA 1978. It is the responsibility of the Contractor to ensure that any subcontractors performing under this contract hold and maintain the appropriate Contractor's licenses as defined in Construction Industries Licensing Act, 60-13-1 NMSA 1978. The Contractor and any Subcontractors must maintain and keep current all licenses during the term of the contract.

New Mexico Building Codes: The Contractor when providing construction services must adhere to the most current version of the New Mexico Building Codes.

New Mexico Construction Industries Division: New Mexico Construction Industries Division (NMCID) is a state agency that is responsible for and enforce all licensing requirements for any one engaged in construction-related contracting in New Mexico. This includes general construction work, electrical, mechanical, and plumbing and LP gas. The activities that are considered to be contracting in New Mexico are defined in the Construction Industries Licensing Act, NMSA 1978, Section 60-13-3.

New Mexico Contractor Public Works Registration Requirement: As defined in Public Works Minimum Wage Act 13-4-13.1 NMSA 1978. In order to respond to a request for proposals or to be considered for award of any portion of a public works project greater than Sixty Thousand Dollars (\$60,000) for a public works project that is subject to the Public Works Minimum Wage Act [13-4-10 to 13-4-17, NMSA 1978], the Contractor, serving as a prime Contractor or not, shall be registered with the New Mexico Department of Workforce Solutions. The State, or any political subdivision of the State, shall not accept a bid on a public works project subject to the Public Works Minimum Wage Act from a prime Contractor that does not provide proof of required registration for itself. Contractors and subcontractors may register with the New Mexico Department of Workforce Solutions on a form provided by the division and in accordance with the Department of Workforce Solutions department rules.

Because this solicitation is for an indefinite quantity and the amount of work to be performed on individual projects is not known, CES is requiring that all Contractors be registered on or before the date of the proposal opening and keep their registration current during the term of the contract and all contract extensions.

New Mexico Public School Facilities Authority: New Mexico Public School Facilities Authority (NMPSFA) is the administrative unit created by the New Mexico legislature to carry out and act on behalf of the Public School Capital Outlay Council to administer, coordinate and provide general oversight for "state-funded construction", which is defined as a building or appurtenance to a building that is built in whole or in part with state capital outlay monies. As part of their oversight function, NMPSFA will receive and review construction project documents and coordinate with other state agencies such as NMCID, Environment Department, Department of Energy, Minerals and Natural Resources, State Fire Marshal's Office, etc., to ensure compliance with all applicable adequacy standards, rules, regulations, building, plumbing, electrical, fire prevention, and mechanical codes adopted by the state, county, city, town or fire district in which the construction project is located.

New Mexico Public Works Act: Sections 13-4-1 through 13-4-43 NMSA 1978 may be cited as part of the "Procurement Code".

New Mexico State Wage Rates: It is the contractor's responsibility to be acquainted with the New Mexico Department of Labor's rules, regulations, procedures and requirements relating to state wage rates, and to comply with state and federal regulations regarding payment of wages on public projects. The contractor will pay state wage rates for every job performed under this contract with a total project cost of more than Sixty Thousand Dollars (\$60,000) on an individual basis. The contractor will pay all mechanics and laborers employed on the site of the project by the contractor, unconditionally and not less often than once a week, and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications.

New Mexico State Wage Rate Documentation:

1. The New Mexico Department of Workforce Solutions (NMDWS) requires that certain forms be completed for every project in excess of \$60,000. CES will submit for the wage decision and, upon receipt of the decision, will provide it to the prime Contractor. The Contractor is responsible for completing and submitting the required forms to the NMDWS and must provide CES with a copy of the following required forms: Notification of Award, Statement of Intent to Pay Prevailing Wages, and Affidavit of Wages Paid.
2. The prime Contractor must submit the Statement of Intent to Pay Prevailing Wages and the Notification of Award to NMDWS with a copy being mailed, faxed or e-mailed to CES, prior to the start of the project. The Affidavit of Wages Paid must be submitted to NMDWS with a copy being mailed, faxed or e-mailed to CES at the conclusion of your work on the project. The prime Contractor is responsible for insuring that its subcontractor(s) also submit the Statement of Intent to Pay Prevailing Wages and the Affidavit of Wages Paid to NMDWS, with a copy being mailed, faxed or e-mailed to CES.

3. CES will not make any payments until copies of the Notification of Award, Statement of Intent to Pay Prevailing Wages and for projects \$25,000 or greater until the Payment and Performance Bonds are received by CES. Final payment will not be released until CES receives a copy of the Affidavit of Wages Paid.

New Mexico Workforce Solutions Contractor Registration Requirement: In order to submit a bid or response to a request for proposal valued at more than sixty thousand dollars (\$60,000) or to be considered for an award of any portion of a public works project greater than sixty thousand dollars (\$60,000) and for a public works project that is subject to the Public Works Minimum Wage Act (13-4-10 NMSA 1978), the contractor, serving as a prime contractor or subcontractor, shall be registered with the New Mexico Department of Workforce Solutions, Public Works (13-4-14.1 NMSA 1978) before CES can issue a purchase order. (see above)

Payment Retention, Progress Payments:

1. In order to comply with New Mexico Statutes Annotated 1978, Article 28 Retainage, 57-28-1 to 57-28-11, CES will not retain any funds on progress payments during any construction projects. The prime contractor agrees to only request payment for goods and services delivered, received and accepted by the CES Member or Participating Entity.
2. Final payment of a contract, for which progress payments have been made, will not be made until the project is totally completed (including punch list items and close out document delivered), and the final application for payment is signed by the CES Member or Participating Entity, received and audited by CES.
3. If the CES Member or Participating Entity and the prime contractor agree to retainage or a substitute security, the agreement must be in full compliance with New Mexico Procurement Code and applicable laws. If a substitute security or retainage is agreed upon, written notice must be provided to all parties prior to the issuing of a CES purchase order.
4. If the CES Member, Participating Entity, or their designee issues a written statement to the contractor that the estimate of work is not approved and certified, an amount from the progress payment determined to be reasonably sufficient to cover the deficiency set forth in the written finding maybe withheld. In such cases, the contractor agrees to hold CES harmless for any deficiency of payment. If any payment is delayed beyond forty-five (45) days from the due date, the contractor agrees not to charge CES interest on the late payment

Progress Payments for Construction: All progress payments must be invoiced through CES. It is the responsibility of the CES using agency and/or its designee to review and approve any estimates of work completed. If the CES using agency or their designee issues a written statement to the contractor per 57- 28-5 NMSA 1978 A. "If an owner receives an improperly completed invoice, the owner shall notify the sender of the invoice within seven days of receipt in what way the invoice is improperly completed, and the owner has no further duty to pay on the improperly completed invoice until it is resubmitted as complete..." In such cases, the contractor agrees to hold CES harmless for any deficiency of payment.

Quality Control Issues:

1. During the course of the contract, the Member's/Participating Entity's contact person may secure samples according to Construction Industries Division guidelines or industry standards of materials being used from containers at the job site and submit them to an independent laboratory for comparison to specified material.
 - a. Should test results prove that a material is not functionally equal to or better than specified, the prime Contractor will pay for all testing and any cost incurred to have materials installed to replace those found not to comply with the specifications and remove and dispose of the materials not complying.
 - b. Should test results prove that materials tested were functionally equal to the specified material, the prime Contractor will be notified of the results.
2. Should the Member/Participating Entity and the Contractor encounter a situation and/or condition that they cannot agree on or resolve during the execution of the project and/or during the project close-out process, CES has consultants under contract that either of the parties can engage to review, investigate, evaluate, and issue a written report on their findings and propose recommendations/solutions for addressing the concerns and issues.

Site Cleanup: Contractor will clean up and remove all debris resulting from its work as required by the CES Member or Participating Entity. The contractor shall comply with all laws and regulations governing disposal of construction and hazardous materials. Upon completion of the work, the premises will be left in a neat,

unobstructed condition with everything in good repair and order.

Site Examination: Contractor shall familiarize itself with the site, in order to anticipate unseen problems that may develop as the work progresses. Failure to have visited the site before submitting a job order proposal shall in no way relieve the contractor from furnishing any materials or performing any work required to complete the project in accordance with the contract documents, without additional cost to the CES Member/Participating Entity.

Site Preparation: Prior to a purchase order being issued by a CES Member or Participating Entity, the size, location and site conditions that exist at the time the contractor takes possession and/or control must be clearly identified and stated in writing. The contractor will not begin a project for which the site is not prepared or in the condition agreed upon in writing by the CES Member or Participating Entity, unless contractor decides to accept the site as is and is willing to perform the preparation work necessary at no cost, or until the CES Member or Participating Entity has included the cost of site preparation in a purchase order to CES. Site preparation may include, but is not limited to, moving furniture, clearing the site, securing the site, installing wiring for networks or power and similar pre-installation requirements.

Subcontractors: If it is necessary for the Offeror to contract with third party firms to provide various goods and services, the following will apply:

1. In accordance with the "Subcontractor Fair Practices Act", 13-4-31 to 13-4-42, NMSA 1978, the following information is required to be submitted with any job order project:
 - a. The name of each subcontractor who will be performing work or rendering service on the public works project and whose total contract will be the greater of:
 - i. Five Thousand Dollars (\$5,000); or
 - ii. One half of one percent (.005%) of the total project (to be estimated by the architect and/or engineer of record).
 - b. Address of the place of business
 - c. Subcontractor license number
 - d. Type of work or services to be performed by the subcontractor.
 - e. Pursuant to Section 13-4-38 NMSA 1978, if an Offeror fails to list a subcontractor in excess of the listing threshold on any job order contract, and they do not state that the provider is a sole source or that they will put all work that exceeds the threshold to individual bid each time, they are stipulating that they are fully qualified to perform the proposed products and services themselves and that they will perform all work themselves. After the specific job order contract award, any change in subcontractors must be approved by CES and the CES Eligible Agency, otherwise, the Offeror will be guilty of violation of the Subcontractors Fair Practices Act and subject to the penalties provided therein.
2. Subcontractor must be registered with New Mexico Department of Workforce Solutions, Public Works section.
3. CES and its Eligible Agencies reserves the right to approve, reject and replace any subcontractor proposed by the Offeror pursuant to 13-4-36 NMSA 1978.
4. Subcontractors will need to provide performance and payment bonds to prime Contractor if the sub-contract is greater than \$125,000 pursuant to 13-1-148.1 .
5. Any agreements with subcontractors shall incorporate, by reference, the terms and conditions of this solicitation and each individual project contract.
6. No subcontract will be entered into with any unlicensed party. Contractor must use subcontractors openly, include such arrangements in the proposal and certify upon request that such use complies with the rules of the NMCID, New Mexico Public Works Act and New Mexico Procurement Code.
7. Subcontractor Payment: Contractor agrees to pay subcontractors in a timely manner and in accordance with the New Mexico Prompt Payment Act pursuant to 57-28-5 NMSA 1978. If Contractor receives a progress payment from CES, the Contractor will pay subcontractor(s), "...within seven days after receipt of payment from the owner, contractor or subcontractor..." pursuant to 57-28-5 C. NMSA 1978. CES will contract to provide release of liens from subcontractors within fifteen (15) days of date of payment. Failure to pay subcontractors, pursuant to 57-28-5 C. NMSA 1978, for work faithfully performed and properly invoiced can result in the suspension or cancellation of this contract.

8. Subcontractor's labor used must be of a standing or affiliation that will permit the work to be carried on harmoniously, without delay and will not cause any disturbance, interference or delay to the progress of the project. Subcontractor and lower-tier subcontractors will not employ anyone whose employment might be objected to by prime Contractor or Member.
9. It is the responsibility of the Contractor to inform all suppliers and subcontractors that this contract is a cooperative purchasing contract and that the CES Eligible Agency must make payments to CES before CES can issue progress payments to the Contractor. The Contractor must provide CES with all subcontractors and suppliers information utilized for any individual project performed.
10. Contractor and Subcontractor are responsible for obtaining background checks for any employee working on a CES project per the CES Member's background check policy.

19. North Dakota, North Dakota Educators Service Cooperative (NDESC)

i. General Terms and Conditions that apply for all categories

- a. **Governing Law:** The laws of the State of North Dakota govern all contracts resulting from this IFB. Each and every provision of law and clause required by law to be included in a contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction.
- b. **Governing Venue:** The resulting contract award shall be deemed to have been made and performed in Cass County, North Dakota. For the purpose of venue, all legal arbitration or causes for action arising out of the resulting agreement shall be brought to the courts of Cass County, North Dakota.
- c. **Hazardous Substances:** All hazardous products purchased by members shall include a Safety Data Sheet (SDS) with the delivery.
- d. **Lease and Rental Agreements:** The Vendor may allow participating agencies to enter into a rental, lease, or lease purchase agreements, providing such agreements are in compliance with North Dakota Statutes and guidelines. NDESC must receive a report annually, summarizing the executed lease purchases along with a summary of the participating agencies' purchases. NDESC will not collect lease payments or be involved in the terms and conditions of the lease. All lease arrangements are between the Vendor and the participating agency. The Vendor agrees that leases will be in compliance with the Uniform Commercial Code. The applicable administrative fee must be included in the lease cost based on the total value of the goods and applicable services purchased. This fee is referred to under the Technical Specifications. The Vendor should attempt to work with NDESC's current leasing vendor. Note, the current leasing vendor may require a minimum purchase amount to begin the leasing process. Should the Vendor be required to utilize their own financial leasing company, this should be noted/requested as an exception. In the event of a lease, the total administrative fee for the value of goods shall be paid to NDESC by the vendor at the front end of the lease. NDESC reserves the right to review all purchase orders, lease documents and invoices to insure contract compliance.
- e. **Marketing and Promotion:** Upon award and completion of the vendor orientation, NDESC will promote the contract opportunity via its websites. NDESC will also announce the new partnership in its newsletters and will publish the contract and marketing information through hard copy marketing items (i.e. flyers, postcard) and electronic email. Contracts will also be promoted at applicable trade shows, conferences, and meetings on a regular basis. NDESC may assist in the development of these materials if requested by the Vendor, but in all cases shall have the authority to review and approve any marketing materials. If a website is used, the link will be made available from the NDESC website. Any web page or link, or other marketing tools shall be dedicated to NDESC information only.
- f. **Non-Discrimination:** Any resulting contract for on or behalf of participating agencies, said Vendor agrees to:
 - i. That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;
 - ii. That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color;
 - iii. That a violation of this section is a misdemeanor; and
 - iv. That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.
- g. **Participating Agency:** A participating agency shall be defined in accordance with Chapter 54-40.3

of the North Dakota Century Code, as amended. An eligible agency includes any school, higher education, city, county, other governmental agency, nonprofit organization, or other entity contracted to conduct business on behalf of a participating agency provided that they are required to follow state and local procurement regulations.

- h. **Substance Use and Conduct:** All Vendor partners and subcontractors must adhere to local substance (alcohol, drug, smoking, etc.) and conduct (dress code, language, parking, etc.) policies while on a participating agencies' premises.
- i. **Vendor Orientation (NDESC 101):** The Vendor and their participating resellers/sub-contractors will be required to participate in an online training session that is designed to educate the Vendor and resellers/sub-contractors on the purpose and nature of NDESC. The Vendor will not be marketed to participating agencies until they have completed the vendor orientation session.

2. Additional Participating Agency Terms and Conditions for Non-Construction Products and Services

If requested by NDESC, the contracted vendor will work with NDESC to develop an order form, or order forms, containing the most commonly purchased items, that NDESC can utilize to market the contracted vendor to its participating agencies.

3. Additional Participating Agency Terms and Conditions for Construction Related Products and Services

Upon acceptance and approval of the Vendor's offer by AEPA, NDESC will independently consider the offer and conduct a conference call with the Vendor to determine if the Vendor is able to meet the necessary requirements for construction related products and services, according to [Chapter 48-01.2 of the North Dakota Century Code](#), and to enter and execute a contract in the state of North Dakota. Once NDESC and the Vendor are able to confirm that business is able to be conducted in North Dakota, NDESC will make a final decision to complete the contract execution process.

For all quotes provided to participating agencies, for construction related projects, products and services, the contracted vendor must also send a duplicate quote to NDESC. The quote provided to NDESC must include the contact information of the participating agency.

Performance Bond (for construction and/or installation related projects): Performance bonds will be required on all projects valued at fifty-thousand dollars (\$50,000) or more in North Dakota. All performance bonds will be issued by a corporate surety authorized to do business in the state in which the work will be conducted and by a surety listed in the US Treasury Circular 570. Performance bonds will be posted by the Vendor and submitted to the specific participating agency for the assigned project. Should the contract be the result of a piggyback agreement, performance bonds will reflect each state's bonding requirements.

The Vendor will execute a performance bond in an amount equal to one hundred percent (100%) of the value specified in the contract between the participating agency and the Vendor, unless the participating agency requires less to be posted. This bond will protect all persons supplying labor and material to the Vendor for the performance of the work provided in the contract. Subcontractors who may work on the contract may have to provide the Vendor with a performance bond. If the contract price increases after the bond is provided, the participating agency may consider obtaining additional bonds from the Vendor.

The Vendor will deliver the performance bond to the eligible participating agency at the time the contract is executed between the agency and the Vendor. Work will not commence between the Vendor and the eligible participating agency until the performance bond is received by the participating agency and a copy has been sent to NDESC via email (info@purchasingconnection.org). The Vendor will be responsible for providing NDESC with a copy of all contracts and bonds in accordance with NDESC purchasing procedures. Should the Vendor fail to satisfactorily perform the contract, the bonding company that provided the performance bond will be required to pay the dollar amount of the bond to the participating agency.

It is the Vendor's responsibility to ensure that they can obtain the required bonding for all construction products based on an awarded contract arising from this solicitation. Payment will not be issued for any project for which the required bonds have not been received.

4. Procedure for Contract Award, Notification and Processing Orders

Once the award is recommended by the AEPA Review Committee, NDESC considers the recommendation based on the value of the potential contract for its participating agencies. Participating agency is defined as any city, county, public or private educational agency, nonprofit or governmental agency that is a participant of NDESC. In the event of an award by the Board of Directors, NDESC will inform its members of the award and contract by the following methods along with contract instructions and ordering process.

- a. The contract is listed and promoted on the NDESC website (www.ndesc.org).
- b. Announcing the award in NDESC newsletters.
- c. NDESC will publish the contract and marketing information through a hard copy marketing flier and electronic email. Contracts are promoted through PDF and a hard copy product catalog distributed at statewide trade shows and agency meetings on a regular basis. NDESC will require a marketing flier, brochure, or other similar marketing pieces, in an editable, electronic format, from each vendor promoting the available contract with the vendor, and/or a web page or link. NDESC may assist in the development of the marketing flier and material (if requested by vendor), but in all cases shall have authority to review and approve any marketing materials. If a web site is used, the link will be made available from the NDESC web page. Any web page or link, or other marketing tool shall be dedicated to AEPA information only.
- d. When the member identifies a desired product or service, the member and the vendor may negotiate with each other to establish a description of items and/or services. The vendor shall quote a price to the member, in writing, using AEPA established discounts and including the two percent (2%) administrative fee in the quoted price. The administrative fee shall be based upon the total cost of goods and/or services including installation costs. The administrative fee shall not be listed as a separate line item on the quote. When a member decides to purchase through the NDESC-AEPA contract, the member issues the purchase order directly to the vendor. The purchase order must include the total invoiced cost, based on
 - i. The total cost of goods, service, and installation, including the 2% administrative fee.
 - ii. Notification will be made to the vendor in the event the purchase order is not in compliance with the contract and adjustments will be made at that time. NDESC and the vendor will mutually resolve any issues with regard to past purchases. The purchase orders are to continue to be processed and viewed as approved unless notified by NDESC otherwise. All sales and transactions may continue without delay or in anticipation of the NDESC purchase order verification.
 - iii. Once all the items and services on the purchase order have been delivered to the member in a complete and satisfactory manner, the vendor then files a copy of the final invoice, which is available to NDESC by request in support of the quarterly sales summary. The invoice is to be marked "Copy".
 - iv. Vendor makes all deliveries and installations of products and services. NDESC does not warehouse items or provide installation services.
 - v. This administrative fee is to be paid by the vendor to NDESC, quarterly, within 20 working days after the end of each fiscal quarter. The AEPA vendor shall also submit to NDESC a sales report, in Excel format, listing the following information:
 1. Name of purchasing agency
 2. Address of purchasing agency
 3. Date of purchase
 4. Invoice number
 5. Amount of purchase
 6. Administrative fee generated by sale
 7. Savings generated by sale
 8. This report shall include all sales made and payments received by the vendor in said quarter. The sales report shall be emailed to Jane Eastes at jeastes@lsc.org and copied to Lori Mittelstadt at lmittelstadt@lsc.org. The administrative fee payment shall be delivered to Jane Eastes, NDESC, 1001 East Mt. Faith, Fergus Falls, MN 56537. The check shall be made out to North Dakota Educators Service Cooperative.
 - vi. NDESC requires that all participating vendors offer the contract opportunity to all NDESC participating agencies.

5. **Express Online Marketplace:** NDESC provides participating agencies with an online purchasing platform called Express, powered by EqualLevel. Through Express, agencies are able to search for and purchase items. Essentially, Express is a one-stop shop for many of NDESC's commodity based contracts. A Vendor does not have to have an e-commerce site to be included in Express. NDESC expects growth in the number of agencies utilizing the marketplace and the volume of sales to grow significantly. NDESC will work with the Vendor to determine if the contract agreement is suitable for the online platform. If deemed suitable, NDESC will require integration into Express within a timely manner.

20.OHIO COUNCIL OF EDUCATIONAL PURCHASING CONSORTIA (OCEPC) 2019

A. General Terms and Conditions that apply for all Categories:

1. Compliance with Laws/Forum Designation

Contractor shall comply with Federal, State, and Local Laws, Codes and Regulations while fulfilling the contract. It is the Contractor's responsibility to be aware of and comply with all state and local laws governing this procurement. Applicable laws, codes, and regulations (etc.) must be followed even if not specifically identified herein. Contractor shall verify to the Ohio Council of Educational Purchasing Consortia (OCEPC), its Member Agencies and other qualifying purchasers that the Contractor is complying with all Federal, State and Local Laws, Codes and Regulations while fulfilling the contract. Moreover, this contract shall be governed by and construed in accordance with the laws of the State of Ohio without giving effect to its principles of conflict of law. Legal proceedings arising under this contract shall be brought in an Ohio Court of Common Pleas of the County where the Member Agency's main office is located.

2. Delinquent Tax Affidavit

Contractor shall provide an affidavit relating to delinquent taxes as may be required by Ohio Revised Code Section 5719.042.

3. Secretary of State Registration

Contractor shall meet and maintain all registration requirements as necessary to conduct business in the State of Ohio, including but not limited to registration with the Ohio Secretary of State.

4. Findings for Recovery

Contractor warrants and represents that it is not subject to a finding for recovery under Ohio Revised Code Section 9.24, or that Contractor has taken the appropriate remedial steps required under Ohio Revised Code Section 9.24, or otherwise qualifies under Ohio Revised Code Section 9.24.

5. Ohio Workers Compensation Insurance

Contractor, and any subcontractors hired by Contractor shall, at their own expense, maintain in force for the duration of the project workers' compensation and employer's liability insurance as required by the laws of the State of Ohio.

6. Project Personnel, Student Safety and Background Checks

Member Agency shall have the right to reject the participation of any personnel of Contractor in the performance of the services if, in relation to the work assigned to them, the Member Agency deems such personnel to lack the skill, experience and expertise required to perform the services or if Member Agency considers their performance to be substandard or otherwise detrimental to the proper completion of the services. Contractor will advise Member Agency promptly of any change in the project manager or other key personnel assigned to the performance of the services.

Contractor acknowledges that the safety of the Member Agency's students, employees, officials and guests is of the utmost importance. Contractor will endeavor to ensure that its officers, employees, agents, representatives, and consultants will take no action that would jeopardize the safety of the Member Agency's students, employees, officials, or guests. The Member Agency reserves the right to require Contractor's officers, employees, agents, representatives and consultants to wear identification and stay in designated work areas at all times while on the Member Agency's property. The Member Agency shall have the right to effect the immediate removal of any person associated in any way with Contractor from Member Agency property for failure to wear identification, for being outside a designated work area, for fraternizing with or engaging in any improper behavior directed toward or in the vicinity of students, employees, officials, or guests of the Member Agency or for any other good cause.

Contractor shall perform or cause to be performed an Ohio Bureau of Criminal Investigation and Identification and Federal Bureau of Investigation criminal background check of any personnel that will be performing the services within the proximity of minors. Contractor shall notify the Member Agency of any proposed employee who has been convicted, pled guilty or pled "no contest" to a criminal offense, and the Member Agency reserves the right to reject the proposed employee with a criminal background. No person shall be employed by Contractor who has been found guilty of any of the criminal offenses enumerated in Ohio Revised Code Section 3319.39 without prior approval of the Member Agency.

7. Independent Contractor

Contractor shall be an independent contractor and neither Contractor nor any of its subcontractors, nor the employees of any thereof, shall be deemed to be the servants, employees, or agents of Member Agency. Contractor shall be responsible for paying all costs related to its employees and managers performing the services. Contractor shall remain liable and responsible to Member Agency for all of its obligations under this contract, regardless of whether the services are performed by the Contractor or a subcontractor of any tier.

8. Ownership of Instruments of Service

Drawings, data and other documents prepared by, or with the cooperation of, the Contractor pursuant to this contract shall become, upon payment of all undisputed compensation due the Contractor from the Member Agency, the property of the Member Agency. Such drawings, data or other documents may be used by the Member Agency or others employed by the Member Agency without compensation to the Contractor.

9. Audit

Member Agency may audit and inspect Contractor's records and accounts at any time during the Contractor's performance of the services and for a period of two (2) years following the completion or termination of the services for the purpose of verifying any invoice and underlying documentation presented by Contractor, it being understood that Contractor agrees to preserve all such documents through such two- (2) year period.

10. Notices

Unless otherwise expressly provided in this contract, all notices and other communications given under the contract shall be in writing and shall be deemed effective upon receipt by the addressee at its address as set forth in the contract or at such other address as such party shall have notified the other in writing.

11. Non-Appropriation

If the Member Agency fails to appropriate sufficient monies in any fiscal year for payments due under the contract and other funds are not available for such payments, then a "Non-Appropriation" shall be deemed to have occurred. If a Non-Appropriation occurs, then Member Agency will give Contractor prompt notice of such Non-Appropriation. This contract shall thereupon terminate without penalty or expense to the Member Agency.

12. No Personal Liability

It is understood and agreed that under no circumstances will the Member Agency's board members, officers, employees, or agents be personally liable for any obligations or claims arising out of or related to the contract.

13. Miscellaneous

Headings and titles of articles, paragraphs and other subparts of this contract are for convenience of reference only and shall not be considered in interpreting the text of this contract.

This contract and any appendices constitute the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements or understandings with respect thereto.

No contract amendments can be made without the approval of the AEPA membership.

B. Non-Construction Products and Services:

1. Bus Purchases

For the purchase of school buses, the successful Contractor shall provide bonds required by Ohio Revised Code Sections 153.54 and 153.571.

C. Construction Products and Services:

For construction improvements, the following shall apply:

1. The successful Contractor shall provide such bonds required by Ohio Revised Code Sections 153.54 and 153.571.
2. Progress payments and retainage shall be in accordance with the provisions of the Ohio Revised Code including Ohio Revised Code Sections 153.12 and 153.14.
3. In the event that the agreement is subject to the prevailing wage requirements of either Ohio Revised Code Chapter 4115 or the Davis-Bacon Act, then the contract between the Member Agency and the Contractor shall contain the applicable rates and such terms and provisions as may be required by law.
4. Contractor shall comply with all applicable licensing requirements, including those of the Ohio Construction Industry Licensing Board.

D. Procedures for Processing Orders:

The OCEPC will keep informed its Member Agencies and other qualified purchasers of contract information via web site and through other marketing strategies. A list of OCEPC Member Agencies along with addresses, phones, contacts, etc. will be made available to successful Contractors. After contracts are awarded, Contractors may contact the OCEPC Member Agencies and other qualifying purchasers concerning their products and services.

Participating Member Agencies and other qualified purchasers will submit all purchase orders directly to the Contractor.

The Contractor price shall include a two percent (2%) administrative fee that the Contractor will collect from the Member Agency or other qualified purchaser. Administrative fees are to be remitted to the OCEPC on April 15, July 15, October 15 and January 15 of every calendar year with checks payable to the Southwestern Ohio Educational Purchasing Council, 303 Corporate Center Dr. Suite 208, Vandalia, OH 45377.

The Contractor will compile a quarterly report showing all purchases made by the OCEPC Member Agencies and other qualified purchasers under this contract at the conclusion of each calendar quarter. These reports shall be attached to the administrative fee remittance.

E. Agencies Allowed to Purchase under Member Agency:

All member cooperatives of the OCEPC and their individual Member Agencies are eligible to participate and purchase from the awarded AEPA contracts. All Ohio K-12 school districts, including Boards of Developmental Disabilities, Educational Service Centers, and Instructional Technology Centers, are eligible to participate and purchase from the awarded AEPA contracts. In addition, all colleges and universities, state, cities, counties, townships and other governmental agencies are eligible to participate if the AEPA contracts satisfy their individual procurement requirements.

Revised: December 2, 2009

Approved: December 14, 2009

Reviewed: May 12, 2010

Revised: May 27, 2011

Reviewed and Approved: September 14, 2011

Reviewed and Approved: May 14, 2014

Revised and Approval: May20, 2015

Reviewed and Approved: May 18, 2016

Revised and Approved May 17, 2017

21. Oregon, Intermountain Educational Service District (IMESD)

A. Additional Agency Terms and Conditions – all categories

Intermountain Education Service District (“IMESD”) is an educational service district organized under the laws of the STATE OF OREGON. Pursuant to Oregon Law ORS 279A and IMESD is authorized to cooperate with other entities and in such regard is authorized to cooperate with them in the purchasing of goods and services pursuant to these contract documents. As other entities cooperate with IMESD to take advantage of the goods and services made available pursuant to these contract documents, the terms and conditions of any such sales shall be in accordance with the contract documents.

Additionally Senate Bill 3184 enables Oregon's Education Service Districts to offer the services they provide to component school districts to other organizations. For the past 10 years, the InterMountain ESD (formerly Umatilla-Morrow ESD) has been a leader in expanding revenue available for schools and IMESD programs by providing these services outside of 19 local school districts. (Reference: [ORS 334.185](#))

Under Oregon public contracting rules, each individual public agency will have its own local rules it must adhere to, in addition to statewide public contracting laws. InterMountain Education Service District does not presume that its cooperative purchasing program will necessarily comply with every agency's internal public contracting rules. We always advise potential customers to review the bid solicitation carefully and recommend review by their legal department and/or procurement personnel to assure that contracting laws are complied with.

ADVERTISING AND MARKETING: Bidders must demonstrate they possess the necessary resources and have a proven track record to market, offer, obtain, deliver, install and provide the sales and technical support services to IMESD and its participating agencies within the state of Oregon in a timely and cost effective manner.

APPLICABLE LAW AND VENUE: Any dispute arising out of any of the contract documents, or out of their performance, shall be decided by litigation in the Circuit Court of the State of Oregon in the county of Owner's residence, the parties consenting to jurisdiction in said court and permanently waiving jurisdiction in any other court, state or federal. In the event of litigation the prevailing party shall be entitled to an award of reasonable attorney's fees and costs at trial and upon any appeal thereof.

In the event that the successful bidder breaches a term of condition of a contract awarded, the IMESD may terminate the contract. In addition to the right to terminate due to the successful bidder's breach, and all other rights and remedies contained in other provisions, the IMESD reserves all its rights and remedies at law and in equity available due to the breach.

HAZARDOUS CHEMICALS: The Successful bidder shall supply current MSDS for all products as required below even if these sheets have been supplied in previous years.

The agencies participating on IMESD agreement will need MSDS and labels for certain products defined as hazardous chemicals by the State of Oregon in accordance with ORS 654.025(2) and 656.726(3). The successful bidder has the responsibility to determine such products and to provide MSDS and labels for such products. The MSDS shall be received by the IMESD by or at the time of the initial shipment of such products.

These requirements have been determined by the State of Oregon Workers Compensation Department, and published as Oregon Administrative Rules 437, Division 2 Hazard Communication. This document is available from Hazard Communication Coordinator, Accident Prevention Division, State of Oregon, Labor and Industries Building, 350 Winter St. NE, Salem, OR 97310, phone: (503) 378-3272 or (800) 922-2689 any local Accident Prevention Division Office.

HOLD HARMLESS: Bidders shall indemnify, hold harmless, and defend the IMESD from any and all liabilities, settlements, losses, penalties, costs, expenses, attorney fees (including attorney fees on appeal) in collection with any action, suit or claim based upon or allegedly based upon, resulting from or allegedly resulting from the successful bidder's negligence, omission, activities or services provided pursuant to a contract awarded to such bidder.

LAW OF THE STATE OF OREGON: Any contract between the IMESD and a bidder shall be entered into within the State of Oregon, and the laws of said state, whether substantive or procedural, shall apply to the contract.

In addition to any requirements listed, vendor shall comply with all, current, applicable state, federal and local laws, regulations and ordinances. If through mistake or otherwise any such provision is omitted then submission by either IMESD or the vendor-partner the contract shall be amended to make such inclusion or correction. IMESD Also reserves the right to amend the contract resulting from state law changes. Vendor-partners will be sent written notification of such changes.

SEVERABILITY: The parties agree that if any term or provision of a resultant contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law the validity of the remaining terms and provisions shall not be affected,

and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

TAXES: Taxes, whether State or Federal, shall not be included in bid prices. Our Employer Identification No: 93-6000924 indicated our tax exemption status as a political subdivision. Contractor must certify compliance with the Oregon tax laws in accordance with ORS 305.385 when applicable.

B. Additional Agency Terms and Conditions – Non-construction Products and Services

None

C. Additional Agency Terms and Conditions – Construction Products and Services

1. Prevailing wage rates/Davis-Bacon.

As set forth in the conditions below, if this is a public works project (as defined below) Oregon State prevailing wage rates will apply unless exempted. If federal funds are being used, Bidders must take into account the need to comply with the Davis-Bacon Act. If both the federal and state prevailing wages are required the Contractor is required by law to pay the greater of the applicable prevailing wage. Pursuant to ORS 279C.365 no bid will be considered unless the bid contains a statement by the Bidder as a part of its bid that the provision of ORS279C.840 will be complied with.

(a) If contract is \$50,000.00 or under and there are no federal funds involved the contract is exempted from prevailing wages pursuant to ORS 279C.810(2) (a).

(b) If contract exceeds \$50,000.00 and there are no federal funds involved, existing prevailing wage rate of the State of Oregon will apply. No worker may be paid by any Contractor or Subcontractor a wage less than the wage required by ORS 279C.840. Every subcontract shall include the requirements of this section. Prevailing wages, state and federal, can be seen at the websites referred to in Section 6(a), Additional Requirements of Oregon Law for Public Contracts, Public Works, and Improvements and Miscellaneous Provisions.

(c) If contract exceeds \$50,000.00 and/or federal funds are involved, unless otherwise exempted by law, Contractor shall comply with ORS 279C.800 to 279C.870 relating to the payment of prevailing wages; Contractor shall also comply with the federal Davis-Bacon Act to the extent applicable. No worker may be paid by any Contractor or Subcontractor a wage less than the wage required by ORS 279C840 and if the state and federal prevailing wage laws both apply, Contractor shall pay as wages the great of the applicable prevailing wage. Every Subcontractor shall include the requirements of this section. Additional Requirements of Oregon Law for Public Contracts,

2. Residence status of Bidder

Each Bidder must identify in its bid whether the Bidder is a resident Bidder, as defined in ORS 279A.120.

3. Licensure

If the contract involves asbestos or asbestos abatement, the contactor or subcontractor must be licensed under ORS 468A.720.

4. Bonding

If this contract is a public improvement contract in excess of \$100,000.00, at the time of the execution of the contract, the successful Bidder shall also deliver to the Owner good and sufficient bonds endorsed on forms supplied by Owner, in sums equal to the contract price, for the faithful performance of the contract, and for the payment of all claims for labor, materials, equipment, and rental equipment that may result from work performed pursuant to the contract documents. The successful Bidder shall not be allowed to execute the contract without the concurrent delivery to the Owner of the bonds required by this paragraph on the required forms. At owner's sole discretion, Contractor shall be subject to disqualification and forfeiture of bid security for breach of this section. If Bidder is disqualified, Owner may award the contract to another Bidder.

5. Subcontractor Disclosure

Unless exempted by ORS 279C.370(1)(c) for public improvement contracts, all Bidders shall within two hours of the date and time of the deadline when bids are due submit information about certain first-tier Subcontractor when the contract value for public improvements is greater than \$100,000 (see ORS 279C.370). Specifically, when the contract amount of a first-tier Subcontractor furnishing labor or labor and materials would be greater than or equal to:

- (i) 5% of the project bid, or \$15,000, or
- (ii) \$350,000 regardless of the percentage, Bidders must disclose the following information about that Subcontractor:

- (a) the Subcontractor's name, and
- (b) the category of the work that the Subcontractor would be performing, and
- (c) the dollar amount of the subcontract

If Contractor will not be using any Subcontractors that are subject to the above disclosure requirements, Contractor is required to indicate "NONE" on the reply form.

THE OWNER MUST REJECT A BID IF THE BIDDER FAILS TO SUBMIT THE DISCLOSURE FORM WITH THIS INFORMATION BY THE STATED DEADLINE.

FIRST TIER SUBCONTRACTOR DISCLOSURE FORM

Project name:
 Bid #:
 Bid Opening Date:
 Name of Bidding Contractor:
 Required Disclosure Deadline:

Bids which are submitted by Bid Closing, but for which a required disclosure submittal has not been made by the specified Disclosure Deadline, are not responsive and shall not be considered for Contract award.

See the certification above the signature line on the second page of this form regarding the Subcontractors that must be disclosed.

The Owner will insert "NA" above if the contract value is not anticipated to exceed \$100,000. Otherwise this form must be submitted either with the bid or within two (2) working hours after the advertised bid closing date and time; but no later than the DISCLOSURE DEADLINE stated above.

This form may not be submitted by facsimile. It is the responsibility of Bidders to submit this disclosure form and any additional sheets, completely filled out and signed, by the specified disclosure deadline.

List below the name of each Subcontractor that will be furnishing labor or will be furnishing labor and materials and that is required to be disclosed, the category of work that the Subcontractor will be performing and the dollar value of the subcontract. Enter "None" if there are no Subcontractors that need to be disclosed. (Attach additional sheets if needed.)

NAME OF CATEGORY OF DOLLAR VALUE
 SUBCONTRACTOR WORK

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Failure to submit this form by the disclosure deadline will result in a nonresponsive bid. A nonresponsive bid will not be considered for award.

CERTIFICATION

It is certified that the above listed first-tier Subcontractor(s) are providing labor, or labor and material, with a dollar value equal to or greater than:

- (a) 5% of the total Contract Price, but at least \$15,000 [if the dollar value is less than \$15,000 do not list the Subcontractor above], or
- (b) \$350,000 regardless of the percentage of the total Contract Price.

Form submitted by (insert Bidder name):
 Contact name:
 Telephone number:

**Additional Requirements of Oregon Law for Public Contracts, Public Works, and Improvements;
 Miscellaneous Provisions**

“Owner” means the public entity executing the Contract of which these provisions are a part.

“Public improvement” means projects for construction, reconstruction or major renovation on real property by or for a public agency.

“Public Works” shall mean roads, highways, buildings, structures and improvement of all types, the construction, reconstruction, major renovation or painting of which is carried on or contracted for by any public agency to serve the public interest by does not include the reconstruction or renovation of privately owned property which is leased by a public agency.

(1) In reference to ORS 279B.220 and 279C.505. Contractor shall:

(a) Make payment promptly, as due, to all persons supplying to Contractor labor or material for the performance of the work provided for in the contract.

(b) Pay all contributions or amounts due the Industrial Accident Fund from the Contractor or Subcontractor incurred in the performance of the contract.

(c) Not permit any lien or claim to be filed or prosecuted against the Owner on account of any labor or material furnished.

(d) If the contract is for a public improvement, demonstrate to Owner that Contractor has an employee drug testing program in place.

(e) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

(2) In reference to ORS 279C.515 regarding contracts for public improvements:

(a) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a Subcontractor by any person in connection with the contract as such claim becomes due, the Owner may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of such contract.

(b) If the contract is for a public improvement and if the Contractor or a first-tier Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the contract within thirty days after receipt of payment from the Owner or a Contractor, the Contractor or first-tier Subcontractor shall owe the person the amount due plus interest charges commencing at the end of the ten day period that payment is due under ORS 279C.580(4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to the Contractor or first-tier Subcontractor on the amount due shall equal three times the discount rate on ninety-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is thirty days after the date when payment was received from the Owner or from the Contractor, but the rate of interest shall not exceed 30 percent. The amount of interest may not be waived.

(c) If the contract is for a public improvement, or is related to a contract for a public improvement, and if the Contractor or a Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the contract, that person may file a complaint with the Construction Contractor’s Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.

(d) The payment of a claim in the manner authorized in this section of this contract shall not relieve the Contractor or the Contractor’s surety from any obligation with respect to any unpaid claims.

(3) Relating to ORS 279B.020 and ORS 279C.520. Contractor shall comply with ORS 279B.020 and ORS 279C.520 in their entirety (when applicable), and in this regard:

(a) No person shall be employed for more than ten hours in any one day, or forty hours in any one week except in cases of necessity, emergency, or where the Owner absolutely requires it, and in such cases, the employee shall be paid at least time and half pay:

(i) For all overtime in excess of eight hours a day or forty hours in any one week when the work week is five consecutive days, Monday through Friday; or

(ii) For all overtime in excess of ten hours a day or forty hours in any one week when the work week is four consecutive days, Monday through Friday; and

(iii) For all work performed on Saturday, Sunday, and on any legal holiday specified in ORS 279B.020 and 279C.540.

(iv) Contractor shall comply with the notice and posting requirements of ORS 279B.020 and 279C.520(2). Contractor shall pay employees for overtime work performed under this Contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 USC 201, et seq.).

(4) If the contract is for a public improvement, Contractor shall at its sole expense comply with any and all applicable statutes or ordinances, and all regulations of any agencies, whether federal, state, local or tribal, dealing with the prevention of environmental pollution and the preservation of natural resources including without limitation water that affect the performance of this contract.

The following agencies, as well as others, may have pertinent regulations:

Federal: Army Corps of Engineers, Federal Energy Regulatory Commission, Environmental Protection Agency, Dept. of Human and Health Services, Dept. of Interior including but not limited to the US Fish and Wildlife Service, Department of Labor, and Water Resources Council.

State: Columbia River Gorge Commission, Department of Energy, Department of Environmental Quality, Department of Fish and Wildlife, Department of Human Resources, Soil and Water Conservation Commission, and Oregon Water Resources Department.

Local: City and County wherein the project is to be undertaken.

Tribal: Confederated Tribes of the Umatilla Indian Reservation.

(5) In relation to ORS 279B.230 and 279C.530, Contractor shall comply in their entirety, and in this regard:

(a) Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums which the Contractor agrees to pay for such services and all monies and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

(b) All employers, including Contractor, that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required workers compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its Subcontractors complies with these requirements.

(6)

(a) If the contract is for public works and is over \$50,000, Contractor, unless otherwise exempted by law, shall comply with ORS 279C.800 to 279C.870 relating to the payment of prevailing wages; Contractor shall also comply with the federal Davis-Bacon Act to the extent applicable. The prevailing rates of wage, state and federal, made available on the internet are hereby incorporated by reference; they may be seen at various sites including at www.boli.state.or.us/BOLI/WHD/PWR and www.access.gpo.gov/davisbacon/or.html. If the state and federal prevailing wage laws both apply, Contractor shall pay as wages the greater of the applicable prevailing wage. Contractor shall comply with all wage reporting and certification requirements of the prevailing wage laws and/or the Davis-Bacon Act, as applicable.

(b) Before starting Work the Contractor shall file with the Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by Oregon Laws 2005, Chapter 360, and OAR 839-025-0015, unless otherwise exempt under those provisions. The Contractor shall also include in every subcontract a provision requiring the Subcontractor to have a public works bond filed with the Construction Contractors Board before starting Work, unless otherwise exempt, and shall verify that the Subcontractor has filed a public works bond

(7) The following apply to contracts for public improvements:

(a) Contractor shall comply with ORS 279C.580, dealing with Contractor's relations with Subcontractors. Without limiting the generality of the foregoing, in this regard Contractor shall include a clause in each subcontract for property or services entered into by the Contractor and a first-tier Subcontractor, including a material supplier, for the purposes of performing the contract:

(i) that obligates the Contractor to pay the first-tier Subcontractor for satisfactory performance under its subcontract within ten days out of such amounts as are paid to the Contractor by the Owner; and

(ii) that obligates the Contractor, if payment is not made within thirty days after receipt of payment from the Owner, to pay to the first-tier Subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause required by the preceding paragraph. The interest penalty shall be for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made, and shall be computed at the rate specified in ORS 279C.515(2).

(b) Contractor shall include in each of its subcontracts, for the purpose of performance of work in relation to project, a provision requiring the first-tier Subcontractor to include a before clause and an interest penalty clause conforming to the foregoing standards in each of its contracts and to require each of its Subcontractors to include such clauses in their subcontracts with each lower-tier Subcontractor or supplier.

(c) Nothing stated herein shall be construed to preclude the negotiations allowed pursuant to ORS 279C.580(5).

(8) If any work supplied pursuant to the contract requires licensing with the Construction Contractors Board or the State Landscape Contractors Board, Contractor must be so licensed in order to submit a bid for the contract, and Contractor and all relevant Subcontractors must remain licensed during the period required for performance. Contractor certifies that all Subcontractors and workers will be properly licensed to perform the work required by this Contract before their commencement of work.

(9) If this contract is for public improvements, then retainage in the amount of 5% of the amount due shall be withheld in accordance with Oregon laws, including ORS 279C.550 et seq.

(10) If this contract is for a public improvement, and unless exempted by resolution of the Owner, Contractor shall comply with ORS 279C.380 and execute and deliver to Owner a good and sufficient performance bond and payment bond to be approved by Owner in a sum equal to the contract price.

By way of supplement to, and equally binding as, all of the foregoing:

(10.1) Contractor shall comply with all federal, state and local laws, codes, regulations and ordinances applicable to the Work and the Contract. Failure to comply with such requirements shall constitute a breach of Contract and shall be grounds for Contract termination. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following as applicable: (i) Title VI and VII of Civil Rights Act of 1964, as amended; (ii) Section 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Health Insurance Portability and Accountability Act of 1996; (iv) the Americans with Disabilities Act of 1990, as amended; (v) ORS Chapter 659A; as amended (vi) all regulations and administrative rules established pursuant to the foregoing laws; and (vii) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Owner's performance under the Contract is conditioned upon Contractor's compliance with the provisions of ORS 279C.505, 279C.510, 279C.515, 279C.520, and 279C.530, which are incorporated by reference herein.

(10.2) Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and

(a) Contractor shall not discriminate against Disadvantaged, Minority, Women or Emerging Small Business enterprises, as those terms are defined in ORS 200.005, in the awarding of subcontracts (ORS 279A.110).

(b) Contractor shall maintain, in current and valid form, all licenses and certificates required by law, regulation, or this Contract when performing the Work.

(10.3) Unless contrary to federal law, Contractor shall certify that it shall not accept a bid from Subcontractors to perform Work as described in ORS 701.005 under this Contract unless such Subcontractors are registered with the Construction Contractors Board in accordance with ORS 701.035 to 701.055 at the time they submit their bids to the Contractor.

(10.4) Unless contrary to federal law, Contractor shall certify that each landscape Contractor, as defined in ORS 671.520(2), performing Work under this Contract holds a valid landscape Contractor's license issued pursuant to ORS 671.560.

(10.5) The following notice is applicable to Contractors who perform excavation Work. ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center at (503)232-1987.

(11) Contractor must certify compliance with the Oregon tax laws in accordance with ORS 305.385 when applicable.

(12) Upon receipt by Contractor of any notice or claim, pursuant to ORS 279C.600 et seq (concerning action against bonds) Contractor shall immediately notify Owner in writing.

(13) Unless agreed to by Owner in writing, Contractor may not assign, transfer, dispose of, or delegate its duties under the contract.

(14) Contractor shall be responsible for compliance with all local, state, tribal, and federal laws, applicable to any aspect of the work to be performed. It shall be Contractor's responsibility to determine the applicability and requirements of any such laws and to abide by them. Contractor shall indemnify, defend, and hold harmless Owner for any default or breach of Contractor in this regard.

(15) The submission of a bid for this contract is certification by Contractor that Contractor has not discriminated and will not discriminate in violation of ORS 279A.110 against any minority, women, or emerging small business enterprises in obtaining any required subcontracts.

(16) If this contract is a public improvement contract for demolition, Contractor shall salvage or recycle constructions and demolition debris if feasible and cost-effective.

(17) If this contract is a public improvement contract for lawn and landscape maintenance, Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.

(18) Any dispute arising out of any of the contract documents, or out of their performance, shall be decided by litigation in the Circuit Court of the State of Oregon in the county of Owner's residence, the parties consenting to jurisdiction in said court and permanently waiving jurisdiction in any other court, state or federal. In the event of litigation the prevailing party shall be entitled to an award of reasonable attorney's fees and costs at trial and upon any appeal thereof.

D. Procedure for Agencies Processing Orders under IMESD in Oregon

Once the award is made to the vendor, IMESD will market these contracts by: 1) including the contract on the IMESD website, 2) announcing the award in flyers, and 3) attending vendor events throughout school year. A list of schools, contact names, addresses and phone number can be accessed through the Oregon Department of Education website. At this point the vendor contacts schools and schools may contact the vendor. When the school/agency identifies a product or services and agrees on price it issues to Vendor a purchase order for that item or service, referencing the AEPA Bid number. The purchase order must include an additional one percent (2%) administrative fee in the total to be forwarded by the vendor to IMESD after the sale. All participating vendors agree to and are subject to audit proceedings of IMESD member sales.

Upon receipt of the purchase order, the vendor provides the goods or service listed on the purchase order. It is important to remember the vendor makes delivery to the member unless other arrangements are made in cooperation with IMESD. When all items and services on the purchase order have been delivered to the member in a complete and satisfactory manner, vendor then invoices the member for the goods and service. This invoice includes the additional one percent (2%) administrative fee to the total amount invoiced of the goods or service provided by the vendor. This percent is based on the total sales of goods or services. The member then pays the vendor including the one percent (2%) administrative fee. IMESD then invoices the Vendor for the 2% administrative fee based on the sale of goods and services collected by the vendor.

E. Agencies Allowed to Purchase under IMESD in Oregon

The InterMountain Education Service District (IMESD) participates in a national non-profit organization, the Association of Educational Purchasing Agencies (AEPA), which is a procurement vehicle. The mission of IMESD's involvement with AEPA is to cooperatively serve Oregon state agencies members through a continuous effort to explore and solve present and future purchasing needs. AEPA goals include working to secure multi-state volume purchasing contracts with benefits that are measureable, cost-effective and continuously exceed our state member's expectations. InterMountain Education Service District is the member agency representing Oregon in AEPA through an IMESD board approved Memorandum of Understanding between all participating states that are all political subdivisions related to K-12 education. All AEPA bids have been advertised by IMESD in Oregon.

Pursuant to Oregon Law, ORS 279A, InterMountain Education Service District is authorized to offer these contracts to other government entities including school districts, state universities, community colleges, special districts, local and state government.

There is no fee or annual dues to become an IMESD agency member to purchase. InterMountain Education Service District's contract management efforts are funded by a nominal administrative fee paid by the vendor based on sales volume.

22. Pennsylvania, Central Susquehanna Intermediate Unit dba Keystone Purchasing Network

A. Additional Member Agency General Terms and Conditions that apply to all categories

The Keystone Purchasing Network (KPN) is a cooperative purchasing program operated by the Central Susquehanna Intermediate Unit under various state inter-governmental cooperation laws and includes members in several east coast states that currently includes Pennsylvania, Maryland, District of Columbia, New Jersey, New York and Delaware. All applicable Local, State and Federal laws and regulations will apply to any purchases of equipment, services or construction in any of these states and to other states that may be added under the KPN membership throughout the term of these contracts.

Marketing and Advertising under this Agreement: Vendor will actively promote the resulting contract in Pennsylvania, Maryland, District of Columbia, Delaware and New York States. Vendor will comply with the AEPA Marketing program along with the requirement listed below.

1. Vendor will include the approved KPN logo, web address, contract number and toll free number in all print electronic mail and other advertising and promotion intended for release to PA, MD, DC, DE and NY excluding national marketing releases.
2. The KPN logo and associated KPN information shall be of a clearly readable size and in appropriate proportion to other elements in the printed material.
3. Vendor agrees to provide KPN with a copy or proof sheet of the advertisement or promotion material. Vendor will provide KPN with date of release and name of publication, journal, etc.
4. Vendor shall place a supplied KPN vendor sign on booths, tables, etc. of any or all exhibits for which the vendor displays/participates at tradeshow, conventions and the like. Vendor will supply in advance scheduled exhibit dates. Vendor agrees to make available at the exhibit KPN supplied brochures or other promotion materials.
- e. Vendor agrees to insert the approved KPN logo, web address, contract number and toll free number on the vendor's web site promoting or a specific KPN landing page and providing a link to the KPN website.
- f. Vendor will supply product catalog information, product description, pricing, etc., in a spreadsheet format as specified by KPN for inclusion on the KPN website.
- g. Vendor agrees to cooperate in developing appropriate website content to promote its products, services and their advantages to KPN members.
- h. Requested materials will be submitted to KPN within 30 days.

Pricing and Ordering: Vendor will provide all pricing information in an electronic format and/or setup an electronic ordering system that would show the current contract prices along with the KPN administrative fee of 2% or as adjusted by the KPN. In the case of electronic ordering, the KPN would have administrative reporting capabilities with an online ordering system. The KPN administrative fee will apply to all purchases, installation, total lease, total rental prices and all construction and installation and annual maintenance fees and will be included in the net price offered to the purchasing agency.

B. Additional Member Agency General Terms and Conditions for Non-Construction Products and Services

None

C. Additional Member Agency General Terms and Conditions for Construction Products and Services

The following items refer to all projects involving construction or construction related services:

Vendor and/or Contractor agrees that, in performance of the services required under this Agreement, Vendor and/or Contractor shall abide by all Federal, State, Local, and Pennsylvania Department of Education laws, and regulations that may apply to renovation under this bid, including, but not limited to, those listed below. Vendor and/or Contractor shall also abide by the state and local laws and regulations of other states where a member is located. It is the responsibility of the Vendor or Contractor to determine applicability and requirements of any such laws and to abide by them. Additionally, Contractor has the sole responsibility for compliance with all other matters in conjunction with the services to be performed hereunder and in the Invitation for Bid.

PERFORMANCE AND LABOR AND MATERIAL PAYMENT BONDS: the Contractor shall provide a performance bond and a labor and material payment bond, each in the amount of 100% of the contract price, before the award of the contract. (Sections 756 and 757 of the Public School Code of 1949, as amended, and the Public Works Contractors Bond Law of 1967.)

DISCRIMINATION PROHIBITED: According to 62 Pa.C.S.A. 3701, the Contractor agrees that:

- (1.) In the hiring of employees for the performance of work under the contract or any subcontract, no Contractor, Subcontractor or any person acting on behalf of the Contractor or Subcontractor shall by reason of gender, race, creed or color discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- (2.) No Contractor or Subcontractor or any person on their behalf shall in any manner discriminate against or intimidate any employee hired for the performance of work under the contract on account of gender, race, creed or color.
- (3.) The contract may be canceled or terminated by the government agency and all money due or to become due under the contract may be forfeited for a violation of the terms or conditions of that portion of the contract.

HUMAN RELATIONS ACT: The provisions of the Pennsylvania Human Relations Act, Act 222 of October 27, 1955 (P. L. 744) (43 P.S. Section 951, ET. Seq.) of the Commonwealth of Pennsylvania prohibit discrimination because of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability, by employers, employment agencies, labor organizations, Contractors and others. The Contractor shall agree to comply with the provisions of this Act as amended that are made part of this specification. Your attention is directed to the language of the Commonwealth's non-discrimination clause in 16 Pa. Code 49.101.

COMPETENT WORKMEN: Projects where the total estimated cost is \$25,000 or less, Section 7-752 of the Public School Code of 1949, no person shall be employed to do work under such contract except competent and first class workmen and mechanics. No workmen shall be regarded as competent first class, within the meaning of this Act, except those who are duly skilled in their respective branches of labor, and who shall be paid not less than such rates of wages and for such hours work as shall be established and current rates of wages paid for such hours by employers of organized labor in doing of similar work in the district where work is being done.

PENNSYLVANIA PREVAILING WAGE RATES: Projects where the total estimated cost is greater than \$25,000, paid for in whole or in part out of funds of a public body, except for maintenance work or work performed under a rehabilitation program or manpower training program must specify "Prevailing Wages." Further information on implementation of the act, definition of maintenance work and prevailing wage rates may be requested from the Pennsylvania Department of Labor and Industry (800-932-0665 or 717-787-4763). When applicable, use Davis-Bacon wage rates for federally assisted projects. This regulation and the general Pennsylvania prevailing minimum wage rates, (Act 442 of 1961, P.L. 987, amended), as determined by the Secretary of Labor and Industry, which shall be paid for each craft or classification of all workers needed to perform the contract during the anticipated term therefore in the locality in which public work is performed, are made part of this specification.

(1.) The general prevailing minimum wage rates including contributions for employee benefits as shall have been determined by the Secretary of Labor and Industry (hereinafter "Secretary"), which must be paid to the workmen, employed in the performance of the Contract.

(2.) The Contractor shall pay no less than the wage rates as determined in the decision of the Secretary and shall comply with the conditions of the Pennsylvania Prevailing Wage Act approved August 15, 1961 (Act No. 442), as amended August 9, 1963 (Act No. 342), and the Regulations issued pursuant thereto, to assure the full and proper payment of said rates.

(3.) These Contract provisions shall apply to all work performed on the Contract by the Contractor and to all work performed on the contract by all Subcontractors.

(4.) The Contractor shall insert in each of his subcontracts all of the stipulations contained in these required provisions.

(5.) No workmen may be employed on the Work except in accordance with the classifications set forth in the decision of the Secretary. In the event that additional or different classifications are necessary the procedure set forth in the Regulations shall be followed.

(6.) All workmen employed or working on the Work shall be paid unconditionally, regardless of whether any contractual relationship exists or the contractual relationship which may be alleged to exist between any Contractor, Subcontractor and workmen, not less than once a week without deductions or rebate, on any account, either directly or indirectly, except authorized deductions, the full amount due at the time of payment, computed at the rates applicable to the time worked in the appropriate classification. Nothing in this Contract, the Act or the Regulations shall prohibit the payment of more than the general prevailing minimum wage rates as determined by the Secretary to the workmen on the Work.

(7.) The Contractor and each Subcontractor shall post for the entire period of construction the wage determination decisions of the Secretary, including the effective date of any changes thereof, in a prominent and easily accessible place or places at the site of the work and at such place or places used by them to pay workmen their wages. The posted notice of wage rates must contain the following information:

a. Name of project.

b. Name of public body of which it is constructed.

c. The crafts and classifications of workmen listed in the Secretary's general prevailing minimum wage rate determination for the particular project.

d. The general prevailing minimum wage rates determined for each craft and classification and the effective date of any changes.

e. A statement advising workmen that if they have been paid less than the general prevailing minimum wage rate for their job classification or that the Contractor and/or Subcontractor are not complying with the Act or the Regulations in any manner whatsoever, they may file a protest with the Secretary within three (3) months of the date of the occurrence, objecting to the payment to the Contractor to the extent of the amount or amounts due or to become due to them as wages for work performed on the Project. Any workmen paid less than the rate specified in the Contract shall have a civil right of action for the difference between the wage paid and wages stipulated in the Contract, which right of action must be exercised within six (6) months from the occurrence of the event creating such right.

(8.) The Contractor and all Subcontractors, shall keep an accurate record showing the name, craft and/or classification, number of hours worked per day, and the actual hourly rate of wage paid (including employee benefits) to each workman employed by him in connection with the Work and such record must include any deductions from each workman. The record shall be preserved for two (2) years from the date of payment and shall open at all reasonable hours to the inspection of the Owner and

to the Secretary or his duly authorized representative.

(9.) Apprentices shall be limited to such numbers as shall be in accordance with a bona fide apprenticeship program registered with and approved by the Pennsylvania Apprenticeship and Training Council and only apprentices whose training and employment are in full compliance with the provisions of the Apprenticeship and Training Act approved July 14, 1961 (Act No. 304) and the Rules and Regulation issued pursuant thereto shall be employed on the Work. Any workmen using the tools of a craft that does not qualify as an apprentice within the provisions of this submission shall be paid the rate predetermined for journeyman in that particular craft and/or classification.

(10.) Wages shall be paid without any deductions except authorized deductions. Employers not party to a contract requiring contributions for employee benefits which the Secretary has determined to be included in the general prevailing minimum wage rate shall pay the monetary equivalent thereof directly to the workman.

(11.) Payment of compensation to workmen for work performed on public work on a lump sum basis, or a piece work system, or a price certain for the completion of a certain amount of work, or the production of a certain result shall be deemed a violation of the Act and the Regulations, regardless of the average hourly earnings resulting there from.

(12.) Each Contractor and each Subcontractor shall file a statement each week and a final statement at the conclusion of the Work on the Contract with Owner, under oath, and in form satisfactory to the Secretary, certifying that all workmen have been paid wages in strict conformity with the provisions of the Contract as prescribed by the Regulations, or if any wages remain unpaid, to the amount of wages due and owing to each workman respectively.

(13.) The provision of the Act and the Regulations are incorporated by reference in the Contract.

(14.) The current prevailing wage threshold for Pennsylvania is \$25,000. However the threshold may be increased during the term on the contract by legislated action. Vendor will then be required to adjust labor rate for job under the new threshold.

(15.) The following applies to all prevailing wage projects:

E-Verify. The successful Bidder and its subcontractors (as such term is defined in the act) are required to comply with the Public Works Employment Verification Act, Act No. 127, July 5, 2012 (formerly Senate Bill 637). All Bidders shall submit with their Bid a Public Works Employment Verification Form (the "Verification Form") to CSIU - KPN in the form published by the Commonwealth of Pennsylvania, Department of General Services. Per the act, the Verification Form is to be obtained from the Secretary of the Pennsylvania Department of General Services. The Verification Form is presently available on the Department of General Services website. Per the act, the Verification Form shall include a certification that the information in the statement is true and correct and that the individual signing the statement understands that the submission of false or misleading information in connection with the verification shall subject the individual and the public works contractor or subcontractor, as the case may be, to sanctions provided by law; and the verification form shall be signed by a representative of the public works contractor or subcontractor, as applicable, who has sufficient knowledge and authority to make the representations and certifications contained in the statement. Prior to award of a contract or purchase order by a Member Agency to the successful Bidder for a particular project, the successful Bidder shall submit to the Member Agency a Verification Form. Per the act, the successful Bidder's subcontractors shall provide to the Member Agency, and successful Bidder shall cause its subcontractors to provide to the Member Agency, their Verification Forms prior to commencing work on the Member Agency's project.

STANDARD OF QUALITY: The various materials and products specified in the specifications by name or description are given to establish a standard of quality and of cost for bid purposes. It is not the intent to limit the Bidder, the bid or the evaluation of the bid to any one material or product specified but rather to describe the minimum standard. When proprietary names are used, they shall be followed by the words "or alternatives of the quality necessary to meet the specifications". A bid containing an alternative, which does not meet the specifications, may be declared non-responsive. A bid containing an alternative may be accepted but if an award is made to that Bidder the Bidder will be required to replace any alternatives, which do not meet the specifications.

PROVISIONS FOR THE USE OF STEEL AND STEEL PRODUCTS MADE IN THE U.S.: In accordance with Act 3 of the 1978 General Assembly of the Commonwealth of Pennsylvania, if any steel or steel products are to be used or supplied in the performance of the contract, only those produced in the United States as defined therein shall be used or supplied in the performance of the contract or any subcontracts thereunder in accordance with Act 161 of 1982, cast iron products shall also be included and produced in the United States. Act 141 of 1984 further defines "steel products" to include machinery and equipment. The act also provides clarifications and penalties.

PROHIBITION ON CASH ALLOWANCES: Cash allowances are prohibited.

TIME(S) OF COMPLETION OF THE PROJECT: Contractor/Vendor shall complete all work within 180 days after entry into a contract with the individual Member. Member and Contractor/Vendor may agree in writing on a lesser number of workdays depending on the scope of the project.

Owner's Compliance in Retaining Payments: Unless a member stipulates otherwise, Payment Retentions and Progress Payments shall be as follows: Ten percent (10%) of all contract payments shall be retained by the member as insurance of proper performance of the prime Contractor. Prime Contractor agrees to identify the amount of the invoices sent to the member school districts, then send copies of the invoices to the KPN. When fifty percent (50%) of the work is completed, as determined by the school district, one-half (1/2) of the amount retained shall be paid to the prime Contractor, if the prime Contractor requests payment, provided that the prime Contractor is making satisfactory progress and there is no specific cause for greater withholding. After the work is fifty percent (50%) completed, no more than five percent (5%) of the amount of any subsequent progress payments shall be retained, unless the governing board of the member determines that satisfactory

progress is not being made, at which point ten percent retention shall be reinstated. If the member and the prime Contractor agree to a substitute security, the agreement must be in full compliance with Pennsylvania law. If the substitute security is agreed to, the prime Contractor must provide KPN and the member with assigned and acknowledged waiver of any right or power of the obligor to set off any claim against KPN, the member, or the prime Contractor, in relationship to the security assigned. The prime Contractor, as authorized above, will pay any interest due a Subcontractor or material supplier. A Subcontractor to the prime Contractor may request, in writing, that the Subcontractor be notified by KPN within five (5) days of payment of each progress payment made to the prime Contractor. It is the responsibility of the prime Contractor to inform all suppliers and Subcontractors that this contract is a cooperative purchasing contract. Once all bonds are in place, the prime Contractor and the authorized agent of the member will agree in writing upon a schedule of payments based on identifiable milestones. Retaining of payments must be done in accord with 62 Pa.C.S.A. § 3921.

A contract containing a provision for retainage as provided in section 3921 (relating to retainage) shall contain a provision requiring the architect or engineer to make final inspection within 30 days of receipt of the request of the Contractor for final inspection and application for final payment. If the work is substantially completed, the architect or engineer shall issue a certificate of completion and a final certificate for payment, and the government agency shall make payment in full within 45 days except as provided in section 3921, less only one and one-half times the amount required to complete any then-remaining uncompleted minor items, which amount shall be certified by the architect or engineer and, upon receipt by the government agency of any guarantee bonds which may be required, in accordance with the contract, to insure proper workmanship for a designated period of time. The certificate given by the architect or engineer shall list in detail each uncompleted item and a reasonable cost of completion. Final payment of any amount withheld for the completion of the minor items shall be paid upon completion of the items in the certificate of the engineer or architect.

WORKERS' COMPENSATION ACT: The Contractor shall accept, insofar as the work covered by their contract is concerned, the provisions of the Workers' Compensation Act 44 of 1993, and any supplements of amendments thereof, including any which may hereafter be passed, and shall insure the Contractor's full liability there under for all parts of their contract being performed by the Contractor, the Contractor's partners, associates, employees or those of any the Contractor may employ herein, or file with the Entity a certificate of exemption from insurance from the Bureau of Workers' Compensation of the Department of Labor and Industry.

The Contractor shall, at all times, indemnify and save harmless the school entities of and from all claims for Workers' Compensation which may be made by any of the employees of the Contractor or by any of the employees to whom the Contractor may have let the performance of any part of the work embraced by their contract and the Contractor shall appear for and defend the school entities against any and all such claims. The Contractor shall be covered by Employers' Liability Insurance with a minimum limit of \$250,000 for each employee, \$2,000,000 policy limit and \$250,000 for each accident.

ACT 34 CRIMINAL BACKGROUND CHECKS: Independent Contractors and their employees who provide services to a Pennsylvania school entity are required to obtain a report of "Criminal History Record Information" from the Pennsylvania State Police. In the case of non-Pennsylvania residents, a report of "Federal Criminal Record Information" from the FBI is required in addition to the Pennsylvania State Police Report.

Contractors shall be required to do the following:

(1.) Present the original document/s Report of Criminal History Records information from the Pennsylvania State Police, report of Federal Criminal History Record Information from the Federal Bureau of Investigation to the Superintendent or the Superintendent's designee prior to the beginning of work for the school entity. The school entity shall retain a copy of the background check information and shall note on that copy the date on which the original document was inspected and the name of the administrator who viewed the original. This copy shall be retained in the school entity records with the original being returned to the Contractor.

(2.) If any new employees are added to the workforce during the course of the work, such employee(s) must follow the same procedure described above prior to any work for the school entity.

(3.) All costs for the Criminal History Information check(s) shall be borne by the perspective Contractor.

(4.) The school entity shall notify the Contractor in writing if the decision not to employ the Contractor or the Contractor's employees is based in whole or in part on criminal history records information.

(5.) The school entity shall follow the regulations promulgated by the State Board of Education concerning the confidentiality of the Criminal History Report Information obtained pursuant to the Act.

Upon written notice from the school entity, Contractors shall have all such persons removed from the project. School entity's right to declare such persons unfit shall not be limited to the required exclusion of persons from school property as set forth in Section 1-111 of the Pennsylvania School Code and/or Act 151 of 1994.

CHILD PROTECTIVE SERVICES BACKGROUND CHECKS: Prior to commencing work under the contract, the Contractor shall submit for any employee or independent Contractor who would be working on a school entity's site pursuant to work contemplated in the contract, an official clearance statement obtain from the Pennsylvania Department of Welfare pursuant to Act 151 of December 16, 1994 (P.L. 1292) subchapter C2 of the Child Protective Services Act. Contractor shall not allow any prospective employee or independent Contractor on the job site prior to providing the school entity with the above-referred clearance statement for prospective employees or independent Contractors.

ANTIBID-RIGGING ACT (NON-COLLUSION): In accordance with the Commonwealth of Pennsylvania's Antbid-Rigging Act, 62 Pa. C.S.A. § 4501 et seq., the Contractor shall execute and submit with the bid a Non-Collusion Affidavit required by the Agency. Each party to the joint venture must be identified in the bid documents, and an Affidavit must be submitted separately on behalf

of each party.

PREVENTION OF ENVIRONMENTAL POLLUTION: Section 3301 of the Pennsylvania Commonwealth Procurement Code requires that all invitations for Bids and requests for proposals for construction projects issued by any governmental agencies shall set forth any provision of Federal and State statutes, rules, and regulations dealing with prevention of environmental pollution and the preservation of public natural resources that affect the Project. A Notice of said provisions prepared by the Pennsylvania Department of Environmental Resources under Act 247 of 1972, 52 P.S. § 1612 (repealed) is available from Jeffrey L. Kimball, Cooperative Purchasing Services Director at the Keystone Purchasing Network, 90 Lawton Lane, Milton, PA 17847. His telephone number is 570-523-1155 x2130, and his e-mail address is jkimball@csiu.org. Said Notice is hereby incorporated by reference. Contractor is hereby notified and agrees to comply with the terms of all statutes, rules and regulations enumerated in the Notice.

ARCHITECTURAL SERVICES: For those Members who are Pennsylvania Public School Districts, and whose projects require architectural or engineering services, your attention is directed to Section 7-751.1 of the Pennsylvania Public School Code (24 P.S. § 7-751.1), which requires a public school district to engage an architect/engineer that is independent from the Vendor/Contractor's architect/engineer.

MULTIPLE PRIME CONTRACTORS: For those Members who are Pennsylvania Public School Districts, your attention is directed to Section 7-751 of the Pennsylvania Public School Code (24 P.S. § 7-751), which requires a public school district to use separate prime Contractors for plumbing, heating and ventilating, and electrical work. To the extent a school district's project extends beyond general construction services, the school district will need to separately bid plumbing, heating and ventilating, and electrical work, and should consult with its individual solicitor for compliance with Section 7-751. For other Members who are subject to multiple prime requirements under applicable bidding laws, such Members should consult with their individual solicitors for compliance with said requirements.

D. Procedure for Processing Orders

Once the award is made to the Contractor/vendor, KPN will inform its members of the contract by: (1) including the contract in the agency database that is available on the KPN website, (2) announcing the award in its periodic newsletter, and (3) publishing the contract information in a catalog disseminated to all members. A list of members, institution names, contact names, addresses and phone number will be made available to the vendor in an electronic format. At this point the Contractor/vendor contacts the members and members may contact the Contractor/vendor. When the member identifies a product or service it issues a purchase order for that item to the vendor. The vendor's price to its members will include the following administrative fees: currently 2% (two percent) on all supplies, equipment and construction, rental or lease, annual subscription fee, etc.; and others administrative fees as approved by KPN and will be collected from the member or other qualifying purchaser. KPN reserves the right to adjust the administrative fee at any time during the duration of the contract and any renewal period or to modify the administrative fee based on volume of purchase. If the administrative fee is reduced do to the size of the project the vendor will show the adjustment on the quote. The vendor will also compile a quarterly report showing all purchases made by KPN members under this contract. The vendor will also produce an annual report for all purchases made under this contract for a period of beginning with the award of the contract through December 31st and all consecutive 12-month periods if contract is extended. The vendor will make all administrative fee payments to KPN by the 15th of the succeeding month of each 3-month period (quarterly) after they have received payment from the member agency and all checks are to be made payable to the Central Susquehanna Intermediate Unit (CSIU) and sent to Keystone Purchasing Network, 90 Lawton Lane, Milton, PA 17847, and Attention: Jeff Kimball. All reporting of purchases will be broken down by entity by state and will show purchaser, total dollar and date of purchase.

E. Agencies Allowed to Purchase under the Member Agency

The Keystone Purchasing Network (KPN) is a cooperative purchasing program operated by the Central Susquehanna Intermediate Unit under various state inter-governmental cooperation laws. Every public school district in the state is eligible to become a member and must complete a membership application with the KPN. No member is obligated to use these services, but they find the benefits of low price and not needing to go through the bidding process most advantageous. Only those members listed on an approved KPN membership list are eligible to purchase under these contracts. This list may change during the contract period and currently includes members from Pennsylvania, Maryland, New York, Delaware, District of Columbia and other Northeast & Mid-Atlantic states. Vendors may choose to offer KPN in other non-AEPA member states where cooperative purchasing laws allow.

Additional members may include other public educational institutions in the state, college, university, community colleges, vocational schools, charter schools, municipal and county governments and other non-profit organizations from Pennsylvania or any other state where a member is located. Membership from other entities is permitted by various intergovernmental cooperative purchasing laws or regulation from their home state.

As member agencies from other states are added to the membership of the KPN the awarded vendor(s) agrees to abide by all state and local laws and/or regulations that may apply to any purchase of products, services or construction by these agencies. KPN reserves the right to market any AEPA contract under any cooperative program name that it may choose in the future on a national basis in any non-AEPA member state.

23. TexBuy, a Cooperative Purchasing Shared Services Cooperative Sponsored by the Region 16 Education Service Center Education Service Center

A. *Additional Agency Terms and Conditions*

- (1) **TexBuy funding:** The total cost of the TexBuy program is funded through a participation fee up to two percent (2%) paid to TexBuy by the Contractors. This fee shall be included in all pricing to TexBuy and its participating agencies. The fee is based on actual Contractor sales. TexBuy does not charge any fees to participating government agencies.
- (2) **Tax exempt status:** All government agencies participating in TexBuy are exempt from payment of taxes under Texas Tax Code §151.309 for the purchase of tangible personal property.
- (3) **Minority and Women Business Enterprise (MWBE) participation:** It is the policy of some TexBuy participants to involve MWBE Contractors in the purchase of goods and services. Contractors shall indicate on the proposal form whether or not they are an MWBE.
- (4) **Bid awards** shall not consider whether a vendor is a member of or has another relationship with any organization and bid specifications (and subsequent contracts) shall not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization in accordance with Texas Education Code §44.043.
- (5) **Felony Conviction Notice** (TexBuy Contractors will be required to sign a standard affidavit required by the State of Texas): Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony." Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract." This notice is not required of a publicly held corporation.
- (6) **SB 9: Criminal History and Background Checks**, in accordance with Texas Education Code Chapter 22, shall be required should any employee or agent of a contractor awarded a bid have "continuing duties related to the contracted services" with a school district and that employee or agent will have "direct contact with students" (as those terms are defined in 19 Texas Administrative Code §153.1101).
- (7) **Debarment and Suspension:** Under Executive Order 12549 in the Federal Register and Rules and Regulations, TexBuy and TexBuy participants shall not do business with a vendor that has been debarred, suspended, or is otherwise ineligible for participation in Federal Assistance Programs.
- (8) **Conflict of Interest:** In accordance with Texas Local Government Code Chapter 176, vendors/contractors who have a business relationship as defined by Section 176.001(1-a) with a local government entity and meet the requirements under section 176.006(a) must file a Conflict of Interest Questionnaire (Form CIQ) with the local government entity when:
 - (a.) The vendor/contractor has entered into a contract with the local government entity or the local government entity is considering entering into a contract with the vendor.
 - (b.) AND the vendor provides certain income or gifts to a Local Government Officer (LGO) or first-degree relatives as defined in the Texas Government Code
 - (c.) OR a family relationship exists between the LGO and the vendor's employees or agents as defined in the Texas Government Code.
- (9) **EDGAR Certification (Education Department General Administrative Regulations):** In accordance with Federal Regulations under 2 CFR § 200.318(c)(1) – When a Cooperative member seeks to procure goods and services using funds under a federal grant or contract, specific federal laws, regulations, and requirements may apply in addition to those under state law. This includes, but is not limited to, the procurement standards of the

Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR 200 (also known as the "Uniform Guidance" or new "EDGAR"). All Vendors submitting Proposals must complete this EDGAR Certification Form regarding the Offeror's willingness and ability to comply with certain requirements which may be applicable to specific TexBuy member purchases using federal grant funds. This completed form will be made available to TexBuy members for their use while considering their purchasing options when using federal grant funds. Members may also require Vendors to enter into ancillary agreements, in addition to the TexBuy's general terms and conditions, to address the member's specific contractual needs, including contract requirements for a procurement using federal grants or contracts.

- (10) **Antitrust Certification:** In accordance with Texas Government Code 2155.005, a local government entity shall not enter into contract with a vendor/contractor that has violated any provision of the Texas Antitrust laws referenced in Texas Business & Commerce Code Chapter 15 or any Federal antitrust laws.
- (11) **H.B 89 Verification:** In accordance with chapter 2270 of the Texas Government code, a local government entity (city, school district, special district, etc) may not enter into a contract with a for-profit company unless the local government entity obtains written verification that the company does not and will not boycott Israel during the term of the contract.

B. Additional Agency Terms and Conditions for Non-Construction Products and Services

- (1) **State of Texas Franchise Tax:** By signature hereon, the bidder certifies that he/she is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Texas Tax Code.
- (2) **Agricultural products,** including textiles and other similar products, are not to be made available to Texas school districts through the agreement, unless such products produced, processed, or grown in the state of Texas are given a preference in accordance with Texas Education Code §44.042.

C. Additional Agency Terms and Conditions for Construction Products and Services as required by law in the State of Texas:

- (1) **Certification of Residency (TexBuy Contractors will be required to sign a standard affidavit required by the State of Texas):** The State of Texas has a law concerning non-resident Contractors. This law can be found in Texas Government Code under Chapter 2252, Subchapter A. This law makes it necessary for TexBuy to determine the residency of its Contractors. In part, this law reads as follows:

(a.) **Section: 2252.001**

"Non-resident bidder" refers to a person who is not a resident. "Resident bidder" refers to a person whose principal place of business is in this state, including a Contractor whose ultimate parent company or majority owner has its principal place of business in this state."

(b.) **Section: 2252.002**

"A governmental entity may not award a governmental contract to a non-resident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located."

(2) **Security**

- (a.) **Bid Security,** when required by Texas Law, shall be furnished with the bid. The Bid Security shall consist of a certified check, cashier's check or a bid bond in the amount of ten percent (10%) of the total bid (or as otherwise stated in the RFB) that shall be a guarantee to furnish Performance and Payment Bonds. Bid Security shall be to TexBuy.
- (b.) **The Successful Bidder's Security** will be retained until the Contract is signed and the required Performance and Payment Bonds have been furnished. If any bidder refuses to enter into a contract

within 30 days or fails to furnish the required bonds, TexBuy will retain the Bid Security as liquidated damages, but not as a penalty.

- (c.) **Performance Bonds** when required by Texas Law, shall be furnished by the successful bidder in an amount equal to one hundred percent (100%) of the total amount of the contract sum, underwritten by such Surety Company as the Participating Agency may approve, conditioned upon the faithful performance of the work in accordance with the plans, specifications, and contract documents. Said bond shall be solely for the protection of the Participating Agency.
 - (d.) **Payment Bonds** when required by Texas Law shall be furnished by the successful bidder, in the amount of the contract, solely for the protection of all claimants supplying labor and material as hereinafter defined, in the prosecution of the work provided in said contract, for the use of each claimant.
 - (e.) **Prevailing Wage** must be paid to any contractors or subcontractors or their employees or agents in performing any work under the awarded bid.
 - (f.) **Criminal History Background Checks** in accordance with Texas Education Code §22.0834 shall be required should any employee or agent of a contractor awarded a bid have “continuing duties related to the contracted services” with a school district and that employee or agent will have “direct contact with students” (as those terms are defined in 19 Texas Administrative Code 153.1101).
- (3) **Insurance:** The Contractor shall file with the Participating Agency’s designee, Insurance Certificates, as described herein, evidencing the coverage required, and shall be supplied within ten (10) calendar days after receipt of the written “Notice of Award”. In no instance shall the Contractor begin work prior to the filing of the insurance requirements. Failure to do so shall be grounds to void the contract. The Participating Agency’s designee shall be given ten (10) days notice prior to the cancellation or change of any of the required insurance coverage. The Participating Agency shall be named as Certificate Holder.
- (a.) Contractor’s Liability Insurance: Produce and maintain in force the following kinds of insurance of companies acceptable to the Owner. Minimum Limits of Liability are stated.

Contractor’s Liability Insurance:

Employer’s Insurance Workers’ Compensation—Statutory Employer’s Liability

Bodily Injury by Accident Each Occurrence—\$100,000.00

Bodily Injury by Disease Each Employee—\$100,000.00

Policy Limit—\$500,000.00

Commercial General Liability -Combined Limits of Bodily and Personal Injury and Property Damage:

Single Limit—\$500,000.00

Unimpaired Aggregate—\$500,000.00

Comprehensive Automobile Liability - Including non-ownership, hired and owned vehicle coverage:

Bodily Damage Each Person—\$250,000.00

Each Occurrence—\$500,000.00

Property Damage Each Occurrence—\$250,000.00

(b.) Owner's Insurance: Carry and pay for Owner's Protective Liability Insurance in the same amounts as specified above for the Contractor's General Liability. Name the Architect, Engineers, and Consultants as additional insured if applicable.

(c.) Comprehensive Catastrophic Liability: excess over the above liability policies in the amount of \$2,000,000.00 each occurrence. (Combined Limit)

D. Procedure for Processing Orders

- (1) Purchase orders are issued by participating agencies to the Contractor.
- (2) "Automated contracts" may be negotiated with TexBuy that provide for purchase orders to be sent directly to the Contractor with reports of usage submitted periodically to TexBuy.
- (3) Contractors deliver goods/services directly to the participating agency and then invoice the participating agency. The Contractor receives payment directly from the participating agency.
- (4) TexBuy shall receive quarterly reports from the Contractor reflecting total sales made through the TexBuy contract with the Contractor. The Contractor shall remit payment of their participation fee up to two percent (2%) to TexBuy at net thirty-day (30) terms.

E. Members Purchasing Under the Agency

TexBuy is operated by Region 16 Education Service Center, Amarillo, Texas and is available for use by all public and private schools, colleges, universities, cities, counties and other government agencies in the State of Texas.

24. Virginia, Fairfax County Public Schools

Additional Agency Terms and Conditions that apply to all categories

AUTHORITY-The Purchasing Agent has the sole responsibility and authority for negotiating, placing and when necessary modifying every solicitation, contract and purchase order (except for capital construction projects) issued by the County of Fairfax. In the discharge of these responsibilities, the Purchasing Agent may be assisted by assigned Buyers. Unless specifically delegated by the County Purchasing Agent, no other County officer or employee is authorized to order supplies or services, enter into purchase negotiations or contracts, or in any way obligate the government of the County of Fairfax for indebtedness. Any purchase ordered or contract made which is contrary to these provisions and authorities shall be of no effect and void and the County shall not be bound thereby.

NOTE: Fairfax County does not discriminate against faith-based organizations, in accordance with the *Code of Virginia*, § 2.2-4343.1, or against a Bidder or Bidder because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment in the performance of its procurement activity.

GENERAL

1. DEFINITIONS-

AGENCY: Any Department, Agency, Authority, Commission, Board or other unit in the Administrative Service of the County.

BIDDER/BIDDER: Any individual, company, firm, corporation, partnership or other organization bidding on solicitations issued by the Purchasing Agent and offering to enter into contracts with the County. The term "Bidder" will be used throughout this document and shall be construed to mean "Bidder" where appropriate.

CONTRACTOR: Any individual, company, firm, corporation, partnership or other organization to whom an award is made by the County.

COUNTY: County of Fairfax.

GOODS: All material, equipment, supplies, printing, and automated data processing/information technology hardware and software.

PURCHASING AGENT: The Purchasing Agent employed by the Board of Supervisors of Fairfax County, Virginia.

SERVICES: Any work performed by an independent Contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

STATE: Commonwealth of Virginia.

- 2. FUNDING-**A contract shall be deemed binding only to the extent of appropriations available to each Agency for the purchase of goods and services.
- 3. CONTRACT ALTERATIONS-**No alterations in the terms of a contract shall be valid or binding upon the County unless made in writing and signed by the Purchasing Agent or his or her authorized agent.
- 4. SUBLETTING OF CONTRACT OR ASSIGNMENT OF CONTRACT FUNDS-**It is mutually understood and agreed that the Contractor shall not assign, transfer, convey, sublet or otherwise dispose of his or her contractual duties to any other person, firm or corporation, without the previous written consent of the Purchasing Agent. If the Contractor desires to assign his or her right to payment of the contract, Contractor shall notify the Purchasing Agent immediately, in writing, of such assignment of right to payment. In no case shall such assignment of contract relieve the Contractor from his or her obligations or change the terms of the contract.
- 5. NEW GOODS, FRESH STOCK-**All Contractors, unless otherwise specifically stated, shall provide new commodities, fresh stock, latest model, design or pack.
- 6. INSPECTION-ACCEPTANCE-**For determining acceptance of supplies in accordance with the provisions of the prompt payment discount paragraph, inspection and acceptance shall be accomplished only after examination (including testing) of supplies and services to determine whether the supplies and services conform to the contract requirements. Acceptance shall occur only after receipt and inspection provided such inspection, as appropriate, is accomplished within a reasonable time.
DELIVERY/SERVICE FAILURES-Failure of a Contractor to deliver goods or services within the time specified, or within reasonable time as interpreted by the Purchasing Agent, or failure to make replacements/corrections of rejected articles/services when so requested, immediately or as directed by the Purchasing Agent, shall constitute authority for the Purchasing Agent to purchase in the open market articles/services of comparable grade/quality to replace the services, articles rejected, and/or not delivered. On all such purchases, the Contractor shall reimburse the County, within a reasonable time specified by the Purchasing Agent, for any expense incurred in excess of contract prices. Such purchases shall be deducted from the contract quantities if applicable. Should public necessity demand it, the County reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Agent.
- 7. GUARANTEES & WARRANTIES-**All guarantees and warranties required shall be furnished by the Contractor and shall be delivered to the Purchasing Agent before final payment on the contract is made. Unless otherwise stated, manufacturer's standard warranty applies.
- 8. INSPECTIONS-**Inspection and acceptance of materials or supplies will be made after delivery at destinations herein specified unless otherwise stated. If inspection is made after delivery at destination herein specified, the County will bear

the expense of inspection except for the value of samples used in case of rejection. Final inspection shall be conclusive except in regard to latent defects, fraud or such gross mistakes as to amount to fraud. Final inspection and acceptance or rejection of the materials or supplies will be made as promptly as practicable, but failure to inspect and accept or reject materials or supplies shall not impose liability on the County for such materials or supplies as are not in accordance with the specifications.

9. **POINT OF DESTINATION**-All materials shipped to the County must be shipped F.O.B. DESTINATION unless otherwise stated in the contract or purchase order. The materials must be delivered to the "Ship to" address indicated on the purchase order.
10. **ADDITIONAL CHARGES**-Unless bought F.O.B. "shipping point" and Contractor prepays transportation, no delivery charges shall be added to invoices except when express delivery is authorized and substituted on orders for the method specified in the contract. In such cases, difference between freight or mail and express charges may be added to invoice.
11. **TERMINATION OF CONTRACTS**-Contracts will remain in force for full periods specified and/or until all articles ordered before date of termination shall have been satisfactorily delivered and accepted and thereafter until all requirements and conditions shall have been met, unless:
 - a. Terminated prior to expiration date by satisfactory deliveries of entire contract requirements, or upon termination by the County for Convenience or Cause.
 - b. Extended upon written authorization of the Purchasing Agent and accepted by Contractor, to permit ordering of unorderd balances or additional quantities at contract prices and in accordance with contract terms.
12. **TERMINATION FOR CONVENIENCE**-A contract may be terminated in whole or in part by the County in accordance with this clause whenever the County Purchasing Agent shall determine that such a termination is in the best interest of the County. Any such termination shall be effected by delivery to the Contractor at least five (5) working days prior to the termination date of a Notice of Termination specifying the extent to which performance shall be terminated and the date upon which termination becomes effective. An equitable adjustment in the contract price shall be made for completed service, but no amount shall be allowed for anticipated profit on unperformed services.
13. **TERMINATION OF CONTRACT FOR CAUSE**-
 - a. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his or her obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the County shall thereupon have the right to terminate, specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the contract shall, at the option of the County, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.
14. Notwithstanding the above, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of contract by the Contractor for the purpose of set off until such time as the exact amount of damages due to the County from the Contractor is determined.
15. **CHANGES**-Should it become proper or necessary in the execution of this contract to make any change in design, or to make any alterations which will increase the expense, the Purchasing Agent shall determine an equitable adjustment. No payment shall be made to the Contractor for any extra material or services, or of any greater amount of money than stipulated to be paid in the contract, unless some changes in or additions to the contract requiring additional outlay by the Contractor shall first have been expressly authorized and ordered in writing by contract amendment or otherwise furnished by the Purchasing Agent.
16. **GENERAL GUARANTY**-Contractor agrees to:
 - a. Save the County, its agents and employees harmless from liability of any nature or kind for the use of any copyrighted or uncopyrighted composition; secret process, patented or unpatented; invention; article or appliance furnished or used in the performance of a contract for which the Contractor is not the patentee, assignee, licensee or owner.
 - b. Protect the County against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit or delivery.
 - c. Furnish adequate protection against damage to all work and to repair damages of any kind to the building or equipment, to his or her own work or to the work of other Contractors, for which his or her workers are responsible.
 - d. Pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the County.
 - e. Protect the County from loss or damage to County owned property while it is in the custody of the Contractor.
17. **SERVICE CONTRACT GUARANTY**-Contractor agrees to:
 - a. Furnish services described in the solicitation and resultant contract at the times and places and in the manner and subject to conditions therein set forth provided that the County may reduce the said services at any time.
 - b. Enter upon the performance of services with all due diligence and dispatch, assiduously press to its complete performance, and exercise therein the highest degree of skill and competence.
 - c. All work and services rendered in strict conformance to all laws, statues, and ordinances and the applicable rules,

regulations, methods and procedures of all government boards, bureaus, offices and other agents.

- d. Allow services to be inspected or reviewed by an employee of the County at any reasonable time and place selected by the County. Fairfax County shall be under no obligation to compensate Contractor for any services not rendered in strict conformity with the contract.

Stipulate that the presence of a County Inspector shall not lessen the obligation of the Contractor for performance in accordance with the contract requirements, or be deemed a defense on the part of the Contractor for infraction thereof. The Inspector is not authorized to revoke, alter, enlarge, relax, or release any of the requirements of the contract documents. Any omission or failure on the part of the Inspector to disapprove or reject any work or material shall not be construed to be an acceptance of any such defective work or material. Notification of an omission or failure will be documented by the Purchasing Agent.

- 18. INDEMNIFICATION**-Contractor shall indemnify, keep and save harmless the County, its agents, officials, employees and volunteers against claims of injuries, death, damage to property, patent claims, suits, liabilities, judgments, cost and expenses which may otherwise accrue against the County in consequence of the granting of a contract or which may otherwise result therefrom, if it shall be determined that the act was caused through negligence or error, or omission of the Contractor or his or her employees, or that of the Subcontractor or his or her employees, if any; and the Contractor shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and if any judgment shall be rendered against the County in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County as herein provided.

- 19. NON-DISCRIMINATION**-During the performance of this contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- d. The Contractor will include the provisions of the foregoing paragraphs a, b, and c above in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each Subcontractor or vendor.
- e. Contractor and Subcontractor hereunder shall, throughout the term of this contract, comply with the Human Rights Ordinance, Chapter 11 of the Code of the County of Fairfax, Virginia, as reenacted or amended.

- 20. DRUG FREE WORKPLACE**-During the performance of a contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract of over \$10,000, so that the provisions will be binding upon each Subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to a Contractor in accordance with this section, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

- 21. OFFICIALS NOT TO BENEFIT**-

- a. Each Bidder or Bidder shall certify, upon signing a bid or proposal, that to the best of his or her knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of his or her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.
- b. Whenever there is reason to believe that a financial benefit of the sort described in paragraph "a" has been or will be received in connection with a bid, proposal or contract, and that the Contractor has failed to disclose such benefit or has inadequately disclosed it, the County Executive, as a prerequisite to payment pursuant to the contract, or at any other time, may require the Contractor to furnish, under oath, answers to any interrogatories related to such possible

benefit.

- c. In the event the Bidder or Bidder has knowledge of benefits as outlined above, this information should be submitted with the bid or proposal. If the above does not apply at time of award of contract and becomes known after inception of a contract, the Bidder or Bidder shall address the disclosure of such facts to the Fairfax County Purchasing Agent, 12000 Government Center Parkway, Suite 427, Fairfax, Virginia 22035-0013. Relevant Invitation/Request for Proposal Number (see cover sheet) should be referenced in the disclosure.

LICENSE REQUIREMENT-All firms doing business in Fairfax County, shall obtain a license as required by Chapter 4, Article 7, of The Code of the County of Fairfax, Virginia, as amended, entitled "Business, Professional and Occupational Licensing (BPOL) Tax." Questions concerning the BPOL Tax should be directed to the Department of Tax Administration, telephone (703) 222-8234 or visit: http://www.fairfaxcounty.gov/dta/business_tax.htm. The BPOL Tax number must be indicated in the space provided on the Cover Sheet, "Fairfax License Tax No." when appropriate.

- 22. REGISTERING OF CORPORATIONS**-Any foreign corporation transacting business in Virginia shall secure a certificate of authority as required by Section 13.1-757 of the Code of Virginia, from the State Corporation Commission, Post Office Box 1197, Richmond, Virginia 23209. The Commission may be reached at (804) 371-9733. The consequences of failing to secure a certificate of authority are set forth in Virginia Code Section 13.1-758.

- 23. COVENANT AGAINST CONTINGENT FEES**-The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For violation of this warranty, the County shall have the right to terminate or suspend this contract without liability to the County or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

24. OFFICE OF SMALL BUSINESS-

- a. It is the policy of the County of Fairfax as declared by the Fairfax County Board of Supervisors' adoption of a Small and Minority Business Enterprise Program, April 6, 1981, that Fairfax County and its employees undertake every effort to increase opportunity for utilization of small or minority businesses in all aspects of procurement to the maximum extent feasible.
- b. In connection with the performance of this contract, the Contractor agrees to use his or her best effort to carry out this policy and to insure that small and minority businesses shall have the maximum practicable opportunity to compete for subcontract work under this contract consistent with the efficient performance of this contract.
- c. As used in this contract the term "small business" means a corporation, partnership, or sole proprietorship, or other legal entity formed for the purpose of making a profit, which is independently owned and operated, has either fewer than 100 employees, or less than \$1,000,000 in annual receipts.
- d. As used in this contract, the term "minority business" means a business enterprise that is at least 51 percent owned and controlled by a minority person or persons. Such persons include African Americans, Hispanic Americans, Asian Americans, American Indians, Eskimos and Aleuts; women regardless of race or ethnicity; and persons with a physical impairment that substantially limits one or more of the major life activities of such individuals, a record of such impairment, or who are regarded as having such an impairment.
- e. Contractors may rely on oral or written representations by Subcontractors regarding their status as small and/or minority business enterprises in lieu of independent investigation.
- f. Where Federal grants or monies are involved it is the policy of Fairfax County, through its agents and employees, to comply with the requirements set forth in the U.S. Office of Management and Budget Circular No. A-102, uniform administrative requirements for Grants and Cooperative Agreements with State and Local Governments, as they pertain to small and minority business utilization.

PAYMENTS

- 25. TAX EXEMPTION**-The County is exempt from the payment of any federal excise or any Virginia sales tax. The price bid must be net, exclusive of taxes. However, when under established trade practice any federal excise tax is included in the list price, a Bidder may quote the list price and shall show separately the amount of federal tax, either as a flat sum or as a percentage of the list price, which shall be deducted by the County. Fairfax County's Federal Excise Tax Exemption Number is 54-74-0127K. Contractors located outside the Commonwealth of Virginia are advised that when materials are picked up by the County at their place of business, they may charge and collect their own local/state sales tax. Materials used in the performance of construction contracts are subject to Virginia Sales/Use Tax as described in Section 630-10-27J of the Virginia Retail Sales and Use Tax Regulations.

- 26. PAYMENT**-Payment shall be made after satisfactory performance of the contract, in accordance with all of the provisions thereof, and upon receipt of a properly completed invoice. Fairfax County reserves the right to withhold any or all payments or portions thereof for Contractor's failure to perform in accordance with the provision of the contract or any modifications thereto.

- 27. PARTIAL PAYMENTS**-Unless otherwise specified, partial payments will be made upon acceptance of materials or services so invoiced if in accordance with completion date. However, up to 5 percent (5%) of the value of the entire order may be retained until completion of contract.
- 28. PAYMENT FOR EQUIPMENT, INSTALLATION, AND TESTING**-When equipment requires installation (which shall also be interpreted to mean erection and/or setting up or placing in position, service, or use) and test, and where such installation or testing is delayed, payment may be made on the basis of 50% of the contract price when such equipment is delivered on the site. A further allowance of 25% may be made when the equipment is installed and ready for test. The balance shall be paid after the equipment is tested and found to be satisfactory. If the equipment must be tested, but installation is not required to be made by the Contractor or if the equipment must be installed but testing is not required, payment may be made on the basis of 75% at the time of delivery and the balance shall be paid after satisfactory test or installation is completed.

REMEDIES

29. INELIGIBILITY-

- a. Any person or firm suspended or debarred from participation in County procurement shall be notified in writing by the County Purchasing Agent.
 1. The Notice of Suspension shall state the reasons for the actions taken and such decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the Notice by instituting legal action as provided in the Code of Virginia.
 2. The Notice of Debarment shall state the reasons for the actions taken and the decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the notice by instituting legal action as provided in the Code of Virginia.
- b. The County Purchasing Agent shall have the authority to suspend or debar a person or firm from bidding on any contract for the causes stated below:
 1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
 2. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County Contractor;
 3. Conviction under the state or federal antitrust statutes arising out of the submission of bids or proposals;
 4. Violation of contract provisions, as set forth below, of a character which is regarded by the County Purchasing Agent to be so serious as to justify suspension or debarment action:
 - (a) failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - (b) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the Contractor shall not be considered to be a basis for suspension or debarment;
 5. Any other cause the County Purchasing Agent determines to be so serious and compelling as to affect responsibility as a Contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands;
 6. The Contractor has abandoned performance or been terminated for default on any other Fairfax County project;
 7. The Contractor is in default on any surety bond or written guarantee on which Fairfax County is an obligee.
- c. If, upon appeal, it is determined that the action taken by the County Purchasing Agent was arbitrary or capricious, or not in accordance with the Constitution of Virginia, statutes or regulations, the sole relief available to the person or firm shall be restoration of eligibility. The person or firm may not institute legal action until all statutory requirements have been met.

30. CONTRACTUAL DISPUTES-

- a. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the County Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy thereof to the Contractor within thirty (30) days. The decision of the County Purchasing Agent shall be final and conclusive unless the Contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A Contractor may not institute legal action, prior to receipt of the public body's decision on the claim, unless the public body fails to render such decision within the time specified.
- b. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the Contractor's intention to file such claim shall have been given at the time

of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

31. LEGAL ACTION-No Bidder, Bidder, potential Bidder or Bidder, or Contractor shall institute any legal action until all statutory requirements have been met.

C - Member Purchasing

32. COOPERATIVE PURCHASING-The County may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, or the District of Columbia, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for architectural and engineering services, a public body may purchase from another public body's contract even if it did not participate in the request for proposal (RFP) or invitation for bid (IFB), if the RFP or IFB specified that the procurement was being conducted on behalf of other public bodies. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement. As authorized by the United States Congress and consistent with applicable federal regulations, and provided the terms of the contract permit such purchases, any county, city, town, or school board may purchase goods and nonprofessional services from a U.S. General Services Administration contract or a contract awarded by any other agency of the U.S. government. Bidders are advised that the *resultant* contract(s) may be extended, with the authorization of the Bidder, to other public bodies, or public agencies or institutions of the United States to permit their use of the contract at the same prices and/or discounts and terms of the resulting contract. If any other public body decides to use the final contract, the Contractor(s) must deal directly with that public body concerning the placement of orders, issuance of purchase orders, contractual disputes, invoicing and payment. The County of Fairfax acts only as the "Contracting Agent" for these public bodies. It is the Contractors responsibility to notify the public body(s) of the availability of the contract(s). Other public bodies desiring to use this contract will need to make their own legal determinations as to whether the use of this contract is consistent with their laws, regulations, and other policies. Each public body has the option of executing a separate contract with the Contractor(s). Public bodies may add terms and conditions required by statute, ordinances, and regulations, to the extent that they do not conflict with the contracts terms and conditions. If, when preparing such a contract, the general terms and conditions of a public body are unacceptable to the Contractor, the Contractor may withdraw its extension of t

25. Washington, King County Directors' Association (KCDA)

(General Contracts and Construction/Public Works Projects)

A. KCDA Additional General Terms and Conditions

General Intent: KCDA may participate in all or any part of the goods and services listed in this IFB, upon completion of contracts currently in effect, whichever is deemed in the best interest of KCDA members. KCDA cannot be restricted by the successful bidder from choosing which parts of these contracts to use.

Both the Contractor and KCDA member using this Contract agree that it is the member's responsibility to perform due diligence as to the legality of their usage of this contract. In this regard, KCDA suggests that, at a minimum, Contractor and member considering such usage consult with their legal counsel before doing so.

Advertising/Marketing:

KCDA requires all vendors to develop a marketing program to include printed, web-based, e-mail, telemarketing and other methods approved by KCDA.

All promotional marketing materials must have the prior approval of KCDA before distribution and must include the KCDA logo and other contract information.

KCDA staff will work jointly with all vendors and their representatives to market the AEPA contracts to KCDA members and prospective members. Vendors may be requested to make joint presentations to KCDA or its members in either a one to one or a group setting. Some group presentations may be done in conjunction with other vendors.

Displaying exhibits at various statewide conferences are encouraged. Contractor agrees to make available KCDA supplied brochures or other promotional materials at these events. Contractor will provide KCDA with scheduled exhibit dates in advance.

Contractor agrees to insert the approved KCDA logo, web address and contact information on the Contractor's website promoting and providing a link to the KCDA website. Contractor will also provide KCDA with text, links and logos to be posted on the KCDA website.

Assignment:

Contractor shall not subcontract, assign, transfer, convey, sublet or otherwise dispose of contractual duties to any other person, firm or corporation without the previous written consent of KCDA and any member that has an outstanding open purchase order or financing arrangement. In no case shall such assignment of Contract relieve the Contractor from obligations or change the terms of the Contract.

Cancellation/Default/Termination:

KCDA reserves the right to cancel the whole or any part of this contract due to the failure by the Contractor to carry out any obligation, term or condition of the contract. KCDA will issue written notice to the contractor for acting or failing to act in any of the following:

- The Contractor fails to adequately perform the services set forth in the contract
- The Contractor fails to make progress in the performance of the contract and/or gives KCDA reason to believe the Contractor will not or cannot perform to the requirements of the contract
- The Contractor fails to observe any of the terms and conditions of the contract
- The Contractor fails to pay any applicable administrative fees.
- The Contractor fails to follow the established procedure for purchase orders, invoices and receipt of funds as stipulated by KCDA.

If the contract is to be terminated KCDA shall do the following:

Step 1 – Issue a warning Letter of Concern outlining the violations and length of time to correct the problem(s). Upon receipt of the letter, the Contractor shall have ten (10) business days to provide a satisfactory response to KCDA. Failure on the part of the Contractor to address adequately all issues of concern may result in contract cancellation.

Step 2 – Issue a letter of intent to cancel the contract if the problems(s) are not resolved by the date specified.

Step 3 – Issue a letter to terminate the contract.

Compliance with Laws

In addition to any requirements set forth herein, vendor shall comply with all applicable state, federal and local laws, rules, regulations and ordinances.

Contract Amendments:

KCDA reserves the right to amend the contract resulting from state law changes or internal boilerplate changes due to state law changes. Contractors/Vendors will be sent written notification of the changes.

Employees who have been Convicted of Crimes Against Children:

The Contractor, or any subcontractors, shall not utilize any employee at a school site or allow any contact between school children and any employee when an employee has plead guilty to or been convicted of any felony crime involving the physical neglect of a child under Chapter 9A.42RCW, the physical injury or death of a child under Chapter 9A.32 or 9A.36RCW (except motor vehicle violations under Chapter 46.61 RCW), sexual exploitation of a child under Chapter 9A.444 RCW where a minor is the victim, promoting prostitution of a minor under Chapter 9A.88 RCW, the sale or purchase of a minor child under 9A.88 RCW, or violation of similar laws of another jurisdiction.

Contractors/Vendors who have regularly scheduled unsupervised access to children, and/or who hire employees who will have regularly scheduled unsupervised access to children, shall perform a record check through the Washington State Patrol criminal identification system under RCW 43.43.830-43.43.834, 10.97.0303 and 10.97.050, and through the Federal Bureau of Investigation before hiring the employee. The record check shall include a fingerprint check using a complete Washington State criminal identification fingerprint card. The Contractor shall provide a copy of the record to the person applying for employment to the school location. If the Contractor or applicant has had a record check within the previous two years, the Contractor may waive the requirement. The Contractor shall determine whether the applicant or the Contractor shall pay costs associated with the record check.

In addition, pursuant to RCW 9.96A.020 and 1993 Chapter Law 71, a person is disqualified from employment by school districts, and their Contractor from hiring employees who will have regularly scheduled unsupervised access to children because of a prior guilty plea or conviction of a felony crime specified under RCW 28A.400.322, or a violation of similar laws of another jurisdiction, even if the time elapsed since the guilty plea or conviction is ten years or more.

Governing Law and Venue/Legal Litigation:

All applicable local, state and federal laws and regulations will apply to any purchases of equipment, service or public works in any of the states KCDA currently services, as well as any other non-AEPA states where members may be added to KCDA membership throughout the term of these contracts. The laws of the State of Washington govern the Contract. Each and every provision of law and clause required by law to be included in the Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction. Venue for any litigation arising out of or related to the Contract shall take place in the State of Washington.

Hazardous Materials:

If any hazardous chemicals/materials are supplied under a contract/purchase order arising out of this solicitation, a Safety Data Sheet (SDS) shall accompany the delivery of any hazardous chemicals/materials supplied by the vendor. All SDA sheets shall be sent to KCDA and the KCDA member. Any products not appropriately labeled will be refused and the vendor will be responsible for additional freight charges.

Indemnification/Hold Harmless:

The Contractor agrees to defend, indemnify and hold harmless KCDA and the member agency, and their respective officers, officials, employees and volunteers from any and all claims, injuries, damages, losses or suits including attorney fees arising out of or resulting from the acts, errors or omissions in performance of this Agreement, except for injuries and damages caused by the sole negligence of KCDA or the member agency. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor, KCDA or the member agency and their respective officers, officials, employees, and volunteers, the Contractor's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purpose of this indemnification. Use of this contract certifies that the waiver of immunity specified by this provision was mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of the Agreement.

Independent Contractor:

The Contractor shall not be held or deemed in any way to be the agent or employee of KCDA and /or a KCDA member. It is the intention of the parties that the Contractor shall be and is to be considered an independent Contractor.

Minority and Women Owned Businesses:

KCDA encourages all minority and women owned businesses to participate in the bid process. Washington State law does not allow KCDA to provide any financial advantage for minority and women owned businesses who participate, however, KCDA believes that a diverse range of suppliers benefits all.

Quality of Goods:

Bidder shall bid and provide new (not used or refurbished) items only. Seller warrants all supplies, materials and equipment and services covered by a contract/purchase order with KCDA or with a KCDA member will:

- (a) conform to the specifications, drawings, written instructions, samples, or descriptions;
- (b) be of good quality and workmanship;
- (c) be free of defects in design, materials and workmanship;
- (d) be merchantable;
- (e) be fit for particular purposes applicable to the design, function or use of the supplies, materials and equipment.

Taxes:

The KCDA Members and Associate Members are to be taxed.

Term of Contract:

The term of the agreement shall commence on the date of the award and continue as stipulated in the General Terms and Conditions, unless terminated, canceled or extended.

Use of Tobacco on School Districts/Public Agency Premises:

RCW 28A.210.310 prohibits the use of tobacco in any form on school district property. Smoking or other use of tobacco will not be permitted at the job site.

B. Procedure for Processing Orders Order
Procedure

After entering into an agreement with KCDA, KCDA will confirm the directions for placement of orders with the Contractor, and will post directions on the KCDA website for both Contractor and members. These directions will also be posted on each awarded Contractors/Vendors website.

- Once the award is made to the Contractor, KCDA will inform members of the contract.
- At this point the Contractor may directly contact members or the member may contact the Contractor.
- A list of members, addresses and phone numbers is available to the Contractor upon request.
- Before a Contractor may enter into business with a KCDA member, they need to verify membership through the KCDA website, which can be viewed under Membership.

Invoicing/Reporting

- KCDA will contact Contractors/Vendors about invoicing procedures.
- KCDA is funded through a service fee paid to KCDA by the participating Contractors/Vendors. The service fee percentage is based upon the total sale of goods and services, including installation, if applicable. This fee shall be reflected in all price quotations under the KCDA agreement. The service fee will be 2%. Do not print the service fee as a separate line item on the quotation.
- The Contractor will compile an electronic quarterly report listing each purchase made by participating members. Within 30 days after each quarterly period the report will be sent to the e-mail address of the KCDA Purchasing Director, Thomas Kim, tkim@kcda.org and Director of Finance, Robert Payne rpayne@kcda.org
- These reports shall be in Microsoft Excel format and shall have file names that identify the Contractor and the quarterly period being reported. They shall include the following fields and allow for sorting on any of the fields: Date of order, name of member, item purchased, quantity, unit price, extended price, member PO #, Contractor order number.
- KCDA reserves the right to change the contact name of existing KCDA personnel administering the contract. If there are personnel changes, reports and payments will be sent to the new contact(s) specified.

C. Agencies Allowed to Purchase under KCDA

King County Director's Association (KCDA) is a member owned purchasing cooperative representing 295 Washington State school districts. In addition, KCDA provides purchasing and procurement services for more than 1,200 public agencies and political subdivisions in Washington and other states, including but not limited to Alaska, Idaho, and Montana. KCDA also provides purchasing services for accredited private K-12 schools in Washington State.

A listing of all KCDA members is available on the KCDA website, www.kcda.org.

D. KCDA Additional Terms & Conditions for Construction Products and Services

Contractor agrees that, in performance of the services required under this agreement, Contractor shall abide by all federal, state, local and Washington law and regulations that may apply to construction and public works. It is the responsibility of the Contractor to determine applicability and requirements of any such laws and to abide by them.

- **Bid Bond:** The bid must be accompanied by a bid bond using the KCDA form included in these contract provisions, issued by a surety licensed to do business in the State of Washington and made out to King County Directors Association in an amount not less than 5% of the amount of the bid as identified in Part B, Section 4 of the solicitation. A Power of Attorney must accompany the bid bond and must appoint the surety's true and lawful attorney-in-fact to make, execute, seal and deliver the bid guarantee bond. Failure to submit the required bid security with the Bid shall render the bid non-responsive and the bid shall be rejected.
- **Public Works:** State of Washington statute requires workers be paid prevailing wages when employed on public works projects and on public building service maintenance contracts. (RCW 39.04.010, RCW 39.12.010 and 020) It is the contractor's responsibility to be acquainted with and comply with State regulations regarding payment of prevailing wages on public works projects. Prevailing Wages are established by the Washington State Department of Labor and Industries and can be obtained on the web at <http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp> or by contacting Labor and Industries at 360-902-5335. KCDA serves all counties in Washington State. The County in which the project is located will be identified once a member initiates a request for the service, and the effective wage rate to be applied to a specific project is to be based on the date of this bid during the original contract term, and if contract extensions are granted, the prevailing wage rate in effect at the time of the latest extension. A copy of the applicable prevailing wage rates are also available for viewing at the office of KCDA. Upon request KCDA will mail a hard copy of the applicable prevailing wages.
- **Application:** The Public Works Act regulates wages paid to workers, laborers and mechanics performing public work. It does not apply to work that is clerical, executive administrative or professional in nature. It does not apply to work of a secretary, engineer or administrator, unless they are performing construction work, alteration work, repair work, etc. Prevailing wage application depends on the work that is performed, regardless of the worker's job title. (RCW 39.12.020 and WAC 296-128-510 through 530). Definition: Public Works is all work, construction, alteration, repair or improvement that is executed at the cost of the state or any other local public agency. This includes, but is not limited to, demolition, remodeling, renovation, road construction, building construction, ferry construction and utilities construction. (RCW 39.04.010). Public Building Service Maintenance Contracts: Prevailing wages are also required on all public building service maintenance (janitorial) contracts. (RCW 39.12.020). **Contractors bidding a Public works project exceeding \$1,000,000.00 must declare who their HVAC, Plumbing and Electrical subcontractors will be and submit this information with bid documents in order for the bid to be responsive (RCW 39.30.060).** Such projects also have special considerations pertaining to prefabricated materials (RCW 39.04.370) and use of apprentices (39.04.320).
- **Reciprocity:** In accordance with RCW 39.04.380 any bidding process for public works in which a bid is received from a nonresident contractor from a state that provides a percentage bidding preference, a comparable percentage disadvantage must be applied to the bid of that nonresident contractor. This does not apply to public works procured pursuant to RCW 39.04.155, 39.04.280 or other procurement exempt from competitive bidding.
- **Prevailing Wage:** Definition: Prevailing Wage is the hourly wage, usual benefits and overtime, paid in the largest city in each county, to the majority of workers, laborers and mechanics. The rate is established by the Department of Labor and Industries for each trade and occupation employed in the performance of public work. If Federal funds are used, bidders must comply with provisions of Davis-Bacon Act.
- **Basic procedures:** A Statement of Intent to Pay Prevailing Wages and Affidavit of Wages Paid must be filed and approved for the contractor and all subcontractors. No payments can be made until all Contractors/Vendors have submitted an approved intent form. KCDA cannot release retainage until all Contractors/Vendors have an approved Affidavit of Wages Paid form certified by the Industrial Statistician. (RCW 39.12.030, 040, 042). Costs for filing shall be the responsibility of the Contractor. Once the work is successfully completed, KCDA will release 95% of the project cost and withhold 5% retainage for as dictated by law. The final 5% will be paid when the following is completed: acceptance of project completion to the satisfaction of the KCDA ordering member, followed by receipt of approved Affidavit of Wages Paid Forms, Releases from Washington State Department of Labor & Industries, Employment Security Department and the Department of Revenue.
- **Federally Funded Projects:** In addition to the Federal Requirements of Section III General Terms and Conditions, Davis-Bacon prevailing wage requirements apply to public works construction contracts of \$2000 or more when a project includes any federal funding of any amount. When there is a difference between applicable state and federal prevailing wages for a particular classification of labor, contractors and subcontractors are required to pay the higher of the two prevailing wages. Applicable federal prevailing wage determinations can be found at <http://www.wdol.gov/>. Contractors/Subcontractors must be knowledgeable and adhere to all federal prevailing wage requirements, including but not limited to paying workers weekly and providing certified weekly payrolls for the contractor and subcontractors of any tier as required in the Davis-Bacon Act and applicable U.S. Department

of Labor regulations. Falsification of any prevailing wage payroll records may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of Title 18 and section 231 of Title 31 of the United States Code. Contractor shall inform all subcontractors of the Davis-Bacon requirements and the prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses. Contractor must coordinate all requirements related to federal funded projects with the KCDA member Agency.

- **Responsible Bidder**

Before award, the bidder must meet the following state responsibility criteria and, if applicable, supplemental responsibility criteria to be considered a responsible bidder. The bidder is required to submit documentation demonstrating compliance with the criteria.

Low Responsible Bidder

A. State Responsibility Criteria. The Bidder must meet the following state responsibility criteria:

1. At the time of submittal of bid to AEPA, the contractor must hold a current Washington State Contractors License in the name of the company signing the bid. Failure to have the license prior to submitting the bid is a violation of chapter 18.27 RCW and is a gross misdemeanor.
2. Have a current Washington State Unified Business Identifier (UBI) number.
3. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3).
4. If applicable:
 - a. Have Industrial Insurance (workers' compensation) coverage for the Bidder's employees working in Washington State, as required in Title 51 RCW;
 - b. Have a Washington State Employment Security Department number, as required in Title 50 RCW; and
 - c. Have a Washington State Department of Revenue state excise tax registration number, as required in Title 82 RCW.

B. Supplemental Bidder Responsibility Criteria. If supplemental criteria apply to this project, the criteria are included in "Attachment A." The Bidder may make a written request to modify any or all of the supplemental criteria. Modification of supplemental criteria shall be at KCDA's discretion. Any modifications to the supplemental criteria shall be made by addenda prior to bid opening.

Subcontractor Responsibility:

The contractor shall include the language of this section in each of its first tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. The requirements of this section apply to all subcontractors regardless of tier. At the time of subcontract execution, the Contractor shall verify that each of its first tier subcontractors meets the following bidder responsibility criteria:

1. At the time of bid submittal, have a current certification of registration in compliance with chapter 18.27 RCW.
2. Have a current Washington State Unified Business Identifier (UBI) number.
3. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3).
4. If applicable:
 - a. Have Industrial Insurance (workers' compensation) coverage for the Bidder's employees working in Washington State, as required in Title 51 RCW;
 - b. Have a Washington State Employment Security Department number, as required in Title 50 RCW; and
 - c. Have a Washington State Department of Revenue state excise tax registration number, as required in Title 82 RCW
5. Have an electrical contractor license, if required by Chapter 19.28 RCW;
6. Have an elevator contractor license, if required by Chapter 70.87 RCW;

- **Bonds- Payment & Performance:**

The prime Contractor shall provide a Performance and Payment Bond at 100% of the contract price to the KCDA member with a copy to KCDA before work begins. The only exception is for contracts of thirty-five thousand (\$35,000) dollars or less. In this instance, at the option of the Contractor, the member may in lieu of the bond retain fifty percent of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the Department of Revenue and the Department of Labor and Industries and settlement of any liens filed under Chapter

60.28 RCW, whichever is later. The bond shall be issued by a surety company authorized to do business in the State of Washington and shall be on standard forms used for public projects (RCW 39.08.010) and as directed by the KCDA member. Performance and Payment bonds for KCDA members outside Washington must be provided by

companies licensed to provide bonds for public entities in the member's state.

- **Licenses:** The prime contractor shall possess and maintain in current status all federal, state, and local licenses, bonds, and permits required for the performance and delivery of any and all products and services offered in its response to the bid solicitation. Before submitting a bid, Bidders must hold a current, valid contractor's license as required in Washington. The contractor's license must be in the name of the legal entity submitting and signing the bid. A bidder may not substitute a contractor's license held by a subcontractor or joint venture. Bidders submitting bids in Washington State without a valid contractor's license in the name of the Bidder are in violation of RCW 18.27.010. It is the responsibility of the prime contractor to ensure any subcontractors performing under this contract hold and maintain appropriate licenses. The contractor shall verify that appropriate licenses are in place at the time of response to this bid. Copies of licenses must be submitted to the member prior to performing the work. The Contractor agrees to keep and ensure subcontractors keep any required license, permit or bond current and in compliance with Washington rules, regulations and statutes, as well as in states outside Washington in which contractor performs work under this contract. For work performed for any Washington State school district, public agency or municipality, the Contractor must comply with the bidder responsibility requirements of RCW 39.04.350 prior to the KCDA member awarding a contract. The contractor must verify the responsibility of all subcontractors used in accordance with RCW 39.06.020.
- **Permits:** The acquisition of all permits as well as any drawings needed to obtain those permits is the responsibility of the successful Contractor/Bidder unless otherwise acknowledged by the KCDA member.
- **Certificate of Insurance:** A certificate of insurance demonstrating current coverage of the types and amounts of insurance required by KCDA and the KCDA member must be provided to KCDA and the KCDA member prior to performance of any work. In addition, the Commercial General Liability policies must be endorsed to name KCDA and the KCDA member as additional insureds. Such policies must be further endorsed to provide that the insurance is primary as respects KCDA and the KCDA member, and that any other insurance maintained by KCDA and the KCDA member shall be excess and not contributing insurance with the Contractor's insurance. These endorsements must be provided along with the certificate of insurance. KCDA and the KCDA member must both approve the certificate of insurance and endorsements.
- **Acceptable Pricing Method:** KCDA is unable to accept Alternative Costing Method quotations except in certain limited instances, (i.e. sole source) in which KCDA and Contractor may mutually determine the Alternative Costing Method is acceptable. This will be the exception rather than the rule. RS Means or line item bid pricing is acceptable.
- **Progress Payments:** The Contractor shall be paid, upon submission of a proper Payment Request, the prices stipulated herein for work performed (less deductions, if any), in accordance with all payment and retainage instructions herein. Submitted Payment Requests must contain the following minimum information:
 - a. Contract Number
 - b. Bid item ID, bid quantity, unit, unit price and description as appropriate
 - c. Sales Tax as applicable

The Payment Request will be reviewed by the Member before payment is made. If the Member is in disagreement with the Payment Request, KCDA will issue a notice requesting a revised Payment Request. In accordance with RCW 51.12.050, KCDA reserves the right to deduct from the payment any outstanding industrial insurance premiums owed by the Contractor or Subcontractors.

- **Payment Retainage:** In accordance with RCW 60.28 a contract retainage of not to exceed five percent of the moneys earned by the contractor toward completion of a public improvement contract shall be withheld and reserved as a trust fund for the protection and payment of 1) the claims of any person arising under the contract, and 2) the state with respect to taxes imposed pursuant to Titles 50, 51 and 82 RCW which may be due from such contractor. Upon completion of a contract, the member agency shall notify the Department of Revenue, the Employment Security Department, and the Department of Labor and Industries of the completion of contracts over thirty-five thousand dollars. KCDA will issue payment on the retainage amount forty-five days after notice from the KCDA Member Agency that the contract has been accepted as complete or upon receipt of all necessary releases, whichever is later.

26. West Virginia, West Virginia Regional Education Service Agencies Cooperative Purchasing

a. General Terms and Conditions that apply for all Categories:

i. Compliance with Laws/Forum Designation

Contractor shall comply with Federal, State, and Local Laws, Codes and Regulations while fulfilling the contract. It is the Contractor's responsibility to be aware of and comply with all state and local laws governing this procurement. Applicable laws, codes, and regulations (etc.) must be followed even if not specifically identified herein. The terms of the Agreement Addendum which is attached hereto and incorporated herein shall govern and supersede any contract terms to the contrary with respect to each procurement. Contractor shall verify to the West Virginia Regional Education Service Agencies (WVRESA), its Member Agencies and other qualifying purchasers that the Contractor is complying with all Federal, State and Local Laws, Codes and Regulations while fulfilling the contract, and shall provide a copy of this contract and any addenda to each Member Agency when providing a price quotation. Moreover, this contract shall be governed by and construed in accordance with the laws of the State of West Virginia without giving effect to its principles of conflict of law. Legal proceedings arising under this contract shall be brought in a West Virginia Court of the County where the Member Agency's main office is located.

ii. Delinquent Tax Affidavit

Contractor shall provide an affidavit relating to delinquent taxes as may be required by West Virginia State Code §11-12-10.

iii. Secretary of State Registration

Contractor shall meet and maintain all registration requirements as necessary to conduct business in the State of West Virginia, including but not limited to registration with the West Virginia Secretary of State.

iv. West Virginia Workers Compensation Insurance

Contractor, and any subcontractors hired by Contractor shall, at their own expense, maintain in force for the duration of the project workers' compensation and employer's liability insurance as required by the laws of the State of West Virginia.

v. Project Personnel, Student Safety and Background Checks

Member Agency shall have the right to reject the participation of any personnel of Contractor in the performance of the services if, in relation to the work assigned to them, the Member Agency deems such personnel to lack the skill, experience and expertise required to perform the services or if Member Agency considers their performance to be substandard or otherwise detrimental to the proper completion of the services. Contractor will advise Member Agency promptly of any change in the project manager or other key personnel assigned to the performance of the services.

Contractor acknowledges that the safety of the Member Agency's students, employees, officials and guests is of the utmost importance. Contractor will endeavor to ensure that its officers, employees, agents, representatives, and consultants will take no action that would jeopardize the safety of the Member Agency's students, employees, officials, or guests. The Member Agency reserves the right to require Contractor's officers, employees, agents, representatives and consultants to wear identification and stay in designated work areas at all times while on the Member Agency's property. The Member Agency shall have the right to effect the immediate removal of any person associated in any way with Contractor from Member Agency property for failure to wear identification, for being outside a designated work Contractor shall perform or cause to be performed by the West Virginia State Police and Federal Bureau of Investigation criminal background check of any personnel that will be performing the services within the proximity of minors. Contractor shall notify the Member Agency of any proposed employee who has been convicted, pled guilty or pled "no contest" to a criminal offense, and the Member Agency reserves the right to reject the proposed employee with a criminal background. No person shall be employed by Contractor who has been found guilty of any of the criminal offenses enumerated in West Virginia State Code without prior approval of the Member Agency.

vi. Independent Contractor

Contractor shall be an independent contractor and neither Contractor nor any of its subcontractors, nor the employees of any thereof, shall be deemed to be the servants, employees, or agents of Member Agency. Contractor shall be responsible for paying all costs related to its employees and managers performing the services. Contractor shall remain liable and responsible to Member Agency for all of its obligations under this contract, regardless of whether

the services are performed by the Contractor or a subcontractor of any tier.

vii. Ownership of Instruments of Service

Drawings, data and other documents prepared by, or with the cooperation of, the Contractor pursuant to this contract shall become, upon payment of all undisputed compensation due the Contractor from the Member Agency, the property of the Member Agency. Such drawings, data or other documents may be used by the Member Agency or others employed by the Member Agency without compensation to the Contractor.

viii. Audit

Member Agency may audit and inspect Contractor's records and accounts at any time during the Contractor's performance of the services and for a period of two (2) years following the completion or termination of the services for the purpose of verifying any invoice and underlying documentation presented by Contractor, it being understood that Contractor agrees to preserve all such documents through such two- (2) year period.

ix. Notices

Unless otherwise expressly provided in this contract, all notices and other communications given under the contract shall be in writing and shall be deemed effective upon receipt by the addressee at its address as set forth in the contract or at such other address as such party shall have notified the other in writing.

x. Non-Appropriation and Other Contract Terms Applicable to Member Agencies as Political Subdivisions of the State

If the Member Agency fails to appropriate sufficient monies in any fiscal year for payments due under the contract and other funds are not available for such payments, then a "Non-Appropriation" shall be deemed to have occurred. If a Non-Appropriation occurs, then Member Agency will give Contractor prompt notice of such Non-Appropriation. This contract shall thereupon terminate without penalty or expense to the Member Agency other than for goods and services already provided.

xi. No Personal Liability

It is understood and agreed that under no circumstances will the Member Agency's board members, regional council members, officers, employees, or agents be personally liable for any obligations or claims arising out of or related to the contract.

xii. Price Quotation

Contractors must quote to a Member Agency the pricing listed in the current contract awarded by the Association of Educational Purchasing Agencies. Vendor will follow the procedures for price reductions to AEPA Member Agencies and Participating Entities set forth in the AEPA general terms area, and conditions. The price quotation must be submitted to a Member Agency and Participating Entity in writing, and any other expenses that the Contractors intend to charge a Member Agency or Participating Entity must be separately itemized on the quotation page in bold font with a good faith estimate of the dollar amount of each item, such as use tax if applicable. The failure to list an item or include a good faith estimate of the dollar amount on the quotation page will preclude a Contractor from charging the same.

xiii. Miscellaneous

Headings and titles of articles, paragraphs and other subparts of this contract are for convenience of reference only and shall not be considered in interpreting the text of this contract. This contract and any appendices constitute the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements or understandings with respect thereto and all agreements or understandings with a Member Agency. No contract amendments can be made without the approval of the AEPA membership.

B. Construction Products and Services:

For construction improvements, the following shall apply:

1. The successful Contractor shall provide such bonds required by West Virginia State Code §38- 2-39.
2. Contractor shall comply with all applicable licensing requirements, including those of the West Virginia Contractor Licensing Board pursuant to West Virginia State Code §21-11-3.

C. Procedures for Processing Orders:

The WVRESA will keep informed its Member Agencies and other qualified purchasers of contract information via web site and through other marketing strategies. A list of WVRESA Member Agencies along with addresses, phones, contacts, etc. will be made available to successful Contractors. After contracts are awarded, Contractors may contact the WVRESA Member Agencies and other qualifying purchasers concerning their products and services.

Participating Member Agencies and other qualified purchasers will submit all purchase orders directly to the Contractor.

The Contractor price shall include a two percent (2%) administrative fee that the Contractor will collect from the Member Agency or other qualified purchaser. Administrative fees are to be remitted to the WVRESA on April 15, July 15, October 15 and January 15 of every calendar year with checks payable to the RESA 2, 2001 McCoy Road, Huntington, WV 25701

The Contractor will compile a quarterly report showing all purchases made by the WVRESA Member Agencies and other qualified purchasers under this contract at the conclusion of each calendar quarter. These reports shall be attached to the administrative fee remittance.

D. Agencies Allowed to Purchase under Member Agency:

All member cooperatives of the WVRESA and their individual Member Agencies are eligible to participate and purchase from the awarded AEPA contracts. All West Virginia PK-12 school districts, including Career and Technical Education Centers, Regional Education Services Agencies, West Virginia Department of Education (WVDE) and all Institutional Education Programs operated by WVDE are eligible to participate and purchase from the awarded AEPA contracts. In addition, all colleges and universities, state, municipalities, counties, other governmental agencies and non-profit agencies are eligible to participate if the AEPA contracts satisfy their individual procurement requirements.

27. Wisconsin, Cooperative Educational Service Agency (CESA) Purchasing

A. Additional Terms and Conditions

(Note: anything that is not already in Part A – General Terms and Conditions for AEPA) Terms and Conditions must be compliant with Wisconsin State Statutes 16.70 to 16.848

B. *Additional Participating Agency Terms and Conditions for Non-Construction Products and Services* Some larger districts, like Milwaukee Public Schools, may require an additional one page “piggyback” memorandum of understanding to utilize the contract.

C. Additional Participating Agency Terms and Conditions for Construction Related Products and Services
Construction contracts are subject to Wisconsin State Statutes 16.855 or 66.0901.

D. Procedure for Processing Orders

All districts directly process orders with the CESA Purchasing AEPA vendor partner unless otherwise arranged.

E. Members Purchasing Under CESA

CESA Purchasing membership is free. Membership is available to the following agencies based on WI State Statutes Chapter 116 which governs the work of WI Cooperative Educational Service Agencies: school districts, University of Wisconsin System institutions, and technical colleges. All public, private, and tribal schools, and all public and private agencies and organizations, that provide services to pupils. Please note in Wisconsin we do not require additional registration of members and define members as those defined by WI Statute 116 that guides our work.

28. Wyoming, Northeast Wyoming Board of Cooperative Educational Services (NEW BOCES):

Upon execution of this document, the respondent hereby agrees to submit bids and NEW BOCES agrees to accept such bids under the following conditions:

PREFERENCES Wyoming Statutes provide for percentage preferences for items supplied by Wyoming resident bidders and for items produced or grown in the State of Wyoming. Preferences may not be applied when federal funds are involved. Preference will be given in accordance with W.S. 16-6-101, 16-6-102, 16-6-103, 16-6-104, 16-6-105, 16-6-106, 16-6-107, and 16-6-301, as amended. For bids involving federal funds please refer to W.S. 16-6-108. Please contact the Department of Workforce Services, Division of Labor Standards

Resident & Non-Resident VENDOR REGISTRATION REQUIREMENTS:

Secretary of State 2020 Carey Avenue Cheyenne, WY 82002 Phone: (307) 777-7378 website: <http://soswy.state.wy.us/>

Department of Workforce Services Division of Unemployment Insurance 100 W. Midwest P.O. Box 2760 Casper, WY 82602 Phone: (307) 235-3217

Public Works and Contracts: Vendor shall comply with all laws, whether local, state, federal, or otherwise, applicable to any aspect of the service or product to be provided in relation to the contract. It shall be the vendor's responsibility to determine the applicability and requirements of any such laws and to abide by them. Vendor shall indemnify, defend, and hold harmless NEW BOCES for any default or breach of vendor in this regard. To the extent applicable for the product or service bid, vendor shall comply with W.S. 16-6-101 to 16-6-602 and to W.S. 21-3-110(a) (viii)

Every Contracted Vendor Employee shall provide a valid State issued Identification Card upon entry of any educational facility.

Members Customer Client Purchasing: NEW BOCES NEW BOCES is an educational cooperative authorized under the provisions of W.S. 21-20-101 to 21-20-111. All K-12 school districts, Community Colleges, Child Development Centers, Residential Child Care Institutions, Utah Educational Service Agencies, all Non-Profits and all Municipalities are eligible to participate in NEW BOCES cooperative purchasing programs within the State of Wyoming and Other States as requested. "Agencies" means Counties, Municipal Corporations, School Districts, Community College Districts, the joint business council of the Eastern Shoshone and Northern Arapaho Indian tribes, the business council of the Eastern Shoshone Indian tribe, the business council of the Northern Arapaho Indian tribe. Providing facilities or functions enumerated in W.S. 16-1-104(c);

No member user is obligated to use these services, but they find the benefits of economy and efficiency made possible by cooperative purchasing to be advantageous.

Procedure for Processing Orders: Upon bid award to the Contractors/Vendors, NEW BOCES will inform its members and other qualifying purchasers of the contract:

- When the customer identifies a desired product or service as available through the AEPA/NEW BOCES contract and agrees on price as presented to the customer by the awarded AEPA/NEW BOCES vendor, the customer then issues to the vendor a purchase order for that item or service.
- The vendor's price shall include a two percent (2%) administrative/marketing fee on all sales of products and or services that the vendor will collect from the member or other qualifying purchaser. This fee will be remitted to NEW BOCES on a quarterly basis.
- Administrative/Marketing fees will be payable to NEW BOCES on the 15th in the months of April, July, October, and January with all checks payable to NEW BOCES, 410 North Miller Avenue, Gillette, Wyoming 82716.
- Vendor makes all deliveries and installation of products and services. NEW BOCES does not warehouse items nor provide services.
- No other Cooperative shall be offered or used by awarded Contracted Vendors within the participating member customer clients of NEW BOCES.

Vendor Contact: Vendor will designate to NEW BOCES an individual(s) who will represent them. This contact person(s) will correspond with each ordering member for technical assistance, problems, or questions that may arise. Include instructions if different contacts for different geographical areas are needed; this information will be distributed to NEW BOCES members upon award of this bid.

NEW BOCES Commitment to Awarded Contract Vendors:

1) Website postings www.newboces.com under Cooperative Purchasing. Includes but not limited to News & Announcements, Awarded Contracts, Flyers, and Online Ordering. Available catalogs from Vendors must be provided for customer online ordering.

2) Announcing the contract in its quarterly newsletter and other events completed with vendors which includes savings reports and rebates to members and users of NEW BOCES Cooperative Contracts.

3) Publish the Vendor information in a catalog disseminated to all members and marketing for new members.

4) Attend Annual Conferences for Trade Show product purposes of all contracts held by NEW BOCES. Including any other suggestions or support from Vendors. A list of members and other qualifying purchasers, addresses, and phone numbers will be made available to the Contracted Vendor.

State Signature Pages



PURCHASING COOPERATIVE

BID BOND

KNOW ALL BY THESE PRESENTS, That we _____
Of _____

As principal, and _____

a corporation duly organized under the laws of the State of _____ and authorized to do business in the State of Washington, as surety, are held and firmly bond unto King County Directors Association in the full and penal sum of _____ for the work hereinafter described, for the payment of which, well and truly to be made, we bind our heirs, executors, administrators and assigns, and successors and assigns, firmly by these presents.

The conditions of this bond are such, that whereas the principal herein is herewith submitting his or its sealed proposal for the following, to wit:

Said bid and proposal, by reference thereto, being made a part hereof.

NOW, THEREFORE, If the said proposal bid by said principal be accepted, and the contract be awarded to said principal, and if said principal shall duly make and enter into and execute said contract and shall furnish bond as required by King County Directors Association within a period of ten (10) days from and after said award, exclusive of the day of such award, then this obligation shall be null and void, otherwise it shall remain and be in full force and effect.

IN TESTIMONY WHEREOF, The principal and surety have caused these present to be signed and sealed this _____ Day of _____.

By: _____

Principal

By: _____

Surety

Title: _____

Title: _____


Date: _____

Date: _____

NJ Business Registration Form

All vendors must have a valid Business Registration Certificate (BRC) from the Department of the Treasury, Division of Revenue prior to conducting business in the State of New Jersey and prior to receiving the award of a contract with a public entity.

STATE OF NEW JERSEY BUSINESS REGISTRATION CERTIFICATE FOR STATE AGENCY AND CASINO SERVICE CONTRACTOR		DEPARTMENT OF TREASURY DIVISION OF REVENUE PO BOX 252 TRENTON, NJ 08646-0252
TAXPAYER NAME:	TRADE NAME:	
TAX REGISTRATION TEST ACCOUNT	CLIENT REGISTRATION	
TAXPAYER IDENTIFICATION#:	SEQUENCE NUMBER:	
970-097-382/000	0107330	
ADDRESS:	ISSUANCE DATE:	
847 ROEBLING AVE TRENTON NJ 08611	07/14/04	
EFFECTIVE DATE:		
01/01/01		
FORM BRC(08-01)		
Act. Director <i>John S. Tully</i>		
This Certificate is NOT assignable or transferable. It must be conspicuously displayed at above address.		

STATE OF NEW JERSEY BUSINESS REGISTRATION CERTIFICATE	
	
Taxpayer Name:	TAX REG TEST ACCOUNT
Trade Name:	
Address:	847 ROEBLING AVE TRENTON, NJ 08611
Certificate Number:	1093907
Date of Issuance:	October 14, 2004
For Office Use Only:	
	200-4101-4112823533

For more information on how to obtain a Business Registration Certificate, please visit the State of New Jersey, Department of Treasury, Division of Revenue and Enterprise Services website at: <http://www.state.nj.us/treasury/revenue/busregcert.shtml> A valid Business Registration Certificate must be provided to the ESCNJ before the award of a contract can be made.

AMERICANS WITH DISABILITIES ACT OF 1990
Equal Opportunity for Individuals with Disability

The contractor and the Educational Services Commission of New Jersey (hereafter "owner") do hereby agree that the provisions of Title 11 of the Americans With Disabilities Act of 1990 (the "Act") (42 U.S.C. S121 01 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant there unto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the owner pursuant to this contract, the contractor agrees that the performance shall be in strict compliance with the Act. In the event that the contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the contractor shall defend the owner in any action or administrative proceeding commenced pursuant to this Act. The contractor shall indemnify, protect, and save harmless the owner, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The contractor shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the owner's grievance procedure, the contractor agrees to abide by any decision of the owner which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the owner, or if the owner incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the contractor shall satisfy and discharge the same at its own expense.

The owner shall, as soon as practicable after a claim has been made against it, give written notice thereof to the contractor along with full and complete particulars of the claim, if any action or administrative proceeding is brought against the owner or any of its agents, servants, and employees, the *owner shall* expeditiously forward or have forwarded to the contractor every demand, complaint, notice, summons, pleading, or other process received by the owner or its representatives.

It is expressly agreed and understood that any approval by the owner of the services provided by the contractor pursuant to this contract will not relieve the contractor of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the owner pursuant to this paragraph.

It is further agreed and understood that the owner assumes no obligation to indemnify or save harmless the contractor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the contractor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the contractor's obligations assumed in this Agreement, nor shall they be construed to relive the contractor from any liability, nor preclude the owner from taking any other actions available to it under any other provisions of the Agreement or otherwise at law.

Signature _____

Name _____

Title _____

Company name _____

Date _____

To be completed and signed below

Return with bid

AFFIRMATIVE ACTION QUESTIONNAIRE

This form is to be completed and returned with the bid. However, the ESCNJ will accept in lieu of this Questionnaire, Affirmative Action Evidence attached but not stapled to this page.

1. Our company has a federal Affirmative Action Plan approval. Yes
 No

If yes, please attach a copy of the plan to this questionnaire.

2. Our company has a New Jersey State Certificate of Employee Information Report. Yes
 No

If yes, please attach a copy of the certificate to this questionnaire.

3. If you answered "**NO**" to both questions above, No. 1 and 2, you must apply for an Affirmative Action Employee Information Report – Form AA302.

Please visit the New Jersey Department of Treasury website for the Division of Public Contracts Equal Employment Opportunity Compliance:

www.state.nj.us/treasury/contract_compliance/

- Click on "Forms" and then "AA302" and "Instructions" under the heading "Employee Information Report"
- Complete and submit the form with the appropriate payment to:

Department of Treasury
Division of Purchase & Property
Contract Compliance Audit Unit
EEO Monitoring Program
P.O. Box 206
Trenton, New Jersey 08625-0206

All fees for this application are to be paid directly to the State of New Jersey. A copy shall be submitted to the ESCNJ within seven (7) days of the notice of the intent to award the contract or the signing of the contract.

EMPLOYEE INFORMATION REPORT (FORM AA302)

IMPORTANT: READ THE FOLLOWING INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE FORM. PRINT OR TYPE ALL INFORMATION. FAILURE TO PROPERLY COMPLETE THE ENTIRE FORM MAY DELAY ISSUANCE OF YOUR CERTIFICATE. **IF YOU HAVE A CURRENT CERTIFICATE OF EMPLOYEE INFORMATION REPORT, DO NOT COMPLETE THIS FORM. SEND COPY OF CURRENT CERTIFICATE TO THE PUBLIC AGENCY. DO NOT COMPLETE THIS FORM FOR CONSTRUCTION CONTRACT AWARDS.**

ITEM 1 - Enter the Federal Identification Number assigned by the Internal Revenue Service, or if a Federal Employer Identification Number has been applied for, or if your business is such that you have not or will not receive a Federal Employer Identification Number, enter the Social Security Number of the owner or of one partner, in the case of a partnership.

ITEM 2 - Check the box appropriate to your TYPE OF BUSINESS. If you are engaged in more than one type of business check the predominate one. If you are a manufacturer deriving more than 50% of your receipts from your own retail outlets, check "Retail".

ITEM 3 - Enter the total "number" of employees in the entire company, including part-time employees. This number shall include all facilities in the entire firm or corporation.

ITEM 4 - Enter the name by which the company is identified. If there is more than one company name, enter the predominate one.

ITEM 5 - Enter the physical location of the company. Include City, County, State and Zip Code.

ITEM 6 - Enter the name of any parent or affiliated company including the City, County, State and Zip Code. If there is none, so indicate by entering "None" or N/A.

ITEM 7 - Check the box appropriate to your type of company establishment. "Single-establishment Employer" shall include an employer whose business is conducted at only one physical location. "Multi-establishment Employer" shall include an employer whose business is conducted at more than one location.

ITEM 8 - If "Multi-establishment" was entered in item 7, enter the number of establishments within the State of New Jersey.

ITEM 9 - Enter the total number of employees at the establishment being awarded the contract.

ITEM 10 - Enter the name of the Public Agency awarding the contract. Include City, County, State and Zip Code.

ITEM 11 - Enter the appropriate figures on all lines and in all columns. THIS SHALL ONLY INCLUDE EMPLOYMENT DATA FROM THE FACILITY THAT IS BEING AWARDED THE CONTRACT. DO NOT list the same employee in more than one job category. DO NOT attach an EEO-1 Report.

Racial/Ethnic Groups will be defined:

Black: Not of Hispanic origin. Persons having origin in any of the Black racial groups of Africa.

Hispanic: Persons of Mexican, Puerto Rican, Cuban, or Central or South American or other Spanish culture or origin, regardless of race.

American Indian or Alaskan Native: Persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

Asian or Pacific Islander: Persons having origin in any of the original peoples of the Far East, Southeast Asia, the Indian Sub-continent or the Pacific Islands. This area

includes for example, China, Japan, Korea, the Philippine Islands and Samoa.

Non-Minority: Any Persons not identified in any of the aforementioned Racial/Ethnic Groups.

ITEM 12 - Check the appropriate box. If the race or ethnic group information was not obtained by 1 or 2, specify by what other means this was done in 3.

ITEM 13 - Enter the dates of the payroll period used to prepare the employment data presented in Item 12.

ITEM 14 - If this is the first time an Employee Information Report has been submitted for this company, check block "Yes".

ITEM 15 - If the answer to Item 15 is "No", enter the date when the last Employee Information Report was submitted by this company.

ITEM 16 - Print or type the name of the person completing the form. Include the signature, title and date.

ITEM 17 - Enter the physical location where the form is being completed. Include City, State, Zip Code and Phone Number.

TYPE OR PRINT IN SHARP BALL POINT PEN

THE VENDOR IS TO COMPLETE THE EMPLOYEE INFORMATION REPORT FORM (AA302) AND RETAIN COPY FOR THE VENDOR'S OWN FILES. THE VENDOR SHOULD ALSO SUBMIT A COPY TO THE PUBLIC AGENCY AWARDED THE CONTRACT IF THIS IS YOUR FIRST REPORT; AND FORWARD ONE COPY **WITH A CHECK IN THE AMOUNT OF \$150.00 PAYABLE TO THE TREASURER, STATE OF NEW JERSEY (FEE IS NON-REFUNDABLE) TO:**

**NJ Department of the Treasury
Division of Contract Compliance & Equal Employment Opportunity
P.O. Box 209
Trenton, New Jersey 08625-0209 Telephone No. 1-609-292-5475**

To download the AA-302 form, click this link:

http://www.state.nj.us/treasury/contract_compliance/pdf/aa302.pdf

STATE OF NEW JERSEY
Division of Purchase & Property
Contract Compliance Audit Unit
EEO Monitoring Program
EMPLOYEE INFORMATION REPORT

IMPORTANT-READ INSTRUCTIONS CAREFULLY BEFORE COMPLETING FORM. FAILURE TO PROPERLY COMPLETE THE ENTIRE FORM AND TO SUBMIT THE REQUIRED \$150.00 FEE MAY DELAY ISSUANCE OF YOUR CERTIFICATE. DO NOT SUBMIT EEO-1 REPORT FOR SECTION B, ITEM 11. For instructions on completing the form, go to: http://www.state.nj.us/treasury/contract_compliance/pdf/aa302ins.pdf

SECTION A - COMPANY IDENTIFICATION

1. FID. NO. OR SOCIAL SECURITY	2. TYPE OF BUSINESS <input type="checkbox"/> 1. MFG <input type="checkbox"/> 2. SERVICE <input type="checkbox"/> 3. WHOLESALE <input type="checkbox"/> 4. RETAIL <input type="checkbox"/> 5. OTHER	3. TOTAL NO. EMPLOYEES IN THE ENTIRE COMPANY
4. COMPANY NAME		
3. STREET	CITY	COUNTY STATE ZIP CODE
6. NAME OF PARENT OR AFFILIATED COMPANY (IF NONE, SO INDICATE)		CITY STATE ZIP CODE
7. CHECK ONE: IS THE COMPANY: <input type="checkbox"/> SINGLE-ESTABLISHMENT EMPLOYER <input type="checkbox"/> MULTI-ESTABLISHMENT EMPLOYER		
8. IF MULTI-ESTABLISHMENT EMPLOYER, STATE THE NUMBER OF ESTABLISHMENTS IN NJ _____		
10. PUBLIC AGENCY AWARDED CONTRACT _____		
	CITY	COUNTY STATE ZIP CODE

Official Use Only	DATE RECEIVED	INAG DATE	ASSIGNED CONTRACT NUMBER

SECTION B - EMPLOYMENT DATA

11. Report all permanent, temporary and part-time employees ON YOUR OWN PAYROLL. Enter the appropriate figures on all lines and in all columns. Where there are no employees in a particular category, enter a zero. Include ALL employees, not just those in minority/non-minority categories, in columns 1, 2, & 3. DO NOT SUBMIT AN EEO-1 REPORT.

JOB CATEGORIES	ALL EMPLOYEES			PERMANENT MINORITY/NON-MINORITY EMPLOYEE BREAKDOWN										
	COL. 1	COL. 2	COL. 3	MALE					FEMALE					
	TOTAL (Cols. 2 & 3)	MALE	FEMALE	BLACK	HISPANIC	AMER. INDIAN	ASIAN	NON MIN.	BLACK	HISPANIC	AMER. INDIAN	ASIAN	NON MIN.	
Officials/Managers														
Professionals														
Technicians														
Sales Workers														
Office & Clerical														
Craftworkers (Skilled)														
Operators (Semi-skilled)														
Laborers (Unskilled)														
Service Workers														
TOTAL														
Total employment from previous Report (if any)														
Temporary & Part-Time Employees	The data below shall NOT be included in the figures for the appropriate categories above.													

12. HOW WAS INFORMATION AS TO RACE OR ETHNIC GROUP IN SECTION B OBTAINED? <input type="checkbox"/> 1. Visual Survey <input type="checkbox"/> 2. Employment Record <input type="checkbox"/> 3. Other (Specify)	14. IS THIS THE FIRST Employee Information Report Submitted? 1. YES <input type="checkbox"/> 2. NO <input type="checkbox"/>	15. IF NO, DATE LAST REPORT SUBMITTED MO. DAY YEAR
13. DATES OF PAYROLL PERIOD USED From: _____ To: _____		

SECTION C - SIGNATURE AND IDENTIFICATION

16. NAME OF PERSON COMPLETING FORM (Print or Type)	SIGNATURE	TITLE	DATE MO DAY YEAR
17. ADDRESS NO. & STREET	CITY	COUNTY STATE ZIP CODE	PHONE (AREA CODE, NO. EXTENSION)

I certify that the above information is correct to the best of my knowledge.

Name of Company/Firm

Address

City, State, Zip

Name of Authorized Agent _____ Title

SIGNATURE _____ Date _____

Sample Certificate of Employee Information Report

Certification 111XX

CERTIFICATE OF EMPLOYEE INFORMATION REPORT

INITIAL

This is to certify that the contractor listed below has submitted an Employee Information Report pursuant to N.J.A.C. 17:27-1.1 et. seq. and the State Treasurer has approved said report. This approval will remain in effect for the period of 15-DEC-20XX to 15-DEC-20XX

SAMPLE COMPANY, INC.
33 WEST STATE STREET
TRENTON, NJ 08625

VOID



State Treasurer

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)

N.J.A.C. 17:27

GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability,

nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at www.state.nj.us/treasury/contract_compliance)

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

Signature _____

Name _____

Title _____

Company name: _____

Date _____

EXHIBIT B Return with bid if bidding on installation services
MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L.1975, c.127)
N.J.A.C. 17:27-1.1 et seq.
CONSTRUCTION CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Dept. of LWD, Construction EEO Monitoring Program, may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B, and C, as long as the Dept. of LWD, Construction EEO Monitoring Program is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Dept. of LWD, Construction EEO Monitoring Program, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

(A) **EXHIBIT B** (Continued)

- (B) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.
- (C) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:
- (1) To notify the public agency compliance officer, the Dept. of LWD, Construction EEO Monitoring Program, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;
 - (2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;
 - (3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;
 - (4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;
 - (5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and nondiscrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;
 - (6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:
 - (i) The contractor or subcontractor shall interview the referred minority or women worker.
 - (ii) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction

EXHIBIT B (Continued)

trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Dept. of LWD, Construction EEO Monitoring Program. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below. (iii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in above, whenever vacancies occur. At the request of the Dept. of LWD, Construction EEO Monitoring Program, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.

(iv) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Dept. of LWD, Construction EEO Monitoring Program.

(7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Dept. of LWD, Construction EEO Monitoring Program and submitted promptly to the Dept. of LWD, Construction EEO Monitoring Program upon request.

- (D) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Dept. of LWD, Construction EEO Monitoring Program an initial project workforce report (Form AA-201) electronically provided to the public agency by the Dept. of LWD, Construction EEO Monitoring Program, through its website, for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7. The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Dept. of LWD, Construction EEO Monitoring Program, and to the public agency

EXHIBIT B (Continued)

compliance officer. The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on-the-job and/or off-the job programs for outreach and training of minorities and women.

(E) The contractor and its subcontractors shall furnish such reports or other documents to the Dept. of LWD, Construction EEO Monitoring Program as may be requested by the Dept. of LWD, Construction EEO Monitoring Program from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Dept. of LWD, Construction EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq. (Revised: January, 2016)

Company _____
Signature _____
Name _____
Title _____
Date _____

RETURN WITH BID
Educational Services Commission of New Jersey
Business Office
 1660 Stelton Road
 Piscataway, New Jersey 08854

Chapter 271
Political Contribution Disclosure Form
(Contracts that Exceed \$17,500.00)
Ref. N.J.S.A. 52:34-25

The undersigned, being authorized and knowledgeable of the circumstances, does hereby certify that _____ (Business Entity) has made the following **reportable** political contributions to any elected official, political candidate or any political committee as defined in N.J.S.A. 19:44-20.26 during the twelve (12) months preceding this award of contract:

Reportable Contributions

<u>Date of Contribution</u>	<u>Amount of Contribution</u>	<u>Name of Recipient Elected Official/ Committee/Candidate</u>	<u>Name of Contributor</u>

The Business Entity may attach additional pages if needed.

No Reportable Contributions (Please check (✓) if applicable.)

I certify that _____ (Business Entity) made no reportable contributions to any elected official, political candidate or any political committee as defined in N.J.S.A. 19:44-20.26.

Certification

I certify, that the information provided above is in full compliance with Public law 2005 – Chapter 271.

Name of Authorized Agent _____

Signature _____ Title _____

Business Entity _____

C. 271 POLITICAL CONTRIBUTION DISCLOSURE FORM

Contractor Instructions

Business entities (contractors) receiving contracts from a public agency that are NOT awarded pursuant to a “fair and open” process (defined at N.J.S.A. 19:44A-20.7) are subject to the provisions of P.L. 2005, c. 271, s. 2 (N.J.S.A. 19:44A-20.26). This law provides that 10 days prior to the award of such a contract, the contractor shall disclose contributions to:

- any State, county, or municipal committee of a political party
- any legislative leadership committee¹
- any continuing political committee (a.k.a., political action committee)
- any candidate committee of a candidate for, or holder of, an elective office:
 - of the public entity awarding the contract
 - of that county in which that public entity is located
 - of another public entity within that county
 - or of a legislative district in which that public entity is located or, when the public entity is a county, of any legislative district which includes all or part of the county

The disclosure must list reportable contributions to any of the committees that exceed \$300 per election cycle that were made during the 12 months prior to award of the contract. See N.J.S.A. 19:44A-8 and 19:44A-16 for more details on reportable contributions.

N.J.S.A. 19:44A-20.26 itemizes the parties from whom contributions must be disclosed when a business entity is not a natural person. This includes the following:

- individuals with an “interest” ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit
- all principals, partners, officers, or directors of the business entity or their spouses
- any subsidiaries directly or indirectly controlled by the business entity
- IRS Code Section 527 New Jersey based organizations, directly or indirectly controlled by the business entity and filing as continuing political committees, (PACs)

When the business entity is a natural person, “a contribution by that person’s spouse or child, residing therewith, shall be deemed to be a contribution by the business entity.” [N.J.S.A. 19:44A-20.26(b)]. The contributor must be listed on the disclosure.

Any business entity that fails to comply with the disclosure provisions shall be subject to a fine imposed by ELEC in an amount to be determined by the Commission which may be based upon the amount that the business entity failed to report.

The enclosed list of agencies is provided to assist the contractor in identifying those public agencies whose elected official and/or candidate campaign committees are affected by the disclosure requirement. It is the contractor’s responsibility to identify the specific committees to which contributions may have been made and need to be disclosed. The disclosed information may exceed the minimum requirement.

¹ N.J.S.A. 19:44A-3(s): “The term “legislative leadership committee” means a committee established, authorized to be established, or designated by the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly or the Minority Leader of the General Assembly pursuant to section 16 of P.L. 1993, c. 65 (C. 19:44A-10.1) for the purpose of receiving contributions and making expenditures.”

The enclosed form, a content-consistent facsimile, or an electronic data file containing the required details (along with a signed over sheet) may be used as the contractor's submission and is disclosable to the public under the Open Public Records Act.

The contractor must also complete the attached Stockholder Disclosure Certification. This will assist the agency in meeting its obligations under the law. **NOTE: This section does not apply to Board of Education contracts.**

P.L. 2005, c. 271

(Unofficial version, Assembly Committee Substitute to A-3013, First Reprint*)

AN ACT authorizing units of local government to impose limits on political contributions by contractors and supplementing Title 40A of the New Jersey Statutes and Title 19 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

40A:11-51 1. a. A county, municipality, independent authority, board of education, or fire district is hereby authorized to establish by ordinance, resolution or regulation, as may be appropriate, measures limiting the awarding of public contracts there from to business entities that have made a contribution pursuant to P.L. 1973, c. 83 (C. 19:44A-1 et seq.) and limiting the contributions that the holders of a contract can make during the term of a contract, notwithstanding the provisions and parameters of sections 1 through 12 of P.L. 2004, c. 19 (C. 19:44A-20.2 et al.) and section 22 of P.L. 1973, c. 83 (C. 19:44A-22).

b. The provisions of P.L. 2004, c. 19 shall not be construed to supersede or preempt any ordinance, resolution or regulation of a unit of local government that limits political contributions by business entities performing or seeking to perform government contracts. Any ordinance, resolution or regulation in effect on the effective date of P.L. 2004, c. 19 shall remain in effect and those adopted after that effective date shall be valid and enforceable.

c. An ordinance, resolution or regulation adopted or promulgated as provided in this section shall be filed with the Secretary of State.

52:34-25 2. a. Not later than 10 days prior to entering into any contract having an anticipated value in excess of \$17,500, except for a contract that is required by law to be publicly advertised for bids, a State agency, county, municipality, independent authority, board of education, or fire district shall require any business entity bidding thereon or negotiating therefore, to submit along with its bid or price quote, a list of political contributions as set forth in this subsection that are reportable by the recipient pursuant to the provisions of P.L. 1973, c. 83 (C.19:44A-1 et seq.) and that were made by the business entity during the preceding 12 month period, along with the date and amount of each contribution and the name of the recipient of each contribution. A business entity contracting with a State agency shall disclose contributions to any State, county, or municipal committee of a political party, legislative leadership committee, candidate committee of a candidate for, or holder of, a State elective office, or any continuing political committee. A business entity contracting with a county, municipality, independent authority, other than an independent authority that is a State agency, board of education, or fire district shall disclose contributions to: any State, county, or municipal committee of a political party; any legislative leadership committee; or any candidate committee of a candidate for, or holder of, and elective office of that public entity, of that county in which that public entity is located, of another public entity within that county, or of a legislative district in which that public entity is located or, when the public entity is a county, of any legislative district which includes all or part of the county, or any continuing political committee.

The provisions of this section shall not apply to a contract when a public emergency requires the immediate delivery of goods or services.

b. When a business entity is a natural person, a contribution by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by

any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by: all principals, partners, officers, or directors of the business entity or their spouses; any subsidiaries directly or indirectly controlled by the business entity; or any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee, shall be deemed to be a contribution by the business entity.

c. As used in this section:

"business entity" means a natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or of any other state or foreign jurisdiction;

"interest" means the ownership or control of more than 10% of the profits or assets of a business entity of 10% of the stock in the case of a business entity that is a corporation for profit, as appropriate; and

P.L. 2005, c. 271

"State agency" means any of the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch, and any independent State authority, commission, instrumentality or agency.

d. Any business entity that fails to comply with the provisions of this section shall be subject to a fine imposed by the New Jersey Election Law Enforcement Commission in an amount to be determined by the commission which may be based upon the amount that the business entity failed to report.

19:44A-20.13 3. a. Any business entity making a contribution of money or any other thing of value, including an in-kind contribution, or pledge to make a contribution of any kind to a candidate for or the holder of any public office having ultimate responsibility for the awarding of public contracts, or to a political party committee, legislative leadership committee, political committee or continuing political committee, which has received in any calendar year \$50,000 or more in the aggregate through agreements or contracts with a public entity, shall file an annual disclosure statement with the New Jersey Election Law Enforcement Commission, established pursuant to section 5 of P.L. 1973, c. 83 (C. 19:44A-5), setting forth all such contributions made by the business entity during the 12 months prior to the reporting deadline.

b. The commission shall prescribe forms and procedures for the reporting required in subsection a. of this section which shall include, but not be limited to:

(1) the name and mailing address of the business entity making the contribution, and the amount contributed during the 12 months prior to the reporting deadline;

(2) the name of the candidate for or the holder of any public office having ultimate responsibility for the awarding of public contracts, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee receiving the contribution; and

(3) the amount of money the business entity received from the public entity through contract or agreement, the dates, and information identifying each contract or agreement and describing the goods, services or equipment provided or property sold.

c. The commission shall maintain a list of such reports for public inspection both at its office and through its Internet site.

d. When a business entity is a natural person, a contribution by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity.

When a business entity is other than a natural person, a contribution by: all principals, partners, officers, or directors of the business entity, or their spouses; any subsidiaries directly or indirectly controlled by the business entity; or any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee, shall be deemed to be a contribution by the business entity.

As used in this section:

"Business entity" means a natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or of any other state or foreign jurisdiction; and

"Interest" means the ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit, as appropriate.

e. Any business entity that fails to comply with the provisions of this section shall be subject to a fine imposed by the New Jersey Election Law Enforcement Commission in an amount to be determined by the commission which may be based upon the amount that the business entity failed to report.

4. This act shall take effect immediately.

*Note: Bold italicized statutory references of new sections are anticipated and not final as of the time this document was prepared. Statutory compilations of N.J.S.A. 18A:18A-51 is anticipated to show a reference to N.J.S.A. 40:11-51 and to N.J.S.A. 52:34-25.

To be completed and signed below.

Return with bid.

STATEMENT OF OWNERSHIP DISCLOSURE

N.J.S.A. 52:25-24.2 (P.L. 1977, c.33, as amended by P.L. 2016, c.43)

This statement shall be completed, certified to, and included with all bid and proposal submissions. Failure to submit the required information is cause for automatic rejection of the bid or proposal.

Name of Organization: _____

Organization Address: _____

City, State, ZIP: _____

Part I Check the box that represents the type of business organization:

- Sole Proprietorship (skip Parts II and III, execute certification in Part IV)
- Non-Profit Corporation (skip Parts II and III, execute certification in Part IV)
- For-Profit Corporation (any type) Limited Liability Company (LLC)
- Partnership Limited Partnership Limited Liability Partnership (LLP)

Other (be specific): _____ **Part II Check**

the appropriate box

The list below contains the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be. **(COMPLETE THE LIST BELOW IN THIS SECTION)**

OR

No one stockholder in the corporation owns 10 percent or more of its stock, of any class, or no individual partner in the partnership owns a 10 percent or greater interest therein, or no member in the limited liability company owns a 10 percent or greater interest therein, as the case may be. **(SKIP TO PART IV)**

(Please attach additional sheets if more space is needed):

Name of Individual or Business Entity	Home Address (for Individuals) or Business Address

Part III DISCLOSURE OF 10% OR GREATER OWNERSHIP IN THE STOCKHOLDERS, PARTNERS OR LLC MEMBERS LISTED IN PART II

If a bidder has a direct or indirect parent entity which is publicly traded, and any person holds a 10 percent or greater beneficial interest in the publicly traded parent entity as of the last annual federal Security and Exchange Commission (SEC) or foreign equivalent filing, ownership disclosure can be met by providing links to the website(s) containing the last annual filing(s) with the federal Securities and Exchange Commission (or foreign equivalent) that contain the name and address of each person holding a 10% or greater beneficial interest in the publicly traded parent entity, along with the relevant page numbers of the filing(s) that contain the information on each such person. **Attach additional sheets if more space is needed.**

Website (URL) containing the last annual SEC (or foreign equivalent) filing	Page #'s

Please list the names and addresses of each stockholder, partner or member owning a 10 percent or greater interest in any corresponding corporation, partnership and/or limited liability company (LLC) listed in Part II **other than for any publicly traded parent entities referenced above.** The disclosure shall be continued until names and addresses of every non-corporate stockholder, and individual partner, and member exceeding the 10 percent ownership criteria established pursuant to N.J.S.A. 52:25-24.2 has been listed. **Attach additional sheets if more space is needed.**

Stockholder/Partner/Member and Corresponding Entity Listed in Part II	Home Address (for Individuals) or Business Address

Part IV Certification

I, being duly sworn upon my oath, hereby represent that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge: that I am authorized to execute this certification on behalf of the bidder/proposer; that the *ESCNJ* is relying on the information contained herein and that I am under a continuing obligation from the date of this certification through the completion of any contracts with the *ESCNJ* to notify the *ESCNJ* in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I am subject to criminal prosecution under the law and that it will constitute a material breach of my agreement(s) with the, permitting the *ESCNJ* to declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print):		Title:	
Signature:		Date:	

This statement shall be completed, certified to, and included with all bid and proposal submissions. Failure to submit the required information is cause for automatic rejection of the bid or proposal.

To be completed and signed below. Return with bid.

Statement of Suspension or Debarment

STATE OF NEW JERSEY/ _____
Specify, of other

COUNTY OF _____

I, _____ of the (City, Town, Borough)
of _____ State of _____ of full age,

being duly sworn according to law on my oath depose and say that:

I am _____ of the firm
of _____ the Bidder

making the Proposal for the above named projects, and that I executed the said Proposal with full authority to do so; that said Bidder is not at the time of the making this bid included on the New Jersey State Treasurer's or the Federal Government's List of Debarred, Suspended or Disqualified Bidders as a result of action taken by any State or Federal Agency.

Name of Contractor: _____

(Company Name)

By: _____

(Signature of authorized representative)

Subscribed and sworn to before me

This _____ day of _____, 20 ____.

(Seal) Notary Public of New Jersey/
Specify Other State

My Commission expires _____ 20 ____.

To be completed and signed below. Return with bid.

**STATE OF NEW JERSEY – DIVISION OF PURCHASE AND PROPERTY
DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN**

Quote Number: _____

Bidder/Offeror: _____

PART 1: CERTIFICATION

BIDDERS MUST COMPLETE PART 1 BY CHECKING EITHER BOX.

FAILURE TO CHECK ONE OF THE BOXES WILL RENDER THE PROPOSAL NON-RESPONSIVE.

Pursuant to Public Law 2012, c. 25, any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract must complete the certification below to attest, under penalty of perjury, that neither the person or entity, nor any of its parents, subsidiaries, or affiliates, is identified on the Department of Treasury's Chapter 25 list as a person or entity engaging in investment activities in Iran. The Chapter 25 list is found on the Division's website at http://www.state.nj.us/treasury/purchase/01/Chapter25_list.pdf. Bidders must review this list prior to completing the below certification. Failure to complete the certification will render a bidder's proposal non-responsive. If the Director finds a person or entity to be in violation of law, s/he shall take action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

PLEASE CHECK THE APPROPRIATE BOX:

I certify, pursuant to Public Law 2012, c. 25, that neither the bidder listed above nor any of the bidder's parents, subsidiaries, or affiliates is listed on the N.J. Department of the Treasury's list of entities determined to be engaged in prohibited activities in Iran pursuant to P.L. 2012, c. 25 ("Chapter 25 List"). I further certify that I am the person listed above, or I am an officer or representative of the entity listed above and am authorized to make this certification on its behalf. I will skip Part 2 and sign and complete the Certification below.

OR

I am unable to certify as above because the bidder and/or one or more of its parents, subsidiaries, or affiliates is listed on the Department's Chapter 25 list. I will provide a detailed, accurate and precise description of the activities in Part 2 below and sign and complete the Certification below. Failure to provide such will result in the proposal being rendered as non-responsive and appropriate penalties, fines and/or sanctions will be assessed as provided by law.

PART 2: PLEASE PROVIDE FURTHER INFORMATION RELATED TO INVESTMENT ACTIVITIES IN IRAN

You must provide a detailed, accurate and precise description of the activities of the bidding person/entity, or one of its parents, subsidiaries or affiliates, engaging in the investment activities in Iran outlined above by completing the boxes below.

EACH BOX WILL PROMPT YOU TO PROVIDE INFORMATION RELATIVE TO THE ABOVE QUESTIONS. PLEASE PROVIDE THOROUGH ANSWERS TO EACH QUESTION. IF YOU NEED TO MAKE ADDITIONAL ENTRIES, CLICK THE "ADD AN ADDITIONAL ACTIVITIES ENTRY" BUTTON.

Name _____ Relationship to Bidder/Offeror _____	<input type="button" value="Delete"/>
Description of Activities _____	
Duration of Engagement _____ Anticipated Cessation Date _____	
Bidder/Offeror Contact Name _____ Contact Phone Number _____	

ADD AN ADDITIONAL ACTIVITIES ENTRY

Certification: I, being duly sworn upon my oath, hereby represent that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge that I am authorized to execute this certification on behalf of the bidder; that the State of New Jersey is relying on the information contained herein and that I am under a continuing obligation from the date of this certification through the completion of any contracts with the State to notify the State in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I am subject to criminal prosecution under the law and that it will constitute a material breach of my agreement(s) with the State, permitting the State to declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print): _____

Signature: _____

Do Not Enter PIN as a Signature

Title: _____

Date: _____

To be completed and signed below.

Return with Bid

Prevailing Wages Certification

It is the determination of the ESCNJ that this is a public works project that in total will exceed \$2,000.00 (two thousand dollars), therefore prevailing wages rules and regulations apply as promulgated by the New Jersey Prevailing Wage Act and in conformance with N.J.S.A. 34:11-56:25. With the laws as they apply to the public agency.

CERTIFICATION

1. I certify that our company understands that this project of the ESCNJ requires prevailing wages to be paid in full accordance with the law.
2. I further certify that all subcontractors named in this bid understand that this project requires the subcontractor to pay prevailing wages in full accordance with the law.

NOTIFICATION OF VIOLATIONS – New Jersey Department of Labor

Has the Bidder or any person having an “interest” with the Bidder, been notified by the New Jersey Department of Labor by notice issued pursuant to N.J.S.A. 34:11-56:37 that he/she has been in violation for failure to pay prevailing wages as required by the New Jersey Prevailing Wage Act within the last five (5) years?

*Yes _____ No _____

*If yes, please attach a signed document explaining any/or all administrative proceedings with the NJDOL within the last five (5) years.

Please include any pending administrative proceedings with the NJDOL, if any.

Name of Company _____

Authorized Agent _____

Authorized Signature _____

Contractor's Registration Evidence

Certificate Number
629534

Registration Date: 03/13/2016
Expiration Date: 03/12/2018



State of New Jersey

Department of Labor and Workforce Development
Division of Wage and Hour Compliance

Public Works Contractor Registration Act

Pursuant to N.J.S.A. 34:11-56.48, et seq. of the Public Works Contractor Registration Act, this certificate of registration is issued for purposes of bidding on any contract for public work or for engaging in the performance of any public work to:

2016
Eagle Mechanical, Inc.

Responsible Representative(s):
Henry S. Stronski Jr., CEO

Handwritten signature of Harold J. Wirths in black ink.

Harold J. Wirths, Commissioner
Department of Labor and Workforce Development

NON TRANSFERABLE

This certificate may not be transferred or assigned and may be revoked for cause by the Commissioner of Labor and Workforce Development.

To be completed and signed below. Return with bid. if bidding on installation



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PROPERTY MANAGEMENT AND CONSTRUCTION
33 W. STATE STREET
PO BOX 034
TRENTON, NEW JERSEY 08625-0034

REPLY TO:
TEL: (609) 943-3400
FAX: (609) 292-7651

TOTAL AMOUNT OF UNCOMPLETED CONTRACTS

(This form is to be used with the NOTICE OF CLASSIFICATION when submitting bids to the Department of Education.)

I Certify that the amount of uncompleted work on contracts is \$ _____.

The amount claimed includes uncompleted portions of all currently held contracts from all sources (public and private) in accordance with N.J.A.C. 17:19-2.13.

I further certify that the amount of this bid proposal, including all outstanding incomplete contracts does not exceed my prequalification dollar limit.



Respectfully submitted,

By _____
Name of Firm

Signature

Title

Business Address

Phone

Sworn to and
subscribed before me
This day of
20

Notary Public

Return if Bidding on Installation

EQUIPMENT CERTIFICATION

In accordance with N.J.S.A. 18A:18A-23, I hereby certify that _____

Name of Company

A) owns all the necessary equipment as required by the specifications and to complete the specified public work project.

or

B) _____ leases or controls all the necessary
(*Name of Company*) equipment to complete the specified public work project.

PLEASE NOTE: If your company is not the actual owner of the equipment, **you shall submit with the bid**

1. A certificate stating the source from which the equipment will be obtained and
2. Obtain and submit with the bid a certificate from the owner and person in control of the equipment, definitely granting to the bidder the control of the equipment required during such time it may be necessary for the completion of that portion of the contract for which said equipment will be necessary.

Name of Company _____

Authorized Agent _____

Authorized Signature _____

Date _____

DPMC Contractor Classification (DPMC- 27)
PO Box 042
Trenton, NJ 08625-0042



State of New Jersey
DEPARTMENT OF THE TREASURY
DIVISION OF PROPERTY MANAGEMENT AND CONSTRUCTION

REQUEST FOR CLASSIFICATION

ATTENTION CONTRACTOR

Enclosed is the Contractors Request for Classification Booklet (DPMC 27) which, when completed and submitted with the mandatory financial statement and other documentation provides the data required to post your firm on the active bid list for State projects described herein.

Please submit the completed application and all required documentation to this office. Upon review and approval of this application, your firm will be notified by mail of the effective and expiration dates, type of work, and rating assigned to your firm.

There is a non-refundable fee of \$100.00 which must be submitted with the application. All payments must be made on company checks (no-cash) made payable to "Treasurer, State of New Jersey". No application will be processed without the fee.

If you have any questions, please contact the Contractor Classification unit at (609) 943-3400 (and select #3) or access the DPMC web site at www.state.nj.us/treasury/dpmc/. NOTE: It is suggested that a photocopy of this completed form be retained for your records.

**ATTACHMENT B – NEW JERSEY ANTI-DISCRIMINATION PROVISIONS
N.J.S.A. 10:2-1 ET SEQ.**

Pursuant to N.J.S.A. 10:2-1, if awarded a contract, the contractor agrees that:

a. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;

b. No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;

c. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of \$50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and

d. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract. No provision in this section shall be construed to prevent a board of education from designating that a contract, subcontract or other means of procurement of goods, services, equipment or construction shall be awarded to a small business enterprise, minority business enterprise or a women's business enterprise pursuant to P.L.1985, c.490 (C.18A:18A-51 et seq.).

Company Title: _____

Representative: _____

Signature: _____

Date: _____



There are number of levels of authority that must take action during the entire procurement process and within each of these levels there are a number of checks and balances. Therefore, CES has made the determination, as it relates to complying with the Campaign Contribution Disclosure requirement, that even though the individuals listed below do not fall within the definition “Applicable public official” as defined in 13-1-191.1 NMSA 1978, in order to ensure that CES is in compliance with the intent of the requirements, the following have been identified as Name(s) of Applicable Public Official(s) if any that must be identified:

<u>Position</u>	<u>Representative</u>	<u>Member</u>
President, Region I	Kirk Carpenter	Aztec Municipal Schools
President Elect, Region VI	Dwain Haynes	Eunice Municipal Schools
Past President, Region VI	T.J. Parks	Hobbs Municipal Schools
Past President	None	
Region I	Daniel Benavidez	Zuni Public Schools
Region II	Dr. Lillian Torrez	Taos Municipal Schools
Region III	Andy Ortiz	Raton Public Schools
Secretary, Region IV	Teresa Salazar	Moriarty/Edgewood Schools District
Region V	Aaron McKinney	Tucumcari Public Schools
Region VI	LeAnne Gandy	Lovington Municipal Schools
Treasurer, Region VII	Brenda Vigil	Tularosa Municipal Schools
Region VIII	Loren Cushman	Animas Public Schools
New Mexico Coalition of Charter Schools	Matt Pahl	Executive Director
New Mexico Association of Community Colleges (NMACC)	Edward Desplas	Two Year Community Colleges
New Mexico Coalition of Educational Leaders (NMCEL)	Stan Rounds	Executive Director
New Mexico School Boards Association (NMSBA)	Joe Guillen	Executive Director
New Mexico Public Education Department (NMPED)	Adan Delgado	PED
Commission of Higher Ed	Penny Garcia	ENMU

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, et seq., NMSA 1978 and NMSA 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, any prospective contractor seeking to enter into a contract with any state agency or local public body must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body may cancel a solicitation or proposed award for a proposed contract pursuant to Section 13-1-181 NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section 13-1-182 NMSA 1978 of the Procurement Code if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective contractor.

THIS FORM MUST BE INCLUDED IN THE REQUEST FOR PROPOSALS AND MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

“Applicable public official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

“Campaign Contribution” means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of

individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

“Family member” means spouse, father, mother, child, father-in-law, mother-in-law, daughter- in-law or son-in-law of (a) a prospective contractor, if the prospective contractor is a natural person; or (b) an owner of a prospective contractor.

“Pendency of the procurement process” means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

“Prospective contractor” means a person or business that is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or a small purchase contract.

“Representative of a prospective contractor” means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

Name(s) of Applicable Public Official(s) if any: _____
(Completed by State Agency or Local Public Body)

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

(Attach extra pages if necessary)

Signature

Date

Title (position)

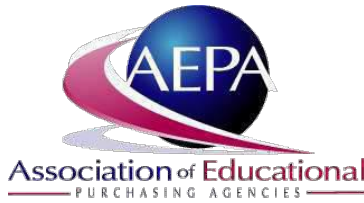
--OR--

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE to an applicable public official by me, a family member or representative.

Signature

Date

Title (Position)



Invitation for Bid AEPA IFB # 020-A Natural & Synthetic Surfaces for Sports Fields, Tracks, Courts, Playgrounds and Landscaping Applications

Part C – Member Agency (State) Terms and Conditions

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1. Member Agency (State) Terms and Conditions

A single IFB is being published and distributed on behalf of the Member Agencies in many states. Differences in contract implementation and operation will exist between the Member Agencies. Each state may have special laws relating to this procurement that must be adhered to in addition to the previously stated constraints. *When Member Agency/State Specific Terms and Conditions differ from the General Terms and Conditions, the Member Agency/State Specific Terms and Conditions will prevail.*

2. Common Terms and Conditions

Active Promotion of Contract: Agencies require that the Vendor Partner take ownership and actively promote the contract in cooperation with the AEPA Member Agency to all of the Agencies' qualified Participating Entities.

Sales to Participating Entities: AEPA Member Agencies require that all awarded Vendor Partners offer the Member Agency contract opportunity to all qualified Participating Entities of the cooperative.

Legal Obligations: All Vendor Partners shall comply with all applicable Federal, State and Local Laws, Codes and Regulations while fulfilling the contract. It is the Bidder's responsibility to be aware of and comply with all state and local laws governing this procurement. Applicable laws, codes, and regulations (etc.) must be followed even if not specifically identified herein.

Administrative Fees: AEPA Member Agencies charge Vendor Partners an administrative fee (a percentage of sales in their respective state or states that they extend the AEPA pricing to). Administrative Fees are generally paid to each Member Agency on a quarterly basis. Additional details of how these fees are charged may be found under each state's Terms and Conditions.

A summary of each State's Administrative Fee, any special terms and conditions, and special ordering process requirements is listed here for the convenience of the Bidders.

3. Member Agency General Overview Summary

AEPA Member Agency State	General			Ordering Process			Construction Products and Services									Potential Customers						
	Administrative Fee	Bid Security Required on bid due date	Special Reporting Requirements	Standard Ordering Process	Electronic Ordering	Special Ordering Process	Davis Bacon and State Wage Rates	Payment & Performance Bonds Required	Contractor's Licensing Required	Permits and/or Registration Required	Construction Project Cost Limitations	Participate in Construction Services	Participate in Construction Products Only	Products are taxable	Service is Taxable	K-12 Education	Higher Ed.	Private Schools	Non-Profits	Federal Agencies	State Agencies	Cities & Counties
CA	2%	N	N	Y	Y	N	-	-	-	-	Y	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
CO	2%	N	N	Y	N	N	N	N	N	N	N	Y	Y	N	N	Y	Y	Y	Y	Y	N	Y
CT	2%	N	N	Y	Y	N	Y	N	Y	Y	N	Y	N	N	N	Y	Y	Y	Y	Y	Y	Y
FL	2%	N	N	Y	Y	N	Y	N	Y	Y	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
IA	2%	N	Y	Y	Y	N		**			Y	Lim	Lim	**		Y	Y	Y	N	Y	Y	Y
IL	2%	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	N	N	Y	Y
IN	Var	N	N	N	N	Y	-	-	-	-	-	-	-	-	-	Y	Y	Y	Y	Y	Y	Y
KS	2%	N	n	Y	Y	Y	Y	Y	Y	Y	N	Y	N	N	N	Y	Y	Y	Y	Y	Y	Y
KY	2%	N	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
MA	2%	N	N	Y	Y	Y	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y
MI	2%	N	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	TBD	Y	Y
MN	2%	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y/N*	N	Y	Y	Y	Y	Y	Y	Y
MO	2%	N	Y	Y	Y	N	Y	N	N	Y	N	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y
MT	2%	Y	N	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
NE	2%	N	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	N	N	Y	Y
NJ	2%	N	N	Y	Y	N	Y	Y	Y	Y	Y	N	Y	N	N	Y	Y	Y	Y	N	N	Y
NM	2%	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y
ND	2%	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y/N*	N	Y	Y	Y	Y	Y	Y	Y
OH	2%	Y	Y	Y	Y	N	Y	Y	Y	Y	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
OR	2%	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
PA	2%	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	N	N	Y	Y	Y	Y	Y	Y	Y
TX	2%	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
VA	2%	N	N	Y	Y	Y	N	N	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
WA	2%	N	Y	N	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N	N	N	Y	Y
WV	2%	Y	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
WI	2%	N	N	Y	Y	N	Y	Y	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
WY	2%	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y			Y	Y	Y	Y	Y	Y	Y

4. State Specific Terms and Conditions

1. California, Monterey County Office of Education dba CalSave

1) Governing Law and Venue

The laws of the State of California govern the Contract and prevail in the interpretation and administration of the Contract. California-specific Terms and Conditions prevail over any General Terms and Conditions. Each and every provision of law and clause required by law to be included in the Contract shall be deemed to be inserted herein, and the Contract shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction.

The venue for any litigation arising out of or related to the Contract shall be with either the Superior Court in and for the County of Monterey, State of California or the Federal District Court for the Northern District of California, San Jose Division.

2) Authority

For California, this bid is issued under the authority of the elected Monterey County Superintendent of Schools, who administers the Monterey County Office of Education (MCOE), located at 901 Blanco Circle, Salinas California, 93912. In this document, MCOE may be referred to as Agency, being distinct from other parties who may use this contract who are hereinafter referred to as Local Education Agencies (LEAs), regardless of their hierarchy or their political and organizational status as schools or municipalities.

3) CalSAVE, Administration, and Agent

Contracts awarded and Awarded Contractors/Vendors will automatically be part of the CalSAVE program, and by bidding a vendor must agree to participate. CalSAVE is the cooperative purchasing program founded by the Monterey County Office of Education and administered by the Epylon Corporation under a contract with MCOE, in cooperation with the California County Superintendents Educational Services Association (CCSESA). MCOE is the lead agency for all Contracts, and the Monterey County Superintendent of Schools is the authority for the solicitation, evaluation and award of all contracts. Epylon serves as MCOE's agent, but only the Monterey County Superintendent of Schools has the authority to award contracts. Correspondence and communication related to the contract award or administration of the program should be directed to Epylon, 630 San Ramon Valley Blvd., Suite 210, Danville, CA 94526.

MCOE reserves the right to change agents or to change the contact name of existing Agent's personnel administering the contract. If Agent or Agent's personnel change, Awarded Contractors/Vendors will be notified with new instructions.

4) Transaction Fees

Transaction Fees are the funding source for the operation of the self-supporting CalSAVE cooperative purchasing program. Awarded Contractors/Vendors shall be required to pay a Transaction Fee for all purchases by LEAs made through the awarded Contract. For the purpose of this bid through Monterey County Office of Education and all Contracts awarded using this document, the Transaction Fee shall be 2 percent of Net Sales, which means gross sales less returns and cancelled orders within 30 days, shipping and sales and other taxes (excluding taxes based on net income). Transaction Fees will not be charged to or paid by the buyers themselves. Neither Awarded Contractor/Vendor nor its designated authorized reseller(s) shall include any additional amount corresponding to the Transaction Fees in the awarded Contract prices. This Transaction Fee applies to all orders, regardless of the method used to submit the order, or the quantity or dollar amount of the order.

Epylon will collect the full Transaction Fee on behalf of the CalSAVE program, unless otherwise advised by Epylon. The Contractor/Vendor will make all participation fee payments within two weeks after sending the quarterly report. Checks are to be made payable to the Epylon Corporation and sent to 630 San Ramon Valley Blvd., Suite 210, Danville, CA 94526.

5) Non-Conforming Jurisdictions

Notwithstanding Section A.4 (immediately above) no Transaction Fee is authorized to be charged to Awarded Contractors/Vendors for sales within any jurisdiction where prohibited by law or local- government policy. Instead, the cost of products, services, licenses and goods sold under this contract in such jurisdictions shall be the same as for all school districts in all other counties of California. However, any LEA using this contract where Section 4 fees are not permitted shall be required to pay a 2 percent fee for use of the contract, imposed by MCOE on the authority of Public Contract Code Section 20118 and 20652, which allows MCOE to charge reasonable costs to the public corporation or agency for furnishing the services incidental to the purchase of items under contract.

6) Reports

The Contractor/Vendor will compile a quarterly report listing each purchase made by participating Agencies under this contract, and send them by the 15th of April, July, October, and January to Racquel Landolf with the e-mail address of

rlandolf@epylon.com. These reports shall be in Microsoft Excel format and shall have file names that identify the contractor/vendor and the month being reported. The file at a minimum shall include the fields listed below and shall allow for sorting on any of these fields:

- Date of Order
- Name of Participating Agency (LEA)
- Description of Item Purchased
- Manufacturer's SKU Number
- Quantity
- Contract Unit Price
- Extended Price
- List Price Before AEPA Discount

7) Length of Term

The term of the agreement shall commence on the date of the award and continue as stipulated in General Terms and Conditions, unless terminated, canceled or extended. Contract may be terminated by MCOE if LEAs have not used the contract in any 12-month period, or if orders from participating LEAs do not total \$10,000 in any 12-month period. California statutory term limits and extensions shall apply.

8) Marketing and Advertising under this Agreement

Vendor will actively promote the use of this contract by LEAs in California. Vendor must comply with the marketing plan offered as part of its bid submission. Unless other arrangements are made with the CalSAVE administrator, vendor is also required to perform the following:

- a. Vendor will include the approved CalSAVE logo, web address, and toll free number in all print electronic mail and other advertising and promotion intended for release to California K-12 schools, excluding national marketing releases.
- b. The CalSAVE logo and associated CalSAVE information shall be of a clearly readable size and in appropriate proportion to other elements in the printed material.
- c. Vendor agrees to provide CalSAVE with a copy or proof sheet of the advertisement or promotion material. Vendor will provide CalSAVE with date of release and name of publication, journal, etc.
- d. Vendor shall place a supplied CalSAVE vendor sign on booths, tables, etc. of any or all exhibits for which the vendor displays/participates at California tradeshows, conventions and the like. Vendor will supply in advance scheduled exhibit dates. Vendor agrees to make available at the exhibit CalSAVE supplied brochures or other promotion materials.
- e. Vendor agrees to insert the approved CalSAVE logo, web address, and toll free number on the vendor's web site promoting or a specific CalSAVE landing page and providing a link to the CalSAVE website.
- f. Vendor will supply product catalog information, product description, pricing, etc., in a spreadsheet format as specified by CalSAVE for inclusion on the CalSAVE website.
- g. Vendor agrees to cooperate in developing appropriate website content to promote its products, services and their advantages to school districts.
- h. Requested materials will be submitted to CalSAVE within 30 days.

A. Additional Member Agency Terms and Conditions for Non-Construction Products and Services

1) Conformance to Public Contract Code 20111

An award by the Monterey County Superintendent of Schools under this solicitation will be for the purchase of equipment, materials, supplies, services or repairs to be furnished, sold, or leased in accordance with Public Contract Code 20111 and 20650. Awards shall include allowance for installation and assembly services incidental and necessary to the use of the equipment, materials, supplies and repairs purchased or leased.

2) Conformance to Public Contract Code 20118 and 20652

All public agencies (LEAs) are authorized by law to purchase off a contract awarded by an agency that has itself gone to bid, including all K-12 schools districts, community college districts, special districts and JPAs serving education, pursuant to Public Contract Code Sections 20118 and 20652. Using these statutes, the Monterey County Office of Education hereby declares its intent and authorization to make all contracts awarded under this contract "piggybackable" by other agencies in the state. The Agency waives any right to receive payment from other California agencies making purchases off the awarded contracts and those agencies will make payment directly to the vendors. Any legislative changes to Public Contract Codes 20118 and 20652 during the term of the contract(s) with Award Vendor(s) shall apply to the contract(s) immediately when such changes become law.

3) Additional Piggyback and Standard School Supply and Equipment Authority

The Monterey County Office of Education declares that items, materials, personal property, equipment and licenses under Contract as a result of this Invitation to Bid will qualify as items to be included within its Standard School Supply and Equipment List. Because many County Offices of Education have banded together to create both the EdBuy and the CalSAVE programs for the purpose of collectively creating both a standard School Supply & Equipment List and cooperative contracts, the items solicited and awarded through this bid may also constitute a portion of an official Standard School Supply and Equipment List for other participating County Offices of Education and County Superintendents of Schools. Purchases by other County Offices of Education and LEAs may be made, not only in accordance with Public Contract Code 20118 and 20652, but also in accordance with Education Code 38110 and 38112 dealing with cooperatives and Standard School Supplies & Equipment.

B. Additional Member Agency Terms and Conditions for Construction Products and Services

1) Intended for Personal Property

An award by the Monterey County Superintendent of Schools under this solicitation will be for the purchase of equipment, materials, supplies, services or repairs to be furnished, sold, or leased in accordance with Public Contract Code 20111 and 20650. Awards shall include allowance for installation and assembly services incidental and necessary for use of the equipment, materials, supplies and repairs purchased or leased. When any services or repairs fall into a category of Public Works as defined in Public Contract Code 22002, an LEA may use this California contract only up to \$14,999 for labor and services, but for an unlimited dollar amount for any supplies, materials, equipment or personal property to be staged and ready for use in a local Public Works project.

2) Public Works Limitations

When Public Works services cost \$15,000 or more, an LEA, under most situations, must bid itself independently for the services and labor related to the public work, but may use this contract for the contracted supplies, material or equipment related to the project. If circumstances allow, LEAs may also combine this competitively bid contract with other alternative authorities for Public Works projects as may be allowed by law, such as Public Contract Code 22030, Education Code 17406 or Government Code 1466. LEAs should consult with their own legal counsel to see if such statutes apply to their Public Works projects.

C. Procedure for Processing Orders

1) Start date

Once the award is made to the Contractor/Vendor and signatures have been placed on the contract from both parties, the Awarded Contractor/Vendor is authorized to begin selling to eligible Agencies. MCOE will begin informing LEAs of the Contract once the Contract has been signed.

2) Prices and Requests for Quotes

The Awarded Contractor/Vendor, in cooperation with MCOE's agent, must make provision for LEAs to quickly ascertain bid prices by posting prices, posting a link or contact for prices, distributing catalogs and price lists, responding to requests for quotations, or participating in eCommerce.

The 2 percent Transaction Fee on all sales is a cost of doing business to the vendor and the requirement for the fee is publicly disclosed in these bid documents for the edification of all buying agencies and LEAs. Transaction fees should not appear as a line item on a quotation or on listed bid pricing. The final price quoted or displayed must be inclusive of the participation fee on all pricing and quotations.

3) Submission of Orders and Delivery

After entering into an agreement with MCOE, an LEA electing to use this Contract will enter into a separate contract with the Vendor by way of a purchase order or separate contracting document ("Separate Contract"). Purchase orders will be issued by participating LEAs to contractor/vendor.

LEAs will fax or mail purchase orders directly to the CalSAVE office fax at (866) 488-3729), unless other arrangements have been made and agreed to by the CalSAVE Administrator. LEAs may also use Epylon eCommerce software for transmission of purchase orders. Standard business practice is for all purchase orders received by 3:00 p.m. Pacific Time to be logged and forwarded to the appropriate vendor on the same day received, unless unusual circumstances occur. It is the responsibility of the awarded/Vendor contractor to track any purchase order received directly from an LEA and to include that order on quarterly reports.

Awarded Contractor/Vendor will deliver goods, services and corresponding invoices directly to the participating LEAs and receive payments directly from the participating LEAs as per bid specifications.

D. Agencies Allowed to Purchase under the Member Agency

1) Other Agencies' Right to Purchase.

CalSAVE is a self-supporting contracting program led by the Monterey County Office of Education. Contracts are made available to all California public school districts, private and non-public schools registered with a county office of education or state Department of Education, charter schools, community college districts, eligible state agencies, non-profits (particularly those such as PTAs buying on behalf of schools or government), and any other agency allowed by law – all referred to as LEAs.

Subject to the following terms and conditions, the Monterey County Office of Education (MCOE) consents to LEAs purchasing items at the same unit price(s) or pricing formula under the terms and conditions of this Contract, as may be authorized by Sections 20118 and 20652 of the Public Contract Code or other legal authority:

a) Any other agency (LEA) authorized by law to use this Contract for its own purchase(s) from the Awarded Contractor/Vendor or their authorized resellers shall by default enter into a standard agreement with MCOE, which *inter alia* will include the terms, conditions, and information set forth in this paragraph *a* and paragraphs *b* through *i* below.

After entering into a standard agreement with MCOE, an Other Agency electing to use this Contract will enter into a separate contract or purchase order ("Separate Contract") with the contractor/vendor. The Separate Contract is subject to and includes and/or incorporates all applicable terms of this Contract and the specific requirement that the Awarded Contractor/Vendor comply with the provisions set forth in the paragraph regarding payment of the 2 percent Transaction Fee (or the non-conforming jurisdiction fee) to be collected by the Epsilon Corporation. MCOE will not be a party to any Separate Contract, but will be considered a third party beneficiary of such Separate Contract.

- a) The Awarded Contractor/Vendor understands and agrees that failure or refusal to comply with the provisions set forth in this agreement regarding payment of the 2 percent Transaction Fee in conjunction with any Separate Contract or any other use of this Contract by an "Other Agency" is grounds for cancellation of the Contract. The Contractor/Vendor also understands and agrees that if the Contract is cancelled for this or any other reason, MCOE may give notice of such cancellation by any other means appropriate to inform LEAs of that cancellation.
- b) The MCOE waives any right it may have to require any LEA using this Contract to draw its warrants for the purchase(s) in its favor and consents to each agency making such payment(s) directly to the contractor/vendor.
- c) Sales tax and freight/shipping charges included in the Contract apply to the MCOE only. Additional sales tax and freight/shipping charges may be required on purchases by any LEA and are outside the scope of this Contract, unless specifically addressed elsewhere in Part A or Part B of the Terms and Conditions.
- d) This Contract and any Separate Contract are for the purchase of the items covered by Contract. An LEA may, however, exercise its authority under Education Code section 17597 or 81645 or other legal authority to sell and lease back any item owned by, or to be owned by, it pursuant to any Separate Contract. The contractor/vendor agrees to take any and all actions requested by any LEA that are necessary to effect any such transfer, by way of example only, accepting payment under the Separate Contract from any third party to whom any such transfer is made.
- e) Both the contractor/vendor and any LEA using this Contract agree that the MCOE makes no representation that use of this Contract by any Other Agency is, in fact, authorized by law. In this regard, the MCOE suggests that, at a minimum, Contractor/Vendor and any LEA considering such use consult with their own legal counsels before doing so.
- f) Both the contractor/vendor and any LEA using this Contract agree to defend, indemnify and hold the MCOE, the Monterey County Superintendent of Schools, and the Monterey County Board of Education and its members, as well as all of their respective officers, employees and agents, free and harmless from any claims, liabilities, costs, penalties, or interest arising out of any such use.
- g) MCOE reserves the right to cancel the whole or any part of this contract due to failure by the contractor to carry out any obligation, term or condition of the contract. MCOE will issue written notice to the contractor for acting or failing to act in any of the following:
 - a. The vendor fails to adequately perform the services set forth in the contract
 - b. The vendor fails to make progress in the performance of the contract and/or gives MCOE reason to believe that the contractor will not or cannot perform to the requirements of the contract
 - c. The contractor fails to observe any of the terms and conditions of the contract

d. The contract fails to pay Transaction Fees

e. The contractor fails to follow the established procedure for purchase orders, invoices and receipt of funds as stipulated by the MCOE. MCOE shall follow the following procedure if the contract is to be terminated:

- Step 1 - Issue a warning letter of concern outlining the violations and length of time to correct the problem(s).
- Step 2 - Issue a letter of intent to cancel the contract, if the problem(s) is not resolved by a given date.
- Step 3 - Issue letter to cancel the contract. Upon receipt of the written notice of concern, the contractor shall have ten (10) business days to provide a satisfactory response to MCOE.

Failure on the part of the contractor to address adequately all issues of concern may result in contract cancellation.

2) Other Agencies, Constitutionally Independent Agencies, and Out-of-State Agencies

Other agencies and out-of-state agencies and LEAs may use the contract as allowed by California Government Code Section 6502, which says, "If authorized by their legislative or other governing bodies, two or more public agencies by agreement may jointly exercise any power common to the contracting parties, even though one or more of the contracting agencies may be located outside this state. It shall not be necessary that any power common to the contracting parties be exercisable by each such contracting party with respect to the geographical area in which such power is to be jointly exercised. For purposes of this section, two or more public agencies having the power to conduct agricultural, livestock, industrial, cultural, or other fairs or exhibitions shall be deemed to have common power with respect to any such fair or exhibition conducted by any one or more of such public agencies or by an entity created pursuant to a joint powers agreement entered i

If an Awarded Vendor uses an MCOE or AEPA-affiliated contract for the purpose of obtaining a separate CMAS (California Multiple Awards Schedule) contract from the State of California, the Awarded Vendor is responsible for paying both the CMAS fee and MCOE's 2.00 percent transaction fee for all orders submitted under the authority of the CMAS program. In exchange for this fee, the Vendor is given a license to use and duplicate MCOE/AEPA terms and conditions for the purpose of applying for a CMAS contract. Also CalSave or CalBuy will post pricing allowing prospective buyers to check for pricing that is compliant with the MCOE and CMAS contract. Vendor must comply with MCOE's quarterly reporting requirements. Public records of sales through CMAS will be used to verify quarterly reports and sales made through the CMAS program.

2. Colorado - Colorado BOCES Association (CBA)

A. *Additional Agency Terms and Conditions*

Advertising: CBA will require a marketing flier, in electronic format, and timely updates from each vendor promoting the contract and AEPA/CBA relationship. CBA will assist in the development of the marketing flier and other appropriate materials which will include logos representing the vendor/AEPA/CBA. This flier will be for distribution and dissemination to all qualified customers through the CBA website and other appropriate and available methods.

Sales to Qualified Customers: Boards of Cooperative Educational Services (BOCES) in Colorado are legislatively created cooperative organizations directed by Colorado state statute 22-105 to serve all qualified agencies in a cooperative manner. BOCES are governed by publicly elected officials and by state and federal laws. No agency is obligated to use these services and contracts, but they find the benefits of low price and the satisfied bidding process most advantageous. Qualified agencies in Colorado include all public or private educational institutions, K-12 and higher education, all non-profit organizations, and all county or local governmental agencies. CBA requires that all participating vendors offer the Agency contract opportunities to all qualified customers.

B. *Procedure for Processing Orders:* Once the award is made to the vendor.

- CBA will inform its members of the contract by:
 - i.* Including the contract in the agency database that is available on the CBA website
 - ii.* Announcing the award through normal communication channels, CBA member presentations as well as regular electronic and direct mail communications.
 - iii.* Offering the opportunity to the vendor to publish their marketing information on the CBA website link to cooperative purchasing opportunities.
- A listing of CBA members, institutional names, contact names, addresses and phone numbers is available to the vendors through the CBA website. At this point the vendor must contact the members and qualified customers; and the customers have the right to contact the vendors directly. Note: CBA requires the awarded vendors to take ownership and actively promote the contract in cooperation with CBA to all members and qualified customers.
- When the customer identifies a desired product or service as available through the AEPA/CBA contract and agrees on price as presented to the customer by the awarded AEPA/CBA vendor, the customer then issues to the vendor a purchase order for that item or service.
- The awarded price must include an additional two percent (2%) administrative fee in the total cost (not as a separate line item), based on the total cost of goods and services including installation. This fee is to be forwarded by the vendor to CBA after the sale and payment is made to the vendor. Payment shall be made to CBA on a quarterly basis along with the complete sale report as specified in the general terms and conditions.
- The sale and transaction may continue without delay or anticipation of the CBA denial of said transaction.
- The administrative fee percentage (2%) is based on the total sale of goods and services including installation and must be included in the original cost quoted to the customer. In the event of a lease, the total administrative fee for the value of goods and services shall be paid to CBA by the vendor at the front end of the lease.
- Vendor makes all deliveries and installation of products and services. CBA does not warehouse items nor provide services.

3. Connecticut, Capitol Region Education Council (CREC)

A. ADDITIONAL MEMBER AGENCY GENERAL TERMS AND CONDITIONS

Affirmative Action - The Contractor must have an employment policy that there shall be no discrimination against anyone on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, physical disability or sexual orientation in the hiring, upgrading, demotions, recruitment, termination and selections for training, in any manner prohibited by the laws of the United States or of the State of Connecticut. The Contractor further agrees to be an "affirmative action-equal opportunity employer."

Applicability of Contract Provisions to Connecticut Participants - The Capitol Region Education Council (CREC) is the AEPA Member Agency. Any entity that uses the contract awarded by CREC under this document is referred to as a "Participant." The bidder that is awarded the contract by CREC is referred to as the "Contractor."

Conflict of Interest

The Contractor shall disclose any relationship with a CREC employee that would not be considered an "arms-length" or independent transaction, as described below. This disclosure must be made in writing to CREC for an evaluation. CREC will respond to this disclosure in writing.

A CREC employee (including independent contractors for purposes of this definition) placing an order or recommending a vendor must disclose any relationship with that vendor which would not be considered an "arms-length" or independent transaction. This disclosure must be made in writing to CREC for an evaluation. CREC will respond to this disclosure in writing.

For a transaction to be considered "arms-length" or "independent", a CREC employee should not be influenced, dependent upon, guided or controlled by a vendor into choosing that vendor, or item to purchase; nor should it appear to a third party that a CREC employee made a purchasing decision which appears to be based upon a personal relationship between the CREC employee and vendor.

The following are examples when a transaction is NOT considered arms-length or independent: (1) when there exists a personal relationship between a CREC employee and a vendor, (2) when there exists the potential for a personal benefit to a CREC employee, or (3) the parties to a business deal are dependent upon one another for "something" other than the purchase itself.

In addition, the Contractor shall, if given a copy of the potential Participant's conflict of interest policy, follow the process in that policy, or otherwise disclose to a potential Participant any relationship that would not be considered an "arms-length" or independent transaction with that Participant, as described above. This disclosure must be made in writing to the chief official (for example, the Superintendent at a board of education) at the potential Participant.

Determination of the existence of a conflict of interest does not prohibit CREC and/or a Participant from entering into the contract and purchase order, respectively.

Financing Arrangements - Any financing arrangements (including lease purchasing arrangements) will be made directly between the Contractor and a Participant. Financing arrangements may be subject to additional laws, rules and regulations, terms and conditions not described in this document and are subject to separate negotiation with each Participant that is interested in such an arrangement. Each Participant should seek its own legal advice prior to entering into a financing arrangement. CREC must receive a report annually summarizing the executed lease purchases along with the summary of the customer purchases. CREC will not collect lease payments or be involved

in the terms and conditions of the lease. All lease arrangements are between the Contractor and the Participant only.

Freedom of Information Act - The Contractor acknowledges that CREC and some Participants are subject to the Freedom of Information Act, Connecticut General Statutes Sections 1-200 et seq., and submitted to CREC and/or such Participants may be made available to the public under the provisions of the Freedom of Information Act.

Incorporation of Bid Documents - The bid documents, including all appendices executed by Contractor that have been accepted by CREC (the "Bid") are specifically incorporated into this Contract.

Independent Contractor - The Contractor shall not be held or deemed in any way to be the agent or employee of CREC and/or a Participant. It is the intention of the parties that the Contractor shall be and is to be considered an independent contractor.

Marketing and Advertising - Contractor agrees to provide CREC with a copy or proof sheet of all advertisements, customer communications or promotional material for prior approval.

Modification to Bid Language in the AEPA Invitation for Bid - The Bidder by submitting its bid hereby declares that this Bid is made without any connection with any other person or persons making any proposal for the same items, that it is in all respects fair and without collusion or fraud and that no person acting for or employed by CREC or a Participant is directly or indirectly interested in the proposal or in the goods or services to which it relates, or in any portion of the profits therefrom.

5. ADDITIONAL MEMBER AGENCY TERMS AND CONDITIONS FOR NON-CONSTRUCTION PRODUCTS AND SERVICES

None

6. ADDITIONAL MEMBER AGENCY TERMS AND CONDITIONS FOR CONSTRUCTION PRODUCTS AND SERVICES

CT Commission on Human Rights and Opportunities

Municipal Public Works contracts funded in whole or in part by the State of Connecticut are subject to contract compliance requirements and set-aside goals as follows:

The contractor who is selected to perform this State project must comply with CONN. GEN. STAT. §§ 4a-60, 4a-60a, 4a-60g, and 46a-68b through 46a-68f, inclusive, as amended by June 2015 Special Session Public Act 15-5.

State law requires a minimum of twenty-five (25%) percent of the state-funded portion of the contract for award to subcontractors holding current certification from the Connecticut Department of Administrative Services ("DAS") under the provisions of CONN. GEN. STAT. § 4a-60g. (25% of the work with DAS certified Small and Minority owned businesses and 25% of that work with DAS certified Minority, Women and/or Disabled owned businesses.) The contractor must demonstrate good faith effort to meet the 25% set-aside goals.

For municipal public works contracts and quasi-public agency projects, the contractor must file a written or electronic non-discrimination certification with the Commission on Human Rights and Opportunities. Forms can be found at:

http://www.ct.gov/opm/cwp/view.asp?a=2982&q=390928&opmNav_GID=1806

7. PROCEDURES FOR PROCESSING ORDERS

1. Purchase orders will not be accepted or processed by CREC. All business will be contracted directly with the Participant, which will issue a purchase order and provide payment for the applicable good or service directly to the Contractor.
2. To the extent not otherwise described in this document, once a purchase order is issued by a Participant to a Contractor, all of the provisions of the contract shall benefit and be enforceable by such Participant, unless specifically identified as applying to CREC only.

8. AGENCIES ALLOWED TO PURCHASE UNDER THE MEMBER AGENCY

There are 169 school districts in Connecticut and all are eligible for membership. No district is obligated to use these services. Additional members may include other public educational institutions, public colleges or universities, community colleges, vocational or technical schools, municipal governments, and other governmental, quasi-governmental, or non-profit organizations.

Work in Other States

CREC is making the CT AEPA contract available for vendors to use in all New England states – CT, ME, NH, RI, VT – and New York, and any other state without AEPA member representation. Our contract is also available in MA for vendors who TEC has been unable to sign with.

Sales made in any of these states using the AEPA contract are to be reported to CREC, with the 2.0% administrative fee made payable to CREC. The Contractor must advise CREC its intent to use the contract in any of these states.

All Terms and Conditions for Connecticut apply to work in these states. It is the Contractor's obligation to ensure that the purchaser fully understands the AEPA contract, including whether it is allowable under applicable state regulations.

4. Florida, Panhandle Area Education Consortium Florida Buy

A. Additional Agency Terms and Conditions

Vendor Contact: Vendor will designate to the Panhandle Area Educational Consortium Florida Buy, one individual who will represent them during the agreement period. This contact person will correspond with each ordering member for technical assistance, problems, or questions that may arise, including instructions if different contacts for different geographical areas are needed. This information will be distributed to all school districts upon award of this bid. Vendors may use this contract to sell products or services in addition to school districts to any government agency, non-profit organizations or institutions.

Vendor agrees to abide by all federal, state and local laws and regulations. It is the responsibility of the Vendor to determine applicability and requirements of any such laws and to abide by them.

All terms and conditions may be modified and revised by PAEC Florida Buy with the written consent of both PAEC Florida Buy and the Awardee.

PAEC Florida Buy, at its discretion, may offer the use of the awarded agreement to governmental entities such as state agency purchasing programs, to extend the use of the contract to eligible users. This option will be referred to as an Interlocal Agreement. Under such conditions, the participating agency may, with written consent from the Awardee, modify and revise the terms and conditions of the master agreement.

Other state and public agency purchasing program agreements may require additional administrative fees, associated with sales, to be paid by the Awardee for the management of the contract. The Awardee will be notified in writing and will have the option of accepting or rejecting the Interlocal Agreement program fees.

No right or interest in the Contract shall be assigned or transferred by the Contractor without the prior written consent of the PAEC Florida Buy program. No delegation of any duty of the Contractor shall be assigned without prior written permission of PAEC Florida Buy. If the original Vendor/Contractor sells or transfers all assets or the entire portion of the assets used to perform this Contract, a successor in interest must guarantee to perform all obligations under this Contract. PAEC Florida Buy reserves the right to reject the acquiring person or entity as a Vendor/Contractor. A change of name agreement will not change the contractual obligations of the Vendor/Contractor.

The Awardee, may, upon entering into negotiations with qualified buyers, amend their prices to offer volume discounts below the lowest unit rates established in the pricing portion of this agreement.

B. Procedures For Processing Orders

Once the award is made to the Vendor, PAEC Florida Buy will inform all school districts of the contract by:

1. Including the award information on the PAEC Web site at www.floridabuy.org
2. Announcing the award in its PAEC Florida Buy website
3. Announcing the award via electronic mail to all members

Any members, contact names, addresses and phone numbers will be available at the PAEC Web site www.floridabuy.org. At this point, the Vendor may contact the members and the members may contact the Vendor. The member will identify a desired product or service available through the AEPA contract and agrees on the price and conditions as presented to the member by the awarded AEPA Vendor. The member then issues to the Vendor a purchase order for that item or service. The purchase order must include an additional (2%) administrative fee built into the total invoiced cost, based on the total costs of good, services and installation. A final copy of the customer purchase order or sales summary must be sent to PAEC Florida Buy by the Vendor after completion of the service or installation. The Vendor has (30) thirty days to forward this purchase order. This will insure compliance of the contract.

Vendor makes all deliveries and installations of products and services. PAEC Florida Buy does not warehouse items. All participating Vendors agree to and are subject to audit proceedings of the AEPA sales to members.

The Vendors price will include a (2%) administrative fee that the Vendor shall collect from the member and remit to PAEC Florida Buy on a quarterly basis. The Vendor will produce and provide to PAEC Florida Buy quarterly reports ending March 31, June 30, September 30 and December 31 throughout the contract period. The reports shall identify the Vendor and the quarter being reported, shall include a minimum of the fields listed below:

1. Date of Order
2. School district
3. List or academic price sales totals
4. PAEC Florida Buy price sales totals

5. Member savings total

Quarterly reports and administrative fee payments to PAEC Florida Buy are due the 15th of the succeeding month, and all checks are to be made payable to the Panhandle Area Educational Consortium and sent to: PAEC, 753 West Blvd, Chipley, Florida 32428 and Attention: Florida Buy. PAEC may designate another agent for collecting and administrative fee that will be negotiated with Vendor for e-commerce transactions.

C. Agency Members Purchasing Under The Member Agency

The Panhandle Area Educational Consortium is a fourteen-member consortium that includes a voluntary purchasing program developed for schools in Florida. All other school districts in Florida are participating members in the programs of the Panhandle Area Educational Consortium (PAEC), including participation in the statewide cooperative purchasing program. Agencies that use this contract will be in compliance with FS1001.42. PAEC was established to provide easily accessible information for our member and participating public school districts and the communities we serve. Since the creation of PAEC in 1967, our school districts have benefitted from shared services made available through leading edge technology. While school districts access our teaching and learning, training and technology, and business operations services in varying degrees of need, all come for the mutually beneficial purpose of reaching their goals together.

5. Georgia, Cooperative Purchasing Agency (CPA)

1. General Overview

- a. Cooperative Purchasing Agency is now the AEPA representative for the state of Georgia. In Georgia we advertise our bids on the state procurement registry website:
<http://doas.ga.gov/state-purchasing/georgia-procurement-registry-for-local-governments>
- b. In 1971 several small school systems in North Georgia decided to work together & form **Cooperative Purchasing Agency (CPA)**, a non-profit organization built by & for the school systems to combine their purchasing power. As a division of North Georgia, Northeast Georgia, & Pioneer RESA; Pioneer RESA serves as our fiscal agent and as such we currently show up on the Georgia Procurement Registry as Pioneer RESA. CPA serves as a purchasing agent for classroom & office supplies for its 35-member school systems plus neighboring ones who choose to take advantage of cooperative buying. CPA also serves as a recipient agency for USDA commodities that member systems receive through the USDA school lunch program. In addition to items included in our catalog & website, CPA has access to brands, custom items, & entire product categories that meet systems' office & classroom needs – including furniture options (indoor & outdoor), playground equipment, shelving installations, print supplies, & more.

2. Additional Participating Agency Terms and Conditions for Construction Related Products and Services

- a. Georgia requires all local school boards to post any bids requiring capital improvements / public works construction over \$100,000.00 to be posted on the Georgia procurement website, regardless of who they are purchasing through.

3. Local Government Provisions - Provisions Applicable to Counties, Municipal Corporations, And Other Governmental Entities

- a. § 36-91-20. Written contract required; advertising; competitive sealed bidding; timing of addendums; prequalification
 - i. All public works construction contracts subject to this chapter entered into by a governmental entity with private persons or entities shall be in writing and on file and available for public inspection at a place designated by such governmental entity. Municipalities and consolidated governments shall execute and enter into contracts in the manner provided in applicable local legislation or by ordinance.
 - ii. Prior to entering into a public works construction contract other than those exempted by Code Section 36-91-22, a governmental entity shall publicly advertise the contract opportunity. Such notice shall be posted conspicuously in the governing authority's office and shall be advertised in the legal organ of the county or by electronic means on an Internet website of the governmental entity or an Internet website identified by the governmental entity which may include the Georgia Procurement Registry as provided by Code Section 50-5-69.
 1. Contract opportunities that are advertised in the legal organ shall be advertised a minimum of two times, with the first advertisement occurring at least four weeks prior to the opening of the sealed bids or proposals. The second advertisement shall follow no earlier than two weeks from the first advertisement.
 2. Contract opportunities that are advertised solely on the Internet shall be posted continuously for at least four weeks prior to the opening of sealed bids or proposals. Inadvertent or unintentional loss of Internet service during the advertisement period shall not require the contract award or bid or proposal opening to be delayed.
 3. Contract opportunities that will be awarded by competitive sealed bids shall have plans and specifications available on the first day of the advertisement and shall be open to inspection by the public. The plans and specifications shall indicate if the project will be awarded by base bid or base bid plus selected alternates and:
 - a. A statement listing whether all anticipated federal, state, or local permits required for the project have been obtained or an indication of the status of the application for each such permit including when it is expected to be obtained; and

- b. A statement listing whether all anticipated rights of way and easements required for the project have been obtained or an indication of the status as to when each such rights of way or easements are expected to be obtained.
 - 4. Contract opportunities that will be awarded by competitive sealed proposals shall be publicly advertised with a request for proposals which request shall include conceptual program information in the request for proposals describing the requested services in a level of detail appropriate to the project delivery method selected for the project.
 - 5. The advertisement shall include such details and specifications as will enable the public to know the extent and character of the work to be done.
 - 6. All required notices of advertisement shall also advise of any mandatory prequalification requirements or pre-bid conferences as well as any federal requirements pursuant to subsection (d) of Code Section 36-91-22. Any advertisement which provides notice of a mandatory prebid conference or prequalification shall provide reasonable advance notice of said conference or for the submittal of such prequalification information.
- iii. Governmental entities are authorized to utilize any construction delivery method, provided that all public works construction contracts subject to the requirements of this chapter that:
 - 1. Place the bidder or offeror at risk for construction; and
 - 2. Require labor or building materials in the execution of the contract shall be awarded on the basis of competitive sealed bidding or competitive sealed proposals. Governmental entities shall have the authority to reject all bids or proposals or any bid or proposal that is nonresponsive or not responsible and to waive technicalities and informalities.
- iv. No governmental entity shall issue or cause to be issued any addenda modifying plans and specifications within a period of 72 hours prior to the advertised time for the opening bids or proposals, excluding Saturdays, Sundays, and legal holidays. However, if the necessity arises to issue an addendum modifying plans and specifications within the 72 hour period prior to the advertised time for the opening of bids or proposals, excluding Saturdays, Sundays, and legal holidays, then the opening of bids or proposals shall be extended at least 72 hours, excluding Saturdays, Sundays, and legal holidays, from the date of the original bid or proposal opening without need to readvertise as required by subsection (b) of this Code section.
- v. Bid and contract documents may contain provisions authorizing the issuance of change orders, without the necessity of additional requests for bids or proposals, within the scope of the project when appropriate or necessary in the performance of the contract. Change orders may not be used to evade the purposes of this article.
- vi. Any governmental entity may, in its discretion, adopt a process for mandatory prequalification of prospective bidders or offerors; provided, however, that:
 - 1. Criteria for prequalification must be reasonably related to the project or the quality of work;
 - 2. Criteria for prequalification must be available to any prospective bidder or offeror requesting such information for each project that requires prequalification;
 - 3. Any prequalification process must include a method of notifying prospective bidders or offerors of the criteria for or limitations to prequalification; and

Any prequalification process must include a procedure for a disqualified bidder to respond to his or her disqualification to a representative of the governmental entity; provided, however, that such procedure shall not be construed to require the governmental entity to provide a formal appeals procedure. A prequalified bidder or offeror can not be later disqualified without cause. History Code 1981, § 36-91-20, enacted by Ga. L. 2000, p. 498, § 1; Ga. L. 2001, p. 820, § 12; Ga. L. 2007, p. 640, §

6. Indiana, Wilson Education Service Center (WESC)

A. Additional Agency Terms and Conditions

Participating entities and approved vendors must be in full compliance with statutory requirements of all applicable federal, state, and local laws, rules, regulations, and ordinances including applicable public works and prevailing wage projects. All provisions required thereby to be included herein and are hereby incorporated for reference. This contract shall be construed in accordance with and governed by the laws of the State of Indiana. Awarded pricing must be made available to all participating entities regardless of size.

B. Procedure for Processing Orders

Wilson Education Service Center will inform all public school corporations, private/parochial schools, charter schools, nonprofit entities, municipalities, other governmental entities and higher education entities of contract awards via web sites and various marketing strategies. Vendors will have the primary responsibility to market contracts to eligible buyers within Indiana. After contracts are awarded and product information is available on our e-procurement sites vendors are free to contact eligible buyers and vice versa. The Wilson Education Service Center utilizes an e-procurement facilitation system as the primary mechanism for ordering and the primary method of marketing. Vendors are required to use the IAESC Procurement System and GovPro systems upon award. A 2.25% administrative fee will be assessed on gross monthly sales for IAESC Procurement (used by schools) and a 3.25% administrative fee will be assessed on gross monthly sales on GovPro (all other entities) after a 1% price increase. Vendors shall not include shipping and handling charges, federal excise tax, or state sales tax on invoices. Taxes do not apply to purchases by the participating entities. All participating entities have a "Not for Profit Tax Exemption Certificate" which will be furnished by the buyer upon request by the vendor. Quantities shipped in excess of quantities designated in the Purchase Order, or unapproved product substitutions will be returned at the vendor's expense.

C. Members Purchasing Under the Agency

All public school corporations, private/parochial schools, charter schools, nonprofit entities, municipalities, other governmental entities and higher education entities are eligible buyers. The Wilson Education Center as established by Indiana Code 20-1-11.3- 1 with Inter-local Agreement Powers as established by Indiana Code 36-1-7-2 represents all eligible buyers in this program within Indiana.

7. Illinois, Illinois Learning Technology Purchase Program

The following State Specific Terms and Conditions shall apply to all contracts involving public schools and/or other educational entities operating in Illinois, (hereinafter "Illinois Customers") and shall prevail over any General Terms and Conditions if/when they differ.

Illinois Law to Govern.

The Agreement, as modified by these Illinois Terms & Conditions, is (and shall be) governed by, construed under, subject to compliance with, and interpreted in accordance with, the laws and regulations of the State of Illinois, expressly including, (but not limited to): the Illinois School Code, 105 ILCS 5/1-1 *et seq.*; its procurement and bidding standards and prerequisites delineated at 105 ILCS 5/10-20.21; the Illinois Public Officer Prohibited Activities Act, 50 ILCS 105/0.01 *et seq.*; the Illinois Criminal Code, 720 ILCS 5/1-1 *et seq.*; its prohibitions against interference with public contracting delineated at 720 ILCS 5/33E-1, *et seq.*; the Illinois State Officials and Employees Ethics Act, 5 ILCS 430/1 *et seq.*; the Illinois Public Officer Prohibited Activities Act, 50 ILCS 105/1 *et seq.*; the Illinois Drug-Free Workplace Act, 30 ILCS 580/1 *et seq.*; the Illinois Business Enterprises for Minorities, Females and Persons with Disabilities Act, 30 ILCS 575/0.01 *et seq.*; the Illinois Human Rights Act, 775 ILCS 5/2-105 *et seq.*; and policies of the Illinois Customer relating to the subject matter of the Agreement with Contractor.

When Contractor and/or its agents will be on an Illinois Customer's premises (whether for delivery, installation, the provision of contractual services, or otherwise), Contractor shall also comply in all respects with: all background check requirements set forth at 105 ILCS 5/10-21.9; the Illinois Smoke Free Illinois Act, 410 ILCS 82/1 *et seq.*, and the Illinois Firearm Concealed Carry Act, 430 ILCS 66/1 *et seq.*

Any contractual payment requested of an Illinois Customer shall be invoiced, processed, and remitted to a Contractor in accordance with the requirements and provisions of the Illinois Local Government Prompt Payment Act, 50 ILCS 505/1 *et seq.*

This Agreement shall be construed and incorporated in accordance with the laws of the State of Illinois, regardless of any choice of law provision that might otherwise authorize construction of its terms in accordance with the law(s) of another state, states, or federal law.

By entering into this Agreement with an Illinois Customer, the Contractor's signature on the executed contract shall serve as Contractor's certification of Contractor's compliance with the foregoing laws and all requirements thereunder.

Entire Agreement and Construction

The Agreement, as modified by these Illinois Terms & Conditions, represents the entire agreement between Contractor and the Illinois Customer, and supersedes all prior negotiations or agreements, written or oral, which are not included herein. This Agreement may only be amended by written instrument executed by the Illinois Customer and Contractor. In the event of a conflict between the Agreement, as modified by these Illinois Terms & Conditions, and a proposal from Contractor, the terms of this modified Agreement will take precedence.

Each party has reviewed and approved the Agreement, and no rule of construction that resolves ambiguities against the drafting party will be employed in the interpretation of this Agreement.

Dispute Resolution.

Any dispute arising in any manner hereunder shall be subject to resolution by litigation, unless all

involved parties consent to an alternative means of dispute resolution. Venue for any legal action brought hereunder shall be the Illinois state circuit court of the county in which the Illinois Customer's administrative office is located or (if different and only if the Illinois Customer so elects) the Illinois state circuit court of the county where the Project is performed. Any provision of the General Terms purporting to change, limit, restrict, or shorten any Illinois period of repose and/or the duration of any applicable Illinois statute of limitation shall be of no force or effect against an Illinois Customer, it being understood by the parties that the Illinois periods of repose and statutes of limitation applicable to the subject matter hereof shall govern actions relating to this Agreement. No provision from the General Conditions shall limit, restrict, or shorten the duration of any period of repose or statute of limitation applicable under Illinois law.

Termination of the Agreement.

The Illinois Customer may terminate this Agreement at any time, in whole or in part, with or without cause, upon providing written notice to Contractor. If this Agreement is terminated by the Illinois Contractor for cause, the Contractor shall be liable to the Owner for any increase in cost incurred by the Owner in replacing the goods under contract and/or completing the contractual work, and for any additional or other damages the Illinois Customer suffers. In the event this Agreement is terminated by the Illinois Customer solely for the Illinois Customer's convenience, Contractor shall be compensated for items properly provided and/or work properly rendered through the date of termination, as can be documented to the reasonable satisfaction of the Illinois Customer. The Illinois Customer shall have no liability to Contractor beyond the date of termination. In no event shall Contractor be compensated for anticipated profit or lost opportunity.

Insurance and Indemnification Provisions.

Contractor hereby agrees to indemnify and hold the Illinois Customer, its board members, officers, agents, employees, administrators, attorneys, and any other parties designated by the Illinois Customer (hereinafter collectively called the Indemnitees@) harmless from all losses, claims, liabilities, injuries, damages and expenses, including (but not limited to) all attorneys' fees and defense and court costs and expenses, that the Indemnitees may incur arising out of, or occurring in connection with, the performance, acts, omissions, negligence, willful and/or wanton behavior, and/or breaches by Contractor of its duties and obligations under or pursuant to this Agreement. This indemnification obligation shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

Contractor shall procure, at no expense to the Illinois Customer, the insurance coverages set forth in the General Conditions. In each such instance, Contractor shall, by endorsement, name the Illinois Customer as an additional insured and shall provide copies of said policies and endorsements to the Illinois Customer prior to commencement under this Agreement.

Funding Contingencies for Multi-Year Projects.

All contracts with Illinois Customers that call for performance, or otherwise extend, beyond the Illinois Customers' current fiscal year, are, and shall be, expressly contingent upon annual appropriations. In the event an Illinois Customer's entry into an Agreement with Contractor constitutes a lease purchase (whether for financing purposes or otherwise), that Agreement shall be subject to the provisions of 105 ILCS 5/10-22.25a in addition to all other terms set forth in this Agreement.

Warranties and Claims.

No provision(s) set forth in the General Conditions shall serve to limit the Contractor's liability with respect to damages of any sort (whether actual, incidental, consequential, or otherwise) suffered by an Illinois Customer, nor will any disclaimer of warranties be effective against an Illinois Customer.

Attorney Fee Provisions.

No provision providing for the payment of prevailing party costs and expenses (including legal fees) resulting from litigation or other method of dispute resolution shall be applicable to Illinois Customers.

Automatic Renewals.

No provision calling for automatic renewals or "evergreen" renewals, (wherein the term of the agreement automatically renews for a period beyond the initial term unless a party provides affirmative advance notice of termination to the other party) shall be effective in an Agreement with an Illinois Customer, it being the parties' understanding, instead, that the contractual arrangements with Illinois Customers will terminate upon completion of the initial term or satisfaction of the original scope, unless the parties subsequently and affirmatively agree to supplemental renewal provisions.

Successors and Assigns; No Subcontracting.

Contractor shall not assign any rights under, or interest in, this Agreement, nor may Contractor subcontract any duties arising hereunder, without the prior written consent of the Illinois Customer. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

8. Iowa, AEA Purchasing

A. Additional Member Agency General Terms and Conditions that apply for all categories

Right to Assign

AEA Purchasing specifically reserves the right, in its sole discretion, to assign and transfer its interest in the Contract with the Vendor Partner, consistent with the terms and conditions of said Contract, to any organization, along with all corresponding duties, responsibilities, and obligations of both parties, and under the terms provided herein.

B. Additional Member Agency Terms and Conditions for Non-Construction Products and Services

None.

C. Additional Member Agency Terms and Conditions for Construction Products and Services

AEA Purchasing may participate in Construction Products and Services bids through AEPA on a limited basis due to the restrictions mandated in the Iowa Code, Chapter 26 and 573.

D. Procedure for Processing Orders

AEA Purchasing's eligible clients follow a standard or electronic ordering process. The awarded Contractor will invoice and deliver products and services directly to AEA Purchasing's eligible clients. All invoices for payment shall be sent directly to the AEA Purchasing eligible client ordering under the terms and conditions of this agreement. The AEA Purchasing eligible client will make payment directly to the awarded Contractor(s). AEA Purchasing does not process any orders.

E. Agencies Allowed to Purchase under the Member Agency

- K-12 Public & Private Schools
- Area Education Agencies
- Colleges & Universities
- Public Libraries
- City, County & State Government
- Non-Profit Education Organizations

9. Kansas, Greenbush-Southeast Kansas Education Service Center (SEKESC)

A. Additional Member Agency General Terms and Conditions that apply for all categories

Kansas Mandatory Contract Provisions

Terms Herein Controlling Provisions: It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.

Kansas Law and Venue: This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.

Termination Due To Lack Of Funding Appropriation: If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

Disclaimer Of Liability: No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

Anti-Discrimination Clause: The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.

Acceptance Of Contract: This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

Arbitration, Damages, Warranties: Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

Representative's Authority To Contract: By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

Responsibility For Taxes: The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

Insurance: The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.

Information: No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.

The Eleventh Amendment: "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

Campaign Contributions / Lobbying: Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

Assignment - SEKESC Right to Assign

In the event of a cancellation, the SEKESC specifically reserves the right, in its sole discretion, to assign and transfer its interest in any contract, consistent with the terms and conditions of any contract, to any organization, along with all corresponding duties, responsibilities for both parties and provisions contained herein.

Purchase Orders

Any purchase order issued by SEKESC, or one of its eligible entities, is cancelable under provisions of K.S.A. 10-1113. All purchase orders shall be issued by the SEKESC or its participating eligible entities desiring to acquire the products or services under the contract. Said purchase order shall include adequate reference to identify the bid to which it relates.

Marketing

- Awarded Vendor will proactively market the awarded contract to all eligible entities. The SEKESC will enhance the Awarded Vendor's marketing efforts through communication and meetings with eligible entities, participation in marketing events and tradeshow, through its website and social media resources and through day-to-day customer support activities.
- Awarded Vendor will train its professional staff and sales force in the provisions and benefits of the awarded contract. The SEKESC will enhance such effort by providing joint trainings and participating in joint sales calls as needed.
- The SEKESC and Awarded Vendor will jointly design presentations, documents, and other promotional material to assist in the promotion of the awarded contract.
- Awarded Vendor will include the SEKESC (Greenbush) logo on all sales materials targeted to eligible entities for the awarded contract. The SEKESC hereby grants to Awarded Vendor a non-exclusive, revocable, non-transferable, permission to use the SEKESC (Greenbush) name and logo during the term of this Agreement. Likewise, during the term of this agreement, the Awarded Vendor grants the SEKESC (Greenbush) permission to reproduce their name and logo in connection with marketing and promotion of the awarded contract.

B. Additional Member Agency Terms and Conditions for Non-Construction Products and Services
SEKESC has no additional terms and conditions for non-construction products and services.

C. Additional Member Agency Terms and Conditions for Construction Products and Services

K.S.A. 60-1111. Public works bond. (a) Bond by contractor. Except as provided in this section, whenever any public official, under the laws of the state, enters into contract in any sum exceeding \$100,000 with any person or persons for the purpose of making any public improvements, or constructing any public building or making repairs on the same, such officer shall take, from the party contracted with, a bond to the state of Kansas with good and sufficient sureties in a sum not less than the sum total in the contract, conditioned that such contractor or the subcontractor of such contractor shall pay all indebtedness incurred for labor furnished, materials, equipment or supplies, used or consumed in connection with or in or about the construction of such public building or in making such public improvements.

A contract which requires a contractor or subcontractor to obtain a payment bond or any other bond shall not require that such bond be obtained from a specific surety, agent, broker or producer. A public official entering into a contract which requires a contractor or subcontractor to obtain a payment bond or any other bond shall not require that such bond be obtained from a specific surety, agent, broker or producer.

(b) Filing and limitations. The bond required under subsection (a) shall be filed with the clerk of the district court of the county in which such public improvement is to be made. When such bond is filed, no lien shall attach under this article. Any liens which have been filed prior to the filing of such bond shall be discharged. Any person to whom there is due any sum for labor or material furnished, as stated in subsection (a), or such person's assigns, may bring an action on such bond for the recovery of such indebtedness but no action shall be brought on such bond after six months from the completion of such public improvements or public buildings.

(c) In any case of a contract for construction, repairs or improvements for the state or a state agency under K.S.A. 75-3739 or 75-3741, and amendments thereto, a certificate of deposit payable to the state may be accepted in accordance with and subject to K.S.A. 60-1112, and amendments thereto. When such certificate of deposit is so accepted, no lien shall attach under this article. Any liens which have been filed prior to the acceptance of such certificate of deposit shall be discharged. Any person to whom there is due any sum for labor furnished, materials, equipment or supplies used or consumed in connection with or for such contract for construction, repairs or improvements shall make a claim therefor with the director of purchases under K.S.A. 60-1112, and amendments thereto.

D. Procedure for Processing Orders

The SEKESC utilizes the following ordering/delivery procedures:

- Purchase orders will be issued by the individual eligible entity.
- Vendors must issue invoices directly to the ordering eligible entity as specified on each purchase order.
- Delivery of all items included in this solicitation will be made to the locations within each eligible entity as will be specified on the purchase order.
- Each order shall contain a packing slip of its contents to assist in prompt processing of payments to Vendor.

Additionally

- Awarded Vendor agrees to demonstrate the benefit of the pricing agreement with the SEKESC over alternative options, including competitive solicitation pricing.
- Awarded Vendor agrees to proactively offer terms and pricing under this agreement to eligible entities and a more effective alternative to the cost and time associated with alternate bids and solicitation.
- When responding to third party procurement solicitations, Awarded Vendor may:
 - Choose not to respond and make this agreement available as an alternative and comparison to the agency's solicitation responses.
 - Respond with pricing, terms, and conditions of this agreement. If awarded the contract, sales will be reported as defined in the solicitation.
 - Provide lower prices when the competitive process requires without being required to extend the lower pricing to all eligible entities. In such case, if Awarded Vendor is awarded the contract, the sales will be reported as defined in the solicitation.
 - Respond to the solicitation with higher pricing than is available through this agreement and if an alternative response is permitted, may offer the pricing under this agreement as an alternative for consideration. If Awarded Vendor is awarded the contract with alternative SEKESC pricing, the resulting sales will be reported as defined in the solicitation.
- Provide notification to the SEKESC of the response to a solicitation, including but not limited to the name of the soliciting agency, general description of scope, timeline, and resulting award or non-award. Such notification shall be submitted to Tina Smith at tina.smith@greenbush.org within 5 business days of the proposal submission and resulting award information within 5 business days of agency's notification to Awarded Vendor.

E. Agencies Allowed to Purchase under the Member Agency

Eligible Entities: Entities eligible to purchase from Southeast Kansas Education Service Center (Greenbush) cooperative purchasing contracts include but may not be limited to:

- K-12 Public Schools
- K-12 Private Schools
- Colleges & Universities
- City, County, and State Governments
- Public Libraries
- Non-profit organizations holding form #501C3

10. Kentucky, Green River Regional Educational Cooperative (GRREC)

A. Additional Member Agency General Terms and Conditions that apply for all categories

The Green River Regional Educational Cooperative, Inc. (GRREC) is one of eight educational cooperatives in Kentucky, all of which are participants in the AEPA bids. GRREC serves as contact agency for all AEPA correspondence for all eight educational cooperatives. For the Kentucky Educational Cooperatives, the collective bidding process is conducted consistent with KRS Chapter 45A, the Kentucky Model Procurement Code. Contracts with GRREC shall include the provision granting GRREC employees the right to access to the Contractor's records.

Vendor Contact: Vendor will designate to GRREC one individual who will represent them to Kentucky Bidding Cooperative members during the agreement period. This contact person will correspond with each ordering member for technical assistance, problems, or questions that may arise. Include instructions if different contacts for different geographical areas are needed; this information will be distributed to Kentucky Bidding Cooperative members upon award of this bid.

The following Federal Clauses are required as a part of KY bid documents:

1. CLEAN AIR/CLEAN WATER
 - A. Vendor Partner agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 et seq). Vendor Partner agrees to report each violation to the USDA and the appropriate EPA Regional Office.
 - B. Vendor Partner agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. Vendor Partner agrees to report each violation to the USDA and the appropriate EPA Regional Office.
2. SUSPENSION AND DEBARMENT
Vendor Partner understands that a contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." By signing and submitting its bid or proposal, the bidder or proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by GRREC. If it is later determined that Vendor Partner knowingly rendered an erroneous certification, in addition to remedies available to GRREC, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Vendor Partner agrees to comply with the requirements of 2 CFR 180.220 while the above-referenced contract is valid. Vendor Partner further agrees to include a provision requiring such compliance in its lower tier covered transactions.
3. LOBBYING
Vendor Partner will comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352) and the New Restrictions on Lobbying and has signed and attached to this Addendum the Certificate Regarding Lobbying and, if applicable, the Disclosure of Lobbying Activities (Forms SF-LLL) and annually will sign and submit a certificate, if applicable, Form SF-LLL to GRREC.
4. PROCUREMENT OF RECOVERED MATERIALS PURSUANT TO 2 C.F.R. § 200.322
Vendor Partner agrees to comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.
5. BUY AMERICAN
"Domestic Commodity or Product" are defined as an agricultural commodity that is produced in the United States and a food product that is processed in the United States using substantial agricultural commodities that are produced in the United States. "Substantial" means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically.

Products from Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowed under this provision as territories of the United States.

The Buy American provision (7 CFR Part 210.21(d)) is one of the procurement standards School Food Authorities ("SFAs") must comply with when purchasing commercial food products served in the school meals programs.

Buy American: AEPA Member Agencies or Participating Entities participating in the federal school meal programs are required to purchase domestic commodities and products for school meals to the maximum extent practicable. Domestic commodity or product means an agricultural commodity that is produced in the US and a food product that is processed in the US substantially (at least 51 percent) using agricultural commodities that are produced in the US.

Federal regulations require that all foods purchased for Child Nutrition Program be of domestic origin to the maximum extent practicable. While rare, two (2) exceptions may exist when: the product is not produced or

Manufactured in the US in sufficient, reasonable and available quantities of a satisfactory quality, such as bananas and pineapple; and competitive proposals reveal the cost of a domestic product is significantly higher than a non-domestic product.

ALL products that are normally purchased by Vendor Partner as non-domestic and proposed as part of this contract must be identified with the country of origin. Vendor Partner shall outline their procedures to notify GRREC when products are purchased as non-domestic.

Any substitution of a non-domestic product for a domestic product (which was originally a part of the solicitation), must be approved, in writing, by GRREC, prior to the delivery of the product to the AEPA Member Agency or Participating Entities. Any non-domestic product delivered to the AEPA Member Agencies or Participating Entities, without the prior, written approval of GRREC will be rejected.

Vendor Partner must affirm its willingness to assert its best and reasonable efforts to ensure compliance with this federal rule.

6. COST REIMBURSEMENT CONTRACTS

Solicitation Requirements for cost reimbursable contracts:

- A. Allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates and other applicable credits accruing to or received by the contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the school food authority;
- B. Contractor will separately identify for each cost submitted for payment to the school food authority the amount of that cost that is allowable (can be paid from the nonprofit school food service account) and the amount that is unallowable (cannot be paid from the nonprofit school food service account); or (B) Contractor will exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification;
- C. Contractor's determination of its allowable costs will be made in compliance with the applicable Departmental and Program regulations and Office of Management and Budget cost circulars;
- D. Contractor will identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the school food authority for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit;
- E. Contractor must identify the method by which it will report discounts, rebates and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract; and
- F. Contractor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the school food authority, the State agency, or the Department.

B. Additional Member Agency Terms and Conditions for Construction Products and Services

The Contractor and subcontractors shall pay all laborers, workmen and mechanics performing work under this contract not less than the rate of wages set forth in the prevailing wage schedule incorporated in the contract conditions as determined by the Kentucky Department of Labor in accordance with the provisions of KRS 337.505 through KRS 337.550.

Bidders are informed that construction contracts of the Commonwealth of Kentucky and political subdivisions are not exempt from the provisions of the Kentucky Sales and/or Use Tax. Current sales and/or Use Tax shall be provided for and included in the bid amount as no adjustments will be permitted nor made after receipt of bids.

1. It should be noted that where performance bonds are required, it should include both performance and payment bonds.
2. State Prevailing Wages shall apply for projects of \$250,000.00 or more, or Davis Bacon wages (when federal funds are utilized) if higher than State Prevailing Wages.
3. All work shall be in accordance with necessary approvals from the Kentucky Department of Housing, Buildings and Construction and the Kentucky Building Code.
4. All processes of the project comply with 702 KAR 4:160, the Capital Construction Process, including necessary approvals from the Kentucky Department of Education.
5. Performance and payment bond on AIA document 312 must be provided for all projects that exceed \$25,000. (Also provide that the Surety shall comply with state requirements.)
6. In accordance with 702 KAR 4:160, AIA and KDE documents be utilized on all projects including but limited to:

- a. A 101 Standard form of Agreement between Owner and Contractor (including KDE amendments)
 - b. A 201 General Conditions of the Standard Form of Agreement between Owner and Contractor (including KDE amendments)
 - c. AIA A701 Instructions to bidders, with KDE amendment and KDE Form of proposal (may require editing AEPA instructions to bidders to eliminate conflicts).
 - d. KDE purchase Order (for direct purchase of materials with tax number, to exempt materials from state sales tax)
 - e. If applicable, where architectural services are provided by the Owner, Form B141, Standard Form of Agreement between Owner and Architect
7. Architectural services shall be provided in accordance with KRS 322.360 and other relevant Kentucky Revised Statutes by the vendor or the Owner at the Owner's preference.

C. Procedure for Processing Orders

Once the award is made to the Contractor/vendor, GRREC and Kentucky's other cooperatives will inform their members (school districts and other entities) of the contract by: 1) including the contract in the Current Bids section on their websites and 2) publishing the contract information in catalogs disseminated to all members. A list of members, contact names, addresses and phone numbers is made available to the Contractor. At this point the Contractor/vendor contacts the members and members may contact the Contractor/vendor. When the member identifies a product or service, it will issue a purchase order for that item to the vendor. The vendor's price will include a two percent (2%) administrative fee that the vendor will collect from the member and remit to GRREC on a quarterly basis. Municipal and county governments, and other governmental, quasi-governmental, or nonprofit organization price will reflect a two percent (2%) administrative fee. On the occasion that an AEPA contract awarded by Kentucky is utilized by public school and public non-school entities in other states, purchases in these instances will also reflect a two percent (2%) administrative fee. The vendor will also compile and provide to GRREC a quarterly report showing all purchases made by Kentucky members (with specific detail as to what purchases were made by which members) under this contract. Further, if no purchases are made in any given quarter, the Vendor shall remit a "No Activities" statement to GRREC for that quarter. The vendor will also produce and provide to GRREC an annual summary report for all purchases made under this contract for a period of beginning with the award of the contract through December 31st and all consecutive annual periods if contract is extended. The vendor will make all administrative fee payments to the GRREC by the 15th of the month following the end of the quarter (i. e. April 15th, July 15th, October 15th and January 15th). All checks are to be made payable to GRREC and sent to GRREC, 230 Technology Way, Bowling Green, KY 42101 and Attention: Bids Coordinator. GRREC may designate another agent for collecting an administrative fee that will be negotiated with vendor for e-commerce transaction. GRREC will share information from the quarterly and annual reports and distribute the administrative fee among the other KY Educational Cooperatives according to membership.

D. Members Purchasing under the Agency

Currently there are 8 Bidding Cooperatives in Kentucky and all are participating in this invitation through GRREC's solicitation. There are 170+ independent and county school districts and all are eligible for membership in a Bidding Cooperative and approximately 98% of the districts are members of one of the cooperatives. No district is obligated to use these services. Additional members may include other public educational institutions in the state, public colleges or universities, community colleges, vocational or technical schools, municipal and county governments, and other governmental, quasi-governmental or non-profit organizations. Kentucky currently shares its AEPA contracts with the following states: AL, GA, LA, MS, NC, SC, and TN. Only those districts or institutions listed on an approved Bidding Cooperative membership list are eligible to purchase under these contracts. This list may change during the contract period

11. Massachusetts, The Education Cooperative

This Commonwealth Terms and Conditions form is jointly issued by the Executive Office for Administration and Finance (ANF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD) for use by all Commonwealth of Massachusetts ("State") Departments and Contractors. **Any changes or electronic alterations by either the Department or the Contractor to the official version of this form, as jointly published by ANF, CTR and OSD, shall be void.** Upon execution of these Commonwealth Terms and Conditions by the Contractor and filing as prescribed by the Office of the Comptroller, these Commonwealth Terms and Conditions will be incorporated by reference into any Contract for Commodities and Services executed by the Contractor and any State Department, in the absence of a superseding law or regulation requiring a different Contract form. Performance shall include services rendered, obligations due, costs incurred, commodities and deliverables provided and accepted by the Department, programs provided or other commitments authorized under a Contract. A deliverable shall include any tangible product to be delivered as an element of performance under a Contract. The Commonwealth is entitled to ownership and possession of all deliverables purchased or developed with State funds. Contract shall mean the Standard Contract Form issued jointly by ANF, CTR and OSD.

1. Contract Effective Start Date. Notwithstanding verbal or other representations by the parties, or an earlier start date indicated in a Contract, the effective start date of performance under a Contract shall be the date a Contract has been executed by an authorized signatory of the Contractor, the Department, a later date specified in the Contract or the date of any approvals required by law or regulation, whichever is later.

2. Payments And Compensation. The Contractor shall only be compensated for performance delivered and accepted by the Department in accordance with the specific terms and conditions of a Contract. All Contract payments are subject to appropriation pursuant to M.G.L. C. 29, §26, or the availability of sufficient non-appropriated funds for the purposes of a Contract, and shall be subject to intercept pursuant to M.G.L. C. 7A, §3 and 815 CMR 9.00. Overpayments shall be reimbursed by the Contractor or may be offset by the Department from future payments in accordance with state finance law. Acceptance by the Contractor of any payment or partial payment, without any written objection by the Contractor, shall in each instance operate as a release and discharge of the State from all claims, liabilities or other obligations relating to the performance of a Contract.

3. Contractor Payment Mechanism. All Contractors will be paid using the Payment Voucher System unless a different payment mechanism is required. The Contractor shall timely submit invoices (Payment Vouchers - Form PV) and supporting documentation as prescribed in a Contract. The Department shall review and return rejected invoices within fifteen (15) days of receipt with a written explanation for rejection. Payments shall be made in accordance with the bill paying policy issued by the Office of the Comptroller and 815 CMR 4.00, provided that payment periods listed in a Contract of less than forty-five (45) days from the date of receipt of an invoice shall be effective only to enable a Department to take advantage of early payment incentives and shall not subject any payment made within the forty-five (45) day period to a penalty. The Contractor Payroll System, shall be used only for "Individual Contractors" who have been determined to be "Contract Employees" as a result of the Department's completion of an Internal Revenue Service SS-8 form in accordance with the Omnibus Budget Reconciliation Act (OBRA) 1990, and shall automatically process all state and federal mandated payroll, tax and retirement deductions.

4. Contract Termination Or Suspension. A Contract shall terminate on the date specified in a Contract, unless this date is properly amended in accordance with all applicable laws and regulations prior to this date, or unless terminated or suspended under this Section upon prior written notice to the Contractor. The Department may terminate a Contract without cause and without penalty, or may terminate or suspend a Contract if the Contractor breaches any material term or condition or fails to perform or fulfill any material obligation required by a Contract, or in the event of an elimination of an appropriation or availability of sufficient funds for the purposes of a Contract, or in the event of an unforeseen public emergency mandating immediate Department action. Upon immediate notification to the other party, neither the Department nor the Contractor shall be deemed to be in breach for failure or delay in performance due to Acts of God or other causes factually beyond their control and without their fault or negligence. Subcontractor failure to perform or price increases due to market fluctuations or product availability will not be deemed factually beyond the Contractor's control.

5. Written Notice. Any notice shall be deemed delivered and received when submitted in writing in person or when delivered by any other appropriate method evidencing actual receipt by the Department or the Contractor. Any written notice of termination or suspension delivered to the Contractor shall state the effective date and period of the notice, the reasons for the termination or suspension, if applicable, any alleged breach or failure to perform, a reasonable period to cure any alleged breach or failure to perform, if applicable, and any instructions or restrictions concerning allowable activities, costs or expenditures by the Contractor during the notice period.

6. Confidentiality. The Contractor shall comply with M.G.L. C. 66A if the Contractor becomes a "holder" of "personal data". The Contractor shall also protect the physical security and restrict any access to personal or other Department data in the Contractor's possession, or used by the Contractor in the performance of a Contract, which shall include, but is not limited to the Department's public records, documents, files, software, equipment or systems.

7. Record-keeping And Retention, Inspection Of Records. The Contractor shall maintain records, books, files and other data as specified in a Contract and in such detail as shall properly substantiate claims for payment under a Contract, for a minimum retention period of seven (7) years beginning on the first day after the final payment under a Contract, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving a Contract. The Department shall have access, as well as any parties identified under Executive Order 195, during the Contractor's regular business hours and upon reasonable prior notice, to such records, including on-site reviews and reproduction of such records at a reasonable expense.

8. Assignment. The Contractor may not assign or delegate, in whole or in part, or otherwise transfer any liability, responsibility, obligation, duty or interest under a Contract, with the exception that the Contractor shall be authorized to assign present and prospective claims for money due to the Contractor pursuant to a Contract in accordance with M.G.L. C. 106, §9-318. The Contractor must provide sufficient notice of assignment and supporting documentation to enable the Department to verify and implement the assignment. Payments to third party assignees will be processed as if such payments were being made directly to the Contractor and these payments will be subject to intercept, offset, counter claims or any other Department rights which are available to the Department or the State against the Contractor.

9. Subcontracting By Contractor. Any subcontract entered into by the Contractor for the purposes of fulfilling the obligations under a Contract must be in writing, authorized in advance by the Department and shall be consistent with and subject to the provisions of these Commonwealth Terms and Conditions and a Contract. Subcontracts will not relieve or discharge the Contractor from any duty, obligation, responsibility or liability arising under a Contract. The Department is entitled to copies of all subcontracts and shall not be bound by any provisions contained in a subcontract to which it is not a party.

10. Affirmative Action, Non-Discrimination In Hiring And Employment. The Contractor shall comply with all federal and state laws, rules and regulations promoting fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation or for exercising any rights afforded by law. The Contractor commits to purchasing supplies and services from certified minority or women-owned businesses, small businesses or businesses owned by socially or economically disadvantaged persons or persons with disabilities.

11. Indemnification. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, including the Department, its agents, officers and employees against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement or other damages that the State may sustain which arise out of or in connection with the Contractor's performance of a Contract, including but not limited to the negligence, reckless or intentional conduct of the Contractor, its agents, officers, employees or subcontractors. The Contractor shall at no time be considered an agent or representative of the Department or the State. After prompt notification of a claim by the State, the Contractor shall have an opportunity to participate in the defense of such claim and any negotiated settlement agreement or judgment. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph. Any indemnification of the Contractor shall be subject to appropriation and applicable law.

12. Waivers. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies

available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach.

13. Risk Of Loss. The Contractor shall bear the risk of loss for any Contractor materials used for a Contract and for all deliverables, Department personal or other data which is in the possession of the Contractor or used by the Contractor in the performance of a Contract until possession, ownership and full legal title to the deliverables are transferred to and accepted by the Department.

14. Forum, Choice of Law And Mediation. Any actions arising out of a Contract shall be governed by the laws of Massachusetts, and shall be brought and maintained in a State or federal court in Massachusetts which shall have exclusive jurisdiction thereof. The Department, with the approval of the Attorney General's Office, and the Contractor may agree to voluntary mediation through the Massachusetts Office of Dispute Resolution (MODR) of any Contract dispute and will share the costs of such mediation. No legal or equitable rights of the parties shall be limited by this Section.

15. Contract Boilerplate Interpretation, Severability, Conflicts With Law, Integration. Any amendment or attachment to any Contract which contains conflicting language or has the affect of a deleting, replacing or modifying any printed language of these Commonwealth Terms and Conditions, as officially published by ANF, CTR and OSD, shall be interpreted as superseded by the official printed language. If any provision of a Contract is found to be superseded by state or federal law or regulation, in whole or in part, then both parties shall be relieved of all obligations under that provision only to the extent necessary to comply with the superseding law, provided however, that the remaining provisions of the Contract, or portions thereof, shall be enforced to the fullest extent permitted by law. All amendments must be executed by the parties in accordance with Section 1. of these Commonwealth Terms and Conditions and filed with the original record copy of a Contract as prescribed by CTR. The printed language of the Standard Contract Form, as officially published by ANF, CTR and OSD, which incorporates by reference these Commonwealth Terms and Conditions, shall supersede any conflicting verbal or written agreements relating to the performance of a Contract, or attached thereto, including contract forms, purchase orders or invoices of the Contractor. The order of priority of documents to interpret a Contract shall be as follows: the printed language of the Commonwealth Terms and Conditions, the Standard Contract Form, the Department's Request for Response (RFR) solicitation document and the Contractor's Response to the RFR solicitation, excluding any language stricken by a Department as unacceptable and including any negotiated terms and conditions allowable pursuant to law or regulation.

IN WITNESS WHEREOF, The Contractor certify under the pains and penalties of perjury that it shall comply with these Commonwealth Terms and Conditions for any applicable Contract executed with the Commonwealth as certified by their authorized signatory below:

CONTRACTOR AUTHORIZED SIGNATORY: _____
(signature)

Print Name:

Title:

Date:

(Check One): Organization Individual

Full Legal Organization or Individual Name:

Doing Business As: Name (If Different):

Tax Identification Number:

Address:

Telephone: FAX:

INSTRUCTIONS FOR FILING THE COMMONWEALTH TERMS AND CONDITIONS

A "Request for Verification of Taxation Reporting Information" form (Massachusetts Substitute W-9 Format), that contains the Contractor's correct TIN, name and legal address information, must be on file with the Office of the Comptroller. If the Contractor has not previously filed this form with the Comptroller, or if the information contained on a previously filed form has changed, please fill out a W-9 form and return it attached to the executed COMMONWEALTH TERMS AND CONDITIONS.

If the Contractor is responding to a Request for Response (RFR), the COMMONWEALTH TERMS AND CONDITIONS must be submitted with the Response to RFR or as specified in the RFR. Otherwise, Departments or Contractors must timely submit the completed and properly executed COMMONWEALTH TERMS AND CONDITIONS (and the W-9 form if applicable) to the: **Payee and Payments Unit, Office of the Comptroller, 9th Floor, One Ashburton Place, Boston, MA 02108** in order to record the filing of this form on the MMARS Vendor File. Contractors are required to execute and file this form only once.

12. Michigan, Oakland Schools, (OS)

A. Additional Member Agency General Terms and Conditions that apply for all categories:

1. Conflict of Interest

Contractor shall disclose in writing to Buyer any conflicts of interest with Board members, administrators, and or employees of any Participating Entity (as defined below). A conflict of interest may include, but is not limited to, a financial ownership interest in, or employment with Contractor or Subcontractor by a Participating Entity' Board member, administrator, or employee or their family member. A "family member" means a person's spouse or spouse's sibling or child; a person's sibling or sibling's spouse or child; a person's child or child's spouse; or a person's parent or parent's spouse, and includes these relationships as created by adoption or marriage. Determination of the existence of a conflict of interest does not prohibit the Participating Entity from entering into a contract with the Contractor (MCL 380.634; MCL 15.322 et seq).

2. Termination of Buyer's Purchase Order

Default is defined as the failure of a Contractor to fulfill the contract, including but not limited to, not honoring bid prices, failure to deliver on time, or the unauthorized substitution of items or failure to comply with any or all of the specifications and/or terms and conditions contained in this solicitation or the contract/purchase order of a Participating Entity.

Should the Contractor fail to satisfactorily resolve the default, the contract/purchase order may be terminated with thirty (30) days written notice. In that event, the Contractor shall be held liable to the Participating Entity for all costs and expenses incurred by the Participating Entity arising out of said default. Notwithstanding the foregoing, each Participating Entity may terminate their contract/purchase order, with or without cause, or discontinue purchasing from the Contractor at any time.

3. Iran Economic Sanctions Act

Public Act 517 of 2012, commonly known as the "Iran Economic Sanctions Act" (the "Act"). The Act provides that beginning April 1, 2013, an "Iran Linked Business" is not eligible to submit a bid on a request for proposal with a "public entity" (OS). The Act also requires that a person that submits a proposal in response to an OS request for proposal must certify to the public entity that it is not an Iran Linked Business. This requirement applies to all requests for proposals issued by OS, and not just to construction projects.

The Act defines an Iran Linked Business as:

- a. A person engaging in investment activities in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran;
- b. A financial institution that extends credit to another person, if that person will use the credit to engage in investment activities in the energy sector of Iran.

If the OS determines, using credible information available to the public, that a person or entity has submitted a false certification, OS must provide written notice to the person or entity of its determination and of its intent not to enter into or renew the contract. The notice must include information on how to contest the determination. The notice must also specify that the individual or entity may become eligible for future contracts with the public entity if the activities that caused it to be an Iran Linked Business are ceased.

4. Taxes

The Participating Entities are exempt from State Sales Taxes and such taxes shall not be included in any solicitation prices. Exemption certificates will be provided upon request.

5. Hazardous Materials

If any hazardous chemicals are supplied under a contract/purchase order arising out of this solicitation, a Material Safety Data Sheet (MSDS) shall accompany the delivery of any hazardous chemicals supplied by the Contractor. All MSDS sheets shall be sent to the attention of the Participating Entity. Ref: State of Michigan Act 154, Section 14, P.A. 1974 as amended. Copies of MSDS for all purchased hazardous materials must be provided prior to delivery of any

items by the Contractor. Additionally, the MSDS needs to be attached to the invoice and all products delivered must be labeled according to Section 14 of Act 154, of the public Acts of 1974, as amended. Any appropriate products not labeled will be refused and the Contractor will be responsible for additional freight charges. Payment may be withheld until the Participating Entity receives the MSDS.

6. Modifications to Contracts

No modifications to a contract/purchase order with a Participating Entity shall be binding upon such Participating Entity unless agreed to in writing signed by an authorized representative of the Participating Entity.

7. Indemnification

Contractor agrees to indemnify, defend and hold harmless OS, each Participating Entity and each Other Agency, including their Board of Educations or governing body, in their official and individual capacities, employees, agents, successors and assignees, from and against any and all costs, expenses, damages, and liabilities, including reasonable attorney's fees, arising out of the: (i) negligent act or omission or willful misconduct of the Contractor, its officers, directors, employees, successors, assignees, Contractors and agents; (ii) any breach of the terms of the contract between the Participating Entity and the Contractor; or (iii) any breach of any representation or warranty by Contractor under the contract with a Participating Entity or this solicitation.

8. Anti-discrimination

The Contractor hereby agrees to comply with all federal, state and municipal equal opportunity and antidiscrimination guidelines and regulations, and covenants that the Contractor will not discriminate against an employee or applicant for employment with respect to hire, tenure terms, conditions or privileges of employment, or in a manner directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, marital status or disability. Failure on the part of the Contractor to comply with said guidelines and regulations shall, upon reasonable notice, constitute grounds for a Participating Entity to revoke and otherwise terminate the contract and all obligations of the Participating Entity hereunder.

9. Local Contract Terms and Conditions

For procurements of supplies, materials, equipment and/or services resulting from this solicitation, it is clearly understood and agreed to by the Contractor that any clause, term, or condition not addressed in this solicitation, but required by a Participating Entity, shall be adhered to by said Contractor. Participating Entities, other than from K-12, choosing to purchase from awarded AEPA contracts are subject to their own respective laws, and/or local policy, procedures, and/or Charters

10. Governing Law

Any contract arising out of this solicitation shall be governed by and construed under the laws of the State of Michigan. In the event of any legal action to enforce or interpret any contract arising out of this solicitation, the sole and exclusive venue shall be the state or federal court of the local jurisdiction where the Participating Entities located.

B. Additional Member Agency Terms and Conditions for:

1. Non-Construction Products and Services:

All supplies, materials, and equipment sold or leased to Michigan intermediate school districts or K-12 public school districts must be in accordance with MCL 380.623a and 380.1274, respectively. The procurement of supplies, materials and/or equipment in a single transaction costing more than the State of Michigan Competitive Bidding threshold set forth in MCL 380.623a and 380.1274 by an intermediate school districts or K-12 public school districts requires the district to obtain competitive bids and the purchase must be approved by the district's Board of Education.

2. Construction Products and Services:

All Contractors understand and agree that the use of AEPA contracts is not intended for use by Michigan intermediate school districts or public K-12 school districts for construction, renovation or remodeling projects under MCL 380.1267 and agree to comply with all applicable standards and statutes for said construction projects.

C. Procedure for Processing Orders:

Once the award is made to a Contractor, OS will inform the Participating Entities and Other Agencies of the award by announcing the award through its general and usual methods of disseminating information.

1. OS follows the AEPA Standard Ordering Process (see Part A, General Terms and Conditions for All Agencies, “Ordering Procedures”).
2. Contractors shall be required to pay a two percent (2%) administrative fee (the “Fee”) based on the total cost of goods or services purchased, including installation and freight, if applicable. In the event of a lease arrangement, the total Fee for the value of goods leased shall be paid to OS by the Contractor at the front end of the lease. Contractor or its designated authorized reseller(s) shall not include any additional amount corresponding to the Fee in the bid responses or awarded prices.

D. Agencies Allowed to Purchase under the Member Agency:

OS serves all local school districts located in Oakland County, Michigan. In addition to, and in accordance with the terms and conditions set forth in this solicitation, all **public school districts, private schools, public school academies, intermediate school districts colleges, universities, counties, cities, townships, villages, and non-profit organization** in the State of Michigan shall be permitted to use AEPA solicitations approved by OS.

It should be clearly understood that OS is assisting these Participating Entities as a service to procure selected supplies, materials and equipment and services desired by the Participating Entity. Both the Contractor and any Participating Entity using this solicitation agree that the OS makes no representation that use of this solicitation by any Participating Entity is, in fact, in compliance with rules, regulations, policy or procedures of the Participating Entity. In this regard, the OS strongly suggests that, at a minimum, the Contractor and any Participating Entity considering such use consult with their own legal counsels before doing so. All Participating Entities using AEPA solicitations shall be responsible for adhering to their own applicable rules, regulations, policies, procedures and state statutes, etc., which may govern the use of cooperative purchasing contracts within their respective jurisdictions.

13. Minnesota, Cooperative Purchasing Connection (CPC)

General Terms and Conditions that apply for all categories

Governing Law: The laws of the State of Minnesota govern all contracts resulting from this IFB. Each and every provision of law and clause required by law to be included in a contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction.

Governing Venue: The resulting contract award shall be deemed to have been made and performed in Otter Tail County, Minnesota. For the purpose of venue, all legal arbitration or causes for action arising out of the resulting agreement shall be brought to the courts of Otter Tail County, Minnesota.

Hazardous Substances: All hazardous products purchased by members shall include a Safety Data Sheet (SDS) with the delivery.

Lease and Rental Agreements: The Vendor may allow participating agencies to enter into a rental, lease, or lease purchase agreements, providing such agreements are in compliance with Minnesota Statutes and guidelines. CPC must receive a report annually, summarizing the executed lease purchases along with a summary of the participating agencies' purchases. CPC will not collect lease payments or be involved in the terms and conditions of the lease. All lease arrangements are between the Vendor and the participating agency. The Vendor agrees that leases will be in compliance with the Uniform Commercial Code. The applicable administrative fee must be included in the lease cost based on the total value of the goods and applicable services purchased. This fee is referred to under the Technical Specifications. The Vendor should attempt to work with CPC's current leasing vendor. Note, the current leasing vendor may require a minimum purchase amount to begin the leasing process. Should the Vendor be required to utilize their own financial leasing company, this should be noted/requested as an exception. In the event of a lease, the total administrative fee for the value of goods shall be paid to CPC by the vendor at the front end of the lease. CPC reserves the right to review all purchase orders, lease documents and invoices to insure contract compliance.

Marketing and Promotion: Upon award and completion of the vendor orientation, CPC will promote the contract opportunity via its websites. CPC will also announce the new partnership in its newsletters and will publish the contract and marketing information through hard copy marketing items (i.e. flyers, postcard) and electronic email. Contracts will also be promoted at applicable trade shows, conferences, and meetings on a regular basis. CPC may assist in the development of these materials if requested by the Vendor, but in all cases shall have the authority to review and approve any marketing materials. If a website is used, the link will be made available from the CPC and NDESC websites. Any web page or link, or other marketing tools shall be dedicated to CPC information only.

Non-Discrimination: Any resulting contract for on or behalf of participating agencies, said Vendor agrees to:

- That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;
- That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color;
- That a violation of this section is a misdemeanor; and
- That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

Participating Agency: A participating agency shall be defined in accordance with the, Minnesota Statutes M.S. §471.59, and M.S. §123A.21, Sub. 11 and South Dakota Statutes §5-18A-37. An eligible agency includes any school, higher education, city, county, other governmental agency, nonprofit organization, or other entity contracted to conduct business on behalf of a participating agency provided that they are required to follow state and local procurement regulations.

Prompt Payment: Participating Agencies will follow M.S. §471.425 regarding prompt payment of local government bills.

Substance Use and Conduct: All Vendor partners and subcontractors must adhere to local substance (alcohol, drug, smoking, etc.) and conduct (dress code, language, parking, etc.) policies while on a participating agencies' premises.

Vendor Orientation (CPC 101): The Vendor and their participating resellers/sub-contractors will be required to participate in an online training session that is designed to educate the Vendor and resellers/sub-contractors on the

purpose and nature of CPC. The Vendor will not be marketed to participating agencies until they have completed the vendor orientation session.

2. Additional Participating Agency Terms and Conditions for Non-Construction Products and Services

If requested by CPC, the contracted vendor will work with CPC to develop an order form, or order forms, containing the most commonly purchased items, that CPC can utilize to market the contracted vendor to its participating agencies.

3. Additional Participating Agency Terms and Conditions for Construction Related Products and Services

Upon acceptance and approval of the Vendor's offer by AEPA, CPC will independently consider the offer and conduct a conference call with the Vendor to determine if the Vendor is able to meet the necessary requirements for construction related products and services and to enter and execute a contract in the state of Minnesota. The contracted vendor will be required to work with CPC's participating agencies and require that an architect's signature or certification is noted on the specifications as required by Minnesota Statute §326.12 subd. 3. With certain exceptions, Minnesota Rules part 1800.5200, subpart 1, requires a licensed architect or engineer to prepare and certify specifications for building alterations or renovations. Once CPC and the Vendor are able to confirm that business is able to be conducted in Minnesota, CPC will make a final decision to complete the contract execution process.

For all quotes provided to participating agencies, for construction related projects, products and services, the contracted vendor must also send a duplicate quote to CPC. The quote provided to CPC must include the contact information of the participating agency.

Performance Bond (for construction and/or installation related projects): Performance bonds will be required on all projects valued at fifty-thousand dollars (\$50,000) or more in Minnesota and North Dakota and, twenty-five thousand dollars (\$25,000) or more in South Dakota. All performance bonds will be issued by a corporate surety authorized to do business in the state in which the work will be conducted and by a surety listed in the US Treasury Circular 570. Performance bonds will be posted by the Vendor and submitted to the specific participating agency for the assigned project. Should the contract be the result of a piggyback agreement, performance bonds will reflect each state's bonding requirements.

The Vendor will execute a performance bond in an amount equal to one hundred percent (100%) of the value specified in the contract between the participating agency and the Vendor, unless the participating agency requires less to be posted. This bond will protect all persons supplying labor and material to the Vendor for the performance of the work provided in the contract. Subcontractors who may work on the contract may have to provide the Vendor with a performance bond. If the contract price increases after the bond is provided, the participating agency may consider obtaining additional bonds from the Vendor.

The Vendor will deliver the performance bond to the eligible participating agency at the time the contract is executed between the agency and the Vendor. Work will not commence between the Vendor and the eligible participating agency until the performance bond is received by the participating agency and a copy has been sent to CPC via email (info@purchasingconnection.org). The Vendor will be responsible for providing CPC with a copy of all contracts and bonds in accordance with CPC purchasing procedures. Should the Vendor fail to satisfactorily perform the contract, the bonding company that provided the performance bond will be required to pay the dollar amount of the bond to the participating agency.

It is the Vendor's responsibility to ensure that they can obtain the required bonding for all construction products based on an awarded contract arising from this solicitation. Payment will not be issued for any project for which the required bonds have not been received.

4. Procedure for Contract Award, Notification and Processing Orders

Once the award is recommended by the AEPA Review Committee, CPC considers the recommendation based on the value of the potential contract for its participating agencies. Participating agency is defined as any city, county, public or private educational agency, nonprofit or governmental agency that is a participant of CPC. In the event of an award by the Board of Directors, CPC will inform its members of the award and contract by the following methods

along with contract instructions and ordering process.

- a. The contract is listed and promoted on the CPC website (www.purchasingconnection.org).
- b. Announcing the award in CPC newsletters.
- c. CPC will publish the contract and marketing information through a hard copy marketing flier and electronic email. Contracts are promoted through PDF and a hard copy product catalog distributed at statewide trade shows and agency meetings on a regular basis. CPC will require a marketing flier, brochure, or other similar marketing pieces, in an editable, electronic format, from each vendor promoting the available contract with the vendor, and/or a web page or link. CPC may assist in the development of the marketing flier and material (if requested by vendor), but in all cases shall have authority to review and approve any marketing materials. If a web site is used, the link will be made available from the CPC web page. Any web page or link, or other marketing tool shall be dedicated to AEPA information only.
- d. When the member identifies a desired product or service, the member and the vendor may negotiate with each other to establish a description of items and/or services. The vendor shall quote a price to the member, in writing, using AEPA established discounts and including the two percent (2%) administrative fee in the quoted price. The administrative fee shall be based upon the total cost of goods and/or services including installation costs. The administrative fee shall not be listed as a separate line item on the quote. When a member decides to purchase through the CPC-AEPA contract, the member issues the purchase order directly to the vendor. The purchase order must include the total invoiced cost, based on
 - i. The total cost of goods, service, and installation, including the 2% administrative fee.
 - ii. Notification will be made to the vendor in the event the purchase order is not in compliance with the contract and adjustments will be made at that time. CPC and the vendor will mutually resolve any issues with regard to past purchases. The purchase orders are to continue to be processed and viewed as approved unless notified by CPC otherwise. All sales and transactions may continue without delay or in anticipation of the CPC purchase order verification.
 - iii. Once all the items and services on the purchase order have been delivered to the member in a complete and satisfactory manner, the vendor then files a copy of the final invoice, which is available to CPC by request in support of the quarterly sales summary. The invoice is to be marked "Copy".
 - iv. Vendor makes all deliveries and installations of products and services. CPC does not warehouse items or provide installation services.
 - v. This administrative fee is to be paid by the vendor to CPC, quarterly, within 20 working days after the end of each fiscal quarter. The AEPA vendor shall also submit to CPC a sales report, in Excel format, listing the following information:
 1. Name of purchasing agency
 2. Address of purchasing agency
 3. Date of purchase
 4. Invoice number
 5. Amount of purchase
 6. Administrative fee generated by sale
 7. Savings generated by sale
 8. This report shall include all sales made and payments received by the vendor in said quarter. The sales report shall be emailed to Melissa Mattson at mmattson@lcsc.org and copied to Lori Mittelstadt at lmittelstadt@lcsc.org. The administrative fee payment shall be delivered to Melissa Mattson, CPC, 1001 East Mt. Faith, Fergus Falls, MN 56537. The check shall be made out to Lakes Country Service Cooperative.
 - vi. CPC requires that all participating vendors offer the contract opportunity to all CPC participating agencies.
5. **Express Online Marketplace:** CPC provides participating agencies with an online purchasing platform called Express, powered by EqualLevel. Through Express, agencies are able to search for and purchase items. Essentially, Express is a one-stop shop for many of CPC's commodity based contracts. A Vendor does not have to have an e-commerce site to be included in Express. Express offers integration into two (2) of the main K-12 school financial systems in Minnesota, CPC expects growth in the number of agencies utilizing the marketplace and the volume of sales to grow significantly. CPC will work with the Vendor to determine if the contract agreement is suitable for the online platform. If deemed suitable, CPC will require integration into Express within a timely manner.

14. Missouri, Cooperating School Districts of the Greater St. Louis Area, (CSD)

A. Additional Agency Terms and Conditions

Lease and Rentals: Vendor may allow EDPLUS members to enter into rental, lease, or lease purchase agreements, providing such agreements are in compliance with Missouri statutes and State Department of Education policies, rules and regulations. EDPLUS must receive a copy of the executed leasing documents prior to processing a purchase order. EDPLUS will not collect lease payments. Bidder agrees that leases will be in compliance with the Uniform Commercial Code. All terms of leasing must be included in the proposal, with interest rates described as related to a government standard. Bidder must indicate in its response to this solicitation if the shipping costs for the return of leased or rented equipment are the responsibility of the EDPLUS member, and what that cost will be. No sale of a contract to a third party will be made without first informing EDPLUS and the EDPLUS member of the sale. If Bidder sells a lease contract to a third party, the cost of return must not be greater than the cost of return to the original vendor. A 2% administrative fee must be included in the lease cost based on the total value of the goods purchased. This fee is referred to under ordering process.

B. Procedure for Processing Orders

(1.) Once the award is made to the vendor, EDPLUS will inform its members (and non-members eligible to purchase from EDPLUS) of the contract by announcing the award in its periodic newsletter and other EDPLUS presentations as well as regular electronic communications.

(2.) EDPLUS may require a marketing flier from each vendor promoting the contract and AEPA relationship. EDPLUS will assist in the development of the marketing flier and material. This flier will be for distribution as well as posting on the EDPLUS website and disseminated to potential customers. Note: EDPLUS requires the awarded vendor to take ownership and actively promote the contract in cooperation with EDPLUS to all qualified customers.

(3.) When the member identifies a desired product or service as available through the AEPA contract and makes a purchase on the EDPLUS online Marketplace or agrees on price as presented to the member by the awarded AEPA vendor, the member then issues to the vendor a purchase order for that item or service.

(4.) The purchase order must include an additional two percent (2%) administrative fee in the total cost, based on the total cost of goods and service including installation and freight if applicable. This fee is to be forwarded by the vendor to EDPLUS after the sale and payment is made to vendor. Payment shall be made to EDPLUS on a quarterly basis along with complete sales history during that period.

(5.) Vendor makes all deliveries and installations of products and services. EDPLUS does not warehouse items nor provide services.

(6.) All participating vendors agree to and are subject to audit proceedings of AEPA member sales.

C. Members Purchasing Under the Agency

We take great pride in the fact that EducationPlus is providing a complete line of purchasing services to our 50+ member school districts and hundreds of additional school districts, educational institutions, and nonprofit organizations throughout Missouri and Illinois. EducationPlus was created in 1928 with its primary focus aimed at improving educational opportunities for all students. Our goal is to promote efficient use of educational dollars, and simultaneously provide an ongoing market for those vendors doing business with EducationPlus. EducationPlus serves schools and political subdivisions in Missouri and Illinois.

D. Governing Law

MO. REV. STAT. §70.220. 1. Any municipality or political subdivision of this state, as herein defined, may contract and cooperate with any other municipality or political subdivision, or with an elective or appointive official thereof, or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions, or with any private person, firm, association or corporation, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service; provided, that the subject and purposes of any such contract or cooperative action made and entered into by such municipality or political subdivision shall be within the scope of the powers of such municipality or political subdivision.

15. **Montana, Montana Cooperative Services (MCS)**

General Standards: Purchases by public entities in excess of \$80,000 are subject to public bid; purchases under this amount are subject to requirements of public contracts. See Sections 7-5-230 I and 7- 5-2304, Montana Code Annotated (Counties); Sections 7-5-4302 and 7-5-4303, Montana Code Annotated (Municipalities).

Note: purchases of less than \$80,000 are not subject to public bid requirements, which provides local government entities with considerable flexibility to make purchases. Public bidding requirements do not appear to prohibit local government entities who are members of AEPA or MCS from soliciting bids from approved vendors for purchases in excess of \$80,000.

Local Government Cooperative Purchasing Authority: Local governments may also elect to purchase cooperatively through the Montana Department of Administration in lieu of soliciting their own bids. 51 A.G. Op. 15 (2006). Procurement by government entities generally falls within the Montana Procurement Act, Section 18-4-10 I, MCA, et seq.

Local Governments are authorized to adopt and implement the rules and standards of the Act:

18-4-124. Local government adoption of procurement provisions -- alternative project delivery contracts. (1) A political subdivision or school district may adopt any or all parts of this chapter and the accompanying rules promulgated by the department.

Local governmental entities and school districts are specifically authorized to purchase cooperatively in the public interest:

18-4-401. Definitions. As used in this part, the following definitions apply:

(1) "Cooperative purchasing" means procurement conducted by or on behalf of more than one public procurement unit.

"Local public procurement unit" means a county, city, town, or other subdivision of the state or a public agency of any such subdivision; public authority; educational, health, or other institution; to the extent provided by law, any other entity that expends public funds for the procurement of supplies and services; and any nonprofit corporation operating a charitable hospital.

"Public procurement unit" means a local or state public procurement unit of this or any other state, including an agency of the United States, or a tribal procurement unit.

"State public procurement unit" means a state department, agency, or official that expends public funds for the procurement of supplies and services.

"Tribal procurement unit" means a tribal government, tribal entity, or official of a tribal government located in Montana that expends tribal funds or funds administered by a tribe for the procurement of supplies and services to the extent provided by tribal or federal law.

18-4-402. Cooperative purchasing authorized. The department may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies or services with one or more public procurement units in accordance with an agreement entered into between the participants independent of the requirements of part 3. Cooperative purchasing may include purchasing through federal supply schedules of the United States general services administration, joint or multiparty contracts between public procurement units, open-ended state public procurement unit contracts that are made available to local public procurement units, and competitive contracts established by for-profit, not-for-profit, or nonprofit cooperative entities. (emphasis added).

Note: Cooperative purchasing by local governmental entities may require entering into an agreement with the Montana Department of Administration. This requirement does not appear to preclude local entities from participating as members of purchasing groups.

Local governmental entities are authorized to enter agreements with each other in order to purchase cooperatively.

7-11-104. Authorization to create interlocal agreements -- issuance of bonds for joint construction -- hiring of teacher, specialist, or superintendent. One or more public agencies may contract with any one or more other public agencies to perform any administrative service, activity, or undertaking or to participate in the provision or maintenance of any public infrastructure facility, project, or service, including the issuance of bonds for the joint construction of a facility under 20-9-404, the hiring of a teacher or specialist under 20-4-201 or a superintendent under 20-4-401, or the hiring of or contracting with any other professional person licensed under Title 37, that any of the public agencies entering into the contract is authorized by law to perform. The contract must be authorized and approved by the governing body of each party to the contract. The contract must outline fully the purposes, powers, rights, obligations, and responsibilities of the contracting parties. (emphasis added).

School and school district cooperative purchasing authority: Schools and school districts are specifically authorized to purchase cooperatively utilizing qualifying purchasing entities:

"A [school] district may enter into a cooperative purchasing contract for the procurement of supplies or services with one or more districts. A district participating in a cooperative purchasing group may purchase supplies and services through the group without complying with the provisions of [soliciting public bids and awarding a contract] if the cooperative purchasing group has a publicly available master list of items available with pricing included and provides an opportunity at least twice yearly for any vendor, including a Montana vendor, to compete, based on a lowest responsible bidder standard, for inclusion of the vendor's supplies and services on the cooperative purchasing group's master list." Section 20-9-204(4), Montana Code Annotated (emphasis added).

Note: Montana's AEPA member, Montana Cooperative Services, meets all of the statutory requirements of Section 20-9-204(4), MCA, with respect to cooperative purchasing groups.

Cooperative purchasing is another tool in the bag for local governmental entities, including school districts, to acquire services and supplies at better prices than may otherwise be available. Membership in MCS provides access to AEPA-approved vendors as well as in-state suppliers who have been carefully vetted for reliability and quality.

Disclaimer: The above discussion is for informational purposes only and does not constitute legal advice.

16. Nebraska, Educational Service Unit Coordinating Council (ESUCC)

A. Additional Agency Terms and Conditions

1) Bid Award Determination: The bidder hereby agrees to these bidding conditions by virtue of submitting this signed document on or before the Bid Opening date as specified below.

2) Natural Gas Contractors: Any bids relating to natural gas shall be based upon an awareness of NEB. REV. STAT. § 75-501, adopted in conformity with Rules, Regulations, and Interpretations of Federal Agencies with authority to regulate pipeline common carriers and interstate commerce.

3) Performance and Payment Bonds: Upon execution of a contract between an ESUCC member and the prime contractor for construction or public improvement, performance and payment bonds described above in the AEPA General Terms and Condition shall be provided to the member. Performance and payment bonds between the member and the prime contractor shall be on standard forms. The prime contractor shall deliver copies of both the performance and payment bonds to ESUCC at the time the contract between the member and the prime contractor is executed. All suits for nonpayment or nonperformance shall be filed as allowed under Nebraska law.

4) Insurance: Contractors shall secure and keep in force during the term of any awarded agreement the following insurance coverages from insurance companies authorized to do business in Nebraska:

- Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$1,000,000 per person for any number of claims arising out of a single occurrence and \$5,000,000 for all claims arising out of a single occurrence.
- Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$1,000,000 per person for any number of claims arising out of a single occurrence and \$5,000,000 for all claims arising out of a single occurrence.
- Workers compensation coverage meeting all statutory requirements.

5) Debarment and Suspension: Contractors shall comply with Executive Orders 12549 and 12689 as applicable. Contractors may be debarred for a period of two (2) years, unless earlier modified by the Special Awards Committee of ESUCC for any of the following conduct: (a.) Repeatedly not following the bid process. (b.) Repeatedly submitting non-responsive bids. (c.) Any behavior, which has as its effect injuring the integrity of the bid process. (d.) Failure to deliver goods pursuant to a successful bid. (e.) Repeated lack of acceptable handling and delivery of goods pursuant to a successful bid. (f.) Repeatedly not meeting delivery deadlines. (g.) Repeated failure to timely rectify damages of goods, or shortages of goods when it is the responsibility of the contractor to take such action. (h.) Conviction of a crime of dishonesty. (i.) Debarment or suspension by any agency or Federal Agency by the contractor or any of its key employees. (j.) Other conducts which materially and adversely affects the services of ESUCC Cooperative Purchasing program.

6) Statement Filed: A bidder who is awarded a contract for any goods or services pursuant to this IFB shall file with ESUCC a statement as required by NEB. REV. STAT. § 73-102.

7) Nondiscrimination: The Contractor and all subcontractors, if any, shall not discriminate against any employee or applicant who is to be employed for performance of any awarded bid or agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.

8) Employment Eligibility Verification: The Contractor shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If the Contractor employs or contracts with any subcontractor in connection with any awarded bid or agreement, the Contractor shall include a provision in the contract requiring the subcontractor to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

9) Federal Funding. It is understood that purchases may be funded in whole or in part with funds allocated by the Federal government, including the U.S. Department of Education and is therefore subject to those regulations, restrictions, and conditions normally associated with federally funded programs and any other requirements that the state or federal government may prescribe including, but not necessarily limited to, the "Federal Requirements" listed above in the AEPA Terms and Conditions and the following:

- **Lobbying:** The Bidder agrees and understands that under the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) that Bidders that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352.
- **Patent Rights:** The USDOE's and any other federal agency's requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course or under this Agreement include, but are not necessarily limited to, 34 CFR Part 80.
- **Copyrights and Right in Data:** The USDOE's and any other federal agency's requirements and regulations pertaining to copyrights and rights in data include, but are not necessarily limited to, 34 CFR Part 80.
- **Access to Documents:** The Parties and their grantees, the USDOE and/or other federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives shall have access

to any books, documents, papers, and records of the Bidder which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions.

- **Energy Policy and Conservation Act:** The parties shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).
-
- **Buy American:** To the maximum extent practicable, the Bidder will purchase domestic commodities or products produced in the United States or processed substantially using commodities produced in the United States
- **Minority Business Owners:** The ESUCC will contract with minority-owned businesses, women's business enterprises, and labor surplus firms when possible. Steps to ensure compliance with this provision will include:
 - .1 Qualified small, minority, and women's businesses on solicitation lists so that when such businesses are potential vendors, they are included in ESUCC solicitations.
 - .2 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation for such businesses.
 - .3 Establishing delivery schedules, where requirement permits, which encourage such enterprises
 - .4 Use services of Small Business Administration, Minority Development Agency, or similar state agency to maximize participation.
 - .5 Require prime Bidder, if subcontracts are to be let, to follow the above steps

11) Governing Law and Venue: All bids and contracts shall be governed by and construed in accordance with the laws of the State of Nebraska. The venue for any litigation arising out of or related to a bid or contract will be in any eligible state or federal court of Nebraska.

12) Public Records: The Contractor acknowledges that the ESUCC and its affiliated schools and members must comply with NEB. REV. STAT. § 84-712 through § 84-713 and release public records as defined law upon request, which may include any bid documents or contracts and all records created and maintained in relation to them.

13) Conflict of Interest: By submitting a proposal, Contractor certifies that there does not now exist any relationship between the Contractor and any person or entity which is or gives the appearance of a conflict of interest related to this Request for Proposal. The Bidder certifies that it shall not take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its services hereunder or which creates an actual or appearance of conflict of interest. The Bidder certifies that it will not employ any individual known by Bidder to have a conflict of interest.

The Contractor shall not, at any time, recruit or employ any employee or agent who has worked on the Request for Proposal or project, or who had any influence on decisions affecting the Request for Proposal or project.

The submission of the offer did not involve collusion or other anti-competitive practices. Neither signatory nor any person on his behalf, has not agreed, connived or colluded to produce a deceptive show of competition in the matter of the bidding or award of a contract under this solicitation.

The Contractor, by submitting a bid, certifies that it has not had a contract with education organizations in State of Nebraska terminated early. If Contractor has had a contract terminated early within the State of Nebraska, Contractor must provide the contract number, along with an explanation of why the contract was terminated early.

Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.

Contractor certifies that Contractor and Contractor's employees, officers, and associates directly involved in obtaining contracts with the State of Nebraska, ESUCC, or any subdivision of the state have not been convicted of false pretenses, attempted false pretenses, or conspiracy to commit false pretenses, bribery, attempted bribery or conspiracy to bribe under the laws of any state or federal government for acts or omissions after January 1, 1985

ESUCC may cancel any contract if it is found that gratuities in the form of entertainment, gifts or otherwise, were offered or given by Contractor or any agent or representative of Contractor, to any employee of ESUCC with a view toward securing a contract or with respect to the performance of this contract. Paying the expenses of normal business meals, which are generally made available to all eligible school and government employees, shall not be prohibited by this paragraph. Samples of software, equipment or hardware provided to ESUCC for demonstration or evaluation are not considered gratuities.

B. Procedure for Processing Orders

ESUCC affiliated schools or members send their purchase orders both directly and electronically to the vendor, the vendor ships directly to the school/member, and direct bills the schools/members the cost of merchandise plus the ESUCC 2% administrative fee. Vendors must provide a quarterly report to ESUCC Cooperative Purchasing. The report will include: Date of sales, school name, ESU affiliation, selling price, list price and savings. The ESUCC Cooperative Purchasing administrative Fee of 2% will accompany each quarterly report.

C. Members Purchasing Under the Agency

ESUCC represents 17 Educational Service Units statewide who in turn service Nebraska school districts with over 300,000 students. ESUCC is authorized to coordinate purchases for public school districts, nonpublic school systems, other ESUs, and

other public agencies, including any county, city, village, school district, or agency of the state government, any drainage district, sanitary and improvement district, or other Municipal Corporation or political subdivision of the State of Nebraska.

D. Procedure for Processing Orders

All purchase orders will be submitted directly from the purchasing entity to the vendor. ESUCC will not facilitate the processing of purchase orders unless the offering is service related. If it is a service related purchase then the purchase order shall be submitted by ESUCC.

E. Agencies Allowed to Purchase under the Member Agency

Purchases through ESUCC contracts are to be primarily for K-12. However other state entities may use the ESUCC contracts. All inquiries to purchase on the behalf of a non-profit group not in state statute or receiving state funding must be approved by ESUCC.

17. New Jersey, The Educational Services Commission of New Jersey (ESCNJ)

A. Additional Agency Terms and Conditions

Applicability of Contract Provisions to New Jersey Participants

ESCNJ is the AEPA Member Agency. Any entity that uses the contract awarded by ESCNJ under this document is referred to as a "New Jersey Participant." To be a New Jersey Participant the entity must be a member of the ESCNJ Cooperative Pricing System. The bidder that is awarded the contract by ESCNJ is referred to as the "Contractor."

Once a contract is awarded by ESCNJ, a New Jersey Participant may enter into a purchase order agreement directly with the Contractor. To the extent not otherwise described below or in this document, once a purchase order is issued by a New Jersey Participant to a Contractor, all of the provisions of the contract shall benefit and be enforceable by such New Jersey Participant, unless specifically identified as applying to ESCNJ only.

1. The Bidder by submitting its bid hereby declares that this Bid is made without any connection with any other person or person making any proposal for the same items, that it is in all respects fair and without collusion or fraud and that no person acting for or employed by ESCNJ or a New Jersey Participant is directly or indirectly interested in the proposal or in the goods or services to which it relates, or in any portion of the profits there from.

2. **Event of default and termination of Contract:**

ESCNJ shall have the right to cancel the contract based upon a default by Contractor. A New Jersey Participant shall have the right to cancel its purchase arrangement based on a default by the Contractor with regard to such purchase arrangement. In addition, ESCNJ and each New Jersey Participant reserves the right to withhold payments for goods and services that are not in compliance with the terms of the contract or if the Contractor is in default. Any of the following shall be a default under the contract: 1) The Contractor fails to adequately perform the services set forth in the contract; 2) Contractor fails to deliver all or any part of the goods, or delivers defective goods; 3) The Contractor fails to make progress in the performance of the contract and/or does not deliver within the agreed-upon schedules; 4) The Contractor fails to observe any of the terms and conditions of the contract, including, without limitation, assigning the contract and/or failing to deliver required insurance or performance bonds; 5) The Contractor fails to follow the established procedure for purchase orders, invoices and receipt of funds as stipulated by the New Jersey Participant; or 6) the Contractor has become insolvent, makes an assignment for the benefit of creditors, files a voluntary petition in bankruptcy or is subject to an involuntary petition in bankruptcy not discharged within thirty (30) days. ESCNJ and each New Jersey Participant shall follow the following procedure if the contract or purchase order is to be terminated:

Step 1 - Issue a warning letter of concern outlining the violations and length of time to correct the problem(s). The length of time to correct the problem shall be determined by ESCNJ or the New Jersey Participant, as applicable, in its sole discretion, based on the problem.

Step 2 - Issue a letter of intent to cancel the contract or purchase order, if the problem(s) is not resolved by the given date.

Step 3 - Issue the letter to cancel contract or purchase order.

Upon receipt of the written notice of concern, the Contractor shall have ten (10) business days to provide a satisfactory response to ESCNJ and the New Jersey Participant that provided the notices. Failure on the part of the Contractor to address adequately all issues or concerns may result in contract cancellation.

The remedy to terminate and withhold payments is in addition to any other remedies ESCNJ and the New Jersey Participants may have. In the event of Contract termination by a New Jersey Participant, such New Jersey Participant's payment obligation shall cease as of the final date on which services in accordance with this Contract are last performed by the Contractor. Upon termination of this Contract under this section, the Contractor (and its surety) will be responsible for all of such New Jersey Participant's expenses, losses and damages incurred in replacing Contractor for the remainder of the term of the Contract.

3. **Assignment:**

Contractor shall not subcontract, assign, transfer, convey, sublet or otherwise dispose of its/his/her contractual duties to any other person, firm, or corporation, without the previous written consent of ESCNJ and any New Jersey Participant that has an outstanding open purchase order or financing arrangement. If the Contractor wants to assign its/his/her right to payment of the Contract, Contractor shall notify ESCNJ and any New Jersey Participant that has an outstanding open purchase order or financing arrangement immediately, in writing, of such assignment of right to payment. In no case shall such assignment of Contract relieve the Contractor from its/his/her obligations or change the terms of the Contract.

4. Indemnification:

Contractor shall indemnify, defend, keep and save harmless ESCNJ, each New Jersey Participant and its respective agents, officials, employees and volunteers (each an "Indemnified Party") against claims of injuries, death, damage to property, patent claims, suits, liabilities, judgments, cost and expenses (including attorneys' fees) which result from, arise out of, or in connection with the performance, or breach of performance, under the Contract of Contractor and any of its/his/her employees, agents or personnel. The Contractor shall, at its/his/her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising there from or incurred in connection therewith; and if any judgment shall be rendered against the Indemnified Party in any such action, the Contractor shall, at its/his/her own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Indemnified Party as herein provided.

5. New Jersey Participant Policies:

The Contractor must be familiar with a New Jersey Participant's policies or regulations which affect the services provided under this Contract and that have been or will be distributed during the term of this Contract. Policies and regulations include, but are not limited to, New Jersey Public Contracts Law, school district policies, municipality policies, charters school policies, and county ordinances.

As each board of education, municipality governmental agency, educational institution in the State of New Jersey may have or may be required to have individual policies and procedures for the procurement of goods and services; and as one of the aforementioned institutions/agencies may be dependent upon the policies/procedures of another institution or agency, it is required for the Contractor to be familiar with the policies of the New Jersey Participant that impact the purchase. In limited situations, there may be State statutes which govern the allowability of purchases to be reimbursed by State funding. The New Jersey Participant should obtain its own legal advice on these statutes prior to purchasing under a contract.

The following documentation will be required prior to the award of any contract for New Jersey Participants:

1. New Jersey Business Registration Certificate - Before award in NJ, not at time of bid
2. New Jersey Contractors Registration Certificate (All time and material bids.) Before award in NJ not at time of bid
3. New Jersey Pay-to-Play Documentation (Political Contribution Disclosure)
4. Statement of Ownership (Ownership Declaration Certification)
5. New Jersey Affirmative Language (Exhibit A) and (Exhibit B) for construction repair and maintenance contracts
6. Acknowledgement of the Contractor's/Vendor's responsibility to pay prevailing wage.
http://lwd.dol.state.nj.us/labor/wagehour/wagerate/prevailing_wage_determinations.html
(Time and material bids.)
7. New Jersey Affirmative Action Questionnaire/Documentation
8. Disclosure of Investment Activities in Iran
9. Years of experience is not a criteria for the evaluation of bids to be awarded for the State of New Jersey. For additional information visit www.nj.gov/dca/divisions/dlgs
10. W9
11. Certificate of Insurance with the ESCNJ named as insured and the bid title/# listed - Before award in NJ, not at time of bid
12. DPMC - (All time and material bids.) Before award in NJ, not at time of bid
13. Total Amount of Uncompleted Contracts (All time and material bids.) Before award in NJ, not at time of bid
14. Americans with Disabilities ACT of 1990
15. Attachment B – New Jersey Anti-discrimination Provisions
16. Statement of Suspension or Debarment Form
17. Sworn Contractor Certification; Qualifications Credentials
18. Subcontractor Disclosure Statement
19. Prevailing Wages Certification—Submission with Bid_

6. Performance Bonds:

Each New Jersey Participant may require a performance bond in the case of services to be performed under the Contract if required. The Contractor shall furnish to the New Jersey Participant a Surety Performance Bond ("Performance Bond") with an option to renew each succeeding year of the Contract in a form satisfactory to the New Jersey Participant assuring the faithful performance of the Contract. The Bond shall be equal to one hundred percent (100%) of each year's estimated Contract price as reviewed and agreed upon by the New Jersey Participant, and shall be continued for the life of the Contract in amounts equal to one hundred percent (100%) of each year's estimated Contract price as reviewed and

agreed upon by the New Jersey Participant. The Contractor must send such Performance Bond to the New Jersey Participant prior to the commencement of any services under the Contract. Each such Performance Bond shall be furnished by a surety company acceptable to the New Jersey Participant and licensed or authorized to do business in New Jersey. Failure to deliver the bond shall be considered a default under the Contract, at the discretion of and upon notice by the New Jersey Participant.

7. Governing Law:

This Contract shall be governed by, and construed and enforced in accordance with, the laws of the State of New Jersey without regard to its conflicts of laws principles.

8. Financing Arrangements:

Any financing arrangements (including lease purchasing arrangements) may be made directly between the Contractor and a New Jersey Participant or with the free ESCNJ Leasing Program. Financing arrangements may be subject to additional laws, rules and regulations, terms and conditions not described in this document and are subject to separate negotiation with each New Jersey Participant that is interested in such an arrangement. Each New Jersey Participant should seek its own legal advice prior to entering into a financing arrangement. ESCNJ must receive a report annually summarizing the executed lease purchases along with the summary of the customer purchases. ESCNJ will not collect lease payments or be involved in the terms and conditions of the Contractor lease. All lease arrangements are between the Contractor and the New Jersey Participant only.

9. Affirmative Action:

The Contractor/Vendor must have an employment policy that there shall be no discrimination against anyone on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, physical disability or sexual orientation in the hiring, upgrading, demotions, recruitment, termination and selections for training, in any manner prohibited by the laws of the United States or of the State of New Jersey. The Contractor/Vendor further agrees to be an "affirmative action-equal opportunity employer." The Contractor/Vendor must provide one of the following: "Letter of Federal Affirmative Action Plan Approval", "Certificate of Employee Information Report" or a completed "Employee Information Report Form AA302" prior to award bid.

10. Independent Contractor:

The Contractor shall not be held or deemed in any way to be the agent or employee of ESCNJ and/or a New Jersey Participant. It is the intention of the parties that the Contractor shall be and is to be considered an independent contractor.

11. Incorporation of Bid Documents:

The bid documents, including all appendices executed by Contractor that have been accepted by ESCNJ (the "Bid") are specifically incorporated into this Contract.

12. New Jersey Public Records Act:

The Contractor acknowledges that ESCNJ and New Jersey Participants are subject to the New Jersey Public Records Act, New Jersey Public Contracts Law and information submitted to ESCNJ and/or such New Jersey Participants may be made available to the public under the provisions of the this Act.

Marketing and Advertising under this Contract - applicable to Member Agency (ESCNJ) contract only:

1. Contractor agrees to provide ESCNJ with a copy or proof sheet of all advertisements, customer communications or promotional material for approval. Contractor will provide ESCNJ with date of release and name of publication, journal, etc. if applicable.
2. Contractor will include the approved ESCNJ logo, web address, bid #, bid title, bid term, NJ State Approved Co-op #65MCESCCPS and contact information in all print, electronic mail and other advertising and promotion intended for release in New Jersey.
3. The ESCNJ logo and information shall be of a clearly readable size and in appropriate proportion to other elements in the print material.
4. Contractor agrees to make available ESCNJ supplied brochures or other promotional materials on booths, tables, etc. of any or all exhibits for which the Contractor displays/participates at tradeshow, conventions and the like. Contractor will supply scheduled exhibit dates in advance.
5. Contractor agrees to insert the approved ESCNJ logo, web address, NJ State Approved Co-op #65MCESCCPS bid #, bid term and contact information on the Contractor's website promoting and providing a link to the ESCNJ website. Contractor will also provide ESCNJ with text, links and logos to be posted on the ESCNJ website.

B. Procedures for Processing Orders

1. Once the award is made to the Contractor, ESCNJ will inform the potential New Jersey Participants of the Contract, including a webpage dedicated to the contract on the ESCNJ website. At this point, the Contractor may directly contact

- any potential New Jersey Participant and any potential New Jersey Participant may directly contact the Contractor.
2. Purchase orders will not be accepted or processed by ESCNJ. All business will be contracted directly with the New Jersey Participant, which will issue a purchase order and provide payment for the applicable good or service directly to the Contractor.
 3. The total cost of ESCNJ's program is funded through a 2.2% participation fee paid to ESCNJ quarterly by the participating Contractors. The administrative fee percentage is based upon the total sale or lease of goods and services, including installation, if included. This fee shall be included in all price quotations to New Jersey Participants and shall not be printed as a line item on the quotation.
 4. Along with the participation fee, the Contractor will produce and provide to ESCNJ quarterly reports ending March 31, June 30, September 30 and December 31 throughout the contract period. The reports shall be in Microsoft Excel and be available in electronic form, shall identify the Contractor and the quarter being reported, shall be delivered to ESCNJ on the 15th of the month, shall include a minimum of the fields listed below and shall allow for sorting on any of these fields:
 1. Date of order.
 2. The name of the New Jersey Participant.
 3. ESCNJ Bid Number
 4. ESCNJ Co-op Number (New Jersey State Approved Cooperative Pricing System #65MCESCCPS)
 5. List (or academic) price sales totals.
 6. New Jersey Participant price sales totals.
 7. New Jersey Participant savings totals to be sent to the ESCNJ in summary and to each individual New Jersey Participant.
 5. Quarterly reports and administrative fee payments are to be made payable to ESCNJ and sent to ESCNJ, 1660 Stelton Road, Piscataway, NJ 08854, Attn: Patrick M. Moran, or such other address that ESCNJ will provide from time to time.
 6. If no purchases are made in any given quarter, the Contractor shall remit a "No Activities" statement to ESCNJ for that quarter. The Contractor will also produce and provide to ESCNJ an annual summary report for all purchases made under each contract awarded by ESCNJ pursuant to this document for a period beginning with the award of the contract and ending December 31 and all consecutive annual periods, if the contract is extended.
 7. New Jersey School Districts and other eligible New Jersey Participants are normally exempt from sales tax. The Contractor/Vendor should confirm this exemption and collect a tax-exempt letter from each New Jersey Participant.

C. Members Purchasing Under the Agency

There are 596 operating school districts in New Jersey and all are eligible for membership. No district is obligated to use these services. Additional New Jersey Participants may include other public educational institutions, public colleges or universities, community colleges, vocational or technical schools, municipal governments, and other governmental, quasi-governmental, or non-profit organizations. The ESCNJ Cooperative Pricing System currently has 1,250+ New Jersey Participants located in all 21 Counties of the State of New Jersey.

CONFLICT OF INTEREST

An ESCNJ employee (including independent contractors for purposes of this definition) placing an order or recommending a vendor must disclose any relationship with that vendor which would not be considered an "arms-length" or independent transaction. This disclosure must be made in writing to the Business Administrator and/or Chief Financial Officer for an evaluation. The Business Administrator and/or the Chief Financial Officer will respond to this disclosure in writing.

For a transaction to be considered "arms-length" or "independent", an ESCNJ employee should not be influenced, dependent upon, guided or controlled by a vendor into choosing that vendor, or item to purchase; nor should it appear to a third party that an ESCNJ employee made a purchasing decision which appears to be based upon a personal relationship between the ESCNJ employee and vendor.

The following are examples when a transaction is NOT considered arms-length or independent: (1) when there exists a personal relationship between an ESCNJ employee and a vendor, (2) when there exists the potential for a personal benefit to an ESCNJ employee, or (3) the parties to a business deal are dependent upon one another for "something" other than the purchase itself.

The Contractor shall disclose any relationship with an ESCNJ employee that would not be considered an "arms-length" or independent transaction, as described above. This disclosure must be made in writing to the Business Administrator and/or the Chief Financial Officer for an evaluation. The Business Administrator and/or the Chief Financial Officer will respond to this disclosure in writing.

In addition, the Contractor shall, if given a copy of the potential New Jersey Participant's conflict of interest policy, follow the process in that policy, or otherwise disclose to a potential New Jersey Participant any relationship that would not be considered an "arms-length" or independent transaction with that New Jersey Participant, as described above. This disclosure must be made in writing to the chief official (for example, the Superintendent at a board of education) at the potential New Jersey Participant.

Determination of the existence of a conflict of interest does not prohibit ESCNJ and/or a New Jersey Participant from entering into the contract and purchase order, respectively.

American Goods - American Goods Clause—N.J.S.A. 18A:18A-20 - American goods and products to be used where possible

All contracts for work for which it will pay any part of the cost or work which by contract it will ultimately own and maintain, that only manufactured and farm products of the United States, wherever available, to be used in such work.

Anti-discrimination - All parties to any contract with the ESCNJ agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference.

Debarment/Suspension - N.J.A.C. 17:19-1.1 et seq. The ESCNJ will not enter into a contract for work with any person, company or firm that is on the State Department of Labor and Workforce Development; Prevailing Wage Debarment List, or the State of New Jersey Consolidated Debarment Report (www.state.nj.us/treasury/debarred) or the Federal System for Award—SA (www.state.nj.us/treasury/debarred) or the Federal System for Award—SA

For Time and Material bids - DPMC - There is a non-refundable fee of \$100.00 which must be submitted to the State with your application. All payments must be made on company checks (no-cash) made payable to "Treasurer, State of New Jersey". No application will be processed without the fee. If you have any questions, please contact the Contractor Classification unit by accessing the DPMC web site at www.state.nj.us/treasury/dpmc/. NOTE: It is suggested that a photocopy of this completed form be retained for your records. Please submit the completed application and all required documentation to the Treasurer, State of New Jersey. Upon review and approval of this application, your firm will be notified by mail of the effective and expiration dates, type of work, and rating assigned to your firm. Please submit your certificate with your bid package.

Any contractor who submits a bid for a public works contract the amount which exceeds **\$20,000**, pursuant to N.J.S.A. 18A:18A-26, 27 et seq., shall be classified by the Department of Treasury, Division of Property Management (DPMC) as to the type of work and trades (character) and the aggregate rating (amount) of public work they are qualified to submit bids.

The ESCNJ may only accept bids from contractors that are qualified.

Notice of Classification—DPMC-27

The Notice of Classification is a document issued by the DPMC that provides the following information about the qualified contractor:

- Trade(s) classification held by the contractor

The contractor is classified by the trade and trade number as found in Form DPMC-27. For example

Trade Number	Trade
C030	Plumbing
C032	HVACR

The contractor is therefore qualified to submit bids (exceeding \$20,000) to the board of education that pertain to plumbing and heating, ventilation, air conditioning and refrigeration.

For Time and Material bids Equipment Certification 18A:18A-23. A certificate showing that the bidder owns, leases, or controls all the necessary equipment required by the plans, specifications and advertisements under which bids are asked for and if the bidder is not the actual owner or lessee of any such equipment, his certificate shall state the source from which the equipment will be obtained, and shall be accompanied by a certificate from the owner or person in control of the equipment definitely granting to the bidder the control of the equipment required during such time as may be necessary for the completion of that portion of the contract for which it is necessary.

For Time and Material bids - Total Amount of Uncompleted Contracts - DPMC 701

This document is completed by the contractor submitting a bid, on the form provided by the DPMC. The document lists the amount of uncompleted contracts held by the contractor and a certification that the amount of uncompleted contracts, added to the bid amount for the ESCNJ Participant project, does not exceed the Aggregate Amount rating as assigned by the DPMC.

For Time and Material bids - Pre-qualification Affidavit/No Material Adverse Change

Pursuant to N.J.S.A. 18A:18A-32, no bidder is qualified to bid on any public work contract unless they provide an affidavit that there has been no material adverse change in his qualification information pursuant to N.J.S.A. 18A:18A-28.

For Time and Material bids - Prevailing wages; Alterations and repairs - The State of New Jersey Prevailing Wage Act, Chapter 150 Laws of 1963 with applicable statewide wage rates and for the wage rates for the county of the location of the New

Jersey Participant, as published by the Department of Labor and Workforce Development in conformance with N.J.S.A. 34:11-56-25 et seq. Copies of these wage rates may be obtained from the State Department of Labor and Workforce Development, and/or viewed at <http://lwd.dol.state.nj.us/> the Prevailing Wages Determination Section.

For Time and Material bids - Compliance with New Jersey Prevailing Wage Act

Every contractor and subcontractor performing services in connection with this project, shall pay all workers a wage rate not less than the published prevailing wage rates, for the locality the work is being performed, as designated by the New Jersey Department of Labor and Workforce Development.

For Time and Material bids - Certified Payrolls

Every contractor agrees to submit to the New Jersey Participant a certified payroll for each payroll period within ten (10) days of the payment of wages. The contractor further agrees that no payments will be made to the Contractor by the New Jersey Participant, if certified payrolls are not received by the New Jersey Participant. It is the Contractor's responsibility to insure timely receipt by the district of certified payrolls.

For Time and Material bids - Submission of Affidavit

Before final payment, the contractor shall furnish the New Jersey Participant with an affidavit stating that all workers have been paid the prevailing rate of wages in accordance with State of New Jersey requirements. The contractor shall keep an accurate record showing the name, craft, or trade and actual hourly rate of wages paid to each workman employed by him in connection with this work. Upon request, the Contractor(s) and each Subcontractor shall file written statements certifying to the amounts then due and owing to any and all workmen for wages due on account of the work. The statements shall be verified by the oaths of the Contractor or Subcontractor, as the case may be.

18. New Mexico, Cooperative Educational Services (CES)

Cooperative Educational Services (CES) is the administering agency of a Joint Powers Agreement as authorized by Section 11-1-1, et. seq. NMSA 1978, which is based in Albuquerque, New Mexico, and is composed of 180 New Mexico public educational institutions (Members) such as K-12 public school districts; charter schools; colleges and universities and their branch campuses; community colleges and vocational schools; Bureau of Indian Education (BIE) schools; that are parties to the Revised and Amended Joint Powers Agreement (JPA) to establish an educational cooperative. CES was organized in 1979 as a direct response to the needs of small and rural Local Education Agencies (LEA's). CES offers numerous programs and services in the following areas: administrative support, special education services, and cooperative purchasing.

A. CES General Terms and Conditions

Arbitration: This contract is subject to arbitration to the extent required by the New Mexico Procurement Code, 13-1-21 to 13-1-199. NMSA 1978.

Assignment of CES Payments: If the Contractor requests that its payment from CES/CES Members be issued to a third party or that a joint check be issued to the Contractor and a third party, this request must be submitted and approved by the agency prior to the Contractor accepting a purchase order. The agency reserves the right to assess a special handling charge of thirty-five dollars (\$35) per check. The special handling charge will be deducted from the amount of the invoice being paid. If the Contractor wishes to have all payments under this contract made to a third party, Contractor must state this in his response.

Background Checks - Per 22-10A-5 NMSA 1978, the New Mexico Public Education Department (NMPED) mandates security and background checks for individuals working and/or providing services within public school grounds and buildings. Specifically, part C of the sections states, "Local school boards and regional education cooperatives shall develop policies and procedures to require background checks on an applicant who has been offered employment, a Contractor or a Contractor's employee with unsupervised access to students at a public school." Describe how your company will comply with the CES Member's or Participating Entity's policies and procedures in regard to background checks.

CES Members: Are the parties to the CES Joint Powers Agreement (JPA) and consist of public educational institutions within the State of New Mexico and include public school districts as defined in NMSA 1978 § 22-1-2, State Institutions as defined in NMSA 1978 § 22-1-2, State Educational Institutions defined under Article XII, Section 11 of the New Mexico Constitution, most of the community colleges defined by the "Community College Act" as defined in NMSA 1978 § 21-13-1 et seq., their branch community colleges as defined in NMSA 1978 § 21-14-1 et seq., technical and vocational institutes defined in NMSA 1978 § 21-16-1, area vocational schools defined in NMSA 1978 § 21-17-4, off campus community colleges or instructional facilities as defined in NMSA 1978 § 21-14A-1, charter schools as defined in NMSA 1978 § 22-8A-1, Regional Center Cooperatives as set forth in Section 22-2B-1 et seq., and 638 schools and grant schools. Each public educational institution is authorized by its governing body and the Procurement Code 13-1-135 NMSA 1978 to enter into cooperative purchasing agreements, pursuant to Sec. 11-1-1 et seq. 1978 Comp. and Sec. 108 of Ch. 65 of the Laws of 1984 (The Procurement Code).

CES Participating Entities: Is defined as non-public educational agencies and/or organizations classified as follows, that may participate in and purchase tangible personal property, professional, non-professional and construction services through their cooperative purchasing agreement with CES.

1. Federal Agency [25 USC 3001 (4)] is defined as any department, agency, or instrument of the United States, any executive department, military department, government corporation, government-controlled corporation, or other establishment in the executive branch of government, including the Executive Office of the President or any independent regulatory agency established through legislative and/or administrative action.
2. State Agency [13-1-90 NMSA 1978] is defined as any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or office of the executive, legislative or judicial branch of the government of this State. "State agency" includes the purchasing division

of the General Services Department (GSD) and the state purchasing agent but does not include local public bodies.

3. Local Public Body [13-1-67 NMSA 1978] is defined as a political subdivision of the State and the agencies, instruments and institutions thereof, including: two-year post-secondary educational institutions, school districts and local school boards and municipalities, except as exempted pursuant to the Procurement Code [13-1-28 NMSA 1978].
4. Non-Profit, Non-Public Educational Institutions and other Non-Profit Organizations (Section 501(c)(3) of the Internal Revenue Code, Federal Tax Code) is defined as charitable, religious, educational, public service, support and scientific organizations, entities, corporations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code, or corresponding section of the Federal Tax Code.

CES Supplemental Packet: Upon acceptance and approval of the Contractor's offer by AEPA, CES will independently consider the offer and issue a Contractor's supplemental packet requesting specific information necessary to enter and execute a contract in the state of New Mexico including information relating to: the Contractor's qualifications; ability to conduct business in the state of New Mexico; and who will be coordinating, promoting, receiving, and processing orders; and providing the prime Contractor's goods and services in New Mexico. Once the prime Contractor provides this information, CES will review, seek clarification (if needed), and conduct a Contractor conference to complete the contract execution process.

CFR - Code of Federal Regulations www.gpoaccess.gov/cfr/index.html

Civil and Criminal Penalties: The New Mexico Procurement Code, Sections 13-1-21 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

Commencement Date/Substantial Completion Date: CES's purchase order establishes the Notice to Proceed. The Substantial Completion Date refers to a stage of a construction or building project or a designated portion of the project that is sufficiently complete, in accordance with the construction contract documents, so that the owner may use or occupy the building project or designated portion thereof for the intended purpose. The allowed duration for each project will be determined by the Contract Documents between the CES Agency and the Contractor.

Confidential Information and Disclosure of Proposal Contents: For the purposes of this procurement, the provisions of the "New Mexico Inspection of Public Records Act" (NMSA 1978, Chapter 14, Article 2) will be in effect. Pursuant to this Act, all proceedings, records, contracts, and other public documents relating to this procurement shall be open to public inspection. Proposers are reminded, that while trade secrets and other proprietary information they submit in conjunction with this procurement may not be subject to public disclosure, protections must be claimed by the proposer at the time of submission of its Technical Proposal. Proposers should refer to the New Mexico Inspection of Public Records Act for further clarification.

The designation of certain information as trade secrets and/or privileged or confidential proprietary information shall only apply to the technical portion of your proposal. Your cost proposal will not be considered confidential under any circumstance. Any proposal copyrighted or marked as confidential or proprietary in its entirety may be rejected without further consideration or recourse.

The Proposer must clearly designate the part of the proposal that contains a trade secret and/or privileged or confidential proprietary information as "confidential" in order to claim protection, if any, from disclosure. The proposer shall provide a sheet with the following legend, specifying the specific section(s) of his proposal sought to be restricted in accordance with the conditions of the legend:

"The data contained in pages ____ of the proposal have been submitted in confidence and contain trade secrets and/or privileged or confidential information and such data shall only be disclosed for evaluation purposes, provided that if a contract is awarded to this Proposer as a result of or in connection with the submission of this proposal, CES and its Members and Participating Entities shall have the right to use or disclose the data therein to the extent provided in the contract. This restriction does not limit CES and its Members and Participating Entities the right to use or disclose data obtained from any source, including the proposer, without restrictions."

Further, to protect such data, each page containing such data shall be specifically identified and marked "CONFIDENTIAL". Within the required electronic submission, any item marked as confidential will need to be submitted in a separate folder marked "Confidential information".

The CES Executive Director will review the statement and will determine in writing whether the information will be withheld. If the Executive Director determines that the information should be disclosed, the Contractor will be informed in writing of such determination. Contractor may object in writing within five (5) days after notification of determination, no disclosure will be made and the bid response may be rejected.

Contract Non-Exclusive: Any contract resulting from this solicitation will be awarded with the understanding and agreement that it is for the sole convenience of CES, its Members or Participating Entities in New Mexico. CES reserves the right to obtain like goods and services from another source when necessary.

Contractor: As defined in Construction Industries Licensing Act, 60-13-1 NMSA 1978: "contractor" means any person who undertakes, offers to undertake by bid or other means, or purports to have the capacity to undertake, by himself or through others, contracting. Contracting includes constructing, altering, repairing, installing or demolishing any: road, highway, bridge, parking area or related project; building, stadium or other structure; airport, subway or similar facility; park, trail, bridle path, athletic field, golf course or similar facility; dam, reservoir, canal, ditch or similar facility; sewerage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility; sewerage, water, gas or other pipeline; transmission line; radio, television or other tower; water, oil or other storage tank; shaft, tunnel or mining appurtenance; leveling or clearing land; excavating earth; air conditioning, conduit, heating or other similar mechanical works; electrical wiring, plumbing or plumbing fixture, consumers' gas piping, gas appliances or water conditioners; or similar work, structures or installations which are covered by applicable codes adopted under the provisions of the Construction Industries Licensing Act.

The Act includes subcontractor and specialty contractor; and includes a construction manager who coordinates and manages the building process; who is a member of the construction team with the owner, architect, engineer and other consultants required for the building project; and who utilizes their skill and knowledge of general contracting to develop schedules, prepare project construction estimates, study labor conditions and advise concerning construction.

Contractor Invoice: The Contractor will send an invoice to CES or a CES Member after the delivery of goods and/or services. Goods and services will be invoiced at current contract pricing approved by AEPA including the 2% administrative fee and if applicable, the local New Mexico Gross Receipts Tax.

Contractor's Quote to CES Member or Participating Entity: When preparing a proposal under a CES awarded contract, the Contractor must clearly identify and break out supplies, materials, equipment, services, labor, and local New Mexico Gross Receipt Tax into individual line items as they appear on the Contractor's awarded price schedule or pricing methodology. Stated prices must include the CES two percent (2%) administrative fee. All costs associated with preparing cost proposals and job orders shall be the responsibility of the Contractor and must be based on a detailed scope of work and in compliance with an approved pricing methodology.

Credit Hold: The Contractor must agree not to place CES, its Member or Participating Entity on "credit hold" without ten (10) days advanced notice in writing to all parties, by letter or e-mail. Before CES can pay a Contractor's invoice, it must collect payment from the CES Member or Participating Entity that received the product. CES believes it is better for the Contractor if CES places the slow-paying agency on "credit hold". If a Contractor places CES on "credit hold," agencies that pay promptly are penalized. If, on the other hand, CES places the offending agency on "credit hold", payment is more likely to result and only the offender is punished.

Disclosure of Confidential Information: Any confidential information provided to the Contractor by CES, its Members or Participating Entities or developed by the Contractor based on information provided by CES, its Members or Participating Entities in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of CES, its Members or Participating Entities. Upon termination of this Agreement, Contractor shall deliver all confidential material in its possession to CES, its Members or Participating Entities within thirty (30) business days of such termination. Contractor acknowledges that failure to deliver such confidential information to CES, its Members or Participating Entities will result in direct, special and incidental damages.

Indemnification: To the fullest extent permitted by law, Contractor must, defend, indemnify and hold harmless

CES, its Members, its Participating Entities, its officers and employees, against any and all liability, claims, demands, actions, damages, losses, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, government action and all expenses, including attorneys' fees and litigation expenses, demands or expenses asserted by a third-party, caused by, or resulting from, Contractor 's and/or its employees, act(s) or omissions(s) while Contractor, and/or its employees, perform(s) or fails to perform its obligations and duties under this agreement or acts or omissions occurring outside of this agreement Any equipment or facilities damaged by Contractor s' operation shall be repaired and/or restored to their original condition at Contractors' expense. Contractor shall at all times keep in force liability insurance limits as outlined in this solicitation. Failure to maintain current coverage in the amounts stated may result in termination of this agreement. CES shall be named as a co-insured on the insurance policy and the policy shall provide that the policy cannot be modified or cancelled without the approval of CES.

"This provision shall survive any termination of this Agreement. Contractor will promptly advise CES in writing of any action, administrative or legal proceedings or investigation as to which defense and indemnification shall apply."

Indemnification Intellectual Property: The Contractor shall defend, at its own expense, CES, its Members and Participating Entities against any claim that any product or service provided under this Agreement infringes any patent, copyright or trademark, and shall pay all costs, damages and attorney's fees that may be awarded as a result of such claim. In addition, if any third party obtains a judgment against CES, its Members and Participating Entities based upon Contractor's trade secret infringement relating to any product or services provided under this Agreement, the Contractor agrees to reimburse CES, its Members and Participating Entities for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, CES, its Members and Participating Entities shall:

1. Give the Contractor written notice, within forty-eight (48) hours, of its notification of any claim;
2. Allow the Contractor to manage the defense and settlement of the claim as permitted by law; and
3. Cooperate with the Contractor, in a reasonable manner, to facilitate the defense or settlement of the claim.

CES, its Members and Participating Entities Rights: If any product or service becomes, or in the Contractor's opinion is likely to become, the subject of a claim of infringement, the Contractor shall, at its sole expense:

1. Provide CES, its Members and Participating Entities the right to continue using the product or service and fully indemnify CES, its Members and Participating Entities against all claims that may arise out of CES, its Members and Participating Entities use of the product or service;
2. Replace or modify the product or service so that it becomes non-infringing; or
3. Accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any product or service modified by CES, its Members and Participating Entities to the extent such modification is the cause of the claim

Insurance: On contract award, the Contractor will, at its own expense, purchase and maintain insurance that will protect it from claims that may arise out of or as a result from its activities under this contract, where those activities are performed by it, by any Subcontractor, by anyone directly or indirectly employed by any of the Contractors or by anyone for whose acts the Contractor may be liable during the entire performance period of this contract. The Contractor must furnish a Certificate of Insurance to the CES procurement officer prior to official award. If policy changes occur during the life of the contract, it is the Contractor's responsibility to provide updated proof of coverage to the CES procurement officer.

1. Will provide to CES proof of coverage under the Workman's Compensation Insurance, as required by the Labor Laws and New Mexico Statutes.
2. Bidders will submit a certificate of general liability insurance for personal injury, occupational disease, sickness or death, and property damage. Insurance will include "occurrence" claim provisions. Minimum acceptable coverage is one million dollars (\$1,000,000) combined single limit for bodily injury and property damage, or seven hundred fifty thousand dollars (\$750,000) bodily injury and two hundred fifty thousand dollars (\$250,000) property damage (each occurrence). **The Contractor will name CES and the CES Member as co-insured up to the limits of the Tort Claims Act.**

3. Will provide to CES a certificate of comprehensive vehicle liability insurance, for both owned and non-owned vehicles, shall be one million dollars (\$1,000,000) per occurrence combined single limit for both personal injury and property damage.
4. If required for professional services, will provide a certificate of errors and omissions insurance for damages caused by an error, omission, or any negligent acts caused by the Contractor and its Subcontractors in the performance under this agreement. Combined singled limit per occurrence is one million dollars (\$1,000,000) and the annual aggregate limit of not less than two million dollars (\$2,000,000). The bidder will provide "tail" coverage at the completion of any contract entered into by CES or its Members for a minimum of 12 months, or the maximum time period reasonably available in the marketplace. The Contractor shall furnish certification of "tail" coverage as described following contract completion. This will be a condition of the final acceptance of work or services.
5. In addition, Contractor must provide, upon request, identical certification of insurance to any CES Member or Participating Entity using this contract. Prior to commencing any work, all Subcontractors must procure and maintain at its own expense until final acceptance of the work, written insurance coverage, and insurer's acceptance to the prime Contractor. All Subcontractors will provide workers' compensation insurance, which waives all subrogation rights against the prime Contractor and CES/CES Member/Participating Entities.

Lease and Rentals: Contractor can allow CES Members to enter into rent, lease or lease/purchase agreements, providing such agreements are in compliance with 6-6-12 NMSA 1978 Exemption from Bateman Act, 13-1-67 NMSA1978 Definition; local public body, and Public Education Department policies, rules and regulations. CES will not collect lease payments. Contractor agrees that leases will be in compliance with the Uniform Commercial Code. All terms of leasing must be included in the proposal with interest rates described as related to a government standard. Contractor must indicate in its response to this solicitation if the shipping costs for the return of leased or rented equipment are the responsibility of the CES Member and what that cost will be. No sale of a contract to a third party will be made without informing CES and the CES Member of the transfer. If Contractor sells a lease contract to a third party, the cost of return must not be greater than the cost of return to the original Contractor.

As required by New Mexico law, the lease agreement with the CES Member or Participating Entity will need to contain a termination provision for Non-Appropriation of Funds. In the event no funds or insufficient funds are appropriated and budgeted by CES, its Members or Participating Entities (Lessee) governing body or are otherwise unavailable in any fiscal year for the payment of lease and other amounts due under any lease, the lease shall terminate on the last day of the fiscal period for which appropriations were received or other amounts are available to pay amounts due under the lease without penalty or expense to the Lessee. It is the decision of CES, its Members, or Participating Entities to determine the sufficiency of funds, which determination shall be accepted by the Lesser and is final. The Lessee shall give the Lesser or its Assignee written notice at least thirty (30) days in advance of such occurrence.

Legal Remedies: All claims and controversies are subject to the New Mexico Procurement Code, NMSA 1978, and Sections 13-1-21 through 13-1-199.

Liens: All materials and services will be free of all liens.

Local Representation: Depending on the type and level of products and services offered, the Contractor must demonstrate their sales, support, and service staff are physically located where they can respond to and deliver services in a timely and cost-effective manner.

Manufacturer Endorsement: The Contractor must demonstrate it is an authorized distributor of the products and services offered, has access to manufacturer's technical support and warranty services, and possesses the certifications required to install, configure, and maintain the products offered within the state of New Mexico.

New Mexico Procurement Code: Sections 13-1-21 through 13-1-199 NMSA 1978 may be cited as the "Procurement Code".

Offer Acceptance Period to Execute a Contract with CES: In order to allow CES the opportunity to evaluate

the bids approved by AEPA, CES requires that the AEPA approved Contractor submit to CES a complete electronic copy of its response to AEPA's solicitation with original signatures within fifteen (15) days of CES's request. CES will issue its supplemental packet within thirty (30) days after receipt and review of the approved Contractor response. The approved Contractor will have fifteen (15) days to return the CES supplemental packet. After CES receives the request information in the supplemental packet, CES issue a contract for the products and services as approved by AEPA.

Ordering Process: Contractor agrees to adhere to CES' ordering process(es).

Ownership of Materials and Documents: CES, its Members or Participating Entities shall be the sole owner of all right, title and interest, including copyright, in and to all software, plans, diagrams, facilities, and tools (hereafter "**materials**") which are originated or created through Contractor's work pursuant to this Contract. Contractor, for valuable consideration herein provided, shall execute all **documents** necessary to assign and transfer to, and vest in CES, its Members or Participating Entities all Contractor's rights, title and interest in and to such original **materials**, including any copyright, patent and trade secret rights which arise pursuant to Contractor's work under this Contract.

Patent and Copyright Infringement: Contractor will, at their expense, defend CES and its Members and Participating Entities against any claim that any equipment or software supplied hereunder (even if such equipment or software are modified by CES or its Members, subject to the last paragraph of this section) infringe a patent or copyright in the United States, or a U.S. Territory, and will pay all costs, damages and attorney's fees that a court finally awards as a result of such a claim. To qualify for such a defense and payment, CES must:

1. Give Contractor prompt written notice of any such claim after becoming aware of such claim.
2. Allow Contractor to control and fully cooperate with Contractor in the defense and all related settlement negotiations.

CES will be reimbursed for all expenses incurred by CES in fully cooperating with Contractor as specifically requested by contract. CES is not required to incur any expenses specified in this paragraph, which are not reimbursable, by the Contractor. If any CES Member and Participating Entities are involved by any party in any way, the same provisions that apply to CES in this paragraph will apply to the CES Member or Participating Entity. Contractor's obligation under this section is conditioned on CES' agreement that if the subject of such a claim, CES will permit the Contractor, at its expense and option, either to procure the right for CES and its Members or Participating Entity to continue using the equipment and/or software, or to replace or so modify with equipment or software which are functionally equivalent so that they become non-infringing. If neither of the foregoing alternatives is available on terms which are reasonable in Contractor's judgment and satisfactory to CES, CES will request its Members or Participating Entity to return the equipment or software on written request by Contractor at Contractor's expense.

Contractor agrees to refund CES, its Members or Participating Entities a refund for returned equipment as depreciated unless otherwise mutually agreeable in writing. The depreciation will be an equal amount per year over six (6) years. In the event that Contractor's written request for return is made after full depreciation, the Contractor will pay CES, or its Members who purchased the equipment, an amount equivalent to the fair market value of the returned equipment. If CES, or any of its Members or Participating Entities, fails to return the equipment, the Contractor is not obligated to that Member under this clause.

Contractor will have no obligation with respect to any such claim based upon a Member's or Participating Entity's modification of the equipment or software or combination, operation or use with apparatus, data or programs not furnished by Contractor. However, one Member's or Participating Entity's action will not preclude Contractor's obligation to others not having modified their equipment or software.

Payment by CES: CES will make every effort to collect payment from Members or Participating Entities for the purchase of goods and services within thirty (30) days after the receipt of goods or services and a correct invoice of amount due, unless a good faith dispute exists as to any obligation to pay all or a portion of the account. Any offer that requires payment in less than forty-five (45) days shall not be considered. CES must first receive payment from the Member or Participating Entity in order to process payment to the Contractor. Any Contractor whose business would be in jeopardy due to slow payments is encouraged not to respond. It has been CES' experience that public agencies always pay, but many are slow in processing payments.

Payments by Member or Participating Entities: For the purchase by a Member or Participating Entity directly from the Contractor for goods and services that have been received and accepted. Payment from the Member or Participating Entity to the Contractor will be made within forty-five (45) days after the receipt of a correct invoice, unless a good faith dispute exists as to any obligation to pay all or a portion of the account. If a dispute arises or an agency's account becomes delinquent, the Contractor is encouraged to contact and request assistance from CES. Any offer that requires payment in less than forty-five (45) days shall not be considered.

Payment of Administrative Fee: When a CES Members or Participating Entities issue payment directly to the Contractor for goods and services received and accepted. The Contractor will, upon receipt of payment from a CES Member or Participating Entity, issue payment to CES for an administrative fee in an amount equal to two percent (2%) of the total invoice amount.

Price List: The AEPA Contractor will submit to CES and/or its Members and Participating Entities (if requested) or make available on its website all applicable pricing for all products and services proposed, approved, and awarded under this solicitation. Price lists submitted must be in accordance and comply with the AEPA's terms, conditions, and the requirements of the CES purchasing process utilized to facilitate eligible procurement agencies' staff to place and process orders. When utilizing any of the pricing methodologies identified and required within this solicitation, such discounts and pricing will include the CES two (2%) percent administrative fee, must be submitted in the format required, and can be audited by CES.

Public Record: All documents associated with this AEPA contract will become the property of CES and be a matter of public record available for review, after the final award notification according to the "New Mexico Inspection of Public Records Act" (NMSA 1978, Chapter 14, Article 2). All proposals may be reviewed under the supervision of CES staff by appointment, from 9:00 a.m. to 4:00 p.m., Monday through Friday, at 4216 Balloon Park Road NE, Albuquerque, New Mexico, 87109.

Safety Measures: Contractor will comply with all federal and state of New Mexico safety regulations.

Severability: The provisions of this contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract, which may remain in effect without the invalid provision or application.

Smoking: All Contractors and subcontractors must adhere to CES Member or Participating Entity smoking policies.

Taxes: Prices offered will not include applicable State of New Mexico Gross Receipts Tax (NMGR). All applicable NMGR must be listed as a separate line item on all invoices. No gross receipts taxes can be collected on delivery charges to the agency's location.

1. There is no NM State Gross Receipt Taxes NMGR applied to the price of non-construction supplies, materials, and equipment.
2. There will be NM State Gross Receipt Taxes NMGR applied to any non-construction services and professional services based on the location of the provider.
3. There will be NM State Gross Receipt Taxes NMGR applied to any construction product and/or service based on the physical location of the construction site.
4. Indian Reservation or Tribal Tax: If goods or services are delivered to locations on a Indian reservation or purchased by tribal governments, they are subject to tribal taxes.

5. A Bidder will be required to provide tax indemnification number (CRS) issued by New Mexico Taxation and Revenue Department at time of contract award.

Termination for Convenience: CES can, by written notice stating the effective date, terminate the contract issued for convenience in whole or in part, at any time. CES shall pay Contractor as full compensation for performance until such termination as follows:

1. The unit or pro-rata order price for the delivered and accepted portion; and
2. A reasonable amount, not otherwise recoverable from other sources by Contractor as approved by CES with respect to the undelivered or unaccepted portion of the service, provided compensation shall in no event exceed the total contract price.

Termination for Default: CES reserves the right to terminate in whole or any part of the contract due to the failure of the Contractor to carry out any obligation, term or condition of the contract. CES may issue written notice to the Contractor for acting or failing to act under the following conditions.

1. The Contractor provides material that does not meet the specifications of the contract.
2. The Contractor fails to complete the services set forth in the specifications of the contract.
3. The Contractor fails to complete the work required or to furnish the materials required within the specified time.
4. The Contractor fails to make progress in the performance of the contract and/or gives CES cause to believe that the contractor will not or cannot perform the requirements of the contract.
5. The Contractor fails to observe any or all of the terms and conditions of the contract.
6. The Contractor accepts purchase orders, based on this contract, directly from a CES Member or Participating Entity and then invoices them directly.
7. Any other conditions that, in the opinion of CES, warrants such action.

Upon receipt of a written notice, the Contractor will have ten (10) days to provide a satisfactory response in writing to CES. Failure on the part of the Contractor to satisfactorily respond can result in CES terminating the contract.

Termination for Gratuity: CES shall, by written notice, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any employee of CES with a view toward securing a contract or the respect to the performance of the contract. Paying the expenses of normal business meals, which are generally made available to all eligible school and government employees, shall not be prohibited by this paragraph. Samples of software, equipment, or hardware provided to CES for demonstration, evaluation, or loan purposes are not considered gratuities.

Termination for Non-Performance or Contractor Deficiency: CES can terminate any contract if CES Members have not used the contract in any 12-month period, or if purchase orders total less than \$10,000 per year. CES reserves the right to cancel the whole or any part of this contract due to failure by Contractor to carry out any obligation, term or condition of the contract. CES may issue a written notice to Contractor for acting or failing to act in any of the following:

1. Providing material that does not meet the specifications of the contract;
2. Failing to adequately perform the services set forth in the scope of work, specifications or contract;
3. Failing to complete required work or furnish required materials within a reasonable amount of time;
4. Failing to make progress in performance of the contract and/or giving CES reason to believe that contractor will not or cannot perform the requirements of the contract;
5. Performing work or providing services under the contract prior to receiving a purchase order from CES for such work;
6. Accepting purchase orders based on this contract from CES Members and/or invoicing CES Members directly.
7. Fails to observe any or all of the terms and conditions of the contract.
8. Any other conditions that, in the opinion of CES, warrants such action.

Upon receipt of a written notice, contractor will have ten (10) days to provide a satisfactory response to CES. Failure to adequately address all issues of concern may result in contract cancellation. Upon cancellation under

this paragraph, all goods, materials, work, documents, data, and reports prepared by Contractor under the contract will become the property of the CES Member on demand.

Termination for Non-Appropriation: Any individual Member's or Participating Entities' project may be terminated if insufficient appropriations or authorizations do not exist due to changes in state or federal law, or because of court order, or because of insufficient appropriations made available to Members or Participating Entities governing board and/or the New Mexico State Legislature. Such termination will be effected by sending fifteen (15) days written notice to the Contractor. The CES Members or Participating Entities decision as to whether sufficient appropriations and authorizations are available shall be accepted by the Contractor and shall be final.

B. Construction Terms and Conditions – For construction products and services.

Additional Contract: A contract between the CES Member or Participating Entity and the Contractor for construction will be an industry standard agreement. The parties may agree to use the American Institute of Architects (AIA) General Conditions of Contract for Construction Form A201 as a guide.

Bonds:

1. Upon execution of a contract between a CES Member/Participating Entity and the prime Contractor for a project with a value twenty-five thousand (\$25,000) or more, will provide performance and payment bonds from a surety company authorized to do business in New Mexico in accordance with the New Mexico Insurance Code and be a surety listed in the US Treasury Circular 570.
2. The prime Contractor will execute a performance bond in an amount equal to one hundred percent (100%) of the price specified in the contract between the CES Member or Participating Entity and the prime Contractor by a surety company authorized to do business in New Mexico in accordance with the New Mexico Insurance Code and be a surety listed in the US Treasury Circular 570. Performance bonds between the CES Member or Participating Entity and the prime Contractor will be on standard AIA or similar forms.
3. All suits for nonpayment or nonperformance will be filed as allowed under New Mexico law.
4. Any Subcontractor providing or performing one hundred and twenty-five thousand dollars (\$125,000) or more of work for an individual project, must submit to the prime Contractor a performance and payment bond equal to one hundred percent (100%) of the subcontract cost from a surety company authorized to do business in New Mexico in accordance with the New Mexico Insurance Code and be a surety listed in the US Treasury Circular 570.
5. Acceptable forms of bonds are AIA Document A310-2010 Bid Bond or NASBP that includes the same language as the AIA Document A310-2010.

Construction: As defined in the New Mexico Procurement Code Regulations under 13-1-40 NMSA 1978. Definition: "construction" means building, altering, repairing, installing or demolishing in the ordinary course of business any road, highway, bridge, parking area or related project; building, stadium or other structure; airport, subway or similar facility; park, trail, athletic field, golf course or similar facility; dam, reservoir, canal, ditch or similar facility; sewage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility; sewage, water, gas or other pipeline; transmission line; radio, television or other tower; water, oil or other storage tank; shaft, tunnel or other mining appurtenance; electrical wiring, plumbing or plumbing fixture, gas piping, gas appliances or water conditioners; air conditioning conduit, heating or other similar mechanical work; or similar work, structures or installations. Construction shall also include: leveling or clearing land; excavating earth; drilling wells of any type, including seismographic shot holes or core drilling; and similar work, structures or installations.

Construction Contractor and Subcontractor Licenses: The prime Contractor and any Subcontractors shall possess the appropriate New Mexico Construction Industries Division (NMCID) Contractor's license required to provide the construction products services. Any Contractor using subcontractors must hold a current and appropriate Contractor's license, as defined in Construction Industries Licensing Act, 60-13-1 NMSA 1978. It is the responsibility of the Contractor to ensure that any subcontractors performing under this contract hold and maintain the appropriate Contractor's licenses as defined in Construction Industries Licensing Act, 60-13-1 NMSA 1978. The Contractor and any Subcontractors must maintain and keep current all licenses during the term of the contract.

New Mexico Building Codes: The Contractor when providing construction services must adhere to the most current version of the New Mexico Building Codes.

New Mexico Construction Industries Division: New Mexico Construction Industries Division (NMCID) is a state agency that is responsible for and enforce all licensing requirements for any one engaged in construction-related contracting in New Mexico. This includes general construction work, electrical, mechanical, and plumbing and LP gas. The activities that are considered to be contracting in New Mexico are defined in the Construction Industries Licensing Act, NMSA 1978, Section 60-13-3.

New Mexico Contractor Public Works Registration Requirement: As defined in Public Works Minimum Wage Act 13-4-13.1 NMSA 1978. In order to respond to a request for proposals or to be considered for award of any portion of a public works project greater than Sixty Thousand Dollars (\$60,000) for a public works project that is subject to the Public Works Minimum Wage Act [13-4-10 to 13-4-17, NMSA 1978], the Contractor, serving as a prime Contractor or not, shall be registered with the New Mexico Department of Workforce Solutions. The State, or any political subdivision of the State, shall not accept a bid on a public works project subject to the Public Works Minimum Wage Act from a prime Contractor that does not provide proof of required registration for itself. Contractors and subcontractors may register with the New Mexico Department of Workforce Solutions on a form provided by the division and in accordance with the Department of Workforce Solutions department rules.

Because this solicitation is for an indefinite quantity and the amount of work to be performed on individual projects is not known, CES is requiring that all Contractors be registered on or before the date of the proposal opening and keep their registration current during the term of the contract and all contract extensions.

New Mexico Public School Facilities Authority: New Mexico Public School Facilities Authority (NMPSFA) is the administrative unit created by the New Mexico legislature to carry out and act on behalf of the Public School Capital Outlay Council to administer, coordinate and provide general oversight for "state-funded construction", which is defined as a building or appurtenance to a building that is built in whole or in part with state capital outlay monies. As part of their oversight function, NMPSFA will receive and review construction project documents and coordinate with other state agencies such as NMCID, Environment Department, Department of Energy, Minerals and Natural Resources, State Fire Marshal's Office, etc., to ensure compliance with all applicable adequacy standards, rules, regulations, building, plumbing, electrical, fire prevention, and mechanical codes adopted by the state, county, city, town or fire district in which the construction project is located.

New Mexico Public Works Act: Sections 13-4-1 through 13-4-43 NMSA 1978 may be cited as part of the "Procurement Code".

New Mexico State Wage Rates: It is the contractor's responsibility to be acquainted with the New Mexico Department of Labor's rules, regulations, procedures and requirements relating to state wage rates, and to comply with state and federal regulations regarding payment of wages on public projects. The contractor will pay state wage rates for every job performed under this contract with a total project cost of more than Sixty Thousand Dollars (\$60,000) on an individual basis. The contractor will pay all mechanics and laborers employed on the site of the project by the contractor, unconditionally and not less often than once a week, and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications.

New Mexico State Wage Rate Documentation:

1. The New Mexico Department of Workforce Solutions (NMDWS) requires that certain forms be completed for every project in excess of \$60,000. CES will submit for the wage decision and, upon receipt of the decision, will provide it to the prime Contractor. The Contractor is responsible for completing and submitting the required forms to the NMDWS and must provide CES with a copy of the following required forms: Notification of Award, Statement of Intent to Pay Prevailing Wages, and Affidavit of Wages Paid.
2. The prime Contractor must submit the Statement of Intent to Pay Prevailing Wages and the Notification of Award to NMDWS with a copy being mailed, faxed or e-mailed to CES, prior to the start of the project. The Affidavit of Wages Paid must be submitted to NMDWS with a copy being mailed, faxed or e-mailed to CES at the conclusion of your work on the project. The prime Contractor is responsible for insuring that its subcontractor(s) also submit the Statement of Intent to Pay Prevailing Wages and the Affidavit of Wages Paid to NMDWS, with a copy being mailed, faxed or e-mailed to CES.

3. CES will not make any payments until copies of the Notification of Award, Statement of Intent to Pay Prevailing Wages and for projects \$25,000 or greater until the Payment and Performance Bonds are received by CES. Final payment will not be released until CES receives a copy of the Affidavit of Wages Paid.

New Mexico Workforce Solutions Contractor Registration Requirement: In order to submit a bid or response to a request for proposal valued at more than sixty thousand dollars (\$60,000) or to be considered for an award of any portion of a public works project greater than sixty thousand dollars (\$60,000) and for a public works project that is subject to the Public Works Minimum Wage Act (13-4-10 NMSA 1978), the contractor, serving as a prime contractor or subcontractor, shall be registered with the New Mexico Department of Workforce Solutions, Public Works (13-4-14.1 NMSA 1978) before CES can issue a purchase order. (see above)

Payment Retention, Progress Payments:

1. In order to comply with New Mexico Statutes Annotated 1978, Article 28 Retainage, 57-28-1 to 57-28-11, CES will not retain any funds on progress payments during any construction projects. The prime contractor agrees to only request payment for goods and services delivered, received and accepted by the CES Member or Participating Entity.
2. Final payment of a contract, for which progress payments have been made, will not be made until the project is totally completed (including punch list items and close out document delivered), and the final application for payment is signed by the CES Member or Participating Entity, received and audited by CES.
3. If the CES Member or Participating Entity and the prime contractor agree to retainage or a substitute security, the agreement must be in full compliance with New Mexico Procurement Code and applicable laws. If a substitute security or retainage is agreed upon, written notice must be provided to all parties prior to the issuing of a CES purchase order.
4. If the CES Member, Participating Entity, or their designee issues a written statement to the contractor that the estimate of work is not approved and certified, an amount from the progress payment determined to be reasonably sufficient to cover the deficiency set forth in the written finding maybe withheld. In such cases, the contractor agrees to hold CES harmless for any deficiency of payment. If any payment is delayed beyond forty-five (45) days from the due date, the contractor agrees not to charge CES interest on the late payment

Progress Payments for Construction: All progress payments must be invoiced through CES. It is the responsibility of the CES using agency and/or its designee to review and approve any estimates of work completed. If the CES using agency or their designee issues a written statement to the contractor per 57- 28-5 NMSA 1978 A. "If an owner receives an improperly completed invoice, the owner shall notify the sender of the invoice within seven days of receipt in what way the invoice is improperly completed, and the owner has no further duty to pay on the improperly completed invoice until it is resubmitted as complete..." In such cases, the contractor agrees to hold CES harmless for any deficiency of payment.

Quality Control Issues:

1. During the course of the contract, the Member's/Participating Entity's contact person may secure samples according to Construction Industries Division guidelines or industry standards of materials being used from containers at the job site and submit them to an independent laboratory for comparison to specified material.
 - a. Should test results prove that a material is not functionally equal to or better than specified, the prime Contractor will pay for all testing and any cost incurred to have materials installed to replace those found not to comply with the specifications and remove and dispose of the materials not complying.
 - b. Should test results prove that materials tested were functionally equal to the specified material, the prime Contractor will be notified of the results.
2. Should the Member/Participating Entity and the Contractor encounter a situation and/or condition that they cannot agree on or resolve during the execution of the project and/or during the project close-out process, CES has consultants under contract that either of the parties can engage to review, investigate, evaluate, and issue a written report on their findings and propose recommendations/solutions for addressing the concerns and issues.

Site Cleanup: Contractor will clean up and remove all debris resulting from its work as required by the CES Member or Participating Entity. The contractor shall comply with all laws and regulations governing disposal of construction and hazardous materials. Upon completion of the work, the premises will be left in a neat,

unobstructed condition with everything in good repair and order.

Site Examination: Contractor shall familiarize itself with the site, in order to anticipate unseen problems that may develop as the work progresses. Failure to have visited the site before submitting a job order proposal shall in no way relieve the contractor from furnishing any materials or performing any work required to complete the project in accordance with the contract documents, without additional cost to the CES Member/Participating Entity.

Site Preparation: Prior to a purchase order being issued by a CES Member or Participating Entity, the size, location and site conditions that exist at the time the contractor takes possession and/or control must be clearly identified and stated in writing. The contractor will not begin a project for which the site is not prepared or in the condition agreed upon in writing by the CES Member or Participating Entity, unless contractor decides to accept the site as is and is willing to perform the preparation work necessary at no cost, or until the CES Member or Participating Entity has included the cost of site preparation in a purchase order to CES. Site preparation may include, but is not limited to, moving furniture, clearing the site, securing the site, installing wiring for networks or power and similar pre-installation requirements.

Subcontractors: If it is necessary for the Offeror to contract with third party firms to provide various goods and services, the following will apply:

1. In accordance with the "Subcontractor Fair Practices Act", 13-4-31 to 13-4-42, NMSA 1978, the following information is required to be submitted with any job order project:
 - a. The name of each subcontractor who will be performing work or rendering service on the public works project and whose total contract will be the greater of:
 - i. Five Thousand Dollars (\$5,000); or
 - ii. One half of one percent (.005%) of the total project (to be estimated by the architect and/or engineer of record).
 - b. Address of the place of business
 - c. Subcontractor license number
 - d. Type of work or services to be performed by the subcontractor.
 - e. Pursuant to Section 13-4-38 NMSA 1978, if an Offeror fails to list a subcontractor in excess of the listing threshold on any job order contract, and they do not state that the provider is a sole source or that they will put all work that exceeds the threshold to individual bid each time, they are stipulating that they are fully qualified to perform the proposed products and services themselves and that they will perform all work themselves. After the specific job order contract award, any change in subcontractors must be approved by CES and the CES Eligible Agency, otherwise, the Offeror will be guilty of violation of the Subcontractors Fair Practices Act and subject to the penalties provided therein.
2. Subcontractor must be registered with New Mexico Department of Workforce Solutions, Public Works section.
3. CES and its Eligible Agencies reserves the right to approve, reject and replace any subcontractor proposed by the Offeror pursuant to 13-4-36 NMSA 1978.
4. Subcontractors will need to provide performance and payment bonds to prime Contractor if the sub-contract is greater than \$125,000 pursuant to 13-1-148.1 .
5. Any agreements with subcontractors shall incorporate, by reference, the terms and conditions of this solicitation and each individual project contract.
6. No subcontract will be entered into with any unlicensed party. Contractor must use subcontractors openly, include such arrangements in the proposal and certify upon request that such use complies with the rules of the NMCID, New Mexico Public Works Act and New Mexico Procurement Code.
7. Subcontractor Payment: Contractor agrees to pay subcontractors in a timely manner and in accordance with the New Mexico Prompt Payment Act pursuant to 57-28-5 NMSA 1978. If Contractor receives a progress payment from CES, the Contractor will pay subcontractor(s), "...within seven days after receipt of payment from the owner, contractor or subcontractor..." pursuant to 57-28-5 C. NMSA 1978. CES will contract to provide release of liens from subcontractors within fifteen (15) days of date of payment. Failure to pay subcontractors, pursuant to 57-28-5 C. NMSA 1978, for work faithfully performed and properly invoiced can result in the suspension or cancellation of this contract.

8. Subcontractor's labor used must be of a standing or affiliation that will permit the work to be carried on harmoniously, without delay and will not cause any disturbance, interference or delay to the progress of the project. Subcontractor and lower-tier subcontractors will not employ anyone whose employment might be objected to by prime Contractor or Member.
9. It is the responsibility of the Contractor to inform all suppliers and subcontractors that this contract is a cooperative purchasing contract and that the CES Eligible Agency must make payments to CES before CES can issue progress payments to the Contractor. The Contractor must provide CES with all subcontractors and suppliers information utilized for any individual project performed.
10. Contractor and Subcontractor are responsible for obtaining background checks for any employee working on a CES project per the CES Member's background check policy.

19. North Dakota, North Dakota Educators Service Cooperative (NDESC)

i. General Terms and Conditions that apply for all categories

- a. **Governing Law:** The laws of the State of North Dakota govern all contracts resulting from this IFB. Each and every provision of law and clause required by law to be included in a contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction.
- b. **Governing Venue:** The resulting contract award shall be deemed to have been made and performed in Cass County, North Dakota. For the purpose of venue, all legal arbitration or causes for action arising out of the resulting agreement shall be brought to the courts of Cass County, North Dakota.
- c. **Hazardous Substances:** All hazardous products purchased by members shall include a Safety Data Sheet (SDS) with the delivery.
- d. **Lease and Rental Agreements:** The Vendor may allow participating agencies to enter into a rental, lease, or lease purchase agreements, providing such agreements are in compliance with North Dakota Statutes and guidelines. NDESC must receive a report annually, summarizing the executed lease purchases along with a summary of the participating agencies' purchases. NDESC will not collect lease payments or be involved in the terms and conditions of the lease. All lease arrangements are between the Vendor and the participating agency. The Vendor agrees that leases will be in compliance with the Uniform Commercial Code. The applicable administrative fee must be included in the lease cost based on the total value of the goods and applicable services purchased. This fee is referred to under the Technical Specifications. The Vendor should attempt to work with NDESC's current leasing vendor. Note, the current leasing vendor may require a minimum purchase amount to begin the leasing process. Should the Vendor be required to utilize their own financial leasing company, this should be noted/requested as an exception. In the event of a lease, the total administrative fee for the value of goods shall be paid to NDESC by the vendor at the front end of the lease. NDESC reserves the right to review all purchase orders, lease documents and invoices to insure contract compliance.
- e. **Marketing and Promotion:** Upon award and completion of the vendor orientation, NDESC will promote the contract opportunity via its websites. NDESC will also announce the new partnership in its newsletters and will publish the contract and marketing information through hard copy marketing items (i.e. flyers, postcard) and electronic email. Contracts will also be promoted at applicable trade shows, conferences, and meetings on a regular basis. NDESC may assist in the development of these materials if requested by the Vendor, but in all cases shall have the authority to review and approve any marketing materials. If a website is used, the link will be made available from the NDESC website. Any web page or link, or other marketing tools shall be dedicated to NDESC information only.
- f. **Non-Discrimination:** Any resulting contract for on or behalf of participating agencies, said Vendor agrees to:
 - i. That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;
 - ii. That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color;
 - iii. That a violation of this section is a misdemeanor; and
 - iv. That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.
- g. **Participating Agency:** A participating agency shall be defined in accordance with Chapter 54-40.3

of the North Dakota Century Code, as amended. An eligible agency includes any school, higher education, city, county, other governmental agency, nonprofit organization, or other entity contracted to conduct business on behalf of a participating agency provided that they are required to follow state and local procurement regulations.

- h. **Substance Use and Conduct:** All Vendor partners and subcontractors must adhere to local substance (alcohol, drug, smoking, etc.) and conduct (dress code, language, parking, etc.) policies while on a participating agencies' premises.
- i. **Vendor Orientation (NDESC 101):** The Vendor and their participating resellers/sub-contractors will be required to participate in an online training session that is designed to educate the Vendor and resellers/sub-contractors on the purpose and nature of NDESC. The Vendor will not be marketed to participating agencies until they have completed the vendor orientation session.

2. Additional Participating Agency Terms and Conditions for Non-Construction Products and Services

If requested by NDESC, the contracted vendor will work with NDESC to develop an order form, or order forms, containing the most commonly purchased items, that NDESC can utilize to market the contracted vendor to its participating agencies.

3. Additional Participating Agency Terms and Conditions for Construction Related Products and Services

Upon acceptance and approval of the Vendor's offer by AEPA, NDESC will independently consider the offer and conduct a conference call with the Vendor to determine if the Vendor is able to meet the necessary requirements for construction related products and services, according to [Chapter 48-01.2 of the North Dakota Century Code](#), and to enter and execute a contract in the state of North Dakota. Once NDESC and the Vendor are able to confirm that business is able to be conducted in North Dakota, NDESC will make a final decision to complete the contract execution process.

For all quotes provided to participating agencies, for construction related projects, products and services, the contracted vendor must also send a duplicate quote to NDESC. The quote provided to NDESC must include the contact information of the participating agency.

Performance Bond (for construction and/or installation related projects): Performance bonds will be required on all projects valued at fifty-thousand dollars (\$50,000) or more in North Dakota. All performance bonds will be issued by a corporate surety authorized to do business in the state in which the work will be conducted and by a surety listed in the US Treasury Circular 570. Performance bonds will be posted by the Vendor and submitted to the specific participating agency for the assigned project. Should the contract be the result of a piggyback agreement, performance bonds will reflect each state's bonding requirements.

The Vendor will execute a performance bond in an amount equal to one hundred percent (100%) of the value specified in the contract between the participating agency and the Vendor, unless the participating agency requires less to be posted. This bond will protect all persons supplying labor and material to the Vendor for the performance of the work provided in the contract. Subcontractors who may work on the contract may have to provide the Vendor with a performance bond. If the contract price increases after the bond is provided, the participating agency may consider obtaining additional bonds from the Vendor.

The Vendor will deliver the performance bond to the eligible participating agency at the time the contract is executed between the agency and the Vendor. Work will not commence between the Vendor and the eligible participating agency until the performance bond is received by the participating agency and a copy has been sent to NDESC via email (info@purchasingconnection.org). The Vendor will be responsible for providing NDESC with a copy of all contracts and bonds in accordance with NDESC purchasing procedures. Should the Vendor fail to satisfactorily perform the contract, the bonding company that provided the performance bond will be required to pay the dollar amount of the bond to the participating agency.

It is the Vendor's responsibility to ensure that they can obtain the required bonding for all construction products based on an awarded contract arising from this solicitation. Payment will not be issued for any project for which the required bonds have not been received.

4. Procedure for Contract Award, Notification and Processing Orders

Once the award is recommended by the AEPA Review Committee, NDESC considers the recommendation based on the value of the potential contract for its participating agencies. Participating agency is defined as any city, county, public or private educational agency, nonprofit or governmental agency that is a participant of NDESC. In the event of an award by the Board of Directors, NDESC will inform its members of the award and contract by the following methods along with contract instructions and ordering process.

- a. The contract is listed and promoted on the NDESC website (www.ndesc.org).
- b. Announcing the award in NDESC newsletters.
- c. NDESC will publish the contract and marketing information through a hard copy marketing flier and electronic email. Contracts are promoted through PDF and a hard copy product catalog distributed at statewide trade shows and agency meetings on a regular basis. NDESC will require a marketing flier, brochure, or other similar marketing pieces, in an editable, electronic format, from each vendor promoting the available contract with the vendor, and/or a web page or link. NDESC may assist in the development of the marketing flier and material (if requested by vendor), but in all cases shall have authority to review and approve any marketing materials. If a web site is used, the link will be made available from the NDESC web page. Any web page or link, or other marketing tool shall be dedicated to AEPA information only.
- d. When the member identifies a desired product or service, the member and the vendor may negotiate with each other to establish a description of items and/or services. The vendor shall quote a price to the member, in writing, using AEPA established discounts and including the two percent (2%) administrative fee in the quoted price. The administrative fee shall be based upon the total cost of goods and/or services including installation costs. The administrative fee shall not be listed as a separate line item on the quote. When a member decides to purchase through the NDESC-AEPA contract, the member issues the purchase order directly to the vendor. The purchase order must include the total invoiced cost, based on
 - i. The total cost of goods, service, and installation, including the 2% administrative fee.
 - ii. Notification will be made to the vendor in the event the purchase order is not in compliance with the contract and adjustments will be made at that time. NDESC and the vendor will mutually resolve any issues with regard to past purchases. The purchase orders are to continue to be processed and viewed as approved unless notified by NDESC otherwise. All sales and transactions may continue without delay or in anticipation of the NDESC purchase order verification.
 - iii. Once all the items and services on the purchase order have been delivered to the member in a complete and satisfactory manner, the vendor then files a copy of the final invoice, which is available to NDESC by request in support of the quarterly sales summary. The invoice is to be marked "Copy".
 - iv. Vendor makes all deliveries and installations of products and services. NDESC does not warehouse items or provide installation services.
 - v. This administrative fee is to be paid by the vendor to NDESC, quarterly, within 20 working days after the end of each fiscal quarter. The AEPA vendor shall also submit to NDESC a sales report, in Excel format, listing the following information:
 1. Name of purchasing agency
 2. Address of purchasing agency
 3. Date of purchase
 4. Invoice number
 5. Amount of purchase
 6. Administrative fee generated by sale
 7. Savings generated by sale
 8. This report shall include all sales made and payments received by the vendor in said quarter. The sales report shall be emailed to Jane Eastes at jeastes@lsc.org and copied to Lori Mittelstadt at lmittelstadt@lsc.org. The administrative fee payment shall be delivered to Jane Eastes, NDESC, 1001 East Mt. Faith, Fergus Falls, MN 56537. The check shall be made out to North Dakota Educators Service Cooperative.
 - vi. NDESC requires that all participating vendors offer the contract opportunity to all NDESC participating agencies.

5. **Express Online Marketplace:** NDESC provides participating agencies with an online purchasing platform called Express, powered by EqualLevel. Through Express, agencies are able to search for and purchase items. Essentially, Express is a one-stop shop for many of NDESC's commodity based contracts. A Vendor does not have to have an e-commerce site to be included in Express. NDESC expects growth in the number of agencies utilizing the marketplace and the volume of sales to grow significantly. NDESC will work with the Vendor to determine if the contract agreement is suitable for the online platform. If deemed suitable, NDESC will require integration into Express within a timely manner.

20.OHIO COUNCIL OF EDUCATIONAL PURCHASING CONSORTIA (OCEPC) 2019

A. General Terms and Conditions that apply for all Categories:

1. Compliance with Laws/Forum Designation

Contractor shall comply with Federal, State, and Local Laws, Codes and Regulations while fulfilling the contract. It is the Contractor's responsibility to be aware of and comply with all state and local laws governing this procurement. Applicable laws, codes, and regulations (etc.) must be followed even if not specifically identified herein. Contractor shall verify to the Ohio Council of Educational Purchasing Consortia (OCEPC), its Member Agencies and other qualifying purchasers that the Contractor is complying with all Federal, State and Local Laws, Codes and Regulations while fulfilling the contract. Moreover, this contract shall be governed by and construed in accordance with the laws of the State of Ohio without giving effect to its principles of conflict of law. Legal proceedings arising under this contract shall be brought in an Ohio Court of Common Pleas of the County where the Member Agency's main office is located.

2. Delinquent Tax Affidavit

Contractor shall provide an affidavit relating to delinquent taxes as may be required by Ohio Revised Code Section 5719.042.

3. Secretary of State Registration

Contractor shall meet and maintain all registration requirements as necessary to conduct business in the State of Ohio, including but not limited to registration with the Ohio Secretary of State.

4. Findings for Recovery

Contractor warrants and represents that it is not subject to a finding for recovery under Ohio Revised Code Section 9.24, or that Contractor has taken the appropriate remedial steps required under Ohio Revised Code Section 9.24, or otherwise qualifies under Ohio Revised Code Section 9.24.

5. Ohio Workers Compensation Insurance

Contractor, and any subcontractors hired by Contractor shall, at their own expense, maintain in force for the duration of the project workers' compensation and employer's liability insurance as required by the laws of the State of Ohio.

6. Project Personnel, Student Safety and Background Checks

Member Agency shall have the right to reject the participation of any personnel of Contractor in the performance of the services if, in relation to the work assigned to them, the Member Agency deems such personnel to lack the skill, experience and expertise required to perform the services or if Member Agency considers their performance to be substandard or otherwise detrimental to the proper completion of the services. Contractor will advise Member Agency promptly of any change in the project manager or other key personnel assigned to the performance of the services.

Contractor acknowledges that the safety of the Member Agency's students, employees, officials and guests is of the utmost importance. Contractor will endeavor to ensure that its officers, employees, agents, representatives, and consultants will take no action that would jeopardize the safety of the Member Agency's students, employees, officials, or guests. The Member Agency reserves the right to require Contractor's officers, employees, agents, representatives and consultants to wear identification and stay in designated work areas at all times while on the Member Agency's property. The Member Agency shall have the right to effect the immediate removal of any person associated in any way with Contractor from Member Agency property for failure to wear identification, for being outside a designated work area, for fraternizing with or engaging in any improper behavior directed toward or in the vicinity of students, employees, officials, or guests of the Member Agency or for any other good cause.

Contractor shall perform or cause to be performed an Ohio Bureau of Criminal Investigation and Identification and Federal Bureau of Investigation criminal background check of any personnel that will be performing the services within the proximity of minors. Contractor shall notify the Member Agency of any proposed employee who has been convicted, pled guilty or pled "no contest" to a criminal offense, and the Member Agency reserves the right to reject the proposed employee with a criminal background. No person shall be employed by Contractor who has been found guilty of any of the criminal offenses enumerated in Ohio Revised Code Section 3319.39 without prior approval of the Member Agency.

7. Independent Contractor

Contractor shall be an independent contractor and neither Contractor nor any of its subcontractors, nor the employees of any thereof, shall be deemed to be the servants, employees, or agents of Member Agency. Contractor shall be responsible for paying all costs related to its employees and managers performing the services. Contractor shall remain liable and responsible to Member Agency for all of its obligations under this contract, regardless of whether the services are performed by the Contractor or a subcontractor of any tier.

8. Ownership of Instruments of Service

Drawings, data and other documents prepared by, or with the cooperation of, the Contractor pursuant to this contract shall become, upon payment of all undisputed compensation due the Contractor from the Member Agency, the property of the Member Agency. Such drawings, data or other documents may be used by the Member Agency or others employed by the Member Agency without compensation to the Contractor.

9. Audit

Member Agency may audit and inspect Contractor's records and accounts at any time during the Contractor's performance of the services and for a period of two (2) years following the completion or termination of the services for the purpose of verifying any invoice and underlying documentation presented by Contractor, it being understood that Contractor agrees to preserve all such documents through such two- (2) year period.

10. Notices

Unless otherwise expressly provided in this contract, all notices and other communications given under the contract shall be in writing and shall be deemed effective upon receipt by the addressee at its address as set forth in the contract or at such other address as such party shall have notified the other in writing.

11. Non-Appropriation

If the Member Agency fails to appropriate sufficient monies in any fiscal year for payments due under the contract and other funds are not available for such payments, then a "Non-Appropriation" shall be deemed to have occurred. If a Non-Appropriation occurs, then Member Agency will give Contractor prompt notice of such Non-Appropriation. This contract shall thereupon terminate without penalty or expense to the Member Agency.

12. No Personal Liability

It is understood and agreed that under no circumstances will the Member Agency's board members, officers, employees, or agents be personally liable for any obligations or claims arising out of or related to the contract.

13. Miscellaneous

Headings and titles of articles, paragraphs and other subparts of this contract are for convenience of reference only and shall not be considered in interpreting the text of this contract.

This contract and any appendices constitute the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements or understandings with respect thereto.

No contract amendments can be made without the approval of the AEPA membership.

B. Non-Construction Products and Services:

1. Bus Purchases

For the purchase of school buses, the successful Contractor shall provide bonds required by Ohio Revised Code Sections 153.54 and 153.571.

C. Construction Products and Services:

For construction improvements, the following shall apply:

1. The successful Contractor shall provide such bonds required by Ohio Revised Code Sections 153.54 and 153.571.
2. Progress payments and retainage shall be in accordance with the provisions of the Ohio Revised Code including Ohio Revised Code Sections 153.12 and 153.14.
3. In the event that the agreement is subject to the prevailing wage requirements of either Ohio Revised Code Chapter 4115 or the Davis-Bacon Act, then the contract between the Member Agency and the Contractor shall contain the applicable rates and such terms and provisions as may be required by law.
4. Contractor shall comply with all applicable licensing requirements, including those of the Ohio Construction Industry Licensing Board.

D. Procedures for Processing Orders:

The OCEPC will keep informed its Member Agencies and other qualified purchasers of contract information via web site and through other marketing strategies. A list of OCEPC Member Agencies along with addresses, phones, contacts, etc. will be made available to successful Contractors. After contracts are awarded, Contractors may contact the OCEPC Member Agencies and other qualifying purchasers concerning their products and services.

Participating Member Agencies and other qualified purchasers will submit all purchase orders directly to the Contractor.

The Contractor price shall include a two percent (2%) administrative fee that the Contractor will collect from the Member Agency or other qualified purchaser. Administrative fees are to be remitted to the OCEPC on April 15, July 15, October 15 and January 15 of every calendar year with checks payable to the Southwestern Ohio Educational Purchasing Council, 303 Corporate Center Dr. Suite 208, Vandalia, OH 45377.

The Contractor will compile a quarterly report showing all purchases made by the OCEPC Member Agencies and other qualified purchasers under this contract at the conclusion of each calendar quarter. These reports shall be attached to the administrative fee remittance.

E. Agencies Allowed to Purchase under Member Agency:

All member cooperatives of the OCEPC and their individual Member Agencies are eligible to participate and purchase from the awarded AEPA contracts. All Ohio K-12 school districts, including Boards of Developmental Disabilities, Educational Service Centers, and Instructional Technology Centers, are eligible to participate and purchase from the awarded AEPA contracts. In addition, all colleges and universities, state, cities, counties, townships and other governmental agencies are eligible to participate if the AEPA contracts satisfy their individual procurement requirements.

Revised: December 2, 2009

Approved: December 14, 2009

Reviewed: May 12, 2010

Revised: May 27, 2011

Reviewed and Approved: September 14, 2011

Reviewed and Approved: May 14, 2014

Revised and Approval: May20, 2015

Reviewed and Approved: May 18, 2016

Revised and Approved May 17, 2017

21. Oregon, Intermountain Educational Service District (IMESD)

A. Additional Agency Terms and Conditions – all categories

Intermountain Education Service District (“IMESD”) is an educational service district organized under the laws of the STATE OF OREGON. Pursuant to Oregon Law ORS 279A and IMESD is authorized to cooperate with other entities and in such regard is authorized to cooperate with them in the purchasing of goods and services pursuant to these contract documents. As other entities cooperate with IMESD to take advantage of the goods and services made available pursuant to these contract documents, the terms and conditions of any such sales shall be in accordance with the contract documents.

Additionally Senate Bill 3184 enables Oregon's Education Service Districts to offer the services they provide to component school districts to other organizations. For the past 10 years, the InterMountain ESD (formerly Umatilla-Morrow ESD) has been a leader in expanding revenue available for schools and IMESD programs by providing these services outside of 19 local school districts. (Reference: [ORS 334.185](#))

Under Oregon public contracting rules, each individual public agency will have its own local rules it must adhere to, in addition to statewide public contracting laws. InterMountain Education Service District does not presume that its cooperative purchasing program will necessarily comply with every agency's internal public contracting rules. We always advise potential customers to review the bid solicitation carefully and recommend review by their legal department and/or procurement personnel to assure that contracting laws are complied with.

ADVERTISING AND MARKETING: Bidders must demonstrate they possess the necessary resources and have a proven track record to market, offer, obtain, deliver, install and provide the sales and technical support services to IMESD and its participating agencies within the state of Oregon in a timely and cost effective manner.

APPLICABLE LAW AND VENUE: Any dispute arising out of any of the contract documents, or out of their performance, shall be decided by litigation in the Circuit Court of the State of Oregon in the county of Owner's residence, the parties consenting to jurisdiction in said court and permanently waiving jurisdiction in any other court, state or federal. In the event of litigation the prevailing party shall be entitled to an award of reasonable attorney's fees and costs at trial and upon any appeal thereof.

In the event that the successful bidder breaches a term of condition of a contract awarded, the IMESD may terminate the contract. In addition to the right to terminate due to the successful bidder's breach, and all other rights and remedies contained in other provisions, the IMESD reserves all its rights and remedies at law and in equity available due to the breach.

HAZARDOUS CHEMICALS: The Successful bidder shall supply current MSDS for all products as required below even if these sheets have been supplied in previous years.

The agencies participating on IMESD agreement will need MSDS and labels for certain products defined as hazardous chemicals by the State of Oregon in accordance with ORS 654.025(2) and 656.726(3). The successful bidder has the responsibility to determine such products and to provide MSDS and labels for such products. The MSDS shall be received by the IMESD by or at the time of the initial shipment of such products.

These requirements have been determined by the State of Oregon Workers Compensation Department, and published as Oregon Administrative Rules 437, Division 2 Hazard Communication. This document is available from Hazard Communication Coordinator, Accident Prevention Division, State of Oregon, Labor and Industries Building, 350 Winter St. NE, Salem, OR 97310, phone: (503) 378-3272 or (800) 922-2689 any local Accident Prevention Division Office.

HOLD HARMLESS: Bidders shall indemnify, hold harmless, and defend the IMESD from any and all liabilities, settlements, losses, penalties, costs, expenses, attorney fees (including attorney fees on appeal) in collection with any action, suit or claim based upon or allegedly based upon, resulting from or allegedly resulting from the successful bidder's negligence, omission, activities or services provided pursuant to a contract awarded to such bidder.

LAW OF THE STATE OF OREGON: Any contract between the IMESD and a bidder shall be entered into within the State of Oregon, and the laws of said state, whether substantive or procedural, shall apply to the contract.

In addition to any requirements listed, vendor shall comply with all, current, applicable state, federal and local laws, regulations and ordinances. If through mistake or otherwise any such provision is omitted then submission by either IMESD or the vendor-partner the contract shall be amended to make such inclusion or correction. IMESD Also reserves the right to amend the contract resulting from state law changes. Vendor-partners will be sent written notification of such changes.

SEVERABILITY: The parties agree that if any term or provision of a resultant contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law the validity of the remaining terms and provisions shall not be affected,

and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

TAXES: Taxes, whether State or Federal, shall not be included in bid prices. Our Employer Identification No: 93-6000924 indicated our tax exemption status as a political subdivision. Contractor must certify compliance with the Oregon tax laws in accordance with ORS 305.385 when applicable.

B. Additional Agency Terms and Conditions – Non-construction Products and Services

None

C. Additional Agency Terms and Conditions – Construction Products and Services

1. Prevailing wage rates/Davis-Bacon.

As set forth in the conditions below, if this is a public works project (as defined below) Oregon State prevailing wage rates will apply unless exempted. If federal funds are being used, Bidders must take into account the need to comply with the Davis-Bacon Act. If both the federal and state prevailing wages are required the Contractor is required by law to pay the greater of the applicable prevailing wage. Pursuant to ORS 279C.365 no bid will be considered unless the bid contains a statement by the Bidder as a part of its bid that the provision of ORS279C.840 will be complied with.

(a) If contract is \$50,000.00 or under and there are no federal funds involved the contract is exempted from prevailing wages pursuant to ORS 279C.810(2) (a).

(b) If contract exceeds \$50,000.00 and there are no federal funds involved, existing prevailing wage rate of the State of Oregon will apply. No worker may be paid by any Contractor or Subcontractor a wage less than the wage required by ORS 279C.840. Every subcontract shall include the requirements of this section. Prevailing wages, state and federal, can be seen at the websites referred to in Section 6(a), Additional Requirements of Oregon Law for Public Contracts, Public Works, and Improvements and Miscellaneous Provisions.

(c) If contract exceeds \$50,000.00 and/or federal funds are involved, unless otherwise exempted by law, Contractor shall comply with ORS 279C.800 to 279C.870 relating to the payment of prevailing wages; Contractor shall also comply with the federal Davis-Bacon Act to the extent applicable. No worker may be paid by any Contractor or Subcontractor a wage less than the wage required by ORS 279C840 and if the state and federal prevailing wage laws both apply, Contractor shall pay as wages the great of the applicable prevailing wage. Every Subcontractor shall include the requirements of this section. Additional Requirements of Oregon Law for Public Contracts,

2. Residence status of Bidder

Each Bidder must identify in its bid whether the Bidder is a resident Bidder, as defined in ORS 279A.120.

3. Licensure

If the contract involves asbestos or asbestos abatement, the contactor or subcontractor must be licensed under ORS 468A.720.

4. Bonding

If this contract is a public improvement contract in excess of \$100,000.00, at the time of the execution of the contract, the successful Bidder shall also deliver to the Owner good and sufficient bonds endorsed on forms supplied by Owner, in sums equal to the contract price, for the faithful performance of the contract, and for the payment of all claims for labor, materials, equipment, and rental equipment that may result from work performed pursuant to the contract documents. The successful Bidder shall not be allowed to execute the contract without the concurrent delivery to the Owner of the bonds required by this paragraph on the required forms. At owner's sole discretion, Contractor shall be subject to disqualification and forfeiture of bid security for breach of this section. If Bidder is disqualified, Owner may award the contract to another Bidder.

5. Subcontractor Disclosure

Unless exempted by ORS 279C.370(1)(c) for public improvement contracts, all Bidders shall within two hours of the date and time of the deadline when bids are due submit information about certain first-tier Subcontractor when the contract value for public improvements is greater than \$100,000 (see ORS 279C.370). Specifically, when the contract amount of a first-tier Subcontractor furnishing labor or labor and materials would be greater than or equal to:

- (i) 5% of the project bid, or \$15,000, or
- (ii) \$350,000 regardless of the percentage, Bidders must disclose the following information about that Subcontractor:

- (a) the Subcontractor's name, and
- (b) the category of the work that the Subcontractor would be performing, and
- (c) the dollar amount of the subcontract

If Contractor will not be using any Subcontractors that are subject to the above disclosure requirements, Contractor is required to indicate "NONE" on the reply form.

THE OWNER MUST REJECT A BID IF THE BIDDER FAILS TO SUBMIT THE DISCLOSURE FORM WITH THIS INFORMATION BY THE STATED DEADLINE.

FIRST TIER SUBCONTRACTOR DISCLOSURE FORM

Project name:
 Bid #:
 Bid Opening Date:
 Name of Bidding Contractor:
 Required Disclosure Deadline:

Bids which are submitted by Bid Closing, but for which a required disclosure submittal has not been made by the specified Disclosure Deadline, are not responsive and shall not be considered for Contract award.

See the certification above the signature line on the second page of this form regarding the Subcontractors that must be disclosed.

The Owner will insert "NA" above if the contract value is not anticipated to exceed \$100,000. Otherwise this form must be submitted either with the bid or within two (2) working hours after the advertised bid closing date and time; but no later than the DISCLOSURE DEADLINE stated above.

This form may not be submitted by facsimile. It is the responsibility of Bidders to submit this disclosure form and any additional sheets, completely filled out and signed, by the specified disclosure deadline.

List below the name of each Subcontractor that will be furnishing labor or will be furnishing labor and materials and that is required to be disclosed, the category of work that the Subcontractor will be performing and the dollar value of the subcontract. Enter "None" if there are no Subcontractors that need to be disclosed. (Attach additional sheets if needed.)

NAME OF CATEGORY OF DOLLAR VALUE
 SUBCONTRACTOR WORK

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Failure to submit this form by the disclosure deadline will result in a nonresponsive bid. A nonresponsive bid will not be considered for award.

CERTIFICATION

It is certified that the above listed first-tier Subcontractor(s) are providing labor, or labor and material, with a dollar value equal to or greater than:

- (a) 5% of the total Contract Price, but at least \$15,000 [if the dollar value is less than \$15,000 do not list the Subcontractor above], or
- (b) \$350,000 regardless of the percentage of the total Contract Price.

Form submitted by (insert Bidder name):
 Contact name:
 Telephone number:

**Additional Requirements of Oregon Law for Public Contracts, Public Works, and Improvements;
 Miscellaneous Provisions**

“Owner” means the public entity executing the Contract of which these provisions are a part.

“Public improvement” means projects for construction, reconstruction or major renovation on real property by or for a public agency.

“Public Works” shall mean roads, highways, buildings, structures and improvement of all types, the construction, reconstruction, major renovation or painting of which is carried on or contracted for by any public agency to serve the public interest by does not include the reconstruction or renovation of privately owned property which is leased by a public agency.

(1) In reference to ORS 279B.220 and 279C.505. Contractor shall:

(a) Make payment promptly, as due, to all persons supplying to Contractor labor or material for the performance of the work provided for in the contract.

(b) Pay all contributions or amounts due the Industrial Accident Fund from the Contractor or Subcontractor incurred in the performance of the contract.

(c) Not permit any lien or claim to be filed or prosecuted against the Owner on account of any labor or material furnished.

(d) If the contract is for a public improvement, demonstrate to Owner that Contractor has an employee drug testing program in place.

(e) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

(2) In reference to ORS 279C.515 regarding contracts for public improvements:

(a) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a Subcontractor by any person in connection with the contract as such claim becomes due, the Owner may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of such contract.

(b) If the contract is for a public improvement and if the Contractor or a first-tier Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the contract within thirty days after receipt of payment from the Owner or a Contractor, the Contractor or first-tier Subcontractor shall owe the person the amount due plus interest charges commencing at the end of the ten day period that payment is due under ORS 279C.580(4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to the Contractor or first-tier Subcontractor on the amount due shall equal three times the discount rate on ninety-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is thirty days after the date when payment was received from the Owner or from the Contractor, but the rate of interest shall not exceed 30 percent. The amount of interest may not be waived.

(c) If the contract is for a public improvement, or is related to a contract for a public improvement, and if the Contractor or a Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the contract, that person may file a complaint with the Construction Contractor’s Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.

(d) The payment of a claim in the manner authorized in this section of this contract shall not relieve the Contractor or the Contractor’s surety from any obligation with respect to any unpaid claims.

(3) Relating to ORS 279B.020 and ORS 279C.520. Contractor shall comply with ORS 279B.020 and ORS 279C.520 in their entirety (when applicable), and in this regard:

(a) No person shall be employed for more than ten hours in any one day, or forty hours in any one week except in cases of necessity, emergency, or where the Owner absolutely requires it, and in such cases, the employee shall be paid at least time and half pay:

(i) For all overtime in excess of eight hours a day or forty hours in any one week when the work week is five consecutive days, Monday through Friday; or

(ii) For all overtime in excess of ten hours a day or forty hours in any one week when the work week is four consecutive days, Monday through Friday; and

(iii) For all work performed on Saturday, Sunday, and on any legal holiday specified in ORS 279B.020 and 279C.540.

(iv) Contractor shall comply with the notice and posting requirements of ORS 279B.020 and 279C.520(2). Contractor shall pay employees for overtime work performed under this Contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 USC 201, et seq.).

(4) If the contract is for a public improvement, Contractor shall at its sole expense comply with any and all applicable statutes or ordinances, and all regulations of any agencies, whether federal, state, local or tribal, dealing with the prevention of environmental pollution and the preservation of natural resources including without limitation water that affect the performance of this contract.

The following agencies, as well as others, may have pertinent regulations:

Federal: Army Corps of Engineers, Federal Energy Regulatory Commission, Environmental Protection Agency, Dept. of Human and Health Services, Dept. of Interior including but not limited to the US Fish and Wildlife Service, Department of Labor, and Water Resources Council.

State: Columbia River Gorge Commission, Department of Energy, Department of Environmental Quality, Department of Fish and Wildlife, Department of Human Resources, Soil and Water Conservation Commission, and Oregon Water Resources Department.

Local: City and County wherein the project is to be undertaken.

Tribal: Confederated Tribes of the Umatilla Indian Reservation.

(5) In relation to ORS 279B.230 and 279C.530, Contractor shall comply in their entirety, and in this regard:

(a) Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums which the Contractor agrees to pay for such services and all monies and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

(b) All employers, including Contractor, that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required workers compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its Subcontractors complies with these requirements.

(6)

(a) If the contract is for public works and is over \$50,000, Contractor, unless otherwise exempted by law, shall comply with ORS 279C.800 to 279C.870 relating to the payment of prevailing wages; Contractor shall also comply with the federal Davis-Bacon Act to the extent applicable. The prevailing rates of wage, state and federal, made available on the internet are hereby incorporated by reference; they may be seen at various sites including at www.boli.state.or.us/BOLI/WHD/PWR and www.access.gpo.gov/davisbacon/or.html. If the state and federal prevailing wage laws both apply, Contractor shall pay as wages the greater of the applicable prevailing wage. Contractor shall comply with all wage reporting and certification requirements of the prevailing wage laws and/or the Davis-Bacon Act, as applicable.

(b) Before starting Work the Contractor shall file with the Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by Oregon Laws 2005, Chapter 360, and OAR 839-025-0015, unless otherwise exempt under those provisions. The Contractor shall also include in every subcontract a provision requiring the Subcontractor to have a public works bond filed with the Construction Contractors Board before starting Work, unless otherwise exempt, and shall verify that the Subcontractor has filed a public works bond

(7) The following apply to contracts for public improvements:

(a) Contractor shall comply with ORS 279C.580, dealing with Contractor's relations with Subcontractors. Without limiting the generality of the foregoing, in this regard Contractor shall include a clause in each subcontract for property or services entered into by the Contractor and a first-tier Subcontractor, including a material supplier, for the purposes of performing the contract:

(i) that obligates the Contractor to pay the first-tier Subcontractor for satisfactory performance under its subcontract within ten days out of such amounts as are paid to the Contractor by the Owner; and

(ii) that obligates the Contractor, if payment is not made within thirty days after receipt of payment from the Owner, to pay to the first-tier Subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause required by the preceding paragraph. The interest penalty shall be for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made, and shall be computed at the rate specified in ORS 279C.515(2).

(b) Contractor shall include in each of its subcontracts, for the purpose of performance of work in relation to project, a provision requiring the first-tier Subcontractor to include a before clause and an interest penalty clause conforming to the foregoing standards in each of its contracts and to require each of its Subcontractors to include such clauses in their subcontracts with each lower-tier Subcontractor or supplier.

(c) Nothing stated herein shall be construed to preclude the negotiations allowed pursuant to ORS 279C.580(5).

(8) If any work supplied pursuant to the contract requires licensing with the Construction Contractors Board or the State Landscape Contractors Board, Contractor must be so licensed in order to submit a bid for the contract, and Contractor and all relevant Subcontractors must remain licensed during the period required for performance. Contractor certifies that all Subcontractors and workers will be properly licensed to perform the work required by this Contract before their commencement of work.

(9) If this contract is for public improvements, then retainage in the amount of 5% of the amount due shall be withheld in accordance with Oregon laws, including ORS 279C.550 et seq.

(10) If this contract is for a public improvement, and unless exempted by resolution of the Owner, Contractor shall comply with ORS 279C.380 and execute and deliver to Owner a good and sufficient performance bond and payment bond to be approved by Owner in a sum equal to the contract price.

By way of supplement to, and equally binding as, all of the foregoing:

(10.1) Contractor shall comply with all federal, state and local laws, codes, regulations and ordinances applicable to the Work and the Contract. Failure to comply with such requirements shall constitute a breach of Contract and shall be grounds for Contract termination. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following as applicable: (i) Title VI and VII of Civil Rights Act of 1964, as amended; (ii) Section 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Health Insurance Portability and Accountability Act of 1996; (iv) the Americans with Disabilities Act of 1990, as amended; (v) ORS Chapter 659A; as amended (vi) all regulations and administrative rules established pursuant to the foregoing laws; and (vii) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Owner's performance under the Contract is conditioned upon Contractor's compliance with the provisions of ORS 279C.505, 279C.510, 279C.515, 279C.520, and 279C.530, which are incorporated by reference herein.

(10.2) Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and

(a) Contractor shall not discriminate against Disadvantaged, Minority, Women or Emerging Small Business enterprises, as those terms are defined in ORS 200.005, in the awarding of subcontracts (ORS 279A.110).

(b) Contractor shall maintain, in current and valid form, all licenses and certificates required by law, regulation, or this Contract when performing the Work.

(10.3) Unless contrary to federal law, Contractor shall certify that it shall not accept a bid from Subcontractors to perform Work as described in ORS 701.005 under this Contract unless such Subcontractors are registered with the Construction Contractors Board in accordance with ORS 701.035 to 701.055 at the time they submit their bids to the Contractor.

(10.4) Unless contrary to federal law, Contractor shall certify that each landscape Contractor, as defined in ORS 671.520(2), performing Work under this Contract holds a valid landscape Contractor's license issued pursuant to ORS 671.560.

(10.5) The following notice is applicable to Contractors who perform excavation Work. ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center at (503)232-1987.

(11) Contractor must certify compliance with the Oregon tax laws in accordance with ORS 305.385 when applicable.

(12) Upon receipt by Contractor of any notice or claim, pursuant to ORS 279C.600 et seq (concerning action against bonds) Contractor shall immediately notify Owner in writing.

(13) Unless agreed to by Owner in writing, Contractor may not assign, transfer, dispose of, or delegate its duties under the contract.

(14) Contractor shall be responsible for compliance with all local, state, tribal, and federal laws, applicable to any aspect of the work to be performed. It shall be Contractor's responsibility to determine the applicability and requirements of any such laws and to abide by them. Contractor shall indemnify, defend, and hold harmless Owner for any default or breach of Contractor in this regard.

(15) The submission of a bid for this contract is certification by Contractor that Contractor has not discriminated and will not discriminate in violation of ORS 279A.110 against any minority, women, or emerging small business enterprises in obtaining any required subcontracts.

(16) If this contract is a public improvement contract for demolition, Contractor shall salvage or recycle constructions and demolition debris if feasible and cost-effective.

(17) If this contract is a public improvement contract for lawn and landscape maintenance, Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.

(18) Any dispute arising out of any of the contract documents, or out of their performance, shall be decided by litigation in the Circuit Court of the State of Oregon in the county of Owner's residence, the parties consenting to jurisdiction in said court and permanently waiving jurisdiction in any other court, state or federal. In the event of litigation the prevailing party shall be entitled to an award of reasonable attorney's fees and costs at trial and upon any appeal thereof.

D. Procedure for Agencies Processing Orders under IMESD in Oregon

Once the award is made to the vendor, IMESD will market these contracts by: 1) including the contract on the IMESD website, 2) announcing the award in flyers, and 3) attending vendor events throughout school year. A list of schools, contact names, addresses and phone number can be accessed through the Oregon Department of Education website. At this point the vendor contacts schools and schools may contact the vendor. When the school/agency identifies a product or services and agrees on price it issues to Vendor a purchase order for that item or service, referencing the AEPA Bid number. The purchase order must include an additional one percent (2%) administrative fee in the total to be forwarded by the vendor to IMESD after the sale. All participating vendors agree to and are subject to audit proceedings of IMESD member sales.

Upon receipt of the purchase order, the vendor provides the goods or service listed on the purchase order. It is important to remember the vendor makes delivery to the member unless other arrangements are made in cooperation with IMESD. When all items and services on the purchase order have been delivered to the member in a complete and satisfactory manner, vendor then invoices the member for the goods and service. This invoice includes the additional one percent (2%) administrative fee to the total amount invoiced of the goods or service provided by the vendor. This percent is based on the total sales of goods or services. The member then pays the vendor including the one percent (2%) administrative fee. IMESD then invoices the Vendor for the 2% administrative fee based on the sale of goods and services collected by the vendor.

E. Agencies Allowed to Purchase under IMESD in Oregon

The InterMountain Education Service District (IMESD) participates in a national non-profit organization, the Association of Educational Purchasing Agencies (AEPA), which is a procurement vehicle. The mission of IMESD's involvement with AEPA is to cooperatively serve Oregon state agencies members through a continuous effort to explore and solve present and future purchasing needs. AEPA goals include working to secure multi-state volume purchasing contracts with benefits that are measureable, cost-effective and continuously exceed our state member's expectations. InterMountain Education Service District is the member agency representing Oregon in AEPA through an IMESD board approved Memorandum of Understanding between all participating states that are all political subdivisions related to K-12 education. All AEPA bids have been advertised by IMESD in Oregon.

Pursuant to Oregon Law, ORS 279A, InterMountain Education Service District is authorized to offer these contracts to other government entities including school districts, state universities, community colleges, special districts, local and state government.

There is no fee or annual dues to become an IMESD agency member to purchase. InterMountain Education Service District's contract management efforts are funded by a nominal administrative fee paid by the vendor based on sales volume.

22. Pennsylvania, Central Susquehanna Intermediate Unit dba Keystone Purchasing Network

A. Additional Member Agency General Terms and Conditions that apply to all categories

The Keystone Purchasing Network (KPN) is a cooperative purchasing program operated by the Central Susquehanna Intermediate Unit under various state inter-governmental cooperation laws and includes members in several east coast states that currently includes Pennsylvania, Maryland, District of Columbia, New Jersey, New York and Delaware. All applicable Local, State and Federal laws and regulations will apply to any purchases of equipment, services or construction in any of these states and to other states that may be added under the KPN membership throughout the term of these contracts.

Marketing and Advertising under this Agreement: Vendor will actively promote the resulting contract in Pennsylvania, Maryland, District of Columbia, Delaware and New York States. Vendor will comply with the AEPA Marketing program along with the requirement listed below.

1. Vendor will include the approved KPN logo, web address, contract number and toll free number in all print electronic mail and other advertising and promotion intended for release to PA, MD, DC, DE and NY excluding national marketing releases.
2. The KPN logo and associated KPN information shall be of a clearly readable size and in appropriate proportion to other elements in the printed material.
3. Vendor agrees to provide KPN with a copy or proof sheet of the advertisement or promotion material. Vendor will provide KPN with date of release and name of publication, journal, etc.
4. Vendor shall place a supplied KPN vendor sign on booths, tables, etc. of any or all exhibits for which the vendor displays/participates at tradeshow, conventions and the like. Vendor will supply in advance scheduled exhibit dates. Vendor agrees to make available at the exhibit KPN supplied brochures or other promotion materials.
- e. Vendor agrees to insert the approved KPN logo, web address, contract number and toll free number on the vendor's web site promoting or a specific KPN landing page and providing a link to the KPN website.
- f. Vendor will supply product catalog information, product description, pricing, etc., in a spreadsheet format as specified by KPN for inclusion on the KPN website.
- g. Vendor agrees to cooperate in developing appropriate website content to promote its products, services and their advantages to KPN members.
- h. Requested materials will be submitted to KPN within 30 days.

Pricing and Ordering: Vendor will provide all pricing information in an electronic format and/or setup an electronic ordering system that would show the current contract prices along with the KPN administrative fee of 2% or as adjusted by the KPN. In the case of electronic ordering, the KPN would have administrative reporting capabilities with an online ordering system. The KPN administrative fee will apply to all purchases, installation, total lease, total rental prices and all construction and installation and annual maintenance fees and will be included in the net price offered to the purchasing agency.

B. Additional Member Agency General Terms and Conditions for Non-Construction Products and Services

None

C. Additional Member Agency General Terms and Conditions for Construction Products and Services

The following items refer to all projects involving construction or construction related services:

Vendor and/or Contractor agrees that, in performance of the services required under this Agreement, Vendor and/or Contractor shall abide by all Federal, State, Local, and Pennsylvania Department of Education laws, and regulations that may apply to renovation under this bid, including, but not limited to, those listed below. Vendor and/or Contractor shall also abide by the state and local laws and regulations of other states where a member is located. It is the responsibility of the Vendor or Contractor to determine applicability and requirements of any such laws and to abide by them. Additionally, Contractor has the sole responsibility for compliance with all other matters in conjunction with the services to be performed hereunder and in the Invitation for Bid.

PERFORMANCE AND LABOR AND MATERIAL PAYMENT BONDS: the Contractor shall provide a performance bond and a labor and material payment bond, each in the amount of 100% of the contract price, before the award of the contract. (Sections 756 and 757 of the Public School Code of 1949, as amended, and the Public Works Contractors Bond Law of 1967.)

DISCRIMINATION PROHIBITED: According to 62 Pa.C.S.A. 3701, the Contractor agrees that:

- (1.) In the hiring of employees for the performance of work under the contract or any subcontract, no Contractor, Subcontractor or any person acting on behalf of the Contractor or Subcontractor shall by reason of gender, race, creed or color discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- (2.) No Contractor or Subcontractor or any person on their behalf shall in any manner discriminate against or intimidate any employee hired for the performance of work under the contract on account of gender, race, creed or color.
- (3.) The contract may be canceled or terminated by the government agency and all money due or to become due under the contract may be forfeited for a violation of the terms or conditions of that portion of the contract.

HUMAN RELATIONS ACT: The provisions of the Pennsylvania Human Relations Act, Act 222 of October 27, 1955 (P. L. 744) (43 P.S. Section 951, ET. Seq.) of the Commonwealth of Pennsylvania prohibit discrimination because of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability, by employers, employment agencies, labor organizations, Contractors and others. The Contractor shall agree to comply with the provisions of this Act as amended that are made part of this specification. Your attention is directed to the language of the Commonwealth's non-discrimination clause in 16 Pa. Code 49.101.

COMPETENT WORKMEN: Projects where the total estimated cost is \$25,000 or less, Section 7-752 of the Public School Code of 1949, no person shall be employed to do work under such contract except competent and first class workmen and mechanics. No workmen shall be regarded as competent first class, within the meaning of this Act, except those who are duly skilled in their respective branches of labor, and who shall be paid not less than such rates of wages and for such hours work as shall be established and current rates of wages paid for such hours by employers of organized labor in doing of similar work in the district where work is being done.

PENNSYLVANIA PREVAILING WAGE RATES: Projects where the total estimated cost is greater than \$25,000, paid for in whole or in part out of funds of a public body, except for maintenance work or work performed under a rehabilitation program or manpower training program must specify "Prevailing Wages." Further information on implementation of the act, definition of maintenance work and prevailing wage rates may be requested from the Pennsylvania Department of Labor and Industry (800-932-0665 or 717-787-4763). When applicable, use Davis-Bacon wage rates for federally assisted projects. This regulation and the general Pennsylvania prevailing minimum wage rates, (Act 442 of 1961, P.L. 987, amended), as determined by the Secretary of Labor and Industry, which shall be paid for each craft or classification of all workers needed to perform the contract during the anticipated term therefore in the locality in which public work is performed, are made part of this specification.

(1.) The general prevailing minimum wage rates including contributions for employee benefits as shall have been determined by the Secretary of Labor and Industry (hereinafter "Secretary"), which must be paid to the workmen, employed in the performance of the Contract.

(2.) The Contractor shall pay no less than the wage rates as determined in the decision of the Secretary and shall comply with the conditions of the Pennsylvania Prevailing Wage Act approved August 15, 1961 (Act No. 442), as amended August 9, 1963 (Act No. 342), and the Regulations issued pursuant thereto, to assure the full and proper payment of said rates.

(3.) These Contract provisions shall apply to all work performed on the Contract by the Contractor and to all work performed on the contract by all Subcontractors.

(4.) The Contractor shall insert in each of his subcontracts all of the stipulations contained in these required provisions.

(5.) No workmen may be employed on the Work except in accordance with the classifications set forth in the decision of the Secretary. In the event that additional or different classifications are necessary the procedure set forth in the Regulations shall be followed.

(6.) All workmen employed or working on the Work shall be paid unconditionally, regardless of whether any contractual relationship exists or the contractual relationship which may be alleged to exist between any Contractor, Subcontractor and workmen, not less than once a week without deductions or rebate, on any account, either directly or indirectly, except authorized deductions, the full amount due at the time of payment, computed at the rates applicable to the time worked in the appropriate classification. Nothing in this Contract, the Act or the Regulations shall prohibit the payment of more than the general prevailing minimum wage rates as determined by the Secretary to the workmen on the Work.

(7.) The Contractor and each Subcontractor shall post for the entire period of construction the wage determination decisions of the Secretary, including the effective date of any changes thereof, in a prominent and easily accessible place or places at the site of the work and at such place or places used by them to pay workmen their wages. The posted notice of wage rates must contain the following information:

a. Name of project.

b. Name of public body of which it is constructed.

c. The crafts and classifications of workmen listed in the Secretary's general prevailing minimum wage rate determination for the particular project.

d. The general prevailing minimum wage rates determined for each craft and classification and the effective date of any changes.

e. A statement advising workmen that if they have been paid less than the general prevailing minimum wage rate for their job classification or that the Contractor and/or Subcontractor are not complying with the Act or the Regulations in any manner whatsoever, they may file a protest with the Secretary within three (3) months of the date of the occurrence, objecting to the payment to the Contractor to the extent of the amount or amounts due or to become due to them as wages for work performed on the Project. Any workmen paid less than the rate specified in the Contract shall have a civil right of action for the difference between the wage paid and wages stipulated in the Contract, which right of action must be exercised within six (6) months from the occurrence of the event creating such right.

(8.) The Contractor and all Subcontractors, shall keep an accurate record showing the name, craft and/or classification, number of hours worked per day, and the actual hourly rate of wage paid (including employee benefits) to each workman employed by him in connection with the Work and such record must include any deductions from each workman. The record shall be preserved for two (2) years from the date of payment and shall open at all reasonable hours to the inspection of the Owner and

to the Secretary or his duly authorized representative.

(9.) Apprentices shall be limited to such numbers as shall be in accordance with a bona fide apprenticeship program registered with and approved by the Pennsylvania Apprenticeship and Training Council and only apprentices whose training and employment are in full compliance with the provisions of the Apprenticeship and Training Act approved July 14, 1961 (Act No. 304) and the Rules and Regulation issued pursuant thereto shall be employed on the Work. Any workmen using the tools of a craft that does not qualify as an apprentice within the provisions of this submission shall be paid the rate predetermined for journeyman in that particular craft and/or classification.

(10.) Wages shall be paid without any deductions except authorized deductions. Employers not party to a contract requiring contributions for employee benefits which the Secretary has determined to be included in the general prevailing minimum wage rate shall pay the monetary equivalent thereof directly to the workman.

(11.) Payment of compensation to workmen for work performed on public work on a lump sum basis, or a piece work system, or a price certain for the completion of a certain amount of work, or the production of a certain result shall be deemed a violation of the Act and the Regulations, regardless of the average hourly earnings resulting there from.

(12.) Each Contractor and each Subcontractor shall file a statement each week and a final statement at the conclusion of the Work on the Contract with Owner, under oath, and in form satisfactory to the Secretary, certifying that all workmen have been paid wages in strict conformity with the provisions of the Contract as prescribed by the Regulations, or if any wages remain unpaid, to the amount of wages due and owing to each workman respectively.

(13.) The provision of the Act and the Regulations are incorporated by reference in the Contract.

(14.) The current prevailing wage threshold for Pennsylvania is \$25,000. However the threshold may be increased during the term on the contract by legislated action. Vendor will then be required to adjust labor rate for job under the new threshold.

(15.) The following applies to all prevailing wage projects:

E-Verify. The successful Bidder and its subcontractors (as such term is defined in the act) are required to comply with the Public Works Employment Verification Act, Act No. 127, July 5, 2012 (formerly Senate Bill 637). All Bidders shall submit with their Bid a Public Works Employment Verification Form (the "Verification Form") to CSIU - KPN in the form published by the Commonwealth of Pennsylvania, Department of General Services. Per the act, the Verification Form is to be obtained from the Secretary of the Pennsylvania Department of General Services. The Verification Form is presently available on the Department of General Services website. Per the act, the Verification Form shall include a certification that the information in the statement is true and correct and that the individual signing the statement understands that the submission of false or misleading information in connection with the verification shall subject the individual and the public works contractor or subcontractor, as the case may be, to sanctions provided by law; and the verification form shall be signed by a representative of the public works contractor or subcontractor, as applicable, who has sufficient knowledge and authority to make the representations and certifications contained in the statement. Prior to award of a contract or purchase order by a Member Agency to the successful Bidder for a particular project, the successful Bidder shall submit to the Member Agency a Verification Form. Per the act, the successful Bidder's subcontractors shall provide to the Member Agency, and successful Bidder shall cause its subcontractors to provide to the Member Agency, their Verification Forms prior to commencing work on the Member Agency's project.

STANDARD OF QUALITY: The various materials and products specified in the specifications by name or description are given to establish a standard of quality and of cost for bid purposes. It is not the intent to limit the Bidder, the bid or the evaluation of the bid to any one material or product specified but rather to describe the minimum standard. When proprietary names are used, they shall be followed by the words "or alternatives of the quality necessary to meet the specifications". A bid containing an alternative, which does not meet the specifications, may be declared non-responsive. A bid containing an alternative may be accepted but if an award is made to that Bidder the Bidder will be required to replace any alternatives, which do not meet the specifications.

PROVISIONS FOR THE USE OF STEEL AND STEEL PRODUCTS MADE IN THE U.S.: In accordance with Act 3 of the 1978 General Assembly of the Commonwealth of Pennsylvania, if any steel or steel products are to be used or supplied in the performance of the contract, only those produced in the United States as defined therein shall be used or supplied in the performance of the contract or any subcontracts thereunder in accordance with Act 161 of 1982, cast iron products shall also be included and produced in the United States. Act 141 of 1984 further defines "steel products" to include machinery and equipment. The act also provides clarifications and penalties.

PROHIBITION ON CASH ALLOWANCES: Cash allowances are prohibited.

TIME(S) OF COMPLETION OF THE PROJECT: Contractor/Vendor shall complete all work within 180 days after entry into a contract with the individual Member. Member and Contractor/Vendor may agree in writing on a lesser number of workdays depending on the scope of the project.

Owner's Compliance in Retaining Payments: Unless a member stipulates otherwise, Payment Retentions and Progress Payments shall be as follows: Ten percent (10%) of all contract payments shall be retained by the member as insurance of proper performance of the prime Contractor. Prime Contractor agrees to identify the amount of the invoices sent to the member school districts, then send copies of the invoices to the KPN. When fifty percent (50%) of the work is completed, as determined by the school district, one-half (1/2) of the amount retained shall be paid to the prime Contractor, if the prime Contractor requests payment, provided that the prime Contractor is making satisfactory progress and there is no specific cause for greater withholding. After the work is fifty percent (50%) completed, no more than five percent (5%) of the amount of any subsequent progress payments shall be retained, unless the governing board of the member determines that satisfactory

progress is not being made, at which point ten percent retention shall be reinstated. If the member and the prime Contractor agree to a substitute security, the agreement must be in full compliance with Pennsylvania law. If the substitute security is agreed to, the prime Contractor must provide KPN and the member with assigned and acknowledged waiver of any right or power of the obligor to set off any claim against KPN, the member, or the prime Contractor, in relationship to the security assigned. The prime Contractor, as authorized above, will pay any interest due a Subcontractor or material supplier. A Subcontractor to the prime Contractor may request, in writing, that the Subcontractor be notified by KPN within five (5) days of payment of each progress payment made to the prime Contractor. It is the responsibility of the prime Contractor to inform all suppliers and Subcontractors that this contract is a cooperative purchasing contract. Once all bonds are in place, the prime Contractor and the authorized agent of the member will agree in writing upon a schedule of payments based on identifiable milestones. Retaining of payments must be done in accord with 62 Pa.C.S.A. § 3921.

A contract containing a provision for retainage as provided in section 3921 (relating to retainage) shall contain a provision requiring the architect or engineer to make final inspection within 30 days of receipt of the request of the Contractor for final inspection and application for final payment. If the work is substantially completed, the architect or engineer shall issue a certificate of completion and a final certificate for payment, and the government agency shall make payment in full within 45 days except as provided in section 3921, less only one and one-half times the amount required to complete any then-remaining uncompleted minor items, which amount shall be certified by the architect or engineer and, upon receipt by the government agency of any guarantee bonds which may be required, in accordance with the contract, to insure proper workmanship for a designated period of time. The certificate given by the architect or engineer shall list in detail each uncompleted item and a reasonable cost of completion. Final payment of any amount withheld for the completion of the minor items shall be paid upon completion of the items in the certificate of the engineer or architect.

WORKERS' COMPENSATION ACT: The Contractor shall accept, insofar as the work covered by their contract is concerned, the provisions of the Workers' Compensation Act 44 of 1993, and any supplements of amendments thereof, including any which may hereafter be passed, and shall insure the Contractor's full liability there under for all parts of their contract being performed by the Contractor, the Contractor's partners, associates, employees or those of any the Contractor may employ herein, or file with the Entity a certificate of exemption from insurance from the Bureau of Workers' Compensation of the Department of Labor and Industry.

The Contractor shall, at all times, indemnify and save harmless the school entities of and from all claims for Workers' Compensation which may be made by any of the employees of the Contractor or by any of the employees to whom the Contractor may have let the performance of any part of the work embraced by their contract and the Contractor shall appear for and defend the school entities against any and all such claims. The Contractor shall be covered by Employers' Liability Insurance with a minimum limit of \$250,000 for each employee, \$2,000,000 policy limit and \$250,000 for each accident.

ACT 34 CRIMINAL BACKGROUND CHECKS: Independent Contractors and their employees who provide services to a Pennsylvania school entity are required to obtain a report of "Criminal History Record Information" from the Pennsylvania State Police. In the case of non-Pennsylvania residents, a report of "Federal Criminal Record Information" from the FBI is required in addition to the Pennsylvania State Police Report.

Contractors shall be required to do the following:

(1.) Present the original document/s Report of Criminal History Records information from the Pennsylvania State Police, report of Federal Criminal History Record Information from the Federal Bureau of Investigation to the Superintendent or the Superintendent's designee prior to the beginning of work for the school entity. The school entity shall retain a copy of the background check information and shall note on that copy the date on which the original document was inspected and the name of the administrator who viewed the original. This copy shall be retained in the school entity records with the original being returned to the Contractor.

(2.) If any new employees are added to the workforce during the course of the work, such employee(s) must follow the same procedure described above prior to any work for the school entity.

(3.) All costs for the Criminal History Information check(s) shall be borne by the perspective Contractor.

(4.) The school entity shall notify the Contractor in writing if the decision not to employ the Contractor or the Contractor's employees is based in whole or in part on criminal history records information.

(5.) The school entity shall follow the regulations promulgated by the State Board of Education concerning the confidentiality of the Criminal History Report Information obtained pursuant to the Act.

Upon written notice from the school entity, Contractors shall have all such persons removed from the project. School entity's right to declare such persons unfit shall not be limited to the required exclusion of persons from school property as set forth in Section 1-111 of the Pennsylvania School Code and/or Act 151 of 1994.

CHILD PROTECTIVE SERVICES BACKGROUND CHECKS: Prior to commencing work under the contract, the Contractor shall submit for any employee or independent Contractor who would be working on a school entity's site pursuant to work contemplated in the contract, an official clearance statement obtain from the Pennsylvania Department of Welfare pursuant to Act 151 of December 16, 1994 (P.L. 1292) subchapter C2 of the Child Protective Services Act. Contractor shall not allow any prospective employee or independent Contractor on the job site prior to providing the school entity with the above-referred clearance statement for prospective employees or independent Contractors.

ANTIBID-RIGGING ACT (NON-COLLUSION): In accordance with the Commonwealth of Pennsylvania's Antbid-Rigging Act, 62 Pa. C.S.A. § 4501 et seq., the Contractor shall execute and submit with the bid a Non-Collusion Affidavit required by the Agency. Each party to the joint venture must be identified in the bid documents, and an Affidavit must be submitted separately on behalf

of each party.

PREVENTION OF ENVIRONMENTAL POLLUTION: Section 3301 of the Pennsylvania Commonwealth Procurement Code requires that all invitations for Bids and requests for proposals for construction projects issued by any governmental agencies shall set forth any provision of Federal and State statutes, rules, and regulations dealing with prevention of environmental pollution and the preservation of public natural resources that affect the Project. A Notice of said provisions prepared by the Pennsylvania Department of Environmental Resources under Act 247 of 1972, 52 P.S. § 1612 (repealed) is available from Jeffrey L. Kimball, Cooperative Purchasing Services Director at the Keystone Purchasing Network, 90 Lawton Lane, Milton, PA 17847. His telephone number is 570-523-1155 x2130, and his e-mail address is jkimball@csiu.org. Said Notice is hereby incorporated by reference. Contractor is hereby notified and agrees to comply with the terms of all statutes, rules and regulations enumerated in the Notice.

ARCHITECTURAL SERVICES: For those Members who are Pennsylvania Public School Districts, and whose projects require architectural or engineering services, your attention is directed to Section 7-751.1 of the Pennsylvania Public School Code (24 P.S. § 7-751.1), which requires a public school district to engage an architect/engineer that is independent from the Vendor/Contractor's architect/engineer.

MULTIPLE PRIME CONTRACTORS: For those Members who are Pennsylvania Public School Districts, your attention is directed to Section 7-751 of the Pennsylvania Public School Code (24 P.S. § 7-751), which requires a public school district to use separate prime Contractors for plumbing, heating and ventilating, and electrical work. To the extent a school district's project extends beyond general construction services, the school district will need to separately bid plumbing, heating and ventilating, and electrical work, and should consult with its individual solicitor for compliance with Section 7-751. For other Members who are subject to multiple prime requirements under applicable bidding laws, such Members should consult with their individual solicitors for compliance with said requirements.

D. Procedure for Processing Orders

Once the award is made to the Contractor/vendor, KPN will inform its members of the contract by: (1) including the contract in the agency database that is available on the KPN website, (2) announcing the award in its periodic newsletter, and (3) publishing the contract information in a catalog disseminated to all members. A list of members, institution names, contact names, addresses and phone number will be made available to the vendor in an electronic format. At this point the Contractor/vendor contacts the members and members may contact the Contractor/vendor. When the member identifies a product or service it issues a purchase order for that item to the vendor. The vendor's price to its members will include the following administrative fees: currently 2% (two percent) on all supplies, equipment and construction, rental or lease, annual subscription fee, etc.; and others administrative fees as approved by KPN and will be collected from the member or other qualifying purchaser. KPN reserves the right to adjust the administrative fee at any time during the duration of the contract and any renewal period or to modify the administrative fee based on volume of purchase. If the administrative fee is reduced do to the size of the project the vendor will show the adjustment on the quote. The vendor will also compile a quarterly report showing all purchases made by KPN members under this contract. The vendor will also produce an annual report for all purchases made under this contract for a period of beginning with the award of the contract through December 31st and all consecutive 12-month periods if contract is extended. The vendor will make all administrative fee payments to KPN by the 15th of the succeeding month of each 3-month period (quarterly) after they have received payment from the member agency and all checks are to be made payable to the Central Susquehanna Intermediate Unit (CSIU) and sent to Keystone Purchasing Network, 90 Lawton Lane, Milton, PA 17847, and Attention: Jeff Kimball. All reporting of purchases will be broken down by entity by state and will show purchaser, total dollar and date of purchase.

E. Agencies Allowed to Purchase under the Member Agency

The Keystone Purchasing Network (KPN) is a cooperative purchasing program operated by the Central Susquehanna Intermediate Unit under various state inter-governmental cooperation laws. Every public school district in the state is eligible to become a member and must complete a membership application with the KPN. No member is obligated to use these services, but they find the benefits of low price and not needing to go through the bidding process most advantageous. Only those members listed on an approved KPN membership list are eligible to purchase under these contracts. This list may change during the contract period and currently includes members from Pennsylvania, Maryland, New York, Delaware, District of Columbia and other Northeast & Mid-Atlantic states. Vendors may choose to offer KPN in other non-AEPA member states where cooperative purchasing laws allow.

Additional members may include other public educational institutions in the state, college, university, community colleges, vocational schools, charter schools, municipal and county governments and other non-profit organizations from Pennsylvania or any other state where a member is located. Membership from other entities is permitted by various intergovernmental cooperative purchasing laws or regulation from their home state.

As member agencies from other states are added to the membership of the KPN the awarded vendor(s) agrees to abide by all state and local laws and/or regulations that may apply to any purchase of products, services or construction by these agencies. KPN reserves the right to market any AEPA contract under any cooperative program name that it may choose in the future on a national basis in any non-AEPA member state.

23. TexBuy, a Cooperative Purchasing Shared Services Cooperative Sponsored by the Region 16 Education Service Center Education Service Center

A. *Additional Agency Terms and Conditions*

- (1) **TexBuy funding:** The total cost of the TexBuy program is funded through a participation fee up to two percent (2%) paid to TexBuy by the Contractors. This fee shall be included in all pricing to TexBuy and its participating agencies. The fee is based on actual Contractor sales. TexBuy does not charge any fees to participating government agencies.
- (2) **Tax exempt status:** All government agencies participating in TexBuy are exempt from payment of taxes under Texas Tax Code §151.309 for the purchase of tangible personal property.
- (3) **Minority and Women Business Enterprise (MWBE) participation:** It is the policy of some TexBuy participants to involve MWBE Contractors in the purchase of goods and services. Contractors shall indicate on the proposal form whether or not they are an MWBE.
- (4) **Bid awards** shall not consider whether a vendor is a member of or has another relationship with any organization and bid specifications (and subsequent contracts) shall not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization in accordance with Texas Education Code §44.043.
- (5) **Felony Conviction Notice** (TexBuy Contractors will be required to sign a standard affidavit required by the State of Texas): Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony." Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract." This notice is not required of a publicly held corporation.
- (6) **SB 9: Criminal History and Background Checks**, in accordance with Texas Education Code Chapter 22, shall be required should any employee or agent of a contractor awarded a bid have "continuing duties related to the contracted services" with a school district and that employee or agent will have "direct contact with students" (as those terms are defined in 19 Texas Administrative Code §153.1101).
- (7) **Debarment and Suspension:** Under Executive Order 12549 in the Federal Register and Rules and Regulations, TexBuy and TexBuy participants shall not do business with a vendor that has been debarred, suspended, or is otherwise ineligible for participation in Federal Assistance Programs.
- (8) **Conflict of Interest:** In accordance with Texas Local Government Code Chapter 176, vendors/contractors who have a business relationship as defined by Section 176.001(1-a) with a local government entity and meet the requirements under section 176.006(a) must file a Conflict of Interest Questionnaire (Form CIQ) with the local government entity when:
 - (a.) The vendor/contractor has entered into a contract with the local government entity or the local government entity is considering entering into a contract with the vendor.
 - (b.) AND the vendor provides certain income or gifts to a Local Government Officer (LGO) or first-degree relatives as defined in the Texas Government Code
 - (c.) OR a family relationship exists between the LGO and the vendor's employees or agents as defined in the Texas Government Code.
- (9) **EDGAR Certification (Education Department General Administrative Regulations):** In accordance with Federal Regulations under 2 CFR § 200.318(c)(1) – When a Cooperative member seeks to procure goods and services using funds under a federal grant or contract, specific federal laws, regulations, and requirements may apply in addition to those under state law. This includes, but is not limited to, the procurement standards of the

Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR 200 (also known as the "Uniform Guidance" or new "EDGAR"). All Vendors submitting Proposals must complete this EDGAR Certification Form regarding the Offeror's willingness and ability to comply with certain requirements which may be applicable to specific TexBuy member purchases using federal grant funds. This completed form will be made available to TexBuy members for their use while considering their purchasing options when using federal grant funds. Members may also require Vendors to enter into ancillary agreements, in addition to the TexBuy's general terms and conditions, to address the member's specific contractual needs, including contract requirements for a procurement using federal grants or contracts.

- (10) **Antitrust Certification:** In accordance with Texas Government Code 2155.005, a local government entity shall not enter into contract with a vendor/contractor that has violated any provision of the Texas Antitrust laws referenced in Texas Business & Commerce Code Chapter 15 or any Federal antitrust laws.
- (11) **H.B 89 Verification:** In accordance with chapter 2270 of the Texas Government code, a local government entity (city, school district, special district, etc) may not enter into a contract with a for-profit company unless the local government entity obtains written verification that the company does not and will not boycott Israel during the term of the contract.

B. Additional Agency Terms and Conditions for Non-Construction Products and Services

- (1) **State of Texas Franchise Tax:** By signature hereon, the bidder certifies that he/she is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Texas Tax Code.
- (2) **Agricultural products,** including textiles and other similar products, are not to be made available to Texas school districts through the agreement, unless such products produced, processed, or grown in the state of Texas are given a preference in accordance with Texas Education Code §44.042.

C. Additional Agency Terms and Conditions for Construction Products and Services as required by law in the State of Texas:

- (1) **Certification of Residency (TexBuy Contractors will be required to sign a standard affidavit required by the State of Texas):** The State of Texas has a law concerning non-resident Contractors. This law can be found in Texas Government Code under Chapter 2252, Subchapter A. This law makes it necessary for TexBuy to determine the residency of its Contractors. In part, this law reads as follows:

(a.) **Section: 2252.001**

"Non-resident bidder" refers to a person who is not a resident. "Resident bidder" refers to a person whose principal place of business is in this state, including a Contractor whose ultimate parent company or majority owner has its principal place of business in this state."

(b.) **Section: 2252.002**

"A governmental entity may not award a governmental contract to a non-resident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located."

(2) **Security**

- (a.) **Bid Security,** when required by Texas Law, shall be furnished with the bid. The Bid Security shall consist of a certified check, cashier's check or a bid bond in the amount of ten percent (10%) of the total bid (or as otherwise stated in the RFB) that shall be a guarantee to furnish Performance and Payment Bonds. Bid Security shall be to TexBuy.
- (b.) **The Successful Bidder's Security** will be retained until the Contract is signed and the required Performance and Payment Bonds have been furnished. If any bidder refuses to enter into a contract

within 30 days or fails to furnish the required bonds, TexBuy will retain the Bid Security as liquidated damages, but not as a penalty.

- (c.) **Performance Bonds** when required by Texas Law, shall be furnished by the successful bidder in an amount equal to one hundred percent (100%) of the total amount of the contract sum, underwritten by such Surety Company as the Participating Agency may approve, conditioned upon the faithful performance of the work in accordance with the plans, specifications, and contract documents. Said bond shall be solely for the protection of the Participating Agency.
 - (d.) **Payment Bonds** when required by Texas Law shall be furnished by the successful bidder, in the amount of the contract, solely for the protection of all claimants supplying labor and material as hereinafter defined, in the prosecution of the work provided in said contract, for the use of each claimant.
 - (e.) **Prevailing Wage** must be paid to any contractors or subcontractors or their employees or agents in performing any work under the awarded bid.
 - (f.) **Criminal History Background Checks** in accordance with Texas Education Code §22.0834 shall be required should any employee or agent of a contractor awarded a bid have “continuing duties related to the contracted services” with a school district and that employee or agent will have “direct contact with students” (as those terms are defined in 19 Texas Administrative Code 153.1101).
- (3) **Insurance:** The Contractor shall file with the Participating Agency’s designee, Insurance Certificates, as described herein, evidencing the coverage required, and shall be supplied within ten (10) calendar days after receipt of the written “Notice of Award”. In no instance shall the Contractor begin work prior to the filing of the insurance requirements. Failure to do so shall be grounds to void the contract. The Participating Agency’s designee shall be given ten (10) days notice prior to the cancellation or change of any of the required insurance coverage. The Participating Agency shall be named as Certificate Holder.
- (a.) Contractor’s Liability Insurance: Produce and maintain in force the following kinds of insurance of companies acceptable to the Owner. Minimum Limits of Liability are stated.

Contractor’s Liability Insurance:

Employer’s Insurance Workers’ Compensation—Statutory Employer’s Liability

Bodily Injury by Accident Each Occurrence—\$100,000.00

Bodily Injury by Disease Each Employee—\$100,000.00

Policy Limit—\$500,000.00

Commercial General Liability -Combined Limits of Bodily and Personal Injury and Property Damage:

Single Limit—\$500,000.00

Unimpaired Aggregate—\$500,000.00

Comprehensive Automobile Liability - Including non-ownership, hired and owned vehicle coverage:

Bodily Damage Each Person—\$250,000.00

Each Occurrence—\$500,000.00

Property Damage Each Occurrence—\$250,000.00

(b.) Owner's Insurance: Carry and pay for Owner's Protective Liability Insurance in the same amounts as specified above for the Contractor's General Liability. Name the Architect, Engineers, and Consultants as additional insured if applicable.

(c.) Comprehensive Catastrophic Liability: excess over the above liability policies in the amount of \$2,000,000.00 each occurrence. (Combined Limit)

D. Procedure for Processing Orders

- (1) Purchase orders are issued by participating agencies to the Contractor.
- (2) "Automated contracts" may be negotiated with TexBuy that provide for purchase orders to be sent directly to the Contractor with reports of usage submitted periodically to TexBuy.
- (3) Contractors deliver goods/services directly to the participating agency and then invoice the participating agency. The Contractor receives payment directly from the participating agency.
- (4) TexBuy shall receive quarterly reports from the Contractor reflecting total sales made through the TexBuy contract with the Contractor. The Contractor shall remit payment of their participation fee up to two percent (2%) to TexBuy at net thirty-day (30) terms.

E. Members Purchasing Under the Agency

TexBuy is operated by Region 16 Education Service Center, Amarillo, Texas and is available for use by all public and private schools, colleges, universities, cities, counties and other government agencies in the State of Texas.

24. Virginia, Fairfax County Public Schools

Additional Agency Terms and Conditions that apply to all categories

AUTHORITY-The Purchasing Agent has the sole responsibility and authority for negotiating, placing and when necessary modifying every solicitation, contract and purchase order (except for capital construction projects) issued by the County of Fairfax. In the discharge of these responsibilities, the Purchasing Agent may be assisted by assigned Buyers. Unless specifically delegated by the County Purchasing Agent, no other County officer or employee is authorized to order supplies or services, enter into purchase negotiations or contracts, or in any way obligate the government of the County of Fairfax for indebtedness. Any purchase ordered or contract made which is contrary to these provisions and authorities shall be of no effect and void and the County shall not be bound thereby.

NOTE: Fairfax County does not discriminate against faith-based organizations, in accordance with the *Code of Virginia*, § 2.2-4343.1, or against a Bidder or Bidder because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment in the performance of its procurement activity.

GENERAL

1. DEFINITIONS-

AGENCY: Any Department, Agency, Authority, Commission, Board or other unit in the Administrative Service of the County.

BIDDER/BIDDER: Any individual, company, firm, corporation, partnership or other organization bidding on solicitations issued by the Purchasing Agent and offering to enter into contracts with the County. The term "Bidder" will be used throughout this document and shall be construed to mean "Bidder" where appropriate.

CONTRACTOR: Any individual, company, firm, corporation, partnership or other organization to whom an award is made by the County.

COUNTY: County of Fairfax.

GOODS: All material, equipment, supplies, printing, and automated data processing/information technology hardware and software.

PURCHASING AGENT: The Purchasing Agent employed by the Board of Supervisors of Fairfax County, Virginia.

SERVICES: Any work performed by an independent Contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

STATE: Commonwealth of Virginia.

- 2. FUNDING-**A contract shall be deemed binding only to the extent of appropriations available to each Agency for the purchase of goods and services.
- 3. CONTRACT ALTERATIONS-**No alterations in the terms of a contract shall be valid or binding upon the County unless made in writing and signed by the Purchasing Agent or his or her authorized agent.
- 4. SUBLETTING OF CONTRACT OR ASSIGNMENT OF CONTRACT FUNDS-**It is mutually understood and agreed that the Contractor shall not assign, transfer, convey, sublet or otherwise dispose of his or her contractual duties to any other person, firm or corporation, without the previous written consent of the Purchasing Agent. If the Contractor desires to assign his or her right to payment of the contract, Contractor shall notify the Purchasing Agent immediately, in writing, of such assignment of right to payment. In no case shall such assignment of contract relieve the Contractor from his or her obligations or change the terms of the contract.
- 5. NEW GOODS, FRESH STOCK-**All Contractors, unless otherwise specifically stated, shall provide new commodities, fresh stock, latest model, design or pack.
- 6. INSPECTION-ACCEPTANCE-**For determining acceptance of supplies in accordance with the provisions of the prompt payment discount paragraph, inspection and acceptance shall be accomplished only after examination (including testing) of supplies and services to determine whether the supplies and services conform to the contract requirements. Acceptance shall occur only after receipt and inspection provided such inspection, as appropriate, is accomplished within a reasonable time.
DELIVERY/SERVICE FAILURES-Failure of a Contractor to deliver goods or services within the time specified, or within reasonable time as interpreted by the Purchasing Agent, or failure to make replacements/corrections of rejected articles/services when so requested, immediately or as directed by the Purchasing Agent, shall constitute authority for the Purchasing Agent to purchase in the open market articles/services of comparable grade/quality to replace the services, articles rejected, and/or not delivered. On all such purchases, the Contractor shall reimburse the County, within a reasonable time specified by the Purchasing Agent, for any expense incurred in excess of contract prices. Such purchases shall be deducted from the contract quantities if applicable. Should public necessity demand it, the County reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Agent.
- 7. GUARANTEES & WARRANTIES-**All guarantees and warranties required shall be furnished by the Contractor and shall be delivered to the Purchasing Agent before final payment on the contract is made. Unless otherwise stated, manufacturer's standard warranty applies.
- 8. INSPECTIONS-**Inspection and acceptance of materials or supplies will be made after delivery at destinations herein specified unless otherwise stated. If inspection is made after delivery at destination herein specified, the County will bear

the expense of inspection except for the value of samples used in case of rejection. Final inspection shall be conclusive except in regard to latent defects, fraud or such gross mistakes as to amount to fraud. Final inspection and acceptance or rejection of the materials or supplies will be made as promptly as practicable, but failure to inspect and accept or reject materials or supplies shall not impose liability on the County for such materials or supplies as are not in accordance with the specifications.

9. **POINT OF DESTINATION**-All materials shipped to the County must be shipped F.O.B. DESTINATION unless otherwise stated in the contract or purchase order. The materials must be delivered to the "Ship to" address indicated on the purchase order.
10. **ADDITIONAL CHARGES**-Unless bought F.O.B. "shipping point" and Contractor prepays transportation, no delivery charges shall be added to invoices except when express delivery is authorized and substituted on orders for the method specified in the contract. In such cases, difference between freight or mail and express charges may be added to invoice.
11. **TERMINATION OF CONTRACTS**-Contracts will remain in force for full periods specified and/or until all articles ordered before date of termination shall have been satisfactorily delivered and accepted and thereafter until all requirements and conditions shall have been met, unless:
 - a. Terminated prior to expiration date by satisfactory deliveries of entire contract requirements, or upon termination by the County for Convenience or Cause.
 - b. Extended upon written authorization of the Purchasing Agent and accepted by Contractor, to permit ordering of unorderd balances or additional quantities at contract prices and in accordance with contract terms.
12. **TERMINATION FOR CONVENIENCE**-A contract may be terminated in whole or in part by the County in accordance with this clause whenever the County Purchasing Agent shall determine that such a termination is in the best interest of the County. Any such termination shall be effected by delivery to the Contractor at least five (5) working days prior to the termination date of a Notice of Termination specifying the extent to which performance shall be terminated and the date upon which termination becomes effective. An equitable adjustment in the contract price shall be made for completed service, but no amount shall be allowed for anticipated profit on unperformed services.
13. **TERMINATION OF CONTRACT FOR CAUSE**-
 - a. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his or her obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the County shall thereupon have the right to terminate, specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the contract shall, at the option of the County, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.
14. Notwithstanding the above, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of contract by the Contractor for the purpose of set off until such time as the exact amount of damages due to the County from the Contractor is determined.
15. **CHANGES**-Should it become proper or necessary in the execution of this contract to make any change in design, or to make any alterations which will increase the expense, the Purchasing Agent shall determine an equitable adjustment. No payment shall be made to the Contractor for any extra material or services, or of any greater amount of money than stipulated to be paid in the contract, unless some changes in or additions to the contract requiring additional outlay by the Contractor shall first have been expressly authorized and ordered in writing by contract amendment or otherwise furnished by the Purchasing Agent.
16. **GENERAL GUARANTY**-Contractor agrees to:
 - a. Save the County, its agents and employees harmless from liability of any nature or kind for the use of any copyrighted or uncopyrighted composition; secret process, patented or unpatented; invention; article or appliance furnished or used in the performance of a contract for which the Contractor is not the patentee, assignee, licensee or owner.
 - b. Protect the County against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit or delivery.
 - c. Furnish adequate protection against damage to all work and to repair damages of any kind to the building or equipment, to his or her own work or to the work of other Contractors, for which his or her workers are responsible.
 - d. Pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the County.
 - e. Protect the County from loss or damage to County owned property while it is in the custody of the Contractor.
17. **SERVICE CONTRACT GUARANTY**-Contractor agrees to:
 - a. Furnish services described in the solicitation and resultant contract at the times and places and in the manner and subject to conditions therein set forth provided that the County may reduce the said services at any time.
 - b. Enter upon the performance of services with all due diligence and dispatch, assiduously press to its complete performance, and exercise therein the highest degree of skill and competence.
 - c. All work and services rendered in strict conformance to all laws, statues, and ordinances and the applicable rules,

regulations, methods and procedures of all government boards, bureaus, offices and other agents.

- d. Allow services to be inspected or reviewed by an employee of the County at any reasonable time and place selected by the County. Fairfax County shall be under no obligation to compensate Contractor for any services not rendered in strict conformity with the contract.

Stipulate that the presence of a County Inspector shall not lessen the obligation of the Contractor for performance in accordance with the contract requirements, or be deemed a defense on the part of the Contractor for infraction thereof. The Inspector is not authorized to revoke, alter, enlarge, relax, or release any of the requirements of the contract documents. Any omission or failure on the part of the Inspector to disapprove or reject any work or material shall not be construed to be an acceptance of any such defective work or material. Notification of an omission or failure will be documented by the Purchasing Agent.

- 18. INDEMNIFICATION**-Contractor shall indemnify, keep and save harmless the County, its agents, officials, employees and volunteers against claims of injuries, death, damage to property, patent claims, suits, liabilities, judgments, cost and expenses which may otherwise accrue against the County in consequence of the granting of a contract or which may otherwise result therefrom, if it shall be determined that the act was caused through negligence or error, or omission of the Contractor or his or her employees, or that of the Subcontractor or his or her employees, if any; and the Contractor shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and if any judgment shall be rendered against the County in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County as herein provided.

- 19. NON-DISCRIMINATION**-During the performance of this contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- d. The Contractor will include the provisions of the foregoing paragraphs a, b, and c above in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each Subcontractor or vendor.
- e. Contractor and Subcontractor hereunder shall, throughout the term of this contract, comply with the Human Rights Ordinance, Chapter 11 of the Code of the County of Fairfax, Virginia, as reenacted or amended.

- 20. DRUG FREE WORKPLACE**-During the performance of a contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract of over \$10,000, so that the provisions will be binding upon each Subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to a Contractor in accordance with this section, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

- 21. OFFICIALS NOT TO BENEFIT**-

- a. Each Bidder or Bidder shall certify, upon signing a bid or proposal, that to the best of his or her knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of his or her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.
- b. Whenever there is reason to believe that a financial benefit of the sort described in paragraph "a" has been or will be received in connection with a bid, proposal or contract, and that the Contractor has failed to disclose such benefit or has inadequately disclosed it, the County Executive, as a prerequisite to payment pursuant to the contract, or at any other time, may require the Contractor to furnish, under oath, answers to any interrogatories related to such possible

benefit.

- c. In the event the Bidder or Bidder has knowledge of benefits as outlined above, this information should be submitted with the bid or proposal. If the above does not apply at time of award of contract and becomes known after inception of a contract, the Bidder or Bidder shall address the disclosure of such facts to the Fairfax County Purchasing Agent, 12000 Government Center Parkway, Suite 427, Fairfax, Virginia 22035-0013. Relevant Invitation/Request for Proposal Number (see cover sheet) should be referenced in the disclosure.

LICENSE REQUIREMENT-All firms doing business in Fairfax County, shall obtain a license as required by Chapter 4, Article 7, of The Code of the County of Fairfax, Virginia, as amended, entitled "Business, Professional and Occupational Licensing (BPOL) Tax." Questions concerning the BPOL Tax should be directed to the Department of Tax Administration, telephone (703) 222-8234 or visit: http://www.fairfaxcounty.gov/dta/business_tax.htm. The BPOL Tax number must be indicated in the space provided on the Cover Sheet, "Fairfax License Tax No." when appropriate.

- 22. REGISTERING OF CORPORATIONS**-Any foreign corporation transacting business in Virginia shall secure a certificate of authority as required by Section 13.1-757 of the Code of Virginia, from the State Corporation Commission, Post Office Box 1197, Richmond, Virginia 23209. The Commission may be reached at (804) 371-9733. The consequences of failing to secure a certificate of authority are set forth in Virginia Code Section 13.1-758.

- 23. COVENANT AGAINST CONTINGENT FEES**-The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For violation of this warranty, the County shall have the right to terminate or suspend this contract without liability to the County or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

24. OFFICE OF SMALL BUSINESS-

- a. It is the policy of the County of Fairfax as declared by the Fairfax County Board of Supervisors' adoption of a Small and Minority Business Enterprise Program, April 6, 1981, that Fairfax County and its employees undertake every effort to increase opportunity for utilization of small or minority businesses in all aspects of procurement to the maximum extent feasible.
- b. In connection with the performance of this contract, the Contractor agrees to use his or her best effort to carry out this policy and to insure that small and minority businesses shall have the maximum practicable opportunity to compete for subcontract work under this contract consistent with the efficient performance of this contract.
- c. As used in this contract the term "small business" means a corporation, partnership, or sole proprietorship, or other legal entity formed for the purpose of making a profit, which is independently owned and operated, has either fewer than 100 employees, or less than \$1,000,000 in annual receipts.
- d. As used in this contract, the term "minority business" means a business enterprise that is at least 51 percent owned and controlled by a minority person or persons. Such persons include African Americans, Hispanic Americans, Asian Americans, American Indians, Eskimos and Aleuts; women regardless of race or ethnicity; and persons with a physical impairment that substantially limits one or more of the major life activities of such individuals, a record of such impairment, or who are regarded as having such an impairment.
- e. Contractors may rely on oral or written representations by Subcontractors regarding their status as small and/or minority business enterprises in lieu of independent investigation.
- f. Where Federal grants or monies are involved it is the policy of Fairfax County, through its agents and employees, to comply with the requirements set forth in the U.S. Office of Management and Budget Circular No. A-102, uniform administrative requirements for Grants and Cooperative Agreements with State and Local Governments, as they pertain to small and minority business utilization.

PAYMENTS

- 25. TAX EXEMPTION**-The County is exempt from the payment of any federal excise or any Virginia sales tax. The price bid must be net, exclusive of taxes. However, when under established trade practice any federal excise tax is included in the list price, a Bidder may quote the list price and shall show separately the amount of federal tax, either as a flat sum or as a percentage of the list price, which shall be deducted by the County. Fairfax County's Federal Excise Tax Exemption Number is 54-74-0127K. Contractors located outside the Commonwealth of Virginia are advised that when materials are picked up by the County at their place of business, they may charge and collect their own local/state sales tax. Materials used in the performance of construction contracts are subject to Virginia Sales/Use Tax as described in Section 630-10-27J of the Virginia Retail Sales and Use Tax Regulations.

- 26. PAYMENT**-Payment shall be made after satisfactory performance of the contract, in accordance with all of the provisions thereof, and upon receipt of a properly completed invoice. Fairfax County reserves the right to withhold any or all payments or portions thereof for Contractor's failure to perform in accordance with the provision of the contract or any modifications thereto.

- 27. PARTIAL PAYMENTS-**Unless otherwise specified, partial payments will be made upon acceptance of materials or services so invoiced if in accordance with completion date. However, up to 5 percent (5%) of the value of the entire order may be retained until completion of contract.
- 28. PAYMENT FOR EQUIPMENT, INSTALLATION, AND TESTING-**When equipment requires installation (which shall also be interpreted to mean erection and/or setting up or placing in position, service, or use) and test, and where such installation or testing is delayed, payment may be made on the basis of 50% of the contract price when such equipment is delivered on the site. A further allowance of 25% may be made when the equipment is installed and ready for test. The balance shall be paid after the equipment is tested and found to be satisfactory. If the equipment must be tested, but installation is not required to be made by the Contractor or if the equipment must be installed but testing is not required, payment may be made on the basis of 75% at the time of delivery and the balance shall be paid after satisfactory test or installation is completed.

REMEDIES

29. INELIGIBILITY-

- a. Any person or firm suspended or debarred from participation in County procurement shall be notified in writing by the County Purchasing Agent.
 1. The Notice of Suspension shall state the reasons for the actions taken and such decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the Notice by instituting legal action as provided in the Code of Virginia.
 2. The Notice of Debarment shall state the reasons for the actions taken and the decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the notice by instituting legal action as provided in the Code of Virginia.
- b. The County Purchasing Agent shall have the authority to suspend or debar a person or firm from bidding on any contract for the causes stated below:
 1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
 2. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County Contractor;
 3. Conviction under the state or federal antitrust statutes arising out of the submission of bids or proposals;
 4. Violation of contract provisions, as set forth below, of a character which is regarded by the County Purchasing Agent to be so serious as to justify suspension or debarment action:
 - (a) failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - (b) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the Contractor shall not be considered to be a basis for suspension or debarment;
 5. Any other cause the County Purchasing Agent determines to be so serious and compelling as to affect responsibility as a Contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands;
 6. The Contractor has abandoned performance or been terminated for default on any other Fairfax County project;
 7. The Contractor is in default on any surety bond or written guarantee on which Fairfax County is an obligee.
- c. If, upon appeal, it is determined that the action taken by the County Purchasing Agent was arbitrary or capricious, or not in accordance with the Constitution of Virginia, statutes or regulations, the sole relief available to the person or firm shall be restoration of eligibility. The person or firm may not institute legal action until all statutory requirements have been met.

30. CONTRACTUAL DISPUTES-

- a. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the County Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy thereof to the Contractor within thirty (30) days. The decision of the County Purchasing Agent shall be final and conclusive unless the Contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A Contractor may not institute legal action, prior to receipt of the public body's decision on the claim, unless the public body fails to render such decision within the time specified.
- b. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the Contractor's intention to file such claim shall have been given at the time

of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

31. LEGAL ACTION-No Bidder, Bidder, potential Bidder or Bidder, or Contractor shall institute any legal action until all statutory requirements have been met.

C - Member Purchasing

32. COOPERATIVE PURCHASING-The County may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, or the District of Columbia, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for architectural and engineering services, a public body may purchase from another public body's contract even if it did not participate in the request for proposal (RFP) or invitation for bid (IFB), if the RFP or IFB specified that the procurement was being conducted on behalf of other public bodies. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement. As authorized by the United States Congress and consistent with applicable federal regulations, and provided the terms of the contract permit such purchases, any county, city, town, or school board may purchase goods and nonprofessional services from a U.S. General Services Administration contract or a contract awarded by any other agency of the U.S. government. Bidders are advised that the *resultant* contract(s) may be extended, with the authorization of the Bidder, to other public bodies, or public agencies or institutions of the United States to permit their use of the contract at the same prices and/or discounts and terms of the resulting contract. If any other public body decides to use the final contract, the Contractor(s) must deal directly with that public body concerning the placement of orders, issuance of purchase orders, contractual disputes, invoicing and payment. The County of Fairfax acts only as the "Contracting Agent" for these public bodies. It is the Contractors responsibility to notify the public body(s) of the availability of the contract(s). Other public bodies desiring to use this contract will need to make their own legal determinations as to whether the use of this contract is consistent with their laws, regulations, and other policies. Each public body has the option of executing a separate contract with the Contractor(s). Public bodies may add terms and conditions required by statute, ordinances, and regulations, to the extent that they do not conflict with the contracts terms and conditions. If, when preparing such a contract, the general terms and conditions of a public body are unacceptable to the Contractor, the Contractor may withdraw its extension of t

25. Washington, King County Directors' Association (KCDA)

(General Contracts and Construction/Public Works Projects)

A. KCDA Additional General Terms and Conditions

General Intent: KCDA may participate in all or any part of the goods and services listed in this IFB, upon completion of contracts currently in effect, whichever is deemed in the best interest of KCDA members. KCDA cannot be restricted by the successful bidder from choosing which parts of these contracts to use.

Both the Contractor and KCDA member using this Contract agree that it is the member's responsibility to perform due diligence as to the legality of their usage of this contract. In this regard, KCDA suggests that, at a minimum, Contractor and member considering such usage consult with their legal counsel before doing so.

Advertising/Marketing:

KCDA requires all vendors to develop a marketing program to include printed, web-based, e-mail, telemarketing and other methods approved by KCDA.

All promotional marketing materials must have the prior approval of KCDA before distribution and must include the KCDA logo and other contract information.

KCDA staff will work jointly with all vendors and their representatives to market the AEPA contracts to KCDA members and prospective members. Vendors may be requested to make joint presentations to KCDA or its members in either a one to one or a group setting. Some group presentations may be done in conjunction with other vendors.

Displaying exhibits at various statewide conferences are encouraged. Contractor agrees to make available KCDA supplied brochures or other promotional materials at these events. Contractor will provide KCDA with scheduled exhibit dates in advance.

Contractor agrees to insert the approved KCDA logo, web address and contact information on the Contractor's website promoting and providing a link to the KCDA website. Contractor will also provide KCDA with text, links and logos to be posted on the KCDA website.

Assignment:

Contractor shall not subcontract, assign, transfer, convey, sublet or otherwise dispose of contractual duties to any other person, firm or corporation without the previous written consent of KCDA and any member that has an outstanding open purchase order or financing arrangement. In no case shall such assignment of Contract relieve the Contractor from obligations or change the terms of the Contract.

Cancellation/Default/Termination:

KCDA reserves the right to cancel the whole or any part of this contract due to the failure by the Contractor to carry out any obligation, term or condition of the contract. KCDA will issue written notice to the contractor for acting or failing to act in any of the following:

- The Contractor fails to adequately perform the services set forth in the contract
- The Contractor fails to make progress in the performance of the contract and/or gives KCDA reason to believe the Contractor will not or cannot perform to the requirements of the contract
- The Contractor fails to observe any of the terms and conditions of the contract
- The Contractor fails to pay any applicable administrative fees.
- The Contractor fails to follow the established procedure for purchase orders, invoices and receipt of funds as stipulated by KCDA.

If the contract is to be terminated KCDA shall do the following:

Step 1 – Issue a warning Letter of Concern outlining the violations and length of time to correct the problem(s). Upon receipt of the letter, the Contractor shall have ten (10) business days to provide a satisfactory response to KCDA. Failure on the part of the Contractor to address adequately all issues of concern may result in contract cancellation.

Step 2 – Issue a letter of intent to cancel the contract if the problems(s) are not resolved by the date specified.

Step 3 – Issue a letter to terminate the contract.

Compliance with Laws

In addition to any requirements set forth herein, vendor shall comply with all applicable state, federal and local laws, rules, regulations and ordinances.

Contract Amendments:

KCDA reserves the right to amend the contract resulting from state law changes or internal boilerplate changes due to state law changes. Contractors/Vendors will be sent written notification of the changes.

Employees who have been Convicted of Crimes Against Children:

The Contractor, or any subcontractors, shall not utilize any employee at a school site or allow any contact between school children and any employee when an employee has plead guilty to or been convicted of any felony crime involving the physical neglect of a child under Chapter 9A.42RCW, the physical injury or death of a child under Chapter 9A.32 or 9A.36RCW (except motor vehicle violations under Chapter 46.61 RCW), sexual exploitation of a child under Chapter 9A.444 RCW where a minor is the victim, promoting prostitution of a minor under Chapter 9A.88 RCW, the sale or purchase of a minor child under 9A.88 RCW, or violation of similar laws of another jurisdiction.

Contractors/Vendors who have regularly scheduled unsupervised access to children, and/or who hire employees who will have regularly scheduled unsupervised access to children, shall perform a record check through the Washington State Patrol criminal identification system under RCW 43.43.830-43.43.834, 10.97.0303 and 10.97.050, and through the Federal Bureau of Investigation before hiring the employee. The record check shall include a fingerprint check using a complete Washington State criminal identification fingerprint card. The Contractor shall provide a copy of the record to the person applying for employment to the school location. If the Contractor or applicant has had a record check within the previous two years, the Contractor may waive the requirement. The Contractor shall determine whether the applicant or the Contractor shall pay costs associated with the record check.

In addition, pursuant to RCW 9.96A.020 and 1993 Chapter Law 71, a person is disqualified from employment by school districts, and their Contractor from hiring employees who will have regularly scheduled unsupervised access to children because of a prior guilty plea or conviction of a felony crime specified under RCW 28A.400.322, or a violation of similar laws of another jurisdiction, even if the time elapsed since the guilty plea or conviction is ten years or more.

Governing Law and Venue/Legal Litigation:

All applicable local, state and federal laws and regulations will apply to any purchases of equipment, service or public works in any of the states KCDA currently services, as well as any other non-AEPA states where members may be added to KCDA membership throughout the term of these contracts. The laws of the State of Washington govern the Contract. Each and every provision of law and clause required by law to be included in the Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction. Venue for any litigation arising out of or related to the Contract shall take place in the State of Washington.

Hazardous Materials:

If any hazardous chemicals/materials are supplied under a contract/purchase order arising out of this solicitation, a Safety Data Sheet (SDS) shall accompany the delivery of any hazardous chemicals/materials supplied by the vendor. All SDA sheets shall be sent to KCDA and the KCDA member. Any products not appropriately labeled will be refused and the vendor will be responsible for additional freight charges.

Indemnification/Hold Harmless:

The Contractor agrees to defend, indemnify and hold harmless KCDA and the member agency, and their respective officers, officials, employees and volunteers from any and all claims, injuries, damages, losses or suits including attorney fees arising out of or resulting from the acts, errors or omissions in performance of this Agreement, except for injuries and damages caused by the sole negligence of KCDA or the member agency. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor, KCDA or the member agency and their respective officers, officials, employees, and volunteers, the Contractor's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purpose of this indemnification. Use of this contract certifies that the waiver of immunity specified by this provision was mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of the Agreement.

Independent Contractor:

The Contractor shall not be held or deemed in any way to be the agent or employee of KCDA and /or a KCDA member. It is the intention of the parties that the Contractor shall be and is to be considered an independent Contractor.

Minority and Women Owned Businesses:

KCDA encourages all minority and women owned businesses to participate in the bid process. Washington State law does not allow KCDA to provide any financial advantage for minority and women owned businesses who participate, however, KCDA believes that a diverse range of suppliers benefits all.

Quality of Goods:

Bidder shall bid and provide new (not used or refurbished) items only. Seller warrants all supplies, materials and equipment and services covered by a contract/purchase order with KCDA or with a KCDA member will:

- (a) conform to the specifications, drawings, written instructions, samples, or descriptions;
- (b) be of good quality and workmanship;
- (c) be free of defects in design, materials and workmanship;
- (d) be merchantable;
- (e) be fit for particular purposes applicable to the design, function or use of the supplies, materials and equipment.

Taxes:

The KCDA Members and Associate Members are to be taxed.

Term of Contract:

The term of the agreement shall commence on the date of the award and continue as stipulated in the General Terms and Conditions, unless terminated, canceled or extended.

Use of Tobacco on School Districts/Public Agency Premises:

RCW 28A.210.310 prohibits the use of tobacco in any form on school district property. Smoking or other use of tobacco will not be permitted at the job site.

B. Procedure for Processing Orders Order Procedure

After entering into an agreement with KCDA, KCDA will confirm the directions for placement of orders with the Contractor, and will post directions on the KCDA website for both Contractor and members. These directions will also be posted on each awarded Contractors/Vendors website.

- Once the award is made to the Contractor, KCDA will inform members of the contract.
- At this point the Contractor may directly contact members or the member may contact the Contractor.
- A list of members, addresses and phone numbers is available to the Contractor upon request.
- Before a Contractor may enter into business with a KCDA member, they need to verify membership through the KCDA website, which can be viewed under Membership.

Invoicing/Reporting

- KCDA will contact Contractors/Vendors about invoicing procedures.
- KCDA is funded through a service fee paid to KCDA by the participating Contractors/Vendors. The service fee percentage is based upon the total sale of goods and services, including installation, if applicable. This fee shall be reflected in all price quotations under the KCDA agreement. The service fee will be 2%. Do not print the service fee as a separate line item on the quotation.
- The Contractor will compile an electronic quarterly report listing each purchase made by participating members. Within 30 days after each quarterly period the report will be sent to the e-mail address of the KCDA Purchasing Director, Thomas Kim, tkim@kcda.org and Director of Finance, Robert Payne rpayne@kcda.org
- These reports shall be in Microsoft Excel format and shall have file names that identify the Contractor and the quarterly period being reported. They shall include the following fields and allow for sorting on any of the fields: Date of order, name of member, item purchased, quantity, unit price, extended price, member PO #, Contractor order number.
- KCDA reserves the right to change the contact name of existing KCDA personnel administering the contract. If there are personnel changes, reports and payments will be sent to the new contact(s) specified.

C. Agencies Allowed to Purchase under KCDA

King County Director's Association (KCDA) is a member owned purchasing cooperative representing 295 Washington State school districts. In addition, KCDA provides purchasing and procurement services for more than 1,200 public agencies and political subdivisions in Washington and other states, including but not limited to Alaska, Idaho, and Montana. KCDA also provides purchasing services for accredited private K-12 schools in Washington State.

A listing of all KCDA members is available on the KCDA website, www.kcda.org.

D. KCDA Additional Terms & Conditions for Construction Products and Services

Contractor agrees that, in performance of the services required under this agreement, Contractor shall abide by all federal, state, local and Washington law and regulations that may apply to construction and public works. It is the responsibility of the Contractor to determine applicability and requirements of any such laws and to abide by them.

- **Bid Bond:** The bid must be accompanied by a bid bond using the KCDA form included in these contract provisions, issued by a surety licensed to do business in the State of Washington and made out to King County Directors Association in an amount not less than 5% of the amount of the bid as identified in Part B, Section 4 of the solicitation. A Power of Attorney must accompany the bid bond and must appoint the surety's true and lawful attorney-in-fact to make, execute, seal and deliver the bid guarantee bond. Failure to submit the required bid security with the Bid shall render the bid non-responsive and the bid shall be rejected.
- **Public Works:** State of Washington statute requires workers be paid prevailing wages when employed on public works projects and on public building service maintenance contracts. (RCW 39.04.010, RCW 39.12.010 and 020) It is the contractor's responsibility to be acquainted with and comply with State regulations regarding payment of prevailing wages on public works projects. Prevailing Wages are established by the Washington State Department of Labor and Industries and can be obtained on the web at <http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp> or by contacting Labor and Industries at 360-902-5335. KCDA serves all counties in Washington State. The County in which the project is located will be identified once a member initiates a request for the service, and the effective wage rate to be applied to a specific project is to be based on the date of this bid during the original contract term, and if contract extensions are granted, the prevailing wage rate in effect at the time of the latest extension. A copy of the applicable prevailing wage rates are also available for viewing at the office of KCDA. Upon request KCDA will mail a hard copy of the applicable prevailing wages.
- **Application:** The Public Works Act regulates wages paid to workers, laborers and mechanics performing public work. It does not apply to work that is clerical, executive administrative or professional in nature. It does not apply to work of a secretary, engineer or administrator, unless they are performing construction work, alteration work, repair work, etc. Prevailing wage application depends on the work that is performed, regardless of the worker's job title. (RCW 39.12.020 and WAC 296-128-510 through 530). Definition: Public Works is all work, construction, alteration, repair or improvement that is executed at the cost of the state or any other local public agency. This includes, but is not limited to, demolition, remodeling, renovation, road construction, building construction, ferry construction and utilities construction. (RCW 39.04.010). Public Building Service Maintenance Contracts: Prevailing wages are also required on all public building service maintenance (janitorial) contracts. (RCW 39.12.020). **Contractors bidding a Public works project exceeding \$1,000,000.00 must declare who their HVAC, Plumbing and Electrical subcontractors will be and submit this information with bid documents in order for the bid to be responsive (RCW 39.30.060).** Such projects also have special considerations pertaining to prefabricated materials (RCW 39.04.370) and use of apprentices (39.04.320).
- **Reciprocity:** In accordance with RCW 39.04.380 any bidding process for public works in which a bid is received from a nonresident contractor from a state that provides a percentage bidding preference, a comparable percentage disadvantage must be applied to the bid of that nonresident contractor. This does not apply to public works procured pursuant to RCW 39.04.155, 39.04.280 or other procurement exempt from competitive bidding.
- **Prevailing Wage:** Definition: Prevailing Wage is the hourly wage, usual benefits and overtime, paid in the largest city in each county, to the majority of workers, laborers and mechanics. The rate is established by the Department of Labor and Industries for each trade and occupation employed in the performance of public work. If Federal funds are used, bidders must comply with provisions of Davis-Bacon Act.
- **Basic procedures:** A Statement of Intent to Pay Prevailing Wages and Affidavit of Wages Paid must be filed and approved for the contractor and all subcontractors. No payments can be made until all Contractors/Vendors have submitted an approved intent form. KCDA cannot release retainage until all Contractors/Vendors have an approved Affidavit of Wages Paid form certified by the Industrial Statistician. (RCW 39.12.030, 040, 042). Costs for filing shall be the responsibility of the Contractor. Once the work is successfully completed, KCDA will release 95% of the project cost and withhold 5% retainage for as dictated by law. The final 5% will be paid when the following is completed: acceptance of project completion to the satisfaction of the KCDA ordering member, followed by receipt of approved Affidavit of Wages Paid Forms, Releases from Washington State Department of Labor & Industries, Employment Security Department and the Department of Revenue.
- **Federally Funded Projects:** In addition to the Federal Requirements of Section III General Terms and Conditions, Davis-Bacon prevailing wage requirements apply to public works construction contracts of \$2000 or more when a project includes any federal funding of any amount. When there is a difference between applicable state and federal prevailing wages for a particular classification of labor, contractors and subcontractors are required to pay the higher of the two prevailing wages. Applicable federal prevailing wage determinations can be found at <http://www.wdol.gov/>. Contractors/Subcontractors must be knowledgeable and adhere to all federal prevailing wage requirements, including but not limited to paying workers weekly and providing certified weekly payrolls for the contractor and subcontractors of any tier as required in the Davis-Bacon Act and applicable U.S. Department

of Labor regulations. Falsification of any prevailing wage payroll records may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of Title 18 and section 231 of Title 31 of the United States Code. Contractor shall inform all subcontractors of the Davis-Bacon requirements and the prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses. Contractor must coordinate all requirements related to federal funded projects with the KCDA member Agency.

- **Responsible Bidder**

Before award, the bidder must meet the following state responsibility criteria and, if applicable, supplemental responsibility criteria to be considered a responsible bidder. The bidder is required to submit documentation demonstrating compliance with the criteria.

Low Responsible Bidder

A. State Responsibility Criteria. The Bidder must meet the following state responsibility criteria:

1. At the time of submittal of bid to AEPA, the contractor must hold a current Washington State Contractors License in the name of the company signing the bid. Failure to have the license prior to submitting the bid is a violation of chapter 18.27 RCW and is a gross misdemeanor.
2. Have a current Washington State Unified Business Identifier (UBI) number.
3. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3).
4. If applicable:
 - a. Have Industrial Insurance (workers' compensation) coverage for the Bidder's employees working in Washington State, as required in Title 51 RCW;
 - b. Have a Washington State Employment Security Department number, as required in Title 50 RCW; and
 - c. Have a Washington State Department of Revenue state excise tax registration number, as required in Title 82 RCW.

B. Supplemental Bidder Responsibility Criteria. If supplemental criteria apply to this project, the criteria are included in "Attachment A." The Bidder may make a written request to modify any or all of the supplemental criteria. Modification of supplemental criteria shall be at KCDA's discretion. Any modifications to the supplemental criteria shall be made by addenda prior to bid opening.

Subcontractor Responsibility:

The contractor shall include the language of this section in each of its first tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. The requirements of this section apply to all subcontractors regardless of tier. At the time of subcontract execution, the Contractor shall verify that each of its first tier subcontractors meets the following bidder responsibility criteria:

1. At the time of bid submittal, have a current certification of registration in compliance with chapter 18.27 RCW.
2. Have a current Washington State Unified Business Identifier (UBI) number.
3. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3).
4. If applicable:
 - a. Have Industrial Insurance (workers' compensation) coverage for the Bidder's employees working in Washington State, as required in Title 51 RCW;
 - b. Have a Washington State Employment Security Department number, as required in Title 50 RCW; and
 - c. Have a Washington State Department of Revenue state excise tax registration number, as required in Title 82 RCW
5. Have an electrical contractor license, if required by Chapter 19.28 RCW;
6. Have an elevator contractor license, if required by Chapter 70.87 RCW;

- **Bonds- Payment & Performance:**

The prime Contractor shall provide a Performance and Payment Bond at 100% of the contract price to the KCDA member with a copy to KCDA before work begins. The only exception is for contracts of thirty-five thousand (\$35,000) dollars or less. In this instance, at the option of the Contractor, the member may in lieu of the bond retain fifty percent of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the Department of Revenue and the Department of Labor and Industries and settlement of any liens filed under Chapter

60.28 RCW, whichever is later. The bond shall be issued by a surety company authorized to do business in the State of Washington and shall be on standard forms used for public projects (RCW 39.08.010) and as directed by the KCDA member. Performance and Payment bonds for KCDA members outside Washington must be provided by

companies licensed to provide bonds for public entities in the member's state.

- **Licenses:** The prime contractor shall possess and maintain in current status all federal, state, and local licenses, bonds, and permits required for the performance and delivery of any and all products and services offered in its response to the bid solicitation. Before submitting a bid, Bidders must hold a current, valid contractor's license as required in Washington. The contractor's license must be in the name of the legal entity submitting and signing the bid. A bidder may not substitute a contractor's license held by a subcontractor or joint venture. Bidders submitting bids in Washington State without a valid contractor's license in the name of the Bidder are in violation of RCW 18.27.010. It is the responsibility of the prime contractor to ensure any subcontractors performing under this contract hold and maintain appropriate licenses. The contractor shall verify that appropriate licenses are in place at the time of response to this bid. Copies of licenses must be submitted to the member prior to performing the work. The Contractor agrees to keep and ensure subcontractors keep any required license, permit or bond current and in compliance with Washington rules, regulations and statutes, as well as in states outside Washington in which contractor performs work under this contract. For work performed for any Washington State school district, public agency or municipality, the Contractor must comply with the bidder responsibility requirements of RCW 39.04.350 prior to the KCDA member awarding a contract. The contractor must verify the responsibility of all subcontractors used in accordance with RCW 39.06.020.
- **Permits:** The acquisition of all permits as well as any drawings needed to obtain those permits is the responsibility of the successful Contractor/Bidder unless otherwise acknowledged by the KCDA member.
- **Certificate of Insurance:** A certificate of insurance demonstrating current coverage of the types and amounts of insurance required by KCDA and the KCDA member must be provided to KCDA and the KCDA member prior to performance of any work. In addition, the Commercial General Liability policies must be endorsed to name KCDA and the KCDA member as additional insureds. Such policies must be further endorsed to provide that the insurance is primary as respects KCDA and the KCDA member, and that any other insurance maintained by KCDA and the KCDA member shall be excess and not contributing insurance with the Contractor's insurance. These endorsements must be provided along with the certificate of insurance. KCDA and the KCDA member must both approve the certificate of insurance and endorsements.
- **Acceptable Pricing Method:** KCDA is unable to accept Alternative Costing Method quotations except in certain limited instances, (i.e. sole source) in which KCDA and Contractor may mutually determine the Alternative Costing Method is acceptable. This will be the exception rather than the rule. RS Means or line item bid pricing is acceptable.
- **Progress Payments:** The Contractor shall be paid, upon submission of a proper Payment Request, the prices stipulated herein for work performed (less deductions, if any), in accordance with all payment and retainage instructions herein. Submitted Payment Requests must contain the following minimum information:
 - a. Contract Number
 - b. Bid item ID, bid quantity, unit, unit price and description as appropriate
 - c. Sales Tax as applicable

The Payment Request will be reviewed by the Member before payment is made. If the Member is in disagreement with the Payment Request, KCDA will issue a notice requesting a revised Payment Request. In accordance with RCW 51.12.050, KCDA reserves the right to deduct from the payment any outstanding industrial insurance premiums owed by the Contractor or Subcontractors.

- **Payment Retainage:** In accordance with RCW 60.28 a contract retainage of not to exceed five percent of the moneys earned by the contractor toward completion of a public improvement contract shall be withheld and reserved as a trust fund for the protection and payment of 1) the claims of any person arising under the contract, and 2) the state with respect to taxes imposed pursuant to Titles 50, 51 and 82 RCW which may be due from such contractor. Upon completion of a contract, the member agency shall notify the Department of Revenue, the Employment Security Department, and the Department of Labor and Industries of the completion of contracts over thirty-five thousand dollars. KCDA will issue payment on the retainage amount forty-five days after notice from the KCDA Member Agency that the contract has been accepted as complete or upon receipt of all necessary releases, whichever is later.

26. West Virginia, West Virginia Regional Education Service Agencies Cooperative Purchasing

a. General Terms and Conditions that apply for all Categories:

i. Compliance with Laws/Forum Designation

Contractor shall comply with Federal, State, and Local Laws, Codes and Regulations while fulfilling the contract. It is the Contractor's responsibility to be aware of and comply with all state and local laws governing this procurement. Applicable laws, codes, and regulations (etc.) must be followed even if not specifically identified herein. The terms of the Agreement Addendum which is attached hereto and incorporated herein shall govern and supersede any contract terms to the contrary with respect to each procurement. Contractor shall verify to the West Virginia Regional Education Service Agencies (WVRESA), its Member Agencies and other qualifying purchasers that the Contractor is complying with all Federal, State and Local Laws, Codes and Regulations while fulfilling the contract, and shall provide a copy of this contract and any addenda to each Member Agency when providing a price quotation. Moreover, this contract shall be governed by and construed in accordance with the laws of the State of West Virginia without giving effect to its principles of conflict of law. Legal proceedings arising under this contract shall be brought in a West Virginia Court of the County where the Member Agency's main office is located.

ii. Delinquent Tax Affidavit

Contractor shall provide an affidavit relating to delinquent taxes as may be required by West Virginia State Code §11-12-10.

iii. Secretary of State Registration

Contractor shall meet and maintain all registration requirements as necessary to conduct business in the State of West Virginia, including but not limited to registration with the West Virginia Secretary of State.

iv. West Virginia Workers Compensation Insurance

Contractor, and any subcontractors hired by Contractor shall, at their own expense, maintain in force for the duration of the project workers' compensation and employer's liability insurance as required by the laws of the State of West Virginia.

v. Project Personnel, Student Safety and Background Checks

Member Agency shall have the right to reject the participation of any personnel of Contractor in the performance of the services if, in relation to the work assigned to them, the Member Agency deems such personnel to lack the skill, experience and expertise required to perform the services or if Member Agency considers their performance to be substandard or otherwise detrimental to the proper completion of the services. Contractor will advise Member Agency promptly of any change in the project manager or other key personnel assigned to the performance of the services.

Contractor acknowledges that the safety of the Member Agency's students, employees, officials and guests is of the utmost importance. Contractor will endeavor to ensure that its officers, employees, agents, representatives, and consultants will take no action that would jeopardize the safety of the Member Agency's students, employees, officials, or guests. The Member Agency reserves the right to require Contractor's officers, employees, agents, representatives and consultants to wear identification and stay in designated work areas at all times while on the Member Agency's property. The Member Agency shall have the right to effect the immediate removal of any person associated in any way with Contractor from Member Agency property for failure to wear identification, for being outside a designated work Contractor shall perform or cause to be performed by the West Virginia State Police and Federal Bureau of Investigation criminal background check of any personnel that will be performing the services within the proximity of minors. Contractor shall notify the Member Agency of any proposed employee who has been convicted, pled guilty or pled "no contest" to a criminal offense, and the Member Agency reserves the right to reject the proposed employee with a criminal background. No person shall be employed by Contractor who has been found guilty of any of the criminal offenses enumerated in West Virginia State Code without prior approval of the Member Agency.

vi. Independent Contractor

Contractor shall be an independent contractor and neither Contractor nor any of its subcontractors, nor the employees of any thereof, shall be deemed to be the servants, employees, or agents of Member Agency. Contractor shall be responsible for paying all costs related to its employees and managers performing the services. Contractor shall remain liable and responsible to Member Agency for all of its obligations under this contract, regardless of whether

the services are performed by the Contractor or a subcontractor of any tier.

vii. Ownership of Instruments of Service

Drawings, data and other documents prepared by, or with the cooperation of, the Contractor pursuant to this contract shall become, upon payment of all undisputed compensation due the Contractor from the Member Agency, the property of the Member Agency. Such drawings, data or other documents may be used by the Member Agency or others employed by the Member Agency without compensation to the Contractor.

viii. Audit

Member Agency may audit and inspect Contractor's records and accounts at any time during the Contractor's performance of the services and for a period of two (2) years following the completion or termination of the services for the purpose of verifying any invoice and underlying documentation presented by Contractor, it being understood that Contractor agrees to preserve all such documents through such two- (2) year period.

ix. Notices

Unless otherwise expressly provided in this contract, all notices and other communications given under the contract shall be in writing and shall be deemed effective upon receipt by the addressee at its address as set forth in the contract or at such other address as such party shall have notified the other in writing.

x. Non-Appropriation and Other Contract Terms Applicable to Member Agencies as Political Subdivisions of the State

If the Member Agency fails to appropriate sufficient monies in any fiscal year for payments due under the contract and other funds are not available for such payments, then a "Non-Appropriation" shall be deemed to have occurred. If a Non-Appropriation occurs, then Member Agency will give Contractor prompt notice of such Non-Appropriation. This contract shall thereupon terminate without penalty or expense to the Member Agency other than for goods and services already provided.

xi. No Personal Liability

It is understood and agreed that under no circumstances will the Member Agency's board members, regional council members, officers, employees, or agents be personally liable for any obligations or claims arising out of or related to the contract.

xii. Price Quotation

Contractors must quote to a Member Agency the pricing listed in the current contract awarded by the Association of Educational Purchasing Agencies. Vendor will follow the procedures for price reductions to AEPA Member Agencies and Participating Entities set forth in the AEPA general terms area, and conditions. The price quotation must be submitted to a Member Agency and Participating Entity in writing, and any other expenses that the Contractors intend to charge a Member Agency or Participating Entity must be separately itemized on the quotation page in bold font with a good faith estimate of the dollar amount of each item, such as use tax if applicable. The failure to list an item or include a good faith estimate of the dollar amount on the quotation page will preclude a Contractor from charging the same.

xiii. Miscellaneous

Headings and titles of articles, paragraphs and other subparts of this contract are for convenience of reference only and shall not be considered in interpreting the text of this contract. This contract and any appendices constitute the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements or understandings with respect thereto and all agreements or understandings with a Member Agency. No contract amendments can be made without the approval of the AEPA membership.

B. Construction Products and Services:

For construction improvements, the following shall apply:

1. The successful Contractor shall provide such bonds required by West Virginia State Code §38- 2-39.
2. Contractor shall comply with all applicable licensing requirements, including those of the West Virginia Contractor Licensing Board pursuant to West Virginia State Code §21-11-3.

C. Procedures for Processing Orders:

The WVRESA will keep informed its Member Agencies and other qualified purchasers of contract information via web site and through other marketing strategies. A list of WVRESA Member Agencies along with addresses, phones, contacts, etc. will be made available to successful Contractors. After contracts are awarded, Contractors may contact the WVRESA Member Agencies and other qualifying purchasers concerning their products and services.

Participating Member Agencies and other qualified purchasers will submit all purchase orders directly to the Contractor.

The Contractor price shall include a two percent (2%) administrative fee that the Contractor will collect from the Member Agency or other qualified purchaser. Administrative fees are to be remitted to the WVRESA on April 15, July 15, October 15 and January 15 of every calendar year with checks payable to the RESA 2, 2001 McCoy Road, Huntington, WV 25701

The Contractor will compile a quarterly report showing all purchases made by the WVRESA Member Agencies and other qualified purchasers under this contract at the conclusion of each calendar quarter. These reports shall be attached to the administrative fee remittance.

D. Agencies Allowed to Purchase under Member Agency:

All member cooperatives of the WVRESA and their individual Member Agencies are eligible to participate and purchase from the awarded AEPA contracts. All West Virginia PK-12 school districts, including Career and Technical Education Centers, Regional Education Services Agencies, West Virginia Department of Education (WVDE) and all Institutional Education Programs operated by WVDE are eligible to participate and purchase from the awarded AEPA contracts. In addition, all colleges and universities, state, municipalities, counties, other governmental agencies and non-profit agencies are eligible to participate if the AEPA contracts satisfy their individual procurement requirements.

27. Wisconsin, Cooperative Educational Service Agency (CESA) Purchasing

A. Additional Terms and Conditions

(Note: anything that is not already in Part A – General Terms and Conditions for AEPA) Terms and Conditions must be compliant with Wisconsin State Statutes 16.70 to 16.848

B. *Additional Participating Agency Terms and Conditions for Non-Construction Products and Services* Some larger districts, like Milwaukee Public Schools, may require an additional one page “piggyback” memorandum of understanding to utilize the contract.

C. Additional Participating Agency Terms and Conditions for Construction Related Products and Services
Construction contracts are subject to Wisconsin State Statutes 16.855 or 66.0901.

D. Procedure for Processing Orders

All districts directly process orders with the CESA Purchasing AEPA vendor partner unless otherwise arranged.

E. Members Purchasing Under CESA

CESA Purchasing membership is free. Membership is available to the following agencies based on WI State Statutes Chapter 116 which governs the work of WI Cooperative Educational Service Agencies: school districts, University of Wisconsin System institutions, and technical colleges. All public, private, and tribal schools, and all public and private agencies and organizations, that provide services to pupils. Please note in Wisconsin we do not require additional registration of members and define members as those defined by WI Statute 116 that guides our work.

28. Wyoming, Northeast Wyoming Board of Cooperative Educational Services (NEW BOCES):

Upon execution of this document, the respondent hereby agrees to submit bids and NEW BOCES agrees to accept such bids under the following conditions:

PREFERENCES Wyoming Statutes provide for percentage preferences for items supplied by Wyoming resident bidders and for items produced or grown in the State of Wyoming. Preferences may not be applied when federal funds are involved. Preference will be given in accordance with W.S. 16-6-101, 16-6-102, 16-6-103, 16-6-104, 16-6-105, 16-6-106, 16-6-107, and 16-6-301, as amended. For bids involving federal funds please refer to W.S. 16-6-108. Please contact the Department of Workforce Services, Division of Labor Standards

Resident & Non-Resident VENDOR REGISTRATION REQUIREMENTS:

Secretary of State 2020 Carey Avenue Cheyenne, WY 82002 Phone: (307) 777-7378 website: <http://soswy.state.wy.us/>

Department of Workforce Services Division of Unemployment Insurance 100 W. Midwest P.O. Box 2760 Casper, WY 82602 Phone: (307) 235-3217

Public Works and Contracts: Vendor shall comply with all laws, whether local, state, federal, or otherwise, applicable to any aspect of the service or product to be provided in relation to the contract. It shall be the vendor's responsibility to determine the applicability and requirements of any such laws and to abide by them. Vendor shall indemnify, defend, and hold harmless NEW BOCES for any default or breach of vendor in this regard. To the extent applicable for the product or service bid, vendor shall comply with W.S. 16-6-101 to 16-6-602 and to W.S. 21-3-110(a) (viii)

Every Contracted Vendor Employee shall provide a valid State issued Identification Card upon entry of any educational facility.

Members Customer Client Purchasing: NEW BOCES NEW BOCES is an educational cooperative authorized under the provisions of W.S. 21-20-101 to 21-20-111. All K-12 school districts, Community Colleges, Child Development Centers, Residential Child Care Institutions, Utah Educational Service Agencies, all Non-Profits and all Municipalities are eligible to participate in NEW BOCES cooperative purchasing programs within the State of Wyoming and Other States as requested. "Agencies" means Counties, Municipal Corporations, School Districts, Community College Districts, the joint business council of the Eastern Shoshone and Northern Arapaho Indian tribes, the business council of the Eastern Shoshone Indian tribe, the business council of the Northern Arapaho Indian tribe. Providing facilities or functions enumerated in W.S. 16-1-104(c);

No member user is obligated to use these services, but they find the benefits of economy and efficiency made possible by cooperative purchasing to be advantageous.

Procedure for Processing Orders: Upon bid award to the Contractors/Vendors, NEW BOCES will inform its members and other qualifying purchasers of the contract:

- When the customer identifies a desired product or service as available through the AEPA/NEW BOCES contract and agrees on price as presented to the customer by the awarded AEPA/NEW BOCES vendor, the customer then issues to the vendor a purchase order for that item or service.
- The vendor's price shall include a two percent (2%) administrative/marketing fee on all sales of products and or services that the vendor will collect from the member or other qualifying purchaser. This fee will be remitted to NEW BOCES on a quarterly basis.
- Administrative/Marketing fees will be payable to NEW BOCES on the 15th in the months of April, July, October, and January with all checks payable to NEW BOCES, 410 North Miller Avenue, Gillette, Wyoming 82716.
- Vendor makes all deliveries and installation of products and services. NEW BOCES does not warehouse items nor provide services.
- No other Cooperative shall be offered or used by awarded Contracted Vendors within the participating member customer clients of NEW BOCES.

Vendor Contact: Vendor will designate to NEW BOCES an individual(s) who will represent them. This contact person(s) will correspond with each ordering member for technical assistance, problems, or questions that may arise. Include instructions if different contacts for different geographical areas are needed; this information will be distributed to NEW BOCES members upon award of this bid.

NEW BOCES Commitment to Awarded Contract Vendors:

1) Website postings www.newboces.com under Cooperative Purchasing. Includes but not limited to News & Announcements, Awarded Contracts, Flyers, and Online Ordering. Available catalogs from Vendors must be provided for customer online ordering.

2) Announcing the contract in its quarterly newsletter and other events completed with vendors which includes savings reports and rebates to members and users of NEW BOCES Cooperative Contracts.

3) Publish the Vendor information in a catalog disseminated to all members and marketing for new members.

4) Attend Annual Conferences for Trade Show product purposes of all contracts held by NEW BOCES. Including any other suggestions or support from Vendors. A list of members and other qualifying purchasers, addresses, and phone numbers will be made available to the Contracted Vendor.

State Signature Pages



PURCHASING COOPERATIVE

BID BOND

KNOW ALL BY THESE PRESENTS, That we _____
Of _____

As principal, and _____

a corporation duly organized under the laws of the State of _____ and authorized to do business in the State of Washington, as surety, are held and firmly bond unto King County Directors Association in the full and penal sum of _____ for the work hereinafter described, for the payment of which, well and truly to be made, we bind our heirs, executors, administrators and assigns, and successors and assigns, firmly by these presents.

The conditions of this bond are such, that whereas the principal herein is herewith submitting his or its sealed proposal for the following, to wit:

Said bid and proposal, by reference thereto, being made a part hereof.

NOW, THEREFORE, If the said proposal bid by said principal be accepted, and the contract be awarded to said principal, and if said principal shall duly make and enter into and execute said contract and shall furnish bond as required by King County Directors Association within a period of ten (10) days from and after said award, exclusive of the day of such award, then this obligation shall be null and void, otherwise it shall remain and be in full force and effect.

IN TESTIMONY WHEREOF, The principal and surety have caused these present to be signed and sealed this _____ Day of _____.

By: _____

By: _____

Principal

Surety

Title: _____

Title: _____


Date: _____

Date: _____

NJ Business Registration Form

All vendors must have a valid Business Registration Certificate (BRC) from the Department of the Treasury, Division of Revenue prior to conducting business in the State of New Jersey and prior to receiving the award of a contract with a public entity.

STATE OF NEW JERSEY BUSINESS REGISTRATION CERTIFICATE FOR STATE AGENCY AND CASINO SERVICE CONTRACTOR		DEPARTMENT OF TREASURY DIVISION OF REVENUE PO BOX 252 TRENTON, NJ 08646-0252
TAXPAYER NAME:	TRADE NAME:	
TAX REGISTRATION TEST ACCOUNT	CLIENT REGISTRATION	
TAXPAYER IDENTIFICATION#:	SEQUENCE NUMBER:	
970-097-382/000	0107330	
ADDRESS:	ISSUANCE DATE:	
847 ROEBLING AVE TRENTON NJ 08611	07/14/04	
EFFECTIVE DATE:		
01/01/01		
FORM BRC(08-01)		
Act. Director <i>John S. Tully</i>		
This Certificate is NOT assignable or transferable. It must be conspicuously displayed at above address.		

STATE OF NEW JERSEY BUSINESS REGISTRATION CERTIFICATE	
	
Taxpayer Name:	TAX REG TEST ACCOUNT
Trade Name:	
Address:	847 ROEBLING AVE TRENTON, NJ 08611
Certificate Number:	1093907
Date of Issuance:	October 14, 2004
For Office Use Only:	
200-4101-4112823533	

For more information on how to obtain a Business Registration Certificate, please visit the State of New Jersey, Department of Treasury, Division of Revenue and Enterprise Services website at: <http://www.state.nj.us/treasury/revenue/busregcert.shtml> A valid Business Registration Certificate must be provided to the ESCNJ before the award of a contract can be made.

AMERICANS WITH DISABILITIES ACT OF 1990
Equal Opportunity for Individuals with Disability

The contractor and the Educational Services Commission of New Jersey (hereafter "owner") do hereby agree that the provisions of Title 11 of the Americans With Disabilities Act of 1990 (the "Act") (42 U.S.C. S121 01 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant there unto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the owner pursuant to this contract, the contractor agrees that the performance shall be in strict compliance with the Act. In the event that the contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the contractor shall defend the owner in any action or administrative proceeding commenced pursuant to this Act. The contractor shall indemnify, protect, and save harmless the owner, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The contractor shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the owner's grievance procedure, the contractor agrees to abide by any decision of the owner which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the owner, or if the owner incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the contractor shall satisfy and discharge the same at its own expense.

The owner shall, as soon as practicable after a claim has been made against it, give written notice thereof to the contractor along with full and complete particulars of the claim, if any action or administrative proceeding is brought against the owner or any of its agents, servants, and employees, the *owner shall* expeditiously forward or have forwarded to the contractor every demand, complaint, notice, summons, pleading, or other process received by the owner or its representatives.

It is expressly agreed and understood that any approval by the owner of the services provided by the contractor pursuant to this contract will not relieve the contractor of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the owner pursuant to this paragraph.

It is further agreed and understood that the owner assumes no obligation to indemnify or save harmless the contractor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the contractor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the contractor's obligations assumed in this Agreement, nor shall they be construed to relive the contractor from any liability, nor preclude the owner from taking any other actions available to it under any other provisions of the Agreement or otherwise at law.

Signature _____

Name _____

Title _____

Company name _____

Date _____

To be completed and signed below

Return with bid

AFFIRMATIVE ACTION QUESTIONNAIRE

This form is to be completed and returned with the bid. However, the ESCNJ will accept in lieu of this Questionnaire, Affirmative Action Evidence attached but not stapled to this page.

1. Our company has a federal Affirmative Action Plan approval. Yes
 No

If yes, please attach a copy of the plan to this questionnaire.

2. Our company has a New Jersey State Certificate of Employee Information Report. Yes
 No

If yes, please attach a copy of the certificate to this questionnaire.

3. If you answered "**NO**" to both questions above, No. 1 and 2, you must apply for an Affirmative Action Employee Information Report – Form AA302.

Please visit the New Jersey Department of Treasury website for the Division of Public Contracts Equal Employment Opportunity Compliance:

www.state.nj.us/treasury/contract_compliance/

- Click on "Forms" and then "AA302" and "Instructions" under the heading "Employee Information Report"
- Complete and submit the form with the appropriate payment to:

Department of Treasury
Division of Purchase & Property
Contract Compliance Audit Unit
EEO Monitoring Program
P.O. Box 206
Trenton, New Jersey 08625-0206

All fees for this application are to be paid directly to the State of New Jersey. A copy shall be submitted to the ESCNJ within seven (7) days of the notice of the intent to award the contract or the signing of the contract.

EMPLOYEE INFORMATION REPORT (FORM AA302)

IMPORTANT: READ THE FOLLOWING INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE FORM. PRINT OR TYPE ALL INFORMATION. FAILURE TO PROPERLY COMPLETE THE ENTIRE FORM MAY DELAY ISSUANCE OF YOUR CERTIFICATE. **IF YOU HAVE A CURRENT CERTIFICATE OF EMPLOYEE INFORMATION REPORT, DO NOT COMPLETE THIS FORM. SEND COPY OF CURRENT CERTIFICATE TO THE PUBLIC AGENCY. DO NOT COMPLETE THIS FORM FOR CONSTRUCTION CONTRACT AWARDS.**

ITEM 1 - Enter the Federal Identification Number assigned by the Internal Revenue Service, or if a Federal Employer Identification Number has been applied for, or if your business is such that you have not or will not receive a Federal Employer Identification Number, enter the Social Security Number of the owner or of one partner, in the case of a partnership.

ITEM 2 - Check the box appropriate to your TYPE OF BUSINESS. If you are engaged in more than one type of business check the predominate one. If you are a manufacturer deriving more than 50% of your receipts from your own retail outlets, check "Retail".

ITEM 3 - Enter the total "number" of employees in the entire company, including part-time employees. This number shall include all facilities in the entire firm or corporation.

ITEM 4 - Enter the name by which the company is identified. If there is more than one company name, enter the predominate one.

ITEM 5 - Enter the physical location of the company. Include City, County, State and Zip Code.

ITEM 6 - Enter the name of any parent or affiliated company including the City, County, State and Zip Code. If there is none, so indicate by entering "None" or N/A.

ITEM 7 - Check the box appropriate to your type of company establishment. "Single-establishment Employer" shall include an employer whose business is conducted at only one physical location. "Multi-establishment Employer" shall include an employer whose business is conducted at more than one location.

ITEM 8 - If "Multi-establishment" was entered in item 7, enter the number of establishments within the State of New Jersey.

ITEM 9 - Enter the total number of employees at the establishment being awarded the contract.

ITEM 10 - Enter the name of the Public Agency awarding the contract. Include City, County, State and Zip Code.

ITEM 11 - Enter the appropriate figures on all lines and in all columns. THIS SHALL ONLY INCLUDE EMPLOYMENT DATA FROM THE FACILITY THAT IS BEING AWARDED THE CONTRACT. DO NOT list the same employee in more than one job category. DO NOT attach an EEO-1 Report.

Racial/Ethnic Groups will be defined:

Black: Not of Hispanic origin. Persons having origin in any of the Black racial groups of Africa.

Hispanic: Persons of Mexican, Puerto Rican, Cuban, or Central or South American or other Spanish culture or origin, regardless of race.

American Indian or Alaskan Native: Persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

Asian or Pacific Islander: Persons having origin in any of the original peoples of the Far East, Southeast Asia, the Indian Sub-continent or the Pacific Islands. This area

includes for example, China, Japan, Korea, the Philippine Islands and Samoa.

Non-Minority: Any Persons not identified in any of the aforementioned Racial/Ethnic Groups.

ITEM 12 - Check the appropriate box. If the race or ethnic group information was not obtained by 1 or 2, specify by what other means this was done in 3.

ITEM 13 - Enter the dates of the payroll period used to prepare the employment data presented in Item 12.

ITEM 14 - If this is the first time an Employee Information Report has been submitted for this company, check block "Yes".

ITEM 15 - If the answer to Item 15 is "No", enter the date when the last Employee Information Report was submitted by this company.

ITEM 16 - Print or type the name of the person completing the form. Include the signature, title and date.

ITEM 17 - Enter the physical location where the form is being completed. Include City, State, Zip Code and Phone Number.

TYPE OR PRINT IN SHARP BALL POINT PEN

THE VENDOR IS TO COMPLETE THE EMPLOYEE INFORMATION REPORT FORM (AA302) AND RETAIN COPY FOR THE VENDOR'S OWN FILES. THE VENDOR SHOULD ALSO SUBMIT A COPY TO THE PUBLIC AGENCY AWARDED THE CONTRACT IF THIS IS YOUR FIRST REPORT; AND FORWARD ONE COPY **WITH A CHECK IN THE AMOUNT OF \$150.00 PAYABLE TO THE TREASURER, STATE OF NEW JERSEY (FEE IS NON-REFUNDABLE) TO:**

**NJ Department of the Treasury
Division of Contract Compliance & Equal Employment Opportunity
P.O. Box 209
Trenton, New Jersey 08625-0209 Telephone No. 1-609-292-5475**

To download the AA-302 form, click this link:

http://www.state.nj.us/treasury/contract_compliance/pdf/aa302.pdf

STATE OF NEW JERSEY
Division of Purchase & Property
Contract Compliance Audit Unit
EEO Monitoring Program
EMPLOYEE INFORMATION REPORT

IMPORTANT-READ INSTRUCTIONS CAREFULLY BEFORE COMPLETING FORM. FAILURE TO PROPERLY COMPLETE THE ENTIRE FORM AND TO SUBMIT THE REQUIRED \$150.00 FEE MAY DELAY ISSUANCE OF YOUR CERTIFICATE. DO NOT SUBMIT EEO-1 REPORT FOR SECTION B, ITEM 11. For instructions on completing the form, go to: http://www.state.nj.us/treasury/contract_compliance/pdf/aa302ins.pdf

SECTION A - COMPANY IDENTIFICATION

1. FID. NO. OR SOCIAL SECURITY	2. TYPE OF BUSINESS <input type="checkbox"/> 1. MFG <input type="checkbox"/> 2. SERVICE <input type="checkbox"/> 3. WHOLESALE <input type="checkbox"/> 4. RETAIL <input type="checkbox"/> 5. OTHER	3. TOTAL NO. EMPLOYEES IN THE ENTIRE COMPANY
4. COMPANY NAME		
3. STREET	CITY	COUNTY STATE ZIP CODE
6. NAME OF PARENT OR AFFILIATED COMPANY (IF NONE, SO INDICATE)		CITY STATE ZIP CODE
7. CHECK ONE: IS THE COMPANY: <input type="checkbox"/> SINGLE-ESTABLISHMENT EMPLOYER <input type="checkbox"/> MULTI-ESTABLISHMENT EMPLOYER		
8. IF MULTI-ESTABLISHMENT EMPLOYER, STATE THE NUMBER OF ESTABLISHMENTS IN NJ _____		
10. PUBLIC AGENCY AWARDED CONTRACT _____		
	CITY	COUNTY STATE ZIP CODE

Official Use Only	DATE RECEIVED	INAG. DATE	ASSIGNED CONTRACT NUMBER

SECTION B - EMPLOYMENT DATA

11. Report all permanent, temporary and part-time employees ON YOUR OWN PAYROLL. Enter the appropriate figures on all lines and in all columns. Where there are no employees in a particular category, enter a zero. Include ALL employees, not just those in minority/non-minority categories, in columns 1, 2, & 3. DO NOT SUBMIT AN EEO-1 REPORT.

JOB CATEGORIES	ALL EMPLOYEES			PERMANENT MINORITY/NON-MINORITY EMPLOYEE BREAKDOWN										
	COL. 1	COL. 2	COL. 3	MALE					FEMALE					
	TOTAL (Cols. 2 & 3)	MALE	FEMALE	BLACK	HISPANIC	AMER. INDIAN	ASIAN	NON MIN.	BLACK	HISPANIC	AMER. INDIAN	ASIAN	NON MIN.	
Officials/Managers														
Professionals														
Technicians														
Sales Workers														
Office & Clerical														
Craftworkers (Skilled)														
Operators (Semi-skilled)														
Laborers (Unskilled)														
Service Workers														
TOTAL														
Total employment from previous Report (if any)														
Temporary & Part-Time Employees	The data below shall NOT be included in the figures for the appropriate categories above.													

12. HOW WAS INFORMATION AS TO RACE OR ETHNIC GROUP IN SECTION B OBTAINED? <input type="checkbox"/> 1. Visual Survey <input type="checkbox"/> 2. Employment Record <input type="checkbox"/> 3. Other (Specify)	14. IS THIS THE FIRST Employee Information Report Submitted? 1. YES <input type="checkbox"/> 2. NO <input type="checkbox"/>	15. IF NO, DATE LAST REPORT SUBMITTED MO. DAY YEAR
13. DATES OF PAYROLL PERIOD USED From: _____ To: _____		

SECTION C - SIGNATURE AND IDENTIFICATION

16. NAME OF PERSON COMPLETING FORM (Print or Type)	SIGNATURE	TITLE	DATE MO DAY YEAR
17. ADDRESS NO. & STREET	CITY	COUNTY STATE ZIP CODE	PHONE (AREA CODE, NO. EXTENSION)

I certify that the above information is correct to the best of my knowledge.

Name of Company/Firm

Address

City, State, Zip

Name of Authorized Agent _____ Title

SIGNATURE _____ Date _____

Sample Certificate of Employee Information Report

Certification 111XX

CERTIFICATE OF EMPLOYEE INFORMATION REPORT

INITIAL

This is to certify that the contractor listed below has submitted an Employee Information Report pursuant to N.J.A.C. 17:27-1.1 et. seq. and the State Treasurer has approved said report. This approval will remain in effect for the period of 15-DEC-20XX to 15-DEC-20XX

**SAMPLE COMPANY, INC.
33 WEST STATE STREET
TRENTON, NJ 08625**

VOID



State Treasurer

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)

N.J.A.C. 17:27

GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability,

nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at www.state.nj.us/treasury/contract_compliance)

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

Signature _____

Name _____

Title _____

Company name: _____

Date _____

EXHIBIT B Return with bid if bidding on installation services
MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L.1975, c.127)
N.J.A.C. 17:27-1.1 et seq.
CONSTRUCTION CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Dept. of LWD, Construction EEO Monitoring Program, may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B, and C, as long as the Dept. of LWD, Construction EEO Monitoring Program is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Dept. of LWD, Construction EEO Monitoring Program, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

(A) **EXHIBIT B** (Continued)

- (B) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.
- (C) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:
- (1) To notify the public agency compliance officer, the Dept. of LWD, Construction EEO Monitoring Program, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;
 - (2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;
 - (3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;
 - (4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;
 - (5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and nondiscrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;
 - (6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:
 - (i) The contractor or subcontractor shall interview the referred minority or women worker.
 - (ii) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction

EXHIBIT B (Continued)

trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Dept. of LWD, Construction EEO Monitoring Program. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below. (iii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in above, whenever vacancies occur. At the request of the Dept. of LWD, Construction EEO Monitoring Program, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.

(iv) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Dept. of LWD, Construction EEO Monitoring Program.

(7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Dept. of LWD, Construction EEO Monitoring Program and submitted promptly to the Dept. of LWD, Construction EEO Monitoring Program upon request.

- (D) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Dept. of LWD, Construction EEO Monitoring Program an initial project workforce report (Form AA-201) electronically provided to the public agency by the Dept. of LWD, Construction EEO Monitoring Program, through its website, for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7. The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Dept. of LWD, Construction EEO Monitoring Program, and to the public agency

EXHIBIT B (Continued)

compliance officer. The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on-the-job and/or off-the job programs for outreach and training of minorities and women.

(E) The contractor and its subcontractors shall furnish such reports or other documents to the Dept. of LWD, Construction EEO Monitoring Program as may be requested by the Dept. of LWD, Construction EEO Monitoring Program from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Dept. of LWD, Construction EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq. (Revised: January, 2016)

Company _____
Signature _____
Name _____
Title _____
Date _____

RETURN WITH BID
Educational Services Commission of New Jersey
Business Office
 1660 Stelton Road
 Piscataway, New Jersey 08854

Chapter 271
Political Contribution Disclosure Form
(Contracts that Exceed \$17,500.00)
Ref. N.J.S.A. 52:34-25

The undersigned, being authorized and knowledgeable of the circumstances, does hereby certify that _____ (Business Entity) has made the following **reportable** political contributions to any elected official, political candidate or any political committee as defined in N.J.S.A. 19:44-20.26 during the twelve (12) months preceding this award of contract:

Reportable Contributions

<u>Date of Contribution</u>	<u>Amount of Contribution</u>	<u>Name of Recipient Elected Official/ Committee/Candidate</u>	<u>Name of Contributor</u>

The Business Entity may attach additional pages if needed.

No Reportable Contributions (Please check (✓) if applicable.)

I certify that _____ (Business Entity) made no reportable contributions to any elected official, political candidate or any political committee as defined in N.J.S.A. 19:44-20.26.

Certification

I certify, that the information provided above is in full compliance with Public law 2005 – Chapter 271.

Name of Authorized Agent _____

Signature _____ Title _____

Business Entity _____

C. 271 POLITICAL CONTRIBUTION DISCLOSURE FORM

Contractor Instructions

Business entities (contractors) receiving contracts from a public agency that are NOT awarded pursuant to a “fair and open” process (defined at N.J.S.A. 19:44A-20.7) are subject to the provisions of P.L. 2005, c. 271, s. 2 (N.J.S.A. 19:44A-20.26). This law provides that 10 days prior to the award of such a contract, the contractor shall disclose contributions to:

- any State, county, or municipal committee of a political party
- any legislative leadership committee^{*1}
- any continuing political committee (a.k.a., political action committee)
- any candidate committee of a candidate for, or holder of, an elective office:
 - of the public entity awarding the contract
 - of that county in which that public entity is located
 - of another public entity within that county
 - or of a legislative district in which that public entity is located or, when the public entity is a county, of any legislative district which includes all or part of the county

The disclosure must list reportable contributions to any of the committees that exceed \$300 per election cycle that were made during the 12 months prior to award of the contract. See N.J.S.A. 19:44A-8 and 19:44A-16 for more details on reportable contributions.

N.J.S.A. 19:44A-20.26 itemizes the parties from whom contributions must be disclosed when a business entity is not a natural person. This includes the following:

- individuals with an “interest” ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit
- all principals, partners, officers, or directors of the business entity or their spouses
- any subsidiaries directly or indirectly controlled by the business entity
- IRS Code Section 527 New Jersey based organizations, directly or indirectly controlled by the business entity and filing as continuing political committees, (PACs)

When the business entity is a natural person, “a contribution by that person’s spouse or child, residing therewith, shall be deemed to be a contribution by the business entity.” [N.J.S.A. 19:44A-20.26(b)]. The contributor must be listed on the disclosure.

Any business entity that fails to comply with the disclosure provisions shall be subject to a fine imposed by ELEC in an amount to be determined by the Commission which may be based upon the amount that the business entity failed to report.

The enclosed list of agencies is provided to assist the contractor in identifying those public agencies whose elected official and/or candidate campaign committees are affected by the disclosure requirement. It is the contractor’s responsibility to identify the specific committees to which contributions may have been made and need to be disclosed. The disclosed information may exceed the minimum requirement.

¹ N.J.S.A. 19:44A-3(s): “The term “legislative leadership committee” means a committee established, authorized to be established, or designated by the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly or the Minority Leader of the General Assembly pursuant to section 16 of P.L. 1993, c. 65 (C. 19:44A-10.1) for the purpose of receiving contributions and making expenditures.”

The enclosed form, a content-consistent facsimile, or an electronic data file containing the required details (along with a signed over sheet) may be used as the contractor's submission and is disclosable to the public under the Open Public Records Act.

The contractor must also complete the attached Stockholder Disclosure Certification. This will assist the agency in meeting its obligations under the law. **NOTE: This section does not apply to Board of Education contracts.**

P.L. 2005, c. 271

(Unofficial version, Assembly Committee Substitute to A-3013, First Reprint*)

AN ACT authorizing units of local government to impose limits on political contributions by contractors and supplementing Title 40A of the New Jersey Statutes and Title 19 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

40A:11-51 1. a. A county, municipality, independent authority, board of education, or fire district is hereby authorized to establish by ordinance, resolution or regulation, as may be appropriate, measures limiting the awarding of public contracts there from to business entities that have made a contribution pursuant to P.L. 1973, c. 83 (C. 19:44A-1 et seq.) and limiting the contributions that the holders of a contract can make during the term of a contract, notwithstanding the provisions and parameters of sections 1 through 12 of P.L. 2004, c. 19 (C. 19:44A-20.2 et al.) and section 22 of P.L. 1973, c. 83 (C. 19:44A-22).

b. The provisions of P.L. 2004, c. 19 shall not be construed to supersede or preempt any ordinance, resolution or regulation of a unit of local government that limits political contributions by business entities performing or seeking to perform government contracts. Any ordinance, resolution or regulation in effect on the effective date of P.L. 2004, c. 19 shall remain in effect and those adopted after that effective date shall be valid and enforceable.

c. An ordinance, resolution or regulation adopted or promulgated as provided in this section shall be filed with the Secretary of State.

52:34-25 2. a. Not later than 10 days prior to entering into any contract having an anticipated value in excess of \$17,500, except for a contract that is required by law to be publicly advertised for bids, a State agency, county, municipality, independent authority, board of education, or fire district shall require any business entity bidding thereon or negotiating therefore, to submit along with its bid or price quote, a list of political contributions as set forth in this subsection that are reportable by the recipient pursuant to the provisions of P.L. 1973, c. 83 (C.19:44A-1 et seq.) and that were made by the business entity during the preceding 12 month period, along with the date and amount of each contribution and the name of the recipient of each contribution. A business entity contracting with a State agency shall disclose contributions to any State, county, or municipal committee of a political party, legislative leadership committee, candidate committee of a candidate for, or holder of, a State elective office, or any continuing political committee. A business entity contracting with a county, municipality, independent authority, other than an independent authority that is a State agency, board of education, or fire district shall disclose contributions to: any State, county, or municipal committee of a political party; any legislative leadership committee; or any candidate committee of a candidate for, or holder of, and elective office of that public entity, of that county in which that public entity is located, of another public entity within that county, or of a legislative district in which that public entity is located or, when the public entity is a county, of any legislative district which includes all or part of the county, or any continuing political committee.

The provisions of this section shall not apply to a contract when a public emergency requires the immediate delivery of goods or services.

b. When a business entity is a natural person, a contribution by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by

any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by: all principals, partners, officers, or directors of the business entity or their spouses; any subsidiaries directly or indirectly controlled by the business entity; or any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee, shall be deemed to be a contribution by the business entity.

c. As used in this section:

"business entity" means a natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or of any other state or foreign jurisdiction;

"interest" means the ownership or control of more than 10% of the profits or assets of a business entity of 10% of the stock in the case of a business entity that is a corporation for profit, as appropriate; and

P.L. 2005, c. 271

"State agency" means any of the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch, and any independent State authority, commission, instrumentality or agency.

d. Any business entity that fails to comply with the provisions of this section shall be subject to a fine imposed by the New Jersey Election Law Enforcement Commission in an amount to be determined by the commission which may be based upon the amount that the business entity failed to report.

19:44A-20.13 3. a. Any business entity making a contribution of money or any other thing of value, including an in-kind contribution, or pledge to make a contribution of any kind to a candidate for or the holder of any public office having ultimate responsibility for the awarding of public contracts, or to a political party committee, legislative leadership committee, political committee or continuing political committee, which has received in any calendar year \$50,000 or more in the aggregate through agreements or contracts with a public entity, shall file an annual disclosure statement with the New Jersey Election Law Enforcement Commission, established pursuant to section 5 of P.L. 1973, c. 83 (C. 19:44A-5), setting forth all such contributions made by the business entity during the 12 months prior to the reporting deadline.

b. The commission shall prescribe forms and procedures for the reporting required in subsection a. of this section which shall include, but not be limited to:

(1) the name and mailing address of the business entity making the contribution, and the amount contributed during the 12 months prior to the reporting deadline;

(2) the name of the candidate for or the holder of any public office having ultimate responsibility for the awarding of public contracts, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee receiving the contribution; and

(3) the amount of money the business entity received from the public entity through contract or agreement, the dates, and information identifying each contract or agreement and describing the goods, services or equipment provided or property sold.

c. The commission shall maintain a list of such reports for public inspection both at its office and through its Internet site.

d. When a business entity is a natural person, a contribution by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity.

When a business entity is other than a natural person, a contribution by: all principals, partners, officers, or directors of the business entity, or their spouses; any subsidiaries directly or indirectly controlled by the business entity; or any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee, shall be deemed to be a contribution by the business entity.

As used in this section:

"Business entity" means a natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or of any other state or foreign jurisdiction; and

"Interest" means the ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit, as appropriate.

e. Any business entity that fails to comply with the provisions of this section shall be subject to a fine imposed by the New Jersey Election Law Enforcement Commission in an amount to be determined by the commission which may be based upon the amount that the business entity failed to report.

4. This act shall take effect immediately.

*Note: Bold italicized statutory references of new sections are anticipated and not final as of the time this document was prepared. Statutory compilations of N.J.S.A. 18A:18A-51 is anticipated to show a reference to N.J.S.A. 40:11-51 and to N.J.S.A. 52:34-25.

To be completed and signed below. Return with bid.

STATEMENT OF OWNERSHIP DISCLOSURE

N.J.S.A. 52:25-24.2 (P.L. 1977, c.33, as amended by P.L. 2016, c.43)

This statement shall be completed, certified to, and included with all bid and proposal submissions. Failure to submit the required information is cause for automatic rejection of the bid or proposal.

Name of Organization: _____

Organization Address: _____

City, State, ZIP: _____

Part I Check the box that represents the type of business organization:

- Sole Proprietorship (skip Parts II and III, execute certification in Part IV)
- Non-Profit Corporation (skip Parts II and III, execute certification in Part IV)
- For-Profit Corporation (any type) Limited Liability Company (LLC)
- Partnership Limited Partnership Limited Liability Partnership (LLP)

Other (be specific): _____ **Part II Check**

the appropriate box

The list below contains the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be. **(COMPLETE THE LIST BELOW IN THIS SECTION)**

OR

No one stockholder in the corporation owns 10 percent or more of its stock, of any class, or no individual partner in the partnership owns a 10 percent or greater interest therein, or no member in the limited liability company owns a 10 percent or greater interest therein, as the case may be. **(SKIP TO PART IV)**

(Please attach additional sheets if more space is needed):

Name of Individual or Business Entity	Home Address (for Individuals) or Business Address

Part III DISCLOSURE OF 10% OR GREATER OWNERSHIP IN THE STOCKHOLDERS, PARTNERS OR LLC MEMBERS LISTED IN PART II

If a bidder has a direct or indirect parent entity which is publicly traded, and any person holds a 10 percent or greater beneficial interest in the publicly traded parent entity as of the last annual federal Security and Exchange Commission (SEC) or foreign equivalent filing, ownership disclosure can be met by providing links to the website(s) containing the last annual filing(s) with the federal Securities and Exchange Commission (or foreign equivalent) that contain the name and address of each person holding a 10% or greater beneficial interest in the publicly traded parent entity, along with the relevant page numbers of the filing(s) that contain the information on each such person. **Attach additional sheets if more space is needed.**

Website (URL) containing the last annual SEC (or foreign equivalent) filing	Page #'s

Please list the names and addresses of each stockholder, partner or member owning a 10 percent or greater interest in any corresponding corporation, partnership and/or limited liability company (LLC) listed in Part II **other than for any publicly traded parent entities referenced above.** The disclosure shall be continued until names and addresses of every non-corporate stockholder, and individual partner, and member exceeding the 10 percent ownership criteria established pursuant to N.J.S.A. 52:25-24.2 has been listed. **Attach additional sheets if more space is needed.**

Stockholder/Partner/Member and Corresponding Entity Listed in Part II	Home Address (for Individuals) or Business Address

Part IV Certification

I, being duly sworn upon my oath, hereby represent that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge: that I am authorized to execute this certification on behalf of the bidder/proposer; that the *ESCNJ* is relying on the information contained herein and that I am under a continuing obligation from the date of this certification through the completion of any contracts with the *ESCNJ* to notify the *ESCNJ* in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I am subject to criminal prosecution under the law and that it will constitute a material breach of my agreement(s) with the, permitting the *ESCNJ* to declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print):		Title:	
Signature:		Date:	

This statement shall be completed, certified to, and included with all bid and proposal submissions. Failure to submit the required information is cause for automatic rejection of the bid or proposal.

To be completed and signed below. Return with bid.

Statement of Suspension or Debarment

STATE OF NEW JERSEY/ _____
Specify, of other

COUNTY OF _____

I, _____ of the (City, Town, Borough)
of _____ State of _____ of full age,

being duly sworn according to law on my oath depose and say that:

I am _____ of the firm
of _____ the Bidder

making the Proposal for the above named projects, and that I executed the said Proposal with full authority to do so; that said Bidder is not at the time of the making this bid included on the New Jersey State Treasurer's or the Federal Government's List of Debarred, Suspended or Disqualified Bidders as a result of action taken by any State or Federal Agency.

Name of Contractor: _____

(Company Name)

By: _____

(Signature of authorized representative)

Subscribed and sworn to before me

This _____ day of _____, 20 ____.

(Seal) Notary Public of New Jersey/
Specify Other State

My Commission expires _____ 20 ____.

To be completed and signed below. Return with bid.

**STATE OF NEW JERSEY – DIVISION OF PURCHASE AND PROPERTY
DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN**

Quote Number: _____

Bidder/Offeror: _____

PART 1: CERTIFICATION

BIDDERS MUST COMPLETE PART 1 BY CHECKING EITHER BOX.

FAILURE TO CHECK ONE OF THE BOXES WILL RENDER THE PROPOSAL NON-RESPONSIVE.

Pursuant to Public Law 2012, c. 25, any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract must complete the certification below to attest, under penalty of perjury, that neither the person or entity, nor any of its parents, subsidiaries, or affiliates, is identified on the Department of Treasury's Chapter 25 list as a person or entity engaging in investment activities in Iran. The Chapter 25 list is found on the Division's website at <http://www.state.nj.us/treasury/purchasetool/Chapter25list.pdf>. Bidders must review this list prior to completing the below certification. Failure to complete the certification will render a bidder's proposal non-responsive. If the Director finds a person or entity to be in violation of law, s/he shall take action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

PLEASE CHECK THE APPROPRIATE BOX:

I certify, pursuant to Public Law 2012, c. 25, that neither the bidder listed above nor any of the bidder's parents, subsidiaries, or affiliates is listed on the N.J. Department of the Treasury's list of entities determined to be engaged in prohibited activities in Iran pursuant to P.L. 2012, c. 25 ("Chapter 25 List"). I further certify that I am the person listed above, or I am an officer or representative of the entity listed above and am authorized to make this certification on its behalf. I will skip Part 2 and sign and complete the Certification below.

OR

I am unable to certify as above because the bidder and/or one or more of its parents, subsidiaries, or affiliates is listed on the Department's Chapter 25 list. I will provide a detailed, accurate and precise description of the activities in Part 2 below and sign and complete the Certification below. Failure to provide such will result in the proposal being rendered as non-responsive and appropriate penalties, fines and/or sanctions will be assessed as provided by law.

PART 2: PLEASE PROVIDE FURTHER INFORMATION RELATED TO INVESTMENT ACTIVITIES IN IRAN

You must provide a detailed, accurate and precise description of the activities of the bidding person/entity, or one of its parents, subsidiaries or affiliates, engaging in the investment activities in Iran outlined above by completing the boxes below.

EACH BOX WILL PROMPT YOU TO PROVIDE INFORMATION RELATIVE TO THE ABOVE QUESTIONS. PLEASE PROVIDE THOROUGH ANSWERS TO EACH QUESTION. IF YOU NEED TO MAKE ADDITIONAL ENTRIES, CLICK THE "ADD AN ADDITIONAL ACTIVITIES ENTRY" BUTTON.

Name _____	Relationship to Bidder/Offeror _____	<input type="button" value="Delete"/>
Description of Activities _____	_____	
Duration of Engagement _____	Anticipated Cessation Date _____	
Bidder/Offeror Contact Name _____	Contact Phone Number _____	
_____	_____	

ADD AN ADDITIONAL ACTIVITIES ENTRY

Certification: I, being duly sworn upon my oath, hereby represent that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge that I am authorized to execute this certification on behalf of the bidder; that the State of New Jersey is relying on the information contained herein and that I am under a continuing obligation from the date of this certification through the completion of any contracts with the State to notify the State in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I am subject to criminal prosecution under the law and that it will constitute a material breach of my agreement(s) with the State, permitting the State to declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print): _____

Signature: _____

Do Not Enter PIN as a Signature

Title: _____

Date: _____

To be completed and signed below.

Return with Bid

Prevailing Wages Certification

It is the determination of the ESCNJ that this is a public works project that in total will exceed \$2,000.00 (two thousand dollars), therefore prevailing wages rules and regulations apply as promulgated by the New Jersey Prevailing Wage Act and in conformance with N.J.S.A. 34:11-56:25. With the laws as they apply to the public agency.

CERTIFICATION

1. I certify that our company understands that this project of the ESCNJ requires prevailing wages to be paid in full accordance with the law.
2. I further certify that all subcontractors named in this bid understand that this project requires the subcontractor to pay prevailing wages in full accordance with the law.

NOTIFICATION OF VIOLATIONS – New Jersey Department of Labor

Has the Bidder or any person having an “interest” with the Bidder, been notified by the New Jersey Department of Labor by notice issued pursuant to N.J.S.A. 34:11-56:37 that he/she has been in violation for failure to pay prevailing wages as required by the New Jersey Prevailing Wage Act within the last five (5) years?

*Yes _____ No _____

*If yes, please attach a signed document explaining any/or all administrative proceedings with the NJDOL within the last five (5) years.

Please include any pending administrative proceedings with the NJDOL, if any.

Name of Company _____

Authorized Agent _____

Authorized Signature _____

Contractor's Registration Evidence

Certificate Number
629534

Registration Date: 03/13/2016
Expiration Date: 03/12/2018



State of New Jersey

Department of Labor and Workforce Development
Division of Wage and Hour Compliance

Public Works Contractor Registration Act

Pursuant to N.J.S.A. 34:11-56.48, et seq. of the Public Works Contractor Registration Act, this certificate of registration is issued for purposes of bidding on any contract for public work or for engaging in the performance of any public work to:

2016
Eagle Mechanical, Inc.

Responsible Representative(s):
Henry S. Stronski Jr., CEO

Handwritten signature of Harold J. Wirths in black ink.

Harold J. Wirths, Commissioner
Department of Labor and Workforce Development

NON TRANSFERABLE

This certificate may not be transferred or assigned and may be revoked for cause by the Commissioner of Labor and Workforce Development.

To be completed and signed below. Return with bid. if bidding on installation



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PROPERTY MANAGEMENT AND CONSTRUCTION
33 W. STATE STREET
PO BOX 034
TRENTON, NEW JERSEY 08625-0034

REPLY TO:
TEL: (609) 943-3400
FAX: (609) 292-7651

TOTAL AMOUNT OF UNCOMPLETED CONTRACTS

(This form is to be used with the NOTICE OF CLASSIFICATION when submitting bids to the Department of Education.)

I Certify that the amount of uncompleted work on contracts is \$ _____.

The amount claimed includes uncompleted portions of all currently held contracts from all sources (public and private) in accordance with N.J.A.C. 17:19-2.13.

I further certify that the amount of this bid proposal, including all outstanding incomplete contracts does not exceed my prequalification dollar limit.



Respectfully submitted,

By _____
Name of Firm

Signature

Title

Business Address

Phone

Sworn to and
subscribed before me
This day of
20

Notary Public

Return if Bidding on Installation

EQUIPMENT CERTIFICATION

In accordance with N.J.S.A. 18A:18A-23, I hereby certify that _____

Name of Company

A) owns all the necessary equipment as required by the specifications and to complete the specified public work project.

or

B) _____ leases or controls all the necessary
(*Name of Company*) equipment to complete the specified public work project.

PLEASE NOTE: If your company is not the actual owner of the equipment, **you shall submit with the bid**

1. A certificate stating the source from which the equipment will be obtained and
2. Obtain and submit with the bid a certificate from the owner and person in control of the equipment, definitely granting to the bidder the control of the equipment required during such time it may be necessary for the completion of that portion of the contract for which said equipment will be necessary.

Name of Company _____

Authorized Agent _____

Authorized Signature _____

Date _____

DPMC Contractor Classification (DPMC- 27)
PO Box 042
Trenton, NJ 08625-0042



State of New Jersey
DEPARTMENT OF THE TREASURY
DIVISION OF PROPERTY MANAGEMENT AND CONSTRUCTION

REQUEST FOR CLASSIFICATION

ATTENTION CONTRACTOR

Enclosed is the Contractors Request for Classification Booklet (DPMC 27) which, when completed and submitted with the mandatory financial statement and other documentation provides the data required to post your firm on the active bid list for State projects described herein.

Please submit the completed application and all required documentation to this office. Upon review and approval of this application, your firm will be notified by mail of the effective and expiration dates, type of work, and rating assigned to your firm.

There is a non-refundable fee of \$100.00 which must be submitted with the application. All payments must be made on company checks (no-cash) made payable to "Treasurer, State of New Jersey". No application will be processed without the fee.

If you have any questions, please contact the Contractor Classification unit at (609) 943-3400 (and select #3) or access the DPMC web site at www.state.nj.us/treasury/dpmc/. NOTE: It is suggested that a photocopy of this completed form be retained for your records.

**ATTACHMENT B – NEW JERSEY ANTI-DISCRIMINATION PROVISIONS
N.J.S.A. 10:2-1 ET SEQ.**

Pursuant to N.J.S.A. 10:2-1, if awarded a contract, the contractor agrees that:

a. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;

b. No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;

c. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of \$50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and

d. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract. No provision in this section shall be construed to prevent a board of education from designating that a contract, subcontract or other means of procurement of goods, services, equipment or construction shall be awarded to a small business enterprise, minority business enterprise or a women's business enterprise pursuant to P.L.1985, c.490 (C.18A:18A-51 et seq.).

Company Title: _____

Representative: _____

Signature: _____

Date: _____



There are number of levels of authority that must take action during the entire procurement process and within each of these levels there are a number of checks and balances. Therefore, CES has made the determination, as it relates to complying with the Campaign Contribution Disclosure requirement, that even though the individuals listed below do not fall within the definition “Applicable public official” as defined in 13-1-191.1 NMSA 1978, in order to ensure that CES is in compliance with the intent of the requirements, the following have been identified as Name(s) of Applicable Public Official(s) if any that must be identified:

<u>Position</u>	<u>Representative</u>	<u>Member</u>
President, Region I	Kirk Carpenter	Aztec Municipal Schools
President Elect, Region VI	Dwain Haynes	Eunice Municipal Schools
Past President, Region VI	T.J. Parks	Hobbs Municipal Schools
Past President	None	
Region I	Daniel Benavidez	Zuni Public Schools
Region II	Dr. Lillian Torrez	Taos Municipal Schools
Region III	Andy Ortiz	Raton Public Schools
Secretary, Region IV	Teresa Salazar	Moriarty/Edgewood Schools District
Region V	Aaron McKinney	Tucumcari Public Schools
Region VI	LeAnne Gandy	Lovington Municipal Schools
Treasurer, Region VII	Brenda Vigil	Tularosa Municipal Schools
Region VIII	Loren Cushman	Animas Public Schools
New Mexico Coalition of Charter Schools	Matt Pahl	Executive Director
New Mexico Association of Community Colleges (NMACC)	Edward Desplas	Two Year Community Colleges
New Mexico Coalition of Educational Leaders (NMCEL)	Stan Rounds	Executive Director
New Mexico School Boards Association (NMSBA)	Joe Guillen	Executive Director
New Mexico Public Education Department (NMPED)	Adan Delgado	PED
Commission of Higher Ed	Penny Garcia	ENMU

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, et seq., NMSA 1978 and NMSA 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, any prospective contractor seeking to enter into a contract with any state agency or local public body must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body may cancel a solicitation or proposed award for a proposed contract pursuant to Section 13-1-181 NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section 13-1-182 NMSA 1978 of the Procurement Code if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective contractor.

THIS FORM MUST BE INCLUDED IN THE REQUEST FOR PROPOSALS AND MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

“Applicable public official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

“Campaign Contribution” means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of

individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

“Family member” means spouse, father, mother, child, father-in-law, mother-in-law, daughter- in-law or son-in-law of (a) a prospective contractor, if the prospective contractor is a natural person; or (b) an owner of a prospective contractor.

“Pendency of the procurement process” means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

“Prospective contractor” means a person or business that is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or a small purchase contract.

“Representative of a prospective contractor” means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

Name(s) of Applicable Public Official(s) if any: _____
(Completed by State Agency or Local Public Body)

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

(Attach extra pages if necessary)

Signature

Date

Title (position)

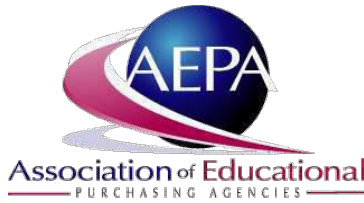
--OR--

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE to an applicable public official by me, a family member or representative.

Signature

Date

Title (Position)



Invitation for Bid AEPA IFB # 020-A Natural & Synthetic Surfaces for Sports Fields, Tracks, Courts, Playgrounds and Landscaping Applications

Part C – Member Agency (State) Terms and Conditions

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1. Member Agency (State) Terms and Conditions

A single IFB is being published and distributed on behalf of the Member Agencies in many states. Differences in contract implementation and operation will exist between the Member Agencies. Each state may have special laws relating to this procurement that must be adhered to in addition to the previously stated constraints. *When Member Agency/State Specific Terms and Conditions differ from the General Terms and Conditions, the Member Agency/State Specific Terms and Conditions will prevail.*

2. Common Terms and Conditions

Active Promotion of Contract: Agencies require that the Vendor Partner take ownership and actively promote the contract in cooperation with the AEPA Member Agency to all of the Agencies' qualified Participating Entities.

Sales to Participating Entities: AEPA Member Agencies require that all awarded Vendor Partners offer the Member Agency contract opportunity to all qualified Participating Entities of the cooperative.

Legal Obligations: All Vendor Partners shall comply with all applicable Federal, State and Local Laws, Codes and Regulations while fulfilling the contract. It is the Bidder's responsibility to be aware of and comply with all state and local laws governing this procurement. Applicable laws, codes, and regulations (etc.) must be followed even if not specifically identified herein.

Administrative Fees: AEPA Member Agencies charge Vendor Partners an administrative fee (a percentage of sales in their respective state or states that they extend the AEPA pricing to). Administrative Fees are generally paid to each Member Agency on a quarterly basis. Additional details of how these fees are charged may be found under each state's Terms and Conditions.

A summary of each State's Administrative Fee, any special terms and conditions, and special ordering process requirements is listed here for the convenience of the Bidders.

3. Member Agency General Overview Summary

AEPA Member Agency State	General			Ordering Process			Construction Products and Services									Potential Customers						
	Administrative Fee	Bid Security Required on bid due date	Special Reporting Requirements	Standard Ordering Process	Electronic Ordering	Special Ordering Process	Davis Bacon and State Wage Rates	Payment & Performance Bonds Required	Contractor's Licensing Required	Permits and/or Registration Required	Construction Project Cost Limitations	Participate in Construction Services	Participate in Construction Products Only	Products are taxable	Service is Taxable	K-12 Education	Higher Ed.	Private Schools	Non-Profits	Federal Agencies	State Agencies	Cities & Counties
CA	2%	N	N	Y	Y	N	-	-	-	-	Y	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
CO	2%	N	N	Y	N	N	N	N	N	N	N	Y	Y	N	N	Y	Y	Y	Y	Y	N	Y
CT	2%	N	N	Y	Y	N	Y	N	Y	Y	N	Y	N	N	N	Y	Y	Y	Y	Y	Y	Y
FL	2%	N	N	Y	Y	N	Y	N	Y	Y	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
IA	2%	N	Y	Y	Y	N		**			Y	Lim	Lim	**		Y	Y	Y	N	Y	Y	Y
IL	2%	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	N	N	Y	Y
IN	Var	N	N	N	N	Y	-	-	-	-	-	-	-	-	-	Y	Y	Y	Y	Y	Y	Y
KS	2%	N	n	Y	Y	Y	Y	Y	Y	Y	N	Y	N	N	N	Y	Y	Y	Y	Y	Y	Y
KY	2%	N	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
MA	2%	N	N	Y	Y	Y	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y
MI	2%	N	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	TBD	Y	Y
MN	2%	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y/N*	N	Y	Y	Y	Y	Y	Y	Y
MO	2%	N	Y	Y	Y	N	Y	N	N	Y	N	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y
MT	2%	Y	N	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
NE	2%	N	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	N	N	Y	Y
NJ	2%	N	N	Y	Y	N	Y	Y	Y	Y	Y	N	Y	N	N	Y	Y	Y	Y	N	N	Y
NM	2%	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y
ND	2%	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y/N*	N	Y	Y	Y	Y	Y	Y	Y
OH	2%	Y	Y	Y	Y	N	Y	Y	Y	Y	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
OR	2%	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
PA	2%	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	N	N	Y	Y	Y	Y	Y	Y	Y
TX	2%	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
VA	2%	N	N	Y	Y	Y	N	N	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
WA	2%	N	Y	N	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N	N	N	Y	Y
WV	2%	Y	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
WI	2%	N	N	Y	Y	N	Y	Y	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
WY	2%	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y			Y	Y	Y	Y	Y	Y	Y

4. State Specific Terms and Conditions

1. California, Monterey County Office of Education dba CalSave

1) Governing Law and Venue

The laws of the State of California govern the Contract and prevail in the interpretation and administration of the Contract. California-specific Terms and Conditions prevail over any General Terms and Conditions. Each and every provision of law and clause required by law to be included in the Contract shall be deemed to be inserted herein, and the Contract shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction.

The venue for any litigation arising out of or related to the Contract shall be with either the Superior Court in and for the County of Monterey, State of California or the Federal District Court for the Northern District of California, San Jose Division.

2) Authority

For California, this bid is issued under the authority of the elected Monterey County Superintendent of Schools, who administers the Monterey County Office of Education (MCOE), located at 901 Blanco Circle, Salinas California, 93912. In this document, MCOE may be referred to as Agency, being distinct from other parties who may use this contract who are hereinafter referred to as Local Education Agencies (LEAs), regardless of their hierarchy or their political and organizational status as schools or municipalities.

3) CalSAVE, Administration, and Agent

Contracts awarded and Awarded Contractors/Vendors will automatically be part of the CalSAVE program, and by bidding a vendor must agree to participate. CalSAVE is the cooperative purchasing program founded by the Monterey County Office of Education and administered by the Epylon Corporation under a contract with MCOE, in cooperation with the California County Superintendents Educational Services Association (CCSESA). MCOE is the lead agency for all Contracts, and the Monterey County Superintendent of Schools is the authority for the solicitation, evaluation and award of all contracts. Epylon serves as MCOE's agent, but only the Monterey County Superintendent of Schools has the authority to award contracts. Correspondence and communication related to the contract award or administration of the program should be directed to Epylon, 630 San Ramon Valley Blvd., Suite 210, Danville, CA 94526.

MCOE reserves the right to change agents or to change the contact name of existing Agent's personnel administering the contract. If Agent or Agent's personnel change, Awarded Contractors/Vendors will be notified with new instructions.

4) Transaction Fees

Transaction Fees are the funding source for the operation of the self-supporting CalSAVE cooperative purchasing program. Awarded Contractors/Vendors shall be required to pay a Transaction Fee for all purchases by LEAs made through the awarded Contract. For the purpose of this bid through Monterey County Office of Education and all Contracts awarded using this document, the Transaction Fee shall be 2 percent of Net Sales, which means gross sales less returns and cancelled orders within 30 days, shipping and sales and other taxes (excluding taxes based on net income). Transaction Fees will not be charged to or paid by the buyers themselves. Neither Awarded Contractor/Vendor nor its designated authorized reseller(s) shall include any additional amount corresponding to the Transaction Fees in the awarded Contract prices. This Transaction Fee applies to all orders, regardless of the method used to submit the order, or the quantity or dollar amount of the order.

Epylon will collect the full Transaction Fee on behalf of the CalSAVE program, unless otherwise advised by Epylon. The Contractor/Vendor will make all participation fee payments within two weeks after sending the quarterly report. Checks are to be made payable to the Epylon Corporation and sent to 630 San Ramon Valley Blvd., Suite 210, Danville, CA 94526.

5) Non-Conforming Jurisdictions

Notwithstanding Section A.4 (immediately above) no Transaction Fee is authorized to be charged to Awarded Contractors/Vendors for sales within any jurisdiction where prohibited by law or local- government policy. Instead, the cost of products, services, licenses and goods sold under this contract in such jurisdictions shall be the same as for all school districts in all other counties of California. However, any LEA using this contract where Section 4 fees are not permitted shall be required to pay a 2 percent fee for use of the contract, imposed by MCOE on the authority of Public Contract Code Section 20118 and 20652, which allows MCOE to charge reasonable costs to the public corporation or agency for furnishing the services incidental to the purchase of items under contract.

6) Reports

The Contractor/Vendor will compile a quarterly report listing each purchase made by participating Agencies under this contract, and send them by the 15th of April, July, October, and January to Racquel Landolf with the e-mail address of

rlandolf@epylon.com. These reports shall be in Microsoft Excel format and shall have file names that identify the contractor/vendor and the month being reported. The file at a minimum shall include the fields listed below and shall allow for sorting on any of these fields:

- Date of Order
- Name of Participating Agency (LEA)
- Description of Item Purchased
- Manufacturer's SKU Number
- Quantity
- Contract Unit Price
- Extended Price
- List Price Before AEPA Discount

7) Length of Term

The term of the agreement shall commence on the date of the award and continue as stipulated in General Terms and Conditions, unless terminated, canceled or extended. Contract may be terminated by MCOE if LEAs have not used the contract in any 12-month period, or if orders from participating LEAs do not total \$10,000 in any 12-month period. California statutory term limits and extensions shall apply.

8) Marketing and Advertising under this Agreement

Vendor will actively promote the use of this contract by LEAs in California. Vendor must comply with the marketing plan offered as part of its bid submission. Unless other arrangements are made with the CalSAVE administrator, vendor is also required to perform the following:

- a. Vendor will include the approved CalSAVE logo, web address, and toll free number in all print electronic mail and other advertising and promotion intended for release to California K-12 schools, excluding national marketing releases.
- b. The CalSAVE logo and associated CalSAVE information shall be of a clearly readable size and in appropriate proportion to other elements in the printed material.
- c. Vendor agrees to provide CalSAVE with a copy or proof sheet of the advertisement or promotion material. Vendor will provide CalSAVE with date of release and name of publication, journal, etc.
- d. Vendor shall place a supplied CalSAVE vendor sign on booths, tables, etc. of any or all exhibits for which the vendor displays/participates at California tradeshows, conventions and the like. Vendor will supply in advance scheduled exhibit dates. Vendor agrees to make available at the exhibit CalSAVE supplied brochures or other promotion materials.
- e. Vendor agrees to insert the approved CalSAVE logo, web address, and toll free number on the vendor's web site promoting or a specific CalSAVE landing page and providing a link to the CalSAVE website.
- f. Vendor will supply product catalog information, product description, pricing, etc., in a spreadsheet format as specified by CalSAVE for inclusion on the CalSAVE website.
- g. Vendor agrees to cooperate in developing appropriate website content to promote its products, services and their advantages to school districts.
- h. Requested materials will be submitted to CalSAVE within 30 days.

A. Additional Member Agency Terms and Conditions for Non-Construction Products and Services

1) Conformance to Public Contract Code 20111

An award by the Monterey County Superintendent of Schools under this solicitation will be for the purchase of equipment, materials, supplies, services or repairs to be furnished, sold, or leased in accordance with Public Contract Code 20111 and 20650. Awards shall include allowance for installation and assembly services incidental and necessary to the use of the equipment, materials, supplies and repairs purchased or leased.

2) Conformance to Public Contract Code 20118 and 20652

All public agencies (LEAs) are authorized by law to purchase off a contract awarded by an agency that has itself gone to bid, including all K-12 schools districts, community college districts, special districts and JPAs serving education, pursuant to Public Contract Code Sections 20118 and 20652. Using these statutes, the Monterey County Office of Education hereby declares its intent and authorization to make all contracts awarded under this contract "piggybackable" by other agencies in the state. The Agency waives any right to receive payment from other California agencies making purchases off the awarded contracts and those agencies will make payment directly to the vendors. Any legislative changes to Public Contract Codes 20118 and 20652 during the term of the contract(s) with Award Vendor(s) shall apply to the contract(s) immediately when such changes become law.

3) Additional Piggyback and Standard School Supply and Equipment Authority

The Monterey County Office of Education declares that items, materials, personal property, equipment and licenses under Contract as a result of this Invitation to Bid will qualify as items to be included within its Standard School Supply and Equipment List. Because many County Offices of Education have banded together to create both the EdBuy and the CalSAVE programs for the purpose of collectively creating both a standard School Supply & Equipment List and cooperative contracts, the items solicited and awarded through this bid may also constitute a portion of an official Standard School Supply and Equipment List for other participating County Offices of Education and County Superintendents of Schools. Purchases by other County Offices of Education and LEAs may be made, not only in accordance with Public Contract Code 20118 and 20652, but also in accordance with Education Code 38110 and 38112 dealing with cooperatives and Standard School Supplies & Equipment.

B. Additional Member Agency Terms and Conditions for Construction Products and Services

1) Intended for Personal Property

An award by the Monterey County Superintendent of Schools under this solicitation will be for the purchase of equipment, materials, supplies, services or repairs to be furnished, sold, or leased in accordance with Public Contract Code 20111 and 20650. Awards shall include allowance for installation and assembly services incidental and necessary for use of the equipment, materials, supplies and repairs purchased or leased. When any services or repairs fall into a category of Public Works as defined in Public Contract Code 22002, an LEA may use this California contract only up to \$14,999 for labor and services, but for an unlimited dollar amount for any supplies, materials, equipment or personal property to be staged and ready for use in a local Public Works project.

2) Public Works Limitations

When Public Works services cost \$15,000 or more, an LEA, under most situations, must bid itself independently for the services and labor related to the public work, but may use this contract for the contracted supplies, material or equipment related to the project. If circumstances allow, LEAs may also combine this competitively bid contract with other alternative authorities for Public Works projects as may be allowed by law, such as Public Contract Code 22030, Education Code 17406 or Government Code 1466. LEAs should consult with their own legal counsel to see if such statutes apply to their Public Works projects.

C. Procedure for Processing Orders

1) Start date

Once the award is made to the Contractor/Vendor and signatures have been placed on the contract from both parties, the Awarded Contractor/Vendor is authorized to begin selling to eligible Agencies. MCOE will begin informing LEAs of the Contract once the Contract has been signed.

2) Prices and Requests for Quotes

The Awarded Contractor/Vendor, in cooperation with MCOE's agent, must make provision for LEAs to quickly ascertain bid prices by posting prices, posting a link or contact for prices, distributing catalogs and price lists, responding to requests for quotations, or participating in eCommerce.

The 2 percent Transaction Fee on all sales is a cost of doing business to the vendor and the requirement for the fee is publicly disclosed in these bid documents for the edification of all buying agencies and LEAs. Transaction fees should not appear as a line item on a quotation or on listed bid pricing. The final price quoted or displayed must be inclusive of the participation fee on all pricing and quotations.

3) Submission of Orders and Delivery

After entering into an agreement with MCOE, an LEA electing to use this Contract will enter into a separate contract with the Vendor by way of a purchase order or separate contracting document ("Separate Contract"). Purchase orders will be issued by participating LEAs to contractor/vendor.

LEAs will fax or mail purchase orders directly to the CalSAVE office fax at (866) 488-3729), unless other arrangements have been made and agreed to by the CalSAVE Administrator. LEAs may also use Epylon eCommerce software for transmission of purchase orders. Standard business practice is for all purchase orders received by 3:00 p.m. Pacific Time to be logged and forwarded to the appropriate vendor on the same day received, unless unusual circumstances occur. It is the responsibility of the awarded/Vendor contractor to track any purchase order received directly from an LEA and to include that order on quarterly reports.

Awarded Contractor/Vendor will deliver goods, services and corresponding invoices directly to the participating LEAs and receive payments directly from the participating LEAs as per bid specifications.

D. Agencies Allowed to Purchase under the Member Agency

1) Other Agencies' Right to Purchase.

CalSAVE is a self-supporting contracting program led by the Monterey County Office of Education. Contracts are made available to all California public school districts, private and non-public schools registered with a county office of education or state Department of Education, charter schools, community college districts, eligible state agencies, non-profits (particularly those such as PTAs buying on behalf of schools or government), and any other agency allowed by law – all referred to as LEAs.

Subject to the following terms and conditions, the Monterey County Office of Education (MCOE) consents to LEAs purchasing items at the same unit price(s) or pricing formula under the terms and conditions of this Contract, as may be authorized by Sections 20118 and 20652 of the Public Contract Code or other legal authority:

a) Any other agency (LEA) authorized by law to use this Contract for its own purchase(s) from the Awarded Contractor/Vendor or their authorized resellers shall by default enter into a standard agreement with MCOE, which *inter alia* will include the terms, conditions, and information set forth in this paragraph *a* and paragraphs *b* through *i* below.

After entering into a standard agreement with MCOE, an Other Agency electing to use this Contract will enter into a separate contract or purchase order ("Separate Contract") with the contractor/vendor. The Separate Contract is subject to and includes and/or incorporates all applicable terms of this Contract and the specific requirement that the Awarded Contractor/Vendor comply with the provisions set forth in the paragraph regarding payment of the 2 percent Transaction Fee (or the non-conforming jurisdiction fee) to be collected by the Epsilon Corporation. MCOE will not be a party to any Separate Contract, but will be considered a third party beneficiary of such Separate Contract.

- a) The Awarded Contractor/Vendor understands and agrees that failure or refusal to comply with the provisions set forth in this agreement regarding payment of the 2 percent Transaction Fee in conjunction with any Separate Contract or any other use of this Contract by an "Other Agency" is grounds for cancellation of the Contract. The Contractor/Vendor also understands and agrees that if the Contract is cancelled for this or any other reason, MCOE may give notice of such cancellation by any other means appropriate to inform LEAs of that cancellation.
- b) The MCOE waives any right it may have to require any LEA using this Contract to draw its warrants for the purchase(s) in its favor and consents to each agency making such payment(s) directly to the contractor/vendor.
- c) Sales tax and freight/shipping charges included in the Contract apply to the MCOE only. Additional sales tax and freight/shipping charges may be required on purchases by any LEA and are outside the scope of this Contract, unless specifically addressed elsewhere in Part A or Part B of the Terms and Conditions.
- d) This Contract and any Separate Contract are for the purchase of the items covered by Contract. An LEA may, however, exercise its authority under Education Code section 17597 or 81645 or other legal authority to sell and lease back any item owned by, or to be owned by, it pursuant to any Separate Contract. The contractor/vendor agrees to take any and all actions requested by any LEA that are necessary to effect any such transfer, by way of example only, accepting payment under the Separate Contract from any third party to whom any such transfer is made.
- e) Both the contractor/vendor and any LEA using this Contract agree that the MCOE makes no representation that use of this Contract by any Other Agency is, in fact, authorized by law. In this regard, the MCOE suggests that, at a minimum, Contractor/Vendor and any LEA considering such use consult with their own legal counsels before doing so.
- f) Both the contractor/vendor and any LEA using this Contract agree to defend, indemnify and hold the MCOE, the Monterey County Superintendent of Schools, and the Monterey County Board of Education and its members, as well as all of their respective officers, employees and agents, free and harmless from any claims, liabilities, costs, penalties, or interest arising out of any such use.
- g) MCOE reserves the right to cancel the whole or any part of this contract due to failure by the contractor to carry out any obligation, term or condition of the contract. MCOE will issue written notice to the contractor for acting or failing to act in any of the following:
 - a. The vendor fails to adequately perform the services set forth in the contract
 - b. The vendor fails to make progress in the performance of the contract and/or gives MCOE reason to believe that the contractor will not or cannot perform to the requirements of the contract
 - c. The contractor fails to observe any of the terms and conditions of the contract

d. The contract fails to pay Transaction Fees

e. The contractor fails to follow the established procedure for purchase orders, invoices and receipt of funds as stipulated by the MCOE. MCOE shall follow the following procedure if the contract is to be terminated:

- Step 1 - Issue a warning letter of concern outlining the violations and length of time to correct the problem(s).
- Step 2 - Issue a letter of intent to cancel the contract, if the problem(s) is not resolved by a given date.
- Step 3 - Issue letter to cancel the contract. Upon receipt of the written notice of concern, the contractor shall have ten (10) business days to provide a satisfactory response to MCOE.

Failure on the part of the contractor to address adequately all issues of concern may result in contract cancellation.

2) Other Agencies, Constitutionally Independent Agencies, and Out-of-State Agencies

Other agencies and out-of-state agencies and LEAs may use the contract as allowed by California Government Code Section 6502, which says, "If authorized by their legislative or other governing bodies, two or more public agencies by agreement may jointly exercise any power common to the contracting parties, even though one or more of the contracting agencies may be located outside this state. It shall not be necessary that any power common to the contracting parties be exercisable by each such contracting party with respect to the geographical area in which such power is to be jointly exercised. For purposes of this section, two or more public agencies having the power to conduct agricultural, livestock, industrial, cultural, or other fairs or exhibitions shall be deemed to have common power with respect to any such fair or exhibition conducted by any one or more of such public agencies or by an entity created pursuant to a joint powers agreement entered i

If an Awarded Vendor uses an MCOE or AEPA-affiliated contract for the purpose of obtaining a separate CMAS (California Multiple Awards Schedule) contract from the State of California, the Awarded Vendor is responsible for paying both the CMAS fee and MCOE's 2.00 percent transaction fee for all orders submitted under the authority of the CMAS program. In exchange for this fee, the Vendor is given a license to use and duplicate MCOE/AEPA terms and conditions for the purpose of applying for a CMAS contract. Also CalSave or CalBuy will post pricing allowing prospective buyers to check for pricing that is compliant with the MCOE and CMAS contract. Vendor must comply with MCOE's quarterly reporting requirements. Public records of sales through CMAS will be used to verify quarterly reports and sales made through the CMAS program.

2. Colorado - Colorado BOCES Association (CBA)

A. *Additional Agency Terms and Conditions*

Advertising: CBA will require a marketing flier, in electronic format, and timely updates from each vendor promoting the contract and AEPA/CBA relationship. CBA will assist in the development of the marketing flier and other appropriate materials which will include logos representing the vendor/AEPA/CBA. This flier will be for distribution and dissemination to all qualified customers through the CBA website and other appropriate and available methods.

Sales to Qualified Customers: Boards of Cooperative Educational Services (BOCES) in Colorado are legislatively created cooperative organizations directed by Colorado state statute 22-105 to serve all qualified agencies in a cooperative manner. BOCES are governed by publicly elected officials and by state and federal laws. No agency is obligated to use these services and contracts, but they find the benefits of low price and the satisfied bidding process most advantageous. Qualified agencies in Colorado include all public or private educational institutions, K-12 and higher education, all non-profit organizations, and all county or local governmental agencies. CBA requires that all participating vendors offer the Agency contract opportunities to all qualified customers.

B. *Procedure for Processing Orders:* Once the award is made to the vendor.

- CBA will inform its members of the contract by:
 - i.* Including the contract in the agency database that is available on the CBA website
 - ii.* Announcing the award through normal communication channels, CBA member presentations as well as regular electronic and direct mail communications.
 - iii.* Offering the opportunity to the vendor to publish their marketing information on the CBA website link to cooperative purchasing opportunities.
- A listing of CBA members, institutional names, contact names, addresses and phone numbers is available to the vendors through the CBA website. At this point the vendor must contact the members and qualified customers; and the customers have the right to contact the vendors directly. Note: CBA requires the awarded vendors to take ownership and actively promote the contract in cooperation with CBA to all members and qualified customers.
- When the customer identifies a desired product or service as available through the AEPA/CBA contract and agrees on price as presented to the customer by the awarded AEPA/CBA vendor, the customer then issues to the vendor a purchase order for that item or service.
- The awarded price must include an additional two percent (2%) administrative fee in the total cost (not as a separate line item), based on the total cost of goods and services including installation. This fee is to be forwarded by the vendor to CBA after the sale and payment is made to the vendor. Payment shall be made to CBA on a quarterly basis along with the complete sale report as specified in the general terms and conditions.
- The sale and transaction may continue without delay or anticipation of the CBA denial of said transaction.
- The administrative fee percentage (2%) is based on the total sale of goods and services including installation and must be included in the original cost quoted to the customer. In the event of a lease, the total administrative fee for the value of goods and services shall be paid to CBA by the vendor at the front end of the lease.
- Vendor makes all deliveries and installation of products and services. CBA does not warehouse items nor provide services.

3. Connecticut, Capitol Region Education Council (CREC)

A. ADDITIONAL MEMBER AGENCY GENERAL TERMS AND CONDITIONS

Affirmative Action - The Contractor must have an employment policy that there shall be no discrimination against anyone on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, physical disability or sexual orientation in the hiring, upgrading, demotions, recruitment, termination and selections for training, in any manner prohibited by the laws of the United States or of the State of Connecticut. The Contractor further agrees to be an "affirmative action-equal opportunity employer."

Applicability of Contract Provisions to Connecticut Participants - The Capitol Region Education Council (CREC) is the AEPA Member Agency. Any entity that uses the contract awarded by CREC under this document is referred to as a "Participant." The bidder that is awarded the contract by CREC is referred to as the "Contractor."

Conflict of Interest

The Contractor shall disclose any relationship with a CREC employee that would not be considered an "arms-length" or independent transaction, as described below. This disclosure must be made in writing to CREC for an evaluation. CREC will respond to this disclosure in writing.

A CREC employee (including independent contractors for purposes of this definition) placing an order or recommending a vendor must disclose any relationship with that vendor which would not be considered an "arms-length" or independent transaction. This disclosure must be made in writing to CREC for an evaluation. CREC will respond to this disclosure in writing.

For a transaction to be considered "arms-length" or "independent", a CREC employee should not be influenced, dependent upon, guided or controlled by a vendor into choosing that vendor, or item to purchase; nor should it appear to a third party that a CREC employee made a purchasing decision which appears to be based upon a personal relationship between the CREC employee and vendor.

The following are examples when a transaction is NOT considered arms-length or independent: (1) when there exists a personal relationship between a CREC employee and a vendor, (2) when there exists the potential for a personal benefit to a CREC employee, or (3) the parties to a business deal are dependent upon one another for "something" other than the purchase itself.

In addition, the Contractor shall, if given a copy of the potential Participant's conflict of interest policy, follow the process in that policy, or otherwise disclose to a potential Participant any relationship that would not be considered an "arms-length" or independent transaction with that Participant, as described above. This disclosure must be made in writing to the chief official (for example, the Superintendent at a board of education) at the potential Participant.

Determination of the existence of a conflict of interest does not prohibit CREC and/or a Participant from entering into the contract and purchase order, respectively.

Financing Arrangements - Any financing arrangements (including lease purchasing arrangements) will be made directly between the Contractor and a Participant. Financing arrangements may be subject to additional laws, rules and regulations, terms and conditions not described in this document and are subject to separate negotiation with each Participant that is interested in such an arrangement. Each Participant should seek its own legal advice prior to entering into a financing arrangement. CREC must receive a report annually summarizing the executed lease purchases along with the summary of the customer purchases. CREC will not collect lease payments or be involved

in the terms and conditions of the lease. All lease arrangements are between the Contractor and the Participant only.

Freedom of Information Act - The Contractor acknowledges that CREC and some Participants are subject to the Freedom of Information Act, Connecticut General Statutes Sections 1-200 et seq., and submitted to CREC and/or such Participants may be made available to the public under the provisions of the Freedom of Information Act.

Incorporation of Bid Documents - The bid documents, including all appendices executed by Contractor that have been accepted by CREC (the "Bid") are specifically incorporated into this Contract.

Independent Contractor - The Contractor shall not be held or deemed in any way to be the agent or employee of CREC and/or a Participant. It is the intention of the parties that the Contractor shall be and is to be considered an independent contractor.

Marketing and Advertising - Contractor agrees to provide CREC with a copy or proof sheet of all advertisements, customer communications or promotional material for prior approval.

Modification to Bid Language in the AEPA Invitation for Bid - The Bidder by submitting its bid hereby declares that this Bid is made without any connection with any other person or persons making any proposal for the same items, that it is in all respects fair and without collusion or fraud and that no person acting for or employed by CREC or a Participant is directly or indirectly interested in the proposal or in the goods or services to which it relates, or in any portion of the profits therefrom.

5. ADDITIONAL MEMBER AGENCY TERMS AND CONDITIONS FOR NON-CONSTRUCTION PRODUCTS AND SERVICES

None

6. ADDITIONAL MEMBER AGENCY TERMS AND CONDITIONS FOR CONSTRUCTION PRODUCTS AND SERVICES

CT Commission on Human Rights and Opportunities

Municipal Public Works contracts funded in whole or in part by the State of Connecticut are subject to contract compliance requirements and set-aside goals as follows:

The contractor who is selected to perform this State project must comply with CONN. GEN. STAT. §§ 4a-60, 4a-60a, 4a-60g, and 46a-68b through 46a-68f, inclusive, as amended by June 2015 Special Session Public Act 15-5.

State law requires a minimum of twenty-five (25%) percent of the state-funded portion of the contract for award to subcontractors holding current certification from the Connecticut Department of Administrative Services ("DAS") under the provisions of CONN. GEN. STAT. § 4a-60g. (25% of the work with DAS certified Small and Minority owned businesses and 25% of that work with DAS certified Minority, Women and/or Disabled owned businesses.) The contractor must demonstrate good faith effort to meet the 25% set-aside goals.

For municipal public works contracts and quasi-public agency projects, the contractor must file a written or electronic non-discrimination certification with the Commission on Human Rights and Opportunities. Forms can be found at:

http://www.ct.gov/opm/cwp/view.asp?a=2982&q=390928&opmNav_GID=1806

7. PROCEDURES FOR PROCESSING ORDERS

1. Purchase orders will not be accepted or processed by CREC. All business will be contracted directly with the Participant, which will issue a purchase order and provide payment for the applicable good or service directly to the Contractor.
2. To the extent not otherwise described in this document, once a purchase order is issued by a Participant to a Contractor, all of the provisions of the contract shall benefit and be enforceable by such Participant, unless specifically identified as applying to CREC only.

8. AGENCIES ALLOWED TO PURCHASE UNDER THE MEMBER AGENCY

There are 169 school districts in Connecticut and all are eligible for membership. No district is obligated to use these services. Additional members may include other public educational institutions, public colleges or universities, community colleges, vocational or technical schools, municipal governments, and other governmental, quasi-governmental, or non-profit organizations.

Work in Other States

CREC is making the CT AEPA contract available for vendors to use in all New England states – CT, ME, NH, RI, VT – and New York, and any other state without AEPA member representation. Our contract is also available in MA for vendors who TEC has been unable to sign with.

Sales made in any of these states using the AEPA contract are to be reported to CREC, with the 2.0% administrative fee made payable to CREC. The Contractor must advise CREC its intent to use the contract in any of these states.

All Terms and Conditions for Connecticut apply to work in these states. It is the Contractor's obligation to ensure that the purchaser fully understands the AEPA contract, including whether it is allowable under applicable state regulations.

4. Florida, Panhandle Area Education Consortium Florida Buy

A. Additional Agency Terms and Conditions

Vendor Contact: Vendor will designate to the Panhandle Area Educational Consortium Florida Buy, one individual who will represent them during the agreement period. This contact person will correspond with each ordering member for technical assistance, problems, or questions that may arise, including instructions if different contacts for different geographical areas are needed. This information will be distributed to all school districts upon award of this bid. Vendors may use this contract to sell products or services in addition to school districts to any government agency, non-profit organizations or institutions.

Vendor agrees to abide by all federal, state and local laws and regulations. It is the responsibility of the Vendor to determine applicability and requirements of any such laws and to abide by them.

All terms and conditions may be modified and revised by PAEC Florida Buy with the written consent of both PAEC Florida Buy and the Awardee.

PAEC Florida Buy, at its discretion, may offer the use of the awarded agreement to governmental entities such as state agency purchasing programs, to extend the use of the contract to eligible users. This option will be referred to as an Interlocal Agreement. Under such conditions, the participating agency may, with written consent from the Awardee, modify and revise the terms and conditions of the master agreement.

Other state and public agency purchasing program agreements may require additional administrative fees, associated with sales, to be paid by the Awardee for the management of the contract. The Awardee will be notified in writing and will have the option of accepting or rejecting the Interlocal Agreement program fees.

No right or interest in the Contract shall be assigned or transferred by the Contractor without the prior written consent of the PAEC Florida Buy program. No delegation of any duty of the Contractor shall be assigned without prior written permission of PAEC Florida Buy. If the original Vendor/Contractor sells or transfers all assets or the entire portion of the assets used to perform this Contract, a successor in interest must guarantee to perform all obligations under this Contract. PAEC Florida Buy reserves the right to reject the acquiring person or entity as a Vendor/Contractor. A change of name agreement will not change the contractual obligations of the Vendor/Contractor.

The Awardee, may, upon entering into negotiations with qualified buyers, amend their prices to offer volume discounts below the lowest unit rates established in the pricing portion of this agreement.

B. Procedures For Processing Orders

Once the award is made to the Vendor, PAEC Florida Buy will inform all school districts of the contract by:

1. Including the award information on the PAEC Web site at www.floridabuy.org
2. Announcing the award in its PAEC Florida Buy website
3. Announcing the award via electronic mail to all members

Any members, contact names, addresses and phone numbers will be available at the PAEC Web site www.floridabuy.org. At this point, the Vendor may contact the members and the members may contact the Vendor. The member will identify a desired product or service available through the AEPA contract and agrees on the price and conditions as presented to the member by the awarded AEPA Vendor. The member then issues to the Vendor a purchase order for that item or service. The purchase order must include an additional (2%) administrative fee built into the total invoiced cost, based on the total costs of good, services and installation. A final copy of the customer purchase order or sales summary must be sent to PAEC Florida Buy by the Vendor after completion of the service or installation. The Vendor has (30) thirty days to forward this purchase order. This will insure compliance of the contract.

Vendor makes all deliveries and installations of products and services. PAEC Florida Buy does not warehouse items. All participating Vendors agree to and are subject to audit proceedings of the AEPA sales to members.

The Vendors price will include a (2%) administrative fee that the Vendor shall collect from the member and remit to PAEC Florida Buy on a quarterly basis. The Vendor will produce and provide to PAEC Florida Buy quarterly reports ending March 31, June 30, September 30 and December 31 throughout the contract period. The reports shall identify the Vendor and the quarter being reported, shall include a minimum of the fields listed below:

1. Date of Order
2. School district
3. List or academic price sales totals
4. PAEC Florida Buy price sales totals

5. Member savings total

Quarterly reports and administrative fee payments to PAEC Florida Buy are due the 15th of the succeeding month, and all checks are to be made payable to the Panhandle Area Educational Consortium and sent to: PAEC, 753 West Blvd, Chipley, Florida 32428 and Attention: Florida Buy. PAEC may designate another agent for collecting and administrative fee that will be negotiated with Vendor for e-commerce transactions.

C. Agency Members Purchasing Under The Member Agency

The Panhandle Area Educational Consortium is a fourteen-member consortium that includes a voluntary purchasing program developed for schools in Florida. All other school districts in Florida are participating members in the programs of the Panhandle Area Educational Consortium (PAEC), including participation in the statewide cooperative purchasing program. Agencies that use this contract will be in compliance with FS1001.42. PAEC was established to provide easily accessible information for our member and participating public school districts and the communities we serve. Since the creation of PAEC in 1967, our school districts have benefitted from shared services made available through leading edge technology. While school districts access our teaching and learning, training and technology, and business operations services in varying degrees of need, all come for the mutually beneficial purpose of reaching their goals together.

5. Georgia, Cooperative Purchasing Agency (CPA)

1. General Overview

- a. Cooperative Purchasing Agency is now the AEPA representative for the state of Georgia. In Georgia we advertise our bids on the state procurement registry website:
<http://doas.ga.gov/state-purchasing/georgia-procurement-registry-for-local-governments>
- b. In 1971 several small school systems in North Georgia decided to work together & form **Cooperative Purchasing Agency (CPA)**, a non-profit organization built by & for the school systems to combine their purchasing power. As a division of North Georgia, Northeast Georgia, & Pioneer RESA; Pioneer RESA serves as our fiscal agent and as such we currently show up on the Georgia Procurement Registry as Pioneer RESA. CPA serves as a purchasing agent for classroom & office supplies for its 35-member school systems plus neighboring ones who choose to take advantage of cooperative buying. CPA also serves as a recipient agency for USDA commodities that member systems receive through the USDA school lunch program. In addition to items included in our catalog & website, CPA has access to brands, custom items, & entire product categories that meet systems' office & classroom needs – including furniture options (indoor & outdoor), playground equipment, shelving installations, print supplies, & more.

2. Additional Participating Agency Terms and Conditions for Construction Related Products and Services

- a. Georgia requires all local school boards to post any bids requiring capital improvements / public works construction over \$100,000.00 to be posted on the Georgia procurement website, regardless of who they are purchasing through.

3. Local Government Provisions - Provisions Applicable to Counties, Municipal Corporations, And Other Governmental Entities

- a. § 36-91-20. Written contract required; advertising; competitive sealed bidding; timing of addendums; prequalification
 - i. All public works construction contracts subject to this chapter entered into by a governmental entity with private persons or entities shall be in writing and on file and available for public inspection at a place designated by such governmental entity. Municipalities and consolidated governments shall execute and enter into contracts in the manner provided in applicable local legislation or by ordinance.
 - ii. Prior to entering into a public works construction contract other than those exempted by Code Section 36-91-22, a governmental entity shall publicly advertise the contract opportunity. Such notice shall be posted conspicuously in the governing authority's office and shall be advertised in the legal organ of the county or by electronic means on an Internet website of the governmental entity or an Internet website identified by the governmental entity which may include the Georgia Procurement Registry as provided by Code Section 50-5-69.
 1. Contract opportunities that are advertised in the legal organ shall be advertised a minimum of two times, with the first advertisement occurring at least four weeks prior to the opening of the sealed bids or proposals. The second advertisement shall follow no earlier than two weeks from the first advertisement.
 2. Contract opportunities that are advertised solely on the Internet shall be posted continuously for at least four weeks prior to the opening of sealed bids or proposals. Inadvertent or unintentional loss of Internet service during the advertisement period shall not require the contract award or bid or proposal opening to be delayed.
 3. Contract opportunities that will be awarded by competitive sealed bids shall have plans and specifications available on the first day of the advertisement and shall be open to inspection by the public. The plans and specifications shall indicate if the project will be awarded by base bid or base bid plus selected alternates and:
 - a. A statement listing whether all anticipated federal, state, or local permits required for the project have been obtained or an indication of the status of the application for each such permit including when it is expected to be obtained; and

- b. A statement listing whether all anticipated rights of way and easements required for the project have been obtained or an indication of the status as to when each such rights of way or easements are expected to be obtained.
 - 4. Contract opportunities that will be awarded by competitive sealed proposals shall be publicly advertised with a request for proposals which request shall include conceptual program information in the request for proposals describing the requested services in a level of detail appropriate to the project delivery method selected for the project.
 - 5. The advertisement shall include such details and specifications as will enable the public to know the extent and character of the work to be done.
 - 6. All required notices of advertisement shall also advise of any mandatory prequalification requirements or pre-bid conferences as well as any federal requirements pursuant to subsection (d) of Code Section 36-91-22. Any advertisement which provides notice of a mandatory prebid conference or prequalification shall provide reasonable advance notice of said conference or for the submittal of such prequalification information.
- iii. Governmental entities are authorized to utilize any construction delivery method, provided that all public works construction contracts subject to the requirements of this chapter that:
 - 1. Place the bidder or offeror at risk for construction; and
 - 2. Require labor or building materials in the execution of the contract shall be awarded on the basis of competitive sealed bidding or competitive sealed proposals. Governmental entities shall have the authority to reject all bids or proposals or any bid or proposal that is nonresponsive or not responsible and to waive technicalities and informalities.
- iv. No governmental entity shall issue or cause to be issued any addenda modifying plans and specifications within a period of 72 hours prior to the advertised time for the opening bids or proposals, excluding Saturdays, Sundays, and legal holidays. However, if the necessity arises to issue an addendum modifying plans and specifications within the 72 hour period prior to the advertised time for the opening of bids or proposals, excluding Saturdays, Sundays, and legal holidays, then the opening of bids or proposals shall be extended at least 72 hours, excluding Saturdays, Sundays, and legal holidays, from the date of the original bid or proposal opening without need to readvertise as required by subsection (b) of this Code section.
- v. Bid and contract documents may contain provisions authorizing the issuance of change orders, without the necessity of additional requests for bids or proposals, within the scope of the project when appropriate or necessary in the performance of the contract. Change orders may not be used to evade the purposes of this article.
- vi. Any governmental entity may, in its discretion, adopt a process for mandatory prequalification of prospective bidders or offerors; provided, however, that:
 - 1. Criteria for prequalification must be reasonably related to the project or the quality of work;
 - 2. Criteria for prequalification must be available to any prospective bidder or offeror requesting such information for each project that requires prequalification;
 - 3. Any prequalification process must include a method of notifying prospective bidders or offerors of the criteria for or limitations to prequalification; and

Any prequalification process must include a procedure for a disqualified bidder to respond to his or her disqualification to a representative of the governmental entity; provided, however, that such procedure shall not be construed to require the governmental entity to provide a formal appeals procedure. A prequalified bidder or offeror can not be later disqualified without cause. History Code 1981, § 36-91-20, enacted by Ga. L. 2000, p. 498, § 1; Ga. L. 2001, p. 820, § 12; Ga. L. 2007, p. 640, §

6. Indiana, Wilson Education Service Center (WESC)

A. Additional Agency Terms and Conditions

Participating entities and approved vendors must be in full compliance with statutory requirements of all applicable federal, state, and local laws, rules, regulations, and ordinances including applicable public works and prevailing wage projects. All provisions required thereby to be included herein and are hereby incorporated for reference. This contract shall be construed in accordance with and governed by the laws of the State of Indiana. Awarded pricing must be made available to all participating entities regardless of size.

B. Procedure for Processing Orders

Wilson Education Service Center will inform all public school corporations, private/parochial schools, charter schools, nonprofit entities, municipalities, other governmental entities and higher education entities of contract awards via web sites and various marketing strategies. Vendors will have the primary responsibility to market contracts to eligible buyers within Indiana. After contracts are awarded and product information is available on our e-procurement sites vendors are free to contact eligible buyers and vice versa. The Wilson Education Service Center utilizes an e-procurement facilitation system as the primary mechanism for ordering and the primary method of marketing. Vendors are required to use the IAESC Procurement System and GovPro systems upon award. A 2.25% administrative fee will be assessed on gross monthly sales for IAESC Procurement (used by schools) and a 3.25% administrative fee will be assessed on gross monthly sales on GovPro (all other entities) after a 1% price increase. Vendors shall not include shipping and handling charges, federal excise tax, or state sales tax on invoices. Taxes do not apply to purchases by the participating entities. All participating entities have a "Not for Profit Tax Exemption Certificate" which will be furnished by the buyer upon request by the vendor. Quantities shipped in excess of quantities designated in the Purchase Order, or unapproved product substitutions will be returned at the vendor's expense.

C. Members Purchasing Under the Agency

All public school corporations, private/parochial schools, charter schools, nonprofit entities, municipalities, other governmental entities and higher education entities are eligible buyers. The Wilson Education Center as established by Indiana Code 20-1-11.3- 1 with Inter-local Agreement Powers as established by Indiana Code 36-1-7-2 represents all eligible buyers in this program within Indiana.

7. Illinois, Illinois Learning Technology Purchase Program

The following State Specific Terms and Conditions shall apply to all contracts involving public schools and/or other educational entities operating in Illinois, (hereinafter "Illinois Customers") and shall prevail over any General Terms and Conditions if/when they differ.

Illinois Law to Govern.

The Agreement, as modified by these Illinois Terms & Conditions, is (and shall be) governed by, construed under, subject to compliance with, and interpreted in accordance with, the laws and regulations of the State of Illinois, expressly including, (but not limited to): the Illinois School Code, 105 ILCS 5/1-1 *et seq.*; its procurement and bidding standards and prerequisites delineated at 105 ILCS 5/10-20.21; the Illinois Public Officer Prohibited Activities Act, 50 ILCS 105/0.01 *et seq.*; the Illinois Criminal Code, 720 ILCS 5/1-1 *et seq.*; its prohibitions against interference with public contracting delineated at 720 ILCS 5/33E-1, *et seq.*; the Illinois State Officials and Employees Ethics Act, 5 ILCS 430/1 *et seq.*; the Illinois Public Officer Prohibited Activities Act, 50 ILCS 105/1 *et seq.*; the Illinois Drug-Free Workplace Act, 30 ILCS 580/1 *et seq.*; the Illinois Business Enterprises for Minorities, Females and Persons with Disabilities Act, 30 ILCS 575/0.01 *et seq.*; the Illinois Human Rights Act, 775 ILCS 5/2-105 *et seq.*; and policies of the Illinois Customer relating to the subject matter of the Agreement with Contractor.

When Contractor and/or its agents will be on an Illinois Customer's premises (whether for delivery, installation, the provision of contractual services, or otherwise), Contractor shall also comply in all respects with: all background check requirements set forth at 105 ILCS 5/10-21.9; the Illinois Smoke Free Illinois Act, 410 ILCS 82/1 *et seq.*, and the Illinois Firearm Concealed Carry Act, 430 ILCS 66/1 *et seq.*

Any contractual payment requested of an Illinois Customer shall be invoiced, processed, and remitted to a Contractor in accordance with the requirements and provisions of the Illinois Local Government Prompt Payment Act, 50 ILCS 505/1 *et seq.*

This Agreement shall be construed and incorporated in accordance with the laws of the State of Illinois, regardless of any choice of law provision that might otherwise authorize construction of its terms in accordance with the law(s) of another state, states, or federal law.

By entering into this Agreement with an Illinois Customer, the Contractor's signature on the executed contract shall serve as Contractor's certification of Contractor's compliance with the foregoing laws and all requirements thereunder.

Entire Agreement and Construction

The Agreement, as modified by these Illinois Terms & Conditions, represents the entire agreement between Contractor and the Illinois Customer, and supersedes all prior negotiations or agreements, written or oral, which are not included herein. This Agreement may only be amended by written instrument executed by the Illinois Customer and Contractor. In the event of a conflict between the Agreement, as modified by these Illinois Terms & Conditions, and a proposal from Contractor, the terms of this modified Agreement will take precedence.

Each party has reviewed and approved the Agreement, and no rule of construction that resolves ambiguities against the drafting party will be employed in the interpretation of this Agreement.

Dispute Resolution.

Any dispute arising in any manner hereunder shall be subject to resolution by litigation, unless all

involved parties consent to an alternative means of dispute resolution. Venue for any legal action brought hereunder shall be the Illinois state circuit court of the county in which the Illinois Customer's administrative office is located or (if different and only if the Illinois Customer so elects) the Illinois state circuit court of the county where the Project is performed. Any provision of the General Terms purporting to change, limit, restrict, or shorten any Illinois period of repose and/or the duration of any applicable Illinois statute of limitation shall be of no force or effect against an Illinois Customer, it being understood by the parties that the Illinois periods of repose and statutes of limitation applicable to the subject matter hereof shall govern actions relating to this Agreement. No provision from the General Conditions shall limit, restrict, or shorten the duration of any period of repose or statute of limitation applicable under Illinois law.

Termination of the Agreement.

The Illinois Customer may terminate this Agreement at any time, in whole or in part, with or without cause, upon providing written notice to Contractor. If this Agreement is terminated by the Illinois Contractor for cause, the Contractor shall be liable to the Owner for any increase in cost incurred by the Owner in replacing the goods under contract and/or completing the contractual work, and for any additional or other damages the Illinois Customer suffers. In the event this Agreement is terminated by the Illinois Customer solely for the Illinois Customer's convenience, Contractor shall be compensated for items properly provided and/or work properly rendered through the date of termination, as can be documented to the reasonable satisfaction of the Illinois Customer. The Illinois Customer shall have no liability to Contractor beyond the date of termination. In no event shall Contractor be compensated for anticipated profit or lost opportunity.

Insurance and Indemnification Provisions.

Contractor hereby agrees to indemnify and hold the Illinois Customer, its board members, officers, agents, employees, administrators, attorneys, and any other parties designated by the Illinois Customer (hereinafter collectively called the Indemnitees@) harmless from all losses, claims, liabilities, injuries, damages and expenses, including (but not limited to) all attorneys= fees and defense and court costs and expenses, that the Indemnitees may incur arising out of, or occurring in connection with, the performance, acts, omissions, negligence, willful and/or wanton behavior, and/or breaches by Contractor of its duties and obligations under or pursuant to this Agreement. This indemnification obligation shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers= or workmen=s compensation acts, disability benefit acts or other employee benefit acts.

Contractor shall procure, at no expense to the Illinois Customer, the insurance coverages set forth in the General Conditions. In each such instance, Contractor shall, by endorsement, name the Illinois Customer as an additional insured and shall provide copies of said policies and endorsements to the Illinois Customer prior to commencement under this Agreement.

Funding Contingencies for Multi-Year Projects.

All contracts with Illinois Customers that call for performance, or otherwise extend, beyond the Illinois Customers' current fiscal year, are, and shall be, expressly contingent upon annual appropriations. In the event an Illinois Customer's entry into an Agreement with Contractor constitutes a lease purchase (whether for financing purposes or otherwise), that Agreement shall be subject to the provisions of 105 ILCS 5/10-22.25a in addition to all other terms set forth in this Agreement.

Warranties and Claims.

No provision(s) set forth in the General Conditions shall serve to limit the Contractor's liability with respect to damages of any sort (whether actual, incidental, consequential, or otherwise) suffered by an Illinois Customer, nor will any disclaimer of warranties be effective against an Illinois Customer.

Attorney Fee Provisions.

No provision providing for the payment of prevailing party costs and expenses (including legal fees) resulting from litigation or other method of dispute resolution shall be applicable to Illinois Customers.

Automatic Renewals.

No provision calling for automatic renewals or "evergreen" renewals, (wherein the term of the agreement automatically renews for a period beyond the initial term unless a party provides affirmative advance notice of termination to the other party) shall be effective in an Agreement with an Illinois Customer, it being the parties' understanding, instead, that the contractual arrangements with Illinois Customers will terminate upon completion of the initial term or satisfaction of the original scope, unless the parties subsequently and affirmatively agree to supplemental renewal provisions.

Successors and Assigns; No Subcontracting.

Contractor shall not assign any rights under, or interest in, this Agreement, nor may Contractor subcontract any duties arising hereunder, without the prior written consent of the Illinois Customer. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

8. Iowa, AEA Purchasing

A. Additional Member Agency General Terms and Conditions that apply for all categories

Right to Assign

AEA Purchasing specifically reserves the right, in its sole discretion, to assign and transfer its interest in the Contract with the Vendor Partner, consistent with the terms and conditions of said Contract, to any organization, along with all corresponding duties, responsibilities, and obligations of both parties, and under the terms provided herein.

B. Additional Member Agency Terms and Conditions for Non-Construction Products and Services

None.

C. Additional Member Agency Terms and Conditions for Construction Products and Services

AEA Purchasing may participate in Construction Products and Services bids through AEPA on a limited basis due to the restrictions mandated in the Iowa Code, Chapter 26 and 573.

D. Procedure for Processing Orders

AEA Purchasing's eligible clients follow a standard or electronic ordering process. The awarded Contractor will invoice and deliver products and services directly to AEA Purchasing's eligible clients. All invoices for payment shall be sent directly to the AEA Purchasing eligible client ordering under the terms and conditions of this agreement. The AEA Purchasing eligible client will make payment directly to the awarded Contractor(s). AEA Purchasing does not process any orders.

E. Agencies Allowed to Purchase under the Member Agency

- K-12 Public & Private Schools
- Area Education Agencies
- Colleges & Universities
- Public Libraries
- City, County & State Government
- Non-Profit Education Organizations

9. Kansas, Greenbush-Southeast Kansas Education Service Center (SEKESC)

A. Additional Member Agency General Terms and Conditions that apply for all categories

Kansas Mandatory Contract Provisions

Terms Herein Controlling Provisions: It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.

Kansas Law and Venue: This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.

Termination Due To Lack Of Funding Appropriation: If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

Disclaimer Of Liability: No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

Anti-Discrimination Clause: The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.

Acceptance Of Contract: This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

Arbitration, Damages, Warranties: Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

Representative's Authority To Contract: By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

Responsibility For Taxes: The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

Insurance: The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.

Information: No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.

The Eleventh Amendment: "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

Campaign Contributions / Lobbying: Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

Assignment - SEKESC Right to Assign

In the event of a cancellation, the SEKESC specifically reserves the right, in its sole discretion, to assign and transfer its interest in any contract, consistent with the terms and conditions of any contract, to any organization, along with all corresponding duties, responsibilities for both parties and provisions contained herein.

Purchase Orders

Any purchase order issued by SEKESC, or one of its eligible entities, is cancelable under provisions of K.S.A. 10-1113. All purchase orders shall be issued by the SEKESC or its participating eligible entities desiring to acquire the products or services under the contract. Said purchase order shall include adequate reference to identify the bid to which it relates.

Marketing

- Awarded Vendor will proactively market the awarded contract to all eligible entities. The SEKESC will enhance the Awarded Vendor's marketing efforts through communication and meetings with eligible entities, participation in marketing events and tradeshow, through its website and social media resources and through day-to-day customer support activities.
- Awarded Vendor will train its professional staff and sales force in the provisions and benefits of the awarded contract. The SEKESC will enhance such effort by providing joint trainings and participating in joint sales calls as needed.
- The SEKESC and Awarded Vendor will jointly design presentations, documents, and other promotional material to assist in the promotion of the awarded contract.
- Awarded Vendor will include the SEKESC (Greenbush) logo on all sales materials targeted to eligible entities for the awarded contract. The SEKESC hereby grants to Awarded Vendor a non-exclusive, revocable, non-transferable, permission to use the SEKESC (Greenbush) name and logo during the term of this Agreement. Likewise, during the term of this agreement, the Awarded Vendor grants the SEKESC (Greenbush) permission to reproduce their name and logo in connection with marketing and promotion of the awarded contract.

B. Additional Member Agency Terms and Conditions for Non-Construction Products and Services
SEKESC has no additional terms and conditions for non-construction products and services.

C. Additional Member Agency Terms and Conditions for Construction Products and Services

K.S.A. 60-1111. Public works bond. (a) Bond by contractor. Except as provided in this section, whenever any public official, under the laws of the state, enters into contract in any sum exceeding \$100,000 with any person or persons for the purpose of making any public improvements, or constructing any public building or making repairs on the same, such officer shall take, from the party contracted with, a bond to the state of Kansas with good and sufficient sureties in a sum not less than the sum total in the contract, conditioned that such contractor or the subcontractor of such contractor shall pay all indebtedness incurred for labor furnished, materials, equipment or supplies, used or consumed in connection with or in or about the construction of such public building or in making such public improvements.

A contract which requires a contractor or subcontractor to obtain a payment bond or any other bond shall not require that such bond be obtained from a specific surety, agent, broker or producer. A public official entering into a contract which requires a contractor or subcontractor to obtain a payment bond or any other bond shall not require that such bond be obtained from a specific surety, agent, broker or producer.

(b) Filing and limitations. The bond required under subsection (a) shall be filed with the clerk of the district court of the county in which such public improvement is to be made. When such bond is filed, no lien shall attach under this article. Any liens which have been filed prior to the filing of such bond shall be discharged. Any person to whom there is due any sum for labor or material furnished, as stated in subsection (a), or such person's assigns, may bring an action on such bond for the recovery of such indebtedness but no action shall be brought on such bond after six months from the completion of such public improvements or public buildings.

(c) In any case of a contract for construction, repairs or improvements for the state or a state agency under K.S.A. 75-3739 or 75-3741, and amendments thereto, a certificate of deposit payable to the state may be accepted in accordance with and subject to K.S.A. 60-1112, and amendments thereto. When such certificate of deposit is so accepted, no lien shall attach under this article. Any liens which have been filed prior to the acceptance of such certificate of deposit shall be discharged. Any person to whom there is due any sum for labor furnished, materials, equipment or supplies used or consumed in connection with or for such contract for construction, repairs or improvements shall make a claim therefor with the director of purchases under K.S.A. 60-1112, and amendments thereto.

D. Procedure for Processing Orders

The SEKESC utilizes the following ordering/delivery procedures:

- Purchase orders will be issued by the individual eligible entity.
- Vendors must issue invoices directly to the ordering eligible entity as specified on each purchase order.
- Delivery of all items included in this solicitation will be made to the locations within each eligible entity as will be specified on the purchase order.
- Each order shall contain a packing slip of its contents to assist in prompt processing of payments to Vendor.

Additionally

- Awarded Vendor agrees to demonstrate the benefit of the pricing agreement with the SEKESC over alternative options, including competitive solicitation pricing.
- Awarded Vendor agrees to proactively offer terms and pricing under this agreement to eligible entities and a more effective alternative to the cost and time associated with alternate bids and solicitation.
- When responding to third party procurement solicitations, Awarded Vendor may:
 - Choose not to respond and make this agreement available as an alternative and comparison to the agency's solicitation responses.
 - Respond with pricing, terms, and conditions of this agreement. If awarded the contract, sales will be reported as defined in the solicitation.
 - Provide lower prices when the competitive process requires without being required to extend the lower pricing to all eligible entities. In such case, if Awarded Vendor is awarded the contract, the sales will be reported as defined in the solicitation.
 - Respond to the solicitation with higher pricing than is available through this agreement and if an alternative response is permitted, may offer the pricing under this agreement as an alternative for consideration. If Awarded Vendor is awarded the contract with alternative SEKESC pricing, the resulting sales will be reported as defined in the solicitation.
- Provide notification to the SEKESC of the response to a solicitation, including but not limited to the name of the soliciting agency, general description of scope, timeline, and resulting award or non-award. Such notification shall be submitted to Tina Smith at tina.smith@greenbush.org within 5 business days of the proposal submission and resulting award information within 5 business days of agency's notification to Awarded Vendor.

E. Agencies Allowed to Purchase under the Member Agency

Eligible Entities: Entities eligible to purchase from Southeast Kansas Education Service Center (Greenbush) cooperative purchasing contracts include but may not be limited to:

- K-12 Public Schools
- K-12 Private Schools
- Colleges & Universities
- City, County, and State Governments
- Public Libraries
- Non-profit organizations holding form #501C3

10. Kentucky, Green River Regional Educational Cooperative (GRREC)

A. Additional Member Agency General Terms and Conditions that apply for all categories

The Green River Regional Educational Cooperative, Inc. (GRREC) is one of eight educational cooperatives in Kentucky, all of which are participants in the AEPA bids. GRREC serves as contact agency for all AEPA correspondence for all eight educational cooperatives. For the Kentucky Educational Cooperatives, the collective bidding process is conducted consistent with KRS Chapter 45A, the Kentucky Model Procurement Code. Contracts with GRREC shall include the provision granting GRREC employees the right to access to the Contractor's records.

Vendor Contact: Vendor will designate to GRREC one individual who will represent them to Kentucky Bidding Cooperative members during the agreement period. This contact person will correspond with each ordering member for technical assistance, problems, or questions that may arise. Include instructions if different contacts for different geographical areas are needed; this information will be distributed to Kentucky Bidding Cooperative members upon award of this bid.

The following Federal Clauses are required as a part of KY bid documents:

1. CLEAN AIR/CLEAN WATER
 - A. Vendor Partner agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 et seq). Vendor Partner agrees to report each violation to the USDA and the appropriate EPA Regional Office.
 - B. Vendor Partner agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. Vendor Partner agrees to report each violation to the USDA and the appropriate EPA Regional Office.
2. SUSPENSION AND DEBARMENT
Vendor Partner understands that a contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." By signing and submitting its bid or proposal, the bidder or proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by GRREC. If it is later determined that Vendor Partner knowingly rendered an erroneous certification, in addition to remedies available to GRREC, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Vendor Partner agrees to comply with the requirements of 2 CFR 180.220 while the above-referenced contract is valid. Vendor Partner further agrees to include a provision requiring such compliance in its lower tier covered transactions.
3. LOBBYING
Vendor Partner will comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352) and the New Restrictions on Lobbying and has signed and attached to this Addendum the Certificate Regarding Lobbying and, if applicable, the Disclosure of Lobbying Activities (Forms SF-LLL) and annually will sign and submit a certificate, if applicable, Form SF-LLL to GRREC.
4. PROCUREMENT OF RECOVERED MATERIALS PURSUANT TO 2 C.F.R. § 200.322
Vendor Partner agrees to comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.
5. BUY AMERICAN
"Domestic Commodity or Product" are defined as an agricultural commodity that is produced in the United States and a food product that is processed in the United States using substantial agricultural commodities that are produced in the United States. "Substantial" means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically.

Products from Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowed under this provision as territories of the United States.

The Buy American provision (7 CFR Part 210.21(d)) is one of the procurement standards School Food Authorities ("SFAs") must comply with when purchasing commercial food products served in the school meals programs.

Buy American: AEPA Member Agencies or Participating Entities participating in the federal school meal programs are required to purchase domestic commodities and products for school meals to the maximum extent practicable. Domestic commodity or product means an agricultural commodity that is produced in the US and a food product that is processed in the US substantially (at least 51 percent) using agricultural commodities that are produced in the US.

Federal regulations require that all foods purchased for Child Nutrition Program be of domestic origin to the maximum extent practicable. While rare, two (2) exceptions may exist when: the product is not produced or

Manufactured in the US in sufficient, reasonable and available quantities of a satisfactory quality, such as bananas and pineapple; and competitive proposals reveal the cost of a domestic product is significantly higher than a non-domestic product.

ALL products that are normally purchased by Vendor Partner as non-domestic and proposed as part of this contract must be identified with the country of origin. Vendor Partner shall outline their procedures to notify GRREC when products are purchased as non-domestic.

Any substitution of a non-domestic product for a domestic product (which was originally a part of the solicitation), must be approved, in writing, by GRREC, prior to the delivery of the product to the AEPA Member Agency or Participating Entities. Any non-domestic product delivered to the AEPA Member Agencies or Participating Entities, without the prior, written approval of GRREC will be rejected.

Vendor Partner must affirm its willingness to assert its best and reasonable efforts to ensure compliance with this federal rule.

6. COST REIMBURSEMENT CONTRACTS

Solicitation Requirements for cost reimbursable contracts:

- A. Allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates and other applicable credits accruing to or received by the contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the school food authority;
- B. Contractor will separately identify for each cost submitted for payment to the school food authority the amount of that cost that is allowable (can be paid from the nonprofit school food service account) and the amount that is unallowable (cannot be paid from the nonprofit school food service account); or (B) Contractor will exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification;
- C. Contractor's determination of its allowable costs will be made in compliance with the applicable Departmental and Program regulations and Office of Management and Budget cost circulars;
- D. Contractor will identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the school food authority for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit;
- E. Contractor must identify the method by which it will report discounts, rebates and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract; and
- F. Contractor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the school food authority, the State agency, or the Department.

B. Additional Member Agency Terms and Conditions for Construction Products and Services

The Contractor and subcontractors shall pay all laborers, workmen and mechanics performing work under this contract not less than the rate of wages set forth in the prevailing wage schedule incorporated in the contract conditions as determined by the Kentucky Department of Labor in accordance with the provisions of KRS 337.505 through KRS 337.550.

Bidders are informed that construction contracts of the Commonwealth of Kentucky and political subdivisions are not exempt from the provisions of the Kentucky Sales and/or Use Tax. Current sales and/or Use Tax shall be provided for and included in the bid amount as no adjustments will be permitted nor made after receipt of bids.

1. It should be noted that where performance bonds are required, it should include both performance and payment bonds.
2. State Prevailing Wages shall apply for projects of \$250,000.00 or more, or Davis Bacon wages (when federal funds are utilized) if higher than State Prevailing Wages.
3. All work shall be in accordance with necessary approvals from the Kentucky Department of Housing, Buildings and Construction and the Kentucky Building Code.
4. All processes of the project comply with 702 KAR 4:160, the Capital Construction Process, including necessary approvals from the Kentucky Department of Education.
5. Performance and payment bond on AIA document 312 must be provided for all projects that exceed \$25,000. (Also provide that the Surety shall comply with state requirements.)
6. In accordance with 702 KAR 4:160, AIA and KDE documents be utilized on all projects including but limited to:

- a. A 101 Standard form of Agreement between Owner and Contractor (including KDE amendments)
 - b. A 201 General Conditions of the Standard Form of Agreement between Owner and Contractor (including KDE amendments)
 - c. AIA A701 Instructions to bidders, with KDE amendment and KDE Form of proposal (may require editing AEPA instructions to bidders to eliminate conflicts).
 - d. KDE purchase Order (for direct purchase of materials with tax number, to exempt materials from state sales tax)
 - e. If applicable, where architectural services are provided by the Owner, Form B141, Standard Form of Agreement between Owner and Architect
7. Architectural services shall be provided in accordance with KRS 322.360 and other relevant Kentucky Revised Statutes by the vendor or the Owner at the Owner's preference.

C. Procedure for Processing Orders

Once the award is made to the Contractor/vendor, GRREC and Kentucky's other cooperatives will inform their members (school districts and other entities) of the contract by: 1) including the contract in the Current Bids section on their websites and 2) publishing the contract information in catalogs disseminated to all members. A list of members, contact names, addresses and phone numbers is made available to the Contractor. At this point the Contractor/vendor contacts the members and members may contact the Contractor/vendor. When the member identifies a product or service, it will issue a purchase order for that item to the vendor. The vendor's price will include a two percent (2%) administrative fee that the vendor will collect from the member and remit to GRREC on a quarterly basis. Municipal and county governments, and other governmental, quasi-governmental, or nonprofit organization price will reflect a two percent (2%) administrative fee. On the occasion that an AEPA contract awarded by Kentucky is utilized by public school and public non-school entities in other states, purchases in these instances will also reflect a two percent (2%) administrative fee. The vendor will also compile and provide to GRREC a quarterly report showing all purchases made by Kentucky members (with specific detail as to what purchases were made by which members) under this contract. Further, if no purchases are made in any given quarter, the Vendor shall remit a "No Activities" statement to GRREC for that quarter. The vendor will also produce and provide to GRREC an annual summary report for all purchases made under this contract for a period of beginning with the award of the contract through December 31st and all consecutive annual periods if contract is extended. The vendor will make all administrative fee payments to the GRREC by the 15th of the month following the end of the quarter (i. e. April 15th, July 15th, October 15th and January 15th). All checks are to be made payable to GRREC and sent to GRREC, 230 Technology Way, Bowling Green, KY 42101 and Attention: Bids Coordinator. GRREC may designate another agent for collecting an administrative fee that will be negotiated with vendor for e-commerce transaction. GRREC will share information from the quarterly and annual reports and distribute the administrative fee among the other KY Educational Cooperatives according to membership.

D. Members Purchasing under the Agency

Currently there are 8 Bidding Cooperatives in Kentucky and all are participating in this invitation through GRREC's solicitation. There are 170+ independent and county school districts and all are eligible for membership in a Bidding Cooperative and approximately 98% of the districts are members of one of the cooperatives. No district is obligated to use these services. Additional members may include other public educational institutions in the state, public colleges or universities, community colleges, vocational or technical schools, municipal and county governments, and other governmental, quasi-governmental or non-profit organizations. Kentucky currently shares its AEPA contracts with the following states: AL, GA, LA, MS, NC, SC, and TN. Only those districts or institutions listed on an approved Bidding Cooperative membership list are eligible to purchase under these contracts. This list may change during the contract period

11. Massachusetts, The Education Cooperative

This Commonwealth Terms and Conditions form is jointly issued by the Executive Office for Administration and Finance (ANF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD) for use by all Commonwealth of Massachusetts ("State") Departments and Contractors. **Any changes or electronic alterations by either the Department or the Contractor to the official version of this form, as jointly published by ANF, CTR and OSD, shall be void.** Upon execution of these Commonwealth Terms and Conditions by the Contractor and filing as prescribed by the Office of the Comptroller, these Commonwealth Terms and Conditions will be incorporated by reference into any Contract for Commodities and Services executed by the Contractor and any State Department, in the absence of a superseding law or regulation requiring a different Contract form. Performance shall include services rendered, obligations due, costs incurred, commodities and deliverables provided and accepted by the Department, programs provided or other commitments authorized under a Contract. A deliverable shall include any tangible product to be delivered as an element of performance under a Contract. The Commonwealth is entitled to ownership and possession of all deliverables purchased or developed with State funds. Contract shall mean the Standard Contract Form issued jointly by ANF, CTR and OSD.

1. Contract Effective Start Date. Notwithstanding verbal or other representations by the parties, or an earlier start date indicated in a Contract, the effective start date of performance under a Contract shall be the date a Contract has been executed by an authorized signatory of the Contractor, the Department, a later date specified in the Contract or the date of any approvals required by law or regulation, whichever is later.

2. Payments And Compensation. The Contractor shall only be compensated for performance delivered and accepted by the Department in accordance with the specific terms and conditions of a Contract. All Contract payments are subject to appropriation pursuant to M.G.L. C. 29, §26, or the availability of sufficient non-appropriated funds for the purposes of a Contract, and shall be subject to intercept pursuant to M.G.L. C. 7A, §3 and 815 CMR 9.00. Overpayments shall be reimbursed by the Contractor or may be offset by the Department from future payments in accordance with state finance law. Acceptance by the Contractor of any payment or partial payment, without any written objection by the Contractor, shall in each instance operate as a release and discharge of the State from all claims, liabilities or other obligations relating to the performance of a Contract.

3. Contractor Payment Mechanism. All Contractors will be paid using the Payment Voucher System unless a different payment mechanism is required. The Contractor shall timely submit invoices (Payment Vouchers - Form PV) and supporting documentation as prescribed in a Contract. The Department shall review and return rejected invoices within fifteen (15) days of receipt with a written explanation for rejection. Payments shall be made in accordance with the bill paying policy issued by the Office of the Comptroller and 815 CMR 4.00, provided that payment periods listed in a Contract of less than forty-five (45) days from the date of receipt of an invoice shall be effective only to enable a Department to take advantage of early payment incentives and shall not subject any payment made within the forty-five (45) day period to a penalty. The Contractor Payroll System, shall be used only for "Individual Contractors" who have been determined to be "Contract Employees" as a result of the Department's completion of an Internal Revenue Service SS-8 form in accordance with the Omnibus Budget Reconciliation Act (OBRA) 1990, and shall automatically process all state and federal mandated payroll, tax and retirement deductions.

4. Contract Termination Or Suspension. A Contract shall terminate on the date specified in a Contract, unless this date is properly amended in accordance with all applicable laws and regulations prior to this date, or unless terminated or suspended under this Section upon prior written notice to the Contractor. The Department may terminate a Contract without cause and without penalty, or may terminate or suspend a Contract if the Contractor breaches any material term or condition or fails to perform or fulfill any material obligation required by a Contract, or in the event of an elimination of an appropriation or availability of sufficient funds for the purposes of a Contract, or in the event of an unforeseen public emergency mandating immediate Department action. Upon immediate notification to the other party, neither the Department nor the Contractor shall be deemed to be in breach for failure or delay in performance due to Acts of God or other causes factually beyond their control and without their fault or negligence. Subcontractor failure to perform or price increases due to market fluctuations or product availability will not be deemed factually beyond the Contractor's control.

5. Written Notice. Any notice shall be deemed delivered and received when submitted in writing in person or when delivered by any other appropriate method evidencing actual receipt by the Department or the Contractor. Any written notice of termination or suspension delivered to the Contractor shall state the effective date and period of the notice, the reasons for the termination or suspension, if applicable, any alleged breach or failure to perform, a reasonable period to cure any alleged breach or failure to perform, if applicable, and any instructions or restrictions concerning allowable activities, costs or expenditures by the Contractor during the notice period.

6. Confidentiality. The Contractor shall comply with M.G.L. C. 66A if the Contractor becomes a "holder" of "personal data". The Contractor shall also protect the physical security and restrict any access to personal or other Department data in the Contractor's possession, or used by the Contractor in the performance of a Contract, which shall include, but is not limited to the Department's public records, documents, files, software, equipment or systems.

7. Record-keeping And Retention, Inspection Of Records. The Contractor shall maintain records, books, files and other data as specified in a Contract and in such detail as shall properly substantiate claims for payment under a Contract, for a minimum retention period of seven (7) years beginning on the first day after the final payment under a Contract, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving a Contract. The Department shall have access, as well as any parties identified under Executive Order 195, during the Contractor's regular business hours and upon reasonable prior notice, to such records, including on-site reviews and reproduction of such records at a reasonable expense.

8. Assignment. The Contractor may not assign or delegate, in whole or in part, or otherwise transfer any liability, responsibility, obligation, duty or interest under a Contract, with the exception that the Contractor shall be authorized to assign present and prospective claims for money due to the Contractor pursuant to a Contract in accordance with M.G.L. C. 106, §9-318. The Contractor must provide sufficient notice of assignment and supporting documentation to enable the Department to verify and implement the assignment. Payments to third party assignees will be processed as if such payments were being made directly to the Contractor and these payments will be subject to intercept, offset, counter claims or any other Department rights which are available to the Department or the State against the Contractor.

9. Subcontracting By Contractor. Any subcontract entered into by the Contractor for the purposes of fulfilling the obligations under a Contract must be in writing, authorized in advance by the Department and shall be consistent with and subject to the provisions of these Commonwealth Terms and Conditions and a Contract. Subcontracts will not relieve or discharge the Contractor from any duty, obligation, responsibility or liability arising under a Contract. The Department is entitled to copies of all subcontracts and shall not be bound by any provisions contained in a subcontract to which it is not a party.

10. Affirmative Action, Non-Discrimination In Hiring And Employment. The Contractor shall comply with all federal and state laws, rules and regulations promoting fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation or for exercising any rights afforded by law. The Contractor commits to purchasing supplies and services from certified minority or women-owned businesses, small businesses or businesses owned by socially or economically disadvantaged persons or persons with disabilities.

11. Indemnification. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, including the Department, its agents, officers and employees against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement or other damages that the State may sustain which arise out of or in connection with the Contractor's performance of a Contract, including but not limited to the negligence, reckless or intentional conduct of the Contractor, its agents, officers, employees or subcontractors. The Contractor shall at no time be considered an agent or representative of the Department or the State. After prompt notification of a claim by the State, the Contractor shall have an opportunity to participate in the defense of such claim and any negotiated settlement agreement or judgment. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph. Any indemnification of the Contractor shall be subject to appropriation and applicable law.

12. Waivers. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies

available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach.

13. Risk Of Loss. The Contractor shall bear the risk of loss for any Contractor materials used for a Contract and for all deliverables, Department personal or other data which is in the possession of the Contractor or used by the Contractor in the performance of a Contract until possession, ownership and full legal title to the deliverables are transferred to and accepted by the Department.

14. Forum, Choice of Law And Mediation. Any actions arising out of a Contract shall be governed by the laws of Massachusetts, and shall be brought and maintained in a State or federal court in Massachusetts which shall have exclusive jurisdiction thereof. The Department, with the approval of the Attorney General's Office, and the Contractor may agree to voluntary mediation through the Massachusetts Office of Dispute Resolution (MODR) of any Contract dispute and will share the costs of such mediation. No legal or equitable rights of the parties shall be limited by this Section.

15. Contract Boilerplate Interpretation, Severability, Conflicts With Law, Integration. Any amendment or attachment to any Contract which contains conflicting language or has the affect of a deleting, replacing or modifying any printed language of these Commonwealth Terms and Conditions, as officially published by ANF, CTR and OSD, shall be interpreted as superseded by the official printed language. If any provision of a Contract is found to be superseded by state or federal law or regulation, in whole or in part, then both parties shall be relieved of all obligations under that provision only to the extent necessary to comply with the superseding law, provided however, that the remaining provisions of the Contract, or portions thereof, shall be enforced to the fullest extent permitted by law. All amendments must be executed by the parties in accordance with Section 1. of these Commonwealth Terms and Conditions and filed with the original record copy of a Contract as prescribed by CTR. The printed language of the Standard Contract Form, as officially published by ANF, CTR and OSD, which incorporates by reference these Commonwealth Terms and Conditions, shall supersede any conflicting verbal or written agreements relating to the performance of a Contract, or attached thereto, including contract forms, purchase orders or invoices of the Contractor. The order of priority of documents to interpret a Contract shall be as follows: the printed language of the Commonwealth Terms and Conditions, the Standard Contract Form, the Department's Request for Response (RFR) solicitation document and the Contractor's Response to the RFR solicitation, excluding any language stricken by a Department as unacceptable and including any negotiated terms and conditions allowable pursuant to law or regulation.

IN WITNESS WHEREOF, The Contractor certify under the pains and penalties of perjury that it shall comply with these Commonwealth Terms and Conditions for any applicable Contract executed with the Commonwealth as certified by their authorized signatory below:

CONTRACTOR AUTHORIZED SIGNATORY: _____
(signature)

Print Name:

Title:

Date:

(Check One): Organization Individual

Full Legal Organization or Individual Name:

Doing Business As: Name (If Different):

Tax Identification Number:

Address:

Telephone: FAX:

INSTRUCTIONS FOR FILING THE COMMONWEALTH TERMS AND CONDITIONS

A "Request for Verification of Taxation Reporting Information" form (Massachusetts Substitute W-9 Format), that contains the Contractor's correct TIN, name and legal address information, must be on file with the Office of the Comptroller. If the Contractor has not previously filed this form with the Comptroller, or if the information contained on a previously filed form has changed, please fill out a W-9 form and return it attached to the executed COMMONWEALTH TERMS AND CONDITIONS.

If the Contractor is responding to a Request for Response (RFR), the COMMONWEALTH TERMS AND CONDITIONS must be submitted with the Response to RFR or as specified in the RFR. Otherwise, Departments or Contractors must timely submit the completed and properly executed COMMONWEALTH TERMS AND CONDITIONS (and the W-9 form if applicable) to the: **Payee and Payments Unit, Office of the Comptroller, 9th Floor, One Ashburton Place, Boston, MA 02108** in order to record the filing of this form on the MMARS Vendor File. Contractors are required to execute and file this form only once.

12. Michigan, Oakland Schools, (OS)

A. Additional Member Agency General Terms and Conditions that apply for all categories:

1. Conflict of Interest

Contractor shall disclose in writing to Buyer any conflicts of interest with Board members, administrators, and or employees of any Participating Entity (as defined below). A conflict of interest may include, but is not limited to, a financial ownership interest in, or employment with Contractor or Subcontractor by a Participating Entity' Board member, administrator, or employee or their family member. A "family member" means a person's spouse or spouse's sibling or child; a person's sibling or sibling's spouse or child; a person's child or child's spouse; or a person's parent or parent's spouse, and includes these relationships as created by adoption or marriage. Determination of the existence of a conflict of interest does not prohibit the Participating Entity from entering into a contract with the Contractor (MCL 380.634; MCL 15.322 et seq).

2. Termination of Buyer's Purchase Order

Default is defined as the failure of a Contractor to fulfill the contract, including but not limited to, not honoring bid prices, failure to deliver on time, or the unauthorized substitution of items or failure to comply with any or all of the specifications and/or terms and conditions contained in this solicitation or the contract/purchase order of a Participating Entity.

Should the Contractor fail to satisfactorily resolve the default, the contract/purchase order may be terminated with thirty (30) days written notice. In that event, the Contractor shall be held liable to the Participating Entity for all costs and expenses incurred by the Participating Entity arising out of said default. Notwithstanding the foregoing, each Participating Entity may terminate their contract/purchase order, with or without cause, or discontinue purchasing from the Contractor at any time.

3. Iran Economic Sanctions Act

Public Act 517 of 2012, commonly known as the "Iran Economic Sanctions Act" (the "Act"). The Act provides that beginning April 1, 2013, an "Iran Linked Business" is not eligible to submit a bid on a request for proposal with a "public entity" (OS). The Act also requires that a person that submits a proposal in response to an OS request for proposal must certify to the public entity that it is not an Iran Linked Business. This requirement applies to all requests for proposals issued by OS, and not just to construction projects.

The Act defines an Iran Linked Business as:

- a. A person engaging in investment activities in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran;
- b. A financial institution that extends credit to another person, if that person will use the credit to engage in investment activities in the energy sector of Iran.

If the OS determines, using credible information available to the public, that a person or entity has submitted a false certification, OS must provide written notice to the person or entity of its determination and of its intent not to enter into or renew the contract. The notice must include information on how to contest the determination. The notice must also specify that the individual or entity may become eligible for future contracts with the public entity if the activities that caused it to be an Iran Linked Business are ceased.

4. Taxes

The Participating Entities are exempt from State Sales Taxes and such taxes shall not be included in any solicitation prices. Exemption certificates will be provided upon request.

5. Hazardous Materials

If any hazardous chemicals are supplied under a contract/purchase order arising out of this solicitation, a Material Safety Data Sheet (MSDS) shall accompany the delivery of any hazardous chemicals supplied by the Contractor. All MSDS sheets shall be sent to the attention of the Participating Entity. Ref: State of Michigan Act 154, Section 14, P.A. 1974 as amended. Copies of MSDS for all purchased hazardous materials must be provided prior to delivery of any

items by the Contractor. Additionally, the MSDS needs to be attached to the invoice and all products delivered must be labeled according to Section 14 of Act 154, of the public Acts of 1974, as amended. Any appropriate products not labeled will be refused and the Contractor will be responsible for additional freight charges. Payment may be withheld until the Participating Entity receives the MSDS.

6. Modifications to Contracts

No modifications to a contract/purchase order with a Participating Entity shall be binding upon such Participating Entity unless agreed to in writing signed by an authorized representative of the Participating Entity.

7. Indemnification

Contractor agrees to indemnify, defend and hold harmless OS, each Participating Entity and each Other Agency, including their Board of Educations or governing body, in their official and individual capacities, employees, agents, successors and assignees, from and against any and all costs, expenses, damages, and liabilities, including reasonable attorney's fees, arising out of the: (i) negligent act or omission or willful misconduct of the Contractor, its officers, directors, employees, successors, assignees, Contractors and agents; (ii) any breach of the terms of the contract between the Participating Entity and the Contractor; or (iii) any breach of any representation or warranty by Contractor under the contract with a Participating Entity or this solicitation.

8. Anti-discrimination

The Contractor hereby agrees to comply with all federal, state and municipal equal opportunity and antidiscrimination guidelines and regulations, and covenants that the Contractor will not discriminate against an employee or applicant for employment with respect to hire, tenure terms, conditions or privileges of employment, or in a manner directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, marital status or disability. Failure on the part of the Contractor to comply with said guidelines and regulations shall, upon reasonable notice, constitute grounds for a Participating Entity to revoke and otherwise terminate the contract and all obligations of the Participating Entity hereunder.

9. Local Contract Terms and Conditions

For procurements of supplies, materials, equipment and/or services resulting from this solicitation, it is clearly understood and agreed to by the Contractor that any clause, term, or condition not addressed in this solicitation, but required by a Participating Entity, shall be adhered to by said Contractor. Participating Entities, other than from K-12, choosing to purchase from awarded AEPA contracts are subject to their own respective laws, and/or local policy, procedures, and/or Charters

10. Governing Law

Any contract arising out of this solicitation shall be governed by and construed under the laws of the State of Michigan. In the event of any legal action to enforce or interpret any contract arising out of this solicitation, the sole and exclusive venue shall be the state or federal court of the local jurisdiction where the Participating Entities located.

B. Additional Member Agency Terms and Conditions for:

1. Non-Construction Products and Services:

All supplies, materials, and equipment sold or leased to Michigan intermediate school districts or K-12 public school districts must be in accordance with MCL 380.623a and 380.1274, respectively. The procurement of supplies, materials and/or equipment in a single transaction costing more than the State of Michigan Competitive Bidding threshold set forth in MCL 380.623a and 380.1274 by an intermediate school districts or K-12 public school districts requires the district to obtain competitive bids and the purchase must be approved by the district's Board of Education.

2. Construction Products and Services:

All Contractors understand and agree that the use of AEPA contracts is not intended for use by Michigan intermediate school districts or public K-12 school districts for construction, renovation or remodeling projects under MCL 380.1267 and agree to comply with all applicable standards and statutes for said construction projects.

C. Procedure for Processing Orders:

Once the award is made to a Contractor, OS will inform the Participating Entities and Other Agencies of the award by announcing the award through its general and usual methods of disseminating information.

1. OS follows the AEPA Standard Ordering Process (see Part A, General Terms and Conditions for All Agencies, “Ordering Procedures”).
2. Contractors shall be required to pay a two percent (2%) administrative fee (the “Fee”) based on the total cost of goods or services purchased, including installation and freight, if applicable. In the event of a lease arrangement, the total Fee for the value of goods leased shall be paid to OS by the Contractor at the front end of the lease. Contractor or its designated authorized reseller(s) shall not include any additional amount corresponding to the Fee in the bid responses or awarded prices.

D. Agencies Allowed to Purchase under the Member Agency:

OS serves all local school districts located in Oakland County, Michigan. In addition to, and in accordance with the terms and conditions set forth in this solicitation, all **public school districts, private schools, public school academies, intermediate school districts colleges, universities, counties, cities, townships, villages, and non-profit organization** in the State of Michigan shall be permitted to use AEPA solicitations approved by OS.

It should be clearly understood that OS is assisting these Participating Entities as a service to procure selected supplies, materials and equipment and services desired by the Participating Entity. Both the Contractor and any Participating Entity using this solicitation agree that the OS makes no representation that use of this solicitation by any Participating Entity is, in fact, in compliance with rules, regulations, policy or procedures of the Participating Entity. In this regard, the OS strongly suggests that, at a minimum, the Contractor and any Participating Entity considering such use consult with their own legal counsels before doing so. All Participating Entities using AEPA solicitations shall be responsible for adhering to their own applicable rules, regulations, policies, procedures and state statutes, etc., which may govern the use of cooperative purchasing contracts within their respective jurisdictions.

13. Minnesota, Cooperative Purchasing Connection (CPC)

General Terms and Conditions that apply for all categories

Governing Law: The laws of the State of Minnesota govern all contracts resulting from this IFB. Each and every provision of law and clause required by law to be included in a contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction.

Governing Venue: The resulting contract award shall be deemed to have been made and performed in Otter Tail County, Minnesota. For the purpose of venue, all legal arbitration or causes for action arising out of the resulting agreement shall be brought to the courts of Otter Tail County, Minnesota.

Hazardous Substances: All hazardous products purchased by members shall include a Safety Data Sheet (SDS) with the delivery.

Lease and Rental Agreements: The Vendor may allow participating agencies to enter into a rental, lease, or lease purchase agreements, providing such agreements are in compliance with Minnesota Statutes and guidelines. CPC must receive a report annually, summarizing the executed lease purchases along with a summary of the participating agencies' purchases. CPC will not collect lease payments or be involved in the terms and conditions of the lease. All lease arrangements are between the Vendor and the participating agency. The Vendor agrees that leases will be in compliance with the Uniform Commercial Code. The applicable administrative fee must be included in the lease cost based on the total value of the goods and applicable services purchased. This fee is referred to under the Technical Specifications. The Vendor should attempt to work with CPC's current leasing vendor. Note, the current leasing vendor may require a minimum purchase amount to begin the leasing process. Should the Vendor be required to utilize their own financial leasing company, this should be noted/requested as an exception. In the event of a lease, the total administrative fee for the value of goods shall be paid to CPC by the vendor at the front end of the lease. CPC reserves the right to review all purchase orders, lease documents and invoices to insure contract compliance.

Marketing and Promotion: Upon award and completion of the vendor orientation, CPC will promote the contract opportunity via its websites. CPC will also announce the new partnership in its newsletters and will publish the contract and marketing information through hard copy marketing items (i.e. flyers, postcard) and electronic email. Contracts will also be promoted at applicable trade shows, conferences, and meetings on a regular basis. CPC may assist in the development of these materials if requested by the Vendor, but in all cases shall have the authority to review and approve any marketing materials. If a website is used, the link will be made available from the CPC and NDESC websites. Any web page or link, or other marketing tools shall be dedicated to CPC information only.

Non-Discrimination: Any resulting contract for on or behalf of participating agencies, said Vendor agrees to:

- That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;
- That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color;
- That a violation of this section is a misdemeanor; and
- That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

Participating Agency: A participating agency shall be defined in accordance with the, Minnesota Statutes M.S. §471.59, and M.S. §123A.21, Sub. 11 and South Dakota Statutes §5-18A-37. An eligible agency includes any school, higher education, city, county, other governmental agency, nonprofit organization, or other entity contracted to conduct business on behalf of a participating agency provided that they are required to follow state and local procurement regulations.

Prompt Payment: Participating Agencies will follow M.S. §471.425 regarding prompt payment of local government bills.

Substance Use and Conduct: All Vendor partners and subcontractors must adhere to local substance (alcohol, drug, smoking, etc.) and conduct (dress code, language, parking, etc.) policies while on a participating agencies' premises.

Vendor Orientation (CPC 101): The Vendor and their participating resellers/sub-contractors will be required to participate in an online training session that is designed to educate the Vendor and resellers/sub-contractors on the

purpose and nature of CPC. The Vendor will not be marketed to participating agencies until they have completed the vendor orientation session.

2. Additional Participating Agency Terms and Conditions for Non-Construction Products and Services

If requested by CPC, the contracted vendor will work with CPC to develop an order form, or order forms, containing the most commonly purchased items, that CPC can utilize to market the contracted vendor to its participating agencies.

3. Additional Participating Agency Terms and Conditions for Construction Related Products and Services

Upon acceptance and approval of the Vendor's offer by AEPA, CPC will independently consider the offer and conduct a conference call with the Vendor to determine if the Vendor is able to meet the necessary requirements for construction related products and services and to enter and execute a contract in the state of Minnesota. The contracted vendor will be required to work with CPC's participating agencies and require that an architect's signature or certification is noted on the specifications as required by Minnesota Statute §326.12 subd. 3. With certain exceptions, Minnesota Rules part 1800.5200, subpart 1, requires a licensed architect or engineer to prepare and certify specifications for building alterations or renovations. Once CPC and the Vendor are able to confirm that business is able to be conducted in Minnesota, CPC will make a final decision to complete the contract execution process.

For all quotes provided to participating agencies, for construction related projects, products and services, the contracted vendor must also send a duplicate quote to CPC. The quote provided to CPC must include the contact information of the participating agency.

Performance Bond (for construction and/or installation related projects): Performance bonds will be required on all projects valued at fifty-thousand dollars (\$50,000) or more in Minnesota and North Dakota and, twenty-five thousand dollars (\$25,000) or more in South Dakota. All performance bonds will be issued by a corporate surety authorized to do business in the state in which the work will be conducted and by a surety listed in the US Treasury Circular 570. Performance bonds will be posted by the Vendor and submitted to the specific participating agency for the assigned project. Should the contract be the result of a piggyback agreement, performance bonds will reflect each state's bonding requirements.

The Vendor will execute a performance bond in an amount equal to one hundred percent (100%) of the value specified in the contract between the participating agency and the Vendor, unless the participating agency requires less to be posted. This bond will protect all persons supplying labor and material to the Vendor for the performance of the work provided in the contract. Subcontractors who may work on the contract may have to provide the Vendor with a performance bond. If the contract price increases after the bond is provided, the participating agency may consider obtaining additional bonds from the Vendor.

The Vendor will deliver the performance bond to the eligible participating agency at the time the contract is executed between the agency and the Vendor. Work will not commence between the Vendor and the eligible participating agency until the performance bond is received by the participating agency and a copy has been sent to CPC via email (info@purchasingconnection.org). The Vendor will be responsible for providing CPC with a copy of all contracts and bonds in accordance with CPC purchasing procedures. Should the Vendor fail to satisfactorily perform the contract, the bonding company that provided the performance bond will be required to pay the dollar amount of the bond to the participating agency.

It is the Vendor's responsibility to ensure that they can obtain the required bonding for all construction products based on an awarded contract arising from this solicitation. Payment will not be issued for any project for which the required bonds have not been received.

4. Procedure for Contract Award, Notification and Processing Orders

Once the award is recommended by the AEPA Review Committee, CPC considers the recommendation based on the value of the potential contract for its participating agencies. Participating agency is defined as any city, county, public or private educational agency, nonprofit or governmental agency that is a participant of CPC. In the event of an award by the Board of Directors, CPC will inform its members of the award and contract by the following methods

along with contract instructions and ordering process.

- a. The contract is listed and promoted on the CPC website (www.purchasingconnection.org).
- b. Announcing the award in CPC newsletters.
- c. CPC will publish the contract and marketing information through a hard copy marketing flier and electronic email. Contracts are promoted through PDF and a hard copy product catalog distributed at statewide trade shows and agency meetings on a regular basis. CPC will require a marketing flier, brochure, or other similar marketing pieces, in an editable, electronic format, from each vendor promoting the available contract with the vendor, and/or a web page or link. CPC may assist in the development of the marketing flier and material (if requested by vendor), but in all cases shall have authority to review and approve any marketing materials. If a web site is used, the link will be made available from the CPC web page. Any web page or link, or other marketing tool shall be dedicated to AEPA information only.
- d. When the member identifies a desired product or service, the member and the vendor may negotiate with each other to establish a description of items and/or services. The vendor shall quote a price to the member, in writing, using AEPA established discounts and including the two percent (2%) administrative fee in the quoted price. The administrative fee shall be based upon the total cost of goods and/or services including installation costs. The administrative fee shall not be listed as a separate line item on the quote. When a member decides to purchase through the CPC-AEPA contract, the member issues the purchase order directly to the vendor. The purchase order must include the total invoiced cost, based on
 - i. The total cost of goods, service, and installation, including the 2% administrative fee.
 - ii. Notification will be made to the vendor in the event the purchase order is not in compliance with the contract and adjustments will be made at that time. CPC and the vendor will mutually resolve any issues with regard to past purchases. The purchase orders are to continue to be processed and viewed as approved unless notified by CPC otherwise. All sales and transactions may continue without delay or in anticipation of the CPC purchase order verification.
 - iii. Once all the items and services on the purchase order have been delivered to the member in a complete and satisfactory manner, the vendor then files a copy of the final invoice, which is available to CPC by request in support of the quarterly sales summary. The invoice is to be marked "Copy".
 - iv. Vendor makes all deliveries and installations of products and services. CPC does not warehouse items or provide installation services.
 - v. This administrative fee is to be paid by the vendor to CPC, quarterly, within 20 working days after the end of each fiscal quarter. The AEPA vendor shall also submit to CPC a sales report, in Excel format, listing the following information:
 1. Name of purchasing agency
 2. Address of purchasing agency
 3. Date of purchase
 4. Invoice number
 5. Amount of purchase
 6. Administrative fee generated by sale
 7. Savings generated by sale
 8. This report shall include all sales made and payments received by the vendor in said quarter. The sales report shall be emailed to Melissa Mattson at mmattson@lcsc.org and copied to Lori Mittelstadt at lmittelstadt@lcsc.org. The administrative fee payment shall be delivered to Melissa Mattson, CPC, 1001 East Mt. Faith, Fergus Falls, MN 56537. The check shall be made out to Lakes Country Service Cooperative.
 - vi. CPC requires that all participating vendors offer the contract opportunity to all CPC participating agencies.
5. **Express Online Marketplace:** CPC provides participating agencies with an online purchasing platform called Express, powered by EqualLevel. Through Express, agencies are able to search for and purchase items. Essentially, Express is a one-stop shop for many of CPC's commodity based contracts. A Vendor does not have to have an e-commerce site to be included in Express. Express offers integration into two (2) of the main K-12 school financial systems in Minnesota, CPC expects growth in the number of agencies utilizing the marketplace and the volume of sales to grow significantly. CPC will work with the Vendor to determine if the contract agreement is suitable for the online platform. If deemed suitable, CPC will require integration into Express within a timely manner.

14. Missouri, Cooperating School Districts of the Greater St. Louis Area, (CSD)

A. Additional Agency Terms and Conditions

Lease and Rentals: Vendor may allow EDPLUS members to enter into rental, lease, or lease purchase agreements, providing such agreements are in compliance with Missouri statutes and State Department of Education policies, rules and regulations. EDPLUS must receive a copy of the executed leasing documents prior to processing a purchase order. EDPLUS will not collect lease payments. Bidder agrees that leases will be in compliance with the Uniform Commercial Code. All terms of leasing must be included in the proposal, with interest rates described as related to a government standard. Bidder must indicate in its response to this solicitation if the shipping costs for the return of leased or rented equipment are the responsibility of the EDPLUS member, and what that cost will be. No sale of a contract to a third party will be made without first informing EDPLUS and the EDPLUS member of the sale. If Bidder sells a lease contract to a third party, the cost of return must not be greater than the cost of return to the original vendor. A 2% administrative fee must be included in the lease cost based on the total value of the goods purchased. This fee is referred to under ordering process.

B. Procedure for Processing Orders

(1.) Once the award is made to the vendor, EDPLUS will inform its members (and non-members eligible to purchase from EDPLUS) of the contract by announcing the award in its periodic newsletter and other EDPLUS presentations as well as regular electronic communications.

(2.) EDPLUS may require a marketing flier from each vendor promoting the contract and AEPA relationship. EDPLUS will assist in the development of the marketing flier and material. This flier will be for distribution as well as posting on the EDPLUS website and disseminated to potential customers. Note: EDPLUS requires the awarded vendor to take ownership and actively promote the contract in cooperation with EDPLUS to all qualified customers.

(3.) When the member identifies a desired product or service as available through the AEPA contract and makes a purchase on the EDPLUS online Marketplace or agrees on price as presented to the member by the awarded AEPA vendor, the member then issues to the vendor a purchase order for that item or service.

(4.) The purchase order must include an additional two percent (2%) administrative fee in the total cost, based on the total cost of goods and service including installation and freight if applicable. This fee is to be forwarded by the vendor to EDPLUS after the sale and payment is made to vendor. Payment shall be made to EDPLUS on a quarterly basis along with complete sales history during that period.

(5.) Vendor makes all deliveries and installations of products and services. EDPLUS does not warehouse items nor provide services.

(6.) All participating vendors agree to and are subject to audit proceedings of AEPA member sales.

C. Members Purchasing Under the Agency

We take great pride in the fact that EducationPlus is providing a complete line of purchasing services to our 50+ member school districts and hundreds of additional school districts, educational institutions, and nonprofit organizations throughout Missouri and Illinois. EducationPlus was created in 1928 with its primary focus aimed at improving educational opportunities for all students. Our goal is to promote efficient use of educational dollars, and simultaneously provide an ongoing market for those vendors doing business with EducationPlus. EducationPlus serves schools and political subdivisions in Missouri and Illinois.

D. Governing Law

MO. REV. STAT. §70.220. 1. Any municipality or political subdivision of this state, as herein defined, may contract and cooperate with any other municipality or political subdivision, or with an elective or appointive official thereof, or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions, or with any private person, firm, association or corporation, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service; provided, that the subject and purposes of any such contract or cooperative action made and entered into by such municipality or political subdivision shall be within the scope of the powers of such municipality or political subdivision.

15. **Montana, Montana Cooperative Services (MCS)**

General Standards: Purchases by public entities in excess of \$80,000 are subject to public bid; purchases under this amount are subject to requirements of public contracts. See Sections 7-5-230 I and 7- 5-2304, Montana Code Annotated (Counties); Sections 7-5-4302 and 7-5-4303, Montana Code Annotated (Municipalities).

Note: purchases of less than \$80,000 are not subject to public bid requirements, which provides local government entities with considerable flexibility to make purchases. Public bidding requirements do not appear to prohibit local government entities who are members of AEPA or MCS from soliciting bids from approved vendors for purchases in excess of \$80,000.

Local Government Cooperative Purchasing Authority: Local governments may also elect to purchase cooperatively through the Montana Department of Administration in lieu of soliciting their own bids. 51 A.G. Op. 15 (2006). Procurement by government entities generally falls within the Montana Procurement Act, Section 18-4-10 I, MCA, et seq.

Local Governments are authorized to adopt and implement the rules and standards of the Act:

18-4-124. Local government adoption of procurement provisions -- alternative project delivery contracts. (1) A political subdivision or school district may adopt any or all parts of this chapter and the accompanying rules promulgated by the department.

Local governmental entities and school districts are specifically authorized to purchase cooperatively in the public interest:

18-4-401. Definitions. As used in this part, the following definitions apply:

(1) "Cooperative purchasing" means procurement conducted by or on behalf of more than one public procurement unit.

"Local public procurement unit" means a county, city, town, or other subdivision of the state or a public agency of any such subdivision; public authority; educational, health, or other institution; to the extent provided by law, any other entity that expends public funds for the procurement of supplies and services; and any nonprofit corporation operating a charitable hospital.

"Public procurement unit" means a local or state public procurement unit of this or any other state, including an agency of the United States, or a tribal procurement unit.

"State public procurement unit" means a state department, agency, or official that expends public funds for the procurement of supplies and services.

"Tribal procurement unit" means a tribal government, tribal entity, or official of a tribal government located in Montana that expends tribal funds or funds administered by a tribe for the procurement of supplies and services to the extent provided by tribal or federal law.

18-4-402. Cooperative purchasing authorized. The department may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies or services with one or more public procurement units in accordance with an agreement entered into between the participants independent of the requirements of part 3. Cooperative purchasing may include purchasing through federal supply schedules of the United States general services administration, joint or multiparty contracts between public procurement units, open-ended state public procurement unit contracts that are made available to local public procurement units, and competitive contracts established by for-profit, not-for-profit, or nonprofit cooperative entities. (emphasis added).

Note: Cooperative purchasing by local governmental entities may require entering into an agreement with the Montana Department of Administration. This requirement does not appear to preclude local entities from participating as members of purchasing groups.

Local governmental entities are authorized to enter agreements with each other in order to purchase cooperatively.

7-11-104. Authorization to create interlocal agreements -- issuance of bonds for joint construction -- hiring of teacher, specialist, or superintendent. One or more public agencies may contract with any one or more other public agencies to perform any administrative service, activity, or undertaking or to participate in the provision or maintenance of any public infrastructure facility, project, or service, including the issuance of bonds for the joint construction of a facility under 20-9-404, the hiring of a teacher or specialist under 20-4-201 or a superintendent under 20-4-401, or the hiring of or contracting with any other professional person licensed under Title 37, that any of the public agencies entering into the contract is authorized by law to perform. The contract must be authorized and approved by the governing body of each party to the contract. The contract must outline fully the purposes, powers, rights, obligations, and responsibilities of the contracting parties. (emphasis added).

School and school district cooperative purchasing authority: Schools and school districts are specifically authorized to purchase cooperatively utilizing qualifying purchasing entities:

"A [school] district may enter into a cooperative purchasing contract for the procurement of supplies or services with one or more districts. A district participating in a cooperative purchasing group may purchase supplies and services through the group without complying with the provisions of [soliciting public bids and awarding a contract] if the cooperative purchasing group has a publicly available master list of items available with pricing included and provides an opportunity at least twice yearly for any vendor, including a Montana vendor, to compete, based on a lowest responsible bidder standard, for inclusion of the vendor's supplies and services on the cooperative purchasing group's master list." Section 20-9-204(4), Montana Code Annotated (emphasis added).

Note: Montana's AEPA member, Montana Cooperative Services, meets all of the statutory requirements of Section 20-9-204(4), MCA, with respect to cooperative purchasing groups.

Cooperative purchasing is another tool in the bag for local governmental entities, including school districts, to acquire services and supplies at better prices than may otherwise be available. Membership in MCS provides access to AEPA-approved vendors as well as in-state suppliers who have been carefully vetted for reliability and quality.

Disclaimer: The above discussion is for informational purposes only and does not constitute legal advice.

16. Nebraska, Educational Service Unit Coordinating Council (ESUCC)

A. Additional Agency Terms and Conditions

1) Bid Award Determination: The bidder hereby agrees to these bidding conditions by virtue of submitting this signed document on or before the Bid Opening date as specified below.

2) Natural Gas Contractors: Any bids relating to natural gas shall be based upon an awareness of NEB. REV. STAT. § 75-501, adopted in conformity with Rules, Regulations, and Interpretations of Federal Agencies with authority to regulate pipeline common carriers and interstate commerce.

3) Performance and Payment Bonds: Upon execution of a contract between an ESUCC member and the prime contractor for construction or public improvement, performance and payment bonds described above in the AEPA General Terms and Condition shall be provided to the member. Performance and payment bonds between the member and the prime contractor shall be on standard forms. The prime contractor shall deliver copies of both the performance and payment bonds to ESUCC at the time the contract between the member and the prime contractor is executed. All suits for nonpayment or nonperformance shall be filed as allowed under Nebraska law.

4) Insurance: Contractors shall secure and keep in force during the term of any awarded agreement the following insurance coverages from insurance companies authorized to do business in Nebraska:

- Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$1,000,000 per person for any number of claims arising out of a single occurrence and \$5,000,000 for all claims arising out of a single occurrence.
- Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$1,000,000 per person for any number of claims arising out of a single occurrence and \$5,000,000 for all claims arising out of a single occurrence.
- Workers compensation coverage meeting all statutory requirements.

5) Debarment and Suspension: Contractors shall comply with Executive Orders 12549 and 12689 as applicable. Contractors may be debarred for a period of two (2) years, unless earlier modified by the Special Awards Committee of ESUCC for any of the following conduct: (a.) Repeatedly not following the bid process. (b.) Repeatedly submitting non-responsive bids. (c.) Any behavior, which has as its effect injuring the integrity of the bid process. (d.) Failure to deliver goods pursuant to a successful bid. (e.) Repeated lack of acceptable handling and delivery of goods pursuant to a successful bid. (f.) Repeatedly not meeting delivery deadlines. (g.) Repeated failure to timely rectify damages of goods, or shortages of goods when it is the responsibility of the contractor to take such action. (h.) Conviction of a crime of dishonesty. (i.) Debarment or suspension by any agency or Federal Agency by the contractor or any of its key employees. (j.) Other conducts which materially and adversely affects the services of ESUCC Cooperative Purchasing program.

6) Statement Filed: A bidder who is awarded a contract for any goods or services pursuant to this IFB shall file with ESUCC a statement as required by NEB. REV. STAT. § 73-102.

7) Nondiscrimination: The Contractor and all subcontractors, if any, shall not discriminate against any employee or applicant who is to be employed for performance of any awarded bid or agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.

8) Employment Eligibility Verification: The Contractor shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If the Contractor employs or contracts with any subcontractor in connection with any awarded bid or agreement, the Contractor shall include a provision in the contract requiring the subcontractor to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

9) Federal Funding. It is understood that purchases may be funded in whole or in part with funds allocated by the Federal government, including the U.S. Department of Education and is therefore subject to those regulations, restrictions, and conditions normally associated with federally funded programs and any other requirements that the state or federal government may prescribe including, but not necessarily limited to, the "Federal Requirements" listed above in the AEPA Terms and Conditions and the following:

- **Lobbying:** The Bidder agrees and understands that under the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) that Bidders that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352.
- **Patent Rights:** The USDOE's and any other federal agency's requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course or under this Agreement include, but are not necessarily limited to, 34 CFR Part 80.
- **Copyrights and Right in Data:** The USDOE's and any other federal agency's requirements and regulations pertaining to copyrights and rights in data include, but are not necessarily limited to, 34 CFR Part 80.
- **Access to Documents:** The Parties and their grantees, the USDOE and/or other federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives shall have access

to any books, documents, papers, and records of the Bidder which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions.

- **Energy Policy and Conservation Act:** The parties shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).
-
- **Buy American:** To the maximum extent practicable, the Bidder will purchase domestic commodities or products produced in the United States or processed substantially using commodities produced in the United States
- **Minority Business Owners:** The ESUCC will contract with minority-owned businesses, women's business enterprises, and labor surplus firms when possible. Steps to ensure compliance with this provision will include:
 - .1 Qualified small, minority, and women's businesses on solicitation lists so that when such businesses are potential vendors, they are included in ESUCC solicitations.
 - .2 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation for such businesses.
 - .3 Establishing delivery schedules, where requirement permits, which encourage such enterprises
 - .4 Use services of Small Business Administration, Minority Development Agency, or similar state agency to maximize participation.
 - .5 Require prime Bidder, if subcontracts are to be let, to follow the above steps

11) Governing Law and Venue: All bids and contracts shall be governed by and construed in accordance with the laws of the State of Nebraska. The venue for any litigation arising out of or related to a bid or contract will be in any eligible state or federal court of Nebraska.

12) Public Records: The Contractor acknowledges that the ESUCC and its affiliated schools and members must comply with NEB. REV. STAT. § 84-712 through § 84-713 and release public records as defined law upon request, which may include any bid documents or contracts and all records created and maintained in relation to them.

13) Conflict of Interest: By submitting a proposal, Contractor certifies that there does not now exist any relationship between the Contractor and any person or entity which is or gives the appearance of a conflict of interest related to this Request for Proposal. The Bidder certifies that it shall not take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its services hereunder or which creates an actual or appearance of conflict of interest. The Bidder certifies that it will not employ any individual known by Bidder to have a conflict of interest.

The Contractor shall not, at any time, recruit or employ any employee or agent who has worked on the Request for Proposal or project, or who had any influence on decisions affecting the Request for Proposal or project.

The submission of the offer did not involve collusion or other anti-competitive practices. Neither signatory nor any person on his behalf, has not agreed, connived or colluded to produce a deceptive show of competition in the matter of the bidding or award of a contract under this solicitation.

The Contractor, by submitting a bid, certifies that it has not had a contract with education organizations in State of Nebraska terminated early. If Contractor has had a contract terminated early within the State of Nebraska, Contractor must provide the contract number, along with an explanation of why the contract was terminated early.

Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.

Contractor certifies that Contractor and Contractor's employees, officers, and associates directly involved in obtaining contracts with the State of Nebraska, ESUCC, or any subdivision of the state have not been convicted of false pretenses, attempted false pretenses, or conspiracy to commit false pretenses, bribery, attempted bribery or conspiracy to bribe under the laws of any state or federal government for acts or omissions after January 1, 1985

ESUCC may cancel any contract if it is found that gratuities in the form of entertainment, gifts or otherwise, were offered or given by Contractor or any agent or representative of Contractor, to any employee of ESUCC with a view toward securing a contract or with respect to the performance of this contract. Paying the expenses of normal business meals, which are generally made available to all eligible school and government employees, shall not be prohibited by this paragraph. Samples of software, equipment or hardware provided to ESUCC for demonstration or evaluation are not considered gratuities.

B. Procedure for Processing Orders

ESUCC affiliated schools or members send their purchase orders both directly and electronically to the vendor, the vendor ships directly to the school/member, and direct bills the schools/members the cost of merchandise plus the ESUCC 2% administrative fee. Vendors must provide a quarterly report to ESUCC Cooperative Purchasing. The report will include: Date of sales, school name, ESU affiliation, selling price, list price and savings. The ESUCC Cooperative Purchasing administrative Fee of 2% will accompany each quarterly report.

C. Members Purchasing Under the Agency

ESUCC represents 17 Educational Service Units statewide who in turn service Nebraska school districts with over 300,000 students. ESUCC is authorized to coordinate purchases for public school districts, nonpublic school systems, other ESUs, and

other public agencies, including any county, city, village, school district, or agency of the state government, any drainage district, sanitary and improvement district, or other Municipal Corporation or political subdivision of the State of Nebraska.

D. Procedure for Processing Orders

All purchase orders will be submitted directly from the purchasing entity to the vendor. ESUCC will not facilitate the processing of purchase orders unless the offering is service related. If it is a service related purchase then the purchase order shall be submitted by ESUCC.

E. Agencies Allowed to Purchase under the Member Agency

Purchases through ESUCC contracts are to be primarily for K-12. However other state entities may use the ESUCC contracts. All inquiries to purchase on the behalf of a non-profit group not in state statute or receiving state funding must be approved by ESUCC.

17. New Jersey, The Educational Services Commission of New Jersey (ESCNJ)

A. Additional Agency Terms and Conditions

Applicability of Contract Provisions to New Jersey Participants

ESCNJ is the AEPA Member Agency. Any entity that uses the contract awarded by ESCNJ under this document is referred to as a "New Jersey Participant." To be a New Jersey Participant the entity must be a member of the ESCNJ Cooperative Pricing System. The bidder that is awarded the contract by ESCNJ is referred to as the "Contractor."

Once a contract is awarded by ESCNJ, a New Jersey Participant may enter into a purchase order agreement directly with the Contractor. To the extent not otherwise described below or in this document, once a purchase order is issued by a New Jersey Participant to a Contractor, all of the provisions of the contract shall benefit and be enforceable by such New Jersey Participant, unless specifically identified as applying to ESCNJ only.

1. The Bidder by submitting its bid hereby declares that this Bid is made without any connection with any other person or person making any proposal for the same items, that it is in all respects fair and without collusion or fraud and that no person acting for or employed by ESCNJ or a New Jersey Participant is directly or indirectly interested in the proposal or in the goods or services to which it relates, or in any portion of the profits there from.

2. **Event of default and termination of Contract:**

ESCNJ shall have the right to cancel the contract based upon a default by Contractor. A New Jersey Participant shall have the right to cancel its purchase arrangement based on a default by the Contractor with regard to such purchase arrangement. In addition, ESCNJ and each New Jersey Participant reserves the right to withhold payments for goods and services that are not in compliance with the terms of the contract or if the Contractor is in default. Any of the following shall be a default under the contract: 1) The Contractor fails to adequately perform the services set forth in the contract; 2) Contractor fails to deliver all or any part of the goods, or delivers defective goods; 3) The Contractor fails to make progress in the performance of the contract and/or does not deliver within the agreed-upon schedules; 4) The Contractor fails to observe any of the terms and conditions of the contract, including, without limitation, assigning the contract and/or failing to deliver required insurance or performance bonds; 5) The Contractor fails to follow the established procedure for purchase orders, invoices and receipt of funds as stipulated by the New Jersey Participant; or 6) the Contractor has become insolvent, makes an assignment for the benefit of creditors, files a voluntary petition in bankruptcy or is subject to an involuntary petition in bankruptcy not discharged within thirty (30) days. ESCNJ and each New Jersey Participant shall follow the following procedure if the contract or purchase order is to be terminated:

Step 1 - Issue a warning letter of concern outlining the violations and length of time to correct the problem(s). The length of time to correct the problem shall be determined by ESCNJ or the New Jersey Participant, as applicable, in its sole discretion, based on the problem.

Step 2 - Issue a letter of intent to cancel the contract or purchase order, if the problem(s) is not resolved by the given date.

Step 3 - Issue the letter to cancel contract or purchase order.

Upon receipt of the written notice of concern, the Contractor shall have ten (10) business days to provide a satisfactory response to ESCNJ and the New Jersey Participant that provided the notices. Failure on the part of the Contractor to address adequately all issues or concerns may result in contract cancellation.

The remedy to terminate and withhold payments is in addition to any other remedies ESCNJ and the New Jersey Participants may have. In the event of Contract termination by a New Jersey Participant, such New Jersey Participant's payment obligation shall cease as of the final date on which services in accordance with this Contract are last performed by the Contractor. Upon termination of this Contract under this section, the Contractor (and its surety) will be responsible for all of such New Jersey Participant's expenses, losses and damages incurred in replacing Contractor for the remainder of the term of the Contract.

3. **Assignment:**

Contractor shall not subcontract, assign, transfer, convey, sublet or otherwise dispose of its/his/her contractual duties to any other person, firm, or corporation, without the previous written consent of ESCNJ and any New Jersey Participant that has an outstanding open purchase order or financing arrangement. If the Contractor wants to assign its/his/her right to payment of the Contract, Contractor shall notify ESCNJ and any New Jersey Participant that has an outstanding open purchase order or financing arrangement immediately, in writing, of such assignment of right to payment. In no case shall such assignment of Contract relieve the Contractor from its/his/her obligations or change the terms of the Contract.

4. Indemnification:

Contractor shall indemnify, defend, keep and save harmless ESCNJ, each New Jersey Participant and its respective agents, officials, employees and volunteers (each an "Indemnified Party") against claims of injuries, death, damage to property, patent claims, suits, liabilities, judgments, cost and expenses (including attorneys' fees) which result from, arise out of, or in connection with the performance, or breach of performance, under the Contract of Contractor and any of its/his/her employees, agents or personnel. The Contractor shall, at its/his/her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising there from or incurred in connection therewith; and if any judgment shall be rendered against the Indemnified Party in any such action, the Contractor shall, at its/his/her own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Indemnified Party as herein provided.

5. New Jersey Participant Policies:

The Contractor must be familiar with a New Jersey Participant's policies or regulations which affect the services provided under this Contract and that have been or will be distributed during the term of this Contract. Policies and regulations include, but are not limited to, New Jersey Public Contracts Law, school district policies, municipality policies, charters school policies, and county ordinances.

As each board of education, municipality governmental agency, educational institution in the State of New Jersey may have or may be required to have individual policies and procedures for the procurement of goods and services; and as one of the aforementioned institutions/agencies may be dependent upon the policies/procedures of another institution or agency, it is required for the Contractor to be familiar with the policies of the New Jersey Participant that impact the purchase. In limited situations, there may be State statutes which govern the allowability of purchases to be reimbursed by State funding. The New Jersey Participant should obtain its own legal advice on these statutes prior to purchasing under a contract.

The following documentation will be required prior to the award of any contract for New Jersey Participants:

1. New Jersey Business Registration Certificate - Before award in NJ, not at time of bid
2. New Jersey Contractors Registration Certificate (All time and material bids.) Before award in NJ not at time of bid
3. New Jersey Pay-to-Play Documentation (Political Contribution Disclosure)
4. Statement of Ownership (Ownership Declaration Certification)
5. New Jersey Affirmative Language (Exhibit A) and (Exhibit B) for construction repair and maintenance contracts
6. Acknowledgement of the Contractor's/Vendor's responsibility to pay prevailing wage.
http://lwd.dol.state.nj.us/labor/wagehour/wagerate/prevailing_wage_determinations.html
(Time and material bids.)
7. New Jersey Affirmative Action Questionnaire/Documentation
8. Disclosure of Investment Activities in Iran
9. Years of experience is not a criteria for the evaluation of bids to be awarded for the State of New Jersey. For additional information visit www.nj.gov/dca/divisions/dlgs
10. W9
11. Certificate of Insurance with the ESCNJ named as insured and the bid title/# listed - Before award in NJ, not at time of bid
12. DPMC - (All time and material bids.) Before award in NJ, not at time of bid
13. Total Amount of Uncompleted Contracts (All time and material bids.) Before award in NJ, not at time of bid
14. Americans with Disabilities ACT of 1990
15. Attachment B - New Jersey Anti-discrimination Provisions
16. Statement of Suspension or Debarment Form
17. Sworn Contractor Certification; Qualifications Credentials
18. Subcontractor Disclosure Statement
19. Prevailing Wages Certification—Submission with Bid_

6. Performance Bonds:

Each New Jersey Participant may require a performance bond in the case of services to be performed under the Contract if required. The Contractor shall furnish to the New Jersey Participant a Surety Performance Bond ("Performance Bond") with an option to renew each succeeding year of the Contract in a form satisfactory to the New Jersey Participant assuring the faithful performance of the Contract. The Bond shall be equal to one hundred percent (100%) of each year's estimated Contract price as reviewed and agreed upon by the New Jersey Participant, and shall be continued for the life of the Contract in amounts equal to one hundred percent (100%) of each year's estimated Contract price as reviewed and

agreed upon by the New Jersey Participant. The Contractor must send such Performance Bond to the New Jersey Participant prior to the commencement of any services under the Contract. Each such Performance Bond shall be furnished by a surety company acceptable to the New Jersey Participant and licensed or authorized to do business in New Jersey. Failure to deliver the bond shall be considered a default under the Contract, at the discretion of and upon notice by the New Jersey Participant.

7. Governing Law:

This Contract shall be governed by, and construed and enforced in accordance with, the laws of the State of New Jersey without regard to its conflicts of laws principles.

8. Financing Arrangements:

Any financing arrangements (including lease purchasing arrangements) may be made directly between the Contractor and a New Jersey Participant or with the free ESCNJ Leasing Program. Financing arrangements may be subject to additional laws, rules and regulations, terms and conditions not described in this document and are subject to separate negotiation with each New Jersey Participant that is interested in such an arrangement. Each New Jersey Participant should seek its own legal advice prior to entering into a financing arrangement. ESCNJ must receive a report annually summarizing the executed lease purchases along with the summary of the customer purchases. ESCNJ will not collect lease payments or be involved in the terms and conditions of the Contractor lease. All lease arrangements are between the Contractor and the New Jersey Participant only.

9. Affirmative Action:

The Contractor/Vendor must have an employment policy that there shall be no discrimination against anyone on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, physical disability or sexual orientation in the hiring, upgrading, demotions, recruitment, termination and selections for training, in any manner prohibited by the laws of the United States or of the State of New Jersey. The Contractor/Vendor further agrees to be an "affirmative action-equal opportunity employer." The Contractor/Vendor must provide one of the following: "Letter of Federal Affirmative Action Plan Approval", "Certificate of Employee Information Report" or a completed "Employee Information Report Form AA302" prior to award bid.

10. Independent Contractor:

The Contractor shall not be held or deemed in any way to be the agent or employee of ESCNJ and/or a New Jersey Participant. It is the intention of the parties that the Contractor shall be and is to be considered an independent contractor.

11. Incorporation of Bid Documents:

The bid documents, including all appendices executed by Contractor that have been accepted by ESCNJ (the "Bid") are specifically incorporated into this Contract.

12. New Jersey Public Records Act:

The Contractor acknowledges that ESCNJ and New Jersey Participants are subject to the New Jersey Public Records Act, New Jersey Public Contracts Law and information submitted to ESCNJ and/or such New Jersey Participants may be made available to the public under the provisions of the this Act.

Marketing and Advertising under this Contract - applicable to Member Agency (ESCNJ) contract only:

1. Contractor agrees to provide ESCNJ with a copy or proof sheet of all advertisements, customer communications or promotional material for approval. Contractor will provide ESCNJ with date of release and name of publication, journal, etc. if applicable.
2. Contractor will include the approved ESCNJ logo, web address, bid #, bid title, bid term, NJ State Approved Co-op #65MCESCCPS and contact information in all print, electronic mail and other advertising and promotion intended for release in New Jersey.
3. The ESCNJ logo and information shall be of a clearly readable size and in appropriate proportion to other elements in the print material.
4. Contractor agrees to make available ESCNJ supplied brochures or other promotional materials on booths, tables, etc. of any or all exhibits for which the Contractor displays/participates at tradeshow, conventions and the like. Contractor will supply scheduled exhibit dates in advance.
5. Contractor agrees to insert the approved ESCNJ logo, web address, NJ State Approved Co-op #65MCESCCPS bid #, bid term and contact information on the Contractor's website promoting and providing a link to the ESCNJ website. Contractor will also provide ESCNJ with text, links and logos to be posted on the ESCNJ website.

B. Procedures for Processing Orders

1. Once the award is made to the Contractor, ESCNJ will inform the potential New Jersey Participants of the Contract, including a webpage dedicated to the contract on the ESCNJ website. At this point, the Contractor may directly contact

- any potential New Jersey Participant and any potential New Jersey Participant may directly contact the Contractor.
2. Purchase orders will not be accepted or processed by ESCNJ. All business will be contracted directly with the New Jersey Participant, which will issue a purchase order and provide payment for the applicable good or service directly to the Contractor.
 3. The total cost of ESCNJ's program is funded through a 2.2% participation fee paid to ESCNJ quarterly by the participating Contractors. The administrative fee percentage is based upon the total sale or lease of goods and services, including installation, if included. This fee shall be included in all price quotations to New Jersey Participants and shall not be printed as a line item on the quotation.
 4. Along with the participation fee, the Contractor will produce and provide to ESCNJ quarterly reports ending March 31, June 30, September 30 and December 31 throughout the contract period. The reports shall be in Microsoft Excel and be available in electronic form, shall identify the Contractor and the quarter being reported, shall be delivered to ESCNJ on the 15th of the month, shall include a minimum of the fields listed below and shall allow for sorting on any of these fields:
 1. Date of order.
 2. The name of the New Jersey Participant.
 3. ESCNJ Bid Number
 4. ESCNJ Co-op Number (New Jersey State Approved Cooperative Pricing System #65MCESCCPS)
 5. List (or academic) price sales totals.
 6. New Jersey Participant price sales totals.
 7. New Jersey Participant savings totals to be sent to the ESCNJ in summary and to each individual New Jersey Participant.
 5. Quarterly reports and administrative fee payments are to be made payable to ESCNJ and sent to ESCNJ, 1660 Stelton Road, Piscataway, NJ 08854, Attn: Patrick M. Moran, or such other address that ESCNJ will provide from time to time.
 6. If no purchases are made in any given quarter, the Contractor shall remit a "No Activities" statement to ESCNJ for that quarter. The Contractor will also produce and provide to ESCNJ an annual summary report for all purchases made under each contract awarded by ESCNJ pursuant to this document for a period beginning with the award of the contract and ending December 31 and all consecutive annual periods, if the contract is extended.
 7. New Jersey School Districts and other eligible New Jersey Participants are normally exempt from sales tax. The Contractor/Vendor should confirm this exemption and collect a tax-exempt letter from each New Jersey Participant.

C. Members Purchasing Under the Agency

There are 596 operating school districts in New Jersey and all are eligible for membership. No district is obligated to use these services. Additional New Jersey Participants may include other public educational institutions, public colleges or universities, community colleges, vocational or technical schools, municipal governments, and other governmental, quasi-governmental, or non-profit organizations. The ESCNJ Cooperative Pricing System currently has 1,250+ New Jersey Participants located in all 21 Counties of the State of New Jersey.

CONFLICT OF INTEREST

An ESCNJ employee (including independent contractors for purposes of this definition) placing an order or recommending a vendor must disclose any relationship with that vendor which would not be considered an "arms-length" or independent transaction. This disclosure must be made in writing to the Business Administrator and/or Chief Financial Officer for an evaluation. The Business Administrator and/or the Chief Financial Officer will respond to this disclosure in writing.

For a transaction to be considered "arms-length" or "independent", an ESCNJ employee should not be influenced, dependent upon, guided or controlled by a vendor into choosing that vendor, or item to purchase; nor should it appear to a third party that an ESCNJ employee made a purchasing decision which appears to be based upon a personal relationship between the ESCNJ employee and vendor.

The following are examples when a transaction is NOT considered arms-length or independent: (1) when there exists a personal relationship between an ESCNJ employee and a vendor, (2) when there exists the potential for a personal benefit to an ESCNJ employee, or (3) the parties to a business deal are dependent upon one another for "something" other than the purchase itself.

The Contractor shall disclose any relationship with an ESCNJ employee that would not be considered an "arms-length" or independent transaction, as described above. This disclosure must be made in writing to the Business Administrator and/or the Chief Financial Officer for an evaluation. The Business Administrator and/or the Chief Financial Officer will respond to this disclosure in writing.

In addition, the Contractor shall, if given a copy of the potential New Jersey Participant's conflict of interest policy, follow the process in that policy, or otherwise disclose to a potential New Jersey Participant any relationship that would not be considered an "arms-length" or independent transaction with that New Jersey Participant, as described above. This disclosure must be made in writing to the chief official (for example, the Superintendent at a board of education) at the potential New Jersey Participant.

Determination of the existence of a conflict of interest does not prohibit ESCNJ and/or a New Jersey Participant from entering into the contract and purchase order, respectively.

American Goods - American Goods Clause—N.J.S.A. 18A:18A-20 - American goods and products to be used where possible

All contracts for work for which it will pay any part of the cost or work which by contract it will ultimately own and maintain, that only manufactured and farm products of the United States, wherever available, to be used in such work.

Anti-discrimination - All parties to any contract with the ESCNJ agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference.

Debarment/Suspension - N.J.A.C. 17:19-1.1 et seq. The ESCNJ will not enter into a contract for work with any person, company or firm that is on the State Department of Labor and Workforce Development; Prevailing Wage Debarment List, or the State of New Jersey Consolidated Debarment Report (www.state.nj.us/treasury/debarred) or the Federal System for Award—SA (www.state.nj.us/treasury/debarred) or the Federal System for Award—SA

For Time and Material bids - DPMC - There is a non-refundable fee of \$100.00 which must be submitted to the State with your application. All payments must be made on company checks (no-cash) made payable to "Treasurer, State of New Jersey". No application will be processed without the fee. If you have any questions, please contact the Contractor Classification unit by accessing the DPMC web site at www.state.nj.us/treasury/dpmc/. NOTE: It is suggested that a photocopy of this completed form be retained for your records. Please submit the completed application and all required documentation to the Treasurer, State of New Jersey. Upon review and approval of this application, your firm will be notified by mail of the effective and expiration dates, type of work, and rating assigned to your firm. Please submit your certificate with your bid package.

Any contractor who submits a bid for a public works contract the amount which exceeds **\$20,000**, pursuant to N.J.S.A. 18A:18A-26, 27 et seq., shall be classified by the Department of Treasury, Division of Property Management (DPMC) as to the type of work and trades (character) and the aggregate rating (amount) of public work they are qualified to submit bids.

The ESCNJ may only accept bids from contractors that are qualified.

Notice of Classification—DPMC-27

The Notice of Classification is a document issued by the DPMC that provides the following information about the qualified contractor:

- Trade(s) classification held by the contractor

The contractor is classified by the trade and trade number as found in Form DPMC-27. For example

Trade Number	Trade
C030	Plumbing
C032	HVACR

The contractor is therefore qualified to submit bids (exceeding \$20,000) to the board of education that pertain to plumbing and heating, ventilation, air conditioning and refrigeration.

For Time and Material bids Equipment Certification 18A:18A-23. A certificate showing that the bidder owns, leases, or controls all the necessary equipment required by the plans, specifications and advertisements under which bids are asked for and if the bidder is not the actual owner or lessee of any such equipment, his certificate shall state the source from which the equipment will be obtained, and shall be accompanied by a certificate from the owner or person in control of the equipment definitely granting to the bidder the control of the equipment required during such time as may be necessary for the completion of that portion of the contract for which it is necessary.

For Time and Material bids - Total Amount of Uncompleted Contracts - DPMC 701

This document is completed by the contractor submitting a bid, on the form provided by the DPMC. The document lists the amount of uncompleted contracts held by the contractor and a certification that the amount of uncompleted contracts, added to the bid amount for the ESCNJ Participant project, does not exceed the Aggregate Amount rating as assigned by the DPMC.

For Time and Material bids - Pre-qualification Affidavit/No Material Adverse Change

Pursuant to N.J.S.A. 18A:18A-32, no bidder is qualified to bid on any public work contract unless they provide an affidavit that there has been no material adverse change in his qualification information pursuant to N.J.S.A. 18A:18A-28.

For Time and Material bids - Prevailing wages; Alterations and repairs - The State of New Jersey Prevailing Wage Act, Chapter 150 Laws of 1963 with applicable statewide wage rates and for the wage rates for the county of the location of the New

Jersey Participant, as published by the Department of Labor and Workforce Development in conformance with N.J.S.A. 34:11-56-25 et seq. Copies of these wage rates may be obtained from the State Department of Labor and Workforce Development, and/or viewed at <http://lwd.dol.state.nj.us/> the Prevailing Wages Determination Section.

For Time and Material bids - Compliance with New Jersey Prevailing Wage Act

Every contractor and subcontractor performing services in connection with this project, shall pay all workers a wage rate not less than the published prevailing wage rates, for the locality the work is being performed, as designated by the New Jersey Department of Labor and Workforce Development.

For Time and Material bids - Certified Payrolls

Every contractor agrees to submit to the New Jersey Participant a certified payroll for each payroll period within ten (10) days of the payment of wages. The contractor further agrees that no payments will be made to the Contractor by the New Jersey Participant, if certified payrolls are not received by the New Jersey Participant. It is the Contractor's responsibility to insure timely receipt by the district of certified payrolls.

For Time and Material bids - Submission of Affidavit

Before final payment, the contractor shall furnish the New Jersey Participant with an affidavit stating that all workers have been paid the prevailing rate of wages in accordance with State of New Jersey requirements. The contractor shall keep an accurate record showing the name, craft, or trade and actual hourly rate of wages paid to each workman employed by him in connection with this work. Upon request, the Contractor(s) and each Subcontractor shall file written statements certifying to the amounts then due and owing to any and all workmen for wages due on account of the work. The statements shall be verified by the oaths of the Contractor or Subcontractor, as the case may be.

18. New Mexico, Cooperative Educational Services (CES)

Cooperative Educational Services (CES) is the administering agency of a Joint Powers Agreement as authorized by Section 11-1-1, et. seq. NMSA 1978, which is based in Albuquerque, New Mexico, and is composed of 180 New Mexico public educational institutions (Members) such as K-12 public school districts; charter schools; colleges and universities and their branch campuses; community colleges and vocational schools; Bureau of Indian Education (BIE) schools; that are parties to the Revised and Amended Joint Powers Agreement (JPA) to establish an educational cooperative. CES was organized in 1979 as a direct response to the needs of small and rural Local Education Agencies (LEA's). CES offers numerous programs and services in the following areas: administrative support, special education services, and cooperative purchasing.

A. CES General Terms and Conditions

Arbitration: This contract is subject to arbitration to the extent required by the New Mexico Procurement Code, 13-1-21 to 13-1-199. NMSA 1978.

Assignment of CES Payments: If the Contractor requests that its payment from CES/CES Members be issued to a third party or that a joint check be issued to the Contractor and a third party, this request must be submitted and approved by the agency prior to the Contractor accepting a purchase order. The agency reserves the right to assess a special handling charge of thirty-five dollars (\$35) per check. The special handling charge will be deducted from the amount of the invoice being paid. If the Contractor wishes to have all payments under this contract made to a third party, Contractor must state this in his response.

Background Checks - Per 22-10A-5 NMSA 1978, the New Mexico Public Education Department (NMPED) mandates security and background checks for individuals working and/or providing services within public school grounds and buildings. Specifically, part C of the sections states, "Local school boards and regional education cooperatives shall develop policies and procedures to require background checks on an applicant who has been offered employment, a Contractor or a Contractor's employee with unsupervised access to students at a public school." Describe how your company will comply with the CES Member's or Participating Entity's policies and procedures in regard to background checks.

CES Members: Are the parties to the CES Joint Powers Agreement (JPA) and consist of public educational institutions within the State of New Mexico and include public school districts as defined in NMSA 1978 § 22-1-2, State Institutions as defined in NMSA 1978 § 22-1-2, State Educational Institutions defined under Article XII, Section 11 of the New Mexico Constitution, most of the community colleges defined by the "Community College Act" as defined in NMSA 1978 § 21-13-1 et seq., their branch community colleges as defined in NMSA 1978 § 21-14-1 et seq., technical and vocational institutes defined in NMSA 1978 § 21-16-1, area vocational schools defined in NMSA 1978 § 21-17-4, off campus community colleges or instructional facilities as defined in NMSA 1978 § 21-14A-1, charter schools as defined in NMSA 1978 § 22-8A-1, Regional Center Cooperatives as set forth in Section 22-2B-1 et seq., and 638 schools and grant schools. Each public educational institution is authorized by its governing body and the Procurement Code 13-1-135 NMSA 1978 to enter into cooperative purchasing agreements, pursuant to Sec. 11-1-1 et seq. 1978 Comp. and Sec. 108 of Ch. 65 of the Laws of 1984 (The Procurement Code).

CES Participating Entities: Is defined as non-public educational agencies and/or organizations classified as follows, that may participate in and purchase tangible personal property, professional, non-professional and construction services through their cooperative purchasing agreement with CES.

1. Federal Agency [25 USC 3001 (4)] is defined as any department, agency, or instrument of the United States, any executive department, military department, government corporation, government-controlled corporation, or other establishment in the executive branch of government, including the Executive Office of the President or any independent regulatory agency established through legislative and/or administrative action.
2. State Agency [13-1-90 NMSA 1978] is defined as any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or office of the executive, legislative or judicial branch of the government of this State. "State agency" includes the purchasing division

of the General Services Department (GSD) and the state purchasing agent but does not include local public bodies.

3. Local Public Body [13-1-67 NMSA 1978] is defined as a political subdivision of the State and the agencies, instruments and institutions thereof, including: two-year post-secondary educational institutions, school districts and local school boards and municipalities, except as exempted pursuant to the Procurement Code [13-1-28 NMSA 1978].
4. Non-Profit, Non-Public Educational Institutions and other Non-Profit Organizations (Section 501(c)(3) of the Internal Revenue Code, Federal Tax Code) is defined as charitable, religious, educational, public service, support and scientific organizations, entities, corporations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code, or corresponding section of the Federal Tax Code.

CES Supplemental Packet: Upon acceptance and approval of the Contractor's offer by AEPA, CES will independently consider the offer and issue a Contractor's supplemental packet requesting specific information necessary to enter and execute a contract in the state of New Mexico including information relating to: the Contractor's qualifications; ability to conduct business in the state of New Mexico; and who will be coordinating, promoting, receiving, and processing orders; and providing the prime Contractor's goods and services in New Mexico. Once the prime Contractor provides this information, CES will review, seek clarification (if needed), and conduct a Contractor conference to complete the contract execution process.

CFR - Code of Federal Regulations www.gpoaccess.gov/cfr/index.html

Civil and Criminal Penalties: The New Mexico Procurement Code, Sections 13-1-21 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

Commencement Date/Substantial Completion Date: CES's purchase order establishes the Notice to Proceed. The Substantial Completion Date refers to a stage of a construction or building project or a designated portion of the project that is sufficiently complete, in accordance with the construction contract documents, so that the owner may use or occupy the building project or designated portion thereof for the intended purpose. The allowed duration for each project will be determined by the Contract Documents between the CES Agency and the Contractor.

Confidential Information and Disclosure of Proposal Contents: For the purposes of this procurement, the provisions of the "New Mexico Inspection of Public Records Act" (NMSA 1978, Chapter 14, Article 2) will be in effect. Pursuant to this Act, all proceedings, records, contracts, and other public documents relating to this procurement shall be open to public inspection. Proposers are reminded, that while trade secrets and other proprietary information they submit in conjunction with this procurement may not be subject to public disclosure, protections must be claimed by the proposer at the time of submission of its Technical Proposal. Proposers should refer to the New Mexico Inspection of Public Records Act for further clarification.

The designation of certain information as trade secrets and/or privileged or confidential proprietary information shall only apply to the technical portion of your proposal. Your cost proposal will not be considered confidential under any circumstance. Any proposal copyrighted or marked as confidential or proprietary in its entirety may be rejected without further consideration or recourse.

The Proposer must clearly designate the part of the proposal that contains a trade secret and/or privileged or confidential proprietary information as "confidential" in order to claim protection, if any, from disclosure. The proposer shall provide a sheet with the following legend, specifying the specific section(s) of his proposal sought to be restricted in accordance with the conditions of the legend:

"The data contained in pages ____ of the proposal have been submitted in confidence and contain trade secrets and/or privileged or confidential information and such data shall only be disclosed for evaluation purposes, provided that if a contract is awarded to this Proposer as a result of or in connection with the submission of this proposal, CES and its Members and Participating Entities shall have the right to use or disclose the data therein to the extent provided in the contract. This restriction does not limit CES and its Members and Participating Entities the right to use or disclose data obtained from any source, including the proposer, without restrictions."

Further, to protect such data, each page containing such data shall be specifically identified and marked "CONFIDENTIAL". Within the required electronic submission, any item marked as confidential will need to be submitted in a separate folder marked "Confidential information".

The CES Executive Director will review the statement and will determine in writing whether the information will be withheld. If the Executive Director determines that the information should be disclosed, the Contractor will be informed in writing of such determination. Contractor may object in writing within five (5) days after notification of determination, no disclosure will be made and the bid response may be rejected.

Contract Non-Exclusive: Any contract resulting from this solicitation will be awarded with the understanding and agreement that it is for the sole convenience of CES, its Members or Participating Entities in New Mexico. CES reserves the right to obtain like goods and services from another source when necessary.

Contractor: As defined in Construction Industries Licensing Act, 60-13-1 NMSA 1978: "contractor" means any person who undertakes, offers to undertake by bid or other means, or purports to have the capacity to undertake, by himself or through others, contracting. Contracting includes constructing, altering, repairing, installing or demolishing any: road, highway, bridge, parking area or related project; building, stadium or other structure; airport, subway or similar facility; park, trail, bridle path, athletic field, golf course or similar facility; dam, reservoir, canal, ditch or similar facility; sewerage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility; sewerage, water, gas or other pipeline; transmission line; radio, television or other tower; water, oil or other storage tank; shaft, tunnel or mining appurtenance; leveling or clearing land; excavating earth; air conditioning, conduit, heating or other similar mechanical works; electrical wiring, plumbing or plumbing fixture, consumers' gas piping, gas appliances or water conditioners; or similar work, structures or installations which are covered by applicable codes adopted under the provisions of the Construction Industries Licensing Act.

The Act includes subcontractor and specialty contractor; and includes a construction manager who coordinates and manages the building process; who is a member of the construction team with the owner, architect, engineer and other consultants required for the building project; and who utilizes their skill and knowledge of general contracting to develop schedules, prepare project construction estimates, study labor conditions and advise concerning construction.

Contractor Invoice: The Contractor will send an invoice to CES or a CES Member after the delivery of goods and/or services. Goods and services will be invoiced at current contract pricing approved by AEPA including the 2% administrative fee and if applicable, the local New Mexico Gross Receipts Tax.

Contractor's Quote to CES Member or Participating Entity: When preparing a proposal under a CES awarded contract, the Contractor must clearly identify and break out supplies, materials, equipment, services, labor, and local New Mexico Gross Receipt Tax into individual line items as they appear on the Contractor's awarded price schedule or pricing methodology. Stated prices must include the CES two percent (2%) administrative fee. All costs associated with preparing cost proposals and job orders shall be the responsibility of the Contractor and must be based on a detailed scope of work and in compliance with an approved pricing methodology.

Credit Hold: The Contractor must agree not to place CES, its Member or Participating Entity on "credit hold" without ten (10) days advanced notice in writing to all parties, by letter or e-mail. Before CES can pay a Contractor's invoice, it must collect payment from the CES Member or Participating Entity that received the product. CES believes it is better for the Contractor if CES places the slow-paying agency on "credit hold". If a Contractor places CES on "credit hold," agencies that pay promptly are penalized. If, on the other hand, CES places the offending agency on "credit hold", payment is more likely to result and only the offender is punished.

Disclosure of Confidential Information: Any confidential information provided to the Contractor by CES, its Members or Participating Entities or developed by the Contractor based on information provided by CES, its Members or Participating Entities in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of CES, its Members or Participating Entities. Upon termination of this Agreement, Contractor shall deliver all confidential material in its possession to CES, its Members or Participating Entities within thirty (30) business days of such termination. Contractor acknowledges that failure to deliver such confidential information to CES, its Members or Participating Entities will result in direct, special and incidental damages.

Indemnification: To the fullest extent permitted by law, Contractor must, defend, indemnify and hold harmless

CES, its Members, its Participating Entities, its officers and employees, against any and all liability, claims, demands, actions, damages, losses, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, government action and all expenses, including attorneys' fees and litigation expenses, demands or expenses asserted by a third-party, caused by, or resulting from, Contractor 's and/or its employees, act(s) or omissions(s) while Contractor, and/or its employees, perform(s) or fails to perform its obligations and duties under this agreement or acts or omissions occurring outside of this agreement Any equipment or facilities damaged by Contractor s' operation shall be repaired and/or restored to their original condition at Contractors' expense. Contractor shall at all times keep in force liability insurance limits as outlined in this solicitation. Failure to maintain current coverage in the amounts stated may result in termination of this agreement. CES shall be named as a co-insured on the insurance policy and the policy shall provide that the policy cannot be modified or cancelled without the approval of CES.

"This provision shall survive any termination of this Agreement. Contractor will promptly advise CES in writing of any action, administrative or legal proceedings or investigation as to which defense and indemnification shall apply."

Indemnification Intellectual Property: The Contractor shall defend, at its own expense, CES, its Members and Participating Entities against any claim that any product or service provided under this Agreement infringes any patent, copyright or trademark, and shall pay all costs, damages and attorney's fees that may be awarded as a result of such claim. In addition, if any third party obtains a judgment against CES, its Members and Participating Entities based upon Contractor's trade secret infringement relating to any product or services provided under this Agreement, the Contractor agrees to reimburse CES, its Members and Participating Entities for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, CES, its Members and Participating Entities shall:

1. Give the Contractor written notice, within forty-eight (48) hours, of its notification of any claim;
2. Allow the Contractor to manage the defense and settlement of the claim as permitted by law; and
3. Cooperate with the Contractor, in a reasonable manner, to facilitate the defense or settlement of the claim.

CES, its Members and Participating Entities Rights: If any product or service becomes, or in the Contractor's opinion is likely to become, the subject of a claim of infringement, the Contractor shall, at its sole expense:

1. Provide CES, its Members and Participating Entities the right to continue using the product or service and fully indemnify CES, its Members and Participating Entities against all claims that may arise out of CES, its Members and Participating Entities use of the product or service;
2. Replace or modify the product or service so that it becomes non-infringing; or
3. Accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any product or service modified by CES, its Members and Participating Entities to the extent such modification is the cause of the claim

Insurance: On contract award, the Contractor will, at its own expense, purchase and maintain insurance that will protect it from claims that may arise out of or as a result from its activities under this contract, where those activities are performed by it, by any Subcontractor, by anyone directly or indirectly employed by any of the Contractors or by anyone for whose acts the Contractor may be liable during the entire performance period of this contract. The Contractor must furnish a Certificate of Insurance to the CES procurement officer prior to official award. If policy changes occur during the life of the contract, it is the Contractor's responsibility to provide updated proof of coverage to the CES procurement officer.

1. Will provide to CES proof of coverage under the Workman's Compensation Insurance, as required by the Labor Laws and New Mexico Statutes.
2. Bidders will submit a certificate of general liability insurance for personal injury, occupational disease, sickness or death, and property damage. Insurance will include "occurrence" claim provisions. Minimum acceptable coverage is one million dollars (\$1,000,000) combined single limit for bodily injury and property damage, or seven hundred fifty thousand dollars (\$750,000) bodily injury and two hundred fifty thousand dollars (\$250,000) property damage (each occurrence). **The Contractor will name CES and the CES Member as co-insured up to the limits of the Tort Claims Act.**

3. Will provide to CES a certificate of comprehensive vehicle liability insurance, for both owned and non-owned vehicles, shall be one million dollars (\$1,000,000) per occurrence combined single limit for both personal injury and property damage.
4. If required for professional services, will provide a certificate of errors and omissions insurance for damages caused by an error, omission, or any negligent acts caused by the Contractor and its Subcontractors in the performance under this agreement. Combined singled limit per occurrence is one million dollars (\$1,000,000) and the annual aggregate limit of not less than two million dollars (\$2,000,000). The bidder will provide "tail" coverage at the completion of any contract entered into by CES or its Members for a minimum of 12 months, or the maximum time period reasonably available in the marketplace. The Contractor shall furnish certification of "tail" coverage as described following contract completion. This will be a condition of the final acceptance of work or services.
5. In addition, Contractor must provide, upon request, identical certification of insurance to any CES Member or Participating Entity using this contract. Prior to commencing any work, all Subcontractors must procure and maintain at its own expense until final acceptance of the work, written insurance coverage, and insurer's acceptance to the prime Contractor. All Subcontractors will provide workers' compensation insurance, which waives all subrogation rights against the prime Contractor and CES/CES Member/Participating Entities.

Lease and Rentals: Contractor can allow CES Members to enter into rent, lease or lease/purchase agreements, providing such agreements are in compliance with 6-6-12 NMSA 1978 Exemption from Bateman Act, 13-1-67 NMSA1978 Definition; local public body, and Public Education Department policies, rules and regulations. CES will not collect lease payments. Contractor agrees that leases will be in compliance with the Uniform Commercial Code. All terms of leasing must be included in the proposal with interest rates described as related to a government standard. Contractor must indicate in its response to this solicitation if the shipping costs for the return of leased or rented equipment are the responsibility of the CES Member and what that cost will be. No sale of a contract to a third party will be made without informing CES and the CES Member of the transfer. If Contractor sells a lease contract to a third party, the cost of return must not be greater than the cost of return to the original Contractor.

As required by New Mexico law, the lease agreement with the CES Member or Participating Entity will need to contain a termination provision for Non-Appropriation of Funds. In the event no funds or insufficient funds are appropriated and budgeted by CES, its Members or Participating Entities (Lessee) governing body or are otherwise unavailable in any fiscal year for the payment of lease and other amounts due under any lease, the lease shall terminate on the last day of the fiscal period for which appropriations were received or other amounts are available to pay amounts due under the lease without penalty or expense to the Lessee. It is the decision of CES, its Members, or Participating Entities to determine the sufficiency of funds, which determination shall be accepted by the Lesser and is final. The Lessee shall give the Lesser or its Assignee written notice at least thirty (30) days in advance of such occurrence.

Legal Remedies: All claims and controversies are subject to the New Mexico Procurement Code, NMSA 1978, and Sections 13-1-21 through 13-1-199.

Liens: All materials and services will be free of all liens.

Local Representation: Depending on the type and level of products and services offered, the Contractor must demonstrate their sales, support, and service staff are physically located where they can respond to and deliver services in a timely and cost-effective manner.

Manufacturer Endorsement: The Contractor must demonstrate it is an authorized distributor of the products and services offered, has access to manufacturer's technical support and warranty services, and possesses the certifications required to install, configure, and maintain the products offered within the state of New Mexico.

New Mexico Procurement Code: Sections 13-1-21 through 13-1-199 NMSA 1978 may be cited as the "Procurement Code".

Offer Acceptance Period to Execute a Contract with CES: In order to allow CES the opportunity to evaluate

the bids approved by AEPA, CES requires that the AEPA approved Contractor submit to CES a complete electronic copy of its response to AEPA's solicitation with original signatures within fifteen (15) days of CES's request. CES will issue its supplemental packet within thirty (30) days after receipt and review of the approved Contractor response. The approved Contractor will have fifteen (15) days to return the CES supplemental packet. After CES receives the request information in the supplemental packet, CES issue a contract for the products and services as approved by AEPA.

Ordering Process: Contractor agrees to adhere to CES' ordering process(es).

Ownership of Materials and Documents: CES, its Members or Participating Entities shall be the sole owner of all right, title and interest, including copyright, in and to all software, plans, diagrams, facilities, and tools (hereafter "**materials**") which are originated or created through Contractor's work pursuant to this Contract. Contractor, for valuable consideration herein provided, shall execute all **documents** necessary to assign and transfer to, and vest in CES, its Members or Participating Entities all Contractor's rights, title and interest in and to such original **materials**, including any copyright, patent and trade secret rights which arise pursuant to Contractor's work under this Contract.

Patent and Copyright Infringement: Contractor will, at their expense, defend CES and its Members and Participating Entities against any claim that any equipment or software supplied hereunder (even if such equipment or software are modified by CES or its Members, subject to the last paragraph of this section) infringe a patent or copyright in the United States, or a U.S. Territory, and will pay all costs, damages and attorney's fees that a court finally awards as a result of such a claim. To qualify for such a defense and payment, CES must:

1. Give Contractor prompt written notice of any such claim after becoming aware of such claim.
2. Allow Contractor to control and fully cooperate with Contractor in the defense and all related settlement negotiations.

CES will be reimbursed for all expenses incurred by CES in fully cooperating with Contractor as specifically requested by contract. CES is not required to incur any expenses specified in this paragraph, which are not reimbursable, by the Contractor. If any CES Member and Participating Entities are involved by any party in any way, the same provisions that apply to CES in this paragraph will apply to the CES Member or Participating Entity. Contractor's obligation under this section is conditioned on CES' agreement that if the subject of such a claim, CES will permit the Contractor, at its expense and option, either to procure the right for CES and its Members or Participating Entity to continue using the equipment and/or software, or to replace or so modify with equipment or software which are functionally equivalent so that they become non-infringing. If neither of the foregoing alternatives is available on terms which are reasonable in Contractor's judgment and satisfactory to CES, CES will request its Members or Participating Entity to return the equipment or software on written request by Contractor at Contractor's expense.

Contractor agrees to refund CES, its Members or Participating Entities a refund for returned equipment as depreciated unless otherwise mutually agreeable in writing. The depreciation will be an equal amount per year over six (6) years. In the event that Contractor's written request for return is made after full depreciation, the Contractor will pay CES, or its Members who purchased the equipment, an amount equivalent to the fair market value of the returned equipment. If CES, or any of its Members or Participating Entities, fails to return the equipment, the Contractor is not obligated to that Member under this clause.

Contractor will have no obligation with respect to any such claim based upon a Member's or Participating Entity's modification of the equipment or software or combination, operation or use with apparatus, data or programs not furnished by Contractor. However, one Member's or Participating Entity's action will not preclude Contractor's obligation to others not having modified their equipment or software.

Payment by CES: CES will make every effort to collect payment from Members or Participating Entities for the purchase of goods and services within thirty (30) days after the receipt of goods or services and a correct invoice of amount due, unless a good faith dispute exists as to any obligation to pay all or a portion of the account. Any offer that requires payment in less than forty-five (45) days shall not be considered. CES must first receive payment from the Member or Participating Entity in order to process payment to the Contractor. Any Contractor whose business would be in jeopardy due to slow payments is encouraged not to respond. It has been CES' experience that public agencies always pay, but many are slow in processing payments.

Payments by Member or Participating Entities: For the purchase by a Member or Participating Entity directly from the Contractor for goods and services that have been received and accepted. Payment from the Member or Participating Entity to the Contractor will be made within forty-five (45) days after the receipt of a correct invoice, unless a good faith dispute exists as to any obligation to pay all or a portion of the account. If a dispute arises or an agency's account becomes delinquent, the Contractor is encouraged to contact and request assistance from CES. Any offer that requires payment in less than forty-five (45) days shall not be considered.

Payment of Administrative Fee: When a CES Members or Participating Entities issue payment directly to the Contractor for goods and services received and accepted. The Contractor will, upon receipt of payment from a CES Member or Participating Entity, issue payment to CES for an administrative fee in an amount equal to two percent (2%) of the total invoice amount.

Price List: The AEPA Contractor will submit to CES and/or its Members and Participating Entities (if requested) or make available on its website all applicable pricing for all products and services proposed, approved, and awarded under this solicitation. Price lists submitted must be in accordance and comply with the AEPA's terms, conditions, and the requirements of the CES purchasing process utilized to facilitate eligible procurement agencies' staff to place and process orders. When utilizing any of the pricing methodologies identified and required within this solicitation, such discounts and pricing will include the CES two (2%) percent administrative fee, must be submitted in the format required, and can be audited by CES.

Public Record: All documents associated with this AEPA contract will become the property of CES and be a matter of public record available for review, after the final award notification according to the "New Mexico Inspection of Public Records Act" (NMSA 1978, Chapter 14, Article 2). All proposals may be reviewed under the supervision of CES staff by appointment, from 9:00 a.m. to 4:00 p.m., Monday through Friday, at 4216 Balloon Park Road NE, Albuquerque, New Mexico, 87109.

Safety Measures: Contractor will comply with all federal and state of New Mexico safety regulations.

Severability: The provisions of this contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract, which may remain in effect without the invalid provision or application.

Smoking: All Contractors and subcontractors must adhere to CES Member or Participating Entity smoking policies.

Taxes: Prices offered will not include applicable State of New Mexico Gross Receipts Tax (NMGR). All applicable NMGR must be listed as a separate line item on all invoices. No gross receipts taxes can be collected on delivery charges to the agency's location.

1. There is no NM State Gross Receipt Taxes NMGR applied to the price of non-construction supplies, materials, and equipment.
2. There will be NM State Gross Receipt Taxes NMGR applied to any non-construction services and professional services based on the location of the provider.
3. There will be NM State Gross Receipt Taxes NMGR applied to any construction product and/or service based on the physical location of the construction site.
4. Indian Reservation or Tribal Tax: If goods or services are delivered to locations on a Indian reservation or purchased by tribal governments, they are subject to tribal taxes.

5. A Bidder will be required to provide tax indemnification number (CRS) issued by New Mexico Taxation and Revenue Department at time of contract award.

Termination for Convenience: CES can, by written notice stating the effective date, terminate the contract issued for convenience in whole or in part, at any time. CES shall pay Contractor as full compensation for performance until such termination as follows:

1. The unit or pro-rata order price for the delivered and accepted portion; and
2. A reasonable amount, not otherwise recoverable from other sources by Contractor as approved by CES with respect to the undelivered or unaccepted portion of the service, provided compensation shall in no event exceed the total contract price.

Termination for Default: CES reserves the right to terminate in whole or any part of the contract due to the failure of the Contractor to carry out any obligation, term or condition of the contract. CES may issue written notice to the Contractor for acting or failing to act under the following conditions.

1. The Contractor provides material that does not meet the specifications of the contract.
2. The Contractor fails to complete the services set forth in the specifications of the contract.
3. The Contractor fails to complete the work required or to furnish the materials required within the specified time.
4. The Contractor fails to make progress in the performance of the contract and/or gives CES cause to believe that the contractor will not or cannot perform the requirements of the contract.
5. The Contractor fails to observe any or all of the terms and conditions of the contract.
6. The Contractor accepts purchase orders, based on this contract, directly from a CES Member or Participating Entity and then invoices them directly.
7. Any other conditions that, in the opinion of CES, warrants such action.

Upon receipt of a written notice, the Contractor will have ten (10) days to provide a satisfactory response in writing to CES. Failure on the part of the Contractor to satisfactorily respond can result in CES terminating the contract.

Termination for Gratuity: CES shall, by written notice, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any employee of CES with a view toward securing a contract or the respect to the performance of the contract. Paying the expenses of normal business meals, which are generally made available to all eligible school and government employees, shall not be prohibited by this paragraph. Samples of software, equipment, or hardware provided to CES for demonstration, evaluation, or loan purposes are not considered gratuities.

Termination for Non-Performance or Contractor Deficiency: CES can terminate any contract if CES Members have not used the contract in any 12-month period, or if purchase orders total less than \$10,000 per year. CES reserves the right to cancel the whole or any part of this contract due to failure by Contractor to carry out any obligation, term or condition of the contract. CES may issue a written notice to Contractor for acting or failing to act in any of the following:

1. Providing material that does not meet the specifications of the contract;
2. Failing to adequately perform the services set forth in the scope of work, specifications or contract;
3. Failing to complete required work or furnish required materials within a reasonable amount of time;
4. Failing to make progress in performance of the contract and/or giving CES reason to believe that contractor will not or cannot perform the requirements of the contract;
5. Performing work or providing services under the contract prior to receiving a purchase order from CES for such work;
6. Accepting purchase orders based on this contract from CES Members and/or invoicing CES Members directly.
7. Fails to observe any or all of the terms and conditions of the contract.
8. Any other conditions that, in the opinion of CES, warrants such action.

Upon receipt of a written notice, contractor will have ten (10) days to provide a satisfactory response to CES. Failure to adequately address all issues of concern may result in contract cancellation. Upon cancellation under

this paragraph, all goods, materials, work, documents, data, and reports prepared by Contractor under the contract will become the property of the CES Member on demand.

Termination for Non-Appropriation: Any individual Member's or Participating Entities' project may be terminated if insufficient appropriations or authorizations do not exist due to changes in state or federal law, or because of court order, or because of insufficient appropriations made available to Members or Participating Entities governing board and/or the New Mexico State Legislature. Such termination will be effected by sending fifteen (15) days written notice to the Contractor. The CES Members or Participating Entities decision as to whether sufficient appropriations and authorizations are available shall be accepted by the Contractor and shall be final.

B. Construction Terms and Conditions – For construction products and services.

Additional Contract: A contract between the CES Member or Participating Entity and the Contractor for construction will be an industry standard agreement. The parties may agree to use the American Institute of Architects (AIA) General Conditions of Contract for Construction Form A201 as a guide.

Bonds:

1. Upon execution of a contract between a CES Member/Participating Entity and the prime Contractor for a project with a value twenty-five thousand (\$25,000) or more, will provide performance and payment bonds from a surety company authorized to do business in New Mexico in accordance with the New Mexico Insurance Code and be a surety listed in the US Treasury Circular 570.
2. The prime Contractor will execute a performance bond in an amount equal to one hundred percent (100%) of the price specified in the contract between the CES Member or Participating Entity and the prime Contractor by a surety company authorized to do business in New Mexico in accordance with the New Mexico Insurance Code and be a surety listed in the US Treasury Circular 570. Performance bonds between the CES Member or Participating Entity and the prime Contractor will be on standard AIA or similar forms.
3. All suits for nonpayment or nonperformance will be filed as allowed under New Mexico law.
4. Any Subcontractor providing or performing one hundred and twenty-five thousand dollars (\$125,000) or more of work for an individual project, must submit to the prime Contractor a performance and payment bond equal to one hundred percent (100%) of the subcontract cost from a surety company authorized to do business in New Mexico in accordance with the New Mexico Insurance Code and be a surety listed in the US Treasury Circular 570.
5. Acceptable forms of bonds are AIA Document A310-2010 Bid Bond or NASBP that includes the same language as the AIA Document A310-2010.

Construction: As defined in the New Mexico Procurement Code Regulations under 13-1-40 NMSA 1978. Definition: "construction" means building, altering, repairing, installing or demolishing in the ordinary course of business any road, highway, bridge, parking area or related project; building, stadium or other structure; airport, subway or similar facility; park, trail, athletic field, golf course or similar facility; dam, reservoir, canal, ditch or similar facility; sewage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility; sewage, water, gas or other pipeline; transmission line; radio, television or other tower; water, oil or other storage tank; shaft, tunnel or other mining appurtenance; electrical wiring, plumbing or plumbing fixture, gas piping, gas appliances or water conditioners; air conditioning conduit, heating or other similar mechanical work; or similar work, structures or installations. Construction shall also include: leveling or clearing land; excavating earth; drilling wells of any type, including seismographic shot holes or core drilling; and similar work, structures or installations.

Construction Contractor and Subcontractor Licenses: The prime Contractor and any Subcontractors shall possess the appropriate New Mexico Construction Industries Division (NMCID) Contractor's license required to provide the construction products services. Any Contractor using subcontractors must hold a current and appropriate Contractor's license, as defined in Construction Industries Licensing Act, 60-13-1 NMSA 1978. It is the responsibility of the Contractor to ensure that any subcontractors performing under this contract hold and maintain the appropriate Contractor's licenses as defined in Construction Industries Licensing Act, 60-13-1 NMSA 1978. The Contractor and any Subcontractors must maintain and keep current all licenses during the term of the contract.

New Mexico Building Codes: The Contractor when providing construction services must adhere to the most current version of the New Mexico Building Codes.

New Mexico Construction Industries Division: New Mexico Construction Industries Division (NMCID) is a state agency that is responsible for and enforce all licensing requirements for any one engaged in construction-related contracting in New Mexico. This includes general construction work, electrical, mechanical, and plumbing and LP gas. The activities that are considered to be contracting in New Mexico are defined in the Construction Industries Licensing Act, NMSA 1978, Section 60-13-3.

New Mexico Contractor Public Works Registration Requirement: As defined in Public Works Minimum Wage Act 13-4-13.1 NMSA 1978. In order to respond to a request for proposals or to be considered for award of any portion of a public works project greater than Sixty Thousand Dollars (\$60,000) for a public works project that is subject to the Public Works Minimum Wage Act [13-4-10 to 13-4-17, NMSA 1978], the Contractor, serving as a prime Contractor or not, shall be registered with the New Mexico Department of Workforce Solutions. The State, or any political subdivision of the State, shall not accept a bid on a public works project subject to the Public Works Minimum Wage Act from a prime Contractor that does not provide proof of required registration for itself. Contractors and subcontractors may register with the New Mexico Department of Workforce Solutions on a form provided by the division and in accordance with the Department of Workforce Solutions department rules.

Because this solicitation is for an indefinite quantity and the amount of work to be performed on individual projects is not known, CES is requiring that all Contractors be registered on or before the date of the proposal opening and keep their registration current during the term of the contract and all contract extensions.

New Mexico Public School Facilities Authority: New Mexico Public School Facilities Authority (NMPSFA) is the administrative unit created by the New Mexico legislature to carry out and act on behalf of the Public School Capital Outlay Council to administer, coordinate and provide general oversight for "state-funded construction", which is defined as a building or appurtenance to a building that is built in whole or in part with state capital outlay monies. As part of their oversight function, NMPSFA will receive and review construction project documents and coordinate with other state agencies such as NMCID, Environment Department, Department of Energy, Minerals and Natural Resources, State Fire Marshal's Office, etc., to ensure compliance with all applicable adequacy standards, rules, regulations, building, plumbing, electrical, fire prevention, and mechanical codes adopted by the state, county, city, town or fire district in which the construction project is located.

New Mexico Public Works Act: Sections 13-4-1 through 13-4-43 NMSA 1978 may be cited as part of the "Procurement Code".

New Mexico State Wage Rates: It is the contractor's responsibility to be acquainted with the New Mexico Department of Labor's rules, regulations, procedures and requirements relating to state wage rates, and to comply with state and federal regulations regarding payment of wages on public projects. The contractor will pay state wage rates for every job performed under this contract with a total project cost of more than Sixty Thousand Dollars (\$60,000) on an individual basis. The contractor will pay all mechanics and laborers employed on the site of the project by the contractor, unconditionally and not less often than once a week, and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications.

New Mexico State Wage Rate Documentation:

1. The New Mexico Department of Workforce Solutions (NMDWS) requires that certain forms be completed for every project in excess of \$60,000. CES will submit for the wage decision and, upon receipt of the decision, will provide it to the prime Contractor. The Contractor is responsible for completing and submitting the required forms to the NMDWS and must provide CES with a copy of the following required forms: Notification of Award, Statement of Intent to Pay Prevailing Wages, and Affidavit of Wages Paid.
2. The prime Contractor must submit the Statement of Intent to Pay Prevailing Wages and the Notification of Award to NMDWS with a copy being mailed, faxed or e-mailed to CES, prior to the start of the project. The Affidavit of Wages Paid must be submitted to NMDWS with a copy being mailed, faxed or e-mailed to CES at the conclusion of your work on the project. The prime Contractor is responsible for insuring that its subcontractor(s) also submit the Statement of Intent to Pay Prevailing Wages and the Affidavit of Wages Paid to NMDWS, with a copy being mailed, faxed or e-mailed to CES.

3. CES will not make any payments until copies of the Notification of Award, Statement of Intent to Pay Prevailing Wages and for projects \$25,000 or greater until the Payment and Performance Bonds are received by CES. Final payment will not be released until CES receives a copy of the Affidavit of Wages Paid.

New Mexico Workforce Solutions Contractor Registration Requirement: In order to submit a bid or response to a request for proposal valued at more than sixty thousand dollars (\$60,000) or to be considered for an award of any portion of a public works project greater than sixty thousand dollars (\$60,000) and for a public works project that is subject to the Public Works Minimum Wage Act (13-4-10 NMSA 1978), the contractor, serving as a prime contractor or subcontractor, shall be registered with the New Mexico Department of Workforce Solutions, Public Works (13-4-14.1 NMSA 1978) before CES can issue a purchase order. (see above)

Payment Retention, Progress Payments:

1. In order to comply with New Mexico Statutes Annotated 1978, Article 28 Retainage, 57-28-1 to 57-28-11, CES will not retain any funds on progress payments during any construction projects. The prime contractor agrees to only request payment for goods and services delivered, received and accepted by the CES Member or Participating Entity.
2. Final payment of a contract, for which progress payments have been made, will not be made until the project is totally completed (including punch list items and close out document delivered), and the final application for payment is signed by the CES Member or Participating Entity, received and audited by CES.
3. If the CES Member or Participating Entity and the prime contractor agree to retainage or a substitute security, the agreement must be in full compliance with New Mexico Procurement Code and applicable laws. If a substitute security or retainage is agreed upon, written notice must be provided to all parties prior to the issuing of a CES purchase order.
4. If the CES Member, Participating Entity, or their designee issues a written statement to the contractor that the estimate of work is not approved and certified, an amount from the progress payment determined to be reasonably sufficient to cover the deficiency set forth in the written finding maybe withheld. In such cases, the contractor agrees to hold CES harmless for any deficiency of payment. If any payment is delayed beyond forty-five (45) days from the due date, the contractor agrees not to charge CES interest on the late payment

Progress Payments for Construction: All progress payments must be invoiced through CES. It is the responsibility of the CES using agency and/or its designee to review and approve any estimates of work completed. If the CES using agency or their designee issues a written statement to the contractor per 57- 28-5 NMSA 1978 A. "If an owner receives an improperly completed invoice, the owner shall notify the sender of the invoice within seven days of receipt in what way the invoice is improperly completed, and the owner has no further duty to pay on the improperly completed invoice until it is resubmitted as complete..." In such cases, the contractor agrees to hold CES harmless for any deficiency of payment.

Quality Control Issues:

1. During the course of the contract, the Member's/Participating Entity's contact person may secure samples according to Construction Industries Division guidelines or industry standards of materials being used from containers at the job site and submit them to an independent laboratory for comparison to specified material.
 - a. Should test results prove that a material is not functionally equal to or better than specified, the prime Contractor will pay for all testing and any cost incurred to have materials installed to replace those found not to comply with the specifications and remove and dispose of the materials not complying.
 - b. Should test results prove that materials tested were functionally equal to the specified material, the prime Contractor will be notified of the results.
2. Should the Member/Participating Entity and the Contractor encounter a situation and/or condition that they cannot agree on or resolve during the execution of the project and/or during the project close-out process, CES has consultants under contract that either of the parties can engage to review, investigate, evaluate, and issue a written report on their findings and propose recommendations/solutions for addressing the concerns and issues.

Site Cleanup: Contractor will clean up and remove all debris resulting from its work as required by the CES Member or Participating Entity. The contractor shall comply with all laws and regulations governing disposal of construction and hazardous materials. Upon completion of the work, the premises will be left in a neat,

unobstructed condition with everything in good repair and order.

Site Examination: Contractor shall familiarize itself with the site, in order to anticipate unseen problems that may develop as the work progresses. Failure to have visited the site before submitting a job order proposal shall in no way relieve the contractor from furnishing any materials or performing any work required to complete the project in accordance with the contract documents, without additional cost to the CES Member/Participating Entity.

Site Preparation: Prior to a purchase order being issued by a CES Member or Participating Entity, the size, location and site conditions that exist at the time the contractor takes possession and/or control must be clearly identified and stated in writing. The contractor will not begin a project for which the site is not prepared or in the condition agreed upon in writing by the CES Member or Participating Entity, unless contractor decides to accept the site as is and is willing to perform the preparation work necessary at no cost, or until the CES Member or Participating Entity has included the cost of site preparation in a purchase order to CES. Site preparation may include, but is not limited to, moving furniture, clearing the site, securing the site, installing wiring for networks or power and similar pre-installation requirements.

Subcontractors: If it is necessary for the Offeror to contract with third party firms to provide various goods and services, the following will apply:

1. In accordance with the "Subcontractor Fair Practices Act", 13-4-31 to 13-4-42, NMSA 1978, the following information is required to be submitted with any job order project:
 - a. The name of each subcontractor who will be performing work or rendering service on the public works project and whose total contract will be the greater of:
 - i. Five Thousand Dollars (\$5,000); or
 - ii. One half of one percent (.005%) of the total project (to be estimated by the architect and/or engineer of record).
 - b. Address of the place of business
 - c. Subcontractor license number
 - d. Type of work or services to be performed by the subcontractor.
 - e. Pursuant to Section 13-4-38 NMSA 1978, if an Offeror fails to list a subcontractor in excess of the listing threshold on any job order contract, and they do not state that the provider is a sole source or that they will put all work that exceeds the threshold to individual bid each time, they are stipulating that they are fully qualified to perform the proposed products and services themselves and that they will perform all work themselves. After the specific job order contract award, any change in subcontractors must be approved by CES and the CES Eligible Agency, otherwise, the Offeror will be guilty of violation of the Subcontractors Fair Practices Act and subject to the penalties provided therein.
2. Subcontractor must be registered with New Mexico Department of Workforce Solutions, Public Works section.
3. CES and its Eligible Agencies reserves the right to approve, reject and replace any subcontractor proposed by the Offeror pursuant to 13-4-36 NMSA 1978.
4. Subcontractors will need to provide performance and payment bonds to prime Contractor if the sub-contract is greater than \$125,000 pursuant to 13-1-148.1 .
5. Any agreements with subcontractors shall incorporate, by reference, the terms and conditions of this solicitation and each individual project contract.
6. No subcontract will be entered into with any unlicensed party. Contractor must use subcontractors openly, include such arrangements in the proposal and certify upon request that such use complies with the rules of the NMCID, New Mexico Public Works Act and New Mexico Procurement Code.
7. Subcontractor Payment: Contractor agrees to pay subcontractors in a timely manner and in accordance with the New Mexico Prompt Payment Act pursuant to 57-28-5 NMSA 1978. If Contractor receives a progress payment from CES, the Contractor will pay subcontractor(s), "...within seven days after receipt of payment from the owner, contractor or subcontractor..." pursuant to 57-28-5 C. NMSA 1978. CES will contract to provide release of liens from subcontractors within fifteen (15) days of date of payment. Failure to pay subcontractors, pursuant to 57-28-5 C. NMSA 1978, for work faithfully performed and properly invoiced can result in the suspension or cancellation of this contract.

8. Subcontractor's labor used must be of a standing or affiliation that will permit the work to be carried on harmoniously, without delay and will not cause any disturbance, interference or delay to the progress of the project. Subcontractor and lower-tier subcontractors will not employ anyone whose employment might be objected to by prime Contractor or Member.
9. It is the responsibility of the Contractor to inform all suppliers and subcontractors that this contract is a cooperative purchasing contract and that the CES Eligible Agency must make payments to CES before CES can issue progress payments to the Contractor. The Contractor must provide CES with all subcontractors and suppliers information utilized for any individual project performed.
10. Contractor and Subcontractor are responsible for obtaining background checks for any employee working on a CES project per the CES Member's background check policy.

19. North Dakota, North Dakota Educators Service Cooperative (NDESC)

i. General Terms and Conditions that apply for all categories

- a. **Governing Law:** The laws of the State of North Dakota govern all contracts resulting from this IFB. Each and every provision of law and clause required by law to be included in a contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction.
- b. **Governing Venue:** The resulting contract award shall be deemed to have been made and performed in Cass County, North Dakota. For the purpose of venue, all legal arbitration or causes for action arising out of the resulting agreement shall be brought to the courts of Cass County, North Dakota.
- c. **Hazardous Substances:** All hazardous products purchased by members shall include a Safety Data Sheet (SDS) with the delivery.
- d. **Lease and Rental Agreements:** The Vendor may allow participating agencies to enter into a rental, lease, or lease purchase agreements, providing such agreements are in compliance with North Dakota Statutes and guidelines. NDESC must receive a report annually, summarizing the executed lease purchases along with a summary of the participating agencies' purchases. NDESC will not collect lease payments or be involved in the terms and conditions of the lease. All lease arrangements are between the Vendor and the participating agency. The Vendor agrees that leases will be in compliance with the Uniform Commercial Code. The applicable administrative fee must be included in the lease cost based on the total value of the goods and applicable services purchased. This fee is referred to under the Technical Specifications. The Vendor should attempt to work with NDESC's current leasing vendor. Note, the current leasing vendor may require a minimum purchase amount to begin the leasing process. Should the Vendor be required to utilize their own financial leasing company, this should be noted/requested as an exception. In the event of a lease, the total administrative fee for the value of goods shall be paid to NDESC by the vendor at the front end of the lease. NDESC reserves the right to review all purchase orders, lease documents and invoices to insure contract compliance.
- e. **Marketing and Promotion:** Upon award and completion of the vendor orientation, NDESC will promote the contract opportunity via its websites. NDESC will also announce the new partnership in its newsletters and will publish the contract and marketing information through hard copy marketing items (i.e. flyers, postcard) and electronic email. Contracts will also be promoted at applicable trade shows, conferences, and meetings on a regular basis. NDESC may assist in the development of these materials if requested by the Vendor, but in all cases shall have the authority to review and approve any marketing materials. If a website is used, the link will be made available from the NDESC website. Any web page or link, or other marketing tools shall be dedicated to NDESC information only.
- f. **Non-Discrimination:** Any resulting contract for on or behalf of participating agencies, said Vendor agrees to:
 - i. That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;
 - ii. That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color;
 - iii. That a violation of this section is a misdemeanor; and
 - iv. That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.
- g. **Participating Agency:** A participating agency shall be defined in accordance with Chapter 54-40.3

of the North Dakota Century Code, as amended. An eligible agency includes any school, higher education, city, county, other governmental agency, nonprofit organization, or other entity contracted to conduct business on behalf of a participating agency provided that they are required to follow state and local procurement regulations.

- h. **Substance Use and Conduct:** All Vendor partners and subcontractors must adhere to local substance (alcohol, drug, smoking, etc.) and conduct (dress code, language, parking, etc.) policies while on a participating agencies' premises.
- i. **Vendor Orientation (NDESC 101):** The Vendor and their participating resellers/sub-contractors will be required to participate in an online training session that is designed to educate the Vendor and resellers/sub-contractors on the purpose and nature of NDESC. The Vendor will not be marketed to participating agencies until they have completed the vendor orientation session.

2. Additional Participating Agency Terms and Conditions for Non-Construction Products and Services

If requested by NDESC, the contracted vendor will work with NDESC to develop an order form, or order forms, containing the most commonly purchased items, that NDESC can utilize to market the contracted vendor to its participating agencies.

3. Additional Participating Agency Terms and Conditions for Construction Related Products and Services

Upon acceptance and approval of the Vendor's offer by AEPA, NDESC will independently consider the offer and conduct a conference call with the Vendor to determine if the Vendor is able to meet the necessary requirements for construction related products and services, according to [Chapter 48-01.2 of the North Dakota Century Code](#), and to enter and execute a contract in the state of North Dakota. Once NDESC and the Vendor are able to confirm that business is able to be conducted in North Dakota, NDESC will make a final decision to complete the contract execution process.

For all quotes provided to participating agencies, for construction related projects, products and services, the contracted vendor must also send a duplicate quote to NDESC. The quote provided to NDESC must include the contact information of the participating agency.

Performance Bond (for construction and/or installation related projects): Performance bonds will be required on all projects valued at fifty-thousand dollars (\$50,000) or more in North Dakota. All performance bonds will be issued by a corporate surety authorized to do business in the state in which the work will be conducted and by a surety listed in the US Treasury Circular 570. Performance bonds will be posted by the Vendor and submitted to the specific participating agency for the assigned project. Should the contract be the result of a piggyback agreement, performance bonds will reflect each state's bonding requirements.

The Vendor will execute a performance bond in an amount equal to one hundred percent (100%) of the value specified in the contract between the participating agency and the Vendor, unless the participating agency requires less to be posted. This bond will protect all persons supplying labor and material to the Vendor for the performance of the work provided in the contract. Subcontractors who may work on the contract may have to provide the Vendor with a performance bond. If the contract price increases after the bond is provided, the participating agency may consider obtaining additional bonds from the Vendor.

The Vendor will deliver the performance bond to the eligible participating agency at the time the contract is executed between the agency and the Vendor. Work will not commence between the Vendor and the eligible participating agency until the performance bond is received by the participating agency and a copy has been sent to NDESC via email (info@purchasingconnection.org). The Vendor will be responsible for providing NDESC with a copy of all contracts and bonds in accordance with NDESC purchasing procedures. Should the Vendor fail to satisfactorily perform the contract, the bonding company that provided the performance bond will be required to pay the dollar amount of the bond to the participating agency.

It is the Vendor's responsibility to ensure that they can obtain the required bonding for all construction products based on an awarded contract arising from this solicitation. Payment will not be issued for any project for which the required bonds have not been received.

4. Procedure for Contract Award, Notification and Processing Orders

Once the award is recommended by the AEPA Review Committee, NDESC considers the recommendation based on the value of the potential contract for its participating agencies. Participating agency is defined as any city, county, public or private educational agency, nonprofit or governmental agency that is a participant of NDESC. In the event of an award by the Board of Directors, NDESC will inform its members of the award and contract by the following methods along with contract instructions and ordering process.

- a. The contract is listed and promoted on the NDESC website (www.ndesc.org).
- b. Announcing the award in NDESC newsletters.
- c. NDESC will publish the contract and marketing information through a hard copy marketing flier and electronic email. Contracts are promoted through PDF and a hard copy product catalog distributed at statewide trade shows and agency meetings on a regular basis. NDESC will require a marketing flier, brochure, or other similar marketing pieces, in an editable, electronic format, from each vendor promoting the available contract with the vendor, and/or a web page or link. NDESC may assist in the development of the marketing flier and material (if requested by vendor), but in all cases shall have authority to review and approve any marketing materials. If a web site is used, the link will be made available from the NDESC web page. Any web page or link, or other marketing tool shall be dedicated to AEPA information only.
- d. When the member identifies a desired product or service, the member and the vendor may negotiate with each other to establish a description of items and/or services. The vendor shall quote a price to the member, in writing, using AEPA established discounts and including the two percent (2%) administrative fee in the quoted price. The administrative fee shall be based upon the total cost of goods and/or services including installation costs. The administrative fee shall not be listed as a separate line item on the quote. When a member decides to purchase through the NDESC-AEPA contract, the member issues the purchase order directly to the vendor. The purchase order must include the total invoiced cost, based on
 - i. The total cost of goods, service, and installation, including the 2% administrative fee.
 - ii. Notification will be made to the vendor in the event the purchase order is not in compliance with the contract and adjustments will be made at that time. NDESC and the vendor will mutually resolve any issues with regard to past purchases. The purchase orders are to continue to be processed and viewed as approved unless notified by NDESC otherwise. All sales and transactions may continue without delay or in anticipation of the NDESC purchase order verification.
 - iii. Once all the items and services on the purchase order have been delivered to the member in a complete and satisfactory manner, the vendor then files a copy of the final invoice, which is available to NDESC by request in support of the quarterly sales summary. The invoice is to be marked "Copy".
 - iv. Vendor makes all deliveries and installations of products and services. NDESC does not warehouse items or provide installation services.
 - v. This administrative fee is to be paid by the vendor to NDESC, quarterly, within 20 working days after the end of each fiscal quarter. The AEPA vendor shall also submit to NDESC a sales report, in Excel format, listing the following information:
 1. Name of purchasing agency
 2. Address of purchasing agency
 3. Date of purchase
 4. Invoice number
 5. Amount of purchase
 6. Administrative fee generated by sale
 7. Savings generated by sale
 8. This report shall include all sales made and payments received by the vendor in said quarter. The sales report shall be emailed to Jane Eastes at jeastes@lsc.org and copied to Lori Mittelstadt at lmittelstadt@lsc.org. The administrative fee payment shall be delivered to Jane Eastes, NDESC, 1001 East Mt. Faith, Fergus Falls, MN 56537. The check shall be made out to North Dakota Educators Service Cooperative.
 - vi. NDESC requires that all participating vendors offer the contract opportunity to all NDESC participating agencies.

5. **Express Online Marketplace:** NDESC provides participating agencies with an online purchasing platform called Express, powered by EqualLevel. Through Express, agencies are able to search for and purchase items. Essentially, Express is a one-stop shop for many of NDESC's commodity based contracts. A Vendor does not have to have an e-commerce site to be included in Express. NDESC expects growth in the number of agencies utilizing the marketplace and the volume of sales to grow significantly. NDESC will work with the Vendor to determine if the contract agreement is suitable for the online platform. If deemed suitable, NDESC will require integration into Express within a timely manner.

20.OHIO COUNCIL OF EDUCATIONAL PURCHASING CONSORTIA (OCEPC) 2019

A. General Terms and Conditions that apply for all Categories:

1. Compliance with Laws/Forum Designation

Contractor shall comply with Federal, State, and Local Laws, Codes and Regulations while fulfilling the contract. It is the Contractor's responsibility to be aware of and comply with all state and local laws governing this procurement. Applicable laws, codes, and regulations (etc.) must be followed even if not specifically identified herein. Contractor shall verify to the Ohio Council of Educational Purchasing Consortia (OCEPC), its Member Agencies and other qualifying purchasers that the Contractor is complying with all Federal, State and Local Laws, Codes and Regulations while fulfilling the contract. Moreover, this contract shall be governed by and construed in accordance with the laws of the State of Ohio without giving effect to its principles of conflict of law. Legal proceedings arising under this contract shall be brought in an Ohio Court of Common Pleas of the County where the Member Agency's main office is located.

2. Delinquent Tax Affidavit

Contractor shall provide an affidavit relating to delinquent taxes as may be required by Ohio Revised Code Section 5719.042.

3. Secretary of State Registration

Contractor shall meet and maintain all registration requirements as necessary to conduct business in the State of Ohio, including but not limited to registration with the Ohio Secretary of State.

4. Findings for Recovery

Contractor warrants and represents that it is not subject to a finding for recovery under Ohio Revised Code Section 9.24, or that Contractor has taken the appropriate remedial steps required under Ohio Revised Code Section 9.24, or otherwise qualifies under Ohio Revised Code Section 9.24.

5. Ohio Workers Compensation Insurance

Contractor, and any subcontractors hired by Contractor shall, at their own expense, maintain in force for the duration of the project workers' compensation and employer's liability insurance as required by the laws of the State of Ohio.

6. Project Personnel, Student Safety and Background Checks

Member Agency shall have the right to reject the participation of any personnel of Contractor in the performance of the services if, in relation to the work assigned to them, the Member Agency deems such personnel to lack the skill, experience and expertise required to perform the services or if Member Agency considers their performance to be substandard or otherwise detrimental to the proper completion of the services. Contractor will advise Member Agency promptly of any change in the project manager or other key personnel assigned to the performance of the services.

Contractor acknowledges that the safety of the Member Agency's students, employees, officials and guests is of the utmost importance. Contractor will endeavor to ensure that its officers, employees, agents, representatives, and consultants will take no action that would jeopardize the safety of the Member Agency's students, employees, officials, or guests. The Member Agency reserves the right to require Contractor's officers, employees, agents, representatives and consultants to wear identification and stay in designated work areas at all times while on the Member Agency's property. The Member Agency shall have the right to effect the immediate removal of any person associated in any way with Contractor from Member Agency property for failure to wear identification, for being outside a designated work area, for fraternizing with or engaging in any improper behavior directed toward or in the vicinity of students, employees, officials, or guests of the Member Agency or for any other good cause.

Contractor shall perform or cause to be performed an Ohio Bureau of Criminal Investigation and Identification and Federal Bureau of Investigation criminal background check of any personnel that will be performing the services within the proximity of minors. Contractor shall notify the Member Agency of any proposed employee who has been convicted, pled guilty or pled "no contest" to a criminal offense, and the Member Agency reserves the right to reject the proposed employee with a criminal background. No person shall be employed by Contractor who has been found guilty of any of the criminal offenses enumerated in Ohio Revised Code Section 3319.39 without prior approval of the Member Agency.

7. Independent Contractor

Contractor shall be an independent contractor and neither Contractor nor any of its subcontractors, nor the employees of any thereof, shall be deemed to be the servants, employees, or agents of Member Agency. Contractor shall be responsible for paying all costs related to its employees and managers performing the services. Contractor shall remain liable and responsible to Member Agency for all of its obligations under this contract, regardless of whether the services are performed by the Contractor or a subcontractor of any tier.

8. Ownership of Instruments of Service

Drawings, data and other documents prepared by, or with the cooperation of, the Contractor pursuant to this contract shall become, upon payment of all undisputed compensation due the Contractor from the Member Agency, the property of the Member Agency. Such drawings, data or other documents may be used by the Member Agency or others employed by the Member Agency without compensation to the Contractor.

9. Audit

Member Agency may audit and inspect Contractor's records and accounts at any time during the Contractor's performance of the services and for a period of two (2) years following the completion or termination of the services for the purpose of verifying any invoice and underlying documentation presented by Contractor, it being understood that Contractor agrees to preserve all such documents through such two- (2) year period.

10. Notices

Unless otherwise expressly provided in this contract, all notices and other communications given under the contract shall be in writing and shall be deemed effective upon receipt by the addressee at its address as set forth in the contract or at such other address as such party shall have notified the other in writing.

11. Non-Appropriation

If the Member Agency fails to appropriate sufficient monies in any fiscal year for payments due under the contract and other funds are not available for such payments, then a "Non-Appropriation" shall be deemed to have occurred. If a Non-Appropriation occurs, then Member Agency will give Contractor prompt notice of such Non-Appropriation. This contract shall thereupon terminate without penalty or expense to the Member Agency.

12. No Personal Liability

It is understood and agreed that under no circumstances will the Member Agency's board members, officers, employees, or agents be personally liable for any obligations or claims arising out of or related to the contract.

13. Miscellaneous

Headings and titles of articles, paragraphs and other subparts of this contract are for convenience of reference only and shall not be considered in interpreting the text of this contract.

This contract and any appendices constitute the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements or understandings with respect thereto.

No contract amendments can be made without the approval of the AEPA membership.

B. Non-Construction Products and Services:

1. Bus Purchases

For the purchase of school buses, the successful Contractor shall provide bonds required by Ohio Revised Code Sections 153.54 and 153.571.

C. Construction Products and Services:

For construction improvements, the following shall apply:

1. The successful Contractor shall provide such bonds required by Ohio Revised Code Sections 153.54 and 153.571.
2. Progress payments and retainage shall be in accordance with the provisions of the Ohio Revised Code including Ohio Revised Code Sections 153.12 and 153.14.
3. In the event that the agreement is subject to the prevailing wage requirements of either Ohio Revised Code Chapter 4115 or the Davis-Bacon Act, then the contract between the Member Agency and the Contractor shall contain the applicable rates and such terms and provisions as may be required by law.
4. Contractor shall comply with all applicable licensing requirements, including those of the Ohio Construction Industry Licensing Board.

D. Procedures for Processing Orders:

The OCEPC will keep informed its Member Agencies and other qualified purchasers of contract information via web site and through other marketing strategies. A list of OCEPC Member Agencies along with addresses, phones, contacts, etc. will be made available to successful Contractors. After contracts are awarded, Contractors may contact the OCEPC Member Agencies and other qualifying purchasers concerning their products and services.

Participating Member Agencies and other qualified purchasers will submit all purchase orders directly to the Contractor.

The Contractor price shall include a two percent (2%) administrative fee that the Contractor will collect from the Member Agency or other qualified purchaser. Administrative fees are to be remitted to the OCEPC on April 15, July 15, October 15 and January 15 of every calendar year with checks payable to the Southwestern Ohio Educational Purchasing Council, 303 Corporate Center Dr. Suite 208, Vandalia, OH 45377.

The Contractor will compile a quarterly report showing all purchases made by the OCEPC Member Agencies and other qualified purchasers under this contract at the conclusion of each calendar quarter. These reports shall be attached to the administrative fee remittance.

E. Agencies Allowed to Purchase under Member Agency:

All member cooperatives of the OCEPC and their individual Member Agencies are eligible to participate and purchase from the awarded AEPA contracts. All Ohio K-12 school districts, including Boards of Developmental Disabilities, Educational Service Centers, and Instructional Technology Centers, are eligible to participate and purchase from the awarded AEPA contracts. In addition, all colleges and universities, state, cities, counties, townships and other governmental agencies are eligible to participate if the AEPA contracts satisfy their individual procurement requirements.

Revised: December 2, 2009

Approved: December 14, 2009

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Reviewed and Approved: May 18, 2016

Revised and Approved May 17, 2017

21. Oregon, Intermountain Educational Service District (IMESD)

A. Additional Agency Terms and Conditions – all categories

Intermountain Education Service District (“IMESD”) is an educational service district organized under the laws of the STATE OF OREGON. Pursuant to Oregon Law ORS 279A and IMESD is authorized to cooperate with other entities and in such regard is authorized to cooperate with them in the purchasing of goods and services pursuant to these contract documents. As other entities cooperate with IMESD to take advantage of the goods and services made available pursuant to these contract documents, the terms and conditions of any such sales shall be in accordance with the contract documents.

Additionally Senate Bill 3184 enables Oregon's Education Service Districts to offer the services they provide to component school districts to other organizations. For the past 10 years, the InterMountain ESD (formerly Umatilla-Morrow ESD) has been a leader in expanding revenue available for schools and IMESD programs by providing these services outside of 19 local school districts. (Reference: [ORS 334.185](#))

Under Oregon public contracting rules, each individual public agency will have its own local rules it must adhere to, in addition to statewide public contracting laws. InterMountain Education Service District does not presume that its cooperative purchasing program will necessarily comply with every agency's internal public contracting rules. We always advise potential customers to review the bid solicitation carefully and recommend review by their legal department and/or procurement personnel to assure that contracting laws are complied with.

ADVERTISING AND MARKETING: Bidders must demonstrate they possess the necessary resources and have a proven track record to market, offer, obtain, deliver, install and provide the sales and technical support services to IMESD and its participating agencies within the state of Oregon in a timely and cost effective manner.

APPLICABLE LAW AND VENUE: Any dispute arising out of any of the contract documents, or out of their performance, shall be decided by litigation in the Circuit Court of the State of Oregon in the county of Owner's residence, the parties consenting to jurisdiction in said court and permanently waiving jurisdiction in any other court, state or federal. In the event of litigation the prevailing party shall be entitled to an award of reasonable attorney's fees and costs at trial and upon any appeal thereof.

In the event that the successful bidder breaches a term of condition of a contract awarded, the IMESD may terminate the contract. In addition to the right to terminate due to the successful bidder's breach, and all other rights and remedies contained in other provisions, the IMESD reserves all its rights and remedies at law and in equity available due to the breach.

HAZARDOUS CHEMICALS: The Successful bidder shall supply current MSDS for all products as required below even if these sheets have been supplied in previous years.

The agencies participating on IMESD agreement will need MSDS and labels for certain products defined as hazardous chemicals by the State of Oregon in accordance with ORS 654.025(2) and 656.726(3). The successful bidder has the responsibility to determine such products and to provide MSDS and labels for such products. The MSDS shall be received by the IMESD by or at the time of the initial shipment of such products.

These requirements have been determined by the State of Oregon Workers Compensation Department, and published as Oregon Administrative Rules 437, Division 2 Hazard Communication. This document is available from Hazard Communication Coordinator, Accident Prevention Division, State of Oregon, Labor and Industries Building, 350 Winter St. NE, Salem, OR 97310, phone: (503) 378-3272 or (800) 922-2689 any local Accident Prevention Division Office.

HOLD HARMLESS: Bidders shall indemnify, hold harmless, and defend the IMESD from any and all liabilities, settlements, losses, penalties, costs, expenses, attorney fees (including attorney fees on appeal) in collection with any action, suit or claim based upon or allegedly based upon, resulting from or allegedly resulting from the successful bidder's negligence, omission, activities or services provided pursuant to a contract awarded to such bidder.

LAW OF THE STATE OF OREGON: Any contract between the IMESD and a bidder shall be entered into within the State of Oregon, and the laws of said state, whether substantive or procedural, shall apply to the contract.

In addition to any requirements listed, vendor shall comply with all, current, applicable state, federal and local laws, regulations and ordinances. If through mistake or otherwise any such provision is omitted then submission by either IMESD or the vendor-partner the contract shall be amended to make such inclusion or correction. IMESD Also reserves the right to amend the contract resulting from state law changes. Vendor-partners will be sent written notification of such changes.

SEVERABILITY: The parties agree that if any term or provision of a resultant contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law the validity of the remaining terms and provisions shall not be affected,

and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

TAXES: Taxes, whether State or Federal, shall not be included in bid prices. Our Employer Identification No: 93-6000924 indicated our tax exemption status as a political subdivision. Contractor must certify compliance with the Oregon tax laws in accordance with ORS 305.385 when applicable.

B. Additional Agency Terms and Conditions – Non-construction Products and Services

None

C. Additional Agency Terms and Conditions – Construction Products and Services

1. Prevailing wage rates/Davis-Bacon.

As set forth in the conditions below, if this is a public works project (as defined below) Oregon State prevailing wage rates will apply unless exempted. If federal funds are being used, Bidders must take into account the need to comply with the Davis-Bacon Act. If both the federal and state prevailing wages are required the Contractor is required by law to pay the greater of the applicable prevailing wage. Pursuant to ORS 279C.365 no bid will be considered unless the bid contains a statement by the Bidder as a part of its bid that the provision of ORS279C.840 will be complied with.

(a) If contract is \$50,000.00 or under and there are no federal funds involved the contract is exempted from prevailing wages pursuant to ORS 279C.810(2) (a).

(b) If contract exceeds \$50,000.00 and there are no federal funds involved, existing prevailing wage rate of the State of Oregon will apply. No worker may be paid by any Contractor or Subcontractor a wage less than the wage required by ORS 279C.840. Every subcontract shall include the requirements of this section. Prevailing wages, state and federal, can be seen at the websites referred to in Section 6(a), Additional Requirements of Oregon Law for Public Contracts, Public Works, and Improvements and Miscellaneous Provisions.

(c) If contract exceeds \$50,000.00 and/or federal funds are involved, unless otherwise exempted by law, Contractor shall comply with ORS 279C.800 to 279C.870 relating to the payment of prevailing wages; Contractor shall also comply with the federal Davis-Bacon Act to the extent applicable. No worker may be paid by any Contractor or Subcontractor a wage less than the wage required by ORS 279C840 and if the state and federal prevailing wage laws both apply, Contractor shall pay as wages the great of the applicable prevailing wage. Every Subcontractor shall include the requirements of this section. Additional Requirements of Oregon Law for Public Contracts,

2. Residence status of Bidder

Each Bidder must identify in its bid whether the Bidder is a resident Bidder, as defined in ORS 279A.120.

3. Licensure

If the contract involves asbestos or asbestos abatement, the contactor or subcontractor must be licensed under ORS 468A.720.

4. Bonding

If this contract is a public improvement contract in excess of \$100,000.00, at the time of the execution of the contract, the successful Bidder shall also deliver to the Owner good and sufficient bonds endorsed on forms supplied by Owner, in sums equal to the contract price, for the faithful performance of the contract, and for the payment of all claims for labor, materials, equipment, and rental equipment that may result from work performed pursuant to the contract documents. The successful Bidder shall not be allowed to execute the contract without the concurrent delivery to the Owner of the bonds required by this paragraph on the required forms. At owner's sole discretion, Contractor shall be subject to disqualification and forfeiture of bid security for breach of this section. If Bidder is disqualified, Owner may award the contract to another Bidder.

5. Subcontractor Disclosure

Unless exempted by ORS 279C.370(1)(c) for public improvement contracts, all Bidders shall within two hours of the date and time of the deadline when bids are due submit information about certain first-tier Subcontractor when the contract value for public improvements is greater than \$100,000 (see ORS 279C.370). Specifically, when the contract amount of a first-tier Subcontractor furnishing labor or labor and materials would be greater than or equal to:

- (i) 5% of the project bid, or \$15,000, or
- (ii) \$350,000 regardless of the percentage, Bidders must disclose the following information about that Subcontractor:

- (a) the Subcontractor's name, and
- (b) the category of the work that the Subcontractor would be performing, and
- (c) the dollar amount of the subcontract

If Contractor will not be using any Subcontractors that are subject to the above disclosure requirements, Contractor is required to indicate "NONE" on the reply form.

THE OWNER MUST REJECT A BID IF THE BIDDER FAILS TO SUBMIT THE DISCLOSURE FORM WITH THIS INFORMATION BY THE STATED DEADLINE.

FIRST TIER SUBCONTRACTOR DISCLOSURE FORM

Project name:
 Bid #:
 Bid Opening Date:
 Name of Bidding Contractor:
 Required Disclosure Deadline:

Bids which are submitted by Bid Closing, but for which a required disclosure submittal has not been made by the specified Disclosure Deadline, are not responsive and shall not be considered for Contract award.

See the certification above the signature line on the second page of this form regarding the Subcontractors that must be disclosed.

The Owner will insert "NA" above if the contract value is not anticipated to exceed \$100,000. Otherwise this form must be submitted either with the bid or within two (2) working hours after the advertised bid closing date and time; but no later than the DISCLOSURE DEADLINE stated above.

This form may not be submitted by facsimile. It is the responsibility of Bidders to submit this disclosure form and any additional sheets, completely filled out and signed, by the specified disclosure deadline.

List below the name of each Subcontractor that will be furnishing labor or will be furnishing labor and materials and that is required to be disclosed, the category of work that the Subcontractor will be performing and the dollar value of the subcontract. Enter "None" if there are no Subcontractors that need to be disclosed. (Attach additional sheets if needed.)

NAME OF CATEGORY OF DOLLAR VALUE
 SUBCONTRACTOR WORK

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Failure to submit this form by the disclosure deadline will result in a nonresponsive bid. A nonresponsive bid will not be considered for award.

CERTIFICATION

It is certified that the above listed first-tier Subcontractor(s) are providing labor, or labor and material, with a dollar value equal to or greater than:

- (a) 5% of the total Contract Price, but at least \$15,000 [if the dollar value is less than \$15,000 do not list the Subcontractor above], or
- (b) \$350,000 regardless of the percentage of the total Contract Price.

Form submitted by (insert Bidder name):
 Contact name:
 Telephone number:

**Additional Requirements of Oregon Law for Public Contracts, Public Works, and Improvements;
 Miscellaneous Provisions**

“Owner” means the public entity executing the Contract of which these provisions are a part.

“Public improvement” means projects for construction, reconstruction or major renovation on real property by or for a public agency.

“Public Works” shall mean roads, highways, buildings, structures and improvement of all types, the construction, reconstruction, major renovation or painting of which is carried on or contracted for by any public agency to serve the public interest by does not include the reconstruction or renovation of privately owned property which is leased by a public agency.

(1) In reference to ORS 279B.220 and 279C.505. Contractor shall:

(a) Make payment promptly, as due, to all persons supplying to Contractor labor or material for the performance of the work provided for in the contract.

(b) Pay all contributions or amounts due the Industrial Accident Fund from the Contractor or Subcontractor incurred in the performance of the contract.

(c) Not permit any lien or claim to be filed or prosecuted against the Owner on account of any labor or material furnished.

(d) If the contract is for a public improvement, demonstrate to Owner that Contractor has an employee drug testing program in place.

(e) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

(2) In reference to ORS 279C.515 regarding contracts for public improvements:

(a) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a Subcontractor by any person in connection with the contract as such claim becomes due, the Owner may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of such contract.

(b) If the contract is for a public improvement and if the Contractor or a first-tier Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the contract within thirty days after receipt of payment from the Owner or a Contractor, the Contractor or first-tier Subcontractor shall owe the person the amount due plus interest charges commencing at the end of the ten day period that payment is due under ORS 279C.580(4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to the Contractor or first-tier Subcontractor on the amount due shall equal three times the discount rate on ninety-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is thirty days after the date when payment was received from the Owner or from the Contractor, but the rate of interest shall not exceed 30 percent. The amount of interest may not be waived.

(c) If the contract is for a public improvement, or is related to a contract for a public improvement, and if the Contractor or a Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the contract, that person may file a complaint with the Construction Contractor’s Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.

(d) The payment of a claim in the manner authorized in this section of this contract shall not relieve the Contractor or the Contractor’s surety from any obligation with respect to any unpaid claims.

(3) Relating to ORS 279B.020 and ORS 279C.520. Contractor shall comply with ORS 279B.020 and ORS 279C.520 in their entirety (when applicable), and in this regard:

(a) No person shall be employed for more than ten hours in any one day, or forty hours in any one week except in cases of necessity, emergency, or where the Owner absolutely requires it, and in such cases, the employee shall be paid at least time and half pay:

(i) For all overtime in excess of eight hours a day or forty hours in any one week when the work week is five consecutive days, Monday through Friday; or

(ii) For all overtime in excess of ten hours a day or forty hours in any one week when the work week is four consecutive days, Monday through Friday; and

(iii) For all work performed on Saturday, Sunday, and on any legal holiday specified in ORS 279B.020 and 279C.540.

(iv) Contractor shall comply with the notice and posting requirements of ORS 279B.020 and 279C.520(2). Contractor shall pay employees for overtime work performed under this Contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 USC 201, et seq.).

(4) If the contract is for a public improvement, Contractor shall at its sole expense comply with any and all applicable statutes or ordinances, and all regulations of any agencies, whether federal, state, local or tribal, dealing with the prevention of environmental pollution and the preservation of natural resources including without limitation water that affect the performance of this contract.

The following agencies, as well as others, may have pertinent regulations:

Federal: Army Corps of Engineers, Federal Energy Regulatory Commission, Environmental Protection Agency, Dept. of Human and Health Services, Dept. of Interior including but not limited to the US Fish and Wildlife Service, Department of Labor, and Water Resources Council.

State: Columbia River Gorge Commission, Department of Energy, Department of Environmental Quality, Department of Fish and Wildlife, Department of Human Resources, Soil and Water Conservation Commission, and Oregon Water Resources Department.

Local: City and County wherein the project is to be undertaken.

Tribal: Confederated Tribes of the Umatilla Indian Reservation.

(5) In relation to ORS 279B.230 and 279C.530, Contractor shall comply in their entirety, and in this regard:

(a) Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums which the Contractor agrees to pay for such services and all monies and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

(b) All employers, including Contractor, that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required workers compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its Subcontractors complies with these requirements.

(6)

(a) If the contract is for public works and is over \$50,000, Contractor, unless otherwise exempted by law, shall comply with ORS 279C.800 to 279C.870 relating to the payment of prevailing wages; Contractor shall also comply with the federal Davis-Bacon Act to the extent applicable. The prevailing rates of wage, state and federal, made available on the internet are hereby incorporated by reference; they may be seen at various sites including at www.boli.state.or.us/BOLI/WHD/PWR and www.access.gpo.gov/davisbacon/or.html. If the state and federal prevailing wage laws both apply, Contractor shall pay as wages the greater of the applicable prevailing wage. Contractor shall comply with all wage reporting and certification requirements of the prevailing wage laws and/or the Davis-Bacon Act, as applicable.

(b) Before starting Work the Contractor shall file with the Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by Oregon Laws 2005, Chapter 360, and OAR 839-025-0015, unless otherwise exempt under those provisions. The Contractor shall also include in every subcontract a provision requiring the Subcontractor to have a public works bond filed with the Construction Contractors Board before starting Work, unless otherwise exempt, and shall verify that the Subcontractor has filed a public works bond

(7) The following apply to contracts for public improvements:

(a) Contractor shall comply with ORS 279C.580, dealing with Contractor's relations with Subcontractors. Without limiting the generality of the foregoing, in this regard Contractor shall include a clause in each subcontract for property or services entered into by the Contractor and a first-tier Subcontractor, including a material supplier, for the purposes of performing the contract:

(i) that obligates the Contractor to pay the first-tier Subcontractor for satisfactory performance under its subcontract within ten days out of such amounts as are paid to the Contractor by the Owner; and

(ii) that obligates the Contractor, if payment is not made within thirty days after receipt of payment from the Owner, to pay to the first-tier Subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause required by the preceding paragraph. The interest penalty shall be for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made, and shall be computed at the rate specified in ORS 279C.515(2).

(b) Contractor shall include in each of its subcontracts, for the purpose of performance of work in relation to project, a provision requiring the first-tier Subcontractor to include a before clause and an interest penalty clause conforming to the foregoing standards in each of its contracts and to require each of its Subcontractors to include such clauses in their subcontracts with each lower-tier Subcontractor or supplier.

(c) Nothing stated herein shall be construed to preclude the negotiations allowed pursuant to ORS 279C.580(5).

(8) If any work supplied pursuant to the contract requires licensing with the Construction Contractors Board or the State Landscape Contractors Board, Contractor must be so licensed in order to submit a bid for the contract, and Contractor and all relevant Subcontractors must remain licensed during the period required for performance. Contractor certifies that all Subcontractors and workers will be properly licensed to perform the work required by this Contract before their commencement of work.

(9) If this contract is for public improvements, then retainage in the amount of 5% of the amount due shall be withheld in accordance with Oregon laws, including ORS 279C.550 et seq.

(10) If this contract is for a public improvement, and unless exempted by resolution of the Owner, Contractor shall comply with ORS 279C.380 and execute and deliver to Owner a good and sufficient performance bond and payment bond to be approved by Owner in a sum equal to the contract price.

By way of supplement to, and equally binding as, all of the foregoing:

(10.1) Contractor shall comply with all federal, state and local laws, codes, regulations and ordinances applicable to the Work and the Contract. Failure to comply with such requirements shall constitute a breach of Contract and shall be grounds for Contract termination. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following as applicable: (i) Title VI and VII of Civil Rights Act of 1964, as amended; (ii) Section 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Health Insurance Portability and Accountability Act of 1996; (iv) the Americans with Disabilities Act of 1990, as amended; (v) ORS Chapter 659A; as amended (vi) all regulations and administrative rules established pursuant to the foregoing laws; and (vii) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Owner's performance under the Contract is conditioned upon Contractor's compliance with the provisions of ORS 279C.505, 279C.510, 279C.515, 279C.520, and 279C.530, which are incorporated by reference herein.

(10.2) Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and

(a) Contractor shall not discriminate against Disadvantaged, Minority, Women or Emerging Small Business enterprises, as those terms are defined in ORS 200.005, in the awarding of subcontracts (ORS 279A.110).

(b) Contractor shall maintain, in current and valid form, all licenses and certificates required by law, regulation, or this Contract when performing the Work.

(10.3) Unless contrary to federal law, Contractor shall certify that it shall not accept a bid from Subcontractors to perform Work as described in ORS 701.005 under this Contract unless such Subcontractors are registered with the Construction Contractors Board in accordance with ORS 701.035 to 701.055 at the time they submit their bids to the Contractor.

(10.4) Unless contrary to federal law, Contractor shall certify that each landscape Contractor, as defined in ORS 671.520(2), performing Work under this Contract holds a valid landscape Contractor's license issued pursuant to ORS 671.560.

(10.5) The following notice is applicable to Contractors who perform excavation Work. ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center at (503)232-1987.

(11) Contractor must certify compliance with the Oregon tax laws in accordance with ORS 305.385 when applicable.

(12) Upon receipt by Contractor of any notice or claim, pursuant to ORS 279C.600 et seq (concerning action against bonds) Contractor shall immediately notify Owner in writing.

(13) Unless agreed to by Owner in writing, Contractor may not assign, transfer, dispose of, or delegate its duties under the contract.

(14) Contractor shall be responsible for compliance with all local, state, tribal, and federal laws, applicable to any aspect of the work to be performed. It shall be Contractor's responsibility to determine the applicability and requirements of any such laws and to abide by them. Contractor shall indemnify, defend, and hold harmless Owner for any default or breach of Contractor in this regard.

(15) The submission of a bid for this contract is certification by Contractor that Contractor has not discriminated and will not discriminate in violation of ORS 279A.110 against any minority, women, or emerging small business enterprises in obtaining any required subcontracts.

(16) If this contract is a public improvement contract for demolition, Contractor shall salvage or recycle constructions and demolition debris if feasible and cost-effective.

(17) If this contract is a public improvement contract for lawn and landscape maintenance, Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.

(18) Any dispute arising out of any of the contract documents, or out of their performance, shall be decided by litigation in the Circuit Court of the State of Oregon in the county of Owner's residence, the parties consenting to jurisdiction in said court and permanently waiving jurisdiction in any other court, state or federal. In the event of litigation the prevailing party shall be entitled to an award of reasonable attorney's fees and costs at trial and upon any appeal thereof.

D. Procedure for Agencies Processing Orders under IMESD in Oregon

Once the award is made to the vendor, IMESD will market these contracts by: 1) including the contract on the IMESD website, 2) announcing the award in flyers, and 3) attending vendor events throughout school year. A list of schools, contact names, addresses and phone number can be accessed through the Oregon Department of Education website. At this point the vendor contacts schools and schools may contact the vendor. When the school/agency identifies a product or services and agrees on price it issues to Vendor a purchase order for that item or service, referencing the AEPA Bid number. The purchase order must include an additional one percent (2%) administrative fee in the total to be forwarded by the vendor to IMESD after the sale. All participating vendors agree to and are subject to audit proceedings of IMESD member sales.

Upon receipt of the purchase order, the vendor provides the goods or service listed on the purchase order. It is important to remember the vendor makes delivery to the member unless other arrangements are made in cooperation with IMESD. When all items and services on the purchase order have been delivered to the member in a complete and satisfactory manner, vendor then invoices the member for the goods and service. This invoice includes the additional one percent (2%) administrative fee to the total amount invoiced of the goods or service provided by the vendor. This percent is based on the total sales of goods or services. The member then pays the vendor including the one percent (2%) administrative fee. IMESD then invoices the Vendor for the 2% administrative fee based on the sale of goods and services collected by the vendor.

E. Agencies Allowed to Purchase under IMESD in Oregon

The InterMountain Education Service District (IMESD) participates in a national non-profit organization, the Association of Educational Purchasing Agencies (AEPA), which is a procurement vehicle. The mission of IMESD's involvement with AEPA is to cooperatively serve Oregon state agencies members through a continuous effort to explore and solve present and future purchasing needs. AEPA goals include working to secure multi-state volume purchasing contracts with benefits that are measureable, cost-effective and continuously exceed our state member's expectations. InterMountain Education Service District is the member agency representing Oregon in AEPA through an IMESD board approved Memorandum of Understanding between all participating states that are all political subdivisions related to K-12 education. All AEPA bids have been advertised by IMESD in Oregon.

Pursuant to Oregon Law, ORS 279A, InterMountain Education Service District is authorized to offer these contracts to other government entities including school districts, state universities, community colleges, special districts, local and state government.

There is no fee or annual dues to become an IMESD agency member to purchase. InterMountain Education Service District's contract management efforts are funded by a nominal administrative fee paid by the vendor based on sales volume.

22. Pennsylvania, Central Susquehanna Intermediate Unit dba Keystone Purchasing Network

A. Additional Member Agency General Terms and Conditions that apply to all categories

The Keystone Purchasing Network (KPN) is a cooperative purchasing program operated by the Central Susquehanna Intermediate Unit under various state inter-governmental cooperation laws and includes members in several east coast states that currently includes Pennsylvania, Maryland, District of Columbia, New Jersey, New York and Delaware. All applicable Local, State and Federal laws and regulations will apply to any purchases of equipment, services or construction in any of these states and to other states that may be added under the KPN membership throughout the term of these contracts.

Marketing and Advertising under this Agreement: Vendor will actively promote the resulting contract in Pennsylvania, Maryland, District of Columbia, Delaware and New York States. Vendor will comply with the AEPA Marketing program along with the requirement listed below.

1. Vendor will include the approved KPN logo, web address, contract number and toll free number in all print electronic mail and other advertising and promotion intended for release to PA, MD, DC, DE and NY excluding national marketing releases.
2. The KPN logo and associated KPN information shall be of a clearly readable size and in appropriate proportion to other elements in the printed material.
3. Vendor agrees to provide KPN with a copy or proof sheet of the advertisement or promotion material. Vendor will provide KPN with date of release and name of publication, journal, etc.
4. Vendor shall place a supplied KPN vendor sign on booths, tables, etc. of any or all exhibits for which the vendor displays/participates at tradeshow, conventions and the like. Vendor will supply in advance scheduled exhibit dates. Vendor agrees to make available at the exhibit KPN supplied brochures or other promotion materials.
- e. Vendor agrees to insert the approved KPN logo, web address, contract number and toll free number on the vendor's web site promoting or a specific KPN landing page and providing a link to the KPN website.
- f. Vendor will supply product catalog information, product description, pricing, etc., in a spreadsheet format as specified by KPN for inclusion on the KPN website.
- g. Vendor agrees to cooperate in developing appropriate website content to promote its products, services and their advantages to KPN members.
- h. Requested materials will be submitted to KPN within 30 days.

Pricing and Ordering: Vendor will provide all pricing information in an electronic format and/or setup an electronic ordering system that would show the current contract prices along with the KPN administrative fee of 2% or as adjusted by the KPN. In the case of electronic ordering, the KPN would have administrative reporting capabilities with an online ordering system. The KPN administrative fee will apply to all purchases, installation, total lease, total rental prices and all construction and installation and annual maintenance fees and will be included in the net price offered to the purchasing agency.

B. Additional Member Agency General Terms and Conditions for Non-Construction Products and Services

None

C. Additional Member Agency General Terms and Conditions for Construction Products and Services

The following items refer to all projects involving construction or construction related services:

Vendor and/or Contractor agrees that, in performance of the services required under this Agreement, Vendor and/or Contractor shall abide by all Federal, State, Local, and Pennsylvania Department of Education laws, and regulations that may apply to renovation under this bid, including, but not limited to, those listed below. Vendor and/or Contractor shall also abide by the state and local laws and regulations of other states where a member is located. It is the responsibility of the Vendor or Contractor to determine applicability and requirements of any such laws and to abide by them. Additionally, Contractor has the sole responsibility for compliance with all other matters in conjunction with the services to be performed hereunder and in the Invitation for Bid.

PERFORMANCE AND LABOR AND MATERIAL PAYMENT BONDS: the Contractor shall provide a performance bond and a labor and material payment bond, each in the amount of 100% of the contract price, before the award of the contract. (Sections 756 and 757 of the Public School Code of 1949, as amended, and the Public Works Contractors Bond Law of 1967.)

DISCRIMINATION PROHIBITED: According to 62 Pa.C.S.A. 3701, the Contractor agrees that:

- (1.) In the hiring of employees for the performance of work under the contract or any subcontract, no Contractor, Subcontractor or any person acting on behalf of the Contractor or Subcontractor shall by reason of gender, race, creed or color discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- (2.) No Contractor or Subcontractor or any person on their behalf shall in any manner discriminate against or intimidate any employee hired for the performance of work under the contract on account of gender, race, creed or color.
- (3.) The contract may be canceled or terminated by the government agency and all money due or to become due under the contract may be forfeited for a violation of the terms or conditions of that portion of the contract.

HUMAN RELATIONS ACT: The provisions of the Pennsylvania Human Relations Act, Act 222 of October 27, 1955 (P. L. 744) (43 P.S. Section 951, ET. Seq.) of the Commonwealth of Pennsylvania prohibit discrimination because of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability, by employers, employment agencies, labor organizations, Contractors and others. The Contractor shall agree to comply with the provisions of this Act as amended that are made part of this specification. Your attention is directed to the language of the Commonwealth's non-discrimination clause in 16 Pa. Code 49.101.

COMPETENT WORKMEN: Projects where the total estimated cost is \$25,000 or less, Section 7-752 of the Public School Code of 1949, no person shall be employed to do work under such contract except competent and first class workmen and mechanics. No workmen shall be regarded as competent first class, within the meaning of this Act, except those who are duly skilled in their respective branches of labor, and who shall be paid not less than such rates of wages and for such hours work as shall be established and current rates of wages paid for such hours by employers of organized labor in doing of similar work in the district where work is being done.

PENNSYLVANIA PREVAILING WAGE RATES: Projects where the total estimated cost is greater than \$25,000, paid for in whole or in part out of funds of a public body, except for maintenance work or work performed under a rehabilitation program or manpower training program must specify "Prevailing Wages." Further information on implementation of the act, definition of maintenance work and prevailing wage rates may be requested from the Pennsylvania Department of Labor and Industry (800-932-0665 or 717-787-4763). When applicable, use Davis-Bacon wage rates for federally assisted projects. This regulation and the general Pennsylvania prevailing minimum wage rates, (Act 442 of 1961, P.L. 987, amended), as determined by the Secretary of Labor and Industry, which shall be paid for each craft or classification of all workers needed to perform the contract during the anticipated term therefore in the locality in which public work is performed, are made part of this specification.

(1.) The general prevailing minimum wage rates including contributions for employee benefits as shall have been determined by the Secretary of Labor and Industry (hereinafter "Secretary"), which must be paid to the workmen, employed in the performance of the Contract.

(2.) The Contractor shall pay no less than the wage rates as determined in the decision of the Secretary and shall comply with the conditions of the Pennsylvania Prevailing Wage Act approved August 15, 1961 (Act No. 442), as amended August 9, 1963 (Act No. 342), and the Regulations issued pursuant thereto, to assure the full and proper payment of said rates.

(3.) These Contract provisions shall apply to all work performed on the Contract by the Contractor and to all work performed on the contract by all Subcontractors.

(4.) The Contractor shall insert in each of his subcontracts all of the stipulations contained in these required provisions.

(5.) No workmen may be employed on the Work except in accordance with the classifications set forth in the decision of the Secretary. In the event that additional or different classifications are necessary the procedure set forth in the Regulations shall be followed.

(6.) All workmen employed or working on the Work shall be paid unconditionally, regardless of whether any contractual relationship exists or the contractual relationship which may be alleged to exist between any Contractor, Subcontractor and workmen, not less than once a week without deductions or rebate, on any account, either directly or indirectly, except authorized deductions, the full amount due at the time of payment, computed at the rates applicable to the time worked in the appropriate classification. Nothing in this Contract, the Act or the Regulations shall prohibit the payment of more than the general prevailing minimum wage rates as determined by the Secretary to the workmen on the Work.

(7.) The Contractor and each Subcontractor shall post for the entire period of construction the wage determination decisions of the Secretary, including the effective date of any changes thereof, in a prominent and easily accessible place or places at the site of the work and at such place or places used by them to pay workmen their wages. The posted notice of wage rates must contain the following information:

a. Name of project.

b. Name of public body of which it is constructed.

c. The crafts and classifications of workmen listed in the Secretary's general prevailing minimum wage rate determination for the particular project.

d. The general prevailing minimum wage rates determined for each craft and classification and the effective date of any changes.

e. A statement advising workmen that if they have been paid less than the general prevailing minimum wage rate for their job classification or that the Contractor and/or Subcontractor are not complying with the Act or the Regulations in any manner whatsoever, they may file a protest with the Secretary within three (3) months of the date of the occurrence, objecting to the payment to the Contractor to the extent of the amount or amounts due or to become due to them as wages for work performed on the Project. Any workmen paid less than the rate specified in the Contract shall have a civil right of action for the difference between the wage paid and wages stipulated in the Contract, which right of action must be exercised within six (6) months from the occurrence of the event creating such right.

(8.) The Contractor and all Subcontractors, shall keep an accurate record showing the name, craft and/or classification, number of hours worked per day, and the actual hourly rate of wage paid (including employee benefits) to each workman employed by him in connection with the Work and such record must include any deductions from each workman. The record shall be preserved for two (2) years from the date of payment and shall open at all reasonable hours to the inspection of the Owner and

to the Secretary or his duly authorized representative.

(9.) Apprentices shall be limited to such numbers as shall be in accordance with a bona fide apprenticeship program registered with and approved by the Pennsylvania Apprenticeship and Training Council and only apprentices whose training and employment are in full compliance with the provisions of the Apprenticeship and Training Act approved July 14, 1961 (Act No. 304) and the Rules and Regulation issued pursuant thereto shall be employed on the Work. Any workmen using the tools of a craft that does not qualify as an apprentice within the provisions of this submission shall be paid the rate predetermined for journeyman in that particular craft and/or classification.

(10.) Wages shall be paid without any deductions except authorized deductions. Employers not party to a contract requiring contributions for employee benefits which the Secretary has determined to be included in the general prevailing minimum wage rate shall pay the monetary equivalent thereof directly to the workman.

(11.) Payment of compensation to workmen for work performed on public work on a lump sum basis, or a piece work system, or a price certain for the completion of a certain amount of work, or the production of a certain result shall be deemed a violation of the Act and the Regulations, regardless of the average hourly earnings resulting there from.

(12.) Each Contractor and each Subcontractor shall file a statement each week and a final statement at the conclusion of the Work on the Contract with Owner, under oath, and in form satisfactory to the Secretary, certifying that all workmen have been paid wages in strict conformity with the provisions of the Contract as prescribed by the Regulations, or if any wages remain unpaid, to the amount of wages due and owing to each workman respectively.

(13.) The provision of the Act and the Regulations are incorporated by reference in the Contract.

(14.) The current prevailing wage threshold for Pennsylvania is \$25,000. However the threshold may be increased during the term on the contract by legislated action. Vendor will then be required to adjust labor rate for job under the new threshold.

(15.) The following applies to all prevailing wage projects:

E-Verify. The successful Bidder and its subcontractors (as such term is defined in the act) are required to comply with the Public Works Employment Verification Act, Act No. 127, July 5, 2012 (formerly Senate Bill 637). All Bidders shall submit with their Bid a Public Works Employment Verification Form (the "Verification Form") to CSIU - KPN in the form published by the Commonwealth of Pennsylvania, Department of General Services. Per the act, the Verification Form is to be obtained from the Secretary of the Pennsylvania Department of General Services. The Verification Form is presently available on the Department of General Services website. Per the act, the Verification Form shall include a certification that the information in the statement is true and correct and that the individual signing the statement understands that the submission of false or misleading information in connection with the verification shall subject the individual and the public works contractor or subcontractor, as the case may be, to sanctions provided by law; and the verification form shall be signed by a representative of the public works contractor or subcontractor, as applicable, who has sufficient knowledge and authority to make the representations and certifications contained in the statement. Prior to award of a contract or purchase order by a Member Agency to the successful Bidder for a particular project, the successful Bidder shall submit to the Member Agency a Verification Form. Per the act, the successful Bidder's subcontractors shall provide to the Member Agency, and successful Bidder shall cause its subcontractors to provide to the Member Agency, their Verification Forms prior to commencing work on the Member Agency's project.

STANDARD OF QUALITY: The various materials and products specified in the specifications by name or description are given to establish a standard of quality and of cost for bid purposes. It is not the intent to limit the Bidder, the bid or the evaluation of the bid to any one material or product specified but rather to describe the minimum standard. When proprietary names are used, they shall be followed by the words "or alternatives of the quality necessary to meet the specifications". A bid containing an alternative, which does not meet the specifications, may be declared non-responsive. A bid containing an alternative may be accepted but if an award is made to that Bidder the Bidder will be required to replace any alternatives, which do not meet the specifications.

PROVISIONS FOR THE USE OF STEEL AND STEEL PRODUCTS MADE IN THE U.S.: In accordance with Act 3 of the 1978 General Assembly of the Commonwealth of Pennsylvania, if any steel or steel products are to be used or supplied in the performance of the contract, only those produced in the United States as defined therein shall be used or supplied in the performance of the contract or any subcontracts thereunder in accordance with Act 161 of 1982, cast iron products shall also be included and produced in the United States. Act 141 of 1984 further defines "steel products" to include machinery and equipment. The act also provides clarifications and penalties.

PROHIBITION ON CASH ALLOWANCES: Cash allowances are prohibited.

TIME(S) OF COMPLETION OF THE PROJECT: Contractor/Vendor shall complete all work within 180 days after entry into a contract with the individual Member. Member and Contractor/Vendor may agree in writing on a lesser number of workdays depending on the scope of the project.

Owner's Compliance in Retaining Payments: Unless a member stipulates otherwise, Payment Retentions and Progress Payments shall be as follows: Ten percent (10%) of all contract payments shall be retained by the member as insurance of proper performance of the prime Contractor. Prime Contractor agrees to identify the amount of the invoices sent to the member school districts, then send copies of the invoices to the KPN. When fifty percent (50%) of the work is completed, as determined by the school district, one-half (1/2) of the amount retained shall be paid to the prime Contractor, if the prime Contractor requests payment, provided that the prime Contractor is making satisfactory progress and there is no specific cause for greater withholding. After the work is fifty percent (50%) completed, no more than five percent (5%) of the amount of any subsequent progress payments shall be retained, unless the governing board of the member determines that satisfactory

progress is not being made, at which point ten percent retention shall be reinstated. If the member and the prime Contractor agree to a substitute security, the agreement must be in full compliance with Pennsylvania law. If the substitute security is agreed to, the prime Contractor must provide KPN and the member with assigned and acknowledged waiver of any right or power of the obligor to set off any claim against KPN, the member, or the prime Contractor, in relationship to the security assigned. The prime Contractor, as authorized above, will pay any interest due a Subcontractor or material supplier. A Subcontractor to the prime Contractor may request, in writing, that the Subcontractor be notified by KPN within five (5) days of payment of each progress payment made to the prime Contractor. It is the responsibility of the prime Contractor to inform all suppliers and Subcontractors that this contract is a cooperative purchasing contract. Once all bonds are in place, the prime Contractor and the authorized agent of the member will agree in writing upon a schedule of payments based on identifiable milestones. Retaining of payments must be done in accord with 62 Pa.C.S.A. § 3921.

A contract containing a provision for retainage as provided in section 3921 (relating to retainage) shall contain a provision requiring the architect or engineer to make final inspection within 30 days of receipt of the request of the Contractor for final inspection and application for final payment. If the work is substantially completed, the architect or engineer shall issue a certificate of completion and a final certificate for payment, and the government agency shall make payment in full within 45 days except as provided in section 3921, less only one and one-half times the amount required to complete any then-remaining uncompleted minor items, which amount shall be certified by the architect or engineer and, upon receipt by the government agency of any guarantee bonds which may be required, in accordance with the contract, to insure proper workmanship for a designated period of time. The certificate given by the architect or engineer shall list in detail each uncompleted item and a reasonable cost of completion. Final payment of any amount withheld for the completion of the minor items shall be paid upon completion of the items in the certificate of the engineer or architect.

WORKERS' COMPENSATION ACT: The Contractor shall accept, insofar as the work covered by their contract is concerned, the provisions of the Workers' Compensation Act 44 of 1993, and any supplements of amendments thereof, including any which may hereafter be passed, and shall insure the Contractor's full liability there under for all parts of their contract being performed by the Contractor, the Contractor's partners, associates, employees or those of any the Contractor may employ herein, or file with the Entity a certificate of exemption from insurance from the Bureau of Workers' Compensation of the Department of Labor and Industry.

The Contractor shall, at all times, indemnify and save harmless the school entities of and from all claims for Workers' Compensation which may be made by any of the employees of the Contractor or by any of the employees to whom the Contractor may have let the performance of any part of the work embraced by their contract and the Contractor shall appear for and defend the school entities against any and all such claims. The Contractor shall be covered by Employers' Liability Insurance with a minimum limit of \$250,000 for each employee, \$2,000,000 policy limit and \$250,000 for each accident.

ACT 34 CRIMINAL BACKGROUND CHECKS: Independent Contractors and their employees who provide services to a Pennsylvania school entity are required to obtain a report of "Criminal History Record Information" from the Pennsylvania State Police. In the case of non-Pennsylvania residents, a report of "Federal Criminal Record Information" from the FBI is required in addition to the Pennsylvania State Police Report.

Contractors shall be required to do the following:

(1.) Present the original document/s Report of Criminal History Records information from the Pennsylvania State Police, report of Federal Criminal History Record Information from the Federal Bureau of Investigation to the Superintendent or the Superintendent's designee prior to the beginning of work for the school entity. The school entity shall retain a copy of the background check information and shall note on that copy the date on which the original document was inspected and the name of the administrator who viewed the original. This copy shall be retained in the school entity records with the original being returned to the Contractor.

(2.) If any new employees are added to the workforce during the course of the work, such employee(s) must follow the same procedure described above prior to any work for the school entity.

(3.) All costs for the Criminal History Information check(s) shall be borne by the perspective Contractor.

(4.) The school entity shall notify the Contractor in writing if the decision not to employ the Contractor or the Contractor's employees is based in whole or in part on criminal history records information.

(5.) The school entity shall follow the regulations promulgated by the State Board of Education concerning the confidentiality of the Criminal History Report Information obtained pursuant to the Act.

Upon written notice from the school entity, Contractors shall have all such persons removed from the project. School entity's right to declare such persons unfit shall not be limited to the required exclusion of persons from school property as set forth in Section 1-111 of the Pennsylvania School Code and/or Act 151 of 1994.

CHILD PROTECTIVE SERVICES BACKGROUND CHECKS: Prior to commencing work under the contract, the Contractor shall submit for any employee or independent Contractor who would be working on a school entity's site pursuant to work contemplated in the contract, an official clearance statement obtain from the Pennsylvania Department of Welfare pursuant to Act 151 of December 16, 1994 (P.L. 1292) subchapter C2 of the Child Protective Services Act. Contractor shall not allow any prospective employee or independent Contractor on the job site prior to providing the school entity with the above-referred clearance statement for prospective employees or independent Contractors.

ANTIBID-RIGGING ACT (NON-COLLUSION): In accordance with the Commonwealth of Pennsylvania's Antbid-Rigging Act, 62 Pa. C.S.A. § 4501 et seq., the Contractor shall execute and submit with the bid a Non-Collusion Affidavit required by the Agency. Each party to the joint venture must be identified in the bid documents, and an Affidavit must be submitted separately on behalf

of each party.

PREVENTION OF ENVIRONMENTAL POLLUTION: Section 3301 of the Pennsylvania Commonwealth Procurement Code requires that all invitations for Bids and requests for proposals for construction projects issued by any governmental agencies shall set forth any provision of Federal and State statutes, rules, and regulations dealing with prevention of environmental pollution and the preservation of public natural resources that affect the Project. A Notice of said provisions prepared by the Pennsylvania Department of Environmental Resources under Act 247 of 1972, 52 P.S. § 1612 (repealed) is available from Jeffrey L. Kimball, Cooperative Purchasing Services Director at the Keystone Purchasing Network, 90 Lawton Lane, Milton, PA 17847. His telephone number is 570-523-1155 x2130, and his e-mail address is jkimball@csiu.org. Said Notice is hereby incorporated by reference. Contractor is hereby notified and agrees to comply with the terms of all statutes, rules and regulations enumerated in the Notice.

ARCHITECTURAL SERVICES: For those Members who are Pennsylvania Public School Districts, and whose projects require architectural or engineering services, your attention is directed to Section 7-751.1 of the Pennsylvania Public School Code (24 P.S. § 7-751.1), which requires a public school district to engage an architect/engineer that is independent from the Vendor/Contractor's architect/engineer.

MULTIPLE PRIME CONTRACTORS: For those Members who are Pennsylvania Public School Districts, your attention is directed to Section 7-751 of the Pennsylvania Public School Code (24 P.S. § 7-751), which requires a public school district to use separate prime Contractors for plumbing, heating and ventilating, and electrical work. To the extent a school district's project extends beyond general construction services, the school district will need to separately bid plumbing, heating and ventilating, and electrical work, and should consult with its individual solicitor for compliance with Section 7-751. For other Members who are subject to multiple prime requirements under applicable bidding laws, such Members should consult with their individual solicitors for compliance with said requirements.

D. Procedure for Processing Orders

Once the award is made to the Contractor/vendor, KPN will inform its members of the contract by: (1) including the contract in the agency database that is available on the KPN website, (2) announcing the award in its periodic newsletter, and (3) publishing the contract information in a catalog disseminated to all members. A list of members, institution names, contact names, addresses and phone number will be made available to the vendor in an electronic format. At this point the Contractor/vendor contacts the members and members may contact the Contractor/vendor. When the member identifies a product or service it issues a purchase order for that item to the vendor. The vendor's price to its members will include the following administrative fees: currently 2% (two percent) on all supplies, equipment and construction, rental or lease, annual subscription fee, etc.; and others administrative fees as approved by KPN and will be collected from the member or other qualifying purchaser. KPN reserves the right to adjust the administrative fee at any time during the duration of the contract and any renewal period or to modify the administrative fee based on volume of purchase. If the administrative fee is reduced do to the size of the project the vendor will show the adjustment on the quote. The vendor will also compile a quarterly report showing all purchases made by KPN members under this contract. The vendor will also produce an annual report for all purchases made under this contract for a period of beginning with the award of the contract through December 31st and all consecutive 12-month periods if contract is extended. The vendor will make all administrative fee payments to KPN by the 15th of the succeeding month of each 3-month period (quarterly) after they have received payment from the member agency and all checks are to be made payable to the Central Susquehanna Intermediate Unit (CSIU) and sent to Keystone Purchasing Network, 90 Lawton Lane, Milton, PA 17847, and Attention: Jeff Kimball. All reporting of purchases will be broken down by entity by state and will show purchaser, total dollar and date of purchase.

E. Agencies Allowed to Purchase under the Member Agency

The Keystone Purchasing Network (KPN) is a cooperative purchasing program operated by the Central Susquehanna Intermediate Unit under various state inter-governmental cooperation laws. Every public school district in the state is eligible to become a member and must complete a membership application with the KPN. No member is obligated to use these services, but they find the benefits of low price and not needing to go through the bidding process most advantageous. Only those members listed on an approved KPN membership list are eligible to purchase under these contracts. This list may change during the contract period and currently includes members from Pennsylvania, Maryland, New York, Delaware, District of Columbia and other Northeast & Mid-Atlantic states. Vendors may choose to offer KPN in other non-AEPA member states where cooperative purchasing laws allow.

Additional members may include other public educational institutions in the state, college, university, community colleges, vocational schools, charter schools, municipal and county governments and other non-profit organizations from Pennsylvania or any other state where a member is located. Membership from other entities is permitted by various intergovernmental cooperative purchasing laws or regulation from their home state.

As member agencies from other states are added to the membership of the KPN the awarded vendor(s) agrees to abide by all state and local laws and/or regulations that may apply to any purchase of products, services or construction by these agencies. KPN reserves the right to market any AEPA contract under any cooperative program name that it may choose in the future on a national basis in any non-AEPA member state.

23. TexBuy, a Cooperative Purchasing Shared Services Cooperative Sponsored by the Region 16 Education Service Center Education Service Center

A. *Additional Agency Terms and Conditions*

- (1) **TexBuy funding:** The total cost of the TexBuy program is funded through a participation fee up to two percent (2%) paid to TexBuy by the Contractors. This fee shall be included in all pricing to TexBuy and its participating agencies. The fee is based on actual Contractor sales. TexBuy does not charge any fees to participating government agencies.
- (2) **Tax exempt status:** All government agencies participating in TexBuy are exempt from payment of taxes under Texas Tax Code §151.309 for the purchase of tangible personal property.
- (3) **Minority and Women Business Enterprise (MWBE) participation:** It is the policy of some TexBuy participants to involve MWBE Contractors in the purchase of goods and services. Contractors shall indicate on the proposal form whether or not they are an MWBE.
- (4) **Bid awards** shall not consider whether a vendor is a member of or has another relationship with any organization and bid specifications (and subsequent contracts) shall not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization in accordance with Texas Education Code §44.043.
- (5) **Felony Conviction Notice** (TexBuy Contractors will be required to sign a standard affidavit required by the State of Texas): Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony." Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract." This notice is not required of a publicly held corporation.
- (6) **SB 9: Criminal History and Background Checks**, in accordance with Texas Education Code Chapter 22, shall be required should any employee or agent of a contractor awarded a bid have "continuing duties related to the contracted services" with a school district and that employee or agent will have "direct contact with students" (as those terms are defined in 19 Texas Administrative Code §153.1101).
- (7) **Debarment and Suspension:** Under Executive Order 12549 in the Federal Register and Rules and Regulations, TexBuy and TexBuy participants shall not do business with a vendor that has been debarred, suspended, or is otherwise ineligible for participation in Federal Assistance Programs.
- (8) **Conflict of Interest:** In accordance with Texas Local Government Code Chapter 176, vendors/contractors who have a business relationship as defined by Section 176.001(1-a) with a local government entity and meet the requirements under section 176.006(a) must file a Conflict of Interest Questionnaire (Form CIQ) with the local government entity when:
 - (a.) The vendor/contractor has entered into a contract with the local government entity or the local government entity is considering entering into a contract with the vendor.
 - (b.) AND the vendor provides certain income or gifts to a Local Government Officer (LGO) or first-degree relatives as defined in the Texas Government Code
 - (c.) OR a family relationship exists between the LGO and the vendor's employees or agents as defined in the Texas Government Code.
- (9) **EDGAR Certification (Education Department General Administrative Regulations):** In accordance with Federal Regulations under 2 CFR § 200.318(c)(1) – When a Cooperative member seeks to procure goods and services using funds under a federal grant or contract, specific federal laws, regulations, and requirements may apply in addition to those under state law. This includes, but is not limited to, the procurement standards of the

Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR 200 (also known as the "Uniform Guidance" or new "EDGAR"). All Vendors submitting Proposals must complete this EDGAR Certification Form regarding the Offeror's willingness and ability to comply with certain requirements which may be applicable to specific TexBuy member purchases using federal grant funds. This completed form will be made available to TexBuy members for their use while considering their purchasing options when using federal grant funds. Members may also require Vendors to enter into ancillary agreements, in addition to the TexBuy's general terms and conditions, to address the member's specific contractual needs, including contract requirements for a procurement using federal grants or contracts.

- (10) **Antitrust Certification:** In accordance with Texas Government Code 2155.005, a local government entity shall not enter into contract with a vendor/contractor that has violated any provision of the Texas Antitrust laws referenced in Texas Business & Commerce Code Chapter 15 or any Federal antitrust laws.
- (11) **H.B 89 Verification:** In accordance with chapter 2270 of the Texas Government code, a local government entity (city, school district, special district, etc) may not enter into a contract with a for-profit company unless the local government entity obtains written verification that the company does not and will not boycott Israel during the term of the contract.

B. Additional Agency Terms and Conditions for Non-Construction Products and Services

- (1) **State of Texas Franchise Tax:** By signature hereon, the bidder certifies that he/she is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Texas Tax Code.
- (2) **Agricultural products,** including textiles and other similar products, are not to be made available to Texas school districts through the agreement, unless such products produced, processed, or grown in the state of Texas are given a preference in accordance with Texas Education Code §44.042.

C. Additional Agency Terms and Conditions for Construction Products and Services as required by law in the State of Texas:

- (1) **Certification of Residency (TexBuy Contractors will be required to sign a standard affidavit required by the State of Texas):** The State of Texas has a law concerning non-resident Contractors. This law can be found in Texas Government Code under Chapter 2252, Subchapter A. This law makes it necessary for TexBuy to determine the residency of its Contractors. In part, this law reads as follows:

(a.) **Section: 2252.001**

"Non-resident bidder" refers to a person who is not a resident. "Resident bidder" refers to a person whose principal place of business is in this state, including a Contractor whose ultimate parent company or majority owner has its principal place of business in this state."

(b.) **Section: 2252.002**

"A governmental entity may not award a governmental contract to a non-resident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located."

(2) **Security**

- (a.) **Bid Security,** when required by Texas Law, shall be furnished with the bid. The Bid Security shall consist of a certified check, cashier's check or a bid bond in the amount of ten percent (10%) of the total bid (or as otherwise stated in the RFB) that shall be a guarantee to furnish Performance and Payment Bonds. Bid Security shall be to TexBuy.
- (b.) **The Successful Bidder's Security** will be retained until the Contract is signed and the required Performance and Payment Bonds have been furnished. If any bidder refuses to enter into a contract

within 30 days or fails to furnish the required bonds, TexBuy will retain the Bid Security as liquidated damages, but not as a penalty.

- (c.) **Performance Bonds** when required by Texas Law, shall be furnished by the successful bidder in an amount equal to one hundred percent (100%) of the total amount of the contract sum, underwritten by such Surety Company as the Participating Agency may approve, conditioned upon the faithful performance of the work in accordance with the plans, specifications, and contract documents. Said bond shall be solely for the protection of the Participating Agency.
 - (d.) **Payment Bonds** when required by Texas Law shall be furnished by the successful bidder, in the amount of the contract, solely for the protection of all claimants supplying labor and material as hereinafter defined, in the prosecution of the work provided in said contract, for the use of each claimant.
 - (e.) **Prevailing Wage** must be paid to any contractors or subcontractors or their employees or agents in performing any work under the awarded bid.
 - (f.) **Criminal History Background Checks** in accordance with Texas Education Code §22.0834 shall be required should any employee or agent of a contractor awarded a bid have “continuing duties related to the contracted services” with a school district and that employee or agent will have “direct contact with students” (as those terms are defined in 19 Texas Administrative Code 153.1101).
- (3) **Insurance:** The Contractor shall file with the Participating Agency’s designee, Insurance Certificates, as described herein, evidencing the coverage required, and shall be supplied within ten (10) calendar days after receipt of the written “Notice of Award”. In no instance shall the Contractor begin work prior to the filing of the insurance requirements. Failure to do so shall be grounds to void the contract. The Participating Agency’s designee shall be given ten (10) days notice prior to the cancellation or change of any of the required insurance coverage. The Participating Agency shall be named as Certificate Holder.
- (a.) Contractor’s Liability Insurance: Produce and maintain in force the following kinds of insurance of companies acceptable to the Owner. Minimum Limits of Liability are stated.

Contractor’s Liability Insurance:

Employer’s Insurance Workers’ Compensation—Statutory Employer’s Liability

Bodily Injury by Accident Each Occurrence—\$100,000.00

Bodily Injury by Disease Each Employee—\$100,000.00

Policy Limit—\$500,000.00

Commercial General Liability -Combined Limits of Bodily and Personal Injury and Property Damage:

Single Limit—\$500,000.00

Unimpaired Aggregate—\$500,000.00

Comprehensive Automobile Liability - Including non-ownership, hired and owned vehicle coverage:

Bodily Damage Each Person—\$250,000.00

Each Occurrence—\$500,000.00

Property Damage Each Occurrence—\$250,000.00

(b.) Owner's Insurance: Carry and pay for Owner's Protective Liability Insurance in the same amounts as specified above for the Contractor's General Liability. Name the Architect, Engineers, and Consultants as additional insured if applicable.

(c.) Comprehensive Catastrophic Liability: excess over the above liability policies in the amount of \$2,000,000.00 each occurrence. (Combined Limit)

D. Procedure for Processing Orders

- (1) Purchase orders are issued by participating agencies to the Contractor.
- (2) "Automated contracts" may be negotiated with TexBuy that provide for purchase orders to be sent directly to the Contractor with reports of usage submitted periodically to TexBuy.
- (3) Contractors deliver goods/services directly to the participating agency and then invoice the participating agency. The Contractor receives payment directly from the participating agency.
- (4) TexBuy shall receive quarterly reports from the Contractor reflecting total sales made through the TexBuy contract with the Contractor. The Contractor shall remit payment of their participation fee up to two percent (2%) to TexBuy at net thirty-day (30) terms.

E. Members Purchasing Under the Agency

TexBuy is operated by Region 16 Education Service Center, Amarillo, Texas and is available for use by all public and private schools, colleges, universities, cities, counties and other government agencies in the State of Texas.

24. Virginia, Fairfax County Public Schools

Additional Agency Terms and Conditions that apply to all categories

AUTHORITY-The Purchasing Agent has the sole responsibility and authority for negotiating, placing and when necessary modifying every solicitation, contract and purchase order (except for capital construction projects) issued by the County of Fairfax. In the discharge of these responsibilities, the Purchasing Agent may be assisted by assigned Buyers. Unless specifically delegated by the County Purchasing Agent, no other County officer or employee is authorized to order supplies or services, enter into purchase negotiations or contracts, or in any way obligate the government of the County of Fairfax for indebtedness. Any purchase ordered or contract made which is contrary to these provisions and authorities shall be of no effect and void and the County shall not be bound thereby.

NOTE: Fairfax County does not discriminate against faith-based organizations, in accordance with the *Code of Virginia*, § 2.2-4343.1, or against a Bidder or Bidder because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment in the performance of its procurement activity.

GENERAL

1. DEFINITIONS-

AGENCY: Any Department, Agency, Authority, Commission, Board or other unit in the Administrative Service of the County.

BIDDER/BIDDER: Any individual, company, firm, corporation, partnership or other organization bidding on solicitations issued by the Purchasing Agent and offering to enter into contracts with the County. The term "Bidder" will be used throughout this document and shall be construed to mean "Bidder" where appropriate.

CONTRACTOR: Any individual, company, firm, corporation, partnership or other organization to whom an award is made by the County.

COUNTY: County of Fairfax.

GOODS: All material, equipment, supplies, printing, and automated data processing/information technology hardware and software.

PURCHASING AGENT: The Purchasing Agent employed by the Board of Supervisors of Fairfax County, Virginia.

SERVICES: Any work performed by an independent Contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

STATE: Commonwealth of Virginia.

- 2. FUNDING-**A contract shall be deemed binding only to the extent of appropriations available to each Agency for the purchase of goods and services.
- 3. CONTRACT ALTERATIONS-**No alterations in the terms of a contract shall be valid or binding upon the County unless made in writing and signed by the Purchasing Agent or his or her authorized agent.
- 4. SUBLETTING OF CONTRACT OR ASSIGNMENT OF CONTRACT FUNDS-**It is mutually understood and agreed that the Contractor shall not assign, transfer, convey, sublet or otherwise dispose of his or her contractual duties to any other person, firm or corporation, without the previous written consent of the Purchasing Agent. If the Contractor desires to assign his or her right to payment of the contract, Contractor shall notify the Purchasing Agent immediately, in writing, of such assignment of right to payment. In no case shall such assignment of contract relieve the Contractor from his or her obligations or change the terms of the contract.
- 5. NEW GOODS, FRESH STOCK-**All Contractors, unless otherwise specifically stated, shall provide new commodities, fresh stock, latest model, design or pack.
- 6. INSPECTION-ACCEPTANCE-**For determining acceptance of supplies in accordance with the provisions of the prompt payment discount paragraph, inspection and acceptance shall be accomplished only after examination (including testing) of supplies and services to determine whether the supplies and services conform to the contract requirements. Acceptance shall occur only after receipt and inspection provided such inspection, as appropriate, is accomplished within a reasonable time.
DELIVERY/SERVICE FAILURES-Failure of a Contractor to deliver goods or services within the time specified, or within reasonable time as interpreted by the Purchasing Agent, or failure to make replacements/corrections of rejected articles/services when so requested, immediately or as directed by the Purchasing Agent, shall constitute authority for the Purchasing Agent to purchase in the open market articles/services of comparable grade/quality to replace the services, articles rejected, and/or not delivered. On all such purchases, the Contractor shall reimburse the County, within a reasonable time specified by the Purchasing Agent, for any expense incurred in excess of contract prices. Such purchases shall be deducted from the contract quantities if applicable. Should public necessity demand it, the County reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Agent.
- 7. GUARANTEES & WARRANTIES-**All guarantees and warranties required shall be furnished by the Contractor and shall be delivered to the Purchasing Agent before final payment on the contract is made. Unless otherwise stated, manufacturer's standard warranty applies.
- 8. INSPECTIONS-**Inspection and acceptance of materials or supplies will be made after delivery at destinations herein specified unless otherwise stated. If inspection is made after delivery at destination herein specified, the County will bear

the expense of inspection except for the value of samples used in case of rejection. Final inspection shall be conclusive except in regard to latent defects, fraud or such gross mistakes as to amount to fraud. Final inspection and acceptance or rejection of the materials or supplies will be made as promptly as practicable, but failure to inspect and accept or reject materials or supplies shall not impose liability on the County for such materials or supplies as are not in accordance with the specifications.

9. **POINT OF DESTINATION**-All materials shipped to the County must be shipped F.O.B. DESTINATION unless otherwise stated in the contract or purchase order. The materials must be delivered to the "Ship to" address indicated on the purchase order.
10. **ADDITIONAL CHARGES**-Unless bought F.O.B. "shipping point" and Contractor prepays transportation, no delivery charges shall be added to invoices except when express delivery is authorized and substituted on orders for the method specified in the contract. In such cases, difference between freight or mail and express charges may be added to invoice.
11. **TERMINATION OF CONTRACTS**-Contracts will remain in force for full periods specified and/or until all articles ordered before date of termination shall have been satisfactorily delivered and accepted and thereafter until all requirements and conditions shall have been met, unless:
 - a. Terminated prior to expiration date by satisfactory deliveries of entire contract requirements, or upon termination by the County for Convenience or Cause.
 - b. Extended upon written authorization of the Purchasing Agent and accepted by Contractor, to permit ordering of unorderd balances or additional quantities at contract prices and in accordance with contract terms.
12. **TERMINATION FOR CONVENIENCE**-A contract may be terminated in whole or in part by the County in accordance with this clause whenever the County Purchasing Agent shall determine that such a termination is in the best interest of the County. Any such termination shall be effected by delivery to the Contractor at least five (5) working days prior to the termination date of a Notice of Termination specifying the extent to which performance shall be terminated and the date upon which termination becomes effective. An equitable adjustment in the contract price shall be made for completed service, but no amount shall be allowed for anticipated profit on unperformed services.
13. **TERMINATION OF CONTRACT FOR CAUSE**-
 - a. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his or her obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the County shall thereupon have the right to terminate, specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the contract shall, at the option of the County, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.
14. Notwithstanding the above, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of contract by the Contractor for the purpose of set off until such time as the exact amount of damages due to the County from the Contractor is determined.
15. **CHANGES**-Should it become proper or necessary in the execution of this contract to make any change in design, or to make any alterations which will increase the expense, the Purchasing Agent shall determine an equitable adjustment. No payment shall be made to the Contractor for any extra material or services, or of any greater amount of money than stipulated to be paid in the contract, unless some changes in or additions to the contract requiring additional outlay by the Contractor shall first have been expressly authorized and ordered in writing by contract amendment or otherwise furnished by the Purchasing Agent.
16. **GENERAL GUARANTY**-Contractor agrees to:
 - a. Save the County, its agents and employees harmless from liability of any nature or kind for the use of any copyrighted or uncopyrighted composition; secret process, patented or unpatented; invention; article or appliance furnished or used in the performance of a contract for which the Contractor is not the patentee, assignee, licensee or owner.
 - b. Protect the County against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit or delivery.
 - c. Furnish adequate protection against damage to all work and to repair damages of any kind to the building or equipment, to his or her own work or to the work of other Contractors, for which his or her workers are responsible.
 - d. Pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the County.
 - e. Protect the County from loss or damage to County owned property while it is in the custody of the Contractor.
17. **SERVICE CONTRACT GUARANTY**-Contractor agrees to:
 - a. Furnish services described in the solicitation and resultant contract at the times and places and in the manner and subject to conditions therein set forth provided that the County may reduce the said services at any time.
 - b. Enter upon the performance of services with all due diligence and dispatch, assiduously press to its complete performance, and exercise therein the highest degree of skill and competence.
 - c. All work and services rendered in strict conformance to all laws, statues, and ordinances and the applicable rules,

regulations, methods and procedures of all government boards, bureaus, offices and other agents.

- d. Allow services to be inspected or reviewed by an employee of the County at any reasonable time and place selected by the County. Fairfax County shall be under no obligation to compensate Contractor for any services not rendered in strict conformity with the contract.

Stipulate that the presence of a County Inspector shall not lessen the obligation of the Contractor for performance in accordance with the contract requirements, or be deemed a defense on the part of the Contractor for infraction thereof. The Inspector is not authorized to revoke, alter, enlarge, relax, or release any of the requirements of the contract documents. Any omission or failure on the part of the Inspector to disapprove or reject any work or material shall not be construed to be an acceptance of any such defective work or material. Notification of an omission or failure will be documented by the Purchasing Agent.

- 18. INDEMNIFICATION**-Contractor shall indemnify, keep and save harmless the County, its agents, officials, employees and volunteers against claims of injuries, death, damage to property, patent claims, suits, liabilities, judgments, cost and expenses which may otherwise accrue against the County in consequence of the granting of a contract or which may otherwise result therefrom, if it shall be determined that the act was caused through negligence or error, or omission of the Contractor or his or her employees, or that of the Subcontractor or his or her employees, if any; and the Contractor shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and if any judgment shall be rendered against the County in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County as herein provided.

- 19. NON-DISCRIMINATION**-During the performance of this contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- d. The Contractor will include the provisions of the foregoing paragraphs a, b, and c above in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each Subcontractor or vendor.
- e. Contractor and Subcontractor hereunder shall, throughout the term of this contract, comply with the Human Rights Ordinance, Chapter 11 of the Code of the County of Fairfax, Virginia, as reenacted or amended.

- 20. DRUG FREE WORKPLACE**-During the performance of a contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract of over \$10,000, so that the provisions will be binding upon each Subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to a Contractor in accordance with this section, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

- 21. OFFICIALS NOT TO BENEFIT**-

- a. Each Bidder or Bidder shall certify, upon signing a bid or proposal, that to the best of his or her knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of his or her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.
- b. Whenever there is reason to believe that a financial benefit of the sort described in paragraph "a" has been or will be received in connection with a bid, proposal or contract, and that the Contractor has failed to disclose such benefit or has inadequately disclosed it, the County Executive, as a prerequisite to payment pursuant to the contract, or at any other time, may require the Contractor to furnish, under oath, answers to any interrogatories related to such possible

benefit.

- c. In the event the Bidder or Bidder has knowledge of benefits as outlined above, this information should be submitted with the bid or proposal. If the above does not apply at time of award of contract and becomes known after inception of a contract, the Bidder or Bidder shall address the disclosure of such facts to the Fairfax County Purchasing Agent, 12000 Government Center Parkway, Suite 427, Fairfax, Virginia 22035-0013. Relevant Invitation/Request for Proposal Number (see cover sheet) should be referenced in the disclosure.

LICENSE REQUIREMENT-All firms doing business in Fairfax County, shall obtain a license as required by Chapter 4, Article 7, of The Code of the County of Fairfax, Virginia, as amended, entitled "Business, Professional and Occupational Licensing (BPOL) Tax." Questions concerning the BPOL Tax should be directed to the Department of Tax Administration, telephone (703) 222-8234 or visit: http://www.fairfaxcounty.gov/dta/business_tax.htm. The BPOL Tax number must be indicated in the space provided on the Cover Sheet, "Fairfax License Tax No." when appropriate.

- 22. REGISTERING OF CORPORATIONS**-Any foreign corporation transacting business in Virginia shall secure a certificate of authority as required by Section 13.1-757 of the Code of Virginia, from the State Corporation Commission, Post Office Box 1197, Richmond, Virginia 23209. The Commission may be reached at (804) 371-9733. The consequences of failing to secure a certificate of authority are set forth in Virginia Code Section 13.1-758.

- 23. COVENANT AGAINST CONTINGENT FEES**-The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For violation of this warranty, the County shall have the right to terminate or suspend this contract without liability to the County or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

24. OFFICE OF SMALL BUSINESS-

- a. It is the policy of the County of Fairfax as declared by the Fairfax County Board of Supervisors' adoption of a Small and Minority Business Enterprise Program, April 6, 1981, that Fairfax County and its employees undertake every effort to increase opportunity for utilization of small or minority businesses in all aspects of procurement to the maximum extent feasible.
- b. In connection with the performance of this contract, the Contractor agrees to use his or her best effort to carry out this policy and to insure that small and minority businesses shall have the maximum practicable opportunity to compete for subcontract work under this contract consistent with the efficient performance of this contract.
- c. As used in this contract the term "small business" means a corporation, partnership, or sole proprietorship, or other legal entity formed for the purpose of making a profit, which is independently owned and operated, has either fewer than 100 employees, or less than \$1,000,000 in annual receipts.
- d. As used in this contract, the term "minority business" means a business enterprise that is at least 51 percent owned and controlled by a minority person or persons. Such persons include African Americans, Hispanic Americans, Asian Americans, American Indians, Eskimos and Aleuts; women regardless of race or ethnicity; and persons with a physical impairment that substantially limits one or more of the major life activities of such individuals, a record of such impairment, or who are regarded as having such an impairment.
- e. Contractors may rely on oral or written representations by Subcontractors regarding their status as small and/or minority business enterprises in lieu of independent investigation.
- f. Where Federal grants or monies are involved it is the policy of Fairfax County, through its agents and employees, to comply with the requirements set forth in the U.S. Office of Management and Budget Circular No. A-102, uniform administrative requirements for Grants and Cooperative Agreements with State and Local Governments, as they pertain to small and minority business utilization.

PAYMENTS

- 25. TAX EXEMPTION**-The County is exempt from the payment of any federal excise or any Virginia sales tax. The price bid must be net, exclusive of taxes. However, when under established trade practice any federal excise tax is included in the list price, a Bidder may quote the list price and shall show separately the amount of federal tax, either as a flat sum or as a percentage of the list price, which shall be deducted by the County. Fairfax County's Federal Excise Tax Exemption Number is 54-74-0127K. Contractors located outside the Commonwealth of Virginia are advised that when materials are picked up by the County at their place of business, they may charge and collect their own local/state sales tax. Materials used in the performance of construction contracts are subject to Virginia Sales/Use Tax as described in Section 630-10-27J of the Virginia Retail Sales and Use Tax Regulations.

- 26. PAYMENT**-Payment shall be made after satisfactory performance of the contract, in accordance with all of the provisions thereof, and upon receipt of a properly completed invoice. Fairfax County reserves the right to withhold any or all payments or portions thereof for Contractor's failure to perform in accordance with the provision of the contract or any modifications thereto.

- 27. PARTIAL PAYMENTS-**Unless otherwise specified, partial payments will be made upon acceptance of materials or services so invoiced if in accordance with completion date. However, up to 5 percent (5%) of the value of the entire order may be retained until completion of contract.
- 28. PAYMENT FOR EQUIPMENT, INSTALLATION, AND TESTING-**When equipment requires installation (which shall also be interpreted to mean erection and/or setting up or placing in position, service, or use) and test, and where such installation or testing is delayed, payment may be made on the basis of 50% of the contract price when such equipment is delivered on the site. A further allowance of 25% may be made when the equipment is installed and ready for test. The balance shall be paid after the equipment is tested and found to be satisfactory. If the equipment must be tested, but installation is not required to be made by the Contractor or if the equipment must be installed but testing is not required, payment may be made on the basis of 75% at the time of delivery and the balance shall be paid after satisfactory test or installation is completed.

REMEDIES

29. INELIGIBILITY-

- a. Any person or firm suspended or debarred from participation in County procurement shall be notified in writing by the County Purchasing Agent.
 1. The Notice of Suspension shall state the reasons for the actions taken and such decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the Notice by instituting legal action as provided in the Code of Virginia.
 2. The Notice of Debarment shall state the reasons for the actions taken and the decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the notice by instituting legal action as provided in the Code of Virginia.
- b. The County Purchasing Agent shall have the authority to suspend or debar a person or firm from bidding on any contract for the causes stated below:
 1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
 2. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County Contractor;
 3. Conviction under the state or federal antitrust statutes arising out of the submission of bids or proposals;
 4. Violation of contract provisions, as set forth below, of a character which is regarded by the County Purchasing Agent to be so serious as to justify suspension or debarment action:
 - (a) failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - (b) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the Contractor shall not be considered to be a basis for suspension or debarment;
 5. Any other cause the County Purchasing Agent determines to be so serious and compelling as to affect responsibility as a Contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands;
 6. The Contractor has abandoned performance or been terminated for default on any other Fairfax County project;
 7. The Contractor is in default on any surety bond or written guarantee on which Fairfax County is an obligee.
- c. If, upon appeal, it is determined that the action taken by the County Purchasing Agent was arbitrary or capricious, or not in accordance with the Constitution of Virginia, statutes or regulations, the sole relief available to the person or firm shall be restoration of eligibility. The person or firm may not institute legal action until all statutory requirements have been met.

30. CONTRACTUAL DISPUTES-

- a. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the County Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy thereof to the Contractor within thirty (30) days. The decision of the County Purchasing Agent shall be final and conclusive unless the Contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A Contractor may not institute legal action, prior to receipt of the public body's decision on the claim, unless the public body fails to render such decision within the time specified.
- b. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the Contractor's intention to file such claim shall have been given at the time

of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

31. LEGAL ACTION-No Bidder, Bidder, potential Bidder or Bidder, or Contractor shall institute any legal action until all statutory requirements have been met.

C - Member Purchasing

32. COOPERATIVE PURCHASING-The County may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, or the District of Columbia, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for architectural and engineering services, a public body may purchase from another public body's contract even if it did not participate in the request for proposal (RFP) or invitation for bid (IFB), if the RFP or IFB specified that the procurement was being conducted on behalf of other public bodies. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement. As authorized by the United States Congress and consistent with applicable federal regulations, and provided the terms of the contract permit such purchases, any county, city, town, or school board may purchase goods and nonprofessional services from a U.S. General Services Administration contract or a contract awarded by any other agency of the U.S. government. Bidders are advised that the *resultant* contract(s) may be extended, with the authorization of the Bidder, to other public bodies, or public agencies or institutions of the United States to permit their use of the contract at the same prices and/or discounts and terms of the resulting contract. If any other public body decides to use the final contract, the Contractor(s) must deal directly with that public body concerning the placement of orders, issuance of purchase orders, contractual disputes, invoicing and payment. The County of Fairfax acts only as the "Contracting Agent" for these public bodies. It is the Contractors responsibility to notify the public body(s) of the availability of the contract(s). Other public bodies desiring to use this contract will need to make their own legal determinations as to whether the use of this contract is consistent with their laws, regulations, and other policies. Each public body has the option of executing a separate contract with the Contractor(s). Public bodies may add terms and conditions required by statute, ordinances, and regulations, to the extent that they do not conflict with the contracts terms and conditions. If, when preparing such a contract, the general terms and conditions of a public body are unacceptable to the Contractor, the Contractor may withdraw its extension of t

25. Washington, King County Directors' Association (KCDA)

(General Contracts and Construction/Public Works Projects)

A. KCDA Additional General Terms and Conditions

General Intent: KCDA may participate in all or any part of the goods and services listed in this IFB, upon completion of contracts currently in effect, whichever is deemed in the best interest of KCDA members. KCDA cannot be restricted by the successful bidder from choosing which parts of these contracts to use.

Both the Contractor and KCDA member using this Contract agree that it is the member's responsibility to perform due diligence as to the legality of their usage of this contract. In this regard, KCDA suggests that, at a minimum, Contractor and member considering such usage consult with their legal counsel before doing so.

Advertising/Marketing:

KCDA requires all vendors to develop a marketing program to include printed, web-based, e-mail, telemarketing and other methods approved by KCDA.

All promotional marketing materials must have the prior approval of KCDA before distribution and must include the KCDA logo and other contract information.

KCDA staff will work jointly with all vendors and their representatives to market the AEPA contracts to KCDA members and prospective members. Vendors may be requested to make joint presentations to KCDA or its members in either a one to one or a group setting. Some group presentations may be done in conjunction with other vendors.

Displaying exhibits at various statewide conferences are encouraged. Contractor agrees to make available KCDA supplied brochures or other promotional materials at these events. Contractor will provide KCDA with scheduled exhibit dates in advance.

Contractor agrees to insert the approved KCDA logo, web address and contact information on the Contractor's website promoting and providing a link to the KCDA website. Contractor will also provide KCDA with text, links and logos to be posted on the KCDA website.

Assignment:

Contractor shall not subcontract, assign, transfer, convey, sublet or otherwise dispose of contractual duties to any other person, firm or corporation without the previous written consent of KCDA and any member that has an outstanding open purchase order or financing arrangement. In no case shall such assignment of Contract relieve the Contractor from obligations or change the terms of the Contract.

Cancellation/Default/Termination:

KCDA reserves the right to cancel the whole or any part of this contract due to the failure by the Contractor to carry out any obligation, term or condition of the contract. KCDA will issue written notice to the contractor for acting or failing to act in any of the following:

- The Contractor fails to adequately perform the services set forth in the contract
- The Contractor fails to make progress in the performance of the contract and/or gives KCDA reason to believe the Contractor will not or cannot perform to the requirements of the contract
- The Contractor fails to observe any of the terms and conditions of the contract
- The Contractor fails to pay any applicable administrative fees.
- The Contractor fails to follow the established procedure for purchase orders, invoices and receipt of funds as stipulated by KCDA.

If the contract is to be terminated KCDA shall do the following:

Step 1 – Issue a warning Letter of Concern outlining the violations and length of time to correct the problem(s). Upon receipt of the letter, the Contractor shall have ten (10) business days to provide a satisfactory response to KCDA. Failure on the part of the Contractor to address adequately all issues of concern may result in contract cancellation.

Step 2 – Issue a letter of intent to cancel the contract if the problems(s) are not resolved by the date specified.

Step 3 – Issue a letter to terminate the contract.

Compliance with Laws

In addition to any requirements set forth herein, vendor shall comply with all applicable state, federal and local laws, rules, regulations and ordinances.

Contract Amendments:

KCDA reserves the right to amend the contract resulting from state law changes or internal boilerplate changes due to state law changes. Contractors/Vendors will be sent written notification of the changes.

Employees who have been Convicted of Crimes Against Children:

The Contractor, or any subcontractors, shall not utilize any employee at a school site or allow any contact between school children and any employee when an employee has plead guilty to or been convicted of any felony crime involving the physical neglect of a child under Chapter 9A.42RCW, the physical injury or death of a child under Chapter 9A.32 or 9A.36RCW (except motor vehicle violations under Chapter 46.61 RCW), sexual exploitation of a child under Chapter 9A.444 RCW where a minor is the victim, promoting prostitution of a minor under Chapter 9A.88 RCW, the sale or purchase of a minor child under 9A.88 RCW, or violation of similar laws of another jurisdiction.

Contractors/Vendors who have regularly scheduled unsupervised access to children, and/or who hire employees who will have regularly scheduled unsupervised access to children, shall perform a record check through the Washington State Patrol criminal identification system under RCW 43.43.830-43.43.834, 10.97.0303 and 10.97.050, and through the Federal Bureau of Investigation before hiring the employee. The record check shall include a fingerprint check using a complete Washington State criminal identification fingerprint card. The Contractor shall provide a copy of the record to the person applying for employment to the school location. If the Contractor or applicant has had a record check within the previous two years, the Contractor may waive the requirement. The Contractor shall determine whether the applicant or the Contractor shall pay costs associated with the record check.

In addition, pursuant to RCW 9.96A.020 and 1993 Chapter Law 71, a person is disqualified from employment by school districts, and their Contractor from hiring employees who will have regularly scheduled unsupervised access to children because of a prior guilty plea or conviction of a felony crime specified under RCW 28A.400.322, or a violation of similar laws of another jurisdiction, even if the time elapsed since the guilty plea or conviction is ten years or more.

Governing Law and Venue/Legal Litigation:

All applicable local, state and federal laws and regulations will apply to any purchases of equipment, service or public works in any of the states KCDA currently services, as well as any other non-AEPA states where members may be added to KCDA membership throughout the term of these contracts. The laws of the State of Washington govern the Contract. Each and every provision of law and clause required by law to be included in the Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction. Venue for any litigation arising out of or related to the Contract shall take place in the State of Washington.

Hazardous Materials:

If any hazardous chemicals/materials are supplied under a contract/purchase order arising out of this solicitation, a Safety Data Sheet (SDS) shall accompany the delivery of any hazardous chemicals/materials supplied by the vendor. All SDA sheets shall be sent to KCDA and the KCDA member. Any products not appropriately labeled will be refused and the vendor will be responsible for additional freight charges.

Indemnification/Hold Harmless:

The Contractor agrees to defend, indemnify and hold harmless KCDA and the member agency, and their respective officers, officials, employees and volunteers from any and all claims, injuries, damages, losses or suits including attorney fees arising out of or resulting from the acts, errors or omissions in performance of this Agreement, except for injuries and damages caused by the sole negligence of KCDA or the member agency. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor, KCDA or the member agency and their respective officers, officials, employees, and volunteers, the Contractor's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purpose of this indemnification. Use of this contract certifies that the waiver of immunity specified by this provision was mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of the Agreement.

Independent Contractor:

The Contractor shall not be held or deemed in any way to be the agent or employee of KCDA and /or a KCDA member. It is the intention of the parties that the Contractor shall be and is to be considered an independent Contractor.

Minority and Women Owned Businesses:

KCDA encourages all minority and women owned businesses to participate in the bid process. Washington State law does not allow KCDA to provide any financial advantage for minority and women owned businesses who participate, however, KCDA believes that a diverse range of suppliers benefits all.

Quality of Goods:

Bidder shall bid and provide new (not used or refurbished) items only. Seller warrants all supplies, materials and equipment and services covered by a contract/purchase order with KCDA or with a KCDA member will:

- (a) conform to the specifications, drawings, written instructions, samples, or descriptions;
- (b) be of good quality and workmanship;
- (c) be free of defects in design, materials and workmanship;
- (d) be merchantable;
- (e) be fit for particular purposes applicable to the design, function or use of the supplies, materials and equipment.

Taxes:

The KCDA Members and Associate Members are to be taxed.

Term of Contract:

The term of the agreement shall commence on the date of the award and continue as stipulated in the General Terms and Conditions, unless terminated, canceled or extended.

Use of Tobacco on School Districts/Public Agency Premises:

RCW 28A.210.310 prohibits the use of tobacco in any form on school district property. Smoking or other use of tobacco will not be permitted at the job site.

B. Procedure for Processing Orders Order Procedure

After entering into an agreement with KCDA, KCDA will confirm the directions for placement of orders with the Contractor, and will post directions on the KCDA website for both Contractor and members. These directions will also be posted on each awarded Contractors/Vendors website.

- Once the award is made to the Contractor, KCDA will inform members of the contract.
- At this point the Contractor may directly contact members or the member may contact the Contractor.
- A list of members, addresses and phone numbers is available to the Contractor upon request.
- Before a Contractor may enter into business with a KCDA member, they need to verify membership through the KCDA website, which can be viewed under Membership.

Invoicing/Reporting

- KCDA will contact Contractors/Vendors about invoicing procedures.
- KCDA is funded through a service fee paid to KCDA by the participating Contractors/Vendors. The service fee percentage is based upon the total sale of goods and services, including installation, if applicable. This fee shall be reflected in all price quotations under the KCDA agreement. The service fee will be 2%. Do not print the service fee as a separate line item on the quotation.
- The Contractor will compile an electronic quarterly report listing each purchase made by participating members. Within 30 days after each quarterly period the report will be sent to the e-mail address of the KCDA Purchasing Director, Thomas Kim, tkim@kcda.org and Director of Finance, Robert Payne rpayne@kcda.org
- These reports shall be in Microsoft Excel format and shall have file names that identify the Contractor and the quarterly period being reported. They shall include the following fields and allow for sorting on any of the fields: Date of order, name of member, item purchased, quantity, unit price, extended price, member PO #, Contractor order number.
- KCDA reserves the right to change the contact name of existing KCDA personnel administering the contract. If there are personnel changes, reports and payments will be sent to the new contact(s) specified.

C. Agencies Allowed to Purchase under KCDA

King County Director's Association (KCDA) is a member owned purchasing cooperative representing 295 Washington State school districts. In addition, KCDA provides purchasing and procurement services for more than 1,200 public agencies and political subdivisions in Washington and other states, including but not limited to Alaska, Idaho, and Montana. KCDA also provides purchasing services for accredited private K-12 schools in Washington State.

A listing of all KCDA members is available on the KCDA website, www.kcda.org.

D. KCDA Additional Terms & Conditions for Construction Products and Services

Contractor agrees that, in performance of the services required under this agreement, Contractor shall abide by all federal, state, local and Washington law and regulations that may apply to construction and public works. It is the responsibility of the Contractor to determine applicability and requirements of any such laws and to abide by them.

- **Bid Bond:** The bid must be accompanied by a bid bond using the KCDA form included in these contract provisions, issued by a surety licensed to do business in the State of Washington and made out to King County Directors Association in an amount not less than 5% of the amount of the bid as identified in Part B, Section 4 of the solicitation. A Power of Attorney must accompany the bid bond and must appoint the surety's true and lawful attorney-in-fact to make, execute, seal and deliver the bid guarantee bond. Failure to submit the required bid security with the Bid shall render the bid non-responsive and the bid shall be rejected.
- **Public Works:** State of Washington statute requires workers be paid prevailing wages when employed on public works projects and on public building service maintenance contracts. (RCW 39.04.010, RCW 39.12.010 and 020) It is the contractor's responsibility to be acquainted with and comply with State regulations regarding payment of prevailing wages on public works projects. Prevailing Wages are established by the Washington State Department of Labor and Industries and can be obtained on the web at <http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp> or by contacting Labor and Industries at 360-902-5335. KCDA serves all counties in Washington State. The County in which the project is located will be identified once a member initiates a request for the service, and the effective wage rate to be applied to a specific project is to be based on the date of this bid during the original contract term, and if contract extensions are granted, the prevailing wage rate in affect at the time of the latest extension. A copy of the applicable prevailing wage rates are also available for viewing at the office of KCDA. Upon request KCDA will mail a hard copy of the applicable prevailing wages.
- **Application:** The Public Works Act regulates wages paid to workers, laborers and mechanics performing public work. It does not apply to work that is clerical, executive administrative or professional in nature. It does not apply to work of a secretary, engineer or administrator, unless they are performing construction work, alteration work, repair work, etc. Prevailing wage application depends on the work that is performed, regardless of the worker's job title. (RCW 39.12.020 and WAC 296-128-510 through 530). Definition: Public Works is all work, construction, alteration, repair or improvement that is executed at the cost of the state or any other local public agency. This includes, but is not limited to, demolition, remodeling, renovation, road construction, building construction, ferry construction and utilities construction. (RCW 39.04.010). Public Building Service Maintenance Contracts: Prevailing wages are also required on all public building service maintenance (janitorial) contracts. (RCW 39.12.020). **Contractors bidding a Public works project exceeding \$1,000,000.00 must declare who their HVAC, Plumbing and Electrical subcontractors will be and submit this information with bid documents in order for the bid to be responsive (RCW 39.30.060).** Such projects also have special considerations pertaining to prefabricated materials (RCW 39.04.370) and use of apprentices (39.04.320).
- **Reciprocity:** In accordance with RCW 39.04.380 any bidding process for public works in which a bid is received from a nonresident contractor from a state that provides a percentage bidding preference, a comparable percentage disadvantage must be applied to the bid of that nonresident contractor. This does not apply to public works procured pursuant to RCW 39.04.155, 39.04.280 or other procurement exempt from competitive bidding.
- **Prevailing Wage:** Definition: Prevailing Wage is the hourly wage, usual benefits and overtime, paid in the largest city in each county, to the majority of workers, laborers and mechanics. The rate is established by the Department of Labor and Industries for each trade and occupation employed in the performance of public work. If Federal funds are used, bidders must comply with provisions of Davis-Bacon Act.
- **Basic procedures:** A Statement of Intent to Pay Prevailing Wages and Affidavit of Wages Paid must be filed and approved for the contractor and all subcontractors. No payments can be made until all Contractors/Vendors have submitted an approved intent form. KCDA cannot release retainage until all Contractors/Vendors have an approved Affidavit of Wages Paid form certified by the Industrial Statistician. (RCW 39.12.030, 040, 042). Costs for filing shall be the responsibility of the Contractor. Once the work is successfully completed, KCDA will release 95% of the project cost and withhold 5% retainage for as dictated by law. The final 5% will be paid when the following is completed: acceptance of project completion to the satisfaction of the KCDA ordering member, followed by receipt of approved Affidavit of Wages Paid Forms, Releases from Washington State Department of Labor & Industries, Employment Security Department and the Department of Revenue.
- **Federally Funded Projects:** In addition to the Federal Requirements of Section III General Terms and Conditions, Davis-Bacon prevailing wage requirements apply to public works construction contracts of \$2000 or more when a project includes any federal funding of any amount. When there is a difference between applicable state and federal prevailing wages for a particular classification of labor, contractors and subcontractors are required to pay the higher of the two prevailing wages. Applicable federal prevailing wage determinations can be found at <http://www.wdol.gov/>. Contractors/Subcontractors must be knowledgeable and adhere to all federal prevailing wage requirements, including but not limited to paying workers weekly and providing certified weekly payrolls for the contractor and subcontractors of any tier as required in the Davis-Bacon Act and applicable U.S. Department

of Labor regulations. Falsification of any prevailing wage payroll records may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of Title 18 and section 231 of Title 31 of the United States Code. Contractor shall inform all subcontractors of the Davis-Bacon requirements and the prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses. Contractor must coordinate all requirements related to federal funded projects with the KCDA member Agency.

- **Responsible Bidder**

Before award, the bidder must meet the following state responsibility criteria and, if applicable, supplemental responsibility criteria to be considered a responsible bidder. The bidder is required to submit documentation demonstrating compliance with the criteria.

Low Responsible Bidder

A. State Responsibility Criteria. The Bidder must meet the following state responsibility criteria:

1. At the time of submittal of bid to AEPA, the contractor must hold a current Washington State Contractors License in the name of the company signing the bid. Failure to have the license prior to submitting the bid is a violation of chapter 18.27 RCW and is a gross misdemeanor.
2. Have a current Washington State Unified Business Identifier (UBI) number.
3. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3).
4. If applicable:
 - a. Have Industrial Insurance (workers' compensation) coverage for the Bidder's employees working in Washington State, as required in Title 51 RCW;
 - b. Have a Washington State Employment Security Department number, as required in Title 50 RCW; and
 - c. Have a Washington State Department of Revenue state excise tax registration number, as required in Title 82 RCW.

B. Supplemental Bidder Responsibility Criteria. If supplemental criteria apply to this project, the criteria are included in "Attachment A." The Bidder may make a written request to modify any or all of the supplemental criteria. Modification of supplemental criteria shall be at KCDA's discretion. Any modifications to the supplemental criteria shall be made by addenda prior to bid opening.

Subcontractor Responsibility:

The contractor shall include the language of this section in each of its first tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. The requirements of this section apply to all subcontractors regardless of tier. At the time of subcontract execution, the Contractor shall verify that each of its first tier subcontractors meets the following bidder responsibility criteria:

1. At the time of bid submittal, have a current certification of registration in compliance with chapter 18.27 RCW.
2. Have a current Washington State Unified Business Identifier (UBI) number.
3. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3).
4. If applicable:
 - a. Have Industrial Insurance (workers' compensation) coverage for the Bidder's employees working in Washington State, as required in Title 51 RCW;
 - b. Have a Washington State Employment Security Department number, as required in Title 50 RCW; and
 - c. Have a Washington State Department of Revenue state excise tax registration number, as required in Title 82 RCW
5. Have an electrical contractor license, if required by Chapter 19.28 RCW;
6. Have an elevator contractor license, if required by Chapter 70.87 RCW;

- **Bonds- Payment & Performance:**

The prime Contractor shall provide a Performance and Payment Bond at 100% of the contract price to the KCDA member with a copy to KCDA before work begins. The only exception is for contracts of thirty-five thousand (\$35,000) dollars or less. In this instance, at the option of the Contractor, the member may in lieu of the bond retain fifty percent of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the Department of Revenue and the Department of Labor and Industries and settlement of any liens filed under Chapter

60.28 RCW, whichever is later. The bond shall be issued by a surety company authorized to do business in the State of Washington and shall be on standard forms used for public projects (RCW 39.08.010) and as directed by the KCDA member. Performance and Payment bonds for KCDA members outside Washington must be provided by

companies licensed to provide bonds for public entities in the member's state.

- **Licenses:** The prime contractor shall possess and maintain in current status all federal, state, and local licenses, bonds, and permits required for the performance and delivery of any and all products and services offered in its response to the bid solicitation. Before submitting a bid, Bidders must hold a current, valid contractor's license as required in Washington. The contractor's license must be in the name of the legal entity submitting and signing the bid. A bidder may not substitute a contractor's license held by a subcontractor or joint venture. Bidders submitting bids in Washington State without a valid contractor's license in the name of the Bidder are in violation of RCW 18.27.010. It is the responsibility of the prime contractor to ensure any subcontractors performing under this contract hold and maintain appropriate licenses. The contractor shall verify that appropriate licenses are in place at the time of response to this bid. Copies of licenses must be submitted to the member prior to performing the work. The Contractor agrees to keep and ensure subcontractors keep any required license, permit or bond current and in compliance with Washington rules, regulations and statutes, as well as in states outside Washington in which contractor performs work under this contract. For work performed for any Washington State school district, public agency or municipality, the Contractor must comply with the bidder responsibility requirements of RCW 39.04.350 prior to the KCDA member awarding a contract. The contractor must verify the responsibility of all subcontractors used in accordance with RCW 39.06.020.
- **Permits:** The acquisition of all permits as well as any drawings needed to obtain those permits is the responsibility of the successful Contractor/Bidder unless otherwise acknowledged by the KCDA member.
- **Certificate of Insurance:** A certificate of insurance demonstrating current coverage of the types and amounts of insurance required by KCDA and the KCDA member must be provided to KCDA and the KCDA member prior to performance of any work. In addition, the Commercial General Liability policies must be endorsed to name KCDA and the KCDA member as additional insureds. Such policies must be further endorsed to provide that the insurance is primary as respects KCDA and the KCDA member, and that any other insurance maintained by KCDA and the KCDA member shall be excess and not contributing insurance with the Contractor's insurance. These endorsements must be provided along with the certificate of insurance. KCDA and the KCDA member must both approve the certificate of insurance and endorsements.
- **Acceptable Pricing Method:** KCDA is unable to accept Alternative Costing Method quotations except in certain limited instances, (i.e. sole source) in which KCDA and Contractor may mutually determine the Alternative Costing Method is acceptable. This will be the exception rather than the rule. RS Means or line item bid pricing is acceptable.
- **Progress Payments:** The Contractor shall be paid, upon submission of a proper Payment Request, the prices stipulated herein for work performed (less deductions, if any), in accordance with all payment and retainage instructions herein. Submitted Payment Requests must contain the following minimum information:
 - a. Contract Number
 - b. Bid item ID, bid quantity, unit, unit price and description as appropriate
 - c. Sales Tax as applicable

The Payment Request will be reviewed by the Member before payment is made. If the Member is in disagreement with the Payment Request, KCDA will issue a notice requesting a revised Payment Request. In accordance with RCW 51.12.050, KCDA reserves the right to deduct from the payment any outstanding industrial insurance premiums owed by the Contractor or Subcontractors.

- **Payment Retainage:** In accordance with RCW 60.28 a contract retainage of not to exceed five percent of the moneys earned by the contractor toward completion of a public improvement contract shall be withheld and reserved as a trust fund for the protection and payment of 1) the claims of any person arising under the contract, and 2) the state with respect to taxes imposed pursuant to Titles 50, 51 and 82 RCW which may be due from such contractor. Upon completion of a contract, the member agency shall notify the Department of Revenue, the Employment Security Department, and the Department of Labor and Industries of the completion of contracts over thirty-five thousand dollars. KCDA will issue payment on the retainage amount forty-five days after notice from the KCDA Member Agency that the contract has been accepted as complete or upon receipt of all necessary releases, whichever is later.

26. West Virginia, West Virginia Regional Education Service Agencies Cooperative Purchasing

a. General Terms and Conditions that apply for all Categories:

i. Compliance with Laws/Forum Designation

Contractor shall comply with Federal, State, and Local Laws, Codes and Regulations while fulfilling the contract. It is the Contractor's responsibility to be aware of and comply with all state and local laws governing this procurement. Applicable laws, codes, and regulations (etc.) must be followed even if not specifically identified herein. The terms of the Agreement Addendum which is attached hereto and incorporated herein shall govern and supersede any contract terms to the contrary with respect to each procurement. Contractor shall verify to the West Virginia Regional Education Service Agencies (WVRESA), its Member Agencies and other qualifying purchasers that the Contractor is complying with all Federal, State and Local Laws, Codes and Regulations while fulfilling the contract, and shall provide a copy of this contract and any addenda to each Member Agency when providing a price quotation. Moreover, this contract shall be governed by and construed in accordance with the laws of the State of West Virginia without giving effect to its principles of conflict of law. Legal proceedings arising under this contract shall be brought in a West Virginia Court of the County where the Member Agency's main office is located.

ii. Delinquent Tax Affidavit

Contractor shall provide an affidavit relating to delinquent taxes as may be required by West Virginia State Code §11-12-10.

iii. Secretary of State Registration

Contractor shall meet and maintain all registration requirements as necessary to conduct business in the State of West Virginia, including but not limited to registration with the West Virginia Secretary of State.

iv. West Virginia Workers Compensation Insurance

Contractor, and any subcontractors hired by Contractor shall, at their own expense, maintain in force for the duration of the project workers' compensation and employer's liability insurance as required by the laws of the State of West Virginia.

v. Project Personnel, Student Safety and Background Checks

Member Agency shall have the right to reject the participation of any personnel of Contractor in the performance of the services if, in relation to the work assigned to them, the Member Agency deems such personnel to lack the skill, experience and expertise required to perform the services or if Member Agency considers their performance to be substandard or otherwise detrimental to the proper completion of the services. Contractor will advise Member Agency promptly of any change in the project manager or other key personnel assigned to the performance of the services.

Contractor acknowledges that the safety of the Member Agency's students, employees, officials and guests is of the utmost importance. Contractor will endeavor to ensure that its officers, employees, agents, representatives, and consultants will take no action that would jeopardize the safety of the Member Agency's students, employees, officials, or guests. The Member Agency reserves the right to require Contractor's officers, employees, agents, representatives and consultants to wear identification and stay in designated work areas at all times while on the Member Agency's property. The Member Agency shall have the right to effect the immediate removal of any person associated in any way with Contractor from Member Agency property for failure to wear identification, for being outside a designated work Contractor shall perform or cause to be performed by the West Virginia State Police and Federal Bureau of Investigation criminal background check of any personnel that will be performing the services within the proximity of minors. Contractor shall notify the Member Agency of any proposed employee who has been convicted, pled guilty or pled "no contest" to a criminal offense, and the Member Agency reserves the right to reject the proposed employee with a criminal background. No person shall be employed by Contractor who has been found guilty of any of the criminal offenses enumerated in West Virginia State Code without prior approval of the Member Agency.

vi. Independent Contractor

Contractor shall be an independent contractor and neither Contractor nor any of its subcontractors, nor the employees of any thereof, shall be deemed to be the servants, employees, or agents of Member Agency. Contractor shall be responsible for paying all costs related to its employees and managers performing the services. Contractor shall remain liable and responsible to Member Agency for all of its obligations under this contract, regardless of whether

the services are performed by the Contractor or a subcontractor of any tier.

vii. Ownership of Instruments of Service

Drawings, data and other documents prepared by, or with the cooperation of, the Contractor pursuant to this contract shall become, upon payment of all undisputed compensation due the Contractor from the Member Agency, the property of the Member Agency. Such drawings, data or other documents may be used by the Member Agency or others employed by the Member Agency without compensation to the Contractor.

viii. Audit

Member Agency may audit and inspect Contractor's records and accounts at any time during the Contractor's performance of the services and for a period of two (2) years following the completion or termination of the services for the purpose of verifying any invoice and underlying documentation presented by Contractor, it being understood that Contractor agrees to preserve all such documents through such two- (2) year period.

ix. Notices

Unless otherwise expressly provided in this contract, all notices and other communications given under the contract shall be in writing and shall be deemed effective upon receipt by the addressee at its address as set forth in the contract or at such other address as such party shall have notified the other in writing.

x. Non-Appropriation and Other Contract Terms Applicable to Member Agencies as Political Subdivisions of the State

If the Member Agency fails to appropriate sufficient monies in any fiscal year for payments due under the contract and other funds are not available for such payments, then a "Non-Appropriation" shall be deemed to have occurred. If a Non-Appropriation occurs, then Member Agency will give Contractor prompt notice of such Non-Appropriation. This contract shall thereupon terminate without penalty or expense to the Member Agency other than for goods and services already provided.

xi. No Personal Liability

It is understood and agreed that under no circumstances will the Member Agency's board members, regional council members, officers, employees, or agents be personally liable for any obligations or claims arising out of or related to the contract.

xii. Price Quotation

Contractors must quote to a Member Agency the pricing listed in the current contract awarded by the Association of Educational Purchasing Agencies. Vendor will follow the procedures for price reductions to AEPA Member Agencies and Participating Entities set forth in the AEPA general terms area, and conditions. The price quotation must be submitted to a Member Agency and Participating Entity in writing, and any other expenses that the Contractors intend to charge a Member Agency or Participating Entity must be separately itemized on the quotation page in bold font with a good faith estimate of the dollar amount of each item, such as use tax if applicable. The failure to list an item or include a good faith estimate of the dollar amount on the quotation page will preclude a Contractor from charging the same.

xiii. Miscellaneous

Headings and titles of articles, paragraphs and other subparts of this contract are for convenience of reference only and shall not be considered in interpreting the text of this contract. This contract and any appendices constitute the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements or understandings with respect thereto and all agreements or understandings with a Member Agency. No contract amendments can be made without the approval of the AEPA membership.

B. Construction Products and Services:

For construction improvements, the following shall apply:

1. The successful Contractor shall provide such bonds required by West Virginia State Code §38- 2-39.
2. Contractor shall comply with all applicable licensing requirements, including those of the West Virginia Contractor Licensing Board pursuant to West Virginia State Code §21-11-3.

C. Procedures for Processing Orders:

The WVRESA will keep informed its Member Agencies and other qualified purchasers of contract information via web site and through other marketing strategies. A list of WVRESA Member Agencies along with addresses, phones, contacts, etc. will be made available to successful Contractors. After contracts are awarded, Contractors may contact the WVRESA Member Agencies and other qualifying purchasers concerning their products and services.

Participating Member Agencies and other qualified purchasers will submit all purchase orders directly to the Contractor.

The Contractor price shall include a two percent (2%) administrative fee that the Contractor will collect from the Member Agency or other qualified purchaser. Administrative fees are to be remitted to the WVRESA on April 15, July 15, October 15 and January 15 of every calendar year with checks payable to the RESA 2, 2001 McCoy Road, Huntington, WV 25701

The Contractor will compile a quarterly report showing all purchases made by the WVRESA Member Agencies and other qualified purchasers under this contract at the conclusion of each calendar quarter. These reports shall be attached to the administrative fee remittance.

D. Agencies Allowed to Purchase under Member Agency:

All member cooperatives of the WVRESA and their individual Member Agencies are eligible to participate and purchase from the awarded AEPA contracts. All West Virginia PK-12 school districts, including Career and Technical Education Centers, Regional Education Services Agencies, West Virginia Department of Education (WVDE) and all Institutional Education Programs operated by WVDE are eligible to participate and purchase from the awarded AEPA contracts. In addition, all colleges and universities, state, municipalities, counties, other governmental agencies and non-profit agencies are eligible to participate if the AEPA contracts satisfy their individual procurement requirements.

27. Wisconsin, Cooperative Educational Service Agency (CESA) Purchasing

A. Additional Terms and Conditions

(Note: anything that is not already in Part A – General Terms and Conditions for AEPA) Terms and Conditions must be compliant with Wisconsin State Statutes 16.70 to 16.848

B. *Additional Participating Agency Terms and Conditions for Non-Construction Products and Services* Some larger districts, like Milwaukee Public Schools, may require an additional one page “piggyback” memorandum of understanding to utilize the contract.

C. Additional Participating Agency Terms and Conditions for Construction Related Products and Services
Construction contracts are subject to Wisconsin State Statutes 16.855 or 66.0901.

D. Procedure for Processing Orders

All districts directly process orders with the CESA Purchasing AEPA vendor partner unless otherwise arranged.

E. Members Purchasing Under CESA

CESA Purchasing membership is free. Membership is available to the following agencies based on WI State Statutes Chapter 116 which governs the work of WI Cooperative Educational Service Agencies: school districts, University of Wisconsin System institutions, and technical colleges. All public, private, and tribal schools, and all public and private agencies and organizations, that provide services to pupils. Please note in Wisconsin we do not require additional registration of members and define members as those defined by WI Statute 116 that guides our work.

28. Wyoming, Northeast Wyoming Board of Cooperative Educational Services (NEW BOCES):

Upon execution of this document, the respondent hereby agrees to submit bids and NEW BOCES agrees to accept such bids under the following conditions:

PREFERENCES Wyoming Statutes provide for percentage preferences for items supplied by Wyoming resident bidders and for items produced or grown in the State of Wyoming. Preferences may not be applied when federal funds are involved. Preference will be given in accordance with W.S. 16-6-101, 16-6-102, 16-6-103, 16-6-104, 16-6-105, 16-6-106, 16-6-107, and 16-6-301, as amended. For bids involving federal funds please refer to W.S. 16-6-108. Please contact the Department of Workforce Services, Division of Labor Standards

Resident & Non-Resident VENDOR REGISTRATION REQUIREMENTS:

Secretary of State 2020 Carey Avenue Cheyenne, WY 82002 Phone: (307) 777-7378 website: <http://soswy.state.wy.us/>

Department of Workforce Services Division of Unemployment Insurance 100 W. Midwest P.O. Box 2760 Casper, WY 82602 Phone: (307) 235-3217

Public Works and Contracts: Vendor shall comply with all laws, whether local, state, federal, or otherwise, applicable to any aspect of the service or product to be provided in relation to the contract. It shall be the vendor's responsibility to determine the applicability and requirements of any such laws and to abide by them. Vendor shall indemnify, defend, and hold harmless NEW BOCES for any default or breach of vendor in this regard. To the extent applicable for the product or service bid, vendor shall comply with W.S. 16-6-101 to 16-6-602 and to W.S. 21-3-110(a) (viii)

Every Contracted Vendor Employee shall provide a valid State issued Identification Card upon entry of any educational facility.

Members Customer Client Purchasing: NEW BOCES NEW BOCES is an educational cooperative authorized under the provisions of W.S. 21-20-101 to 21-20-111. All K-12 school districts, Community Colleges, Child Development Centers, Residential Child Care Institutions, Utah Educational Service Agencies, all Non-Profits and all Municipalities are eligible to participate in NEW BOCES cooperative purchasing programs within the State of Wyoming and Other States as requested. "Agencies" means Counties, Municipal Corporations, School Districts, Community College Districts, the joint business council of the Eastern Shoshone and Northern Arapaho Indian tribes, the business council of the Eastern Shoshone Indian tribe, the business council of the Northern Arapaho Indian tribe. Providing facilities or functions enumerated in W.S. 16-1-104(c);

No member user is obligated to use these services, but they find the benefits of economy and efficiency made possible by cooperative purchasing to be advantageous.

Procedure for Processing Orders: Upon bid award to the Contractors/Vendors, NEW BOCES will inform its members and other qualifying purchasers of the contract:

- When the customer identifies a desired product or service as available through the AEPA/NEW BOCES contract and agrees on price as presented to the customer by the awarded AEPA/NEW BOCES vendor, the customer then issues to the vendor a purchase order for that item or service.
- The vendor's price shall include a two percent (2%) administrative/marketing fee on all sales of products and or services that the vendor will collect from the member or other qualifying purchaser. This fee will be remitted to NEW BOCES on a quarterly basis.
- Administrative/Marketing fees will be payable to NEW BOCES on the 15th in the months of April, July, October, and January with all checks payable to NEW BOCES, 410 North Miller Avenue, Gillette, Wyoming 82716.
- Vendor makes all deliveries and installation of products and services. NEW BOCES does not warehouse items nor provide services.
- No other Cooperative shall be offered or used by awarded Contracted Vendors within the participating member customer clients of NEW BOCES.

Vendor Contact: Vendor will designate to NEW BOCES an individual(s) who will represent them. This contact person(s) will correspond with each ordering member for technical assistance, problems, or questions that may arise. Include instructions if different contacts for different geographical areas are needed; this information will be distributed to NEW BOCES members upon award of this bid.

NEW BOCES Commitment to Awarded Contract Vendors:

1) Website postings www.newboces.com under Cooperative Purchasing. Includes but not limited to News & Announcements, Awarded Contracts, Flyers, and Online Ordering. Available catalogs from Vendors must be provided for customer online ordering.

2) Announcing the contract in its quarterly newsletter and other events completed with vendors which includes savings reports and rebates to members and users of NEW BOCES Cooperative Contracts.

3) Publish the Vendor information in a catalog disseminated to all members and marketing for new members.


4) Attend Annual Conferences for Trade Show product purposes of all contracts held by NEW BOCES. Including any other suggestions or support from Vendors. A list of members and other qualifying purchasers, addresses, and phone numbers will be made available to the Contracted Vendor.

State Signature Pages

NJ Business Registration Form

All vendors must have a valid Business Registration Certificate (BRC) from the Department of the Treasury, Division of Revenue prior to conducting business in the State of New Jersey and prior to receiving the award of a contract with a public entity.

STATE OF NEW JERSEY BUSINESS REGISTRATION CERTIFICATE FOR STATE AGENCY AND CASINO SERVICE CONTRACTOR		DEPARTMENT OF TREASURY DIVISION OF REVENUE PO BOX 252 TRENTON, NJ 08646-0252
TAXPAYER NAME:	TRADE NAME:	
TAX REGISTRATION TEST ACCOUNT	CLIENT REGISTRATION	
TAXPAYER IDENTIFICATION#:	SEQUENCE NUMBER:	
970-097-382/000	0107330	
ADDRESS:	ISSUANCE DATE:	
847 ROEBLING AVE TRENTON NJ 08611	07/14/04	
EFFECTIVE DATE:		
01/01/01		
FORM BRC(08-01)		
Act. Director <i>John S. Tully</i>		
This Certificate is NOT assignable or transferable. It must be conspicuously displayed at above address.		

STATE OF NEW JERSEY BUSINESS REGISTRATION CERTIFICATE	
	
Taxpayer Name:	TAX REG TEST ACCOUNT
Trade Name:	
Address:	847 ROEBLING AVE TRENTON, NJ 08611
Certificate Number:	1093907
Date of Issuance:	October 14, 2004
For Office Use Only:	
	200-4101-4112823533

For more information on how to obtain a Business Registration Certificate, please visit the State of New Jersey, Department of Treasury, Division of Revenue and Enterprise Services website at: <http://www.state.nj.us/treasury/revenue/busregcert.shtml> A valid Business Registration Certificate must be provided to the ESCNJ before the award of a contract can be made.

AMERICANS WITH DISABILITIES ACT OF 1990
Equal Opportunity for Individuals with Disability

The contractor and the Educational Services Commission of New Jersey (hereafter "owner") do hereby agree that the provisions of Title 11 of the Americans With Disabilities Act of 1990 (the "Act") (42 U.S.C. S121 01 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant there unto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the owner pursuant to this contract, the contractor agrees that the performance shall be in strict compliance with the Act. In the event that the contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the contractor shall defend the owner in any action or administrative proceeding commenced pursuant to this Act. The contractor shall indemnify, protect, and save harmless the owner, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The contractor shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the owner's grievance procedure, the contractor agrees to abide by any decision of the owner which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the owner, or if the owner incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the contractor shall satisfy and discharge the same at its own expense.

The owner shall, as soon as practicable after a claim has been made against it, give written notice thereof to the contractor along with full and complete particulars of the claim, if any action or administrative proceeding is brought against the owner or any of its agents, servants, and employees, the *owner shall* expeditiously forward or have forwarded to the contractor every demand, complaint, notice, summons, pleading, or other process received by the owner or its representatives.

It is expressly agreed and understood that any approval by the owner of the services provided by the contractor pursuant to this contract will not relieve the contractor of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the owner pursuant to this paragraph.

It is further agreed and understood that the owner assumes no obligation to indemnify or save harmless the contractor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the contractor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the contractor's obligations assumed in this Agreement, nor shall they be construed to relive the contractor from any liability, nor preclude the owner from taking any other actions available to it under any other provisions of the Agreement or otherwise at law.

Signature _____

Name _____

Title _____

Company name _____

Date _____

To be completed and signed below

Return with bid

AFFIRMATIVE ACTION QUESTIONNAIRE

This form is to be completed and returned with the bid. However, the ESCNJ will accept in lieu of this Questionnaire, Affirmative Action Evidence attached but not stapled to this page.

1. Our company has a federal Affirmative Action Plan approval. Yes
 No

If yes, please attach a copy of the plan to this questionnaire.

2. Our company has a New Jersey State Certificate of Employee Information Report. Yes
 No

If yes, please attach a copy of the certificate to this questionnaire.

3. If you answered "**NO**" to both questions above, No. 1 and 2, you must apply for an Affirmative Action Employee Information Report – Form AA302.

Please visit the New Jersey Department of Treasury website for the Division of Public Contracts Equal Employment Opportunity Compliance:

www.state.nj.us/treasury/contract_compliance/

- Click on "Forms" and then "AA302" and "Instructions" under the heading "Employee Information Report"
- Complete and submit the form with the appropriate payment to:

Department of Treasury
Division of Purchase & Property
Contract Compliance Audit Unit
EEO Monitoring Program
P.O. Box 206
Trenton, New Jersey 08625-0206

All fees for this application are to be paid directly to the State of New Jersey. A copy shall be submitted to the ESCNJ within seven (7) days of the notice of the intent to award the contract or the signing of the contract.

EMPLOYEE INFORMATION REPORT (FORM AA302)

IMPORTANT: READ THE FOLLOWING INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE FORM. PRINT OR TYPE ALL INFORMATION. FAILURE TO PROPERLY COMPLETE THE ENTIRE FORM MAY DELAY ISSUANCE OF YOUR CERTIFICATE. **IF YOU HAVE A CURRENT CERTIFICATE OF EMPLOYEE INFORMATION REPORT, DO NOT COMPLETE THIS FORM. SEND COPY OF CURRENT CERTIFICATE TO THE PUBLIC AGENCY. DO NOT COMPLETE THIS FORM FOR CONSTRUCTION CONTRACT AWARDS.**

ITEM 1 - Enter the Federal Identification Number assigned by the Internal Revenue Service, or if a Federal Employer Identification Number has been applied for, or if your business is such that you have not or will not receive a Federal Employer Identification Number, enter the Social Security Number of the owner or of one partner, in the case of a partnership.

ITEM 2 - Check the box appropriate to your TYPE OF BUSINESS. If you are engaged in more than one type of business check the predominate one. If you are a manufacturer deriving more than 50% of your receipts from your own retail outlets, check "Retail".

ITEM 3 - Enter the total "number" of employees in the entire company, including part-time employees. This number shall include all facilities in the entire firm or corporation.

ITEM 4 - Enter the name by which the company is identified. If there is more than one company name, enter the predominate one.

ITEM 5 - Enter the physical location of the company. Include City, County, State and Zip Code.

ITEM 6 - Enter the name of any parent or affiliated company including the City, County, State and Zip Code. If there is none, so indicate by entering "None" or N/A.

ITEM 7 - Check the box appropriate to your type of company establishment. "Single-establishment Employer" shall include an employer whose business is conducted at only one physical location. "Multi-establishment Employer" shall include an employer whose business is conducted at more than one location.

ITEM 8 - If "Multi-establishment" was entered in item 7, enter the number of establishments within the State of New Jersey.

ITEM 9 - Enter the total number of employees at the establishment being awarded the contract.

ITEM 10 - Enter the name of the Public Agency awarding the contract. Include City, County, State and Zip Code.

ITEM 11 - Enter the appropriate figures on all lines and in all columns. THIS SHALL ONLY INCLUDE EMPLOYMENT DATA FROM THE FACILITY THAT IS BEING AWARDED THE CONTRACT. DO NOT list the same employee in more than one job category. DO NOT attach an EEO-1 Report.

Racial/Ethnic Groups will be defined:

Black: Not of Hispanic origin. Persons having origin in any of the Black racial groups of Africa.

Hispanic: Persons of Mexican, Puerto Rican, Cuban, or Central or South American or other Spanish culture or origin, regardless of race.

American Indian or Alaskan Native: Persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

Asian or Pacific Islander: Persons having origin in any of the original peoples of the Far East, Southeast Asia, the Indian Sub-continent or the Pacific Islands. This area

includes for example, China, Japan, Korea, the Philippine Islands and Samoa.

Non-Minority: Any Persons not identified in any of the aforementioned Racial/Ethnic Groups.

ITEM 12 - Check the appropriate box. If the race or ethnic group information was not obtained by 1 or 2, specify by what other means this was done in 3.

ITEM 13 - Enter the dates of the payroll period used to prepare the employment data presented in Item 12.

ITEM 14 - If this is the first time an Employee Information Report has been submitted for this company, check block "Yes".

ITEM 15 - If the answer to Item 15 is "No", enter the date when the last Employee Information Report was submitted by this company.

ITEM 16 - Print or type the name of the person completing the form. Include the signature, title and date.

ITEM 17 - Enter the physical location where the form is being completed. Include City, State, Zip Code and Phone Number.

TYPE OR PRINT IN SHARP BALL POINT PEN

THE VENDOR IS TO COMPLETE THE EMPLOYEE INFORMATION REPORT FORM (AA302) AND RETAIN COPY FOR THE VENDOR'S OWN FILES. THE VENDOR SHOULD ALSO SUBMIT A COPY TO THE PUBLIC AGENCY AWARDED THE CONTRACT IF THIS IS YOUR FIRST REPORT; AND FORWARD ONE COPY **WITH A CHECK IN THE AMOUNT OF \$150.00 PAYABLE TO THE TREASURER, STATE OF NEW JERSEY (FEE IS NON-REFUNDABLE) TO:**

**NJ Department of the Treasury
Division of Contract Compliance & Equal Employment Opportunity
P.O. Box 209
Trenton, New Jersey 08625-0209 Telephone No. 1-609-292-5475**

To download the AA-302 form, click this link:

http://www.state.nj.us/treasury/contract_compliance/pdf/aa302.pdf

STATE OF NEW JERSEY
Division of Purchase & Property
Contract Compliance Audit Unit
EEO Monitoring Program
EMPLOYEE INFORMATION REPORT

IMPORTANT-READ INSTRUCTIONS CAREFULLY BEFORE COMPLETING FORM. FAILURE TO PROPERLY COMPLETE THE ENTIRE FORM AND TO SUBMIT THE REQUIRED \$150.00 FEE MAY DELAY ISSUANCE OF YOUR CERTIFICATE. DO NOT SUBMIT EEO-1 REPORT FOR SECTION B, ITEM 11. For instructions on completing the form, go to: http://www.state.nj.us/treasury/contract_compliance/pdf/aa302ins.pdf

SECTION A - COMPANY IDENTIFICATION

1. FID. NO. OR SOCIAL SECURITY	2. TYPE OF BUSINESS <input type="checkbox"/> 1. MFG <input type="checkbox"/> 2. SERVICE <input type="checkbox"/> 3. WHOLESALE <input type="checkbox"/> 4. RETAIL <input type="checkbox"/> 5. OTHER	3. TOTAL NO. EMPLOYEES IN THE ENTIRE COMPANY
4. COMPANY NAME		
3. STREET	CITY	COUNTY STATE ZIP CODE
6. NAME OF PARENT OR AFFILIATED COMPANY (IF NONE, SO INDICATE)		CITY STATE ZIP CODE
7. CHECK ONE: IS THE COMPANY: <input type="checkbox"/> SINGLE-ESTABLISHMENT EMPLOYER <input type="checkbox"/> MULTI-ESTABLISHMENT EMPLOYER		
8. IF MULTI-ESTABLISHMENT EMPLOYER, STATE THE NUMBER OF ESTABLISHMENTS IN NJ _____		
10. PUBLIC AGENCY AWARDED CONTRACT _____		
	CITY	COUNTY STATE ZIP CODE

Official Use Only	DATE RECEIVED	INAG. DATE	ASSIGNED CONTRACT NUMBER

SECTION B - EMPLOYMENT DATA

11. Report all permanent, temporary and part-time employees ON YOUR OWN PAYROLL. Enter the appropriate figures on all lines and in all columns. Where there are no employees in a particular category, enter a zero. Include ALL employees, not just those in minority/non-minority categories, in columns 1, 2, & 3. DO NOT SUBMIT AN EEO-1 REPORT.

JOB CATEGORIES	ALL EMPLOYEES			PERMANENT MINORITY/NON-MINORITY EMPLOYEE BREAKDOWN										
	COL. 1	COL. 2	COL. 3	MALE					FEMALE					
	TOTAL (Cols. 2 & 3)	MALE	FEMALE	BLACK	HISPANIC	AMER. INDIAN	ASIAN	NON MIN.	BLACK	HISPANIC	AMER. INDIAN	ASIAN	NON MIN.	
Officials/Managers														
Professionals														
Technicians														
Sales Workers														
Office & Clerical														
Craftworkers (Skilled)														
Operators (Semi-skilled)														
Laborers (Unskilled)														
Service Workers														
TOTAL														
Total employment from previous Report (if any)														
Temporary & Part-Time Employees	The data below shall NOT be included in the figures for the appropriate categories above.													

12. HOW WAS INFORMATION AS TO RACE OR ETHNIC GROUP IN SECTION B OBTAINED? <input type="checkbox"/> 1. Visual Survey <input type="checkbox"/> 2. Employment Record <input type="checkbox"/> 3. Other (Specify)	14. IS THIS THE FIRST Employee Information Report Submitted? 1. YES <input type="checkbox"/> 2. NO <input type="checkbox"/>	15. IF NO, DATE LAST REPORT SUBMITTED MO. DAY YEAR
13. DATES OF PAYROLL PERIOD USED From: _____ To: _____		

SECTION C - SIGNATURE AND IDENTIFICATION

16. NAME OF PERSON COMPLETING FORM (Print or Type)	SIGNATURE	TITLE	DATE MO DAY YEAR
17. ADDRESS NO. & STREET	CITY	COUNTY STATE ZIP CODE	PHONE (AREA CODE, NO. EXTENSION)

I certify that the above information is correct to the best of my knowledge.

Name of Company/Firm _____

Address _____

City, State, Zip _____

Name of Authorized Agent _____ Title _____

SIGNATURE _____ Date _____

Sample Certificate of Employee Information Report

Certification 111XX

CERTIFICATE OF EMPLOYEE INFORMATION REPORT

INITIAL

This is to certify that the contractor listed below has submitted an Employee Information Report pursuant to N.J.A.C. 17:27-1.1 et. seq. and the State Treasurer has approved said report. This approval will remain in effect for the period of 15-DEC-20XX to 15-DEC-20XX

**SAMPLE COMPANY, INC.
33 WEST STATE STREET
TRENTON, NJ 08625**

VOID



State Treasurer

(REVISED 4/10)

RETURN WITH BID

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)

N.J.A.C. 17:27

GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability,

nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at www.state.nj.us/treasury/contract_compliance)

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

Signature _____

Name _____

Title _____

Company name: _____

Date _____

EXHIBIT B Return with bid if bidding on installation services
MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L.1975, c.127)
N.J.A.C. 17:27-1.1 et seq.
CONSTRUCTION CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Dept. of LWD, Construction EEO Monitoring Program, may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B, and C, as long as the Dept. of LWD, Construction EEO Monitoring Program is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Dept. of LWD, Construction EEO Monitoring Program, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

(A) **EXHIBIT B** (Continued)

- (B) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.
- (C) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:
- (1) To notify the public agency compliance officer, the Dept. of LWD, Construction EEO Monitoring Program, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;
 - (2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;
 - (3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;
 - (4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;
 - (5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and nondiscrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;
 - (6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:
 - (i) The contractor or subcontractor shall interview the referred minority or women worker.
 - (ii) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction

EXHIBIT B (Continued)

trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Dept. of LWD, Construction EEO Monitoring Program. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below. (iii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in above, whenever vacancies occur. At the request of the Dept. of LWD, Construction EEO Monitoring Program, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.

(iv) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Dept. of LWD, Construction EEO Monitoring Program.

(7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Dept. of LWD, Construction EEO Monitoring Program and submitted promptly to the Dept. of LWD, Construction EEO Monitoring Program upon request.

- (D) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Dept. of LWD, Construction EEO Monitoring Program an initial project workforce report (Form AA-201) electronically provided to the public agency by the Dept. of LWD, Construction EEO Monitoring Program, through its website, for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7. The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Dept. of LWD, Construction EEO Monitoring Program, and to the public agency

EXHIBIT B (Continued)

compliance officer. The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on-the-job and/or off-the job programs for outreach and training of minorities and women.

(E) The contractor and its subcontractors shall furnish such reports or other documents to the Dept. of LWD, Construction EEO Monitoring Program as may be requested by the Dept. of LWD, Construction EEO Monitoring Program from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Dept. of LWD, Construction EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq. (Revised: January, 2016)

Company _____
Signature _____
Name _____
Title _____
Date _____

RETURN WITH BID
Educational Services Commission of New Jersey
Business Office
 1660 Stelton Road
 Piscataway, New Jersey 08854

Chapter 271
Political Contribution Disclosure Form
(Contracts that Exceed \$17,500.00)
Ref. N.J.S.A. 52:34-25

The undersigned, being authorized and knowledgeable of the circumstances, does hereby certify that _____ (Business Entity) has made the following **reportable** political contributions to any elected official, political candidate or any political committee as defined in N.J.S.A. 19:44-20.26 during the twelve (12) months preceding this award of contract:

Reportable Contributions

<u>Date of Contribution</u>	<u>Amount of Contribution</u>	<u>Name of Recipient Elected Official/ Committee/Candidate</u>	<u>Name of Contributor</u>

The Business Entity may attach additional pages if needed.

No Reportable Contributions (Please check (✓) if applicable.)

I certify that _____ (Business Entity) made no reportable contributions to any elected official, political candidate or any political committee as defined in N.J.S.A. 19:44-20.26.

Certification

I certify, that the information provided above is in full compliance with Public law 2005 – Chapter 271.

Name of Authorized Agent _____

Signature _____ Title _____

Business Entity _____

C. 271 POLITICAL CONTRIBUTION DISCLOSURE FORM

Contractor Instructions

Business entities (contractors) receiving contracts from a public agency that are NOT awarded pursuant to a “fair and open” process (defined at N.J.S.A. 19:44A-20.7) are subject to the provisions of P.L. 2005, c. 271, s. 2 (N.J.S.A. 19:44A-20.26). This law provides that 10 days prior to the award of such a contract, the contractor shall disclose contributions to:

- any State, county, or municipal committee of a political party
- any legislative leadership committee^{*1}
- any continuing political committee (a.k.a., political action committee)
- any candidate committee of a candidate for, or holder of, an elective office:
 - of the public entity awarding the contract
 - of that county in which that public entity is located
 - of another public entity within that county
 - or of a legislative district in which that public entity is located or, when the public entity is a county, of any legislative district which includes all or part of the county

The disclosure must list reportable contributions to any of the committees that exceed \$300 per election cycle that were made during the 12 months prior to award of the contract. See N.J.S.A. 19:44A-8 and 19:44A-16 for more details on reportable contributions.

N.J.S.A. 19:44A-20.26 itemizes the parties from whom contributions must be disclosed when a business entity is not a natural person. This includes the following:

- individuals with an “interest” ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit
- all principals, partners, officers, or directors of the business entity or their spouses
- any subsidiaries directly or indirectly controlled by the business entity
- IRS Code Section 527 New Jersey based organizations, directly or indirectly controlled by the business entity and filing as continuing political committees, (PACs)

When the business entity is a natural person, “a contribution by that person’s spouse or child, residing therewith, shall be deemed to be a contribution by the business entity.” [N.J.S.A. 19:44A-20.26(b)]. The contributor must be listed on the disclosure.

Any business entity that fails to comply with the disclosure provisions shall be subject to a fine imposed by ELEC in an amount to be determined by the Commission which may be based upon the amount that the business entity failed to report.

The enclosed list of agencies is provided to assist the contractor in identifying those public agencies whose elected official and/or candidate campaign committees are affected by the disclosure requirement. It is the contractor’s responsibility to identify the specific committees to which contributions may have been made and need to be disclosed. The disclosed information may exceed the minimum requirement.

¹ N.J.S.A. 19:44A-3(s): “The term “legislative leadership committee” means a committee established, authorized to be established, or designated by the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly or the Minority Leader of the General Assembly pursuant to section 16 of P.L. 1993, c. 65 (C. 19:44A-10.1) for the purpose of receiving contributions and making expenditures.”

The enclosed form, a content-consistent facsimile, or an electronic data file containing the required details (along with a signed over sheet) may be used as the contractor's submission and is disclosable to the public under the Open Public Records Act.

The contractor must also complete the attached Stockholder Disclosure Certification. This will assist the agency in meeting its obligations under the law. **NOTE: This section does not apply to Board of Education contracts.**

P.L. 2005, c. 271

(Unofficial version, Assembly Committee Substitute to A-3013, First Reprint*)

AN ACT authorizing units of local government to impose limits on political contributions by contractors and supplementing Title 40A of the New Jersey Statutes and Title 19 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

40A:11-51 1. a. A county, municipality, independent authority, board of education, or fire district is hereby authorized to establish by ordinance, resolution or regulation, as may be appropriate, measures limiting the awarding of public contracts there from to business entities that have made a contribution pursuant to P.L. 1973, c. 83 (C. 19:44A-1 et seq.) and limiting the contributions that the holders of a contract can make during the term of a contract, notwithstanding the provisions and parameters of sections 1 through 12 of P.L. 2004, c. 19 (C. 19:44A-20.2 et al.) and section 22 of P.L. 1973, c. 83 (C. 19:44A-22).

b. The provisions of P.L. 2004, c. 19 shall not be construed to supersede or preempt any ordinance, resolution or regulation of a unit of local government that limits political contributions by business entities performing or seeking to perform government contracts. Any ordinance, resolution or regulation in effect on the effective date of P.L. 2004, c. 19 shall remain in effect and those adopted after that effective date shall be valid and enforceable.

c. An ordinance, resolution or regulation adopted or promulgated as provided in this section shall be filed with the Secretary of State.

52:34-25 2. a. Not later than 10 days prior to entering into any contract having an anticipated value in excess of \$17,500, except for a contract that is required by law to be publicly advertised for bids, a State agency, county, municipality, independent authority, board of education, or fire district shall require any business entity bidding thereon or negotiating therefore, to submit along with its bid or price quote, a list of political contributions as set forth in this subsection that are reportable by the recipient pursuant to the provisions of P.L. 1973, c. 83 (C.19:44A-1 et seq.) and that were made by the business entity during the preceding 12 month period, along with the date and amount of each contribution and the name of the recipient of each contribution. A business entity contracting with a State agency shall disclose contributions to any State, county, or municipal committee of a political party, legislative leadership committee, candidate committee of a candidate for, or holder of, a State elective office, or any continuing political committee. A business entity contracting with a county, municipality, independent authority, other than an independent authority that is a State agency, board of education, or fire district shall disclose contributions to: any State, county, or municipal committee of a political party; any legislative leadership committee; or any candidate committee of a candidate for, or holder of, and elective office of that public entity, of that county in which that public entity is located, of another public entity within that county, or of a legislative district in which that public entity is located or, when the public entity is a county, of any legislative district which includes all or part of the county, or any continuing political committee.

The provisions of this section shall not apply to a contract when a public emergency requires the immediate delivery of goods or services.

b. When a business entity is a natural person, a contribution by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by

any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by: all principals, partners, officers, or directors of the business entity or their spouses; any subsidiaries directly or indirectly controlled by the business entity; or any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee, shall be deemed to be a contribution by the business entity.

c. As used in this section:

"business entity" means a natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or of any other state or foreign jurisdiction;

"interest" means the ownership or control of more than 10% of the profits or assets of a business entity of 10% of the stock in the case of a business entity that is a corporation for profit, as appropriate; and

P.L. 2005, c. 271

"State agency" means any of the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch, and any independent State authority, commission, instrumentality or agency.

d. Any business entity that fails to comply with the provisions of this section shall be subject to a fine imposed by the New Jersey Election Law Enforcement Commission in an amount to be determined by the commission which may be based upon the amount that the business entity failed to report.

19:44A-20.13 3. a. Any business entity making a contribution of money or any other thing of value, including an in-kind contribution, or pledge to make a contribution of any kind to a candidate for or the holder of any public office having ultimate responsibility for the awarding of public contracts, or to a political party committee, legislative leadership committee, political committee or continuing political committee, which has received in any calendar year \$50,000 or more in the aggregate through agreements or contracts with a public entity, shall file an annual disclosure statement with the New Jersey Election Law Enforcement Commission, established pursuant to section 5 of P.L. 1973, c. 83 (C. 19:44A-5), setting forth all such contributions made by the business entity during the 12 months prior to the reporting deadline.

b. The commission shall prescribe forms and procedures for the reporting required in subsection a. of this section which shall include, but not be limited to:

(1) the name and mailing address of the business entity making the contribution, and the amount contributed during the 12 months prior to the reporting deadline;

(2) the name of the candidate for or the holder of any public office having ultimate responsibility for the awarding of public contracts, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee receiving the contribution; and

(3) the amount of money the business entity received from the public entity through contract or agreement, the dates, and information identifying each contract or agreement and describing the goods, services or equipment provided or property sold.

c. The commission shall maintain a list of such reports for public inspection both at its office and through its Internet site.

d. When a business entity is a natural person, a contribution by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity.

When a business entity is other than a natural person, a contribution by: all principals, partners, officers, or directors of the business entity, or their spouses; any subsidiaries directly or indirectly controlled by the business entity; or any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee, shall be deemed to be a contribution by the business entity.

As used in this section:

"Business entity" means a natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or of any other state or foreign jurisdiction; and

"Interest" means the ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit, as appropriate.

e. Any business entity that fails to comply with the provisions of this section shall be subject to a fine imposed by the New Jersey Election Law Enforcement Commission in an amount to be determined by the commission which may be based upon the amount that the business entity failed to report.

4. This act shall take effect immediately.

*Note: Bold italicized statutory references of new sections are anticipated and not final as of the time this document was prepared. Statutory compilations of N.J.S.A. 18A:18A-51 is anticipated to show a reference to N.J.S.A. 40:11-51 and to N.J.S.A. 52:34-25.

To be completed and signed below. Return with bid.

STATEMENT OF OWNERSHIP DISCLOSURE

N.J.S.A. 52:25-24.2 (P.L. 1977, c.33, as amended by P.L. 2016, c.43)

This statement shall be completed, certified to, and included with all bid and proposal submissions. Failure to submit the required information is cause for automatic rejection of the bid or proposal.

Name of Organization: _____

Organization Address: _____

City, State, ZIP: _____

Part I Check the box that represents the type of business organization:

- Sole Proprietorship (skip Parts II and III, execute certification in Part IV)
- Non-Profit Corporation (skip Parts II and III, execute certification in Part IV)
- For-Profit Corporation (any type) Limited Liability Company (LLC)
- Partnership Limited Partnership Limited Liability Partnership (LLP)

Other (be specific): _____ **Part II Check**

the appropriate box

The list below contains the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be. **(COMPLETE THE LIST BELOW IN THIS SECTION)**

OR

No one stockholder in the corporation owns 10 percent or more of its stock, of any class, or no individual partner in the partnership owns a 10 percent or greater interest therein, or no member in the limited liability company owns a 10 percent or greater interest therein, as the case may be. **(SKIP TO PART IV)**

(Please attach additional sheets if more space is needed):

Name of Individual or Business Entity	Home Address (for Individuals) or Business Address

Part III DISCLOSURE OF 10% OR GREATER OWNERSHIP IN THE STOCKHOLDERS, PARTNERS OR LLC MEMBERS LISTED IN PART II

If a bidder has a direct or indirect parent entity which is publicly traded, and any person holds a 10 percent or greater beneficial interest in the publicly traded parent entity as of the last annual federal Security and Exchange Commission (SEC) or foreign equivalent filing, ownership disclosure can be met by providing links to the website(s) containing the last annual filing(s) with the federal Securities and Exchange Commission (or foreign equivalent) that contain the name and address of each person holding a 10% or greater beneficial interest in the publicly traded parent entity, along with the relevant page numbers of the filing(s) that contain the information on each such person. **Attach additional sheets if more space is needed.**

Website (URL) containing the last annual SEC (or foreign equivalent) filing	Page #'s

Please list the names and addresses of each stockholder, partner or member owning a 10 percent or greater interest in any corresponding corporation, partnership and/or limited liability company (LLC) listed in Part II **other than for any publicly traded parent entities referenced above.** The disclosure shall be continued until names and addresses of every non-corporate stockholder, and individual partner, and member exceeding the 10 percent ownership criteria established pursuant to N.J.S.A. 52:25-24.2 has been listed. **Attach additional sheets if more space is needed.**

Stockholder/Partner/Member and Corresponding Entity Listed in Part II	Home Address (for Individuals) or Business Address

Part IV Certification

I, being duly sworn upon my oath, hereby represent that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge: that I am authorized to execute this certification on behalf of the bidder/proposer; that the *ESCNJ* is relying on the information contained herein and that I am under a continuing obligation from the date of this certification through the completion of any contracts with the *ESCNJ* to notify the *ESCNJ* in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I am subject to criminal prosecution under the law and that it will constitute a material breach of my agreement(s) with the, permitting the *ESCNJ* to declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print):		Title:	
Signature:		Date:	

This statement shall be completed, certified to, and included with all bid and proposal submissions. Failure to submit the required information is cause for automatic rejection of the bid or proposal.

To be completed and signed below. Return with bid.

Statement of Suspension or Debarment

STATE OF NEW JERSEY/ _____
Specify, of other

COUNTY OF _____

I, _____ of the (City, Town, Borough)
of _____ State of _____ of full age,

being duly sworn according to law on my oath depose and say that:

I am _____ of the firm
of _____ the Bidder

making the Proposal for the above named projects, and that I executed the said Proposal with full authority to do so; that said Bidder is not at the time of the making this bid included on the New Jersey State Treasurer's or the Federal Government's List of Debarred, Suspended or Disqualified Bidders as a result of action taken by any State or Federal Agency.

Name of Contractor: _____

(Company Name)

By: _____

(Signature of authorized representative)

Subscribed and sworn to before me

This _____ day of _____, 20 ____.

(Seal) Notary Public of New Jersey/
Specify Other State

My Commission expires _____ 20 ____.

To be completed and signed below. Return with bid.

**STATE OF NEW JERSEY – DIVISION OF PURCHASE AND PROPERTY
DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN**

Quote Number: _____

Bidder/Offeror: _____

PART 1: CERTIFICATION

BIDDERS MUST COMPLETE PART 1 BY CHECKING EITHER BOX.

FAILURE TO CHECK ONE OF THE BOXES WILL RENDER THE PROPOSAL NON-RESPONSIVE.

Pursuant to Public Law 2012, c. 25, any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract must complete the certification below to attest, under penalty of perjury, that neither the person or entity, nor any of its parents, subsidiaries, or affiliates, is identified on the Department of Treasury's Chapter 25 list as a person or entity engaging in investment activities in Iran. The Chapter 25 list is found on the Division's website at http://www.state.nj.us/treasury/purchase/01/Chapter25_list.pdf. Bidders must review this list prior to completing the below certification. Failure to complete the certification will render a bidder's proposal non-responsive. If the Director finds a person or entity to be in violation of law, s/he shall take action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

PLEASE CHECK THE APPROPRIATE BOX:

I certify, pursuant to Public Law 2012, c. 25, that neither the bidder listed above nor any of the bidder's parents, subsidiaries, or affiliates is listed on the N.J. Department of the Treasury's list of entities determined to be engaged in prohibited activities in Iran pursuant to P.L. 2012, c. 25 ("Chapter 25 List"). I further certify that I am the person listed above, or I am an officer or representative of the entity listed above and am authorized to make this certification on its behalf. I will skip Part 2 and sign and complete the Certification below.

OR

I am unable to certify as above because the bidder and/or one or more of its parents, subsidiaries, or affiliates is listed on the Department's Chapter 25 list. I will provide a detailed, accurate and precise description of the activities in Part 2 below and sign and complete the Certification below. Failure to provide such will result in the proposal being rendered as non-responsive and appropriate penalties, fines and/or sanctions will be assessed as provided by law.

PART 2: PLEASE PROVIDE FURTHER INFORMATION RELATED TO INVESTMENT ACTIVITIES IN IRAN

You must provide a detailed, accurate and precise description of the activities of the bidding person/entity, or one of its parents, subsidiaries or affiliates, engaging in the investment activities in Iran outlined above by completing the boxes below.

EACH BOX WILL PROMPT YOU TO PROVIDE INFORMATION RELATIVE TO THE ABOVE QUESTIONS. PLEASE PROVIDE THOROUGH ANSWERS TO EACH QUESTION. IF YOU NEED TO MAKE ADDITIONAL ENTRIES, CLICK THE "ADD AN ADDITIONAL ACTIVITIES ENTRY" BUTTON.

Name _____	Relationship to Bidder/Offeror _____	<input type="button" value="Delete"/>
Description of Activities _____	_____	
Duration of Engagement _____	Anticipated Cessation Date _____	
Bidder/Offeror Contact Name _____	Contact Phone Number _____	
_____	_____	

ADD AN ADDITIONAL ACTIVITIES ENTRY

Certification: I, being duly sworn upon my oath, hereby represent that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge that I am authorized to execute this certification on behalf of the bidder; that the State of New Jersey is relying on the information contained herein and that I am under a continuing obligation from the date of this certification through the completion of any contracts with the State to notify the State in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I am subject to criminal prosecution under the law and that it will constitute a material breach of my agreement(s) with the State, permitting the State to declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print): _____

Signature: _____

Do Not Enter PIN as a Signature

Title: _____

Date: _____

To be completed and signed below.

Return with Bid

Prevailing Wages Certification

It is the determination of the ESCNJ that this is a public works project that in total will exceed \$2,000.00 (two thousand dollars), therefore prevailing wages rules and regulations apply as promulgated by the New Jersey Prevailing Wage Act and in conformance with N.J.S.A. 34:11-56:25. With the laws as they apply to the public agency.

CERTIFICATION

1. I certify that our company understands that this project of the ESCNJ requires prevailing wages to be paid in full accordance with the law.
2. I further certify that all subcontractors named in this bid understand that this project requires the subcontractor to pay prevailing wages in full accordance with the law.

NOTIFICATION OF VIOLATIONS – New Jersey Department of Labor

Has the Bidder or any person having an “interest” with the Bidder, been notified by the New Jersey Department of Labor by notice issued pursuant to N.J.S.A. 34:11-56:37 that he/she has been in violation for failure to pay prevailing wages as required by the New Jersey Prevailing Wage Act within the last five (5) years?

*Yes _____ No _____

*If yes, please attach a signed document explaining any/or all administrative proceedings with the NJDOL within the last five (5) years.

Please include any pending administrative proceedings with the NJDOL, if any.

Name of Company _____

Authorized Agent _____

Authorized Signature _____

Contractor's Registration Evidence

Certificate Number
629534

Registration Date: 03/13/2016
Expiration Date: 03/12/2018



State of New Jersey

Department of Labor and Workforce Development
Division of Wage and Hour Compliance

Public Works Contractor Registration Act

Pursuant to N.J.S.A. 34:11-56.48, et seq. of the Public Works Contractor Registration Act, this certificate of registration is issued for purposes of bidding on any contract for public work or for engaging in the performance of any public work to:

2016
Eagle Mechanical, Inc.

Responsible Representative(s):
Henry S. Stronski Jr., CEO

Handwritten signature of Harold J. Wirths in black ink.

Harold J. Wirths, Commissioner
Department of Labor and Workforce Development

NON TRANSFERABLE

This certificate may not be transferred or assigned and may be revoked for cause by the Commissioner of Labor and Workforce Development.

To be completed and signed below. Return with bid. if bidding on installation



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PROPERTY MANAGEMENT AND CONSTRUCTION
33 W. STATE STREET
PO BOX 034
TRENTON, NEW JERSEY 08625-0034

REPLY TO:
TEL: (609) 943-3400
FAX: (609) 292-7651

TOTAL AMOUNT OF UNCOMPLETED CONTRACTS

(This form is to be used with the NOTICE OF CLASSIFICATION when submitting bids to the Department of Education.)

I Certify that the amount of uncompleted work on contracts is \$ _____.

The amount claimed includes uncompleted portions of all currently held contracts from all sources (public and private) in accordance with N.J.A.C. 17:19-2.13.

I further certify that the amount of this bid proposal, including all outstanding incomplete contracts does not exceed my prequalification dollar limit.



Respectfully submitted,

By _____
Name of Firm

Signature

Title

Business Address

Phone

Sworn to and
subscribed before me
This day of
20

Notary Public

Return if Bidding on Installation

EQUIPMENT CERTIFICATION

In accordance with N.J.S.A. 18A:18A-23, I hereby certify that _____

Name of Company

A) owns all the necessary equipment as required by the specifications and to complete the specified public work project.

or

B) _____ leases or controls all the necessary
(*Name of Company*) equipment to complete the specified public work project.

PLEASE NOTE: If your company is not the actual owner of the equipment, **you shall submit with the bid**

1. A certificate stating the source from which the equipment will be obtained and
2. Obtain and submit with the bid a certificate from the owner and person in control of the equipment, definitely granting to the bidder the control of the equipment required during such time it may be necessary for the completion of that portion of the contract for which said equipment will be necessary.

Name of Company _____

Authorized Agent _____

Authorized Signature _____

Date _____

DPMC Contractor Classification (DPMC- 27)
PO Box 042
Trenton, NJ 08625-0042



State of New Jersey
DEPARTMENT OF THE TREASURY
DIVISION OF PROPERTY MANAGEMENT AND CONSTRUCTION

REQUEST FOR CLASSIFICATION

ATTENTION CONTRACTOR

Enclosed is the Contractors Request for Classification Booklet (DPMC 27) which, when completed and submitted with the mandatory financial statement and other documentation provides the data required to post your firm on the active bid list for State projects described herein.

Please submit the completed application and all required documentation to this office. Upon review and approval of this application, your firm will be notified by mail of the effective and expiration dates, type of work, and rating assigned to your firm.

There is a non-refundable fee of \$100.00 which must be submitted with the application. All payments must be made on company checks (no-cash) made payable to "Treasurer, State of New Jersey". No application will be processed without the fee.

If you have any questions, please contact the Contractor Classification unit at (609) 943-3400 (and select #3) or access the DPMC web site at www.state.nj.us/treasury/dpmc/. NOTE: It is suggested that a photocopy of this completed form be retained for your records.

**ATTACHMENT B – NEW JERSEY ANTI-DISCRIMINATION PROVISIONS
N.J.S.A. 10:2-1 ET SEQ.**

Pursuant to N.J.S.A. 10:2-1, if awarded a contract, the contractor agrees that:

a. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;

b. No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;

c. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of \$50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and

d. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract. No provision in this section shall be construed to prevent a board of education from designating that a contract, subcontract or other means of procurement of goods, services, equipment or construction shall be awarded to a small business enterprise, minority business enterprise or a women's business enterprise pursuant to P.L.1985, c.490 (C.18A:18A-51 et seq.).

Company Title: _____

Representative: _____

Signature: _____

Date: _____



There are number of levels of authority that must take action during the entire procurement process and within each of these levels there are a number of checks and balances. Therefore, CES has made the determination, as it relates to complying with the Campaign Contribution Disclosure requirement, that even though the individuals listed below do not fall within the definition “Applicable public official” as defined in 13-1-191.1 NMSA 1978, in order to ensure that CES is in compliance with the intent of the requirements, the following have been identified as Name(s) of Applicable Public Official(s) if any that must be identified:

<u>Position</u>	<u>Representative</u>	<u>Member</u>
President, Region I	Kirk Carpenter	Aztec Municipal Schools
President Elect, Region VI	Dwain Haynes	Eunice Municipal Schools
Past President, Region VI	T.J. Parks	Hobbs Municipal Schools
Past President	None	
Region I	Daniel Benavidez	Zuni Public Schools
Region II	Dr. Lillian Torrez	Taos Municipal Schools
Region III	Andy Ortiz	Raton Public Schools
Secretary, Region IV	Teresa Salazar	Moriarty/Edgewood Schools District
Region V	Aaron McKinney	Tucumcari Public Schools
Region VI	LeAnne Gandy	Lovington Municipal Schools
Treasurer, Region VII	Brenda Vigil	Tularosa Municipal Schools
Region VIII	Loren Cushman	Animas Public Schools
New Mexico Coalition of Charter Schools	Matt Pahl	Executive Director
New Mexico Association of Community Colleges (NMACC)	Edward Desplas	Two Year Community Colleges
New Mexico Coalition of Educational Leaders (NMCEL)	Stan Rounds	Executive Director
New Mexico School Boards Association (NMSBA)	Joe Guillen	Executive Director
New Mexico Public Education Department (NMPED)	Adan Delgado	PED
Commission of Higher Ed	Penny Garcia	ENMU

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, et seq., NMSA 1978 and NMSA 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, any prospective contractor seeking to enter into a contract with any state agency or local public body must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body may cancel a solicitation or proposed award for a proposed contract pursuant to Section 13-1-181 NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section 13-1-182 NMSA 1978 of the Procurement Code if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective contractor.

THIS FORM MUST BE INCLUDED IN THE REQUEST FOR PROPOSALS AND MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

“Applicable public official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

“Campaign Contribution” means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of

individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

“Family member” means spouse, father, mother, child, father-in-law, mother-in-law, daughter- in-law or son-in-law of (a) a prospective contractor, if the prospective contractor is a natural person; or (b) an owner of a prospective contractor.

“Pendency of the procurement process” means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

“Prospective contractor” means a person or business that is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or a small purchase contract.

“Representative of a prospective contractor” means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

Name(s) of Applicable Public Official(s) if any: _____
(Completed by State Agency or Local Public Body)

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

(Attach extra pages if necessary)

Signature

Date

Title (position)

--OR--

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE to an applicable public official by me, a family member or representative.

Signature

Date

Title (Position)



Invitation for Bid AEPA IFB #020-A

Natural & Synthetic Surfaces for Sports Fields, Tracks, Courts, Playgrounds and Landscaping Applications

Part C – Member Agency (State) Terms and Conditions

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1. Member Agency (State) Terms and Conditions

A single IFB is being published and distributed on behalf of the Member Agencies in many states. Differences in contract implementation and operation will exist between the Member Agencies. Each state may have special laws relating to this procurement that must be adhered to in addition to the previously stated constraints. *When Member Agency/State Specific Terms and Conditions differ from the General Terms and Conditions, the Member Agency/State Specific Terms and Conditions will prevail.*

2. Common Terms and Conditions

Active Promotion of Contract: Agencies require that the Vendor Partner take ownership and actively promote the contract in cooperation with the AEPA Member Agency to all of the Agencies' qualified Participating Entities.

Sales to Participating Entities: AEPA Member Agencies require that all awarded Vendor Partners offer the Member Agency contract opportunity to all qualified Participating Entities of the cooperative.

Legal Obligations: All Vendor Partners shall comply with all applicable Federal, State and Local Laws, Codes and Regulations while fulfilling the contract. It is the Bidder's responsibility to be aware of and comply with all state and local laws governing this procurement. Applicable laws, codes, and regulations (etc.) must be followed even if not specifically identified herein.

Administrative Fees: AEPA Member Agencies charge Vendor Partners an administrative fee (a percentage of sales in their respective state or states that they extend the AEPA pricing to). Administrative Fees are generally paid to each Member Agency on a quarterly basis. Additional details of how these fees are charged may be found under each state's Terms and Conditions.

A summary of each State's Administrative Fee, any special terms and conditions, and special ordering process requirements is listed here for the convenience of the Bidders.

3. Member Agency General Overview Summary

AEPA Member Agency State	General			Ordering Process				Construction Products & Services								Potential Customers							
	Administrative Fee	Bid Securities Required on Bid Due Date	Special Reporting Requirements	Standard Ordering Process	Electronic Ordering	Online Marketplace	Special Ordering Process	Davis Bacon & State Wage Rates	Performance Bonds Required	Contractor's Licensing Required	Permits and/or Registration Required	Construction Project Cost Limitations	Participate in Construction Services	Participate in Construction Products Only	Products are Taxable	Service is Taxable	K-12 Education	Higher Education	Private Schools	Nnprofits	Federal Agencies	State Agencies	Cities & Counties
California	2%	N	N	Y	Y		N	N	N	N	N	Y	N	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Colorado	2%	N	N	Y	N		N	N	N	N	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	n	Y
Connecticut	2%	N	N	Y	Y	Y	N	Y	N	Y	Y	N	Y	N	N	Y	Y	Y	Y	Y	Y	N	Y
Florida	2%	N	N	Y	Y	Y	N	Y	N	Y	Y	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
Georgia	2%	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	N	N	N	N
Illinois	2%	N	Y	Y	Y	N	N	Y	Y	Y	Y	Y	N	Y	N	N	Y	Y	Y	N	N	Y	Y
Indiana	Var.	N	Y	Y	Y		N	-	-	-	-	-	-	-	-	Y	Y	Y	Y	Y	Y	Y	Y
Iowa	2%	Y	Y	Y	Y	Y	N	N	Y	N	N	Y	N	Y	N	N	Y	Y	Y	Y	Y	Y	Y
Kansas	2%	N	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y
Kentucky	2%	N	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Massachusetts	2%	N	N	Y	Y	N	N	-	-	-	-	-	-	-	-	Y	Y	Y	Y	Y	Y	Y	Y
Michigan	2%	Y	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
Minnesota	2%	N	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
Missouri	2%	N	Y	Y	Y	Y	N	Y	N	N	Y	N	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y
Montana	2%	Y	N	Y	Y		Y	Y	Y	Y	Y	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
Nebraska	2%	N	N	Y	Y	Y	N	Y	Y	Y	Y	Y	N	Y	N	Y	Y	Y	N	Y	Y	Y	Y
New Jersey	2%	N	N	Y	Y	N	N	Y	Y	Y	Y	Y	N	Y	N	Y	Y	Y	Y	N	N	Y	Y
New Mexico	2%	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
North Dakota	2%	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
Ohio	2%	Y	Y	Y	Y		N	Y	Y	Y	Y	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
Oregon	2%	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
Pennsylvania	2%	N	Y	Y	Y		Y	Y	Y	Y	Y	N	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y
Texas	2%, 1% JOC	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
Virginia	2%	N	N	Y	Y		Y	N	N	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
Washington	2%	N	Y	Y	Y		Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y
West Virginia	2%	Y	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Wisconsin	2%	N	N	Y	Y		N	Y	Y	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Wyoming	2%	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y

4. State Specific Terms and Conditions

1. California, Monterey County Office of Education dba CalSave

1) Governing Law and Venue

The laws of the State of California govern the Contract and prevail in the interpretation and administration of the Contract. California-specific Terms and Conditions prevail over any General Terms and Conditions. Each and every provision of law and clause required by law to be included in the Contract shall be deemed to be inserted herein, and the Contract shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction.

The venue for any litigation arising out of or related to the Contract shall be with either the Superior Court in and for the County of Monterey, State of California or the Federal District Court for the Northern District of California, San Jose Division.

2) Authority

For California, this bid is issued under the authority of the elected Monterey County Superintendent of Schools, who administers the Monterey County Office of Education (MCOE), located at 901 Blanco Circle, Salinas California, 93912. In this document, MCOE may be referred to as Agency, being distinct from other parties who may use this contract who are hereinafter referred to as Local Education Agencies (LEAs), regardless of their hierarchy or their political and organizational status as schools or municipalities.

3) CalSAVE, Administration, and Agent

Contracts awarded and Awarded Contractors/Vendors will automatically be part of the CalSAVE program, and by bidding a vendor must agree to participate. CalSAVE is the cooperative purchasing program founded by the Monterey County Office of Education and administered by the Epylon Corporation under a contract with MCOE, in cooperation with the California County Superintendents Educational Services Association (CCSESA). MCOE is the lead agency for all Contracts, and the Monterey County Superintendent of Schools is the authority for the solicitation, evaluation and award of all contracts. Epylon serves as MCOE's agent, but only the Monterey County Superintendent of Schools has the authority to award contracts. Correspondence and communication related to the contract award or administration of the program should be directed to Epylon, 630 San Ramon Valley Blvd., Suite 210, Danville, CA 94526.

MCOE reserves the right to change agents or to change the contact name of existing Agent's personnel administering the contract. If Agent or Agent's personnel change, Awarded Contractors/Vendors will be notified with new instructions.

4) Transaction Fees

Transaction Fees are the funding source for the operation of the self-supporting CalSAVE cooperative purchasing program. Awarded Contractors/Vendors shall be required to pay a Transaction Fee for all purchases by LEAs made through the awarded Contract. For the purpose of this bid through Monterey County Office of Education and all Contracts awarded using this document, the Transaction Fee shall be 2 percent of Net Sales, which means gross sales less returns and cancelled orders within 30 days, shipping and sales and other taxes (excluding taxes based on net income). Transaction Fees will not be charged to or paid by the buyers themselves. Neither Awarded Contractor/Vendor nor its designated authorized reseller(s) shall include any additional amount corresponding to the Transaction Fees in the awarded Contract prices. This Transaction Fee applies to all orders, regardless of the method used to submit the order, or the quantity or dollar amount of the order.

Epylon will collect the full Transaction Fee on behalf of the CalSAVE program, unless otherwise advised by Epylon. The Contractor/Vendor will make all participation fee payments within two weeks after sending the quarterly report. Checks are to be made payable to the Epylon Corporation and sent to 630 San Ramon Valley Blvd., Suite 210, Danville, CA 94526.

5) Non-Conforming Jurisdictions

Notwithstanding Section A.4 (immediately above) no Transaction Fee is authorized to be charged to Awarded Contractors/Vendors for sales within any jurisdiction where prohibited by law or local- government policy. Instead, the cost of products, services, licenses and goods sold under this contract in such jurisdictions shall be the same as for all school districts in all other counties of California. However, any LEA using this contract where Section 4 fees are not permitted shall be required to pay a 2 percent fee for use of the contract, imposed by MCOE on the authority of Public Contract Code Section 20118 and 20652, which allows MCOE to charge reasonable costs to the public corporation or agency for furnishing the services incidental to the purchase of items under contract.

6) Reports

The Contractor/Vendor will compile a quarterly report listing each purchase made by participating Agencies under this contract, and send them by the 15th of April, July, October, and January to Racquel Landolf with the e-mail address of

rlandolf@epylon.com. These reports shall be in Microsoft Excel format and shall have file names that identify the contractor/vendor and the month being reported. The file at a minimum shall include the fields listed below and shall allow for sorting on any of these fields:

- Date of Order
- Name of Participating Agency (LEA)
- Description of Item Purchased
- Manufacturer's SKU Number
- Quantity
- Contract Unit Price
- Extended Price
- List Price Before AEPA Discount

7) Length of Term

The term of the agreement shall commence on the date of the award and continue as stipulated in General Terms and Conditions, unless terminated, canceled or extended. Contract may be terminated by MCOE if LEAs have not used the contract in any 12-month period, or if orders from participating LEAs do not total \$10,000 in any 12-month period. California statutory term limits and extensions shall apply.

8) Marketing and Advertising under this Agreement

Vendor will actively promote the use of this contract by LEAs in California. Vendor must comply with the marketing plan offered as part of its bid submission. Unless other arrangements are made with the CalSAVE administrator, vendor is also required to perform the following:

- a. Vendor will include the approved CalSAVE logo, web address, and toll free number in all print electronic mail and other advertising and promotion intended for release to California K-12 schools, excluding national marketing releases.
- b. The CalSAVE logo and associated CalSAVE information shall be of a clearly readable size and in appropriate proportion to other elements in the printed material.
- c. Vendor agrees to provide CalSAVE with a copy or proof sheet of the advertisement or promotion material. Vendor will provide CalSAVE with date of release and name of publication, journal, etc.
- d. Vendor shall place a supplied CalSAVE vendor sign on booths, tables, etc. of any or all exhibits for which the vendor displays/participates at California tradeshows, conventions and the like. Vendor will supply in advance scheduled exhibit dates. Vendor agrees to make available at the exhibit CalSAVE supplied brochures or other promotion materials.
- e. Vendor agrees to insert the approved CalSAVE logo, web address, and toll free number on the vendor's web site promoting or a specific CalSAVE landing page and providing a link to the CalSAVE website.
- f. Vendor will supply product catalog information, product description, pricing, etc., in a spreadsheet format as specified by CalSAVE for inclusion on the CalSAVE website.
- g. Vendor agrees to cooperate in developing appropriate website content to promote its products, services and their advantages to school districts.
- h. Requested materials will be submitted to CalSAVE within 30 days.

A. Additional Member Agency Terms and Conditions for Non-Construction Products and Services

1) Conformance to Public Contract Code 20111

An award by the Monterey County Superintendent of Schools under this solicitation will be for the purchase of equipment, materials, supplies, services or repairs to be furnished, sold, or leased in accordance with Public Contract Code 20111 and 20650. Awards shall include allowance for installation and assembly services incidental and necessary to the use of the equipment, materials, supplies and repairs purchased or leased.

2) Conformance to Public Contract Code 20118 and 20652

All public agencies (LEAs) are authorized by law to purchase off a contract awarded by an agency that has itself gone to bid, including all K-12 schools districts, community college districts, special districts and JPAs serving education, pursuant to Public Contract Code Sections 20118 and 20652. Using these statutes, the Monterey County Office of Education hereby declares its intent and authorization to make all contracts awarded under this contract "piggybackable" by other agencies in the state. The Agency waives any right to receive payment from other California agencies making purchases off the awarded contracts and those agencies will make payment directly to the vendors. Any legislative changes to Public Contract Codes 20118 and 20652 during the term of the contract(s) with Award Vendor(s) shall apply to the contract(s) immediately when such changes become law.

3) Additional Piggyback and Standard School Supply and Equipment Authority

The Monterey County Office of Education declares that items, materials, personal property, equipment and licenses under Contract as a result of this Invitation to Bid will qualify as items to be included within its Standard School Supply and Equipment List. Because many County Offices of Education have banded together to create both the EdBuy and the CalSAVE programs for the purpose of collectively creating both a standard School Supply & Equipment List and cooperative contracts, the items solicited and awarded through this bid may also constitute a portion of an official Standard School Supply and Equipment List for other participating County Offices of Education and County Superintendents of Schools. Purchases by other County Offices of Education and LEAs may be made, not only in accordance with Public Contract Code 20118 and 20652, but also in accordance with Education Code 38110 and 38112 dealing with cooperatives and Standard School Supplies & Equipment.

B. Additional Member Agency Terms and Conditions for Construction Products and Services

1) Intended for Personal Property

An award by the Monterey County Superintendent of Schools under this solicitation will be for the purchase of equipment, materials, supplies, services or repairs to be furnished, sold, or leased in accordance with Public Contract Code 20111 and 20650. Awards shall include allowance for installation and assembly services incidental and necessary for use of the equipment, materials, supplies and repairs purchased or leased. When any services or repairs fall into a category of Public Works as defined in Public Contract Code 22002, an LEA may use this California contract only up to \$14,999 for labor and services, but for an unlimited dollar amount for any supplies, materials, equipment or personal property to be staged and ready for use in a local Public Works project.

2) Public Works Limitations

When Public Works services cost \$15,000 or more, an LEA, under most situations, must bid itself independently for the services and labor related to the public work, but may use this contract for the contracted supplies, material or equipment related to the project. If circumstances allow, LEAs may also combine this competitively bid contract with other alternative authorities for Public Works projects as may be allowed by law, such as Public Contract Code 22030, Education Code 17406 or Government Code 1466. LEAs should consult with their own legal counsel to see if such statutes apply to their Public Works projects.

C. Procedure for Processing Orders

1) Start date

Once the award is made to the Contractor/Vendor and signatures have been placed on the contract from both parties, the Awarded Contractor/Vendor is authorized to begin selling to eligible Agencies. MCOE will begin informing LEAs of the Contract once the Contract has been signed.

2) Prices and Requests for Quotes

The Awarded Contractor/Vendor, in cooperation with MCOE's agent, must make provision for LEAs to quickly ascertain bid prices by posting prices, posting a link or contact for prices, distributing catalogs and price lists, responding to requests for quotations, or participating in eCommerce.

The 2 percent Transaction Fee on all sales is a cost of doing business to the vendor and the requirement for the fee is publicly disclosed in these bid documents for the edification of all buying agencies and LEAs. Transaction fees should not appear as a line item on a quotation or on listed bid pricing. The final price quoted or displayed must be inclusive of the participation fee on all pricing and quotations.

3) Submission of Orders and Delivery

After entering into an agreement with MCOE, an LEA electing to use this Contract will enter into a separate contract with the Vendor by way of a purchase order or separate contracting document ("Separate Contract"). Purchase orders will be issued by participating LEAs to contractor/vendor.

LEAs will fax or mail purchase orders directly to the CalSAVE office fax at (866) 488-3729), unless other arrangements have been made and agreed to by the CalSAVE Administrator. LEAs may also use Epylon eCommerce software for transmission of purchase orders. Standard business practice is for all purchase orders received by 3:00 p.m. Pacific Time to be logged and forwarded to the appropriate vendor on the same day received, unless unusual circumstances occur. It is the responsibility of the awarded/Vendor contractor to track any purchase order received directly from an LEA and to include that order on quarterly reports.

Awarded Contractor/Vendor will deliver goods, services and corresponding invoices directly to the participating LEAs and receive payments directly from the participating LEAs as per bid specifications.

D. Agencies Allowed to Purchase under the Member Agency

1) Other Agencies' Right to Purchase.

CalSAVE is a self-supporting contracting program led by the Monterey County Office of Education. Contracts are made available to all California public school districts, private and non-public schools registered with a county office of education or state Department of Education, charter schools, community college districts, eligible state agencies, non-profits (particularly those such as PTAs buying on behalf of schools or government), and any other agency allowed by law – all referred to as LEAs.

Subject to the following terms and conditions, the Monterey County Office of Education (MCOE) consents to LEAs purchasing items at the same unit price(s) or pricing formula under the terms and conditions of this Contract, as may be authorized by Sections 20118 and 20652 of the Public Contract Code or other legal authority:

a) Any other agency (LEA) authorized by law to use this Contract for its own purchase(s) from the Awarded Contractor/Vendor or their authorized resellers shall by default enter into a standard agreement with MCOE, which *inter alia* will include the terms, conditions, and information set forth in this paragraph *a* and paragraphs *b* through *i* below.

After entering into a standard agreement with MCOE, an Other Agency electing to use this Contract will enter into a separate contract or purchase order ("Separate Contract") with the contractor/vendor. The Separate Contract is subject to and includes and/or incorporates all applicable terms of this Contract and the specific requirement that the Awarded Contractor/Vendor comply with the provisions set forth in the paragraph regarding payment of the 2 percent Transaction Fee (or the non-conforming jurisdiction fee) to be collected by the Epsilon Corporation. MCOE will not be a party to any Separate Contract, but will be considered a third party beneficiary of such Separate Contract.

- a) The Awarded Contractor/Vendor understands and agrees that failure or refusal to comply with the provisions set forth in this agreement regarding payment of the 2 percent Transaction Fee in conjunction with any Separate Contract or any other use of this Contract by an "Other Agency" is grounds for cancellation of the Contract. The Contractor/Vendor also understands and agrees that if the Contract is cancelled for this or any other reason, MCOE may give notice of such cancellation by any other means appropriate to inform LEAs of that cancellation.
- b) The MCOE waives any right it may have to require any LEA using this Contract to draw its warrants for the purchase(s) in its favor and consents to each agency making such payment(s) directly to the contractor/vendor.
- c) Sales tax and freight/shipping charges included in the Contract apply to the MCOE only. Additional sales tax and freight/shipping charges may be required on purchases by any LEA and are outside the scope of this Contract, unless specifically addressed elsewhere in Part A or Part B of the Terms and Conditions.
- d) This Contract and any Separate Contract are for the purchase of the items covered by Contract. An LEA may, however, exercise its authority under Education Code section 17597 or 81645 or other legal authority to sell and lease back any item owned by, or to be owned by, it pursuant to any Separate Contract. The contractor/vendor agrees to take any and all actions requested by any LEA that are necessary to effect any such transfer, by way of example only, accepting payment under the Separate Contract from any third party to whom any such transfer is made.
- e) Both the contractor/vendor and any LEA using this Contract agree that the MCOE makes no representation that use of this Contract by any Other Agency is, in fact, authorized by law. In this regard, the MCOE suggests that, at a minimum, Contractor/Vendor and any LEA considering such use consult with their own legal counsels before doing so.
- f) Both the contractor/vendor and any LEA using this Contract agree to defend, indemnify and hold the MCOE, the Monterey County Superintendent of Schools, and the Monterey County Board of Education and its members, as well as all of their respective officers, employees and agents, free and harmless from any claims, liabilities, costs, penalties, or interest arising out of any such use.
- g) MCOE reserves the right to cancel the whole or any part of this contract due to failure by the contractor to carry out any obligation, term or condition of the contract. MCOE will issue written notice to the contractor for acting or failing to act in any of the following:
 - a. The vendor fails to adequately perform the services set forth in the contract
 - b. The vendor fails to make progress in the performance of the contract and/or gives MCOE reason to believe that the contractor will not or cannot perform to the requirements of the contract
 - c. The contractor fails to observe any of the terms and conditions of the contract

d. The contract fails to pay Transaction Fees

e. The contractor fails to follow the established procedure for purchase orders, invoices and receipt of funds as stipulated by the MCOE. MCOE shall follow the following procedure if the contract is to be terminated:

- Step 1 - Issue a warning letter of concern outlining the violations and length of time to correct the problem(s).
- Step 2 - Issue a letter of intent to cancel the contract, if the problem(s) is not resolved by a given date.
- Step 3 - Issue letter to cancel the contract. Upon receipt of the written notice of concern, the contractor shall have ten (10) business days to provide a satisfactory response to MCOE.

Failure on the part of the contractor to address adequately all issues of concern may result in contract cancellation.

2) Other Agencies, Constitutionally Independent Agencies, and Out-of-State Agencies

Other agencies and out-of-state agencies and LEAs may use the contract as allowed by California Government Code Section 6502, which says, "If authorized by their legislative or other governing bodies, two or more public agencies by agreement may jointly exercise any power common to the contracting parties, even though one or more of the contracting agencies may be located outside this state. It shall not be necessary that any power common to the contracting parties be exercisable by each such contracting party with respect to the geographical area in which such power is to be jointly exercised. For purposes of this section, two or more public agencies having the power to conduct agricultural, livestock, industrial, cultural, or other fairs or exhibitions shall be deemed to have common power with respect to any such fair or exhibition conducted by any one or more of such public agencies or by an entity created pursuant to a joint powers agreement entered i

2. Colorado - Colorado BOCES Association (CBA)

A. *Additional Agency Terms and Conditions*

Advertising: CBA will require a marketing flier, in electronic format, and timely updates from each vendor promoting the contract and AEPA/CBA relationship. CBA will assist in the development of the marketing flier and other appropriate materials which will include logos representing the vendor/AEPA/CBA. This flier will be for distribution and dissemination to all qualified customers through the CBA website and other appropriate and available methods.

Sales to Qualified Customers: Boards of Cooperative Educational Services (BOCES) in Colorado are legislatively created cooperative organizations directed by Colorado state statute 22-105 to serve all qualified agencies in a cooperative manner. BOCES are governed by publicly elected officials and by state and federal laws. No agency is obligated to use these services and contracts, but they find the benefits of low price and the satisfied bidding process most advantageous. Qualified agencies in Colorado include all public or private educational institutions, K-12 and higher education, all non-profit organizations, and all county or local governmental agencies. CBA requires that all participating vendors offer the Agency contract opportunities to all qualified customers.

B. *Procedure for Processing Orders:* Once the award is made to the vendor.

- CBA will inform its members of the contract by:
 - i.* Including the contract in the agency database that is available on the CBA website
 - ii.* Announcing the award through normal communication channels, CBA member presentations as well as regular electronic and direct mail communications.
 - iii.* Offering the opportunity to the vendor to publish their marketing information on the CBA website link to cooperative purchasing opportunities.
- A listing of CBA members, institutional names, contact names, addresses and phone numbers is available to the vendors through the CBA website. At this point the vendor must contact the members and qualified customers; and the customers have the right to contact the vendors directly. Note: CBA requires the awarded vendors to take ownership and actively promote the contract in cooperation with CBA to all members and qualified customers.
- When the customer identifies a desired product or service as available through the AEPA/CBA contract and agrees on price as presented to the customer by the awarded AEPA/CBA vendor, the customer then issues to the vendor a purchase order for that item or service.
- The awarded price must include an additional two percent (2%) administrative fee in the total cost (not as a separate line item), based on the total cost of goods and services including installation. This fee is to be forwarded by the vendor to CBA after the sale and payment is made to the vendor. Payment shall be made to CBA on a quarterly basis along with the complete sale report as specified in the general terms and conditions.
- The sale and transaction may continue without delay or anticipation of the CBA denial of said transaction.
- The administrative fee percentage (2%) is based on the total sale of goods and services including installation and must be included in the original cost quoted to the customer. In the event of a lease, the total administrative fee for the value of goods and services shall be paid to CBA by the vendor at the front end of the lease.
- Vendor makes all deliveries and installation of products and services. CBA does not warehouse items nor provide services.

3. Connecticut, Capitol Region Education Council (CREC)

A. ADDITIONAL MEMBER AGENCY GENERAL TERMS AND CONDITIONS

Affirmative Action - The Contractor must have an employment policy that there shall be no discrimination against anyone on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, physical disability or sexual orientation in the hiring, upgrading, demotions, recruitment, termination and selections for training, in any manner prohibited by the laws of the United States or of the State of Connecticut. The Contractor further agrees to be an "affirmative action-equal opportunity employer."

Applicability of Contract Provisions to Connecticut Participants - The Capitol Region Education Council (CREC) is the AEPA Member Agency. Any entity that uses the contract awarded by CREC under this document is referred to as a "Participant." The bidder that is awarded the contract by CREC is referred to as the "Contractor."

Conflict of Interest

The Contractor shall disclose any relationship with a CREC employee that would not be considered an "arms-length" or independent transaction, as described below. This disclosure must be made in writing to CREC for an evaluation. CREC will respond to this disclosure in writing.

A CREC employee (including independent contractors for purposes of this definition) placing an order or recommending a vendor must disclose any relationship with that vendor which would not be considered an "arms-length" or independent transaction. This disclosure must be made in writing to CREC for an evaluation. CREC will respond to this disclosure in writing.

For a transaction to be considered "arms-length" or "independent", a CREC employee should not be influenced, dependent upon, guided or controlled by a vendor into choosing that vendor, or item to purchase; nor should it appear to a third party that a CREC employee made a purchasing decision which appears to be based upon a personal relationship between the CREC employee and vendor.

The following are examples when a transaction is NOT considered arms-length or independent: (1) when there exists a personal relationship between a CREC employee and a vendor, (2) when there exists the potential for a personal benefit to a CREC employee, or (3) the parties to a business deal are dependent upon one another for "something" other than the purchase itself.

In addition, the Contractor shall, if given a copy of the potential Participant's conflict of interest policy, follow the process in that policy, or otherwise disclose to a potential Participant any relationship that would not be considered an "arms-length" or independent transaction with that Participant, as described above. This disclosure must be made in writing to the chief official (for example, the Superintendent at a board of education) at the potential Participant.

Determination of the existence of a conflict of interest does not prohibit CREC and/or a Participant from entering into the contract and purchase order, respectively.

Financing Arrangements - Any financing arrangements (including lease purchasing arrangements) will be made directly between the Contractor and a Participant. Financing arrangements may be subject to additional laws, rules and regulations, terms and conditions not described in this document and are subject to separate negotiation with each Participant that is interested in such an arrangement. Each Participant should seek its own legal advice prior to entering into a financing arrangement. CREC must receive a report annually summarizing the executed lease purchases along with the summary of the customer purchases. CREC will not collect lease payments or be involved

in the terms and conditions of the lease. All lease arrangements are between the Contractor and the Participant only.

Freedom of Information Act - The Contractor acknowledges that CREC and some Participants are subject to the Freedom of Information Act, Connecticut General Statutes Sections 1-200 et seq., and submitted to CREC and/or such Participants may be made available to the public under the provisions of the Freedom of Information Act.

Incorporation of Bid Documents - The bid documents, including all appendices executed by Contractor that have been accepted by CREC (the "Bid") are specifically incorporated into this Contract.

Independent Contractor - The Contractor shall not be held or deemed in any way to be the agent or employee of CREC and/or a Participant. It is the intention of the parties that the Contractor shall be and is to be considered an independent contractor.

Marketing and Advertising - Contractor agrees to provide CREC with a copy or proof sheet of all advertisements, customer communications or promotional material for prior approval.

Modification to Bid Language in the AEPA Invitation for Bid - The Bidder by submitting its bid hereby declares that this Bid is made without any connection with any other person or persons making any proposal for the same items, that it is in all respects fair and without collusion or fraud and that no person acting for or employed by CREC or a Participant is directly or indirectly interested in the proposal or in the goods or services to which it relates, or in any portion of the profits therefrom.

5. ADDITIONAL MEMBER AGENCY TERMS AND CONDITIONS FOR NON-CONSTRUCTION PRODUCTS AND SERVICES

None

6. ADDITIONAL MEMBER AGENCY TERMS AND CONDITIONS FOR CONSTRUCTION PRODUCTS AND SERVICES

CT Commission on Human Rights and Opportunities

Municipal Public Works contracts funded in whole or in part by the State of Connecticut are subject to contract compliance requirements and set-aside goals as follows:

The contractor who is selected to perform this State project must comply with CONN. GEN. STAT. §§ 4a-60, 4a-60a, 4a-60g, and 46a-68b through 46a-68f, inclusive, as amended by June 2015 Special Session Public Act 15-5.

State law requires a minimum of twenty-five (25%) percent of the state-funded portion of the contract for award to subcontractors holding current certification from the Connecticut Department of Administrative Services ("DAS") under the provisions of CONN. GEN. STAT. § 4a-60g. (25% of the work with DAS certified Small and Minority owned businesses and 25% of that work with DAS certified Minority, Women and/or Disabled owned businesses.) The contractor must demonstrate good faith effort to meet the 25% set-aside goals.

For municipal public works contracts and quasi-public agency projects, the contractor must file a written or electronic non-discrimination certification with the Commission on Human Rights and Opportunities. Forms can be found at:

http://www.ct.gov/opm/cwp/view.asp?a=2982&q=390928&opmNav_GID=1806

7. PROCEDURES FOR PROCESSING ORDERS

1. Purchase orders will not be accepted or processed by CREC. All business will be contracted directly with the Participant, which will issue a purchase order and provide payment for the applicable good or service directly to the Contractor.
2. To the extent not otherwise described in this document, once a purchase order is issued by a Participant to a Contractor, all of the provisions of the contract shall benefit and be enforceable by such Participant, unless specifically identified as applying to CREC only.

8. AGENCIES ALLOWED TO PURCHASE UNDER THE MEMBER AGENCY

There are 169 school districts in Connecticut and all are eligible for membership. No district is obligated to use these services. Additional members may include other public educational institutions, public colleges or universities, community colleges, vocational or technical schools, municipal governments, and other governmental, quasi-governmental, or non-profit organizations.

Work in Other States

CREC is making the CT AEPA contract available for vendors to use in all New England states – CT, ME, NH, RI, VT – and New York, and any other state without AEPA member representation. Our contract is also available in MA for vendors who TEC has been unable to sign with.

Sales made in any of these states using the AEPA contract are to be reported to CREC, with the 2.0% administrative fee made payable to CREC. The Contractor must advise CREC its intent to use the contract in any of these states.

All Terms and Conditions for Connecticut apply to work in these states. It is the Contractor's obligation to ensure that the purchaser fully understands the AEPA contract, including whether it is allowable under applicable state regulations.

4. Florida, Panhandle Area Education Consortium Florida Buy

A. Additional Agency Terms and Conditions

Vendor Contact: Vendor will designate to the Panhandle Area Educational Consortium Florida Buy, one individual who will represent them during the agreement period. This contact person will correspond with each ordering member for technical assistance, problems, or questions that may arise, including instructions if different contacts for different geographical areas are needed. This information will be distributed to all school districts upon award of this bid. Vendors may use this contract to sell products or services in addition to school districts to any government agency, non-profit organizations or institutions.

Vendor agrees to abide by all federal, state and local laws and regulations. It is the responsibility of the Vendor to determine applicability and requirements of any such laws and to abide by them.

All terms and conditions may be modified and revised by PAEC Florida Buy with the written consent of both PAEC Florida Buy and the Awardee.

PAEC Florida Buy, at its discretion, may offer the use of the awarded agreement to governmental entities such as state agency purchasing programs, to extend the use of the contract to eligible users. This option will be referred to as an Interlocal Agreement. Under such conditions, the participating agency may, with written consent from the Awardee, modify and revise the terms and conditions of the master agreement.

Other state and public agency purchasing program agreements may require additional administrative fees, associated with sales, to be paid by the Awardee for the management of the contract. The Awardee will be notified in writing and will have the option of accepting or rejecting the Interlocal Agreement program fees.

No right or interest in the Contract shall be assigned or transferred by the Contractor without the prior written consent of the PAEC Florida Buy program. No delegation of any duty of the Contractor shall be assigned without prior written permission of PAEC Florida Buy. If the original Vendor/Contractor sells or transfers all assets or the entire portion of the assets used to perform this Contract, a successor in interest must guarantee to perform all obligations under this Contract. PAEC Florida Buy reserves the right to reject the acquiring person or entity as a Vendor/Contractor. A change of name agreement will not change the contractual obligations of the Vendor/Contractor.

The Awardee, may, upon entering into negotiations with qualified buyers, amend their prices to offer volume discounts below the lowest unit rates established in the pricing portion of this agreement.

B. Procedures For Processing Orders

Once the award is made to the Vendor, PAEC Florida Buy will inform all school districts of the contract by:

1. Including the award information on the PAEC Web site at www.floridabuy.org
2. Announcing the award in its PAEC Florida Buy website
3. Announcing the award via electronic mail to all members

Any members, contact names, addresses and phone numbers will be available at the PAEC Web site www.floridabuy.org. At this point, the Vendor may contact the members and the members may contact the Vendor. The member will identify a desired product or service available through the AEPA contract and agrees on the price and conditions as presented to the member by the awarded AEPA Vendor. The member then issues to the Vendor a purchase order for that item or service. The purchase order must include an additional (2%) administrative fee built into the total invoiced cost, based on the total costs of good, services and installation. A final copy of the customer purchase order or sales summary must be sent to PAEC Florida Buy by the Vendor after completion of the service or installation. The Vendor has (30) thirty days to forward this purchase order. This will insure compliance of the contract.

Vendor makes all deliveries and installations of products and services. PAEC Florida Buy does not warehouse items. All participating Vendors agree to and are subject to audit proceedings of the AEPA sales to members.

The Vendors price will include a (2%) administrative fee that the Vendor shall collect from the member and remit to PAEC Florida Buy on a quarterly basis. The Vendor will produce and provide to PAEC Florida Buy quarterly reports ending March 31, June 30, September 30 and December 31 throughout the contract period. The reports shall identify the Vendor and the quarter being reported, shall include a minimum of the fields listed below:

1. Date of Order
2. School district
3. List or academic price sales totals
4. PAEC Florida Buy price sales totals

5. Member savings total

Quarterly reports and administrative fee payments to PAEC Florida Buy are due the 15th of the succeeding month, and all checks are to be made payable to the Panhandle Area Educational Consortium and sent to: PAEC, 753 West Blvd, Chipley, Florida 32428 and Attention: Florida Buy. PAEC may designate another agent for collecting and administrative fee that will be negotiated with Vendor for e-commerce transactions.

C. Agency Members Purchasing Under The Member Agency

The Panhandle Area Educational Consortium is a fourteen-member consortium that includes a voluntary purchasing program developed for schools in Florida. All other school districts in Florida are participating members in the programs of the Panhandle Area Educational Consortium (PAEC), including participation in the statewide cooperative purchasing program. Agencies that use this contract will be in compliance with FS1001.42. PAEC was established to provide easily accessible information for our member and participating public school districts and the communities we serve. Since the creation of PAEC in 1967, our school districts have benefitted from shared services made available through leading edge technology. While school districts access our teaching and learning, training and technology, and business operations services in varying degrees of need, all come for the mutually beneficial purpose of reaching their goals together.

5. Georgia, Cooperative Purchasing Agency (CPA)

1. General Overview

- a. Cooperative Purchasing Agency is now the AEPA representative for the state of Georgia. In Georgia we advertise our bids on the state procurement registry website:
<http://doas.ga.gov/state-purchasing/georgia-procurement-registry-for-local-governments>
- b. In 1971 several small school systems in North Georgia decided to work together & form **Cooperative Purchasing Agency (CPA)**, a non-profit organization built by & for the school systems to combine their purchasing power. As a division of North Georgia, Northeast Georgia, & Pioneer RESA; Pioneer RESA serves as our fiscal agent and as such we currently show up on the Georgia Procurement Registry as Pioneer RESA. CPA serves as a purchasing agent for classroom & office supplies for its 35-member school systems plus neighboring ones who choose to take advantage of cooperative buying. CPA also serves as a recipient agency for USDA commodities that member systems receive through the USDA school lunch program. In addition to items included in our catalog & website, CPA has access to brands, custom items, & entire product categories that meet systems' office & classroom needs – including furniture options (indoor & outdoor), playground equipment, shelving installations, print supplies, & more.

2. Additional Participating Agency Terms and Conditions for Construction Related Products and Services

- a. Georgia requires all local school boards to post any bids requiring capital improvements / public works construction over \$100,000.00 to be posted on the Georgia procurement website, regardless of who they are purchasing through.

3. Local Government Provisions - Provisions Applicable to Counties, Municipal Corporations, And Other Governmental Entities

- a. § 36-91-20. Written contract required; advertising; competitive sealed bidding; timing of addendums; prequalification
 - i. All public works construction contracts subject to this chapter entered into by a governmental entity with private persons or entities shall be in writing and on file and available for public inspection at a place designated by such governmental entity. Municipalities and consolidated governments shall execute and enter into contracts in the manner provided in applicable local legislation or by ordinance.
 - ii. Prior to entering into a public works construction contract other than those exempted by Code Section 36-91-22, a governmental entity shall publicly advertise the contract opportunity. Such notice shall be posted conspicuously in the governing authority's office and shall be advertised in the legal organ of the county or by electronic means on an Internet website of the governmental entity or an Internet website identified by the governmental entity which may include the Georgia Procurement Registry as provided by Code Section 50-5-69.
 1. Contract opportunities that are advertised in the legal organ shall be advertised a minimum of two times, with the first advertisement occurring at least four weeks prior to the opening of the sealed bids or proposals. The second advertisement shall follow no earlier than two weeks from the first advertisement.
 2. Contract opportunities that are advertised solely on the Internet shall be posted continuously for at least four weeks prior to the opening of sealed bids or proposals. Inadvertent or unintentional loss of Internet service during the advertisement period shall not require the contract award or bid or proposal opening to be delayed.
 3. Contract opportunities that will be awarded by competitive sealed bids shall have plans and specifications available on the first day of the advertisement and shall be open to inspection by the public. The plans and specifications shall indicate if the project will be awarded by base bid or base bid plus selected alternates and:
 - a. A statement listing whether all anticipated federal, state, or local permits required for the project have been obtained or an indication of the status of the application for each such permit including when it is expected to be obtained; and

6. Indiana, Wilson Education Service Center (WESC)

A. Additional Agency Terms and Conditions

Participating entities and approved vendors must be in full compliance with statutory requirements of all applicable federal, state, and local laws, rules, regulations, and ordinances including applicable public works and prevailing wage projects. All provisions required thereby to be included herein and are hereby incorporated for reference. This contract shall be construed in accordance with and governed by the laws of the State of Indiana. Awarded pricing must be made available to all participating entities regardless of size.

B. Procedure for Processing Orders

Wilson Education Service Center will inform all public school corporations, private/parochial schools, charter schools, nonprofit entities, municipalities, other governmental entities and higher education entities of contract awards via web sites and various marketing strategies. Vendors will have the primary responsibility to market contracts to eligible buyers within Indiana. After contracts are awarded and product information is available on our e-procurement sites vendors are free to contact eligible buyers and vice versa. The Wilson Education Service Center utilizes an e-procurement facilitation system as the primary mechanism for ordering and the primary method of marketing. Vendors are required to use the IAESC Procurement System and GovPro systems upon award. A 2.25% administrative fee will be assessed on gross monthly sales for IAESC Procurement (used by schools) and a 3.25% administrative fee will be assessed on gross monthly sales on GovPro (all other entities) after a 1% price increase. Vendors shall not include shipping and handling charges, federal excise tax, or state sales tax on invoices. Taxes do not apply to purchases by the participating entities. All participating entities have a "Not for Profit Tax Exemption Certificate" which will be furnished by the buyer upon request by the vendor. Quantities shipped in excess of quantities designated in the Purchase Order, or unapproved product substitutions will be returned at the vendor's expense.

C. Members Purchasing Under the Agency

All public school corporations, private/parochial schools, charter schools, nonprofit entities, municipalities, other governmental entities and higher education entities are eligible buyers. The Wilson Education Center as established by Indiana Code 20-1-11.3- 1 with Inter-local Agreement Powers as established by Indiana Code 36-1-7-2 represents all eligible buyers in this program within Indiana.

7. Illinois, Illinois Learning Technology Purchase Program

The following State Specific Terms and Conditions shall apply to all contracts involving public schools and/or other educational entities operating in Illinois, (hereinafter "Illinois Customers") and shall prevail over any General Terms and Conditions if/when they differ.

Illinois Law to Govern.

The Agreement, as modified by these Illinois Terms & Conditions, is (and shall be) governed by, construed under, subject to compliance with, and interpreted in accordance with, the laws and regulations of the State of Illinois, expressly including, (but not limited to): the Illinois School Code, 105 ILCS 5/1-1 *et seq.*; its procurement and bidding standards and prerequisites delineated at 105 ILCS 5/10-20.21; the Illinois Public Officer Prohibited Activities Act, 50 ILCS 105/0.01 *et seq.*; the Illinois Criminal Code, 720 ILCS 5/1-1 *et seq.*; its prohibitions against interference with public contracting delineated at 720 ILCS 5/33E-1, *et seq.*; the Illinois State Officials and Employees Ethics Act, 5 ILCS 430/1 *et seq.*; the Illinois Public Officer Prohibited Activities Act, 50 ILCS 105/1 *et seq.*; the Illinois Drug-Free Workplace Act, 30 ILCS 580/1 *et seq.*; the Illinois Business Enterprises for Minorities, Females and Persons with Disabilities Act, 30 ILCS 575/0.01 *et seq.*; the Illinois Human Rights Act, 775 ILCS 5/2-105 *et seq.*; and policies of the Illinois Customer relating to the subject matter of the Agreement with Contractor.

When Contractor and/or its agents will be on an Illinois Customer's premises (whether for delivery, installation, the provision of contractual services, or otherwise), Contractor shall also comply in all respects with: all background check requirements set forth at 105 ILCS 5/10-21.9; the Illinois Smoke Free Illinois Act, 410 ILCS 82/1 *et seq.*, and the Illinois Firearm Concealed Carry Act, 430 ILCS 66/1 *et seq.*

Any contractual payment requested of an Illinois Customer shall be invoiced, processed, and remitted to a Contractor in accordance with the requirements and provisions of the Illinois Local Government Prompt Payment Act, 50 ILCS 505/1 *et seq.*

This Agreement shall be construed and incorporated in accordance with the laws of the State of Illinois, regardless of any choice of law provision that might otherwise authorize construction of its terms in accordance with the law(s) of another state, states, or federal law.

By entering into this Agreement with an Illinois Customer, the Contractor's signature on the executed contract shall serve as Contractor's certification of Contractor's compliance with the foregoing laws and all requirements thereunder.

Entire Agreement and Construction

The Agreement, as modified by these Illinois Terms & Conditions, represents the entire agreement between Contractor and the Illinois Customer, and supersedes all prior negotiations or agreements, written or oral, which are not included herein. This Agreement may only be amended by written instrument executed by the Illinois Customer and Contractor. In the event of a conflict between the Agreement, as modified by these Illinois Terms & Conditions, and a proposal from Contractor, the terms of this modified Agreement will take precedence.

Each party has reviewed and approved the Agreement, and no rule of construction that resolves ambiguities against the drafting party will be employed in the interpretation of this Agreement.

Dispute Resolution.

Any dispute arising in any manner hereunder shall be subject to resolution by litigation, unless all

involved parties consent to an alternative means of dispute resolution. Venue for any legal action brought hereunder shall be the Illinois state circuit court of the county in which the Illinois Customer's administrative office is located or (if different and only if the Illinois Customer so elects) the Illinois state circuit court of the county where the Project is performed. Any provision of the General Terms purporting to change, limit, restrict, or shorten any Illinois period of repose and/or the duration of any applicable Illinois statute of limitation shall be of no force or effect against an Illinois Customer, it being understood by the parties that the Illinois periods of repose and statutes of limitation applicable to the subject matter hereof shall govern actions relating to this Agreement. No provision from the General Conditions shall limit, restrict, or shorten the duration of any period of repose or statute of limitation applicable under Illinois law.

Termination of the Agreement.

The Illinois Customer may terminate this Agreement at any time, in whole or in part, with or without cause, upon providing written notice to Contractor. If this Agreement is terminated by the Illinois Contractor for cause, the Contractor shall be liable to the Owner for any increase in cost incurred by the Owner in replacing the goods under contract and/or completing the contractual work, and for any additional or other damages the Illinois Customer suffers. In the event this Agreement is terminated by the Illinois Customer solely for the Illinois Customer's convenience, Contractor shall be compensated for items properly provided and/or work properly rendered through the date of termination, as can be documented to the reasonable satisfaction of the Illinois Customer. The Illinois Customer shall have no liability to Contractor beyond the date of termination. In no event shall Contractor be compensated for anticipated profit or lost opportunity.

Insurance and Indemnification Provisions.

Contractor hereby agrees to indemnify and hold the Illinois Customer, its board members, officers, agents, employees, administrators, attorneys, and any other parties designated by the Illinois Customer (hereinafter collectively called the Indemnitees@) harmless from all losses, claims, liabilities, injuries, damages and expenses, including (but not limited to) all attorneys= fees and defense and court costs and expenses, that the Indemnitees may incur arising out of, or occurring in connection with, the performance, acts, omissions, negligence, willful and/or wanton behavior, and/or breaches by Contractor of its duties and obligations under or pursuant to this Agreement. This indemnification obligation shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers= or workmen=s compensation acts, disability benefit acts or other employee benefit acts.

Contractor shall procure, at no expense to the Illinois Customer, the insurance coverages set forth in the General Conditions. In each such instance, Contractor shall, by endorsement, name the Illinois Customer as an additional insured and shall provide copies of said policies and endorsements to the Illinois Customer prior to commencement under this Agreement.

Funding Contingencies for Multi-Year Projects.

All contracts with Illinois Customers that call for performance, or otherwise extend, beyond the Illinois Customers' current fiscal year, are, and shall be, expressly contingent upon annual appropriations. In the event an Illinois Customer's entry into an Agreement with Contractor constitutes a lease purchase (whether for financing purposes or otherwise), that Agreement shall be subject to the provisions of 105 ILCS 5/10-22.25a in addition to all other terms set forth in this Agreement.

Warranties and Claims.

No provision(s) set forth in the General Conditions shall serve to limit the Contractor's liability with respect to damages of any sort (whether actual, incidental, consequential, or otherwise) suffered by an Illinois Customer, nor will any disclaimer of warranties be effective against an Illinois Customer.

Attorney Fee Provisions.

No provision providing for the payment of prevailing party costs and expenses (including legal fees) resulting from litigation or other method of dispute resolution shall be applicable to Illinois Customers.

Automatic Renewals.

No provision calling for automatic renewals or "evergreen" renewals, (wherein the term of the agreement automatically renews for a period beyond the initial term unless a party provides affirmative advance notice of termination to the other party) shall be effective in an Agreement with an Illinois Customer, it being the parties' understanding, instead, that the contractual arrangements with Illinois Customers will terminate upon completion of the initial term or satisfaction of the original scope, unless the parties subsequently and affirmatively agree to supplemental renewal provisions.

Successors and Assigns; No Subcontracting.

Contractor shall not assign any rights under, or interest in, this Agreement, nor may Contractor subcontract any duties arising hereunder, without the prior written consent of the Illinois Customer. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

8. Iowa, AEA Purchasing

A. Additional Member Agency General Terms and Conditions that apply for all categories

Right to Assign

AEA Purchasing specifically reserves the right, in its sole discretion, to assign and transfer its interest in the Contract with the Vendor Partner, consistent with the terms and conditions of said Contract, to any organization, along with all corresponding duties, responsibilities, and obligations of both parties, and under the terms provided herein.

B. Additional Member Agency Terms and Conditions for Non-Construction Products and Services

None.

C. Additional Member Agency Terms and Conditions for Construction Products and Services

AEA Purchasing may participate in Construction Products and Services bids through AEPA on a limited basis due to the restrictions mandated in the Iowa Code, Chapter 26 and 573.

D. Procedure for Processing Orders

AEA Purchasing's eligible clients follow a standard or electronic ordering process. The awarded Contractor will invoice and deliver products and services directly to AEA Purchasing's eligible clients. All invoices for payment shall be sent directly to the AEA Purchasing eligible client ordering under the terms and conditions of this agreement. The AEA Purchasing eligible client will make payment directly to the awarded Contractor(s). AEA Purchasing does not process any orders.

E. Agencies Allowed to Purchase under the Member Agency

- K-12 Public & Private Schools
- Area Education Agencies
- Colleges & Universities
- Public Libraries
- City, County & State Government
- Non-Profit Education Organizations

9. Kansas, Greenbush-Southeast Kansas Education Service Center (SEKESC)

A. Additional Member Agency General Terms and Conditions that apply for all categories

Kansas Mandatory Contract Provisions

Terms Herein Controlling Provisions: It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.

Kansas Law and Venue: This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.

Termination Due To Lack Of Funding Appropriation: If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

Disclaimer Of Liability: No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

Anti-Discrimination Clause: The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.

Acceptance Of Contract: This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

Arbitration, Damages, Warranties: Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

Representative's Authority To Contract: By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

Responsibility For Taxes: The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

Insurance: The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.

Information: No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.

The Eleventh Amendment: "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

Campaign Contributions / Lobbying: Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

Assignment - SEKESC Right to Assign

In the event of a cancellation, the SEKESC specifically reserves the right, in its sole discretion, to assign and transfer its interest in any contract, consistent with the terms and conditions of any contract, to any organization, along with all corresponding duties, responsibilities for both parties and provisions contained herein.

Purchase Orders

Any purchase order issued by SEKESC, or one of its eligible entities, is cancelable under provisions of K.S.A. 10-1113. All purchase orders shall be issued by the SEKESC or its participating eligible entities desiring to acquire the products or services under the contract. Said purchase order shall include adequate reference to identify the bid to which it relates.

Marketing

- Awarded Vendor will proactively market the awarded contract to all eligible entities. The SEKESC will enhance the Awarded Vendor's marketing efforts through communication and meetings with eligible entities, participation in marketing events and tradeshow, through its website and social media resources and through day-to-day customer support activities.
- Awarded Vendor will train its professional staff and sales force in the provisions and benefits of the awarded contract. The SEKESC will enhance such effort by providing joint trainings and participating in joint sales calls as needed.
- The SEKESC and Awarded Vendor will jointly design presentations, documents, and other promotional material to assist in the promotion of the awarded contract.
- Awarded Vendor will include the SEKESC (Greenbush) logo on all sales materials targeted to eligible entities for the awarded contract. The SEKESC hereby grants to Awarded Vendor a non-exclusive, revocable, non-transferable, permission to use the SEKESC (Greenbush) name and logo during the term of this Agreement. Likewise, during the term of this agreement, the Awarded Vendor grants the SEKESC (Greenbush) permission to reproduce their name and logo in connection with marketing and promotion of the awarded contract.

B. Additional Member Agency Terms and Conditions for Non-Construction Products and Services
SEKESC has no additional terms and conditions for non-construction products and services.

C. Additional Member Agency Terms and Conditions for Construction Products and Services

K.S.A. 60-1111. Public works bond. (a) Bond by contractor. Except as provided in this section, whenever any public official, under the laws of the state, enters into contract in any sum exceeding \$100,000 with any person or persons for the purpose of making any public improvements, or constructing any public building or making repairs on the same, such officer shall take, from the party contracted with, a bond to the state of Kansas with good and sufficient sureties in a sum not less than the sum total in the contract, conditioned that such contractor or the subcontractor of such contractor shall pay all indebtedness incurred for labor furnished, materials, equipment or supplies, used or consumed in connection with or in or about the construction of such public building or in making such public improvements.

A contract which requires a contractor or subcontractor to obtain a payment bond or any other bond shall not require that such bond be obtained from a specific surety, agent, broker or producer. A public official entering into a contract which requires a contractor or subcontractor to obtain a payment bond or any other bond shall not require that such bond be obtained from a specific surety, agent, broker or producer.

(b) Filing and limitations. The bond required under subsection (a) shall be filed with the clerk of the district court of the county in which such public improvement is to be made. When such bond is filed, no lien shall attach under this article. Any liens which have been filed prior to the filing of such bond shall be discharged. Any person to whom there is due any sum for labor or material furnished, as stated in subsection (a), or such person's assigns, may bring an action on such bond for the recovery of such indebtedness but no action shall be brought on such bond after six months from the completion of such public improvements or public buildings.

(c) In any case of a contract for construction, repairs or improvements for the state or a state agency under K.S.A. 75-3739 or 75-3741, and amendments thereto, a certificate of deposit payable to the state may be accepted in accordance with and subject to K.S.A. 60-1112, and amendments thereto. When such certificate of deposit is so accepted, no lien shall attach under this article. Any liens which have been filed prior to the acceptance of such certificate of deposit shall be discharged. Any person to whom there is due any sum for labor furnished, materials, equipment or supplies used or consumed in connection with or for such contract for construction, repairs or improvements shall make a claim therefor with the director of purchases under K.S.A. 60-1112, and amendments thereto.

D. Procedure for Processing Orders

The SEKESC utilizes the following ordering/delivery procedures:

- Purchase orders will be issued by the individual eligible entity.
- Vendors must issue invoices directly to the ordering eligible entity as specified on each purchase order.
- Delivery of all items included in this solicitation will be made to the locations within each eligible entity as will be specified on the purchase order.
- Each order shall contain a packing slip of its contents to assist in prompt processing of payments to Vendor.

Additionally

- Awarded Vendor agrees to demonstrate the benefit of the pricing agreement with the SEKESC over alternative options, including competitive solicitation pricing.
- Awarded Vendor agrees to proactively offer terms and pricing under this agreement to eligible entities and a more effective alternative to the cost and time associated with alternate bids and solicitation.
- When responding to third party procurement solicitations, Awarded Vendor may:
 - Choose not to respond and make this agreement available as an alternative and comparison to the agency's solicitation responses.
 - Respond with pricing, terms, and conditions of this agreement. If awarded the contract, sales will be reported as defined in the solicitation.
 - Provide lower prices when the competitive process requires without being required to extend the lower pricing to all eligible entities. In such case, if Awarded Vendor is awarded the contract, the sales will be reported as defined in the solicitation.
 - Respond to the solicitation with higher pricing than is available through this agreement and if an alternative response is permitted, may offer the pricing under this agreement as an alternative for consideration. If Awarded Vendor is awarded the contract with alternative SEKESC pricing, the resulting sales will be reported as defined in the solicitation.
- Provide notification to the SEKESC of the response to a solicitation, including but not limited to the name of the soliciting agency, general description of scope, timeline, and resulting award or non-award. Such notification shall be submitted to Tina Smith at tina.smith@greenbush.org within 5 business days of the proposal submission and resulting award information within 5 business days of agency's notification to Awarded Vendor.

E. Agencies Allowed to Purchase under the Member Agency

Eligible Entities: Entities eligible to purchase from Southeast Kansas Education Service Center (Greenbush) cooperative purchasing contracts include but may not be limited to:

- K-12 Public Schools
- K-12 Private Schools
- Colleges & Universities
- City, County, and State Governments
- Public Libraries
- Non-profit organizations holding form #501C3

10. Kentucky, Green River Regional Educational Cooperative (GRREC)

A. Additional Member Agency General Terms and Conditions that apply for all categories

The Green River Regional Educational Cooperative, Inc. (GRREC) is one of eight educational cooperatives in Kentucky, all of which are participants in the AEPA bids. GRREC serves as contact agency for all AEPA correspondence for all eight educational cooperatives. For the Kentucky Educational Cooperatives, the collective bidding process is conducted consistent with KRS Chapter 45A, the Kentucky Model Procurement Code. Contracts with GRREC shall include the provision granting GRREC employees the right to access to the Contractor's records.

Vendor Contact: Vendor will designate to GRREC one individual who will represent them to Kentucky Bidding Cooperative members during the agreement period. This contact person will correspond with each ordering member for technical assistance, problems, or questions that may arise. Include instructions if different contacts for different geographical areas are needed; this information will be distributed to Kentucky Bidding Cooperative members upon award of this bid.

The following Federal Clauses are required as a part of KY bid documents:

1. CLEAN AIR/CLEAN WATER
 - A. Vendor Partner agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 et seq). Vendor Partner agrees to report each violation to the USDA and the appropriate EPA Regional Office.
 - B. Vendor Partner agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. Vendor Partner agrees to report each violation to the USDA and the appropriate EPA Regional Office.
2. SUSPENSION AND DEBARMENT
Vendor Partner understands that a contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." By signing and submitting its bid or proposal, the bidder or proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by GRREC. If it is later determined that Vendor Partner knowingly rendered an erroneous certification, in addition to remedies available to GRREC, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Vendor Partner agrees to comply with the requirements of 2 CFR 180.220 while the above-referenced contract is valid. Vendor Partner further agrees to include a provision requiring such compliance in its lower tier covered transactions.
3. LOBBYING
Vendor Partner will comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352) and the New Restrictions on Lobbying and has signed and attached to this Addendum the Certificate Regarding Lobbying and, if applicable, the Disclosure of Lobbying Activities (Forms SF-LLL) and annually will sign and submit a certificate, if applicable, Form SF-LLL to GRREC.
4. PROCUREMENT OF RECOVERED MATERIALS PURSUANT TO 2 C.F.R. § 200.322
Vendor Partner agrees to comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.
5. BUY AMERICAN
"Domestic Commodity or Product" are defined as an agricultural commodity that is produced in the United States and a food product that is processed in the United States using substantial agricultural commodities that are produced in the United States. "Substantial" means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically.

Products from Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowed under this provision as territories of the United States.

The Buy American provision (7 CFR Part 210.21(d)) is one of the procurement standards School Food Authorities ("SFAs") must comply with when purchasing commercial food products served in the school meals programs.

Buy American: AEPA Member Agencies or Participating Entities participating in the federal school meal programs are required to purchase domestic commodities and products for school meals to the maximum extent practicable. Domestic commodity or product means an agricultural commodity that is produced in the US and a food product that is processed in the US substantially (at least 51 percent) using agricultural commodities that are produced in the US.

Federal regulations require that all foods purchased for Child Nutrition Program be of domestic origin to the maximum extent practicable. While rare, two (2) exceptions may exist when: the product is not produced or

Manufactured in the US in sufficient, reasonable and available quantities of a satisfactory quality, such as bananas and pineapple; and competitive proposals reveal the cost of a domestic product is significantly higher than a non-domestic product.

ALL products that are normally purchased by Vendor Partner as non-domestic and proposed as part of this contract must be identified with the country of origin. Vendor Partner shall outline their procedures to notify GRREC when products are purchased as non-domestic.

Any substitution of a non-domestic product for a domestic product (which was originally a part of the solicitation), must be approved, in writing, by GRREC, prior to the delivery of the product to the AEPA Member Agency or Participating Entities. Any non-domestic product delivered to the AEPA Member Agencies or Participating Entities, without the prior, written approval of GRREC will be rejected.

Vendor Partner must affirm its willingness to assert its best and reasonable efforts to ensure compliance with this federal rule.

6. COST REIMBURSEMENT CONTRACTS

Solicitation Requirements for cost reimbursable contracts:

- A. Allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates and other applicable credits accruing to or received by the contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the school food authority;
- B. Contractor will separately identify for each cost submitted for payment to the school food authority the amount of that cost that is allowable (can be paid from the nonprofit school food service account) and the amount that is unallowable (cannot be paid from the nonprofit school food service account); or (B) Contractor will exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification;
- C. Contractor's determination of its allowable costs will be made in compliance with the applicable Departmental and Program regulations and Office of Management and Budget cost circulars;
- D. Contractor will identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the school food authority for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit;
- E. Contractor must identify the method by which it will report discounts, rebates and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract; and
- F. Contractor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the school food authority, the State agency, or the Department.

B. Additional Member Agency Terms and Conditions for Construction Products and Services

The Contractor and subcontractors shall pay all laborers, workmen and mechanics performing work under this contract not less than the rate of wages set forth in the prevailing wage schedule incorporated in the contract conditions as determined by the Kentucky Department of Labor in accordance with the provisions of KRS 337.505 through KRS 337.550.

Bidders are informed that construction contracts of the Commonwealth of Kentucky and political subdivisions are not exempt from the provisions of the Kentucky Sales and/or Use Tax. Current sales and/or Use Tax shall be provided for and included in the bid amount as no adjustments will be permitted nor made after receipt of bids.

1. It should be noted that where performance bonds are required, it should include both performance and payment bonds.
2. State Prevailing Wages shall apply for projects of \$250,000.00 or more, or Davis Bacon wages (when federal funds are utilized) if higher than State Prevailing Wages.
3. All work shall be in accordance with necessary approvals from the Kentucky Department of Housing, Buildings and Construction and the Kentucky Building Code.
4. All processes of the project comply with 702 KAR 4:160, the Capital Construction Process, including necessary approvals from the Kentucky Department of Education.
5. Performance and payment bond on AIA document 312 must be provided for all projects that exceed \$25,000. (Also provide that the Surety shall comply with state requirements.)
6. In accordance with 702 KAR 4:160, AIA and KDE documents be utilized on all projects including but limited to:

- a. A 101 Standard form of Agreement between Owner and Contractor (including KDE amendments)
 - b. A 201 General Conditions of the Standard Form of Agreement between Owner and Contractor (including KDE amendments)
 - c. AIA A701 Instructions to bidders, with KDE amendment and KDE Form of proposal (may require editing AEPA instructions to bidders to eliminate conflicts).
 - d. KDE purchase Order (for direct purchase of materials with tax number, to exempt materials from state sales tax)
 - e. If applicable, where architectural services are provided by the Owner, Form B141, Standard Form of Agreement between Owner and Architect
7. Architectural services shall be provided in accordance with KRS 322.360 and other relevant Kentucky Revised Statutes by the vendor or the Owner at the Owner's preference.

C. Procedure for Processing Orders

Once the award is made to the Contractor/vendor, GRREC and Kentucky's other cooperatives will inform their members (school districts and other entities) of the contract by: 1) including the contract in the Current Bids section on their websites and 2) publishing the contract information in catalogs disseminated to all members. A list of members, contact names, addresses and phone numbers is made available to the Contractor. At this point the Contractor/vendor contacts the members and members may contact the Contractor/vendor. When the member identifies a product or service, it will issue a purchase order for that item to the vendor. The vendor's price will include a two percent (2%) administrative fee that the vendor will collect from the member and remit to GRREC on a quarterly basis. Municipal and county governments, and other governmental, quasi-governmental, or nonprofit organization price will reflect a two percent (2%) administrative fee. On the occasion that an AEPA contract awarded by Kentucky is utilized by public school and public non-school entities in other states, purchases in these instances will also reflect a two percent (2%) administrative fee. The vendor will also compile and provide to GRREC a quarterly report showing all purchases made by Kentucky members (with specific detail as to what purchases were made by which members) under this contract. Further, if no purchases are made in any given quarter, the Vendor shall remit a "No Activities" statement to GRREC for that quarter. The vendor will also produce and provide to GRREC an annual summary report for all purchases made under this contract for a period of beginning with the award of the contract through December 31st and all consecutive annual periods if contract is extended. The vendor will make all administrative fee payments to the GRREC by the 15th of the month following the end of the quarter (i. e. April 15th, July 15th, October 15th and January 15th). All checks are to be made payable to GRREC and sent to GRREC, 230 Technology Way, Bowling Green, KY 42101 and Attention: Bids Coordinator. GRREC may designate another agent for collecting an administrative fee that will be negotiated with vendor for e-commerce transaction. GRREC will share information from the quarterly and annual reports and distribute the administrative fee among the other KY Educational Cooperatives according to membership.

D. Members Purchasing under the Agency

Currently there are 8 Bidding Cooperatives in Kentucky and all are participating in this invitation through GRREC's solicitation. There are 170+ independent and county school districts and all are eligible for membership in a Bidding Cooperative and approximately 98% of the districts are members of one of the cooperatives. No district is obligated to use these services. Additional members may include other public educational institutions in the state, public colleges or universities, community colleges, vocational or technical schools, municipal and county governments, and other governmental, quasi-governmental or non-profit organizations. Kentucky currently shares its AEPA contracts with the following states: AL, GA, LA, MS, NC, SC, and TN. Only those districts or institutions listed on an approved Bidding Cooperative membership list are eligible to purchase under these contracts. This list may change during the contract period

11. Massachusetts, The Education Cooperative

This Commonwealth Terms and Conditions form is jointly issued by the Executive Office for Administration and Finance (ANF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD) for use by all Commonwealth of Massachusetts ("State") Departments and Contractors. **Any changes or electronic alterations by either the Department or the Contractor to the official version of this form, as jointly published by ANF, CTR and OSD, shall be void.** Upon execution of these Commonwealth Terms and Conditions by the Contractor and filing as prescribed by the Office of the Comptroller, these Commonwealth Terms and Conditions will be incorporated by reference into any Contract for Commodities and Services executed by the Contractor and any State Department, in the absence of a superseding law or regulation requiring a different Contract form. Performance shall include services rendered, obligations due, costs incurred, commodities and deliverables provided and accepted by the Department, programs provided or other commitments authorized under a Contract. A deliverable shall include any tangible product to be delivered as an element of performance under a Contract. The Commonwealth is entitled to ownership and possession of all deliverables purchased or developed with State funds. Contract shall mean the Standard Contract Form issued jointly by ANF, CTR and OSD.

1. Contract Effective Start Date. Notwithstanding verbal or other representations by the parties, or an earlier start date indicated in a Contract, the effective start date of performance under a Contract shall be the date a Contract has been executed by an authorized signatory of the Contractor, the Department, a later date specified in the Contract or the date of any approvals required by law or regulation, whichever is later.

2. Payments And Compensation. The Contractor shall only be compensated for performance delivered and accepted by the Department in accordance with the specific terms and conditions of a Contract. All Contract payments are subject to appropriation pursuant to M.G.L. C. 29, §26, or the availability of sufficient non-appropriated funds for the purposes of a Contract, and shall be subject to intercept pursuant to M.G.L. C. 7A, §3 and 815 CMR 9.00. Overpayments shall be reimbursed by the Contractor or may be offset by the Department from future payments in accordance with state finance law. Acceptance by the Contractor of any payment or partial payment, without any written objection by the Contractor, shall in each instance operate as a release and discharge of the State from all claims, liabilities or other obligations relating to the performance of a Contract.

3. Contractor Payment Mechanism. All Contractors will be paid using the Payment Voucher System unless a different payment mechanism is required. The Contractor shall timely submit invoices (Payment Vouchers - Form PV) and supporting documentation as prescribed in a Contract. The Department shall review and return rejected invoices within fifteen (15) days of receipt with a written explanation for rejection. Payments shall be made in accordance with the bill paying policy issued by the Office of the Comptroller and 815 CMR 4.00, provided that payment periods listed in a Contract of less than forty-five (45) days from the date of receipt of an invoice shall be effective only to enable a Department to take advantage of early payment incentives and shall not subject any payment made within the forty-five (45) day period to a penalty. The Contractor Payroll System, shall be used only for "Individual Contractors" who have been determined to be "Contract Employees" as a result of the Department's completion of an Internal Revenue Service SS-8 form in accordance with the Omnibus Budget Reconciliation Act (OBRA) 1990, and shall automatically process all state and federal mandated payroll, tax and retirement deductions.

4. Contract Termination Or Suspension. A Contract shall terminate on the date specified in a Contract, unless this date is properly amended in accordance with all applicable laws and regulations prior to this date, or unless terminated or suspended under this Section upon prior written notice to the Contractor. The Department may terminate a Contract without cause and without penalty, or may terminate or suspend a Contract if the Contractor breaches any material term or condition or fails to perform or fulfill any material obligation required by a Contract, or in the event of an elimination of an appropriation or availability of sufficient funds for the purposes of a Contract, or in the event of an unforeseen public emergency mandating immediate Department action. Upon immediate notification to the other party, neither the Department nor the Contractor shall be deemed to be in breach for failure or delay in performance due to Acts of God or other causes factually beyond their control and without their fault or negligence. Subcontractor failure to perform or price increases due to market fluctuations or product availability will not be deemed factually beyond the Contractor's control.

5. Written Notice. Any notice shall be deemed delivered and received when submitted in writing in person or when delivered by any other appropriate method evidencing actual receipt by the Department or the Contractor. Any written notice of termination or suspension delivered to the Contractor shall state the effective date and period of the notice, the reasons for the termination or suspension, if applicable, any alleged breach or failure to perform, a reasonable period to cure any alleged breach or failure to perform, if applicable, and any instructions or restrictions concerning allowable activities, costs or expenditures by the Contractor during the notice period.

6. Confidentiality. The Contractor shall comply with M.G.L. C. 66A if the Contractor becomes a "holder" of "personal data". The Contractor shall also protect the physical security and restrict any access to personal or other Department data in the Contractor's possession, or used by the Contractor in the performance of a Contract, which shall include, but is not limited to the Department's public records, documents, files, software, equipment or systems.

7. Record-keeping And Retention, Inspection Of Records. The Contractor shall maintain records, books, files and other data as specified in a Contract and in such detail as shall properly substantiate claims for payment under a Contract, for a minimum retention period of seven (7) years beginning on the first day after the final payment under a Contract, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving a Contract. The Department shall have access, as well as any parties identified under Executive Order 195, during the Contractor's regular business hours and upon reasonable prior notice, to such records, including on-site reviews and reproduction of such records at a reasonable expense.

8. Assignment. The Contractor may not assign or delegate, in whole or in part, or otherwise transfer any liability, responsibility, obligation, duty or interest under a Contract, with the exception that the Contractor shall be authorized to assign present and prospective claims for money due to the Contractor pursuant to a Contract in accordance with M.G.L. C. 106, §9-318. The Contractor must provide sufficient notice of assignment and supporting documentation to enable the Department to verify and implement the assignment. Payments to third party assignees will be processed as if such payments were being made directly to the Contractor and these payments will be subject to intercept, offset, counter claims or any other Department rights which are available to the Department or the State against the Contractor.

9. Subcontracting By Contractor. Any subcontract entered into by the Contractor for the purposes of fulfilling the obligations under a Contract must be in writing, authorized in advance by the Department and shall be consistent with and subject to the provisions of these Commonwealth Terms and Conditions and a Contract. Subcontracts will not relieve or discharge the Contractor from any duty, obligation, responsibility or liability arising under a Contract. The Department is entitled to copies of all subcontracts and shall not be bound by any provisions contained in a subcontract to which it is not a party.

10. Affirmative Action, Non-Discrimination In Hiring And Employment. The Contractor shall comply with all federal and state laws, rules and regulations promoting fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation or for exercising any rights afforded by law. The Contractor commits to purchasing supplies and services from certified minority or women-owned businesses, small businesses or businesses owned by socially or economically disadvantaged persons or persons with disabilities.

11. Indemnification. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, including the Department, its agents, officers and employees against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement or other damages that the State may sustain which arise out of or in connection with the Contractor's performance of a Contract, including but not limited to the negligence, reckless or intentional conduct of the Contractor, its agents, officers, employees or subcontractors. The Contractor shall at no time be considered an agent or representative of the Department or the State. After prompt notification of a claim by the State, the Contractor shall have an opportunity to participate in the defense of such claim and any negotiated settlement agreement or judgment. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph. Any indemnification of the Contractor shall be subject to appropriation and applicable law.

12. Waivers. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies

available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach.

13. Risk Of Loss. The Contractor shall bear the risk of loss for any Contractor materials used for a Contract and for all deliverables, Department personal or other data which is in the possession of the Contractor or used by the Contractor in the performance of a Contract until possession, ownership and full legal title to the deliverables are transferred to and accepted by the Department.

14. Forum, Choice of Law And Mediation. Any actions arising out of a Contract shall be governed by the laws of Massachusetts, and shall be brought and maintained in a State or federal court in Massachusetts which shall have exclusive jurisdiction thereof. The Department, with the approval of the Attorney General's Office, and the Contractor may agree to voluntary mediation through the Massachusetts Office of Dispute Resolution (MODR) of any Contract dispute and will share the costs of such mediation. No legal or equitable rights of the parties shall be limited by this Section.

15. Contract Boilerplate Interpretation, Severability, Conflicts With Law, Integration. Any amendment or attachment to any Contract which contains conflicting language or has the affect of a deleting, replacing or modifying any printed language of these Commonwealth Terms and Conditions, as officially published by ANF, CTR and OSD, shall be interpreted as superseded by the official printed language. If any provision of a Contract is found to be superseded by state or federal law or regulation, in whole or in part, then both parties shall be relieved of all obligations under that provision only to the extent necessary to comply with the superseding law, provided however, that the remaining provisions of the Contract, or portions thereof, shall be enforced to the fullest extent permitted by law. All amendments must be executed by the parties in accordance with Section 1. of these Commonwealth Terms and Conditions and filed with the original record copy of a Contract as prescribed by CTR. The printed language of the Standard Contract Form, as officially published by ANF, CTR and OSD, which incorporates by reference these Commonwealth Terms and Conditions, shall supersede any conflicting verbal or written agreements relating to the performance of a Contract, or attached thereto, including contract forms, purchase orders or invoices of the Contractor. The order of priority of documents to interpret a Contract shall be as follows: the printed language of the Commonwealth Terms and Conditions, the Standard Contract Form, the Department's Request for Response (RFR) solicitation document and the Contractor's Response to the RFR solicitation, excluding any language stricken by a Department as unacceptable and including any negotiated terms and conditions allowable pursuant to law or regulation.

IN WITNESS WHEREOF, The Contractor certify under the pains and penalties of perjury that it shall comply with these Commonwealth Terms and Conditions for any applicable Contract executed with the Commonwealth as certified by their authorized signatory below:

CONTRACTOR AUTHORIZED SIGNATORY: _____
(signature)

Print Name:

Title:

Date:

(Check One): Organization Individual

Full Legal Organization or Individual Name:

Doing Business As: Name (If Different):

Tax Identification Number:

Address:

Telephone: FAX:

INSTRUCTIONS FOR FILING THE COMMONWEALTH TERMS AND CONDITIONS

A "Request for Verification of Taxation Reporting Information" form (Massachusetts Substitute W-9 Format), that contains the Contractor's correct TIN, name and legal address information, must be on file with the Office of the Comptroller. If the Contractor has not previously filed this form with the Comptroller, or if the information contained on a previously filed form has changed, please fill out a W-9 form and return it attached to the executed COMMONWEALTH TERMS AND CONDITIONS.

If the Contractor is responding to a Request for Response (RFR), the COMMONWEALTH TERMS AND CONDITIONS must be submitted with the Response to RFR or as specified in the RFR. Otherwise, Departments or Contractors must timely submit the completed and properly executed COMMONWEALTH TERMS AND CONDITIONS (and the W-9 form if applicable) to the: **Payee and Payments Unit, Office of the Comptroller, 9th Floor, One Ashburton Place, Boston, MA 02108** in order to record the filing of this form on the MMARS Vendor File. Contractors are required to execute and file this form only once.

12. Michigan, Oakland Schools, (OS)

A. Additional Member Agency General Terms and Conditions that apply for all categories:

1. Conflict of Interest

Contractor shall disclose in writing to Buyer any conflicts of interest with Board members, administrators, and or employees of any Participating Entity (as defined below). A conflict of interest may include, but is not limited to, a financial ownership interest in, or employment with Contractor or Subcontractor by a Participating Entity' Board member, administrator, or employee or their family member. A "family member" means a person's spouse or spouse's sibling or child; a person's sibling or sibling's spouse or child; a person's child or child's spouse; or a person's parent or parent's spouse, and includes these relationships as created by adoption or marriage. Determination of the existence of a conflict of interest does not prohibit the Participating Entity from entering into a contract with the Contractor (MCL 380.634; MCL 15.322 et seq).

2. Termination of Buyer's Purchase Order

Default is defined as the failure of a Contractor to fulfill the contract, including but not limited to, not honoring bid prices, failure to deliver on time, or the unauthorized substitution of items or failure to comply with any or all of the specifications and/or terms and conditions contained in this solicitation or the contract/purchase order of a Participating Entity.

Should the Contractor fail to satisfactorily resolve the default, the contract/purchase order may be terminated with thirty (30) days written notice. In that event, the Contractor shall be held liable to the Participating Entity for all costs and expenses incurred by the Participating Entity arising out of said default. Notwithstanding the foregoing, each Participating Entity may terminate their contract/purchase order, with or without cause, or discontinue purchasing from the Contractor at any time.

3. Iran Economic Sanctions Act

Public Act 517 of 2012, commonly known as the "Iran Economic Sanctions Act" (the "Act"). The Act provides that beginning April 1, 2013, an "Iran Linked Business" is not eligible to submit a bid on a request for proposal with a "public entity" (OS). The Act also requires that a person that submits a proposal in response to an OS request for proposal must certify to the public entity that it is not an Iran Linked Business. This requirement applies to all requests for proposals issued by OS, and not just to construction projects.

The Act defines an Iran Linked Business as:

- a. A person engaging in investment activities in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran;
- b. A financial institution that extends credit to another person, if that person will use the credit to engage in investment activities in the energy sector of Iran.

If the OS determines, using credible information available to the public, that a person or entity has submitted a false certification, OS must provide written notice to the person or entity of its determination and of its intent not to enter into or renew the contract. The notice must include information on how to contest the determination. The notice must also specify that the individual or entity may become eligible for future contracts with the public entity if the activities that caused it to be an Iran Linked Business are ceased.

4. Taxes

The Participating Entities are exempt from State Sales Taxes and such taxes shall not be included in any solicitation prices. Exemption certificates will be provided upon request.

5. Hazardous Materials

If any hazardous chemicals are supplied under a contract/purchase order arising out of this solicitation, a Material Safety Data Sheet (MSDS) shall accompany the delivery of any hazardous chemicals supplied by the Contractor. All MSDS sheets shall be sent to the attention of the Participating Entity. Ref: State of Michigan Act 154, Section 14, P.A. 1974 as amended. Copies of MSDS for all purchased hazardous materials must be provided prior to delivery of any

items by the Contractor. Additionally, the MSDS needs to be attached to the invoice and all products delivered must be labeled according to Section 14 of Act 154, of the public Acts of 1974, as amended. Any appropriate products not labeled will be refused and the Contractor will be responsible for additional freight charges. Payment may be withheld until the Participating Entity receives the MSDS.

6. Modifications to Contracts

No modifications to a contract/purchase order with a Participating Entity shall be binding upon such Participating Entity unless agreed to in writing signed by an authorized representative of the Participating Entity.

7. Indemnification

Contractor agrees to indemnify, defend and hold harmless OS, each Participating Entity and each Other Agency, including their Board of Educations or governing body, in their official and individual capacities, employees, agents, successors and assignees, from and against any and all costs, expenses, damages, and liabilities, including reasonable attorney's fees, arising out of the: (i) negligent act or omission or willful misconduct of the Contractor, its officers, directors, employees, successors, assignees, Contractors and agents; (ii) any breach of the terms of the contract between the Participating Entity and the Contractor; or (iii) any breach of any representation or warranty by Contractor under the contract with a Participating Entity or this solicitation.

8. Anti-discrimination

The Contractor hereby agrees to comply with all federal, state and municipal equal opportunity and antidiscrimination guidelines and regulations, and covenants that the Contractor will not discriminate against an employee or applicant for employment with respect to hire, tenure terms, conditions or privileges of employment, or in a manner directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, marital status or disability. Failure on the part of the Contractor to comply with said guidelines and regulations shall, upon reasonable notice, constitute grounds for a Participating Entity to revoke and otherwise terminate the contract and all obligations of the Participating Entity hereunder.

9. Local Contract Terms and Conditions

For procurements of supplies, materials, equipment and/or services resulting from this solicitation, it is clearly understood and agreed to by the Contractor that any clause, term, or condition not addressed in this solicitation, but required by a Participating Entity, shall be adhered to by said Contractor.

Participating Entities, other than from K-12, choosing to purchase from awarded AEPA contracts are subject to their own respective laws, and/or local policy, procedures, and/or Charters

10. Governing Law

Any contract arising out of this solicitation shall be governed by and construed under the laws of the State of Michigan. In the event of any legal action to enforce or interpret any contract arising out of this solicitation, the sole and exclusive venue shall be the state or federal court of the local jurisdiction where the Participating Entities located.

B. Additional Member Agency Terms and Conditions for:

1. Non-Construction Products and Services:

All supplies, materials, and equipment sold or leased to Michigan intermediate school districts or K-12 public school districts must be in accordance with MCL 380.623a and 380.1274, respectively. The procurement of supplies, materials and/or equipment in a single transaction costing more than the State of Michigan Competitive Bidding threshold set forth in MCL 380.623a and 380.1274 by an intermediate school districts or K-12 public school districts requires the district to obtain competitive bids and the purchase must be approved by the district's Board of Education.

2. Construction Products and Services:

All Contractors understand and agree that the use of AEPA contracts is not intended for use by Michigan intermediate school districts or public K-12 school districts for construction, renovation or remodeling projects under MCL 380.1267 and agree to comply with all applicable standards and statutes for said construction projects.

C. Procedure for Processing Orders:

Once the award is made to a Contractor, OS will inform the Participating Entities and Other Agencies of the award by announcing the award through its general and usual methods of disseminating information.

1. OS follows the AEPA Standard Ordering Process (see Part A, General Terms and Conditions for All Agencies, “Ordering Procedures”).
2. Contractors shall be required to pay a two percent (2%) administrative fee (the “Fee”) based on the total cost of goods or services purchased, including installation and freight, if applicable. In the event of a lease arrangement, the total Fee for the value of goods leased shall be paid to OS by the Contractor at the front end of the lease. Contractor or its designated authorized reseller(s) shall not include any additional amount corresponding to the Fee in the bid responses or awarded prices.

D. Agencies Allowed to Purchase under the Member Agency:

OS serves all local school districts located in Oakland County, Michigan. In addition to, and in accordance with the terms and conditions set forth in this solicitation, all **public school districts, private schools, public school academies, intermediate school districts colleges, universities, counties, cities, townships, villages, and non-profit organization** in the State of Michigan shall be permitted to use AEPA solicitations approved by OS.

It should be clearly understood that OS is assisting these Participating Entities as a service to procure selected supplies, materials and equipment and services desired by the Participating Entity. Both the Contractor and any Participating Entity using this solicitation agree that the OS makes no representation that use of this solicitation by any Participating Entity is, in fact, in compliance with rules, regulations, policy or procedures of the Participating Entity. In this regard, the OS strongly suggests that, at a minimum, the Contractor and any Participating Entity considering such use consult with their own legal counsels before doing so. All Participating Entities using AEPA solicitations shall be responsible for adhering to their own applicable rules, regulations, policies, procedures and state statutes, etc., which may govern the use of cooperative purchasing contracts within their respective jurisdictions.

13. Minnesota, Cooperative Purchasing Connection (CPC)

General Terms and Conditions that apply for all categories

Governing Law: The laws of the State of Minnesota govern all contracts resulting from this IFB. Each and every provision of law and clause required by law to be included in a contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction.

Governing Venue: The resulting contract award shall be deemed to have been made and performed in Otter Tail County, Minnesota. For the purpose of venue, all legal arbitration or causes for action arising out of the resulting agreement shall be brought to the courts of Otter Tail County, Minnesota.

Hazardous Substances: All hazardous products purchased by members shall include a Safety Data Sheet (SDS) with the delivery.

Lease and Rental Agreements: The Vendor may allow participating agencies to enter into a rental, lease, or lease purchase agreements, providing such agreements are in compliance with Minnesota Statutes and guidelines. CPC must receive a report annually, summarizing the executed lease purchases along with a summary of the participating agencies' purchases. CPC will not collect lease payments or be involved in the terms and conditions of the lease. All lease arrangements are between the Vendor and the participating agency. The Vendor agrees that leases will be in compliance with the Uniform Commercial Code. The applicable administrative fee must be included in the lease cost based on the total value of the goods and applicable services purchased. This fee is referred to under the Technical Specifications. The Vendor should attempt to work with CPC's current leasing vendor. Note, the current leasing vendor may require a minimum purchase amount to begin the leasing process. Should the Vendor be required to utilize their own financial leasing company, this should be noted/requested as an exception. In the event of a lease, the total administrative fee for the value of goods shall be paid to CPC by the vendor at the front end of the lease. CPC reserves the right to review all purchase orders, lease documents and invoices to insure contract compliance.

Marketing and Promotion: Upon award and completion of the vendor orientation, CPC will promote the contract opportunity via its websites. CPC will also announce the new partnership in its newsletters and will publish the contract and marketing information through hard copy marketing items (i.e. flyers, postcard) and electronic email. Contracts will also be promoted at applicable trade shows, conferences, and meetings on a regular basis. CPC may assist in the development of these materials if requested by the Vendor, but in all cases shall have the authority to review and approve any marketing materials. If a website is used, the link will be made available from the CPC and NDESC websites. Any web page or link, or other marketing tools shall be dedicated to CPC information only.

Non-Discrimination: Any resulting contract for on or behalf of participating agencies, said Vendor agrees to:

- That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;
- That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color;
- That a violation of this section is a misdemeanor; and
- That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

Participating Agency: A participating agency shall be defined in accordance with the, Minnesota Statutes M.S. §471.59, and M.S. §123A.21, Sub. 11 and South Dakota Statutes §5-18A-37. An eligible agency includes any school, higher education, city, county, other governmental agency, nonprofit organization, or other entity contracted to conduct business on behalf of a participating agency provided that they are required to follow state and local procurement regulations.

Prompt Payment: Participating Agencies will follow M.S. §471.425 regarding prompt payment of local government bills.

Substance Use and Conduct: All Vendor partners and subcontractors must adhere to local substance (alcohol, drug, smoking, etc.) and conduct (dress code, language, parking, etc.) policies while on a participating agencies' premises.

Vendor Orientation (CPC 101): The Vendor and their participating resellers/sub-contractors will be required to participate in an online training session that is designed to educate the Vendor and resellers/sub-contractors on the

purpose and nature of CPC. The Vendor will not be marketed to participating agencies until they have completed the vendor orientation session.

2. Additional Participating Agency Terms and Conditions for Non-Construction Products and Services

If requested by CPC, the contracted vendor will work with CPC to develop an order form, or order forms, containing the most commonly purchased items, that CPC can utilize to market the contracted vendor to its participating agencies.

3. Additional Participating Agency Terms and Conditions for Construction Related Products and Services

Upon acceptance and approval of the Vendor's offer by AEPA, CPC will independently consider the offer and conduct a conference call with the Vendor to determine if the Vendor is able to meet the necessary requirements for construction related products and services and to enter and execute a contract in the state of Minnesota. The contracted vendor will be required to work with CPC's participating agencies and require that an architect's signature or certification is noted on the specifications as required by Minnesota Statute §326.12 subd. 3. With certain exceptions, Minnesota Rules part 1800.5200, subpart 1, requires a licensed architect or engineer to prepare and certify specifications for building alterations or renovations. Once CPC and the Vendor are able to confirm that business is able to be conducted in Minnesota, CPC will make a final decision to complete the contract execution process.

For all quotes provided to participating agencies, for construction related projects, products and services, the contracted vendor must also send a duplicate quote to CPC. The quote provided to CPC must include the contact information of the participating agency.

Performance Bond (for construction and/or installation related projects): Performance bonds will be required on all projects valued at fifty-thousand dollars (\$50,000) or more in Minnesota and North Dakota and, twenty-five thousand dollars (\$25,000) or more in South Dakota. All performance bonds will be issued by a corporate surety authorized to do business in the state in which the work will be conducted and by a surety listed in the US Treasury Circular 570. Performance bonds will be posted by the Vendor and submitted to the specific participating agency for the assigned project. Should the contract be the result of a piggyback agreement, performance bonds will reflect each state's bonding requirements.

The Vendor will execute a performance bond in an amount equal to one hundred percent (100%) of the value specified in the contract between the participating agency and the Vendor, unless the participating agency requires less to be posted. This bond will protect all persons supplying labor and material to the Vendor for the performance of the work provided in the contract. Subcontractors who may work on the contract may have to provide the Vendor with a performance bond. If the contract price increases after the bond is provided, the participating agency may consider obtaining additional bonds from the Vendor.

The Vendor will deliver the performance bond to the eligible participating agency at the time the contract is executed between the agency and the Vendor. Work will not commence between the Vendor and the eligible participating agency until the performance bond is received by the participating agency and a copy has been sent to CPC via email (info@purchasingconnection.org). The Vendor will be responsible for providing CPC with a copy of all contracts and bonds in accordance with CPC purchasing procedures. Should the Vendor fail to satisfactorily perform the contract, the bonding company that provided the performance bond will be required to pay the dollar amount of the bond to the participating agency.

It is the Vendor's responsibility to ensure that they can obtain the required bonding for all construction products based on an awarded contract arising from this solicitation. Payment will not be issued for any project for which the required bonds have not been received.

4. Procedure for Contract Award, Notification and Processing Orders

Once the award is recommended by the AEPA Review Committee, CPC considers the recommendation based on the value of the potential contract for its participating agencies. Participating agency is defined as any city, county, public or private educational agency, nonprofit or governmental agency that is a participant of CPC. In the event of an award by the Board of Directors, CPC will inform its members of the award and contract by the following methods

along with contract instructions and ordering process.

- a. The contract is listed and promoted on the CPC website (www.purchasingconnection.org).
- b. Announcing the award in CPC newsletters.
- c. CPC will publish the contract and marketing information through a hard copy marketing flier and electronic email. Contracts are promoted through PDF and a hard copy product catalog distributed at statewide trade shows and agency meetings on a regular basis. CPC will require a marketing flier, brochure, or other similar marketing pieces, in an editable, electronic format, from each vendor promoting the available contract with the vendor, and/or a web page or link. CPC may assist in the development of the marketing flier and material (if requested by vendor), but in all cases shall have authority to review and approve any marketing materials. If a web site is used, the link will be made available from the CPC web page. Any web page or link, or other marketing tool shall be dedicated to AEPA information only.
- d. When the member identifies a desired product or service, the member and the vendor may negotiate with each other to establish a description of items and/or services. The vendor shall quote a price to the member, in writing, using AEPA established discounts and including the two percent (2%) administrative fee in the quoted price. The administrative fee shall be based upon the total cost of goods and/or services including installation costs. The administrative fee shall not be listed as a separate line item on the quote. When a member decides to purchase through the CPC-AEPA contract, the member issues the purchase order directly to the vendor. The purchase order must include the total invoiced cost, based on
 - i. The total cost of goods, service, and installation, including the 2% administrative fee.
 - ii. Notification will be made to the vendor in the event the purchase order is not in compliance with the contract and adjustments will be made at that time. CPC and the vendor will mutually resolve any issues with regard to past purchases. The purchase orders are to continue to be processed and viewed as approved unless notified by CPC otherwise. All sales and transactions may continue without delay or in anticipation of the CPC purchase order verification.
 - iii. Once all the items and services on the purchase order have been delivered to the member in a complete and satisfactory manner, the vendor then files a copy of the final invoice, which is available to CPC by request in support of the quarterly sales summary. The invoice is to be marked "Copy".
 - iv. Vendor makes all deliveries and installations of products and services. CPC does not warehouse items or provide installation services.
 - v. This administrative fee is to be paid by the vendor to CPC, quarterly, within 20 working days after the end of each fiscal quarter. The AEPA vendor shall also submit to CPC a sales report, in Excel format, listing the following information:
 1. Name of purchasing agency
 2. Address of purchasing agency
 3. Date of purchase
 4. Invoice number
 5. Amount of purchase
 6. Administrative fee generated by sale
 7. Savings generated by sale
 8. This report shall include all sales made and payments received by the vendor in said quarter. The sales report shall be emailed to Melissa Mattson at mmattson@lsc.org and copied to Lori Mittelstadt at lmittelstadt@lsc.org. The administrative fee payment shall be delivered to Melissa Mattson, CPC, 1001 East Mt. Faith, Fergus Falls, MN 56537. The check shall be made out to Lakes Country Service Cooperative.
 - vi. CPC requires that all participating vendors offer the contract opportunity to all CPC participating agencies.
5. **Express Online Marketplace:** CPC provides participating agencies with an online purchasing platform called Express, powered by EqualLevel. Through Express, agencies are able to search for and purchase items. Essentially, Express is a one-stop shop for many of CPC's commodity based contracts. A Vendor does not have to have an e-commerce site to be included in Express. Express offers integration into two (2) of the main K-12 school financial systems in Minnesota, CPC expects growth in the number of agencies utilizing the marketplace and the volume of sales to grow significantly. CPC will work with the Vendor to determine if the contract agreement is suitable for the online platform. If deemed suitable, CPC will require integration into Express within a timely manner.

14. Missouri, Cooperating School Districts of the Greater St. Louis Area, (CSD)

A. Additional Agency Terms and Conditions

Lease and Rentals: Vendor may allow EDPLUS members to enter into rental, lease, or lease purchase agreements, providing such agreements are in compliance with Missouri statutes and State Department of Education policies, rules and regulations. EDPLUS must receive a copy of the executed leasing documents prior to processing a purchase order. EDPLUS will not collect lease payments. Bidder agrees that leases will be in compliance with the Uniform Commercial Code. All terms of leasing must be included in the proposal, with interest rates described as related to a government standard. Bidder must indicate in its response to this solicitation if the shipping costs for the return of leased or rented equipment are the responsibility of the EDPLUS member, and what that cost will be. No sale of a contract to a third party will be made without first informing EDPLUS and the EDPLUS member of the sale. If Bidder sells a lease contract to a third party, the cost of return must not be greater than the cost of return to the original vendor. A 2% administrative fee must be included in the lease cost based on the total value of the goods purchased. This fee is referred to under ordering process.

B. Procedure for Processing Orders

(1.) Once the award is made to the vendor, EDPLUS will inform its members (and non-members eligible to purchase from EDPLUS) of the contract by announcing the award in its periodic newsletter and other EDPLUS presentations as well as regular electronic communications.

(2.) EDPLUS may require a marketing flier from each vendor promoting the contract and AEPA relationship. EDPLUS will assist in the development of the marketing flier and material. This flier will be for distribution as well as posting on the EDPLUS website and disseminated to potential customers. Note: EDPLUS requires the awarded vendor to take ownership and actively promote the contract in cooperation with EDPLUS to all qualified customers.

(3.) When the member identifies a desired product or service as available through the AEPA contract and makes a purchase on the EDPLUS online Marketplace or agrees on price as presented to the member by the awarded AEPA vendor, the member then issues to the vendor a purchase order for that item or service.

(4.) The purchase order must include an additional two percent (2%) administrative fee in the total cost, based on the total cost of goods and service including installation and freight if applicable. This fee is to be forwarded by the vendor to EDPLUS after the sale and payment is made to vendor. Payment shall be made to EDPLUS on a quarterly basis along with complete sales history during that period.

(5.) Vendor makes all deliveries and installations of products and services. EDPLUS does not warehouse items nor provide services.

(6.) All participating vendors agree to and are subject to audit proceedings of AEPA member sales.

C. Members Purchasing Under the Agency

We take great pride in the fact that EducationPlus is providing a complete line of purchasing services to our 50+ member school districts and hundreds of additional school districts, educational institutions, and nonprofit organizations throughout Missouri and Illinois. EducationPlus was created in 1928 with its primary focus aimed at improving educational opportunities for all students. Our goal is to promote efficient use of educational dollars, and simultaneously provide an ongoing market for those vendors doing business with EducationPlus. EducationPlus serves schools and political subdivisions in Missouri and Illinois.

D. Governing Law

MO. REV. STAT. §70.220. 1. Any municipality or political subdivision of this state, as herein defined, may contract and cooperate with any other municipality or political subdivision, or with an elective or appointive official thereof, or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions, or with any private person, firm, association or corporation, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service; provided, that the subject and purposes of any such contract or cooperative action made and entered into by such municipality or political subdivision shall be within the scope of the powers of such municipality or political subdivision.

15. Montana, Montana Cooperative Services (MCS)

General Standards: Purchases by public entities in excess of \$80,000 are subject to public bid; purchases under this amount are subject to requirements of public contracts. See Sections 7-5-2301 and 7-5-2304, Montana Code Annotated (Counties); Sections 7-5-4302 and 7-5-4303, Montana Code Annotated (Municipalities).

Note: purchases of less than \$80,000 are not subject to public bid requirements, which provides local government entities with considerable flexibility to make purchases. Public bidding requirements do not appear to prohibit local government entities who are members of AEPA or MCS from soliciting bids from approved vendors for purchases in excess of \$80,000.

Local Government Cooperative Purchasing Authority: Local governments may also elect to purchase cooperatively through the Montana Department of Administration in lieu of soliciting their own bids. 51 A.G. Op. 15 (2006). Procurement by government entities generally falls within the Montana Procurement Act, Section 18-4-101, MCA, et seq.

Local Governments are authorized to adopt and implement the rules and standards of the Act:

18-4-124. Local government adoption of procurement provisions -- alternative project delivery contracts. (1) A political subdivision or school district may adopt any or all parts of this chapter and the accompanying rules promulgated by the department.

Local governmental entities and school districts are specifically authorized to purchase cooperatively in the public interest:

18-4-401. Definitions. As used in this part, the following definitions apply:

(1) "Cooperative purchasing" means procurement conducted by or on behalf of more than one public procurement unit.

"Local public procurement unit" means a county, city, town, or other subdivision of the state or a public agency of any such subdivision; public authority; educational, health, or other institution; to the extent provided by law, any other entity that expends public funds for the procurement of supplies and services; and any nonprofit corporation operating a charitable hospital.

"Public procurement unit" means a local or state public procurement unit of this or any other state, including an agency of the United States, or a tribal procurement unit.

"State public procurement unit" means a state department, agency, or official that expends public funds for the procurement of supplies and services.

"Tribal procurement unit" means a tribal government, tribal entity, or official of a tribal government located in Montana that expends tribal funds or funds administered by a tribe for the procurement of supplies and services to the extent provided by tribal or federal law.

18-4-402. Cooperative purchasing authorized. The department may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies or services with one or more public procurement units in accordance with an agreement entered into between the participants independent of the requirements of part 3. Cooperative purchasing may include purchasing through federal supply schedules of the United States general services administration, joint or multiparty contracts

between public procurement units, open-ended state public procurement unit contracts that are made available to local public procurement units, and competitive contracts established by for-profit, not-for-profit, or nonprofit cooperative entities. (emphasis added).

Note: Cooperative purchasing by local governmental entities may require entering into an agreement with the Montana Department of Administration. This requirement does not appear to preclude local entities from participating as members of purchasing groups.

Local governmental entities are authorized to enter agreements with each other in order to purchase cooperatively.

7-11-104. Authorization to create interlocal agreements -- issuance of bonds for joint construction -- hiring of teacher, specialist, or superintendent. One or more public agencies may contract with any one or more other public agencies to perform any administrative service, activity, or undertaking or to participate in the provision or maintenance of any public infrastructure facility, project, or service, including the issuance of bonds for the joint construction of a facility under 20-9-404, the hiring of a teacher or specialist under 20-4-201 or a superintendent under 20-4-401, or the hiring of or contracting with any other professional person licensed under Title 37, that any of the public agencies entering into the contract is authorized by law to perform. The contract must be authorized and approved by the governing body of each party to the contract. The contract must outline fully the purposes, powers, rights, obligations, and responsibilities of the contracting parties. (emphasis added).

School and school district cooperative purchasing authority: Schools and school districts are specifically authorized to purchase cooperatively utilizing qualifying purchasing entities:

"A [school] district may enter into a cooperative purchasing contract for the procurement of supplies or services with one or more districts. A district participating in a cooperative purchasing group may purchase supplies and services through the group without complying with the provisions of [soliciting public bids and awarding a contract] if the cooperative purchasing group has a publicly available master list of items available with pricing included and provides an opportunity at least twice yearly for any vendor, including a Montana vendor, to compete, based on a lowest responsible bidder standard, for inclusion of the vendor's supplies and services on the cooperative purchasing group's master list." Section 20-9-204(4), Montana Code Annotated (emphasis added).

Note: Montana's AEPA member, Montana Cooperative Services, meets all of the statutory requirements of Section 20-9-204(4), MCA, with respect to cooperative purchasing groups.

Cooperative purchasing is another tool in the bag for local governmental entities, including school districts, to acquire services and supplies at better prices than may otherwise be available. Membership in MCS provides access to AEPA-approved vendors as well as in-state suppliers who have been carefully vetted for reliability and quality.

Disclaimer: The above discussion is for informational purposes only and does not constitute legal advice.

16. Nebraska, Educational Service Unit Coordinating Council (ESUCC)

A. Additional Agency Terms and Conditions

1) Bid Award Determination: The bidder hereby agrees to these bidding conditions by virtue of submitting this signed document on or before the Bid Opening date as specified below.

2) Natural Gas Contractors: Any bids relating to natural gas shall be based upon an awareness of NEB. REV. STAT. § 75-501, adopted in conformity with Rules, Regulations, and Interpretations of Federal Agencies with authority to regulate pipeline common carriers and interstate commerce.

3) Performance and Payment Bonds: Upon execution of a contract between an ESUCC member and the prime contractor for construction or public improvement, performance and payment bonds described above in the AEPA General Terms and Condition shall be provided to the member. Performance and payment bonds between the member and the prime contractor shall be on standard forms. The prime contractor shall deliver copies of both the performance and payment bonds to ESUCC at the time the contract between the member and the prime contractor is executed. All suits for nonpayment or nonperformance shall be filed as allowed under Nebraska law.

4) Insurance: Contractors shall secure and keep in force during the term of any awarded agreement the following insurance coverages from insurance companies authorized to do business in Nebraska:

- Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$1,000,000 per person for any number of claims arising out of a single occurrence and \$5,000,000 for all claims arising out of a single occurrence.
- Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$1,000,000 per person for any number of claims arising out of a single occurrence and \$5,000,000 for all claims arising out of a single occurrence.
- Workers compensation coverage meeting all statutory requirements.

5) Debarment and Suspension: Contractors shall comply with Executive Orders 12549 and 12689 as applicable. Contractors may be debarred for a period of two (2) years, unless earlier modified by the Special Awards Committee of ESUCC for any of the following conduct: (a.) Repeatedly not following the bid process. (b.) Repeatedly submitting non-responsive bids. (c.) Any behavior, which has as its effect injuring the integrity of the bid process. (d.) Failure to deliver goods pursuant to a successful bid. (e.) Repeated lack of acceptable handling and delivery of goods pursuant to a successful bid. (f.) Repeatedly not meeting delivery deadlines. (g.) Repeated failure to timely rectify damages of goods, or shortages of goods when it is the responsibility of the contractor to take such action. (h.) Conviction of a crime of dishonesty. (i.) Debarment or suspension by any agency or Federal Agency by the contractor or any of its key employees. (j.) Other conducts which materially and adversely affects the services of ESUCC Cooperative Purchasing program.

6) Statement Filed: A bidder who is awarded a contract for any goods or services pursuant to this IFB shall file with ESUCC a statement as required by NEB. REV. STAT. § 73-102.

7) Nondiscrimination: The Contractor and all subcontractors, if any, shall not discriminate against any employee or applicant who is to be employed for performance of any awarded bid or agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.

8) Employment Eligibility Verification: The Contractor shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If the Contractor employs or contracts with any subcontractor in connection with any awarded bid or agreement, the Contractor shall include a provision in the contract requiring the subcontractor to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

9) Federal Funding. It is understood that purchases may be funded in whole or in part with funds allocated by the Federal government, including the U.S. Department of Education and is therefore subject to those regulations, restrictions, and conditions normally associated with federally funded programs and any other requirements that the state or federal government may prescribe including, but not necessarily limited to, the "Federal Requirements" listed above in the AEPA Terms and Conditions and the following:

- **Lobbying:** The Bidder agrees and understands that under the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) that Bidders that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352.
- **Patent Rights:** The USDOE's and any other federal agency's requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course or under this Agreement include, but are not necessarily limited to, 34 CFR Part 80.
- **Copyrights and Right in Data:** The USDOE's and any other federal agency's requirements and regulations pertaining to copyrights and rights in data include, but are not necessarily limited to, 34 CFR Part 80.
- **Access to Documents:** The Parties and their grantees, the USDOE and/or other federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives shall have access

to any books, documents, papers, and records of the Bidder which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions.

- **Energy Policy and Conservation Act:** The parties shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).
-
- **Buy American:** To the maximum extent practicable, the Bidder will purchase domestic commodities or products produced in the United States or processed substantially using commodities produced in the United States
- **Minority Business Owners:** The ESUCC will contract with minority-owned businesses, women's business enterprises, and labor surplus firms when possible. Steps to ensure compliance with this provision will include:
 - .1 Qualified small, minority, and women's businesses on solicitation lists so that when such businesses are potential vendors, they are included in ESUCC solicitations.
 - .2 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation for such businesses.
 - .3 Establishing delivery schedules, where requirement permits, which encourage such enterprises
 - .4 Use services of Small Business Administration, Minority Development Agency, or similar state agency to maximize participation.
 - .5 Require prime Bidder, if subcontracts are to be let, to follow the above steps

11) Governing Law and Venue: All bids and contracts shall be governed by and construed in accordance with the laws of the State of Nebraska. The venue for any litigation arising out of or related to a bid or contract will be in any eligible state or federal court of Nebraska.

12) Public Records: The Contractor acknowledges that the ESUCC and its affiliated schools and members must comply with NEB. REV. STAT. § 84-712 through § 84-713 and release public records as defined law upon request, which may include any bid documents or contracts and all records created and maintained in relation to them.

13) Conflict of Interest: By submitting a proposal, Contractor certifies that there does not now exist any relationship between the Contractor and any person or entity which is or gives the appearance of a conflict of interest related to this Request for Proposal. The Bidder certifies that it shall not take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its services hereunder or which creates an actual or appearance of conflict of interest. The Bidder certifies that it will not employ any individual known by Bidder to have a conflict of interest.

The Contractor shall not, at any time, recruit or employ any employee or agent who has worked on the Request for Proposal or project, or who had any influence on decisions affecting the Request for Proposal or project.

The submission of the offer did not involve collusion or other anti-competitive practices. Neither signatory nor any person on his behalf, has not agreed, connived or colluded to produce a deceptive show of competition in the matter of the bidding or award of a contract under this solicitation.

The Contractor, by submitting a bid, certifies that it has not had a contract with education organizations in State of Nebraska terminated early. If Contractor has had a contract terminated early within the State of Nebraska, Contractor must provide the contract number, along with an explanation of why the contract was terminated early.

Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.

Contractor certifies that Contractor and Contractor's employees, officers, and associates directly involved in obtaining contracts with the State of Nebraska, ESUCC, or any subdivision of the state have not been convicted of false pretenses, attempted false pretenses, or conspiracy to commit false pretenses, bribery, attempted bribery or conspiracy to bribe under the laws of any state or federal government for acts or omissions after January 1, 1985

ESUCC may cancel any contract if it is found that gratuities in the form of entertainment, gifts or otherwise, were offered or given by Contractor or any agent or representative of Contractor, to any employee of ESUCC with a view toward securing a contract or with respect to the performance of this contract. Paying the expenses of normal business meals, which are generally made available to all eligible school and government employees, shall not be prohibited by this paragraph. Samples of software, equipment or hardware provided to ESUCC for demonstration or evaluation are not considered gratuities.

B. Procedure for Processing Orders

ESUCC affiliated schools or members send their purchase orders both directly and electronically to the vendor, the vendor ships directly to the school/member, and direct bills the schools/members the cost of merchandise plus the ESUCC 2% administrative fee. Vendors must provide a quarterly report to ESUCC Cooperative Purchasing. The report will include: Date of sales, school name, ESU affiliation, selling price, list price and savings. The ESUCC Cooperative Purchasing administrative Fee of 2% will accompany each quarterly report.

C. Members Purchasing Under the Agency

ESUCC represents 17 Educational Service Units statewide who in turn service Nebraska school districts with over 300,000 students. ESUCC is authorized to coordinate purchases for public school districts, nonpublic school systems, other ESUs, and

other public agencies, including any county, city, village, school district, or agency of the state government, any drainage district, sanitary and improvement district, or other Municipal Corporation or political subdivision of the State of Nebraska.

D. Procedure for Processing Orders

All purchase orders will be submitted directly from the purchasing entity to the vendor. ESUCC will not facilitate the processing of purchase orders unless the offering is service related. If it is a service related purchase then the purchase order shall be submitted by ESUCC.

E. Agencies Allowed to Purchase under the Member Agency

Purchases through ESUCC contracts are to be primarily for K-12. However other state entities may use the ESUCC contracts. All inquiries to purchase on the behalf of a non-profit group not in state statute or receiving state funding must be approved by ESUCC.

17. New Jersey, The Educational Services Commission of New Jersey (ESCNJ)

A. Additional Agency Terms and Conditions

Applicability of Contract Provisions to New Jersey Participants

ESCNJ is the AEPA Member Agency. Any entity that uses the contract awarded by ESCNJ under this document is referred to as a "New Jersey Participant." To be a New Jersey Participant the entity must be a member of the ESCNJ Cooperative Pricing System. The bidder that is awarded the contract by ESCNJ is referred to as the "Contractor."

Once a contract is awarded by ESCNJ, a New Jersey Participant may enter into a purchase order agreement directly with the Contractor. To the extent not otherwise described below or in this document, once a purchase order is issued by a New Jersey Participant to a Contractor, all of the provisions of the contract shall benefit and be enforceable by such New Jersey Participant, unless specifically identified as applying to ESCNJ only.

1. The Bidder by submitting its bid hereby declares that this Bid is made without any connection with any other person or person making any proposal for the same items, that it is in all respects fair and without collusion or fraud and that no person acting for or employed by ESCNJ or a New Jersey Participant is directly or indirectly interested in the proposal or in the goods or services to which it relates, or in any portion of the profits there from.

2. **Event of default and termination of Contract:**

ESCNJ shall have the right to cancel the contract based upon a default by Contractor. A New Jersey Participant shall have the right to cancel its purchase arrangement based on a default by the Contractor with regard to such purchase arrangement. In addition, ESCNJ and each New Jersey Participant reserves the right to withhold payments for goods and services that are not in compliance with the terms of the contract or if the Contractor is in default. Any of the following shall be a default under the contract: 1) The Contractor fails to adequately perform the services set forth in the contract; 2) Contractor fails to deliver all or any part of the goods, or delivers defective goods; 3) The Contractor fails to make progress in the performance of the contract and/or does not deliver within the agreed-upon schedules; 4) The Contractor fails to observe any of the terms and conditions of the contract, including, without limitation, assigning the contract and/or failing to deliver required insurance or performance bonds; 5) The Contractor fails to follow the established procedure for purchase orders, invoices and receipt of funds as stipulated by the New Jersey Participant; or 6) the Contractor has become insolvent, makes an assignment for the benefit of creditors, files a voluntary petition in bankruptcy or is subject to an involuntary petition in bankruptcy not discharged within thirty (30) days. ESCNJ and each New Jersey Participant shall follow the following procedure if the contract or purchase order is to be terminated:

Step 1 - Issue a warning letter of concern outlining the violations and length of time to correct the problem(s). The length of time to correct the problem shall be determined by ESCNJ or the New Jersey Participant, as applicable, in its sole discretion, based on the problem.

Step 2 - Issue a letter of intent to cancel the contract or purchase order, if the problem(s) is not resolved by the given date.

Step 3 - Issue the letter to cancel contract or purchase order.

Upon receipt of the written notice of concern, the Contractor shall have ten (10) business days to provide a satisfactory response to ESCNJ and the New Jersey Participant that provided the notices. Failure on the part of the Contractor to address adequately all issues or concerns may result in contract cancellation.

The remedy to terminate and withhold payments is in addition to any other remedies ESCNJ and the New Jersey Participants may have. In the event of Contract termination by a New Jersey Participant, such New Jersey Participant's payment obligation shall cease as of the final date on which services in accordance with this Contract are last performed by the Contractor. Upon termination of this Contract under this section, the Contractor (and its surety) will be responsible for all of such New Jersey Participant's expenses, losses and damages incurred in replacing Contractor for the remainder of the term of the Contract.

3. **Assignment:**

Contractor shall not subcontract, assign, transfer, convey, sublet or otherwise dispose of its/his/her contractual duties to any other person, firm, or corporation, without the previous written consent of ESCNJ and any New Jersey Participant that has an outstanding open purchase order or financing arrangement. If the Contractor wants to assign its/his/her right to payment of the Contract, Contractor shall notify ESCNJ and any New Jersey Participant that has an outstanding open purchase order or financing arrangement immediately, in writing, of such assignment of right to payment. In no case shall such assignment of Contract relieve the Contractor from its/his/her obligations or change the terms of the Contract.

4. Indemnification:

Contractor shall indemnify, defend, keep and save harmless ESCNJ, each New Jersey Participant and its respective agents, officials, employees and volunteers (each an "Indemnified Party") against claims of injuries, death, damage to property, patent claims, suits, liabilities, judgments, cost and expenses (including attorneys' fees) which result from, arise out of, or in connection with the performance, or breach of performance, under the Contract of Contractor and any of its/his/her employees, agents or personnel. The Contractor shall, at its/his/her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising there from or incurred in connection therewith; and if any judgment shall be rendered against the Indemnified Party in any such action, the Contractor shall, at its/his/her own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Indemnified Party as herein provided.

5. New Jersey Participant Policies:

The Contractor must be familiar with a New Jersey Participant's policies or regulations which affect the services provided under this Contract and that have been or will be distributed during the term of this Contract. Policies and regulations include, but are not limited to, New Jersey Public Contracts Law, school district policies, municipality policies, charters school policies, and county ordinances.

As each board of education, municipality governmental agency, educational institution in the State of New Jersey may have or may be required to have individual policies and procedures for the procurement of goods and services; and as one of the aforementioned institutions/agencies may be dependent upon the policies/procedures of another institution or agency, it is required for the Contractor to be familiar with the policies of the New Jersey Participant that impact the purchase. In limited situations, there may be State statutes which govern the allowability of purchases to be reimbursed by State funding. The New Jersey Participant should obtain its own legal advice on these statutes prior to purchasing under a contract.

The following documentation will be required prior to the award of any contract for New Jersey Participants:

1. New Jersey Business Registration Certificate - Before award in NJ, not at time of bid
2. New Jersey Contractors Registration Certificate (All time and material bids.) Before award in NJ not at time of bid
3. New Jersey Pay-to-Play Documentation (Political Contribution Disclosure)
4. Statement of Ownership (Ownership Declaration Certification)
5. New Jersey Affirmative Language (Exhibit A) and (Exhibit B) for construction repair and maintenance contracts
6. Acknowledgement of the Contractor's/Vendor's responsibility to pay prevailing wage.
http://lwd.dol.state.nj.us/labor/wagehour/wagerate/prevailing_wage_determinations.html
(Time and material bids.)
7. New Jersey Affirmative Action Questionnaire/Documentation
8. Disclosure of Investment Activities in Iran
9. Years of experience is not a criteria for the evaluation of bids to be awarded for the State of New Jersey. For additional information visit www.nj.gov/dca/divisions/dlgs
10. W9
11. Certificate of Insurance with the ESCNJ named as insured and the bid title/# listed - Before award in NJ, not at time of bid
12. DPMC - (All time and material bids.) Before award in NJ, not at time of bid
13. Total Amount of Uncompleted Contracts (All time and material bids.) Before award in NJ, not at time of bid
14. Americans with Disabilities ACT of 1990
15. Attachment B – New Jersey Anti-discrimination Provisions
16. Statement of Suspension or Debarment Form
17. Sworn Contractor Certification; Qualifications Credentials
18. Subcontractor Disclosure Statement
19. Prevailing Wages Certification—Submission with Bid_

6. Performance Bonds:

Each New Jersey Participant may require a performance bond in the case of services to be performed under the Contract if required. The Contractor shall furnish to the New Jersey Participant a Surety Performance Bond ("Performance Bond") with an option to renew each succeeding year of the Contract in a form satisfactory to the New Jersey Participant assuring the faithful performance of the Contract. The Bond shall be equal to one hundred percent (100%) of each year's estimated Contract price as reviewed and agreed upon by the New Jersey Participant, and shall be continued for the life of the Contract in amounts equal to one hundred percent (100%) of each year's estimated Contract price as reviewed and

agreed upon by the New Jersey Participant. The Contractor must send such Performance Bond to the New Jersey Participant prior to the commencement of any services under the Contract. Each such Performance Bond shall be furnished by a surety company acceptable to the New Jersey Participant and licensed or authorized to do business in New Jersey. Failure to deliver the bond shall be considered a default under the Contract, at the discretion of and upon notice by the New Jersey Participant.

7. Governing Law:

This Contract shall be governed by, and construed and enforced in accordance with, the laws of the State of New Jersey without regard to its conflicts of laws principles.

8. Financing Arrangements:

Any financing arrangements (including lease purchasing arrangements) may be made directly between the Contractor and a New Jersey Participant or with the free ESCNJ Leasing Program. Financing arrangements may be subject to additional laws, rules and regulations, terms and conditions not described in this document and are subject to separate negotiation with each New Jersey Participant that is interested in such an arrangement. Each New Jersey Participant should seek its own legal advice prior to entering into a financing arrangement. ESCNJ must receive a report annually summarizing the executed lease purchases along with the summary of the customer purchases. ESCNJ will not collect lease payments or be involved in the terms and conditions of the Contractor lease. All lease arrangements are between the Contractor and the New Jersey Participant only.

9. Affirmative Action:

The Contractor/Vendor must have an employment policy that there shall be no discrimination against anyone on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, physical disability or sexual orientation in the hiring, upgrading, demotions, recruitment, termination and selections for training, in any manner prohibited by the laws of the United States or of the State of New Jersey. The Contractor/Vendor further agrees to be an "affirmative action-equal opportunity employer." The Contractor/Vendor must provide one of the following: "Letter of Federal Affirmative Action Plan Approval", "Certificate of Employee Information Report" or a completed "Employee Information Report Form AA302" prior to award bid.

10. Independent Contractor:

The Contractor shall not be held or deemed in any way to be the agent or employee of ESCNJ and/or a New Jersey Participant. It is the intention of the parties that the Contractor shall be and is to be considered an independent contractor.

11. Incorporation of Bid Documents:

The bid documents, including all appendices executed by Contractor that have been accepted by ESCNJ (the "Bid") are specifically incorporated into this Contract.

12. New Jersey Public Records Act:

The Contractor acknowledges that ESCNJ and New Jersey Participants are subject to the New Jersey Public Records Act, New Jersey Public Contracts Law and information submitted to ESCNJ and/or such New Jersey Participants may be made available to the public under the provisions of the this Act.

Marketing and Advertising under this Contract - applicable to Member Agency (ESCNJ) contract only:

1. Contractor agrees to provide ESCNJ with a copy or proof sheet of all advertisements, customer communications or promotional material for approval. Contractor will provide ESCNJ with date of release and name of publication, journal, etc. if applicable.
2. Contractor will include the approved ESCNJ logo, web address, bid #, bid title, bid term, NJ State Approved Co-op #65MCESCCPS and contact information in all print, electronic mail and other advertising and promotion intended for release in New Jersey.
3. The ESCNJ logo and information shall be of a clearly readable size and in appropriate proportion to other elements in the print material.
4. Contractor agrees to make available ESCNJ supplied brochures or other promotional materials on booths, tables, etc. of any or all exhibits for which the Contractor displays/participates at tradeshow, conventions and the like. Contractor will supply scheduled exhibit dates in advance.
5. Contractor agrees to insert the approved ESCNJ logo, web address, NJ State Approved Co-op #65MCESCCPS bid #, bid term and contact information on the Contractor's website promoting and providing a link to the ESCNJ website. Contractor will also provide ESCNJ with text, links and logos to be posted on the ESCNJ website.

B. Procedures for Processing Orders

1. Once the award is made to the Contractor, ESCNJ will inform the potential New Jersey Participants of the Contract, including a webpage dedicated to the contract on the ESCNJ website. At this point, the Contractor may directly contact

- any potential New Jersey Participant and any potential New Jersey Participant may directly contact the Contractor.
2. Purchase orders will not be accepted or processed by ESCNJ. All business will be contracted directly with the New Jersey Participant, which will issue a purchase order and provide payment for the applicable good or service directly to the Contractor.
 3. The total cost of ESCNJ's program is funded through a 2.2% participation fee paid to ESCNJ quarterly by the participating Contractors. The administrative fee percentage is based upon the total sale or lease of goods and services, including installation, if included. This fee shall be included in all price quotations to New Jersey Participants and shall not be printed as a line item on the quotation.
 4. Along with the participation fee, the Contractor will produce and provide to ESCNJ quarterly reports ending March 31, June 30, September 30 and December 31 throughout the contract period. The reports shall be in Microsoft Excel and be available in electronic form, shall identify the Contractor and the quarter being reported, shall be delivered to ESCNJ on the 15th of the month, shall include a minimum of the fields listed below and shall allow for sorting on any of these fields:
 1. Date of order.
 2. The name of the New Jersey Participant.
 3. ESCNJ Bid Number
 4. ESCNJ Co-op Number (New Jersey State Approved Cooperative Pricing System #65MCESCCPS)
 5. List (or academic) price sales totals.
 6. New Jersey Participant price sales totals.
 7. New Jersey Participant savings totals to be sent to the ESCNJ in summary and to each individual New Jersey Participant.
 5. Quarterly reports and administrative fee payments are to be made payable to ESCNJ and sent to ESCNJ, 1660 Stelton Road, Piscataway, NJ 08854, Attn: Patrick M. Moran, or such other address that ESCNJ will provide from time to time.
 6. If no purchases are made in any given quarter, the Contractor shall remit a "No Activities" statement to ESCNJ for that quarter. The Contractor will also produce and provide to ESCNJ an annual summary report for all purchases made under each contract awarded by ESCNJ pursuant to this document for a period beginning with the award of the contract and ending December 31 and all consecutive annual periods, if the contract is extended.
 7. New Jersey School Districts and other eligible New Jersey Participants are normally exempt from sales tax. The Contractor/Vendor should confirm this exemption and collect a tax-exempt letter from each New Jersey Participant.

C. Members Purchasing Under the Agency

There are 596 operating school districts in New Jersey and all are eligible for membership. No district is obligated to use these services. Additional New Jersey Participants may include other public educational institutions, public colleges or universities, community colleges, vocational or technical schools, municipal governments, and other governmental, quasi-governmental, or non-profit organizations. The ESCNJ Cooperative Pricing System currently has 1,250+ New Jersey Participants located in all 21 Counties of the State of New Jersey.

CONFLICT OF INTEREST

An ESCNJ employee (including independent contractors for purposes of this definition) placing an order or recommending a vendor must disclose any relationship with that vendor which would not be considered an "arms-length" or independent transaction. This disclosure must be made in writing to the Business Administrator and/or Chief Financial Officer for an evaluation. The Business Administrator and/or the Chief Financial Officer will respond to this disclosure in writing.

For a transaction to be considered "arms-length" or "independent", an ESCNJ employee should not be influenced, dependent upon, guided or controlled by a vendor into choosing that vendor, or item to purchase; nor should it appear to a third party that an ESCNJ employee made a purchasing decision which appears to be based upon a personal relationship between the ESCNJ employee and vendor.

The following are examples when a transaction is NOT considered arms-length or independent: (1) when there exists a personal relationship between an ESCNJ employee and a vendor, (2) when there exists the potential for a personal benefit to an ESCNJ employee, or (3) the parties to a business deal are dependent upon one another for "something" other than the purchase itself.

The Contractor shall disclose any relationship with an ESCNJ employee that would not be considered an "arms-length" or independent transaction, as described above. This disclosure must be made in writing to the Business Administrator and/or the Chief Financial Officer for an evaluation. The Business Administrator and/or the Chief Financial Officer will respond to this disclosure in writing.

In addition, the Contractor shall, if given a copy of the potential New Jersey Participant's conflict of interest policy, follow the process in that policy, or otherwise disclose to a potential New Jersey Participant any relationship that would not be considered an "arms-length" or independent transaction with that New Jersey Participant, as described above. This disclosure must be made in writing to the chief official (for example, the Superintendent at a board of education) at the potential New Jersey Participant.

Determination of the existence of a conflict of interest does not prohibit ESCNJ and/or a New Jersey Participant from entering into the contract and purchase order, respectively.

American Goods - American Goods Clause—N.J.S.A. 18A:18A-20 - American goods and products to be used where possible

All contracts for work for which it will pay any part of the cost or work which by contract it will ultimately own and maintain, that only manufactured and farm products of the United States, wherever available, to be used in such work.

Anti-discrimination - All parties to any contract with the ESCNJ agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference.

Debarment/Suspension - N.J.A.C. 17:19-1.1 et seq. The ESCNJ will not enter into a contract for work with any person, company or firm that is on the State Department of Labor and Workforce Development; Prevailing Wage Debarment List, or the State of New Jersey Consolidated Debarment Report (www.state.nj.us/treasury/debarred) or the Federal System for Award—SA (www.state.nj.us/treasury/debarred) or the Federal System for Award—SA

For Time and Material bids - DPMC - There is a non-refundable fee of \$100.00 which must be submitted to the State with your application. All payments must be made on company checks (no-cash) made payable to "Treasurer, State of New Jersey". No application will be processed without the fee. If you have any questions, please contact the Contractor Classification unit by accessing the DPMC web site at www.state.nj.us/treasury/dpmc/. NOTE: It is suggested that a photocopy of this completed form be retained for your records. Please submit the completed application and all required documentation to the Treasurer, State of New Jersey. Upon review and approval of this application, your firm will be notified by mail of the effective and expiration dates, type of work, and rating assigned to your firm. Please submit your certificate with your bid package.

Any contractor who submits a bid for a public works contract the amount which exceeds **\$20,000**, pursuant to N.J.S.A. 18A:18A-26, 27 et seq., shall be classified by the Department of Treasury, Division of Property Management (DPMC) as to the type of work and trades (character) and the aggregate rating (amount) of public work they are qualified to submit bids.

The ESCNJ may only accept bids from contractors that are qualified.

Notice of Classification—DPMC-27

The Notice of Classification is a document issued by the DPMC that provides the following information about the qualified contractor:

- Trade(s) classification held by the contractor

The contractor is classified by the trade and trade number as found in Form DPMC-27. For example

Trade Number	Trade
C030	Plumbing
C032	HVACR

The contractor is therefore qualified to submit bids (exceeding \$20,000) to the board of education that pertain to plumbing and heating, ventilation, air conditioning and refrigeration.

For Time and Material bids Equipment Certification 18A:18A-23. A certificate showing that the bidder owns, leases, or controls all the necessary equipment required by the plans, specifications and advertisements under which bids are asked for and if the bidder is not the actual owner or lessee of any such equipment, his certificate shall state the source from which the equipment will be obtained, and shall be accompanied by a certificate from the owner or person in control of the equipment definitely granting to the bidder the control of the equipment required during such time as may be necessary for the completion of that portion of the contract for which it is necessary.

For Time and Material bids - Total Amount of Uncompleted Contracts - DPMC 701

This document is completed by the contractor submitting a bid, on the form provided by the DPMC. The document lists the amount of uncompleted contracts held by the contractor and a certification that the amount of uncompleted contracts, added to the bid amount for the ESCNJ Participant project, does not exceed the Aggregate Amount rating as assigned by the DPMC.

For Time and Material bids - Pre-qualification Affidavit/No Material Adverse Change

Pursuant to N.J.S.A. 18A:18A-32, no bidder is qualified to bid on any public work contract unless they provide an affidavit that there has been no material adverse change in his qualification information pursuant to N.J.S.A. 18A:18A-28.

For Time and Material bids - Prevailing wages; Alterations and repairs - The State of New Jersey Prevailing Wage Act, Chapter 150 Laws of 1963 with applicable statewide wage rates and for the wage rates for the county of the location of the New

Jersey Participant, as published by the Department of Labor and Workforce Development in conformance with N.J.S.A. 34:11-56-25 et seq. Copies of these wage rates may be obtained from the State Department of Labor and Workforce Development, and/or viewed at <http://lwd.dol.state.nj.us/> the Prevailing Wages Determination Section.

For Time and Material bids - Compliance with New Jersey Prevailing Wage Act

Every contractor and subcontractor performing services in connection with this project, shall pay all workers a wage rate not less than the published prevailing wage rates, for the locality the work is being performed, as designated by the New Jersey Department of Labor and Workforce Development.

For Time and Material bids - Certified Payrolls

Every contractor agrees to submit to the New Jersey Participant a certified payroll for each payroll period within ten (10) days of the payment of wages. The contractor further agrees that no payments will be made to the Contractor by the New Jersey Participant, if certified payrolls are not received by the New Jersey Participant. It is the Contractor's responsibility to insure timely receipt by the district of certified payrolls.

For Time and Material bids - Submission of Affidavit

Before final payment, the contractor shall furnish the New Jersey Participant with an affidavit stating that all workers have been paid the prevailing rate of wages in accordance with State of New Jersey requirements. The contractor shall keep an accurate record showing the name, craft, or trade and actual hourly rate of wages paid to each workman employed by him in connection with this work. Upon request, the Contractor(s) and each Subcontractor shall file written statements certifying to the amounts then due and owing to any and all workmen for wages due on account of the work. The statements shall be verified by the oaths of the Contractor or Subcontractor, as the case may be.

18. New Mexico, Cooperative Educational Services (CES)

Cooperative Educational Services (CES) is the administering agency of a Joint Powers Agreement as authorized by Section 11-1-1, et. seq. NMSA 1978, which is based in Albuquerque, New Mexico, and is composed of 180 New Mexico public educational institutions (Members) such as K-12 public school districts; charter schools; colleges and universities and their branch campuses; community colleges and vocational schools; Bureau of Indian Education (BIE) schools; that are parties to the Revised and Amended Joint Powers Agreement (JPA) to establish an educational cooperative. CES was organized in 1979 as a direct response to the needs of small and rural Local Education Agencies (LEA's). CES offers numerous programs and services in the following areas: administrative support, special education services, and cooperative purchasing.

A. CES General Terms and Conditions

Arbitration: This contract is subject to arbitration to the extent required by the New Mexico Procurement Code, 13-1-21 to 13-1-199. NMSA 1978.

Assignment of CES Payments: If the Contractor requests that its payment from CES/CES Members be issued to a third party or that a joint check be issued to the Contractor and a third party, this request must be submitted and approved by the agency prior to the Contractor accepting a purchase order. The agency reserves the right to assess a special handling charge of thirty-five dollars (\$35) per check. The special handling charge will be deducted from the amount of the invoice being paid. If the Contractor wishes to have all payments under this contract made to a third party, Contractor must state this in his response.

Background Checks - Per 22-10A-5 NMSA 1978, the New Mexico Public Education Department (NMPED) mandates security and background checks for individuals working and/or providing services within public school grounds and buildings. Specifically, part C of the sections states, "Local school boards and regional education cooperatives shall develop policies and procedures to require background checks on an applicant who has been offered employment, a Contractor or a Contractor's employee with unsupervised access to students at a public school." Describe how your company will comply with the CES Member's or Participating Entity's policies and procedures in regard to background checks.

CES Members: Are the parties to the CES Joint Powers Agreement (JPA) and consist of public educational institutions within the State of New Mexico and include public school districts as defined in NMSA 1978 § 22-1-2, State Institutions as defined in NMSA 1978 § 22-1-2, State Educational Institutions defined under Article XII, Section 11 of the New Mexico Constitution, most of the community colleges defined by the "Community College Act" as defined in NMSA 1978 § 21-13-1 et seq., their branch community colleges as defined in NMSA 1978 § 21-14-1 et seq., technical and vocational institutes defined in NMSA 1978 § 21-16-1, area vocational schools defined in NMSA 1978 § 21-17-4, off campus community colleges or instructional facilities as defined in NMSA 1978 § 21-14A-1, charter schools as defined in NMSA 1978 § 22-8A-1, Regional Center Cooperatives as set forth in Section 22-2B-1 et seq., and 638 schools and grant schools. Each public educational institution is authorized by its governing body and the Procurement Code 13-1-135 NMSA 1978 to enter into cooperative purchasing agreements, pursuant to Sec. 11-1-1 et seq. 1978 Comp. and Sec. 108 of Ch. 65 of the Laws of 1984 (The Procurement Code).

CES Participating Entities: Is defined as non-public educational agencies and/or organizations classified as follows, that may participate in and purchase tangible personal property, professional, non-professional and construction services through their cooperative purchasing agreement with CES.

1. Federal Agency [25 USC 3001 (4)] is defined as any department, agency, or instrument of the United States, any executive department, military department, government corporation, government-controlled corporation, or other establishment in the executive branch of government, including the Executive Office of the President or any independent regulatory agency established through legislative and/or administrative action.
2. State Agency [13-1-90 NMSA 1978] is defined as any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or office of the executive, legislative or judicial branch of the government of this State. "State agency" includes the purchasing division

of the General Services Department (GSD) and the state purchasing agent but does not include local public bodies.

3. Local Public Body [13-1-67 NMSA 1978] is defined as a political subdivision of the State and the agencies, instruments and institutions thereof, including: two-year post-secondary educational institutions, school districts and local school boards and municipalities, except as exempted pursuant to the Procurement Code [13-1-28 NMSA 1978].
4. Non-Profit, Non-Public Educational Institutions and other Non-Profit Organizations (Section 501(c)(3) of the Internal Revenue Code, Federal Tax Code) is defined as charitable, religious, educational, public service, support and scientific organizations, entities, corporations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code, or corresponding section of the Federal Tax Code.

CES Supplemental Packet: Upon acceptance and approval of the Contractor's offer by AEPA, CES will independently consider the offer and issue a Contractor's supplemental packet requesting specific information necessary to enter and execute a contract in the state of New Mexico including information relating to: the Contractor's qualifications; ability to conduct business in the state of New Mexico; and who will be coordinating, promoting, receiving, and processing orders; and providing the prime Contractor's goods and services in New Mexico. Once the prime Contractor provides this information, CES will review, seek clarification (if needed), and conduct a Contractor conference to complete the contract execution process.

CFR - Code of Federal Regulations www.gpoaccess.gov/cfr/index.html

Civil and Criminal Penalties: The New Mexico Procurement Code, Sections 13-1-21 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

Commencement Date/Substantial Completion Date: CES's purchase order establishes the Notice to Proceed. The Substantial Completion Date refers to a stage of a construction or building project or a designated portion of the project that is sufficiently complete, in accordance with the construction contract documents, so that the owner may use or occupy the building project or designated portion thereof for the intended purpose. The allowed duration for each project will be determined by the Contract Documents between the CES Agency and the Contractor.

Confidential Information and Disclosure of Proposal Contents: For the purposes of this procurement, the provisions of the "New Mexico Inspection of Public Records Act" (NMSA 1978, Chapter 14, Article 2) will be in effect. Pursuant to this Act, all proceedings, records, contracts, and other public documents relating to this procurement shall be open to public inspection. Proposers are reminded, that while trade secrets and other proprietary information they submit in conjunction with this procurement may not be subject to public disclosure, protections must be claimed by the proposer at the time of submission of its Technical Proposal. Proposers should refer to the New Mexico Inspection of Public Records Act for further clarification.

The designation of certain information as trade secrets and/or privileged or confidential proprietary information shall only apply to the technical portion of your proposal. Your cost proposal will not be considered confidential under any circumstance. Any proposal copyrighted or marked as confidential or proprietary in its entirety may be rejected without further consideration or recourse.

The Proposer must clearly designate the part of the proposal that contains a trade secret and/or privileged or confidential proprietary information as "confidential" in order to claim protection, if any, from disclosure. The proposer shall provide a sheet with the following legend, specifying the specific section(s) of his proposal sought to be restricted in accordance with the conditions of the legend:

"The data contained in pages ____ of the proposal have been submitted in confidence and contain trade secrets and/or privileged or confidential information and such data shall only be disclosed for evaluation purposes, provided that if a contract is awarded to this Proposer as a result of or in connection with the submission of this proposal, CES and its Members and Participating Entities shall have the right to use or disclose the data therein to the extent provided in the contract. This restriction does not limit CES and its Members and Participating Entities the right to use or disclose data obtained from any source, including the proposer, without restrictions."

Further, to protect such data, each page containing such data shall be specifically identified and marked "CONFIDENTIAL". Within the required electronic submission, any item marked as confidential will need to be submitted in a separate folder marked "Confidential information".

The CES Executive Director will review the statement and will determine in writing whether the information will be withheld. If the Executive Director determines that the information should be disclosed, the Contractor will be informed in writing of such determination. Contractor may object in writing within five (5) days after notification of determination, no disclosure will be made and the bid response may be rejected.

Contract Non-Exclusive: Any contract resulting from this solicitation will be awarded with the understanding and agreement that it is for the sole convenience of CES, its Members or Participating Entities in New Mexico. CES reserves the right to obtain like goods and services from another source when necessary.

Contractor: As defined in Construction Industries Licensing Act, 60-13-1 NMSA 1978: "contractor" means any person who undertakes, offers to undertake by bid or other means, or purports to have the capacity to undertake, by himself or through others, contracting. Contracting includes constructing, altering, repairing, installing or demolishing any: road, highway, bridge, parking area or related project; building, stadium or other structure; airport, subway or similar facility; park, trail, bridle path, athletic field, golf course or similar facility; dam, reservoir, canal, ditch or similar facility; sewerage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility; sewerage, water, gas or other pipeline; transmission line; radio, television or other tower; water, oil or other storage tank; shaft, tunnel or mining appurtenance; leveling or clearing land; excavating earth; air conditioning, conduit, heating or other similar mechanical works; electrical wiring, plumbing or plumbing fixture, consumers' gas piping, gas appliances or water conditioners; or similar work, structures or installations which are covered by applicable codes adopted under the provisions of the Construction Industries Licensing Act.

The Act includes subcontractor and specialty contractor; and includes a construction manager who coordinates and manages the building process; who is a member of the construction team with the owner, architect, engineer and other consultants required for the building project; and who utilizes their skill and knowledge of general contracting to develop schedules, prepare project construction estimates, study labor conditions and advise concerning construction.

Contractor Invoice: The Contractor will send an invoice to CES or a CES Member after the delivery of goods and/or services. Goods and services will be invoiced at current contract pricing approved by AEPA including the 2% administrative fee and if applicable, the local New Mexico Gross Receipts Tax.

Contractor's Quote to CES Member or Participating Entity: When preparing a proposal under a CES awarded contract, the Contractor must clearly identify and break out supplies, materials, equipment, services, labor, and local New Mexico Gross Receipt Tax into individual line items as they appear on the Contractor's awarded price schedule or pricing methodology. Stated prices must include the CES two percent (2%) administrative fee. All costs associated with preparing cost proposals and job orders shall be the responsibility of the Contractor and must be based on a detailed scope of work and in compliance with an approved pricing methodology.

Credit Hold: The Contractor must agree not to place CES, its Member or Participating Entity on "credit hold" without ten (10) days advanced notice in writing to all parties, by letter or e-mail. Before CES can pay a Contractor's invoice, it must collect payment from the CES Member or Participating Entity that received the product. CES believes it is better for the Contractor if CES places the slow-paying agency on "credit hold". If a Contractor places CES on "credit hold," agencies that pay promptly are penalized. If, on the other hand, CES places the offending agency on "credit hold", payment is more likely to result and only the offender is punished.

Disclosure of Confidential Information: Any confidential information provided to the Contractor by CES, its Members or Participating Entities or developed by the Contractor based on information provided by CES, its Members or Participating Entities in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of CES, its Members or Participating Entities. Upon termination of this Agreement, Contractor shall deliver all confidential material in its possession to CES, its Members or Participating Entities within thirty (30) business days of such termination. Contractor acknowledges that failure to deliver such confidential information to CES, its Members or Participating Entities will result in direct, special and incidental damages.

Indemnification: To the fullest extent permitted by law, Contractor must, defend, indemnify and hold harmless

CES, its Members, its Participating Entities, its officers and employees, against any and all liability, claims, demands, actions, damages, losses, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, government action and all expenses, including attorneys' fees and litigation expenses, demands or expenses asserted by a third-party, caused by, or resulting from, Contractor 's and/or its employees, act(s) or omissions(s) while Contractor, and/or its employees, perform(s) or fails to perform its obligations and duties under this agreement or acts or omissions occurring outside of this agreement Any equipment or facilities damaged by Contractor s' operation shall be repaired and/or restored to their original condition at Contractors' expense. Contractor shall at all times keep in force liability insurance limits as outlined in this solicitation. Failure to maintain current coverage in the amounts stated may result in termination of this agreement. CES shall be named as a co-insured on the insurance policy and the policy shall provide that the policy cannot be modified or cancelled without the approval of CES.

"This provision shall survive any termination of this Agreement. Contractor will promptly advise CES in writing of any action, administrative or legal proceedings or investigation as to which defense and indemnification shall apply."

Indemnification Intellectual Property: The Contractor shall defend, at its own expense, CES, its Members and Participating Entities against any claim that any product or service provided under this Agreement infringes any patent, copyright or trademark, and shall pay all costs, damages and attorney's fees that may be awarded as a result of such claim. In addition, if any third party obtains a judgment against CES, its Members and Participating Entities based upon Contractor's trade secret infringement relating to any product or services provided under this Agreement, the Contractor agrees to reimburse CES, its Members and Participating Entities for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, CES, its Members and Participating Entities shall:

1. Give the Contractor written notice, within forty-eight (48) hours, of its notification of any claim;
2. Allow the Contractor to manage the defense and settlement of the claim as permitted by law; and
3. Cooperate with the Contractor, in a reasonable manner, to facilitate the defense or settlement of the claim.

CES, its Members and Participating Entities Rights: If any product or service becomes, or in the Contractor's opinion is likely to become, the subject of a claim of infringement, the Contractor shall, at its sole expense:

1. Provide CES, its Members and Participating Entities the right to continue using the product or service and fully indemnify CES, its Members and Participating Entities against all claims that may arise out of CES, its Members and Participating Entities use of the product or service;
2. Replace or modify the product or service so that it becomes non-infringing; or
3. Accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any product or service modified by CES, its Members and Participating Entities to the extent such modification is the cause of the claim

Insurance: On contract award, the Contractor will, at its own expense, purchase and maintain insurance that will protect it from claims that may arise out of or as a result from its activities under this contract, where those activities are performed by it, by any Subcontractor, by anyone directly or indirectly employed by any of the Contractors or by anyone for whose acts the Contractor may be liable during the entire performance period of this contract. The Contractor must furnish a Certificate of Insurance to the CES procurement officer prior to official award. If policy changes occur during the life of the contract, it is the Contractor's responsibility to provide updated proof of coverage to the CES procurement officer.

1. Will provide to CES proof of coverage under the Workman's Compensation Insurance, as required by the Labor Laws and New Mexico Statutes.
2. Bidders will submit a certificate of general liability insurance for personal injury, occupational disease, sickness or death, and property damage. Insurance will include "occurrence" claim provisions. Minimum acceptable coverage is one million dollars (\$1,000,000) combined single limit for bodily injury and property damage, or seven hundred fifty thousand dollars (\$750,000) bodily injury and two hundred fifty thousand dollars (\$250,000) property damage (each occurrence). **The Contractor will name CES and the CES Member as co-insured up to the limits of the Tort Claims Act.**

3. Will provide to CES a certificate of comprehensive vehicle liability insurance, for both owned and non-owned vehicles, shall be one million dollars (\$1,000,000) per occurrence combined single limit for both personal injury and property damage.
4. If required for professional services, will provide a certificate of errors and omissions insurance for damages caused by an error, omission, or any negligent acts caused by the Contractor and its Subcontractors in the performance under this agreement. Combined singled limit per occurrence is one million dollars (\$1,000,000) and the annual aggregate limit of not less than two million dollars (\$2,000,000). The bidder will provide "tail" coverage at the completion of any contract entered into by CES or its Members for a minimum of 12 months, or the maximum time period reasonably available in the marketplace. The Contractor shall furnish certification of "tail" coverage as described following contract completion. This will be a condition of the final acceptance of work or services.
5. In addition, Contractor must provide, upon request, identical certification of insurance to any CES Member or Participating Entity using this contract. Prior to commencing any work, all Subcontractors must procure and maintain at its own expense until final acceptance of the work, written insurance coverage, and insurer's acceptance to the prime Contractor. All Subcontractors will provide workers' compensation insurance, which waives all subrogation rights against the prime Contractor and CES/CES Member/Participating Entities.

Lease and Rentals: Contractor can allow CES Members to enter into rent, lease or lease/purchase agreements, providing such agreements are in compliance with 6-6-12 NMSA 1978 Exemption from Bateman Act, 13-1-67 NMSA1978 Definition; local public body, and Public Education Department policies, rules and regulations. CES will not collect lease payments. Contractor agrees that leases will be in compliance with the Uniform Commercial Code. All terms of leasing must be included in the proposal with interest rates described as related to a government standard. Contractor must indicate in its response to this solicitation if the shipping costs for the return of leased or rented equipment are the responsibility of the CES Member and what that cost will be. No sale of a contract to a third party will be made without informing CES and the CES Member of the transfer. If Contractor sells a lease contract to a third party, the cost of return must not be greater than the cost of return to the original Contractor.

As required by New Mexico law, the lease agreement with the CES Member or Participating Entity will need to contain a termination provision for Non-Appropriation of Funds. In the event no funds or insufficient funds are appropriated and budgeted by CES, its Members or Participating Entities (Lessee) governing body or are otherwise unavailable in any fiscal year for the payment of lease and other amounts due under any lease, the lease shall terminate on the last day of the fiscal period for which appropriations were received or other amounts are available to pay amounts due under the lease without penalty or expense to the Lessee. It is the decision of CES, its Members, or Participating Entities to determine the sufficiency of funds, which determination shall be accepted by the Lesser and is final. The Lessee shall give the Lesser or its Assignee written notice at least thirty (30) days in advance of such occurrence.

Legal Remedies: All claims and controversies are subject to the New Mexico Procurement Code, NMSA 1978, and Sections 13-1-21 through 13-1-199.

Liens: All materials and services will be free of all liens.

Local Representation: Depending on the type and level of products and services offered, the Contractor must demonstrate their sales, support, and service staff are physically located where they can respond to and deliver services in a timely and cost-effective manner.

Manufacturer Endorsement: The Contractor must demonstrate it is an authorized distributor of the products and services offered, has access to manufacturer's technical support and warranty services, and possesses the certifications required to install, configure, and maintain the products offered within the state of New Mexico.

New Mexico Procurement Code: Sections 13-1-21 through 13-1-199 NMSA 1978 may be cited as the "Procurement Code".

Offer Acceptance Period to Execute a Contract with CES: In order to allow CES the opportunity to evaluate

the bids approved by AEPA, CES requires that the AEPA approved Contractor submit to CES a complete electronic copy of its response to AEPA's solicitation with original signatures within fifteen (15) days of CES's request. CES will issue its supplemental packet within thirty (30) days after receipt and review of the approved Contractor response. The approved Contractor will have fifteen (15) days to return the CES supplemental packet. After CES receives the request information in the supplemental packet, CES issue a contract for the products and services as approved by AEPA.

Ordering Process: Contractor agrees to adhere to CES' ordering process(es).

Ownership of Materials and Documents: CES, its Members or Participating Entities shall be the sole owner of all right, title and interest, including copyright, in and to all software, plans, diagrams, facilities, and tools (hereafter "**materials**") which are originated or created through Contractor's work pursuant to this Contract. Contractor, for valuable consideration herein provided, shall execute all **documents** necessary to assign and transfer to, and vest in CES, its Members or Participating Entities all Contractor's rights, title and interest in and to such original **materials**, including any copyright, patent and trade secret rights which arise pursuant to Contractor's work under this Contract.

Patent and Copyright Infringement: Contractor will, at their expense, defend CES and its Members and Participating Entities against any claim that any equipment or software supplied hereunder (even if such equipment or software are modified by CES or its Members, subject to the last paragraph of this section) infringe a patent or copyright in the United States, or a U.S. Territory, and will pay all costs, damages and attorney's fees that a court finally awards as a result of such a claim. To qualify for such a defense and payment, CES must:

1. Give Contractor prompt written notice of any such claim after becoming aware of such claim.
2. Allow Contractor to control and fully cooperate with Contractor in the defense and all related settlement negotiations.

CES will be reimbursed for all expenses incurred by CES in fully cooperating with Contractor as specifically requested by contract. CES is not required to incur any expenses specified in this paragraph, which are not reimbursable, by the Contractor. If any CES Member and Participating Entities are involved by any party in any way, the same provisions that apply to CES in this paragraph will apply to the CES Member or Participating Entity. Contractor's obligation under this section is conditioned on CES' agreement that if the subject of such a claim, CES will permit the Contractor, at its expense and option, either to procure the right for CES and its Members or Participating Entity to continue using the equipment and/or software, or to replace or so modify with equipment or software which are functionally equivalent so that they become non-infringing. If neither of the foregoing alternatives is available on terms which are reasonable in Contractor's judgment and satisfactory to CES, CES will request its Members or Participating Entity to return the equipment or software on written request by Contractor at Contractor's expense.

Contractor agrees to refund CES, its Members or Participating Entities a refund for returned equipment as depreciated unless otherwise mutually agreeable in writing. The depreciation will be an equal amount per year over six (6) years. In the event that Contractor's written request for return is made after full depreciation, the Contractor will pay CES, or its Members who purchased the equipment, an amount equivalent to the fair market value of the returned equipment. If CES, or any of its Members or Participating Entities, fails to return the equipment, the Contractor is not obligated to that Member under this clause.

Contractor will have no obligation with respect to any such claim based upon a Member's or Participating Entity's modification of the equipment or software or combination, operation or use with apparatus, data or programs not furnished by Contractor. However, one Member's or Participating Entity's action will not preclude Contractor's obligation to others not having modified their equipment or software.

Payment by CES: CES will make every effort to collect payment from Members or Participating Entities for the purchase of goods and services within thirty (30) days after the receipt of goods or services and a correct invoice of amount due, unless a good faith dispute exists as to any obligation to pay all or a portion of the account. Any offer that requires payment in less than forty-five (45) days shall not be considered. CES must first receive payment from the Member or Participating Entity in order to process payment to the Contractor. Any Contractor whose business would be in jeopardy due to slow payments is encouraged not to respond. It has been CES' experience that public agencies always pay, but many are slow in processing payments.

Payments by Member or Participating Entities: For the purchase by a Member or Participating Entity directly from the Contractor for goods and services that have been received and accepted. Payment from the Member or Participating Entity to the Contractor will be made within forty-five (45) days after the receipt of a correct invoice, unless a good faith dispute exists as to any obligation to pay all or a portion of the account. If a dispute arises or an agency's account becomes delinquent, the Contractor is encouraged to contact and request assistance from CES. Any offer that requires payment in less than forty-five (45) days shall not be considered.

Payment of Administrative Fee: When a CES Members or Participating Entities issue payment directly to the Contractor for goods and services received and accepted. The Contractor will, upon receipt of payment from a CES Member or Participating Entity, issue payment to CES for an administrative fee in an amount equal to two percent (2%) of the total invoice amount.

Price List: The AEPA Contractor will submit to CES and/or its Members and Participating Entities (if requested) or make available on its website all applicable pricing for all products and services proposed, approved, and awarded under this solicitation. Price lists submitted must be in accordance and comply with the AEPA's terms, conditions, and the requirements of the CES purchasing process utilized to facilitate eligible procurement agencies' staff to place and process orders. When utilizing any of the pricing methodologies identified and required within this solicitation, such discounts and pricing will include the CES two (2%) percent administrative fee, must be submitted in the format required, and can be audited by CES.

Public Record: All documents associated with this AEPA contract will become the property of CES and be a matter of public record available for review, after the final award notification according to the "New Mexico Inspection of Public Records Act" (NMSA 1978, Chapter 14, Article 2). All proposals may be reviewed under the supervision of CES staff by appointment, from 9:00 a.m. to 4:00 p.m., Monday through Friday, at 4216 Balloon Park Road NE, Albuquerque, New Mexico, 87109.

Safety Measures: Contractor will comply with all federal and state of New Mexico safety regulations.

Severability: The provisions of this contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract, which may remain in effect without the invalid provision or application.

Smoking: All Contractors and subcontractors must adhere to CES Member or Participating Entity smoking policies.

Taxes: Prices offered will not include applicable State of New Mexico Gross Receipts Tax (NMGR). All applicable NMGR must be listed as a separate line item on all invoices. No gross receipts taxes can be collected on delivery charges to the agency's location.

1. There is no NM State Gross Receipt Taxes NMGR applied to the price of non-construction supplies, materials, and equipment.
2. There will be NM State Gross Receipt Taxes NMGR applied to any non-construction services and professional services based on the location of the provider.
3. There will be NM State Gross Receipt Taxes NMGR applied to any construction product and/or service based on the physical location of the construction site.
4. Indian Reservation or Tribal Tax: If goods or services are delivered to locations on a Indian reservation or purchased by tribal governments, they are subject to tribal taxes.

5. A Bidder will be required to provide tax indemnification number (CRS) issued by New Mexico Taxation and Revenue Department at time of contract award.

Termination for Convenience: CES can, by written notice stating the effective date, terminate the contract issued for convenience in whole or in part, at any time. CES shall pay Contractor as full compensation for performance until such termination as follows:

1. The unit or pro-rata order price for the delivered and accepted portion; and
2. A reasonable amount, not otherwise recoverable from other sources by Contractor as approved by CES with respect to the undelivered or unaccepted portion of the service, provided compensation shall in no event exceed the total contract price.

Termination for Default: CES reserves the right to terminate in whole or any part of the contract due to the failure of the Contractor to carry out any obligation, term or condition of the contract. CES may issue written notice to the Contractor for acting or failing to act under the following conditions.

1. The Contractor provides material that does not meet the specifications of the contract.
2. The Contractor fails to complete the services set forth in the specifications of the contract.
3. The Contractor fails to complete the work required or to furnish the materials required within the specified time.
4. The Contractor fails to make progress in the performance of the contract and/or gives CES cause to believe that the contractor will not or cannot perform the requirements of the contract.
5. The Contractor fails to observe any or all of the terms and conditions of the contract.
6. The Contractor accepts purchase orders, based on this contract, directly from a CES Member or Participating Entity and then invoices them directly.
7. Any other conditions that, in the opinion of CES, warrants such action.

Upon receipt of a written notice, the Contractor will have ten (10) days to provide a satisfactory response in writing to CES. Failure on the part of the Contractor to satisfactorily respond can result in CES terminating the contract.

Termination for Gratuity: CES shall, by written notice, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any employee of CES with a view toward securing a contract or the respect to the performance of the contract. Paying the expenses of normal business meals, which are generally made available to all eligible school and government employees, shall not be prohibited by this paragraph. Samples of software, equipment, or hardware provided to CES for demonstration, evaluation, or loan purposes are not considered gratuities.

Termination for Non-Performance or Contractor Deficiency: CES can terminate any contract if CES Members have not used the contract in any 12-month period, or if purchase orders total less than \$10,000 per year. CES reserves the right to cancel the whole or any part of this contract due to failure by Contractor to carry out any obligation, term or condition of the contract. CES may issue a written notice to Contractor for acting or failing to act in any of the following:

1. Providing material that does not meet the specifications of the contract;
2. Failing to adequately perform the services set forth in the scope of work, specifications or contract;
3. Failing to complete required work or furnish required materials within a reasonable amount of time;
4. Failing to make progress in performance of the contract and/or giving CES reason to believe that contractor will not or cannot perform the requirements of the contract;
5. Performing work or providing services under the contract prior to receiving a purchase order from CES for such work;
6. Accepting purchase orders based on this contract from CES Members and/or invoicing CES Members directly.
7. Fails to observe any or all of the terms and conditions of the contract.
8. Any other conditions that, in the opinion of CES, warrants such action.

Upon receipt of a written notice, contractor will have ten (10) days to provide a satisfactory response to CES. Failure to adequately address all issues of concern may result in contract cancellation. Upon cancellation under

this paragraph, all goods, materials, work, documents, data, and reports prepared by Contractor under the contract will become the property of the CES Member on demand.

Termination for Non-Appropriation: Any individual Member's or Participating Entities' project may be terminated if insufficient appropriations or authorizations do not exist due to changes in state or federal law, or because of court order, or because of insufficient appropriations made available to Members or Participating Entities governing board and/or the New Mexico State Legislature. Such termination will be effected by sending fifteen (15) days written notice to the Contractor. The CES Members or Participating Entities decision as to whether sufficient appropriations and authorizations are available shall be accepted by the Contractor and shall be final.

B. Construction Terms and Conditions – For construction products and services.

Additional Contract: A contract between the CES Member or Participating Entity and the Contractor for construction will be an industry standard agreement. The parties may agree to use the American Institute of Architects (AIA) General Conditions of Contract for Construction Form A201 as a guide.

Bonds:

1. Upon execution of a contract between a CES Member/Participating Entity and the prime Contractor for a project with a value twenty-five thousand (\$25,000) or more, will provide performance and payment bonds from a surety company authorized to do business in New Mexico in accordance with the New Mexico Insurance Code and be a surety listed in the US Treasury Circular 570.
2. The prime Contractor will execute a performance bond in an amount equal to one hundred percent (100%) of the price specified in the contract between the CES Member or Participating Entity and the prime Contractor by a surety company authorized to do business in New Mexico in accordance with the New Mexico Insurance Code and be a surety listed in the US Treasury Circular 570. Performance bonds between the CES Member or Participating Entity and the prime Contractor will be on standard AIA or similar forms.
3. All suits for nonpayment or nonperformance will be filed as allowed under New Mexico law.
4. Any Subcontractor providing or performing one hundred and twenty-five thousand dollars (\$125,000) or more of work for an individual project, must submit to the prime Contractor a performance and payment bond equal to one hundred percent (100%) of the subcontract cost from a surety company authorized to do business in New Mexico in accordance with the New Mexico Insurance Code and be a surety listed in the US Treasury Circular 570.
5. Acceptable forms of bonds are AIA Document A310-2010 Bid Bond or NASBP that includes the same language as the AIA Document A310-2010.

Construction: As defined in the New Mexico Procurement Code Regulations under 13-1-40 NMSA 1978. Definition: "construction" means building, altering, repairing, installing or demolishing in the ordinary course of business any road, highway, bridge, parking area or related project; building, stadium or other structure; airport, subway or similar facility; park, trail, athletic field, golf course or similar facility; dam, reservoir, canal, ditch or similar facility; sewage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility; sewage, water, gas or other pipeline; transmission line; radio, television or other tower; water, oil or other storage tank; shaft, tunnel or other mining appurtenance; electrical wiring, plumbing or plumbing fixture, gas piping, gas appliances or water conditioners; air conditioning conduit, heating or other similar mechanical work; or similar work, structures or installations. Construction shall also include: leveling or clearing land; excavating earth; drilling wells of any type, including seismographic shot holes or core drilling; and similar work, structures or installations.

Construction Contractor and Subcontractor Licenses: The prime Contractor and any Subcontractors shall possess the appropriate New Mexico Construction Industries Division (NMCID) Contractor's license required to provide the construction products services. Any Contractor using subcontractors must hold a current and appropriate Contractor's license, as defined in Construction Industries Licensing Act, 60-13-1 NMSA 1978. It is the responsibility of the Contractor to ensure that any subcontractors performing under this contract hold and maintain the appropriate Contractor's licenses as defined in Construction Industries Licensing Act, 60-13-1 NMSA 1978. The Contractor and any Subcontractors must maintain and keep current all licenses during the term of the contract.

New Mexico Building Codes: The Contractor when providing construction services must adhere to the most current version of the New Mexico Building Codes.

New Mexico Construction Industries Division: New Mexico Construction Industries Division (NMCID) is a state agency that is responsible for and enforce all licensing requirements for any one engaged in construction-related contracting in New Mexico. This includes general construction work, electrical, mechanical, and plumbing and LP gas. The activities that are considered to be contracting in New Mexico are defined in the Construction Industries Licensing Act, NMSA 1978, Section 60-13-3.

New Mexico Contractor Public Works Registration Requirement: As defined in Public Works Minimum Wage Act 13-4-13.1 NMSA 1978. In order to respond to a request for proposals or to be considered for award of any portion of a public works project greater than Sixty Thousand Dollars (\$60,000) for a public works project that is subject to the Public Works Minimum Wage Act [13-4-10 to 13-4-17, NMSA 1978], the Contractor, serving as a prime Contractor or not, shall be registered with the New Mexico Department of Workforce Solutions. The State, or any political subdivision of the State, shall not accept a bid on a public works project subject to the Public Works Minimum Wage Act from a prime Contractor that does not provide proof of required registration for itself. Contractors and subcontractors may register with the New Mexico Department of Workforce Solutions on a form provided by the division and in accordance with the Department of Workforce Solutions department rules.

Because this solicitation is for an indefinite quantity and the amount of work to be performed on individual projects is not known, CES is requiring that all Contractors be registered on or before the date of the proposal opening and keep their registration current during the term of the contract and all contract extensions.

New Mexico Public School Facilities Authority: New Mexico Public School Facilities Authority (NMPSFA) is the administrative unit created by the New Mexico legislature to carry out and act on behalf of the Public School Capital Outlay Council to administer, coordinate and provide general oversight for "state-funded construction", which is defined as a building or appurtenance to a building that is built in whole or in part with state capital outlay monies. As part of their oversight function, NMPSFA will receive and review construction project documents and coordinate with other state agencies such as NMCID, Environment Department, Department of Energy, Minerals and Natural Resources, State Fire Marshal's Office, etc., to ensure compliance with all applicable adequacy standards, rules, regulations, building, plumbing, electrical, fire prevention, and mechanical codes adopted by the state, county, city, town or fire district in which the construction project is located.

New Mexico Public Works Act: Sections 13-4-1 through 13-4-43 NMSA 1978 may be cited as part of the "Procurement Code".

New Mexico State Wage Rates: It is the contractor's responsibility to be acquainted with the New Mexico Department of Labor's rules, regulations, procedures and requirements relating to state wage rates, and to comply with state and federal regulations regarding payment of wages on public projects. The contractor will pay state wage rates for every job performed under this contract with a total project cost of more than Sixty Thousand Dollars (\$60,000) on an individual basis. The contractor will pay all mechanics and laborers employed on the site of the project by the contractor, unconditionally and not less often than once a week, and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications.

New Mexico State Wage Rate Documentation:

1. The New Mexico Department of Workforce Solutions (NMDWS) requires that certain forms be completed for every project in excess of \$60,000. CES will submit for the wage decision and, upon receipt of the decision, will provide it to the prime Contractor. The Contractor is responsible for completing and submitting the required forms to the NMDWS and must provide CES with a copy of the following required forms: Notification of Award, Statement of Intent to Pay Prevailing Wages, and Affidavit of Wages Paid.
2. The prime Contractor must submit the Statement of Intent to Pay Prevailing Wages and the Notification of Award to NMDWS with a copy being mailed, faxed or e-mailed to CES, prior to the start of the project. The Affidavit of Wages Paid must be submitted to NMDWS with a copy being mailed, faxed or e-mailed to CES at the conclusion of your work on the project. The prime Contractor is responsible for insuring that its subcontractor(s) also submit the Statement of Intent to Pay Prevailing Wages and the Affidavit of Wages Paid to NMDWS, with a copy being mailed, faxed or e-mailed to CES.

3. CES will not make any payments until copies of the Notification of Award, Statement of Intent to Pay Prevailing Wages and for projects \$25,000 or greater until the Payment and Performance Bonds are received by CES. Final payment will not be released until CES receives a copy of the Affidavit of Wages Paid.

New Mexico Workforce Solutions Contractor Registration Requirement: In order to submit a bid or response to a request for proposal valued at more than sixty thousand dollars (\$60,000) or to be considered for an award of any portion of a public works project greater than sixty thousand dollars (\$60,000) and for a public works project that is subject to the Public Works Minimum Wage Act (13-4-10 NMSA 1978), the contractor, serving as a prime contractor or subcontractor, shall be registered with the New Mexico Department of Workforce Solutions, Public Works (13-4-14.1 NMSA 1978) before CES can issue a purchase order. (see above)

Payment Retention, Progress Payments:

1. In order to comply with New Mexico Statutes Annotated 1978, Article 28 Retainage, 57-28-1 to 57-28-11, CES will not retain any funds on progress payments during any construction projects. The prime contractor agrees to only request payment for goods and services delivered, received and accepted by the CES Member or Participating Entity.
2. Final payment of a contract, for which progress payments have been made, will not be made until the project is totally completed (including punch list items and close out document delivered), and the final application for payment is signed by the CES Member or Participating Entity, received and audited by CES.
3. If the CES Member or Participating Entity and the prime contractor agree to retainage or a substitute security, the agreement must be in full compliance with New Mexico Procurement Code and applicable laws. If a substitute security or retainage is agreed upon, written notice must be provided to all parties prior to the issuing of a CES purchase order.
4. If the CES Member, Participating Entity, or their designee issues a written statement to the contractor that the estimate of work is not approved and certified, an amount from the progress payment determined to be reasonably sufficient to cover the deficiency set forth in the written finding maybe withheld. In such cases, the contractor agrees to hold CES harmless for any deficiency of payment. If any payment is delayed beyond forty-five (45) days from the due date, the contractor agrees not to charge CES interest on the late payment

Progress Payments for Construction: All progress payments must be invoiced through CES. It is the responsibility of the CES using agency and/or its designee to review and approve any estimates of work completed. If the CES using agency or their designee issues a written statement to the contractor per 57- 28-5 NMSA 1978 A. "If an owner receives an improperly completed invoice, the owner shall notify the sender of the invoice within seven days of receipt in what way the invoice is improperly completed, and the owner has no further duty to pay on the improperly completed invoice until it is resubmitted as complete..." In such cases, the contractor agrees to hold CES harmless for any deficiency of payment.

Quality Control Issues:

1. During the course of the contract, the Member's/Participating Entity's contact person may secure samples according to Construction Industries Division guidelines or industry standards of materials being used from containers at the job site and submit them to an independent laboratory for comparison to specified material.
 - a. Should test results prove that a material is not functionally equal to or better than specified, the prime Contractor will pay for all testing and any cost incurred to have materials installed to replace those found not to comply with the specifications and remove and dispose of the materials not complying.
 - b. Should test results prove that materials tested were functionally equal to the specified material, the prime Contractor will be notified of the results.
2. Should the Member/Participating Entity and the Contractor encounter a situation and/or condition that they cannot agree on or resolve during the execution of the project and/or during the project close-out process, CES has consultants under contract that either of the parties can engage to review, investigate, evaluate, and issue a written report on their findings and propose recommendations/solutions for addressing the concerns and issues.

Site Cleanup: Contractor will clean up and remove all debris resulting from its work as required by the CES Member or Participating Entity. The contractor shall comply with all laws and regulations governing disposal of construction and hazardous materials. Upon completion of the work, the premises will be left in a neat,

unobstructed condition with everything in good repair and order.

Site Examination: Contractor shall familiarize itself with the site, in order to anticipate unseen problems that may develop as the work progresses. Failure to have visited the site before submitting a job order proposal shall in no way relieve the contractor from furnishing any materials or performing any work required to complete the project in accordance with the contract documents, without additional cost to the CES Member/Participating Entity.

Site Preparation: Prior to a purchase order being issued by a CES Member or Participating Entity, the size, location and site conditions that exist at the time the contractor takes possession and/or control must be clearly identified and stated in writing. The contractor will not begin a project for which the site is not prepared or in the condition agreed upon in writing by the CES Member or Participating Entity, unless contractor decides to accept the site as is and is willing to perform the preparation work necessary at no cost, or until the CES Member or Participating Entity has included the cost of site preparation in a purchase order to CES. Site preparation may include, but is not limited to, moving furniture, clearing the site, securing the site, installing wiring for networks or power and similar pre-installation requirements.

Subcontractors: If it is necessary for the Offeror to contract with third party firms to provide various goods and services, the following will apply:

1. In accordance with the "Subcontractor Fair Practices Act", 13-4-31 to 13-4-42, NMSA 1978, the following information is required to be submitted with any job order project:
 - a. The name of each subcontractor who will be performing work or rendering service on the public works project and whose total contract will be the greater of:
 - i. Five Thousand Dollars (\$5,000); or
 - ii. One half of one percent (.005%) of the total project (to be estimated by the architect and/or engineer of record).
 - b. Address of the place of business
 - c. Subcontractor license number
 - d. Type of work or services to be performed by the subcontractor.
 - e. Pursuant to Section 13-4-38 NMSA 1978, if an Offeror fails to list a subcontractor in excess of the listing threshold on any job order contract, and they do not state that the provider is a sole source or that they will put all work that exceeds the threshold to individual bid each time, they are stipulating that they are fully qualified to perform the proposed products and services themselves and that they will perform all work themselves. After the specific job order contract award, any change in subcontractors must be approved by CES and the CES Eligible Agency, otherwise, the Offeror will be guilty of violation of the Subcontractors Fair Practices Act and subject to the penalties provided therein.
2. Subcontractor must be registered with New Mexico Department of Workforce Solutions, Public Works section.
3. CES and its Eligible Agencies reserves the right to approve, reject and replace any subcontractor proposed by the Offeror pursuant to 13-4-36 NMSA 1978.
4. Subcontractors will need to provide performance and payment bonds to prime Contractor if the sub-contract is greater than \$125,000 pursuant to 13-1-148.1 .
5. Any agreements with subcontractors shall incorporate, by reference, the terms and conditions of this solicitation and each individual project contract.
6. No subcontract will be entered into with any unlicensed party. Contractor must use subcontractors openly, include such arrangements in the proposal and certify upon request that such use complies with the rules of the NMCID, New Mexico Public Works Act and New Mexico Procurement Code.
7. Subcontractor Payment: Contractor agrees to pay subcontractors in a timely manner and in accordance with the New Mexico Prompt Payment Act pursuant to 57-28-5 NMSA 1978. If Contractor receives a progress payment from CES, the Contractor will pay subcontractor(s), "...within seven days after receipt of payment from the owner, contractor or subcontractor..." pursuant to 57-28-5 C. NMSA 1978. CES will contract to provide release of liens from subcontractors within fifteen (15) days of date of payment. Failure to pay subcontractors, pursuant to 57-28-5 C. NMSA 1978, for work faithfully performed and properly invoiced can result in the suspension or cancellation of this contract.

8. Subcontractor's labor used must be of a standing or affiliation that will permit the work to be carried on harmoniously, without delay and will not cause any disturbance, interference or delay to the progress of the project. Subcontractor and lower-tier subcontractors will not employ anyone whose employment might be objected to by prime Contractor or Member.
9. It is the responsibility of the Contractor to inform all suppliers and subcontractors that this contract is a cooperative purchasing contract and that the CES Eligible Agency must make payments to CES before CES can issue progress payments to the Contractor. The Contractor must provide CES with all subcontractors and suppliers information utilized for any individual project performed.
10. Contractor and Subcontractor are responsible for obtaining background checks for any employee working on a CES project per the CES Member's background check policy.

19. North Dakota, North Dakota Educators Service Cooperative (NDESC)

i. General Terms and Conditions that apply for all categories

- a. **Governing Law:** The laws of the State of North Dakota govern all contracts resulting from this IFB. Each and every provision of law and clause required by law to be included in a contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction.
- b. **Governing Venue:** The resulting contract award shall be deemed to have been made and performed in Cass County, North Dakota. For the purpose of venue, all legal arbitration or causes for action arising out of the resulting agreement shall be brought to the courts of Cass County, North Dakota.
- c. **Hazardous Substances:** All hazardous products purchased by members shall include a Safety Data Sheet (SDS) with the delivery.
- d. **Lease and Rental Agreements:** The Vendor may allow participating agencies to enter into a rental, lease, or lease purchase agreements, providing such agreements are in compliance with North Dakota Statutes and guidelines. NDESC must receive a report annually, summarizing the executed lease purchases along with a summary of the participating agencies' purchases. NDESC will not collect lease payments or be involved in the terms and conditions of the lease. All lease arrangements are between the Vendor and the participating agency. The Vendor agrees that leases will be in compliance with the Uniform Commercial Code. The applicable administrative fee must be included in the lease cost based on the total value of the goods and applicable services purchased. This fee is referred to under the Technical Specifications. The Vendor should attempt to work with NDESC's current leasing vendor. Note, the current leasing vendor may require a minimum purchase amount to begin the leasing process. Should the Vendor be required to utilize their own financial leasing company, this should be noted/requested as an exception. In the event of a lease, the total administrative fee for the value of goods shall be paid to NDESC by the vendor at the front end of the lease. NDESC reserves the right to review all purchase orders, lease documents and invoices to insure contract compliance.
- e. **Marketing and Promotion:** Upon award and completion of the vendor orientation, NDESC will promote the contract opportunity via its websites. NDESC will also announce the new partnership in its newsletters and will publish the contract and marketing information through hard copy marketing items (i.e. flyers, postcard) and electronic email. Contracts will also be promoted at applicable trade shows, conferences, and meetings on a regular basis. NDESC may assist in the development of these materials if requested by the Vendor, but in all cases shall have the authority to review and approve any marketing materials. If a website is used, the link will be made available from the NDESC website. Any web page or link, or other marketing tools shall be dedicated to NDESC information only.
- f. **Non-Discrimination:** Any resulting contract for on or behalf of participating agencies, said Vendor agrees to:
 - i. That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;
 - ii. That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color;
 - iii. That a violation of this section is a misdemeanor; and
 - iv. That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.
- g. **Participating Agency:** A participating agency shall be defined in accordance with Chapter 54-40.3

of the North Dakota Century Code, as amended. An eligible agency includes any school, higher education, city, county, other governmental agency, nonprofit organization, or other entity contracted to conduct business on behalf of a participating agency provided that they are required to follow state and local procurement regulations.

- h. **Substance Use and Conduct:** All Vendor partners and subcontractors must adhere to local substance (alcohol, drug, smoking, etc.) and conduct (dress code, language, parking, etc.) policies while on a participating agencies' premises.
- i. **Vendor Orientation (NDESC 101):** The Vendor and their participating resellers/sub-contractors will be required to participate in an online training session that is designed to educate the Vendor and resellers/sub-contractors on the purpose and nature of NDESC. The Vendor will not be marketed to participating agencies until they have completed the vendor orientation session.

2. Additional Participating Agency Terms and Conditions for Non-Construction Products and Services

If requested by NDESC, the contracted vendor will work with NDESC to develop an order form, or order forms, containing the most commonly purchased items, that NDESC can utilize to market the contracted vendor to its participating agencies.

3. Additional Participating Agency Terms and Conditions for Construction Related Products and Services

Upon acceptance and approval of the Vendor's offer by AEPA, NDESC will independently consider the offer and conduct a conference call with the Vendor to determine if the Vendor is able to meet the necessary requirements for construction related products and services, according to [Chapter 48-01.2 of the North Dakota Century Code](#), and to enter and execute a contract in the state of North Dakota. Once NDESC and the Vendor are able to confirm that business is able to be conducted in North Dakota, NDESC will make a final decision to complete the contract execution process.

For all quotes provided to participating agencies, for construction related projects, products and services, the contracted vendor must also send a duplicate quote to NDESC. The quote provided to NDESC must include the contact information of the participating agency.

Performance Bond (for construction and/or installation related projects): Performance bonds will be required on all projects valued at fifty-thousand dollars (\$50,000) or more in North Dakota. All performance bonds will be issued by a corporate surety authorized to do business in the state in which the work will be conducted and by a surety listed in the US Treasury Circular 570. Performance bonds will be posted by the Vendor and submitted to the specific participating agency for the assigned project. Should the contract be the result of a piggyback agreement, performance bonds will reflect each state's bonding requirements.

The Vendor will execute a performance bond in an amount equal to one hundred percent (100%) of the value specified in the contract between the participating agency and the Vendor, unless the participating agency requires less to be posted. This bond will protect all persons supplying labor and material to the Vendor for the performance of the work provided in the contract. Subcontractors who may work on the contract may have to provide the Vendor with a performance bond. If the contract price increases after the bond is provided, the participating agency may consider obtaining additional bonds from the Vendor.

The Vendor will deliver the performance bond to the eligible participating agency at the time the contract is executed between the agency and the Vendor. Work will not commence between the Vendor and the eligible participating agency until the performance bond is received by the participating agency and a copy has been sent to NDESC via email (info@purchasingconnection.org). The Vendor will be responsible for providing NDESC with a copy of all contracts and bonds in accordance with NDESC purchasing procedures. Should the Vendor fail to satisfactorily perform the contract, the bonding company that provided the performance bond will be required to pay the dollar amount of the bond to the participating agency.

It is the Vendor's responsibility to ensure that they can obtain the required bonding for all construction products based on an awarded contract arising from this solicitation. Payment will not be issued for any project for which the required bonds have not been received.

4. Procedure for Contract Award, Notification and Processing Orders

Once the award is recommended by the AEPA Review Committee, NDESC considers the recommendation based on the value of the potential contract for its participating agencies. Participating agency is defined as any city, county, public or private educational agency, nonprofit or governmental agency that is a participant of NDESC. In the event of an award by the Board of Directors, NDESC will inform its members of the award and contract by the following methods along with contract instructions and ordering process.

- a. The contract is listed and promoted on the NDESC website (www.ndesc.org).
- b. Announcing the award in NDESC newsletters.
- c. NDESC will publish the contract and marketing information through a hard copy marketing flier and electronic email. Contracts are promoted through PDF and a hard copy product catalog distributed at statewide trade shows and agency meetings on a regular basis. NDESC will require a marketing flier, brochure, or other similar marketing pieces, in an editable, electronic format, from each vendor promoting the available contract with the vendor, and/or a web page or link. NDESC may assist in the development of the marketing flier and material (if requested by vendor), but in all cases shall have authority to review and approve any marketing materials. If a web site is used, the link will be made available from the NDESC web page. Any web page or link, or other marketing tool shall be dedicated to AEPA information only.
- d. When the member identifies a desired product or service, the member and the vendor may negotiate with each other to establish a description of items and/or services. The vendor shall quote a price to the member, in writing, using AEPA established discounts and including the two percent (2%) administrative fee in the quoted price. The administrative fee shall be based upon the total cost of goods and/or services including installation costs. The administrative fee shall not be listed as a separate line item on the quote. When a member decides to purchase through the NDESC-AEPA contract, the member issues the purchase order directly to the vendor. The purchase order must include the total invoiced cost, based on
 - i. The total cost of goods, service, and installation, including the 2% administrative fee.
 - ii. Notification will be made to the vendor in the event the purchase order is not in compliance with the contract and adjustments will be made at that time. NDESC and the vendor will mutually resolve any issues with regard to past purchases. The purchase orders are to continue to be processed and viewed as approved unless notified by NDESC otherwise. All sales and transactions may continue without delay or in anticipation of the NDESC purchase order verification.
 - iii. Once all the items and services on the purchase order have been delivered to the member in a complete and satisfactory manner, the vendor then files a copy of the final invoice, which is available to NDESC by request in support of the quarterly sales summary. The invoice is to be marked "Copy".
 - iv. Vendor makes all deliveries and installations of products and services. NDESC does not warehouse items or provide installation services.
 - v. This administrative fee is to be paid by the vendor to NDESC, quarterly, within 20 working days after the end of each fiscal quarter. The AEPA vendor shall also submit to NDESC a sales report, in Excel format, listing the following information:
 1. Name of purchasing agency
 2. Address of purchasing agency
 3. Date of purchase
 4. Invoice number
 5. Amount of purchase
 6. Administrative fee generated by sale
 7. Savings generated by sale
 8. This report shall include all sales made and payments received by the vendor in said quarter. The sales report shall be emailed to Jane Eastes at jeastes@lsc.org and copied to Lori Mittelstadt at lmittelstadt@lsc.org. The administrative fee payment shall be delivered to Jane Eastes, NDESC, 1001 East Mt. Faith, Fergus Falls, MN 56537. The check shall be made out to North Dakota Educators Service Cooperative.
 - vi. NDESC requires that all participating vendors offer the contract opportunity to all NDESC participating agencies.

5. **Express Online Marketplace:** NDESC provides participating agencies with an online purchasing platform called Express, powered by EqualLevel. Through Express, agencies are able to search for and purchase items. Essentially, Express is a one-stop shop for many of NDESC's commodity based contracts. A Vendor does not have to have an e-commerce site to be included in Express. NDESC expects growth in the number of agencies utilizing the marketplace and the volume of sales to grow significantly. NDESC will work with the Vendor to determine if the contract agreement is suitable for the online platform. If deemed suitable, NDESC will require integration into Express within a timely manner.

20.OHIO COUNCIL OF EDUCATIONAL PURCHASING CONSORTIA (OCEPC) 2019

A. General Terms and Conditions that apply for all Categories:

1. Compliance with Laws/Forum Designation

Contractor shall comply with Federal, State, and Local Laws, Codes and Regulations while fulfilling the contract. It is the Contractor's responsibility to be aware of and comply with all state and local laws governing this procurement. Applicable laws, codes, and regulations (etc.) must be followed even if not specifically identified herein. Contractor shall verify to the Ohio Council of Educational Purchasing Consortia (OCEPC), its Member Agencies and other qualifying purchasers that the Contractor is complying with all Federal, State and Local Laws, Codes and Regulations while fulfilling the contract. Moreover, this contract shall be governed by and construed in accordance with the laws of the State of Ohio without giving effect to its principles of conflict of law. Legal proceedings arising under this contract shall be brought in an Ohio Court of Common Pleas of the County where the Member Agency's main office is located.

2. Delinquent Tax Affidavit

Contractor shall provide an affidavit relating to delinquent taxes as may be required by Ohio Revised Code Section 5719.042.

3. Secretary of State Registration

Contractor shall meet and maintain all registration requirements as necessary to conduct business in the State of Ohio, including but not limited to registration with the Ohio Secretary of State.

4. Findings for Recovery

Contractor warrants and represents that it is not subject to a finding for recovery under Ohio Revised Code Section 9.24, or that Contractor has taken the appropriate remedial steps required under Ohio Revised Code Section 9.24, or otherwise qualifies under Ohio Revised Code Section 9.24.

5. Ohio Workers Compensation Insurance

Contractor, and any subcontractors hired by Contractor shall, at their own expense, maintain in force for the duration of the project workers' compensation and employer's liability insurance as required by the laws of the State of Ohio.

6. Project Personnel, Student Safety and Background Checks

Member Agency shall have the right to reject the participation of any personnel of Contractor in the performance of the services if, in relation to the work assigned to them, the Member Agency deems such personnel to lack the skill, experience and expertise required to perform the services or if Member Agency considers their performance to be substandard or otherwise detrimental to the proper completion of the services. Contractor will advise Member Agency promptly of any change in the project manager or other key personnel assigned to the performance of the services.

Contractor acknowledges that the safety of the Member Agency's students, employees, officials and guests is of the utmost importance. Contractor will endeavor to ensure that its officers, employees, agents, representatives, and consultants will take no action that would jeopardize the safety of the Member Agency's students, employees, officials, or guests. The Member Agency reserves the right to require Contractor's officers, employees, agents, representatives and consultants to wear identification and stay in designated work areas at all times while on the Member Agency's property. The Member Agency shall have the right to effect the immediate removal of any person associated in any way with Contractor from Member Agency property for failure to wear identification, for being outside a designated work area, for fraternizing with or engaging in any improper behavior directed toward or in the vicinity of students, employees, officials, or guests of the Member Agency or for any other good cause.

Contractor shall perform or cause to be performed an Ohio Bureau of Criminal Investigation and Identification and Federal Bureau of Investigation criminal background check of any personnel that will be performing the services within the proximity of minors. Contractor shall notify the Member Agency of any proposed employee who has been convicted, pled guilty or pled "no contest" to a criminal offense, and the Member Agency reserves the right to reject the proposed employee with a criminal background. No person shall be employed by Contractor who has been found guilty of any of the criminal offenses enumerated in Ohio Revised Code Section 3319.39 without prior approval of the Member Agency.

7. Independent Contractor

Contractor shall be an independent contractor and neither Contractor nor any of its subcontractors, nor the employees of any thereof, shall be deemed to be the servants, employees, or agents of Member Agency. Contractor shall be responsible for paying all costs related to its employees and managers performing the services. Contractor shall remain liable and responsible to Member Agency for all of its obligations under this contract, regardless of whether the services are performed by the Contractor or a subcontractor of any tier.

8. Ownership of Instruments of Service

Drawings, data and other documents prepared by, or with the cooperation of, the Contractor pursuant to this contract shall become, upon payment of all undisputed compensation due the Contractor from the Member Agency, the property of the Member Agency. Such drawings, data or other documents may be used by the Member Agency or others employed by the Member Agency without compensation to the Contractor.

9. Audit

Member Agency may audit and inspect Contractor's records and accounts at any time during the Contractor's performance of the services and for a period of two (2) years following the completion or termination of the services for the purpose of verifying any invoice and underlying documentation presented by Contractor, it being understood that Contractor agrees to preserve all such documents through such two- (2) year period.

10. Notices

Unless otherwise expressly provided in this contract, all notices and other communications given under the contract shall be in writing and shall be deemed effective upon receipt by the addressee at its address as set forth in the contract or at such other address as such party shall have notified the other in writing.

11. Non-Appropriation

If the Member Agency fails to appropriate sufficient monies in any fiscal year for payments due under the contract and other funds are not available for such payments, then a "Non-Appropriation" shall be deemed to have occurred. If a Non-Appropriation occurs, then Member Agency will give Contractor prompt notice of such Non-Appropriation. This contract shall thereupon terminate without penalty or expense to the Member Agency.

12. No Personal Liability

It is understood and agreed that under no circumstances will the Member Agency's board members, officers, employees, or agents be personally liable for any obligations or claims arising out of or related to the contract.

13. Miscellaneous

Headings and titles of articles, paragraphs and other subparts of this contract are for convenience of reference only and shall not be considered in interpreting the text of this contract.

This contract and any appendices constitute the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements or understandings with respect thereto.

No contract amendments can be made without the approval of the AEPA membership.

B. Non-Construction Products and Services:

1. Bus Purchases

For the purchase of school buses, the successful Contractor shall provide bonds required by Ohio Revised Code Sections 153.54 and 153.571.

C. Construction Products and Services:

For construction improvements, the following shall apply:

1. The successful Contractor shall provide such bonds required by Ohio Revised Code Sections 153.54 and 153.571.
2. Progress payments and retainage shall be in accordance with the provisions of the Ohio Revised Code including Ohio Revised Code Sections 153.12 and 153.14.
3. In the event that the agreement is subject to the prevailing wage requirements of either Ohio Revised Code Chapter 4115 or the Davis-Bacon Act, then the contract between the Member Agency and the Contractor shall contain the applicable rates and such terms and provisions as may be required by law.
4. Contractor shall comply with all applicable licensing requirements, including those of the Ohio Construction Industry Licensing Board.

D. Procedures for Processing Orders:

The OCEPC will keep informed its Member Agencies and other qualified purchasers of contract information via web site and through other marketing strategies. A list of OCEPC Member Agencies along with addresses, phones, contacts, etc. will be made available to successful Contractors. After contracts are awarded, Contractors may contact the OCEPC Member Agencies and other qualifying purchasers concerning their products and services.

Participating Member Agencies and other qualified purchasers will submit all purchase orders directly to the Contractor.

The Contractor price shall include a two percent (2%) administrative fee that the Contractor will collect from the Member Agency or other qualified purchaser. Administrative fees are to be remitted to the OCEPC on April 15, July 15, October 15 and January 15 of every calendar year with checks payable to the Southwestern Ohio Educational Purchasing Council, 303 Corporate Center Dr. Suite 208, Vandalia, OH 45377.

The Contractor will compile a quarterly report showing all purchases made by the OCEPC Member Agencies and other qualified purchasers under this contract at the conclusion of each calendar quarter. These reports shall be attached to the administrative fee remittance.

E. Agencies Allowed to Purchase under Member Agency:

All member cooperatives of the OCEPC and their individual Member Agencies are eligible to participate and purchase from the awarded AEPA contracts. All Ohio K-12 school districts, including Boards of Developmental Disabilities, Educational Service Centers, and Instructional Technology Centers, are eligible to participate and purchase from the awarded AEPA contracts. In addition, all colleges and universities, state, cities, counties, townships and other governmental agencies are eligible to participate if the AEPA contracts satisfy their individual procurement requirements.

Revised: December 2, 2009

Approved: December 14, 2009

Reviewed: May 12, 2010

Revised: May 27, 2011

Reviewed and Approved: September 14, 2011

Reviewed and Approved: May 14, 2014

Revised and Approval: May 20, 2015

Reviewed and Approved: May 18, 2016

Revised and Approved May 17, 2017

21. Oregon, Intermountain Educational Service District (IMESD)

A. Additional Agency Terms and Conditions – all categories

Intermountain Education Service District (“IMESD”) is an educational service district organized under the laws of the STATE OF OREGON. Pursuant to Oregon Law ORS 279A and IMESD is authorized to cooperate with other entities and in such regard is authorized to cooperate with them in the purchasing of goods and services pursuant to these contract documents. As other entities cooperate with IMESD to take advantage of the goods and services made available pursuant to these contract documents, the terms and conditions of any such sales shall be in accordance with the contract documents.

Additionally Senate Bill 3184 enables Oregon's Education Service Districts to offer the services they provide to component school districts to other organizations. For the past 10 years, the InterMountain ESD (formerly Umatilla-Morrow ESD) has been a leader in expanding revenue available for schools and IMESD programs by providing these services outside of 19 local school districts. (Reference: [ORS 334.185](#))

Under Oregon public contracting rules, each individual public agency will have its own local rules it must adhere to, in addition to statewide public contracting laws. InterMountain Education Service District does not presume that its cooperative purchasing program will necessarily comply with every agency's internal public contracting rules. We always advise potential customers to review the bid solicitation carefully and recommend review by their legal department and/or procurement personnel to assure that contracting laws are complied with.

ADVERTISING AND MARKETING: Bidders must demonstrate they possess the necessary resources and have a proven track record to market, offer, obtain, deliver, install and provide the sales and technical support services to IMESD and its participating agencies within the state of Oregon in a timely and cost effective manner.

APPLICABLE LAW AND VENUE: Any dispute arising out of any of the contract documents, or out of their performance, shall be decided by litigation in the Circuit Court of the State of Oregon in the county of Owner's residence, the parties consenting to jurisdiction in said court and permanently waiving jurisdiction in any other court, state or federal. In the event of litigation the prevailing party shall be entitled to an award of reasonable attorney's fees and costs at trial and upon any appeal thereof.

In the event that the successful bidder breaches a term of condition of a contract awarded, the IMESD may terminate the contract. In addition to the right to terminate due to the successful bidder's breach, and all other rights and remedies contained in other provisions, the IMESD reserves all its rights and remedies at law and in equity available due to the breach.

HAZARDOUS CHEMICALS: The Successful bidder shall supply current MSDS for all products as required below even if these sheets have been supplied in previous years.

The agencies participating on IMESD agreement will need MSDS and labels for certain products defined as hazardous chemicals by the State of Oregon in accordance with ORS 654.025(2) and 656.726(3). The successful bidder has the responsibility to determine such products and to provide MSDS and labels for such products. The MSDS shall be received by the IMESD by or at the time of the initial shipment of such products.

These requirements have been determined by the State of Oregon Workers Compensation Department, and published as Oregon Administrative Rules 437, Division 2 Hazard Communication. This document is available from Hazard Communication Coordinator, Accident Prevention Division, State of Oregon, Labor and Industries Building, 350 Winter St. NE, Salem, OR 97310, phone: (503) 378-3272 or (800) 922-2689 any local Accident Prevention Division Office.

HOLD HARMLESS: Bidders shall indemnify, hold harmless, and defend the IMESD from any and all liabilities, settlements, losses, penalties, costs, expenses, attorney fees (including attorney fees on appeal) in collection with any action, suit or claim based upon or allegedly based upon, resulting from or allegedly resulting from the successful bidder's negligence, omission, activities or services provided pursuant to a contract awarded to such bidder.

LAW OF THE STATE OF OREGON: Any contract between the IMESD and a bidder shall be entered into within the State of Oregon, and the laws of said state, whether substantive or procedural, shall apply to the contract.

In addition to any requirements listed, vendor shall comply with all, current, applicable state, federal and local laws, regulations and ordinances. If through mistake or otherwise any such provision is omitted then submission by either IMESD or the vendor-partner the contract shall be amended to make such inclusion or correction. IMESD Also reserves the right to amend the contract resulting from state law changes. Vendor-partners will be sent written notification of such changes.

SEVERABILITY: The parties agree that if any term or provision of a resultant contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law the validity of the remaining terms and provisions shall not be affected,

and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

TAXES: Taxes, whether State or Federal, shall not be included in bid prices. Our Employer Identification No: 93-6000924 indicated our tax exemption status as a political subdivision. Contractor must certify compliance with the Oregon tax laws in accordance with ORS 305.385 when applicable.

B. Additional Agency Terms and Conditions – Non-construction Products and Services

None

C. Additional Agency Terms and Conditions – Construction Products and Services

1. Prevailing wage rates/Davis-Bacon.

As set forth in the conditions below, if this is a public works project (as defined below) Oregon State prevailing wage rates will apply unless exempted. If federal funds are being used, Bidders must take into account the need to comply with the Davis-Bacon Act. If both the federal and state prevailing wages are required the Contractor is required by law to pay the greater of the applicable prevailing wage. Pursuant to ORS 279C.365 no bid will be considered unless the bid contains a statement by the Bidder as a part of its bid that the provision of ORS279C.840 will be complied with.

(a) If contract is \$50,000.00 or under and there are no federal funds involved the contract is exempted from prevailing wages pursuant to ORS 279C.810(2) (a).

(b) If contract exceeds \$50,000.00 and there are no federal funds involved, existing prevailing wage rate of the State of Oregon will apply. No worker may be paid by any Contractor or Subcontractor a wage less than the wage required by ORS 279C.840. Every subcontract shall include the requirements of this section. Prevailing wages, state and federal, can be seen at the websites referred to in Section 6(a), Additional Requirements of Oregon Law for Public Contracts, Public Works, and Improvements and Miscellaneous Provisions.

(c) If contract exceeds \$50,000.00 and/or federal funds are involved, unless otherwise exempted by law, Contractor shall comply with ORS 279C.800 to 279C.870 relating to the payment of prevailing wages; Contractor shall also comply with the federal Davis-Bacon Act to the extent applicable. No worker may be paid by any Contractor or Subcontractor a wage less than the wage required by ORS 279C840 and if the state and federal prevailing wage laws both apply, Contractor shall pay as wages the great of the applicable prevailing wage. Every Subcontractor shall include the requirements of this section. Additional Requirements of Oregon Law for Public Contracts,

2. Residence status of Bidder

Each Bidder must identify in its bid whether the Bidder is a resident Bidder, as defined in ORS 279A.120.

3. Licensure

If the contract involves asbestos or asbestos abatement, the contactor or subcontractor must be licensed under ORS 468A.720.

4. Bonding

If this contract is a public improvement contract in excess of \$100,000.00, at the time of the execution of the contract, the successful Bidder shall also deliver to the Owner good and sufficient bonds endorsed on forms supplied by Owner, in sums equal to the contract price, for the faithful performance of the contract, and for the payment of all claims for labor, materials, equipment, and rental equipment that may result from work performed pursuant to the contract documents. The successful Bidder shall not be allowed to execute the contract without the concurrent delivery to the Owner of the bonds required by this paragraph on the required forms. At owner's sole discretion, Contractor shall be subject to disqualification and forfeiture of bid security for breach of this section. If Bidder is disqualified, Owner may award the contract to another Bidder.

5. Subcontractor Disclosure

Unless exempted by ORS 279C.370(1)(c) for public improvement contracts, all Bidders shall within two hours of the date and time of the deadline when bids are due submit information about certain first-tier Subcontractor when the contract value for public improvements is greater than \$100,000 (see ORS 279C.370). Specifically, when the contract amount of a first-tier Subcontractor furnishing labor or labor and materials would be greater than or equal to:

- (i) 5% of the project bid, or \$15,000, or
- (ii) \$350,000 regardless of the percentage, Bidders must disclose the following information about that Subcontractor:

- (a) the Subcontractor's name, and
- (b) the category of the work that the Subcontractor would be performing, and
- (c) the dollar amount of the subcontract

If Contractor will not be using any Subcontractors that are subject to the above disclosure requirements, Contractor is required to indicate "NONE" on the reply form.

THE OWNER MUST REJECT A BID IF THE BIDDER FAILS TO SUBMIT THE DISCLOSURE FORM WITH THIS INFORMATION BY THE STATED DEADLINE.

FIRST TIER SUBCONTRACTOR DISCLOSURE FORM

Project name:
 Bid #:
 Bid Opening Date:
 Name of Bidding Contractor:
 Required Disclosure Deadline:

Bids which are submitted by Bid Closing, but for which a required disclosure submittal has not been made by the specified Disclosure Deadline, are not responsive and shall not be considered for Contract award.

See the certification above the signature line on the second page of this form regarding the Subcontractors that must be disclosed.

The Owner will insert "NA" above if the contract value is not anticipated to exceed \$100,000. Otherwise this form must be submitted either with the bid or within two (2) working hours after the advertised bid closing date and time; but no later than the DISCLOSURE DEADLINE stated above.

This form may not be submitted by facsimile. It is the responsibility of Bidders to submit this disclosure form and any additional sheets, completely filled out and signed, by the specified disclosure deadline.

List below the name of each Subcontractor that will be furnishing labor or will be furnishing labor and materials and that is required to be disclosed, the category of work that the Subcontractor will be performing and the dollar value of the subcontract. Enter "None" if there are no Subcontractors that need to be disclosed. (Attach additional sheets if needed.)

NAME OF CATEGORY OF DOLLAR VALUE
 SUBCONTRACTOR WORK

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Failure to submit this form by the disclosure deadline will result in a nonresponsive bid. A nonresponsive bid will not be considered for award.

CERTIFICATION

It is certified that the above listed first-tier Subcontractor(s) are providing labor, or labor and material, with a dollar value equal to or greater than:

- (a) 5% of the total Contract Price, but at least \$15,000 [if the dollar value is less than \$15,000 do not list the Subcontractor above], or
- (b) \$350,000 regardless of the percentage of the total Contract Price.

Form submitted by (insert Bidder name):
 Contact name:
 Telephone number:

**Additional Requirements of Oregon Law for Public Contracts, Public Works, and Improvements;
 Miscellaneous Provisions**

“Owner” means the public entity executing the Contract of which these provisions are a part.

“Public improvement” means projects for construction, reconstruction or major renovation on real property by or for a public agency.

“Public Works” shall mean roads, highways, buildings, structures and improvement of all types, the construction, reconstruction, major renovation or painting of which is carried on or contracted for by any public agency to serve the public interest by does not include the reconstruction or renovation of privately owned property which is leased by a public agency.

(1) In reference to ORS 279B.220 and 279C.505. Contractor shall:

(a) Make payment promptly, as due, to all persons supplying to Contractor labor or material for the performance of the work provided for in the contract.

(b) Pay all contributions or amounts due the Industrial Accident Fund from the Contractor or Subcontractor incurred in the performance of the contract.

(c) Not permit any lien or claim to be filed or prosecuted against the Owner on account of any labor or material furnished.

(d) If the contract is for a public improvement, demonstrate to Owner that Contractor has an employee drug testing program in place.

(e) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

(2) In reference to ORS 279C.515 regarding contracts for public improvements:

(a) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a Subcontractor by any person in connection with the contract as such claim becomes due, the Owner may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of such contract.

(b) If the contract is for a public improvement and if the Contractor or a first-tier Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the contract within thirty days after receipt of payment from the Owner or a Contractor, the Contractor or first-tier Subcontractor shall owe the person the amount due plus interest charges commencing at the end of the ten day period that payment is due under ORS 279C.580(4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to the Contractor or first-tier Subcontractor on the amount due shall equal three times the discount rate on ninety-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is thirty days after the date when payment was received from the Owner or from the Contractor, but the rate of interest shall not exceed 30 percent. The amount of interest may not be waived.

(c) If the contract is for a public improvement, or is related to a contract for a public improvement, and if the Contractor or a Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the contract, that person may file a complaint with the Construction Contractor’s Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.

(d) The payment of a claim in the manner authorized in this section of this contract shall not relieve the Contractor or the Contractor’s surety from any obligation with respect to any unpaid claims.

(3) Relating to ORS 279B.020 and ORS 279C.520. Contractor shall comply with ORS 279B.020 and ORS 279C.520 in their entirety (when applicable), and in this regard:

(a) No person shall be employed for more than ten hours in any one day, or forty hours in any one week except in cases of necessity, emergency, or where the Owner absolutely requires it, and in such cases, the employee shall be paid at least time and half pay:

(i) For all overtime in excess of eight hours a day or forty hours in any one week when the work week is five consecutive days, Monday through Friday; or

(ii) For all overtime in excess of ten hours a day or forty hours in any one week when the work week is four consecutive days, Monday through Friday; and

(iii) For all work performed on Saturday, Sunday, and on any legal holiday specified in ORS 279B.020 and 279C.540.

(iv) Contractor shall comply with the notice and posting requirements of ORS 279B.020 and 279C.520(2). Contractor shall pay employees for overtime work performed under this Contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 USC 201, et seq.).

(4) If the contract is for a public improvement, Contractor shall at its sole expense comply with any and all applicable statutes or ordinances, and all regulations of any agencies, whether federal, state, local or tribal, dealing with the prevention of environmental pollution and the preservation of natural resources including without limitation water that affect the performance of this contract.

The following agencies, as well as others, may have pertinent regulations:

Federal: Army Corps of Engineers, Federal Energy Regulatory Commission, Environmental Protection Agency, Dept. of Human and Health Services, Dept. of Interior including but not limited to the US Fish and Wildlife Service, Department of Labor, and Water Resources Council.

State: Columbia River Gorge Commission, Department of Energy, Department of Environmental Quality, Department of Fish and Wildlife, Department of Human Resources, Soil and Water Conservation Commission, and Oregon Water Resources Department.

Local: City and County wherein the project is to be undertaken.

Tribal: Confederated Tribes of the Umatilla Indian Reservation.

(5) In relation to ORS 279B.230 and 279C.530, Contractor shall comply in their entirety, and in this regard:

(a) Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums which the Contractor agrees to pay for such services and all monies and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

(b) All employers, including Contractor, that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required workers compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its Subcontractors complies with these requirements.

(6)

(a) If the contract is for public works and is over \$50,000, Contractor, unless otherwise exempted by law, shall comply with ORS 279C.800 to 279C.870 relating to the payment of prevailing wages; Contractor shall also comply with the federal Davis-Bacon Act to the extent applicable. The prevailing rates of wage, state and federal, made available on the internet are hereby incorporated by reference; they may be seen at various sites including at www.boli.state.or.us/BOLI/WHD/PWR and www.access.gpo.gov/davisbacon/or.html. If the state and federal prevailing wage laws both apply, Contractor shall pay as wages the greater of the applicable prevailing wage. Contractor shall comply with all wage reporting and certification requirements of the prevailing wage laws and/or the Davis-Bacon Act, as applicable.

(b) Before starting Work the Contractor shall file with the Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by Oregon Laws 2005, Chapter 360, and OAR 839-025-0015, unless otherwise exempt under those provisions. The Contractor shall also include in every subcontract a provision requiring the Subcontractor to have a public works bond filed with the Construction Contractors Board before starting Work, unless otherwise exempt, and shall verify that the Subcontractor has filed a public works bond

(7) The following apply to contracts for public improvements:

(a) Contractor shall comply with ORS 279C.580, dealing with Contractor's relations with Subcontractors. Without limiting the generality of the foregoing, in this regard Contractor shall include a clause in each subcontract for property or services entered into by the Contractor and a first-tier Subcontractor, including a material supplier, for the purposes of performing the contract:

(i) that obligates the Contractor to pay the first-tier Subcontractor for satisfactory performance under its subcontract within ten days out of such amounts as are paid to the Contractor by the Owner; and

(ii) that obligates the Contractor, if payment is not made within thirty days after receipt of payment from the Owner, to pay to the first-tier Subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause required by the preceding paragraph. The interest penalty shall be for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made, and shall be computed at the rate specified in ORS 279C.515(2).

(b) Contractor shall include in each of its subcontracts, for the purpose of performance of work in relation to project, a provision requiring the first-tier Subcontractor to include a before clause and an interest penalty clause conforming to the foregoing standards in each of its contracts and to require each of its Subcontractors to include such clauses in their subcontracts with each lower-tier Subcontractor or supplier.

(c) Nothing stated herein shall be construed to preclude the negotiations allowed pursuant to ORS 279C.580(5).

(8) If any work supplied pursuant to the contract requires licensing with the Construction Contractors Board or the State Landscape Contractors Board, Contractor must be so licensed in order to submit a bid for the contract, and Contractor and all relevant Subcontractors must remain licensed during the period required for performance. Contractor certifies that all Subcontractors and workers will be properly licensed to perform the work required by this Contract before their commencement of work.

(9) If this contract is for public improvements, then retainage in the amount of 5% of the amount due shall be withheld in accordance with Oregon laws, including ORS 279C.550 et seq.

(10) If this contract is for a public improvement, and unless exempted by resolution of the Owner, Contractor shall comply with ORS 279C.380 and execute and deliver to Owner a good and sufficient performance bond and payment bond to be approved by Owner in a sum equal to the contract price.

By way of supplement to, and equally binding as, all of the foregoing:

(10.1) Contractor shall comply with all federal, state and local laws, codes, regulations and ordinances applicable to the Work and the Contract. Failure to comply with such requirements shall constitute a breach of Contract and shall be grounds for Contract termination. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following as applicable: (i) Title VI and VII of Civil Rights Act of 1964, as amended; (ii) Section 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Health Insurance Portability and Accountability Act of 1996; (iv) the Americans with Disabilities Act of 1990, as amended; (v) ORS Chapter 659A; as amended (vi) all regulations and administrative rules established pursuant to the foregoing laws; and (vii) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Owner's performance under the Contract is conditioned upon Contractor's compliance with the provisions of ORS 279C.505, 279C.510, 279C.515, 279C.520, and 279C.530, which are incorporated by reference herein.

(10.2) Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and

(a) Contractor shall not discriminate against Disadvantaged, Minority, Women or Emerging Small Business enterprises, as those terms are defined in ORS 200.005, in the awarding of subcontracts (ORS 279A.110).

(b) Contractor shall maintain, in current and valid form, all licenses and certificates required by law, regulation, or this Contract when performing the Work.

(10.3) Unless contrary to federal law, Contractor shall certify that it shall not accept a bid from Subcontractors to perform Work as described in ORS 701.005 under this Contract unless such Subcontractors are registered with the Construction Contractors Board in accordance with ORS 701.035 to 701.055 at the time they submit their bids to the Contractor.

(10.4) Unless contrary to federal law, Contractor shall certify that each landscape Contractor, as defined in ORS 671.520(2), performing Work under this Contract holds a valid landscape Contractor's license issued pursuant to ORS 671.560.

(10.5) The following notice is applicable to Contractors who perform excavation Work. ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center at (503)232-1987.

(11) Contractor must certify compliance with the Oregon tax laws in accordance with ORS 305.385 when applicable.

(12) Upon receipt by Contractor of any notice or claim, pursuant to ORS 279C.600 et seq (concerning action against bonds) Contractor shall immediately notify Owner in writing.

(13) Unless agreed to by Owner in writing, Contractor may not assign, transfer, dispose of, or delegate its duties under the contract.

(14) Contractor shall be responsible for compliance with all local, state, tribal, and federal laws, applicable to any aspect of the work to be performed. It shall be Contractor's responsibility to determine the applicability and requirements of any such laws and to abide by them. Contractor shall indemnify, defend, and hold harmless Owner for any default or breach of Contractor in this regard.

(15) The submission of a bid for this contract is certification by Contractor that Contractor has not discriminated and will not discriminate in violation of ORS 279A.110 against any minority, women, or emerging small business enterprises in obtaining any required subcontracts.

(16) If this contract is a public improvement contract for demolition, Contractor shall salvage or recycle constructions and demolition debris if feasible and cost-effective.

(17) If this contract is a public improvement contract for lawn and landscape maintenance, Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.

(18) Any dispute arising out of any of the contract documents, or out of their performance, shall be decided by litigation in the Circuit Court of the State of Oregon in the county of Owner's residence, the parties consenting to jurisdiction in said court and permanently waiving jurisdiction in any other court, state or federal. In the event of litigation the prevailing party shall be entitled to an award of reasonable attorney's fees and costs at trial and upon any appeal thereof.

D. Procedure for Agencies Processing Orders under IMESD in Oregon

Once the award is made to the vendor, IMESD will market these contracts by: 1) including the contract on the IMESD website, 2) announcing the award in flyers, and 3) attending vendor events throughout school year. A list of schools, contact names, addresses and phone number can be accessed through the Oregon Department of Education website. At this point the vendor contacts schools and schools may contact the vendor. When the school/agency identifies a product or services and agrees on price it issues to Vendor a purchase order for that item or service, referencing the AEPA Bid number. The purchase order must include an additional one percent (2%) administrative fee in the total to be forwarded by the vendor to IMESD after the sale. All participating vendors agree to and are subject to audit proceedings of IMESD member sales.

Upon receipt of the purchase order, the vendor provides the goods or service listed on the purchase order. It is important to remember the vendor makes delivery to the member unless other arrangements are made in cooperation with IMESD. When all items and services on the purchase order have been delivered to the member in a complete and satisfactory manner, vendor then invoices the member for the goods and service. This invoice includes the additional one percent (2%) administrative fee to the total amount invoiced of the goods or service provided by the vendor. This percent is based on the total sales of goods or services. The member then pays the vendor including the one percent (2%) administrative fee. IMESD then invoices the Vendor for the 2% administrative fee based on the sale of goods and services collected by the vendor.

E. Agencies Allowed to Purchase under IMESD in Oregon

The InterMountain Education Service District (IMESD) participates in a national non-profit organization, the Association of Educational Purchasing Agencies (AEPA), which is a procurement vehicle. The mission of IMESD's involvement with AEPA is to cooperatively serve Oregon state agencies members through a continuous effort to explore and solve present and future purchasing needs. AEPA goals include working to secure multi-state volume purchasing contracts with benefits that are measureable, cost-effective and continuously exceed our state member's expectations. InterMountain Education Service District is the member agency representing Oregon in AEPA through an IMESD board approved Memorandum of Understanding between all participating states that are all political subdivisions related to K-12 education. All AEPA bids have been advertised by IMESD in Oregon.

Pursuant to Oregon Law, ORS 279A, InterMountain Education Service District is authorized to offer these contracts to other government entities including school districts, state universities, community colleges, special districts, local and state government.

There is no fee or annual dues to become an IMESD agency member to purchase. InterMountain Education Service District's contract management efforts are funded by a nominal administrative fee paid by the vendor based on sales volume.

22. Pennsylvania, Central Susquehanna Intermediate Unit dba Keystone Purchasing Network

A. Additional Member Agency General Terms and Conditions that apply to all categories

The Keystone Purchasing Network (KPN) is a cooperative purchasing program operated by the Central Susquehanna Intermediate Unit under various state inter-governmental cooperation laws and includes members in several east coast states that currently includes Pennsylvania, Maryland, District of Columbia, New Jersey, New York and Delaware. All applicable Local, State and Federal laws and regulations will apply to any purchases of equipment, services or construction in any of these states and to other states that may be added under the KPN membership throughout the term of these contracts.

Marketing and Advertising under this Agreement: Vendor will actively promote the resulting contract in Pennsylvania, Maryland, District of Columbia, Delaware and New York States. Vendor will comply with the AEPA Marketing program along with the requirement listed below.

1. Vendor will include the approved KPN logo, web address, contract number and toll free number in all print electronic mail and other advertising and promotion intended for release to PA, MD, DC, DE and NY excluding national marketing releases.
2. The KPN logo and associated KPN information shall be of a clearly readable size and in appropriate proportion to other elements in the printed material.
3. Vendor agrees to provide KPN with a copy or proof sheet of the advertisement or promotion material. Vendor will provide KPN with date of release and name of publication, journal, etc.
4. Vendor shall place a supplied KPN vendor sign on booths, tables, etc. of any or all exhibits for which the vendor displays/participates at tradeshow, conventions and the like. Vendor will supply in advance scheduled exhibit dates. Vendor agrees to make available at the exhibit KPN supplied brochures or other promotion materials.
- e. Vendor agrees to insert the approved KPN logo, web address, contract number and toll free number on the vendor's web site promoting or a specific KPN landing page and providing a link to the KPN website.
- f. Vendor will supply product catalog information, product description, pricing, etc., in a spreadsheet format as specified by KPN for inclusion on the KPN website.
- g. Vendor agrees to cooperate in developing appropriate website content to promote its products, services and their advantages to KPN members.
- h. Requested materials will be submitted to KPN within 30 days.

Pricing and Ordering: Vendor will provide all pricing information in an electronic format and/or setup an electronic ordering system that would show the current contract prices along with the KPN administrative fee of 2% or as adjusted by the KPN. In the case of electronic ordering, the KPN would have administrative reporting capabilities with an online ordering system. The KPN administrative fee will apply to all purchases, installation, total lease, total rental prices and all construction and installation and annual maintenance fees and will be included in the net price offered to the purchasing agency.

B. Additional Member Agency General Terms and Conditions for Non-Construction Products and Services

None

C. Additional Member Agency General Terms and Conditions for Construction Products and Services

The following items refer to all projects involving construction or construction related services:

Vendor and/or Contractor agrees that, in performance of the services required under this Agreement, Vendor and/or Contractor shall abide by all Federal, State, Local, and Pennsylvania Department of Education laws, and regulations that may apply to renovation under this bid, including, but not limited to, those listed below. Vendor and/or Contractor shall also abide by the state and local laws and regulations of other states where a member is located. It is the responsibility of the Vendor or Contractor to determine applicability and requirements of any such laws and to abide by them. Additionally, Contractor has the sole responsibility for compliance with all other matters in conjunction with the services to be performed hereunder and in the Invitation for Bid.

PERFORMANCE AND LABOR AND MATERIAL PAYMENT BONDS: the Contractor shall provide a performance bond and a labor and material payment bond, each in the amount of 100% of the contract price, before the award of the contract. (Sections 756 and 757 of the Public School Code of 1949, as amended, and the Public Works Contractors Bond Law of 1967.)

DISCRIMINATION PROHIBITED: According to 62 Pa.C.S.A. 3701, the Contractor agrees that:

- (1.) In the hiring of employees for the performance of work under the contract or any subcontract, no Contractor, Subcontractor or any person acting on behalf of the Contractor or Subcontractor shall by reason of gender, race, creed or color discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- (2.) No Contractor or Subcontractor or any person on their behalf shall in any manner discriminate against or intimidate any employee hired for the performance of work under the contract on account of gender, race, creed or color.
- (3.) The contract may be canceled or terminated by the government agency and all money due or to become due under the contract may be forfeited for a violation of the terms or conditions of that portion of the contract.

HUMAN RELATIONS ACT: The provisions of the Pennsylvania Human Relations Act, Act 222 of October 27, 1955 (P. L. 744) (43 P.S. Section 951, ET. Seq.) of the Commonwealth of Pennsylvania prohibit discrimination because of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability, by employers, employment agencies, labor organizations, Contractors and others. The Contractor shall agree to comply with the provisions of this Act as amended that are made part of this specification. Your attention is directed to the language of the Commonwealth's non-discrimination clause in 16 Pa. Code 49.101.

COMPETENT WORKMEN: Projects where the total estimated cost is \$25,000 or less, Section 7-752 of the Public School Code of 1949, no person shall be employed to do work under such contract except competent and first class workmen and mechanics. No workmen shall be regarded as competent first class, within the meaning of this Act, except those who are duly skilled in their respective branches of labor, and who shall be paid not less than such rates of wages and for such hours work as shall be established and current rates of wages paid for such hours by employers of organized labor in doing of similar work in the district where work is being done.

PENNSYLVANIA PREVAILING WAGE RATES: Projects where the total estimated cost is greater than \$25,000, paid for in whole or in part out of funds of a public body, except for maintenance work or work performed under a rehabilitation program or manpower training program must specify "Prevailing Wages." Further information on implementation of the act, definition of maintenance work and prevailing wage rates may be requested from the Pennsylvania Department of Labor and Industry (800-932-0665 or 717-787-4763). When applicable, use Davis-Bacon wage rates for federally assisted projects. This regulation and the general Pennsylvania prevailing minimum wage rates, (Act 442 of 1961, P.L. 987, amended), as determined by the Secretary of Labor and Industry, which shall be paid for each craft or classification of all workers needed to perform the contract during the anticipated term therefore in the locality in which public work is performed, are made part of this specification.

(1.) The general prevailing minimum wage rates including contributions for employee benefits as shall have been determined by the Secretary of Labor and Industry (hereinafter "Secretary"), which must be paid to the workmen, employed in the performance of the Contract.

(2.) The Contractor shall pay no less than the wage rates as determined in the decision of the Secretary and shall comply with the conditions of the Pennsylvania Prevailing Wage Act approved August 15, 1961 (Act No. 442), as amended August 9, 1963 (Act No. 342), and the Regulations issued pursuant thereto, to assure the full and proper payment of said rates.

(3.) These Contract provisions shall apply to all work performed on the Contract by the Contractor and to all work performed on the contract by all Subcontractors.

(4.) The Contractor shall insert in each of his subcontracts all of the stipulations contained in these required provisions.

(5.) No workmen may be employed on the Work except in accordance with the classifications set forth in the decision of the Secretary. In the event that additional or different classifications are necessary the procedure set forth in the Regulations shall be followed.

(6.) All workmen employed or working on the Work shall be paid unconditionally, regardless of whether any contractual relationship exists or the contractual relationship which may be alleged to exist between any Contractor, Subcontractor and workmen, not less than once a week without deductions or rebate, on any account, either directly or indirectly, except authorized deductions, the full amount due at the time of payment, computed at the rates applicable to the time worked in the appropriate classification. Nothing in this Contract, the Act or the Regulations shall prohibit the payment of more than the general prevailing minimum wage rates as determined by the Secretary to the workmen on the Work.

(7.) The Contractor and each Subcontractor shall post for the entire period of construction the wage determination decisions of the Secretary, including the effective date of any changes thereof, in a prominent and easily accessible place or places at the site of the work and at such place or places used by them to pay workmen their wages. The posted notice of wage rates must contain the following information:

- a. Name of project.
- b. Name of public body of which it is constructed.
- c. The crafts and classifications of workmen listed in the Secretary's general prevailing minimum wage rate determination for the particular project.
- d. The general prevailing minimum wage rates determined for each craft and classification and the effective date of any changes.
- e. A statement advising workmen that if they have been paid less than the general prevailing minimum wage rate for their job classification or that the Contractor and/or Subcontractor are not complying with the Act or the Regulations in any manner whatsoever, they may file a protest with the Secretary within three (3) months of the date of the occurrence, objecting to the payment to the Contractor to the extent of the amount or amounts due or to become due to them as wages for work performed on the Project. Any workmen paid less than the rate specified in the Contract shall have a civil right of action for the difference between the wage paid and wages stipulated in the Contract, which right of action must be exercised within six (6) months from the occurrence of the event creating such right.

(8.) The Contractor and all Subcontractors, shall keep an accurate record showing the name, craft and/or classification, number of hours worked per day, and the actual hourly rate of wage paid (including employee benefits) to each workman employed by him in connection with the Work and such record must include any deductions from each workman. The record shall be preserved for two (2) years from the date of payment and shall open at all reasonable hours to the inspection of the Owner and

to the Secretary or his duly authorized representative.

(9.) Apprentices shall be limited to such numbers as shall be in accordance with a bona fide apprenticeship program registered with and approved by the Pennsylvania Apprenticeship and Training Council and only apprentices whose training and employment are in full compliance with the provisions of the Apprenticeship and Training Act approved July 14, 1961 (Act No. 304) and the Rules and Regulation issued pursuant thereto shall be employed on the Work. Any workmen using the tools of a craft that does not qualify as an apprentice within the provisions of this submission shall be paid the rate predetermined for journeyman in that particular craft and/or classification.

(10.) Wages shall be paid without any deductions except authorized deductions. Employers not party to a contract requiring contributions for employee benefits which the Secretary has determined to be included in the general prevailing minimum wage rate shall pay the monetary equivalent thereof directly to the workman.

(11.) Payment of compensation to workmen for work performed on public work on a lump sum basis, or a piece work system, or a price certain for the completion of a certain amount of work, or the production of a certain result shall be deemed a violation of the Act and the Regulations, regardless of the average hourly earnings resulting there from.

(12.) Each Contractor and each Subcontractor shall file a statement each week and a final statement at the conclusion of the Work on the Contract with Owner, under oath, and in form satisfactory to the Secretary, certifying that all workmen have been paid wages in strict conformity with the provisions of the Contract as prescribed by the Regulations, or if any wages remain unpaid, to the amount of wages due and owing to each workman respectively.

(13.) The provision of the Act and the Regulations are incorporated by reference in the Contract.

(14.) The current prevailing wage threshold for Pennsylvania is \$25,000. However the threshold may be increased during the term on the contract by legislated action. Vendor will then be required to adjust labor rate for job under the new threshold.

(15.) The following applies to all prevailing wage projects:

E-Verify. The successful Bidder and its subcontractors (as such term is defined in the act) are required to comply with the Public Works Employment Verification Act, Act No. 127, July 5, 2012 (formerly Senate Bill 637). All Bidders shall submit with their Bid a Public Works Employment Verification Form (the "Verification Form") to CSIU - KPN in the form published by the Commonwealth of Pennsylvania, Department of General Services. Per the act, the Verification Form is to be obtained from the Secretary of the Pennsylvania Department of General Services. The Verification Form is presently available on the Department of General Services website. Per the act, the Verification Form shall include a certification that the information in the statement is true and correct and that the individual signing the statement understands that the submission of false or misleading information in connection with the verification shall subject the individual and the public works contractor or subcontractor, as the case may be, to sanctions provided by law; and the verification form shall be signed by a representative of the public works contractor or subcontractor, as applicable, who has sufficient knowledge and authority to make the representations and certifications contained in the statement. Prior to award of a contract or purchase order by a Member Agency to the successful Bidder for a particular project, the successful Bidder shall submit to the Member Agency a Verification Form. Per the act, the successful Bidder's subcontractors shall provide to the Member Agency, and successful Bidder shall cause its subcontractors to provide to the Member Agency, their Verification Forms prior to commencing work on the Member Agency's project.

STANDARD OF QUALITY: The various materials and products specified in the specifications by name or description are given to establish a standard of quality and of cost for bid purposes. It is not the intent to limit the Bidder, the bid or the evaluation of the bid to any one material or product specified but rather to describe the minimum standard. When proprietary names are used, they shall be followed by the words "or alternatives of the quality necessary to meet the specifications". A bid containing an alternative, which does not meet the specifications, may be declared non-responsive. A bid containing an alternative may be accepted but if an award is made to that Bidder the Bidder will be required to replace any alternatives, which do not meet the specifications.

PROVISIONS FOR THE USE OF STEEL AND STEEL PRODUCTS MADE IN THE U.S.: In accordance with Act 3 of the 1978 General Assembly of the Commonwealth of Pennsylvania, if any steel or steel products are to be used or supplied in the performance of the contract, only those produced in the United States as defined therein shall be used or supplied in the performance of the contract or any subcontracts thereunder in accordance with Act 161 of 1982, cast iron products shall also be included and produced in the United States. Act 141 of 1984 further defines "steel products" to include machinery and equipment. The act also provides clarifications and penalties.

PROHIBITION ON CASH ALLOWANCES: Cash allowances are prohibited.

TIME(S) OF COMPLETION OF THE PROJECT: Contractor/Vendor shall complete all work within 180 days after entry into a contract with the individual Member. Member and Contractor/Vendor may agree in writing on a lesser number of workdays depending on the scope of the project.

Owner's Compliance in Retaining Payments: Unless a member stipulates otherwise, Payment Retentions and Progress Payments shall be as follows: Ten percent (10%) of all contract payments shall be retained by the member as insurance of proper performance of the prime Contractor. Prime Contractor agrees to identify the amount of the invoices sent to the member school districts, then send copies of the invoices to the KPN. When fifty percent (50%) of the work is completed, as determined by the school district, one-half (1/2) of the amount retained shall be paid to the prime Contractor, if the prime Contractor requests payment, provided that the prime Contractor is making satisfactory progress and there is no specific cause for greater withholding. After the work is fifty percent (50%) completed, no more than five percent (5%) of the amount of any subsequent progress payments shall be retained, unless the governing board of the member determines that satisfactory

progress is not being made, at which point ten percent retention shall be reinstated. If the member and the prime Contractor agree to a substitute security, the agreement must be in full compliance with Pennsylvania law. If the substitute security is agreed to, the prime Contractor must provide KPN and the member with assigned and acknowledged waiver of any right or power of the obligor to set off any claim against KPN, the member, or the prime Contractor, in relationship to the security assigned. The prime Contractor, as authorized above, will pay any interest due a Subcontractor or material supplier. A Subcontractor to the prime Contractor may request, in writing, that the Subcontractor be notified by KPN within five (5) days of payment of each progress payment made to the prime Contractor. It is the responsibility of the prime Contractor to inform all suppliers and Subcontractors that this contract is a cooperative purchasing contract. Once all bonds are in place, the prime Contractor and the authorized agent of the member will agree in writing upon a schedule of payments based on identifiable milestones. Retaining of payments must be done in accord with 62 Pa.C.S.A. § 3921.

A contract containing a provision for retainage as provided in section 3921 (relating to retainage) shall contain a provision requiring the architect or engineer to make final inspection within 30 days of receipt of the request of the Contractor for final inspection and application for final payment. If the work is substantially completed, the architect or engineer shall issue a certificate of completion and a final certificate for payment, and the government agency shall make payment in full within 45 days except as provided in section 3921, less only one and one-half times the amount required to complete any then-remaining uncompleted minor items, which amount shall be certified by the architect or engineer and, upon receipt by the government agency of any guarantee bonds which may be required, in accordance with the contract, to insure proper workmanship for a designated period of time. The certificate given by the architect or engineer shall list in detail each uncompleted item and a reasonable cost of completion. Final payment of any amount withheld for the completion of the minor items shall be paid upon completion of the items in the certificate of the engineer or architect.

WORKERS' COMPENSATION ACT: The Contractor shall accept, insofar as the work covered by their contract is concerned, the provisions of the Workers' Compensation Act 44 of 1993, and any supplements of amendments thereof, including any which may hereafter be passed, and shall insure the Contractor's full liability there under for all parts of their contract being performed by the Contractor, the Contractor's partners, associates, employees or those of any the Contractor may employ herein, or file with the Entity a certificate of exemption from insurance from the Bureau of Workers' Compensation of the Department of Labor and Industry.

The Contractor shall, at all times, indemnify and save harmless the school entities of and from all claims for Workers' Compensation which may be made by any of the employees of the Contractor or by any of the employees to whom the Contractor may have let the performance of any part of the work embraced by their contract and the Contractor shall appear for and defend the school entities against any and all such claims. The Contractor shall be covered by Employers' Liability Insurance with a minimum limit of \$250,000 for each employee, \$2,000,000 policy limit and \$250,000 for each accident.

ACT 34 CRIMINAL BACKGROUND CHECKS: Independent Contractors and their employees who provide services to a Pennsylvania school entity are required to obtain a report of "Criminal History Record Information" from the Pennsylvania State Police. In the case of non-Pennsylvania residents, a report of "Federal Criminal Record Information" from the FBI is required in addition to the Pennsylvania State Police Report.

Contractors shall be required to do the following:

(1.) Present the original document/s Report of Criminal History Records information from the Pennsylvania State Police, report of Federal Criminal History Record Information from the Federal Bureau of Investigation to the Superintendent or the Superintendent's designee prior to the beginning of work for the school entity. The school entity shall retain a copy of the background check information and shall note on that copy the date on which the original document was inspected and the name of the administrator who viewed the original. This copy shall be retained in the school entity records with the original being returned to the Contractor.

(2.) If any new employees are added to the workforce during the course of the work, such employee(s) must follow the same procedure described above prior to any work for the school entity.

(3.) All costs for the Criminal History Information check(s) shall be borne by the perspective Contractor.

(4.) The school entity shall notify the Contractor in writing if the decision not to employ the Contractor or the Contractor's employees is based in whole or in part on criminal history records information.

(5.) The school entity shall follow the regulations promulgated by the State Board of Education concerning the confidentiality of the Criminal History Report Information obtained pursuant to the Act.

Upon written notice from the school entity, Contractors shall have all such persons removed from the project. School entity's right to declare such persons unfit shall not be limited to the required exclusion of persons from school property as set forth in Section 1-111 of the Pennsylvania School Code and/or Act 151 of 1994.

CHILD PROTECTIVE SERVICES BACKGROUND CHECKS: Prior to commencing work under the contract, the Contractor shall submit for any employee or independent Contractor who would be working on a school entity's site pursuant to work contemplated in the contract, an official clearance statement obtain from the Pennsylvania Department of Welfare pursuant to Act 151 of December 16, 1994 (P.L. 1292) subchapter C2 of the Child Protective Services Act. Contractor shall not allow any prospective employee or independent Contractor on the job site prior to providing the school entity with the above-referred clearance statement for prospective employees or independent Contractors.

ANTIBID-RIGGING ACT (NON-COLLUSION): In accordance with the Commonwealth of Pennsylvania's Antbid-Rigging Act, 62 Pa. C.S.A. § 4501 et seq., the Contractor shall execute and submit with the bid a Non-Collusion Affidavit required by the Agency. Each party to the joint venture must be identified in the bid documents, and an Affidavit must be submitted separately on behalf

of each party.

PREVENTION OF ENVIRONMENTAL POLLUTION: Section 3301 of the Pennsylvania Commonwealth Procurement Code requires that all invitations for Bids and requests for proposals for construction projects issued by any governmental agencies shall set forth any provision of Federal and State statutes, rules, and regulations dealing with prevention of environmental pollution and the preservation of public natural resources that affect the Project. A Notice of said provisions prepared by the Pennsylvania Department of Environmental Resources under Act 247 of 1972, 52 P.S. § 1612 (repealed) is available from Jeffrey L. Kimball, Cooperative Purchasing Services Director at the Keystone Purchasing Network, 90 Lawton Lane, Milton, PA 17847. His telephone number is 570-523-1155 x2130, and his e-mail address is jkimball@csiu.org. Said Notice is hereby incorporated by reference. Contractor is hereby notified and agrees to comply with the terms of all statutes, rules and regulations enumerated in the Notice.

ARCHITECTURAL SERVICES: For those Members who are Pennsylvania Public School Districts, and whose projects require architectural or engineering services, your attention is directed to Section 7-751.1 of the Pennsylvania Public School Code (24 P.S. § 7-751.1), which requires a public school district to engage an architect/engineer that is independent from the Vendor/Contractor's architect/engineer.

MULTIPLE PRIME CONTRACTORS: For those Members who are Pennsylvania Public School Districts, your attention is directed to Section 7-751 of the Pennsylvania Public School Code (24 P.S. § 7-751), which requires a public school district to use separate prime Contractors for plumbing, heating and ventilating, and electrical work. To the extent a school district's project extends beyond general construction services, the school district will need to separately bid plumbing, heating and ventilating, and electrical work, and should consult with its individual solicitor for compliance with Section 7-751. For other Members who are subject to multiple prime requirements under applicable bidding laws, such Members should consult with their individual solicitors for compliance with said requirements.

D. Procedure for Processing Orders

Once the award is made to the Contractor/vendor, KPN will inform its members of the contract by: (1) including the contract in the agency database that is available on the KPN website, (2) announcing the award in its periodic newsletter, and (3) publishing the contract information in a catalog disseminated to all members. A list of members, institution names, contact names, addresses and phone number will be made available to the vendor in an electronic format. At this point the Contractor/vendor contacts the members and members may contact the Contractor/vendor. When the member identifies a product or service it issues a purchase order for that item to the vendor. The vendor's price to its members will include the following administrative fees: currently 2% (two percent) on all supplies, equipment and construction, rental or lease, annual subscription fee, etc.; and others administrative fees as approved by KPN and will be collected from the member or other qualifying purchaser. KPN reserves the right to adjust the administrative fee at any time during the duration of the contract and any renewal period or to modify the administrative fee based on volume of purchase. If the administrative fee is reduced do to the size of the project the vendor will show the adjustment on the quote. The vendor will also compile a quarterly report showing all purchases made by KPN members under this contract. The vendor will also produce an annual report for all purchases made under this contract for a period of beginning with the award of the contract through December 31st and all consecutive 12-month periods if contract is extended. The vendor will make all administrative fee payments to KPN by the 15th of the succeeding month of each 3-month period (quarterly) after they have received payment from the member agency and all checks are to be made payable to the Central Susquehanna Intermediate Unit (CSIU) and sent to Keystone Purchasing Network, 90 Lawton Lane, Milton, PA 17847, and Attention: Jeff Kimball. All reporting of purchases will be broken down by entity by state and will show purchaser, total dollar and date of purchase.

E. Agencies Allowed to Purchase under the Member Agency

The Keystone Purchasing Network (KPN) is a cooperative purchasing program operated by the Central Susquehanna Intermediate Unit under various state inter-governmental cooperation laws. Every public school district in the state is eligible to become a member and must complete a membership application with the KPN. No member is obligated to use these services, but they find the benefits of low price and not needing to go through the bidding process most advantageous. Only those members listed on an approved KPN membership list are eligible to purchase under these contracts. This list may change during the contract period and currently includes members from Pennsylvania, Maryland, New York, Delaware, District of Columbia and other Northeast & Mid-Atlantic states. Vendors may choose to offer KPN in other non-AEPA member states where cooperative purchasing laws allow.

Additional members may include other public educational institutions in the state, college, university, community colleges, vocational schools, charter schools, municipal and county governments and other non-profit organizations from Pennsylvania or any other state where a member is located. Membership from other entities is permitted by various intergovernmental cooperative purchasing laws or regulation from their home state.

As member agencies from other states are added to the membership of the KPN the awarded vendor(s) agrees to abide by all state and local laws and/or regulations that may apply to any purchase of products, services or construction by these agencies. KPN reserves the right to market any AEPA contract under any cooperative program name that it may choose in the future on a national basis in any non-AEPA member state.

23. TexBuy, a Cooperative Purchasing Shared Services Cooperative Sponsored by the Region 16 Education Service Center Education Service Center

A. *Additional Agency Terms and Conditions*

- (1) **TexBuy funding:** The total cost of the TexBuy program is funded through a participation fee up to two percent (2%) paid to TexBuy by the Contractors. This fee shall be included in all pricing to TexBuy and its participating agencies. The fee is based on actual Contractor sales. TexBuy does not charge any fees to participating government agencies.
- (2) **Tax exempt status:** All government agencies participating in TexBuy are exempt from payment of taxes under Texas Tax Code §151.309 for the purchase of tangible personal property.
- (3) **Minority and Women Business Enterprise (MWBE) participation:** It is the policy of some TexBuy participants to involve MWBE Contractors in the purchase of goods and services. Contractors shall indicate on the proposal form whether or not they are an MWBE.
- (4) **Bid awards** shall not consider whether a vendor is a member of or has another relationship with any organization and bid specifications (and subsequent contracts) shall not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization in accordance with Texas Education Code §44.043.
- (5) **Felony Conviction Notice** (TexBuy Contractors will be required to sign a standard affidavit required by the State of Texas): Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony." Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract." This notice is not required of a publicly held corporation.
- (6) **SB 9: Criminal History and Background Checks**, in accordance with Texas Education Code Chapter 22, shall be required should any employee or agent of a contractor awarded a bid have "continuing duties related to the contracted services" with a school district and that employee or agent will have "direct contact with students" (as those terms are defined in 19 Texas Administrative Code §153.1101).
- (7) **Debarment and Suspension:** Under Executive Order 12549 in the Federal Register and Rules and Regulations, TexBuy and TexBuy participants shall not do business with a vendor that has been debarred, suspended, or is otherwise ineligible for participation in Federal Assistance Programs.
- (8) **Conflict of Interest:** In accordance with Texas Local Government Code Chapter 176, vendors/contractors who have a business relationship as defined by Section 176.001(1-a) with a local government entity and meet the requirements under section 176.006(a) must file a Conflict of Interest Questionnaire (Form CIQ) with the local government entity when:
 - (a.) The vendor/contractor has entered into a contract with the local government entity or the local government entity is considering entering into a contract with the vendor.
 - (b.) AND the vendor provides certain income or gifts to a Local Government Officer (LGO) or first-degree relatives as defined in the Texas Government Code
 - (c.) OR a family relationship exists between the LGO and the vendor's employees or agents as defined in the Texas Government Code.
- (9) **EDGAR Certification (Education Department General Administrative Regulations):** In accordance with Federal Regulations under 2 CFR § 200.318(c)(1) – When a Cooperative member seeks to procure goods and services using funds under a federal grant or contract, specific federal laws, regulations, and requirements may apply in addition to those under state law. This includes, but is not limited to, the procurement standards of the

Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR 200 (also known as the "Uniform Guidance" or new "EDGAR"). All Vendors submitting Proposals must complete this EDGAR Certification Form regarding the Offeror's willingness and ability to comply with certain requirements which may be applicable to specific TexBuy member purchases using federal grant funds. This completed form will be made available to TexBuy members for their use while considering their purchasing options when using federal grant funds. Members may also require Vendors to enter into ancillary agreements, in addition to the TexBuy's general terms and conditions, to address the member's specific contractual needs, including contract requirements for a procurement using federal grants or contracts.

- (10) **Antitrust Certification:** In accordance with Texas Government Code 2155.005, a local government entity shall not enter into contract with a vendor/contractor that has violated any provision of the Texas Antitrust laws referenced in Texas Business & Commerce Code Chapter 15 or any Federal antitrust laws.
- (11) **H.B 89 Verification:** In accordance with chapter 2270 of the Texas Government code, a local government entity (city, school district, special district, etc) may not enter into a contract with a for-profit company unless the local government entity obtains written verification that the company does not and will not boycott Israel during the term of the contract.

B. Additional Agency Terms and Conditions for Non-Construction Products and Services

- (1) **State of Texas Franchise Tax:** By signature hereon, the bidder certifies that he/she is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Texas Tax Code.
- (2) **Agricultural products,** including textiles and other similar products, are not to be made available to Texas school districts through the agreement, unless such products produced, processed, or grown in the state of Texas are given a preference in accordance with Texas Education Code §44.042.

C. Additional Agency Terms and Conditions for Construction Products and Services as required by law in the State of Texas:

- (1) **Certification of Residency (TexBuy Contractors will be required to sign a standard affidavit required by the State of Texas):** The State of Texas has a law concerning non-resident Contractors. This law can be found in Texas Government Code under Chapter 2252, Subchapter A. This law makes it necessary for TexBuy to determine the residency of its Contractors. In part, this law reads as follows:

(a.) **Section: 2252.001**

"Non-resident bidder" refers to a person who is not a resident. "Resident bidder" refers to a person whose principal place of business is in this state, including a Contractor whose ultimate parent company or majority owner has its principal place of business in this state."

(b.) **Section: 2252.002**

"A governmental entity may not award a governmental contract to a non-resident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located."

(2) **Security**

- (a.) **Bid Security,** when required by Texas Law, shall be furnished with the bid. The Bid Security shall consist of a certified check, cashier's check or a bid bond in the amount of ten percent (10%) of the total bid (or as otherwise stated in the RFB) that shall be a guarantee to furnish Performance and Payment Bonds. Bid Security shall be to TexBuy.
- (b.) **The Successful Bidder's Security** will be retained until the Contract is signed and the required Performance and Payment Bonds have been furnished. If any bidder refuses to enter into a contract

within 30 days or fails to furnish the required bonds, TexBuy will retain the Bid Security as liquidated damages, but not as a penalty.

- (c.) **Performance Bonds** when required by Texas Law, shall be furnished by the successful bidder in an amount equal to one hundred percent (100%) of the total amount of the contract sum, underwritten by such Surety Company as the Participating Agency may approve, conditioned upon the faithful performance of the work in accordance with the plans, specifications, and contract documents. Said bond shall be solely for the protection of the Participating Agency.
 - (d.) **Payment Bonds** when required by Texas Law shall be furnished by the successful bidder, in the amount of the contract, solely for the protection of all claimants supplying labor and material as hereinafter defined, in the prosecution of the work provided in said contract, for the use of each claimant.
 - (e.) **Prevailing Wage** must be paid to any contractors or subcontractors or their employees or agents in performing any work under the awarded bid.
 - (f.) **Criminal History Background Checks** in accordance with Texas Education Code §22.0834 shall be required should any employee or agent of a contractor awarded a bid have “continuing duties related to the contracted services” with a school district and that employee or agent will have “direct contact with students” (as those terms are defined in 19 Texas Administrative Code 153.1101).
- (3) **Insurance:** The Contractor shall file with the Participating Agency’s designee, Insurance Certificates, as described herein, evidencing the coverage required, and shall be supplied within ten (10) calendar days after receipt of the written “Notice of Award”. In no instance shall the Contractor begin work prior to the filing of the insurance requirements. Failure to do so shall be grounds to void the contract. The Participating Agency’s designee shall be given ten (10) days notice prior to the cancellation or change of any of the required insurance coverage. The Participating Agency shall be named as Certificate Holder.
- (a.) Contractor’s Liability Insurance: Produce and maintain in force the following kinds of insurance of companies acceptable to the Owner. Minimum Limits of Liability are stated.

Contractor’s Liability Insurance:

Employer’s Insurance Workers’ Compensation—Statutory Employer’s Liability

Bodily Injury by Accident Each Occurrence—\$100,000.00

Bodily Injury by Disease Each Employee—\$100,000.00

Policy Limit—\$500,000.00

Commercial General Liability -Combined Limits of Bodily and Personal Injury and Property Damage:

Single Limit—\$500,000.00

Unimpaired Aggregate—\$500,000.00

Comprehensive Automobile Liability - Including non-ownership, hired and owned vehicle coverage:

Bodily Damage Each Person—\$250,000.00

Each Occurrence—\$500,000.00

Property Damage Each Occurrence—\$250,000.00

(b.) Owner's Insurance: Carry and pay for Owner's Protective Liability Insurance in the same amounts as specified above for the Contractor's General Liability. Name the Architect, Engineers, and Consultants as additional insured if applicable.

(c.) Comprehensive Catastrophic Liability: excess over the above liability policies in the amount of \$2,000,000.00 each occurrence. (Combined Limit)

D. Procedure for Processing Orders

- (1) Purchase orders are issued by participating agencies to the Contractor.
- (2) "Automated contracts" may be negotiated with TexBuy that provide for purchase orders to be sent directly to the Contractor with reports of usage submitted periodically to TexBuy.
- (3) Contractors deliver goods/services directly to the participating agency and then invoice the participating agency. The Contractor receives payment directly from the participating agency.
- (4) TexBuy shall receive quarterly reports from the Contractor reflecting total sales made through the TexBuy contract with the Contractor. The Contractor shall remit payment of their participation fee up to two percent (2%) to TexBuy at net thirty-day (30) terms.

E. Members Purchasing Under the Agency

TexBuy is operated by Region 16 Education Service Center, Amarillo, Texas and is available for use by all public and private schools, colleges, universities, cities, counties and other government agencies in the State of Texas.

24. Virginia, Fairfax County Public Schools

Additional Agency Terms and Conditions that apply to all categories

AUTHORITY-The Purchasing Agent has the sole responsibility and authority for negotiating, placing and when necessary modifying every solicitation, contract and purchase order (except for capital construction projects) issued by the County of Fairfax. In the discharge of these responsibilities, the Purchasing Agent may be assisted by assigned Buyers. Unless specifically delegated by the County Purchasing Agent, no other County officer or employee is authorized to order supplies or services, enter into purchase negotiations or contracts, or in any way obligate the government of the County of Fairfax for indebtedness. Any purchase ordered or contract made which is contrary to these provisions and authorities shall be of no effect and void and the County shall not be bound thereby.

NOTE: Fairfax County does not discriminate against faith-based organizations, in accordance with the *Code of Virginia*, § 2.2-4343.1, or against a Bidder or Bidder because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment in the performance of its procurement activity.

GENERAL

1. DEFINITIONS-

AGENCY: Any Department, Agency, Authority, Commission, Board or other unit in the Administrative Service of the County.

BIDDER/BIDDER: Any individual, company, firm, corporation, partnership or other organization bidding on solicitations issued by the Purchasing Agent and offering to enter into contracts with the County. The term "Bidder" will be used throughout this document and shall be construed to mean "Bidder" where appropriate.

CONTRACTOR: Any individual, company, firm, corporation, partnership or other organization to whom an award is made by the County.

COUNTY: County of Fairfax.

GOODS: All material, equipment, supplies, printing, and automated data processing/information technology hardware and software.

PURCHASING AGENT: The Purchasing Agent employed by the Board of Supervisors of Fairfax County, Virginia.

SERVICES: Any work performed by an independent Contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

STATE: Commonwealth of Virginia.

- 2. FUNDING-**A contract shall be deemed binding only to the extent of appropriations available to each Agency for the purchase of goods and services.
- 3. CONTRACT ALTERATIONS-**No alterations in the terms of a contract shall be valid or binding upon the County unless made in writing and signed by the Purchasing Agent or his or her authorized agent.
- 4. SUBLETTING OF CONTRACT OR ASSIGNMENT OF CONTRACT FUNDS-**It is mutually understood and agreed that the Contractor shall not assign, transfer, convey, sublet or otherwise dispose of his or her contractual duties to any other person, firm or corporation, without the previous written consent of the Purchasing Agent. If the Contractor desires to assign his or her right to payment of the contract, Contractor shall notify the Purchasing Agent immediately, in writing, of such assignment of right to payment. In no case shall such assignment of contract relieve the Contractor from his or her obligations or change the terms of the contract.
- 5. NEW GOODS, FRESH STOCK-**All Contractors, unless otherwise specifically stated, shall provide new commodities, fresh stock, latest model, design or pack.
- 6. INSPECTION-ACCEPTANCE-**For determining acceptance of supplies in accordance with the provisions of the prompt payment discount paragraph, inspection and acceptance shall be accomplished only after examination (including testing) of supplies and services to determine whether the supplies and services conform to the contract requirements. Acceptance shall occur only after receipt and inspection provided such inspection, as appropriate, is accomplished within a reasonable time.
DELIVERY/SERVICE FAILURES-Failure of a Contractor to deliver goods or services within the time specified, or within reasonable time as interpreted by the Purchasing Agent, or failure to make replacements/corrections of rejected articles/services when so requested, immediately or as directed by the Purchasing Agent, shall constitute authority for the Purchasing Agent to purchase in the open market articles/services of comparable grade/quality to replace the services, articles rejected, and/or not delivered. On all such purchases, the Contractor shall reimburse the County, within a reasonable time specified by the Purchasing Agent, for any expense incurred in excess of contract prices. Such purchases shall be deducted from the contract quantities if applicable. Should public necessity demand it, the County reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Agent.
- 7. GUARANTEES & WARRANTIES-**All guarantees and warranties required shall be furnished by the Contractor and shall be delivered to the Purchasing Agent before final payment on the contract is made. Unless otherwise stated, manufacturer's standard warranty applies.
- 8. INSPECTIONS-**Inspection and acceptance of materials or supplies will be made after delivery at destinations herein specified unless otherwise stated. If inspection is made after delivery at destination herein specified, the County will bear

the expense of inspection except for the value of samples used in case of rejection. Final inspection shall be conclusive except in regard to latent defects, fraud or such gross mistakes as to amount to fraud. Final inspection and acceptance or rejection of the materials or supplies will be made as promptly as practicable, but failure to inspect and accept or reject materials or supplies shall not impose liability on the County for such materials or supplies as are not in accordance with the specifications.

9. **POINT OF DESTINATION**-All materials shipped to the County must be shipped F.O.B. DESTINATION unless otherwise stated in the contract or purchase order. The materials must be delivered to the "Ship to" address indicated on the purchase order.
10. **ADDITIONAL CHARGES**-Unless bought F.O.B. "shipping point" and Contractor prepays transportation, no delivery charges shall be added to invoices except when express delivery is authorized and substituted on orders for the method specified in the contract. In such cases, difference between freight or mail and express charges may be added to invoice.
11. **TERMINATION OF CONTRACTS**-Contracts will remain in force for full periods specified and/or until all articles ordered before date of termination shall have been satisfactorily delivered and accepted and thereafter until all requirements and conditions shall have been met, unless:
 - a. Terminated prior to expiration date by satisfactory deliveries of entire contract requirements, or upon termination by the County for Convenience or Cause.
 - b. Extended upon written authorization of the Purchasing Agent and accepted by Contractor, to permit ordering of unorderd balances or additional quantities at contract prices and in accordance with contract terms.
12. **TERMINATION FOR CONVENIENCE**-A contract may be terminated in whole or in part by the County in accordance with this clause whenever the County Purchasing Agent shall determine that such a termination is in the best interest of the County. Any such termination shall be effected by delivery to the Contractor at least five (5) working days prior to the termination date of a Notice of Termination specifying the extent to which performance shall be terminated and the date upon which termination becomes effective. An equitable adjustment in the contract price shall be made for completed service, but no amount shall be allowed for anticipated profit on unperformed services.
13. **TERMINATION OF CONTRACT FOR CAUSE**-
 - a. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his or her obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the County shall thereupon have the right to terminate, specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the contract shall, at the option of the County, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.
14. Notwithstanding the above, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of contract by the Contractor for the purpose of set off until such time as the exact amount of damages due to the County from the Contractor is determined.
15. **CHANGES**-Should it become proper or necessary in the execution of this contract to make any change in design, or to make any alterations which will increase the expense, the Purchasing Agent shall determine an equitable adjustment. No payment shall be made to the Contractor for any extra material or services, or of any greater amount of money than stipulated to be paid in the contract, unless some changes in or additions to the contract requiring additional outlay by the Contractor shall first have been expressly authorized and ordered in writing by contract amendment or otherwise furnished by the Purchasing Agent.
16. **GENERAL GUARANTY**-Contractor agrees to:
 - a. Save the County, its agents and employees harmless from liability of any nature or kind for the use of any copyrighted or uncopyrighted composition; secret process, patented or unpatented; invention; article or appliance furnished or used in the performance of a contract for which the Contractor is not the patentee, assignee, licensee or owner.
 - b. Protect the County against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit or delivery.
 - c. Furnish adequate protection against damage to all work and to repair damages of any kind to the building or equipment, to his or her own work or to the work of other Contractors, for which his or her workers are responsible.
 - d. Pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the County.
 - e. Protect the County from loss or damage to County owned property while it is in the custody of the Contractor.
17. **SERVICE CONTRACT GUARANTY**-Contractor agrees to:
 - a. Furnish services described in the solicitation and resultant contract at the times and places and in the manner and subject to conditions therein set forth provided that the County may reduce the said services at any time.
 - b. Enter upon the performance of services with all due diligence and dispatch, assiduously press to its complete performance, and exercise therein the highest degree of skill and competence.
 - c. All work and services rendered in strict conformance to all laws, statues, and ordinances and the applicable rules,

regulations, methods and procedures of all government boards, bureaus, offices and other agents.

- d. Allow services to be inspected or reviewed by an employee of the County at any reasonable time and place selected by the County. Fairfax County shall be under no obligation to compensate Contractor for any services not rendered in strict conformity with the contract.

Stipulate that the presence of a County Inspector shall not lessen the obligation of the Contractor for performance in accordance with the contract requirements, or be deemed a defense on the part of the Contractor for infraction thereof. The Inspector is not authorized to revoke, alter, enlarge, relax, or release any of the requirements of the contract documents. Any omission or failure on the part of the Inspector to disapprove or reject any work or material shall not be construed to be an acceptance of any such defective work or material. Notification of an omission or failure will be documented by the Purchasing Agent.

- 18. INDEMNIFICATION**-Contractor shall indemnify, keep and save harmless the County, its agents, officials, employees and volunteers against claims of injuries, death, damage to property, patent claims, suits, liabilities, judgments, cost and expenses which may otherwise accrue against the County in consequence of the granting of a contract or which may otherwise result therefrom, if it shall be determined that the act was caused through negligence or error, or omission of the Contractor or his or her employees, or that of the Subcontractor or his or her employees, if any; and the Contractor shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and if any judgment shall be rendered against the County in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County as herein provided.

- 19. NON-DISCRIMINATION**-During the performance of this contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- d. The Contractor will include the provisions of the foregoing paragraphs a, b, and c above in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each Subcontractor or vendor.
- e. Contractor and Subcontractor hereunder shall, throughout the term of this contract, comply with the Human Rights Ordinance, Chapter 11 of the Code of the County of Fairfax, Virginia, as reenacted or amended.

- 20. DRUG FREE WORKPLACE**-During the performance of a contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract of over \$10,000, so that the provisions will be binding upon each Subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to a Contractor in accordance with this section, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

- 21. OFFICIALS NOT TO BENEFIT**-

- a. Each Bidder or Bidder shall certify, upon signing a bid or proposal, that to the best of his or her knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of his or her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.
- b. Whenever there is reason to believe that a financial benefit of the sort described in paragraph "a" has been or will be received in connection with a bid, proposal or contract, and that the Contractor has failed to disclose such benefit or has inadequately disclosed it, the County Executive, as a prerequisite to payment pursuant to the contract, or at any other time, may require the Contractor to furnish, under oath, answers to any interrogatories related to such possible

benefit.

- c. In the event the Bidder or Bidder has knowledge of benefits as outlined above, this information should be submitted with the bid or proposal. If the above does not apply at time of award of contract and becomes known after inception of a contract, the Bidder or Bidder shall address the disclosure of such facts to the Fairfax County Purchasing Agent, 12000 Government Center Parkway, Suite 427, Fairfax, Virginia 22035-0013. Relevant Invitation/Request for Proposal Number (see cover sheet) should be referenced in the disclosure.

LICENSE REQUIREMENT-All firms doing business in Fairfax County, shall obtain a license as required by Chapter 4, Article 7, of The Code of the County of Fairfax, Virginia, as amended, entitled "Business, Professional and Occupational Licensing (BPOL) Tax." Questions concerning the BPOL Tax should be directed to the Department of Tax Administration, telephone (703) 222-8234 or visit: http://www.fairfaxcounty.gov/dta/business_tax.htm. The BPOL Tax number must be indicated in the space provided on the Cover Sheet, "Fairfax License Tax No." when appropriate.

- 22. REGISTERING OF CORPORATIONS**-Any foreign corporation transacting business in Virginia shall secure a certificate of authority as required by Section 13.1-757 of the Code of Virginia, from the State Corporation Commission, Post Office Box 1197, Richmond, Virginia 23209. The Commission may be reached at (804) 371-9733. The consequences of failing to secure a certificate of authority are set forth in Virginia Code Section 13.1-758.

- 23. COVENANT AGAINST CONTINGENT FEES**-The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For violation of this warranty, the County shall have the right to terminate or suspend this contract without liability to the County or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

24. OFFICE OF SMALL BUSINESS-

- a. It is the policy of the County of Fairfax as declared by the Fairfax County Board of Supervisors' adoption of a Small and Minority Business Enterprise Program, April 6, 1981, that Fairfax County and its employees undertake every effort to increase opportunity for utilization of small or minority businesses in all aspects of procurement to the maximum extent feasible.
- b. In connection with the performance of this contract, the Contractor agrees to use his or her best effort to carry out this policy and to insure that small and minority businesses shall have the maximum practicable opportunity to compete for subcontract work under this contract consistent with the efficient performance of this contract.
- c. As used in this contract the term "small business" means a corporation, partnership, or sole proprietorship, or other legal entity formed for the purpose of making a profit, which is independently owned and operated, has either fewer than 100 employees, or less than \$1,000,000 in annual receipts.
- d. As used in this contract, the term "minority business" means a business enterprise that is at least 51 percent owned and controlled by a minority person or persons. Such persons include African Americans, Hispanic Americans, Asian Americans, American Indians, Eskimos and Aleuts; women regardless of race or ethnicity; and persons with a physical impairment that substantially limits one or more of the major life activities of such individuals, a record of such impairment, or who are regarded as having such an impairment.
- e. Contractors may rely on oral or written representations by Subcontractors regarding their status as small and/or minority business enterprises in lieu of independent investigation.
- f. Where Federal grants or monies are involved it is the policy of Fairfax County, through its agents and employees, to comply with the requirements set forth in the U.S. Office of Management and Budget Circular No. A-102, uniform administrative requirements for Grants and Cooperative Agreements with State and Local Governments, as they pertain to small and minority business utilization.

PAYMENTS

- 25. TAX EXEMPTION**-The County is exempt from the payment of any federal excise or any Virginia sales tax. The price bid must be net, exclusive of taxes. However, when under established trade practice any federal excise tax is included in the list price, a Bidder may quote the list price and shall show separately the amount of federal tax, either as a flat sum or as a percentage of the list price, which shall be deducted by the County. Fairfax County's Federal Excise Tax Exemption Number is 54-74-0127K. Contractors located outside the Commonwealth of Virginia are advised that when materials are picked up by the County at their place of business, they may charge and collect their own local/state sales tax. Materials used in the performance of construction contracts are subject to Virginia Sales/Use Tax as described in Section 630-10-27J of the Virginia Retail Sales and Use Tax Regulations.

- 26. PAYMENT**-Payment shall be made after satisfactory performance of the contract, in accordance with all of the provisions thereof, and upon receipt of a properly completed invoice. Fairfax County reserves the right to withhold any or all payments or portions thereof for Contractor's failure to perform in accordance with the provision of the contract or any modifications thereto.

- 27. PARTIAL PAYMENTS-**Unless otherwise specified, partial payments will be made upon acceptance of materials or services so invoiced if in accordance with completion date. However, up to 5 percent (5%) of the value of the entire order may be retained until completion of contract.
- 28. PAYMENT FOR EQUIPMENT, INSTALLATION, AND TESTING-**When equipment requires installation (which shall also be interpreted to mean erection and/or setting up or placing in position, service, or use) and test, and where such installation or testing is delayed, payment may be made on the basis of 50% of the contract price when such equipment is delivered on the site. A further allowance of 25% may be made when the equipment is installed and ready for test. The balance shall be paid after the equipment is tested and found to be satisfactory. If the equipment must be tested, but installation is not required to be made by the Contractor or if the equipment must be installed but testing is not required, payment may be made on the basis of 75% at the time of delivery and the balance shall be paid after satisfactory test or installation is completed.

REMEDIES

29. INELIGIBILITY-

- a. Any person or firm suspended or debarred from participation in County procurement shall be notified in writing by the County Purchasing Agent.
 1. The Notice of Suspension shall state the reasons for the actions taken and such decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the Notice by instituting legal action as provided in the Code of Virginia.
 2. The Notice of Debarment shall state the reasons for the actions taken and the decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the notice by instituting legal action as provided in the Code of Virginia.
- b. The County Purchasing Agent shall have the authority to suspend or debar a person or firm from bidding on any contract for the causes stated below:
 1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
 2. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County Contractor;
 3. Conviction under the state or federal antitrust statutes arising out of the submission of bids or proposals;
 4. Violation of contract provisions, as set forth below, of a character which is regarded by the County Purchasing Agent to be so serious as to justify suspension or debarment action:
 - (a) failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - (b) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the Contractor shall not be considered to be a basis for suspension or debarment;
 5. Any other cause the County Purchasing Agent determines to be so serious and compelling as to affect responsibility as a Contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands;
 6. The Contractor has abandoned performance or been terminated for default on any other Fairfax County project;
 7. The Contractor is in default on any surety bond or written guarantee on which Fairfax County is an obligee.
- c. If, upon appeal, it is determined that the action taken by the County Purchasing Agent was arbitrary or capricious, or not in accordance with the Constitution of Virginia, statutes or regulations, the sole relief available to the person or firm shall be restoration of eligibility. The person or firm may not institute legal action until all statutory requirements have been met.

30. CONTRACTUAL DISPUTES-

- a. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the County Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy thereof to the Contractor within thirty (30) days. The decision of the County Purchasing Agent shall be final and conclusive unless the Contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A Contractor may not institute legal action, prior to receipt of the public body's decision on the claim, unless the public body fails to render such decision within the time specified.
- b. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the Contractor's intention to file such claim shall have been given at the time

of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

31. LEGAL ACTION-No Bidder, Bidder, potential Bidder or Bidder, or Contractor shall institute any legal action until all statutory requirements have been met.

C - Member Purchasing

32. COOPERATIVE PURCHASING-The County may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, or the District of Columbia, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for architectural and engineering services, a public body may purchase from another public body's contract even if it did not participate in the request for proposal (RFP) or invitation for bid (IFB), if the RFP or IFB specified that the procurement was being conducted on behalf of other public bodies. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement. As authorized by the United States Congress and consistent with applicable federal regulations, and provided the terms of the contract permit such purchases, any county, city, town, or school board may purchase goods and nonprofessional services from a U.S. General Services Administration contract or a contract awarded by any other agency of the U.S. government. Bidders are advised that the *resultant* contract(s) may be extended, with the authorization of the Bidder, to other public bodies, or public agencies or institutions of the United States to permit their use of the contract at the same prices and/or discounts and terms of the resulting contract. If any other public body decides to use the final contract, the Contractor(s) must deal directly with that public body concerning the placement of orders, issuance of purchase orders, contractual disputes, invoicing and payment. The County of Fairfax acts only as the "Contracting Agent" for these public bodies. It is the Contractors responsibility to notify the public body(s) of the availability of the contract(s). Other public bodies desiring to use this contract will need to make their own legal determinations as to whether the use of this contract is consistent with their laws, regulations, and other policies. Each public body has the option of executing a separate contract with the Contractor(s). Public bodies may add terms and conditions required by statute, ordinances, and regulations, to the extent that they do not conflict with the contracts terms and conditions. If, when preparing such a contract, the general terms and conditions of a public body are unacceptable to the Contractor, the Contractor may withdraw its extension of t

25. Washington, King County Directors' Association (KCDA)

(General Contracts and Construction/Public Works Projects)

A. KCDA Additional General Terms and Conditions

General Intent: KCDA may participate in all or any part of the goods and services listed in this IFB, upon completion of contracts currently in effect, whichever is deemed in the best interest of KCDA members. KCDA cannot be restricted by the successful bidder from choosing which parts of these contracts to use.

Both the Contractor and KCDA member using this Contract agree that it is the member's responsibility to perform due diligence as to the legality of their usage of this contract. In this regard, KCDA suggests that, at a minimum, Contractor and member considering such usage consult with their legal counsel before doing so.

Advertising/Marketing:

KCDA requires all vendors to develop a marketing program to include printed, web-based, e-mail, telemarketing and other methods approved by KCDA.

All promotional marketing materials must have the prior approval of KCDA before distribution and must include the KCDA logo and other contract information.

KCDA staff will work jointly with all vendors and their representatives to market the AEPA contracts to KCDA members and prospective members. Vendors may be requested to make joint presentations to KCDA or its members in either a one to one or a group setting. Some group presentations may be done in conjunction with other vendors.

Displaying exhibits at various statewide conferences are encouraged. Contractor agrees to make available KCDA supplied brochures or other promotional materials at these events. Contractor will provide KCDA with scheduled exhibit dates in advance.

Contractor agrees to insert the approved KCDA logo, web address and contact information on the Contractor's website promoting and providing a link to the KCDA website. Contractor will also provide KCDA with text, links and logos to be posted on the KCDA website.

Assignment:

Contractor shall not subcontract, assign, transfer, convey, sublet or otherwise dispose of contractual duties to any other person, firm or corporation without the previous written consent of KCDA and any member that has an outstanding open purchase order or financing arrangement. In no case shall such assignment of Contract relieve the Contractor from obligations or change the terms of the Contract.

Cancellation/Default/Termination:

KCDA reserves the right to cancel the whole or any part of this contract due to the failure by the Contractor to carry out any obligation, term or condition of the contract. KCDA will issue written notice to the contractor for acting or failing to act in any of the following:

- The Contractor fails to adequately perform the services set forth in the contract
- The Contractor fails to make progress in the performance of the contract and/or gives KCDA reason to believe the Contractor will not or cannot perform to the requirements of the contract
- The Contractor fails to observe any of the terms and conditions of the contract
- The Contractor fails to pay any applicable administrative fees.
- The Contractor fails to follow the established procedure for purchase orders, invoices and receipt of funds as stipulated by KCDA.

If the contract is to be terminated KCDA shall do the following:

Step 1 – Issue a warning Letter of Concern outlining the violations and length of time to correct the problem(s). Upon receipt of the letter, the Contractor shall have ten (10) business days to provide a satisfactory response to KCDA. Failure on the part of the Contractor to address adequately all issues of concern may result in contract cancellation.

Step 2 – Issue a letter of intent to cancel the contract if the problems(s) are not resolved by the date specified.

Step 3 – Issue a letter to terminate the contract.

Compliance with Laws

In addition to any requirements set forth herein, vendor shall comply with all applicable state, federal and local laws, rules, regulations and ordinances.

Contract Amendments:

KCDA reserves the right to amend the contract resulting from state law changes or internal boilerplate changes due to state law changes. Contractors/Vendors will be sent written notification of the changes.

Employees who have been Convicted of Crimes Against Children:

The Contractor, or any subcontractors, shall not utilize any employee at a school site or allow any contact between school children and any employee when an employee has plead guilty to or been convicted of any felony crime involving the physical neglect of a child under Chapter 9A.42RCW, the physical injury or death of a child under Chapter 9A.32 or 9A.36RCW (except motor vehicle violations under Chapter 46.61 RCW), sexual exploitation of a child under Chapter 9A.444 RCW where a minor is the victim, promoting prostitution of a minor under Chapter 9A.88 RCW, the sale or purchase of a minor child under 9A.88 RCW, or violation of similar laws of another jurisdiction.

Contractors/Vendors who have regularly scheduled unsupervised access to children, and/or who hire employees who will have regularly scheduled unsupervised access to children, shall perform a record check through the Washington State Patrol criminal identification system under RCW 43.43.830-43.43.834, 10.97.0303 and 10.97.050, and through the Federal Bureau of Investigation before hiring the employee. The record check shall include a fingerprint check using a complete Washington State criminal identification fingerprint card. The Contractor shall provide a copy of the record to the person applying for employment to the school location. If the Contractor or applicant has had a record check within the previous two years, the Contractor may waive the requirement. The Contractor shall determine whether the applicant or the Contractor shall pay costs associated with the record check.

In addition, pursuant to RCW 9.96A.020 and 1993 Chapter Law 71, a person is disqualified from employment by school districts, and their Contractor from hiring employees who will have regularly scheduled unsupervised access to children because of a prior guilty plea or conviction of a felony crime specified under RCW 28A.400.322, or a violation of similar laws of another jurisdiction, even if the time elapsed since the guilty plea or conviction is ten years or more.

Governing Law and Venue/Legal Litigation:

All applicable local, state and federal laws and regulations will apply to any purchases of equipment, service or public works in any of the states KCDA currently services, as well as any other non-AEPA states where members may be added to KCDA membership throughout the term of these contracts. The laws of the State of Washington govern the Contract. Each and every provision of law and clause required by law to be included in the Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction. Venue for any litigation arising out of or related to the Contract shall take place in the State of Washington.

Hazardous Materials:

If any hazardous chemicals/materials are supplied under a contract/purchase order arising out of this solicitation, a Safety Data Sheet (SDS) shall accompany the delivery of any hazardous chemicals/materials supplied by the vendor. All SDA sheets shall be sent to KCDA and the KCDA member. Any products not appropriately labeled will be refused and the vendor will be responsible for additional freight charges.

Indemnification/Hold Harmless:

The Contractor agrees to defend, indemnify and hold harmless KCDA and the member agency, and their respective officers, officials, employees and volunteers from any and all claims, injuries, damages, losses or suits including attorney fees arising out of or resulting from the acts, errors or omissions in performance of this Agreement, except for injuries and damages caused by the sole negligence of KCDA or the member agency. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor, KCDA or the member agency and their respective officers, officials, employees, and volunteers, the Contractor's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purpose of this indemnification. Use of this contract certifies that the waiver of immunity specified by this provision was mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of the Agreement.

Independent Contractor:

The Contractor shall not be held or deemed in any way to be the agent or employee of KCDA and /or a KCDA member. It is the intention of the parties that the Contractor shall be and is to be considered an independent Contractor.

Minority and Women Owned Businesses:

KCDA encourages all minority and women owned businesses to participate in the bid process. Washington State law does not allow KCDA to provide any financial advantage for minority and women owned businesses who participate, however, KCDA believes that a diverse range of suppliers benefits all.

Quality of Goods:

Bidder shall bid and provide new (not used or refurbished) items only. Seller warrants all supplies, materials and equipment and services covered by a contract/purchase order with KCDA or with a KCDA member will:

- (a) conform to the specifications, drawings, written instructions, samples, or descriptions;
- (b) be of good quality and workmanship;
- (c) be free of defects in design, materials and workmanship;
- (d) be merchantable;
- (e) be fit for particular purposes applicable to the design, function or use of the supplies, materials and equipment.

Taxes:

The KCDA Members and Associate Members are to be taxed.

Term of Contract:

The term of the agreement shall commence on the date of the award and continue as stipulated in the General Terms and Conditions, unless terminated, canceled or extended.

Use of Tobacco on School Districts/Public Agency Premises:

RCW 28A.210.310 prohibits the use of tobacco in any form on school district property. Smoking or other use of tobacco will not be permitted at the job site.

B. Procedure for Processing Orders Order
Procedure

After entering into an agreement with KCDA, KCDA will confirm the directions for placement of orders with the Contractor, and will post directions on the KCDA website for both Contractor and members. These directions will also be posted on each awarded Contractors/Vendors website.

- Once the award is made to the Contractor, KCDA will inform members of the contract.
- At this point the Contractor may directly contact members or the member may contact the Contractor.
- A list of members, addresses and phone numbers is available to the Contractor upon request.
- Before a Contractor may enter into business with a KCDA member, they need to verify membership through the KCDA website, which can be viewed under Membership.

Invoicing/Reporting

- KCDA will contact Contractors/Vendors about invoicing procedures.
- KCDA is funded through a service fee paid to KCDA by the participating Contractors/Vendors. The service fee percentage is based upon the total sale of goods and services, including installation, if applicable. This fee shall be reflected in all price quotations under the KCDA agreement. The service fee will be 2%. Do not print the service fee as a separate line item on the quotation.
- The Contractor will compile an electronic quarterly report listing each purchase made by participating members. Within 30 days after each quarterly period the report will be sent to the e-mail address of the KCDA Purchasing Director, Thomas Kim, tkim@kcda.org and Director of Finance, Robert Payne rpayne@kcda.org
- These reports shall be in Microsoft Excel format and shall have file names that identify the Contractor and the quarterly period being reported. They shall include the following fields and allow for sorting on any of the fields: Date of order, name of member, item purchased, quantity, unit price, extended price, member PO #, Contractor order number.
- KCDA reserves the right to change the contact name of existing KCDA personnel administering the contract. If there are personnel changes, reports and payments will be sent to the new contact(s) specified.

C. Agencies Allowed to Purchase under KCDA

King County Director's Association (KCDA) is a member owned purchasing cooperative representing 295 Washington State school districts. In addition, KCDA provides purchasing and procurement services for more than 1,200 public agencies and political subdivisions in Washington and other states, including but not limited to Alaska, Idaho, and Montana. KCDA also provides purchasing services for accredited private K-12 schools in Washington State.

A listing of all KCDA members is available on the KCDA website, www.kcda.org.

D. KCDA Additional Terms & Conditions for Construction Products and Services

Contractor agrees that, in performance of the services required under this agreement, Contractor shall abide by all federal, state, local and Washington law and regulations that may apply to construction and public works. It is the responsibility of the Contractor to determine applicability and requirements of any such laws and to abide by them.

- **Bid Bond:** The bid must be accompanied by a bid bond using the KCDA form included in these contract provisions, issued by a surety licensed to do business in the State of Washington and made out to King County Directors Association in an amount not less than 5% of the amount of the bid as identified in Part B, Section 4 of the solicitation. A Power of Attorney must accompany the bid bond and must appoint the surety's true and lawful attorney-in-fact to make, execute, seal and deliver the bid guarantee bond. Failure to submit the required bid security with the Bid shall render the bid non-responsive and the bid shall be rejected.
- **Public Works:** State of Washington statute requires workers be paid prevailing wages when employed on public works projects and on public building service maintenance contracts. (RCW 39.04.010, RCW 39.12.010 and 020) It is the contractor's responsibility to be acquainted with and comply with State regulations regarding payment of prevailing wages on public works projects. Prevailing Wages are established by the Washington State Department of Labor and Industries and can be obtained on the web at <http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp> or by contacting Labor and Industries at 360-902-5335. KCDA serves all counties in Washington State. The County in which the project is located will be identified once a member initiates a request for the service, and the effective wage rate to be applied to a specific project is to be based on the date of this bid during the original contract term, and if contract extensions are granted, the prevailing wage rate in effect at the time of the latest extension. A copy of the applicable prevailing wage rates are also available for viewing at the office of KCDA. Upon request KCDA will mail a hard copy of the applicable prevailing wages.
- **Application:** The Public Works Act regulates wages paid to workers, laborers and mechanics performing public work. It does not apply to work that is clerical, executive administrative or professional in nature. It does not apply to work of a secretary, engineer or administrator, unless they are performing construction work, alteration work, repair work, etc. Prevailing wage application depends on the work that is performed, regardless of the worker's job title. (RCW 39.12.020 and WAC 296-128-510 through 530). Definition: Public Works is all work, construction, alteration, repair or improvement that is executed at the cost of the state or any other local public agency. This includes, but is not limited to, demolition, remodeling, renovation, road construction, building construction, ferry construction and utilities construction. (RCW 39.04.010). Public Building Service Maintenance Contracts: Prevailing wages are also required on all public building service maintenance (janitorial) contracts. (RCW 39.12.020). **Contractors bidding a Public works project exceeding \$1,000,000.00 must declare who their HVAC, Plumbing and Electrical subcontractors will be and submit this information with bid documents in order for the bid to be responsive (RCW 39.30.060).** Such projects also have special considerations pertaining to prefabricated materials (RCW 39.04.370) and use of apprentices (39.04.320).
- **Reciprocity:** In accordance with RCW 39.04.380 any bidding process for public works in which a bid is received from a nonresident contractor from a state that provides a percentage bidding preference, a comparable percentage disadvantage must be applied to the bid of that nonresident contractor. This does not apply to public works procured pursuant to RCW 39.04.155, 39.04.280 or other procurement exempt from competitive bidding.
- **Prevailing Wage:** Definition: Prevailing Wage is the hourly wage, usual benefits and overtime, paid in the largest city in each county, to the majority of workers, laborers and mechanics. The rate is established by the Department of Labor and Industries for each trade and occupation employed in the performance of public work. If Federal funds are used, bidders must comply with provisions of Davis-Bacon Act.
- **Basic procedures:** A Statement of Intent to Pay Prevailing Wages and Affidavit of Wages Paid must be filed and approved for the contractor and all subcontractors. No payments can be made until all Contractors/Vendors have submitted an approved intent form. KCDA cannot release retainage until all Contractors/Vendors have an approved Affidavit of Wages Paid form certified by the Industrial Statistician. (RCW 39.12.030, 040, 042). Costs for filing shall be the responsibility of the Contractor. Once the work is successfully completed, KCDA will release 95% of the project cost and withhold 5% retainage for as dictated by law. The final 5% will be paid when the following is completed: acceptance of project completion to the satisfaction of the KCDA ordering member, followed by receipt of approved Affidavit of Wages Paid Forms, Releases from Washington State Department of Labor & Industries, Employment Security Department and the Department of Revenue.
- **Federally Funded Projects:** In addition to the Federal Requirements of Section III General Terms and Conditions, Davis-Bacon prevailing wage requirements apply to public works construction contracts of \$2000 or more when a project includes any federal funding of any amount. When there is a difference between applicable state and federal prevailing wages for a particular classification of labor, contractors and subcontractors are required to pay the higher of the two prevailing wages. Applicable federal prevailing wage determinations can be found at <http://www.wdol.gov/>. Contractors/Subcontractors must be knowledgeable and adhere to all federal prevailing wage requirements, including but not limited to paying workers weekly and providing certified weekly payrolls for the contractor and subcontractors of any tier as required in the Davis-Bacon Act and applicable U.S. Department

of Labor regulations. Falsification of any prevailing wage payroll records may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of Title 18 and section 231 of Title 31 of the United States Code. Contractor shall inform all subcontractors of the Davis-Bacon requirements and the prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses. Contractor must coordinate all requirements related to federal funded projects with the KCDA member Agency.

- **Responsible Bidder**

Before award, the bidder must meet the following state responsibility criteria and, if applicable, supplemental responsibility criteria to be considered a responsible bidder. The bidder is required to submit documentation demonstrating compliance with the criteria.

Low Responsible Bidder

A. State Responsibility Criteria. The Bidder must meet the following state responsibility criteria:

1. At the time of submittal of bid to AEPA, the contractor must hold a current Washington State Contractors License in the name of the company signing the bid. Failure to have the license prior to submitting the bid is a violation of chapter 18.27 RCW and is a gross misdemeanor.
2. Have a current Washington State Unified Business Identifier (UBI) number.
3. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3).
4. If applicable:
 - a. Have Industrial Insurance (workers' compensation) coverage for the Bidder's employees working in Washington State, as required in Title 51 RCW;
 - b. Have a Washington State Employment Security Department number, as required in Title 50 RCW; and
 - c. Have a Washington State Department of Revenue state excise tax registration number, as required in Title 82 RCW.

B. Supplemental Bidder Responsibility Criteria. If supplemental criteria apply to this project, the criteria are included in "Attachment A." The Bidder may make a written request to modify any or all of the supplemental criteria. Modification of supplemental criteria shall be at KCDA's discretion. Any modifications to the supplemental criteria shall be made by addenda prior to bid opening.

Subcontractor Responsibility:

The contractor shall include the language of this section in each of its first tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. The requirements of this section apply to all subcontractors regardless of tier. At the time of subcontract execution, the Contractor shall verify that each of its first tier subcontractors meets the following bidder responsibility criteria:

1. At the time of bid submittal, have a current certification of registration in compliance with chapter 18.27 RCW.
2. Have a current Washington State Unified Business Identifier (UBI) number.
3. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3).
4. If applicable:
 - a. Have Industrial Insurance (workers' compensation) coverage for the Bidder's employees working in Washington State, as required in Title 51 RCW;
 - b. Have a Washington State Employment Security Department number, as required in Title 50 RCW; and
 - c. Have a Washington State Department of Revenue state excise tax registration number, as required in Title 82 RCW
5. Have an electrical contractor license, if required by Chapter 19.28 RCW;
6. Have an elevator contractor license, if required by Chapter 70.87 RCW;

- **Bonds- Payment & Performance:**

The prime Contractor shall provide a Performance and Payment Bond at 100% of the contract price to the KCDA member with a copy to KCDA before work begins. The only exception is for contracts of thirty-five thousand (\$35,000) dollars or less. In this instance, at the option of the Contractor, the member may in lieu of the bond retain fifty percent of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the Department of Revenue and the Department of Labor and Industries and settlement of any liens filed under Chapter

60.28 RCW, whichever is later. The bond shall be issued by a surety company authorized to do business in the State of Washington and shall be on standard forms used for public projects (RCW 39.08.010) and as directed by the KCDA member. Performance and Payment bonds for KCDA members outside Washington must be provided by

companies licensed to provide bonds for public entities in the member's state.

- **Licenses:** The prime contractor shall possess and maintain in current status all federal, state, and local licenses, bonds, and permits required for the performance and delivery of any and all products and services offered in its response to the bid solicitation. Before submitting a bid, Bidders must hold a current, valid contractor's license as required in Washington. The contractor's license must be in the name of the legal entity submitting and signing the bid. A bidder may not substitute a contractor's license held by a subcontractor or joint venture. Bidders submitting bids in Washington State without a valid contractor's license in the name of the Bidder are in violation of RCW 18.27.010. It is the responsibility of the prime contractor to ensure any subcontractors performing under this contract hold and maintain appropriate licenses. The contractor shall verify that appropriate licenses are in place at the time of response to this bid. Copies of licenses must be submitted to the member prior to performing the work. The Contractor agrees to keep and ensure subcontractors keep any required license, permit or bond current and in compliance with Washington rules, regulations and statutes, as well as in states outside Washington in which contractor performs work under this contract. For work performed for any Washington State school district, public agency or municipality, the Contractor must comply with the bidder responsibility requirements of RCW 39.04.350 prior to the KCDA member awarding a contract. The contractor must verify the responsibility of all subcontractors used in accordance with RCW 39.06.020.
- **Permits:** The acquisition of all permits as well as any drawings needed to obtain those permits is the responsibility of the successful Contractor/Bidder unless otherwise acknowledged by the KCDA member.
- **Certificate of Insurance:** A certificate of insurance demonstrating current coverage of the types and amounts of insurance required by KCDA and the KCDA member must be provided to KCDA and the KCDA member prior to performance of any work. In addition, the Commercial General Liability policies must be endorsed to name KCDA and the KCDA member as additional insureds. Such policies must be further endorsed to provide that the insurance is primary as respects KCDA and the KCDA member, and that any other insurance maintained by KCDA and the KCDA member shall be excess and not contributing insurance with the Contractor's insurance. These endorsements must be provided along with the certificate of insurance. KCDA and the KCDA member must both approve the certificate of insurance and endorsements.
- **Acceptable Pricing Method:** KCDA is unable to accept Alternative Costing Method quotations except in certain limited instances, (i.e. sole source) in which KCDA and Contractor may mutually determine the Alternative Costing Method is acceptable. This will be the exception rather than the rule. RS Means or line item bid pricing is acceptable.
- **Progress Payments:** The Contractor shall be paid, upon submission of a proper Payment Request, the prices stipulated herein for work performed (less deductions, if any), in accordance with all payment and retainage instructions herein. Submitted Payment Requests must contain the following minimum information:
 - a. Contract Number
 - b. Bid item ID, bid quantity, unit, unit price and description as appropriate
 - c. Sales Tax as applicable

The Payment Request will be reviewed by the Member before payment is made. If the Member is in disagreement with the Payment Request, KCDA will issue a notice requesting a revised Payment Request. In accordance with RCW 51.12.050, KCDA reserves the right to deduct from the payment any outstanding industrial insurance premiums owed by the Contractor or Subcontractors.

- **Payment Retainage:** In accordance with RCW 60.28 a contract retainage of not to exceed five percent of the moneys earned by the contractor toward completion of a public improvement contract shall be withheld and reserved as a trust fund for the protection and payment of 1) the claims of any person arising under the contract, and 2) the state with respect to taxes imposed pursuant to Titles 50, 51 and 82 RCW which may be due from such contractor. Upon completion of a contract, the member agency shall notify the Department of Revenue, the Employment Security Department, and the Department of Labor and Industries of the completion of contracts over thirty-five thousand dollars. KCDA will issue payment on the retainage amount forty-five days after notice from the KCDA Member Agency that the contract has been accepted as complete or upon receipt of all necessary releases, whichever is later.



PURCHASING COOPERATIVE

BID BOND

KNOW ALL BY THESE PRESENTS, That we _____
Of _____

As principal, and _____

a corporation duly organized under the laws of the State of _____ and authorized to do business in the State of Washington, as surety, are held and firmly bond unto King County Directors Association in the full and penal sum of _____ for the work hereinafter described, for the payment of which, well and truly to be made, we bind our heirs, executors, administrators and assigns, and successors and assigns, firmly by these presents.

The conditions of this bond are such, that whereas the principal herein is herewith submitting his or its sealed proposal for the following, to wit:

Said bid and proposal, by reference thereto, being made a part hereof.

NOW, THEREFORE, If the said proposal bid by said principal be accepted, and the contract be awarded to said principal, and if said principal shall duly make and enter into and execute said contract and shall furnish bond as required by King County Directors Association within a period of ten (10) days from and after said award, exclusive of the day of such award, then this obligation shall be null and void, otherwise it shall remain and be in full force and effect.

IN TESTIMONY WHEREOF, The principal and surety have caused these present to be signed and sealed this _____
Day of _____.

By: _____

Principal

By: _____

Surety

Title: _____

Title: _____

Date: _____

Date: _____

26. West Virginia, West Virginia Regional Education Service Agencies Cooperative Purchasing

a. General Terms and Conditions that apply for all Categories:

i. Compliance with Laws/Forum Designation

Contractor shall comply with Federal, State, and Local Laws, Codes and Regulations while fulfilling the contract. It is the Contractor's responsibility to be aware of and comply with all state and local laws governing this procurement. Applicable laws, codes, and regulations (etc.) must be followed even if not specifically identified herein. The terms of the Agreement Addendum which is attached hereto and incorporated herein shall govern and supersede any contract terms to the contrary with respect to each procurement. Contractor shall verify to the West Virginia Regional Education Service Agencies (WVRESA), its Member Agencies and other qualifying purchasers that the Contractor is complying with all Federal, State and Local Laws, Codes and Regulations while fulfilling the contract, and shall provide a copy of this contract and any addenda to each Member Agency when providing a price quotation. Moreover, this contract shall be governed by and construed in accordance with the laws of the State of West Virginia without giving effect to its principles of conflict of law. Legal proceedings arising under this contract shall be brought in a West Virginia Court of the County where the Member Agency's main office is located.

ii. Delinquent Tax Affidavit

Contractor shall provide an affidavit relating to delinquent taxes as may be required by West Virginia State Code §11-12-10.

iii. Secretary of State Registration

Contractor shall meet and maintain all registration requirements as necessary to conduct business in the State of West Virginia, including but not limited to registration with the West Virginia Secretary of State.

iv. West Virginia Workers Compensation Insurance

Contractor, and any subcontractors hired by Contractor shall, at their own expense, maintain in force for the duration of the project workers' compensation and employer's liability insurance as required by the laws of the State of West Virginia.

v. Project Personnel, Student Safety and Background Checks

Member Agency shall have the right to reject the participation of any personnel of Contractor in the performance of the services if, in relation to the work assigned to them, the Member Agency deems such personnel to lack the skill, experience and expertise required to perform the services or if Member Agency considers their performance to be substandard or otherwise detrimental to the proper completion of the services. Contractor will advise Member Agency promptly of any change in the project manager or other key personnel assigned to the performance of the services.

Contractor acknowledges that the safety of the Member Agency's students, employees, officials and guests is of the utmost importance. Contractor will endeavor to ensure that its officers, employees, agents, representatives, and consultants will take no action that would jeopardize the safety of the Member Agency's students, employees, officials, or guests. The Member Agency reserves the right to require Contractor's officers, employees, agents, representatives and consultants to wear identification and stay in designated work areas at all times while on the Member Agency's property. The Member Agency shall have the right to effect the immediate removal of any person associated in any way with Contractor from Member Agency property for failure to wear identification, for being outside a designated work Contractor shall perform or cause to be performed by the West Virginia State Police and Federal Bureau of Investigation criminal background check of any personnel that will be performing the services within the proximity of minors. Contractor shall notify the Member Agency of any proposed employee who has been convicted, pled guilty or pled "no contest" to a criminal offense, and the Member Agency reserves the right to reject the proposed employee with a criminal background. No person shall be employed by Contractor who has been found guilty of any of the criminal offenses enumerated in West Virginia State Code without prior approval of the Member Agency.

vi. Independent Contractor

Contractor shall be an independent contractor and neither Contractor nor any of its subcontractors, nor the employees of any thereof, shall be deemed to be the servants, employees, or agents of Member Agency. Contractor shall be responsible for paying all costs related to its employees and managers performing the services. Contractor shall remain liable and responsible to Member Agency for all of its obligations under this contract, regardless of whether the services are performed by the Contractor or a subcontractor of any tier.

vii. Ownership of Instruments of Service

Drawings, data and other documents prepared by, or with the cooperation of, the Contractor pursuant to this contract shall become, upon payment of all undisputed compensation due the Contractor from the Member Agency, the property of the Member Agency. Such drawings, data or other documents may be used by the Member Agency or others employed by the Member Agency without compensation to the Contractor.

viii. Audit

Member Agency may audit and inspect Contractor's records and accounts at any time during the Contractor's performance of the services and for a period of two (2) years following the completion or termination of the services for the purpose of verifying any invoice and underlying documentation presented by Contractor, it being understood that Contractor agrees to preserve all such documents through such two- (2) year period.

ix. Notices

Unless otherwise expressly provided in this contract, all notices and other communications given under the contract shall be in writing and shall be deemed effective upon receipt by the addressee at its address as set forth in the contract or at such other address as such party shall have notified the other in writing.

x. Non-Appropriation and Other Contract Terms Applicable to Member Agencies as Political Subdivisions of the State

If the Member Agency fails to appropriate sufficient monies in any fiscal year for payments due under the contract and other funds are not available for such payments, then a "Non-Appropriation" shall be deemed to have occurred. If a Non-Appropriation occurs, then Member Agency will give Contractor prompt notice of such Non-Appropriation. This contract shall thereupon terminate without penalty or expense to the Member Agency other than for goods and services already provided.

xi. No Personal Liability

It is understood and agreed that under no circumstances will the Member Agency's board members, regional council members, officers, employees, or agents be personally liable for any obligations or claims arising out of or related to the contract.

xii. Price Quotation

Contractors must quote to a Member Agency the pricing listed in the current contract awarded by the Association of Educational Purchasing Agencies. Vendor will follow the procedures for price reductions to AEPA Member Agencies and Participating Entities set forth in the AEPA general terms area, and conditions. The price quotation must be submitted to a Member Agency and Participating Entity in writing, and any other expenses that the Contractors intend to charge a Member Agency or Participating Entity must be separately itemized on the quotation page in bold font with a good faith estimate of the dollar amount of each item, such as use tax if applicable. The failure to list an item or include a good faith estimate of the dollar amount on the quotation page will preclude a Contractor from charging the same.

xiii. Miscellaneous

Headings and titles of articles, paragraphs and other subparts of this contract are for convenience of reference only and shall not be considered in interpreting the text of this contract. This contract and any appendices constitute the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements or understandings with respect thereto and all agreements or understandings with a Member Agency. No contract amendments can be made without the approval of the AEPA membership.

B. Construction Products and Services:

For construction improvements, the following shall apply:

1. The successful Contractor shall provide such bonds required by West Virginia State Code §38- 2-39.
2. Contractor shall comply with all applicable licensing requirements, including those of the West Virginia Contractor Licensing Board pursuant to West Virginia State Code §21-11-3.

C. Procedures for Processing Orders:

The WVRESA will keep informed its Member Agencies and other qualified purchasers of contract information via web site and through other marketing strategies. A list of WVRESA Member Agencies along with addresses, phones, contacts, etc. will be made available to successful Contractors. After contracts are awarded, Contractors may contact the WVRESA Member Agencies and other qualifying purchasers concerning their products and services.

Participating Member Agencies and other qualified purchasers will submit all purchase orders directly to the Contractor.

The Contractor price shall include a two percent (2%) administrative fee that the Contractor will collect from the Member Agency or other qualified purchaser. Administrative fees are to be remitted to the WVRESA on April 15, July 15, October 15 and January 15 of every calendar year with checks payable to the RESA 2, 2001 McCoy Road, Huntington, WV 25701

The Contractor will compile a quarterly report showing all purchases made by the WVRESA Member Agencies and other qualified purchasers under this contract at the conclusion of each calendar quarter. These reports shall be attached to the administrative fee remittance.

D. Agencies Allowed to Purchase under Member Agency:

All member cooperatives of the WVRESA and their individual Member Agencies are eligible to participate and purchase from the awarded AEPA contracts. All West Virginia PK-12 school districts, including Career and Technical Education Centers, Regional Education Services Agencies, West Virginia Department of Education (WVDE) and all Institutional Education Programs operated by WVDE are eligible to participate and purchase from the awarded AEPA contracts. In addition, all colleges and universities, state, municipalities, counties, other governmental agencies and non-profit agencies are eligible to participate if the AEPA contracts satisfy their individual procurement requirements.

27. Wisconsin, Cooperative Educational Service Agency (CESA) Purchasing

A. Additional Terms and Conditions

(Note: anything that is not already in Part A – General Terms and Conditions for AEPA) Terms and Conditions must be compliant with Wisconsin State Statutes 16.70 to 16.848

B. *Additional Participating Agency Terms and Conditions for Non-Construction Products and Services* Some larger districts, like Milwaukee Public Schools, may require an additional one page “piggyback” memorandum of understanding to utilize the contract.

C. Additional Participating Agency Terms and Conditions for Construction Related Products and Services
Construction contracts are subject to Wisconsin State Statutes 16.855 or 66.0901.

D. Procedure for Processing Orders

All districts directly process orders with the CESA Purchasing AEPA vendor partner unless otherwise arranged.

E. Members Purchasing Under CESA

CESA Purchasing membership is free. Membership is available to the following agencies based on WI State Statutes Chapter 116 which governs the work of WI Cooperative Educational Service Agencies: school districts, University of Wisconsin System institutions, and technical colleges. All public, private, and tribal schools, and all public and private agencies and organizations, that provide services to pupils. Please note in Wisconsin we do not require additional registration of members and define members as those defined by WI Statute 116 that guides our work.

28. Wyoming, Northeast Wyoming Board of Cooperative Educational Services (NEW BOCES):

Upon execution of this document, the respondent hereby agrees to submit bids and NEW BOCES agrees to accept such bids under the following conditions:

PREFERENCES Wyoming Statutes provide for percentage preferences for items supplied by Wyoming resident bidders and for items produced or grown in the State of Wyoming. Preferences may not be applied when federal funds are involved. Preference will be given in accordance with W.S. 16-6-101, 16-6-102, 16-6-103, 16-6-104, 16-6-105, 16-6-106, 16-6-107, and 16-6-301, as amended. For bids involving federal funds please refer to W.S. 16-6-108. Please contact the Department of Workforce Services, Division of Labor Standards

Resident & Non-Resident VENDOR REGISTRATION REQUIREMENTS:

Secretary of State 2020 Carey Avenue Cheyenne, WY 82002 Phone: (307) 777-7378 website: <http://soswy.state.wy.us/>

Department of Workforce Services Division of Unemployment Insurance 100 W. Midwest P.O. Box 2760 Casper, WY 82602 Phone: (307) 235-3217

Public Works and Contracts: Vendor shall comply with all laws, whether local, state, federal, or otherwise, applicable to any aspect of the service or product to be provided in relation to the contract. It shall be the vendor's responsibility to determine the applicability and requirements of any such laws and to abide by them. Vendor shall indemnify, defend, and hold harmless NEW BOCES for any default or breach of vendor in this regard. To the extent applicable for the product or service bid, vendor shall comply with W.S. 16-6-101 to 16-6-602 and to W.S. 21-3-110(a) (viii)

Every Contracted Vendor Employee shall provide a valid State issued Identification Card upon entry of any educational facility.

Members Customer Client Purchasing: NEW BOCES NEW BOCES is an educational cooperative authorized under the provisions of W.S. 21-20-101 to 21-20-111. All K-12 school districts, Community Colleges, Child Development Centers, Residential Child Care Institutions, Utah Educational Service Agencies, all Non-Profits and all Municipalities are eligible to participate in NEW BOCES cooperative purchasing programs within the State of Wyoming and Other States as requested. "Agencies" means Counties, Municipal Corporations, School Districts, Community College Districts, the joint business council of the Eastern Shoshone and Northern Arapaho Indian tribes, the business council of the Eastern Shoshone Indian tribe, the business council of the Northern Arapaho Indian tribe. Providing facilities or functions enumerated in W.S. 16-1-104(c); No member user is obligated to use these services, but they find the benefits of economy and efficiency made possible by cooperative purchasing to be advantageous.

Procedure for Processing Orders: Upon bid award to the Contractors/Vendors, NEW BOCES will inform its members and other qualifying purchasers of the contract:

- When the customer identifies a desired product or service as available through the AEPA/NEW BOCES contract and agrees on price as presented to the customer by the awarded AEPA/NEW BOCES vendor, the customer then issues to the vendor a purchase order for that item or service.
- The vendor's price shall include a two percent (2%) administrative/marketing fee on all sales of products and or services that the vendor will collect from the member or other qualifying purchaser. This fee will be remitted to NEW BOCES on a quarterly basis.
- Administrative/Marketing fees will be payable to NEW BOCES on the 15th in the months of April, July, October, and January with all checks payable to NEW BOCES, 410 North Miller Avenue, Gillette, Wyoming 82716.
- Vendor makes all deliveries and installation of products and services. NEW BOCES does not warehouse items nor provide services.
- No other Cooperative shall be offered or used by awarded Contracted Vendors within the participating member customer clients of NEW BOCES.

Vendor Contact: Vendor will designate to NEW BOCES an individual(s) who will represent them. This contact person(s) will correspond with each ordering member for technical assistance, problems, or questions that may arise. Include instructions if different contacts for different geographical areas are needed; this information will be distributed to NEW BOCES members upon award of this bid.

NEW BOCES Commitment to Awarded Contract Vendors:

- 1) Website postings www.newboces.com under Cooperative Purchasing. Includes but not limited to News & Announcements, Awarded Contracts, Flyers, and Online Ordering. Available catalogs from Vendors must be provided for customer online ordering.
- 2) Announcing the contract in its quarterly newsletter and other events completed with vendors which includes savings reports and rebates to members and users of NEW BOCES Cooperative Contracts.
- 3) Publish the Vendor information in a catalog disseminated to all members and marketing for new members.
- 4) Attend Annual Conferences for Trade Show product purposes of all contracts held by NEW BOCES.

Including any other suggestions or support from Vendors. A list of members and other qualifying purchasers, addresses, and phone numbers will be made available to the Contracted Vendor.



Part D - Questionnaire

AEPA IFB 020-A

Natural & Synthetic Surfaces for Sports Fields, Tracks, Courts, Playground and Landscaping Applications

Instructions

This questionnaire contains forms and requests for information required by AEPA for vendor evaluation for responsiveness and responsibility.

To submit the required forms, follow these steps:

1. Read the documents in their entirety.
2. Bidders must use Part D – Questionnaire to its capacity. Attached exhibits and/or supplemental information should be included only when requested (i.e. Annual Report, Marketing Plan).
3. Complete all questions.
4. Save all pages in the correct order to a single PDF format titled “**Part D – Questionnaire – Name of Bidding Company**”.
5. Submit Part D, along with other required documents in Public Purchase.

The following sections will need to be completed prior to submission and submitted as one single PDF titled “Part D – Questionnaire – Name of Bidding Company”:

[Company Information](#)

[Service Questionnaire](#)

[Exceptions](#)

[Deviations](#)

Company Information

Name of Bidding Company: _____

Company Address: _____

City, State Zip code: _____

Website: _____

Contact Person: _____

Title: _____

Phone: _____

Email: _____

Background

Note: Generally, AEPA will not accept an offer from a business that is less than five (5) years old or, which fails to demonstrate and/or establish a proven record of business. If the bidder has recently purchased an established business or, has proof of prior success in either this business or a closely related business, provide written documentation and verification in response to the questions below. AEPA reserves the right to accept or reject newly formed companies based on information provided in this response and from its own investigation of the company.

This business is a: _____ public company _____ privately owned company

In what year was this business started under its present name? _____

Under what additional, or, former name(s) has your business operated? _____

Is this business a corporation? _____ No _____ Yes. If yes, complete the following:

Date of Incorporation: _____

State of Incorporation: _____

Name of President: _____

Name(s) of Vice President(s): _____

Name of Treasurer: _____

Name of Secretary: _____

Is this business a partnership? _____ No _____ Yes. If yes, complete the following:

Date of Partnership: _____

State Founded: _____

Type of Partnership, if applicable: _____

Name(s) of General Partner(s): _____

Is this business individually owned? _____ No _____ Yes. If yes, complete the following:

Date of Purchase: _____

State Founded: _____

Name of Owner/Operator: _____

Is this business different from those identified above? _____ No _____ Yes
 If yes, describe the company's format, year and state of origin and names and titles of the principles below.

Is this business women owned? _____ No _____ Yes

Is this business minority owned? _____ No _____ Yes

Does this business have an Affirmative Action Plan/Statement? _____ No _____ Yes

Business Headquarter Location

Business Address _____
City, State Zip code _____
Phone _____
How long at this address? _____

Business Branch Location(s)

Branch Address _____
City, State Zip code _____
Branch Address _____
City, State Zip code _____
Branch Address _____
City, State Zip code _____
Branch Address _____
City, State Zip code _____

**If more branch locations exist, insert information here or add another sheet with the above information.*

Sales History

Provide your business's annual sales for 2017, 2018, and 2019 YTD in the United States by the various public segments.

	2017	2018	2019 YTD
K-12 (public & private), Educational Service Agencies			
Higher Education Institutions			
Counties, Cities, Townships, Villages			
States			
Other Public Sector & Non-profits			
Private Sector			
Total			

Work Force

Key Contacts and Providers: Provide a list of the individuals, titles, and contact information for the individuals who will provide the following services on a national and/or local basis:

Function	Name	Title	Phone	Email
Contract Manager				
Sales Manager				
Customer & Support Manager				
Distributors, Dealers, Installers, Sales Reps				
Consultants & Trainers				

Technical, Maintenance & Support Services				
Quotes, Invoicing & Payments				
Warranty & After the Sale				
Financial Manager				

Sales Force: Provide total number and location of salespersons employed by your business in the United States by completing the following: *(To insert more rows, hit the tab key from the last field in the State column.)*

Number of Sales Reps	City	State

Service/Support and Distribution Centers: Provide the type (service/support or distribution) and location of centers that support the United States by completing the following: *(To insert more rows, hit the tab key from the last field in the State column.)*

Center Type	City	State

Marketing

Key Marketing Contact(s): List the name(s), title(s) and contact information of the business's key national and regional marketing office(s). *(To insert more rows, hit the tab key from the last field in the Email column.)*

Name	Title	Phone	Email

Marketing Activities: Describe how this business marketed its products and services to schools, nonprofit organizations and other public sector audiences in Fiscal Year 2018– 2019 (July 1 – June 30). List all conventions, conferences and other events at which this company exhibited.

Click or tap here to enter text.

Cooperative Marketing: Describe ways in which this business can collaborate with AEPA Member Agencies in marketing the bid. Submit a marketing plan, titled Exhibit B – Marketing Plan, that would entail at a minimum, the following with their response: process on how the contract will be launched to current and potential agencies, the ability to produce and maintain in full color print advertisements in camera-ready electronic format, including company logos and contact information, anticipated contract announcements, planned advertisements, industry periodicals, other direct or indirect marketing activities promoting the AEPA awarded contract, and how the contract award will be displayed/linked on the Bidder's website.

Click or tap here to enter text.

Sales Training: Explain how your business will educate your salesforce staff on the AEPA contract including timing, methods, etc.
Click or tap here to enter text.

Environmental Initiatives

Describe how your products and/or services support environmental goals.
Click or tap here to enter text.

Describe the business's "green" objectives (i.e. LEED, reducing footprint, etc.).
Click or tap here to enter text.

Independent Subcontractors, Distributors, Installers, etc.

If the Bidder is not the sole provider of all goods and services provided under this contract, the following **must be answered**:

Selection Criteria for Independent Providers: Describe the criteria and process by which the business selects, certifies and approves subcontractors, distributors, installers and other independent services.
Click or tap here to enter text.

Current Subcontractors, Distributors, Installers, etc.: Provide a list of current subcontractors, distributors, installers and other independent service providers who are contracted to perform the type of work outlined in this bid in the member agency states (listed in Part A of this IFB). Include, if applicable, contractor license or certificate information and the state(s) wherein they are eligible to provide services on behalf of the business.
Click or tap here to enter text.

Disclosures

Line of Credit Letter or Annual Financial Report (REQUIRED): Attach a letter from the business's chief financial institution indicating the current line of credit available to the business and evidence of financial stability for the past three calendar years (2016, 2017 and 2018). This letter should state the line of credit as a range (i.e. "credit in the low six figures" or "a credit line exceeding five figures"). If company is a publicly traded company a complete Annual Financial Report is required in place of Line of Credit Letter.
Alternatively, Bidders may choose to send the Letter of Line of Credit and/or Annual Report by email directly to the AEPA Executive Director, George Wilson, at georgewilson.aepa@outlook.com. The Letter of Line of Credit and/or Annual Report must be received by the Executive Director before the due date and time of the bid opening.

Legal: Does this business have actions currently filed against it? _____ **No** _____ **Yes**

If Yes, **AN ATTACHMENT IS REQUIRED**: List and explain current actions, such as, Federal Debarment (on US General Services Administration’s “Excluded Parties List”), appearance on any state or federal delinquent taxpayer list, or claims filed against the retainage and/or payment bond for projects.

References

Provide contact information of your business’s five largest public agency customers:

Agency	Name	Title	Phone Number	Email
1.				
2.				
3.				
4.				
5.				

Service Questionnaire

The following chart indicates which AEPA Member States intend to participate in this bid category. Respond to Yes/No and choice questions by using an (X). **Note: A Bidder must be willing and able to deliver the proposed products and/or services to 90% of the participating AEPA Member States, unless otherwise stated within Part B Technical Specifications.**

AEPA Member States	Participating in this bid category?	Has the bidding company sold products/services in these states for the past three (3) years? (Yes or No)	If awarded, which states does the bidding company propose to sell in? (Place an X where applicable)	Indicate which states the bidding company has sales reps, distributors or dealers in. (Place an X where applicable)
California	Yes			
Colorado	Yes			
Connecticut	Yes			
Florida	Yes			
Georgia	Yes			
Illinois	No			
Indiana	Yes			
Iowa	No			
Kansas	Yes			
Kentucky	Yes			
Massachusetts	No			
Michigan	Yes			
Minnesota	Yes			
Missouri	Yes			
Montana	Yes			
Nebraska	Yes			
New Jersey	Yes			
New Mexico	Yes			
North Dakota	Yes			
Ohio	Yes			
Oregon	Yes			
Pennsylvania	No			
Texas	Yes			
Virginia	Yes			
Washington	Yes			
West Virginia	Yes			
Wisconsin	Yes			
Wyoming	Yes			

e-Commerce: Does this business have an e-commerce website? _____ **No** _____ **Yes**

If YES, what is the website? _____

Customer and Support Service: It is understood depending on the type, kind and level of products and/or services being proposed in response to this bid will impact and determine the type and level of services required and these are identified in Part B Bid Specifications of this IFB.

Does this business have online customer support options? _____ **No** _____ **Yes**

Does this business have a toll-free customers support phone option? _____ **No** _____ **Yes**

Does this business offer local customer and support service options? _____ **No** _____ **Yes**

Training: If applicable, does this business offer customer training for the products and services sold? _____ **No** _____ **Yes**

If YES, describe what types/kinds of training you offer, the venues where training occurs and the location(s) of your trainers, include number of staff dedicated to training and their qualifications and hours of operation.
Click or tap here to enter text.

Pricing:

Is your pricing methodology guaranteed for the term of the contract? _____ **No** _____ **Yes**

Will you offer customized price lists to participating entities as required per the pricing terms of Part A? _____ **No** _____ **Yes**

Will you offer hot list pricing (optional) as described in the pricing terms of Part A? _____ **No** _____ **Yes**

Will you offer volume price discounts as described in the pricing terms of Part A? _____ **No** _____ **Yes**

Competitiveness: In order for your bid to be considered, your company must offer AEPA prices that are equal to or lower than those normally offered to individual entities or cooperatives with equal or lower volume.

Is the pricing that is proposed to AEPA equal to or lower than pricing your company offers to individual entities or cooperatives with equal to or lower volume? _____ **No** _____ **Yes**

Indicate which of the following apply and the **level of competitive range** you are offering in response to this IFB.

- _____ Pricing offered to AEPA is EQUAL TO pricing offered to individual customer and/or cooperatives.
- _____ Pricing is LESS THAN individual customer and/or cooperatives. Lower by _____%

Cooperative Contracts: Does your business currently have contracts with other cooperatives (local, regional, state, national)? _____ **No** _____ **Yes**

If YES, identify which cooperative and the respective expiration date(s).
Click or tap here to enter text.

If YES, and your business is awarded an AEPA contract, explain which contract your business will lead with in marketing and sales representative presentations (sales calls)?
Click or tap here to enter text.

Administrative Fee: Which of the following best reflects how your pricing includes the individual AEPA Members' administrative fee. Mark with an "X".	
<input type="checkbox"/>	The pricing for the products and/or services are the same for each AEPA Member Agency, shipping, handling, administrative fee and other specific state costs are added to arrive at total price offered to the Individual AEPA Member Agency.
<input type="checkbox"/>	The pricing for the products and/or services is inclusive of the administrative fee and therefore the pricing is the same for all AEPA Member Agencies. Shipping, handling and other state specific costs are added to the adjusted AEPA Member Agency's price.
<input type="checkbox"/>	The pricing for the products and/or services includes ALL (shipping, handling, administrative fee, other) costs to arrive at a single price for all AEPA Member Agencies.

Shipping & Handling: Orders that are \$50.00 or more shall include shipping and handling. What is the flat rate your company will charge, regardless of where shipped in the continental United States, for orders less than \$50.00?	\$
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Product Returns: Does your business have a return policy? _____ **No** _____ **Yes**

If YES, describe your return policy and if you charge a restocking fee, what is it? (AEPA allows up to 15% for supplies and up to 25% for equipment).
Click or tap here to enter text.

Payment Terms: Will your business offer AEPA buyer's a quick pay discount? _____ **No** _____ **Yes**

If YES, what is the discount? _____ %Net

Leasing: Does your business offer leasing arrangements under this bid? _____ **No** _____ **Yes**
If Yes, please indicate the rate factor and other cost factors below.

If an AEPA contract is approved and awarded by the Member Agencies, as a Vendor Partner, I agree to:

Responsibilities of an AEPA Vendor Partner	Yes, indicate with an "X"	No, indicate with an "X"
1. Designate and assign a dedicated senior-level contract manager (one authorized to make decisions) to each of the Member Agency accounts. This employee will have a complete copy and must have working knowledge of the AEPA contract.		
2. Train and educate sales staff on what the AEPA contract is: including pricing, who can order from the contract (by state), terms/conditions of the contract, and the respective ordering procedures for each state. It is expected that Vendor Partners will lead with AEPA contracts.		
3. Develop a marketing plan to support the AEPA contract in collaboration with respective AEPA Member Agencies. The marketing plan should include, but not be limited to, a website presence, electronic mailings, sales flyers, brochures, mailings, catalogs, etc.		
4. Create an AEPA-specific sell sheet with a space to add a Member Agency logo and contact information for use by the Member Agencies and the Vendor		

Partner's local sales representatives to market within each state.		
5. On a quarterly basis, complete the sales and administrative fee report (see attached PDF example) and submit to each Member Agency along with the respective administrative fees to be paid. If there are no sales, the Vendor Partner is required to submit a \$0 report to the AEPA Member Agency.		
6. Have ongoing communication with the Bid Oversight Chairperson, AEPA Member Agencies and the Member Agencies Participating Entities.		
7. Attend two (2) AEPA meetings each year (see Part A)		
8. Participate in national and local conference trade shows to promote the AEPA contracts including, but not limited to the Association of School Business Officials (ASBO), the National Institute of Governmental Purchasing (NIGP), and the National Association of Educational Procurement (NAEP).		
9. Increase sales over the term of the contract with all participating AEPA Member Agencies.		

Deviations

Definition: Deviations can be defined as a major variance, change, or substitution submitted by a Bidder, which deviates from, adds extraneous terms to, conflicts with or offers an alternative to any term, condition, specification or requirement of this solicitation.

Instructions:

1. If “no” is marked with an “X” below, complete this form by signing it at the bottom.
2. If “yes” is marked with an “X” below, insert answers into the form shown below, providing narrative explanations of deviations. *(To insert more rows, hit the tab key from the last field in the last row and column.)*
3. If adding pages, the bidder’s name and identifying information as to which item the response refers must appear on each page.
4. Deviations to local, state or federal laws cannot be accepted under this bid.

	No , this bidder does not have deviations (exceptions or alternates) to the specifications listed in Part B of this IFB.
	Yes , this bidder has the following deviations to the specifications listed in Part B of this IFB.

Outline Number Part B	Specification (describe)	Details of Deviation



Part E – Signature Forms

AEPA IFB 020-A

Natural & Synthetic Surfaces for Sports Fields, Tracks, Courts, Playgrounds and Landscaping Applications

Instructions

Contained herein are forms that require a signature from an authorized person at your company. All items found within this document are **mandatory**. Failure to sign the required areas, sections, or signature lines will allow AEPA to consider your company's proposal as **non-responsive**.

To submit the required signed forms, follow these steps:

1. Read the documents in their entirety.
2. Complete all forms and sign when required.
3. Once signed, place notary stamp in the delegated area on the Bid Affidavit.
4. Return the forms and pages in their correct order and scan one (1) single PDF format titled "Part E - Signature Forms - Name of Bidding Company" (i.e. one PDF document for all signature forms).
5. Submit Part E, along with other required documents in Public Purchase.

AEPA does not allow electronic signatures.

*Note, a bid checklist has been provided to review with your submission.

The following sections will need to be completed prior to submission as one (1), single PDF titled "Part E - Signature Forms - Name of Bidding Company".

Uniform Guidance "EDGAR" Certification Form - *signature required

Bid Affidavit - *signature required

Acceptance of Bid & Contract Award - *signature required

Uniform Guidance “EDGAR” Certification Form

2 CFR Part 200

When a purchasing agency seeks to procure goods and services using funds under a federal grant or contract, specific federal laws, regulations, and requirements may apply in addition to those under state law. This includes, but is not limited to, the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR 200, referred to as the “Uniform Guidance” or new “EDGAR”. All bidders submitting proposals must complete this EDGAR Certification form regarding the bidder’s willingness and ability to comply with certain requirements, which may be applicable to specific agency purchases using federal grant funds.

For each of the items below, the Bidder will certify its agreement and ability to comply, where applicable, by having the bidder’s authorized representative check, initial the applicable boxes, and sign the acknowledgement at the end of this form. If a bidder fails to complete any item of this form, AEPA will consider and may list the response, as the bidders is unable to comply. A “No” response to any of the items below may influence the ability of a purchasing agency to purchase from the bidder using federal funds.

1. Violation of Contract Terms and Conditions

Provisions regarding bidder default are included in AEPA’s terms and conditions. Any contract award will be subject to such terms and conditions, as well as any additional terms and conditions in any purchase order, ancillary agency contract, or construction contract agreed upon by the bidder and the purchasing agency, which must be consistent with and protect the purchasing agency at least to the same extent as AEPA’s terms and conditions. The remedies under the contract are in addition to any other remedies that may be available under law or in equity.

2. Termination for Cause of Convenience

For a participating agency purchase or contract in excess of \$10,000 made using federal funds, you agree that the following term and condition shall apply:

The participating agency may terminate or cancel any purchase order under this contract at any time, with or without cause, by providing seven (7) business days in advance written notice to the bidder. If this agreement is terminated in accordance with this paragraph, the participating agency shall only be required to pay bidder for goods and services delivered to the participating agency prior to the termination and not otherwise returned in accordance with the bidder’s return policy. If the participating agency has paid the bidder for goods and services provided as the date of termination, bidder shall immediately refund such payment(s).

If an alternate provision for termination of a participating agency’s purchase for cause and convenience, including the manner by which it will be effected and the basis for settlement, is in the participating agency’s purchase order, ancillary agreement or construction contract agreed to by the bidder, the participating agency’s provision shall control.

3. Equal Employment Opportunity

Except as otherwise provided under 41 CFR Part 60, all participating agency purchases or contract that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 shall be deemed to include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR Part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

The equal opportunity clause provided under 41 CFR 60-1.4(b) is hereby incorporated by reference. Bidder agrees that such provision applies to any participating agency purchase or contract that meets the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 and bidder agrees that it shall comply with such provision.

4. Davis Bacon Act

When required by Federal program legislation, bidder agrees that, for all participating agency contracts for the construction, alteration, or repair (including painting and decorating) of public buildings or public works, in excess of \$2,000, bidder shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, bidder is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specific in a wage determinate made by the Secretary of Labor. In addition, bidder shall pay wages not less than once a week.

Current prevailing wage determinations issued by the Department of Labor are available at www.wdol.gov. Bidder agrees that, for any purchase to which this requirement applies, the award of the purchase to the bidder is conditioned upon bidder's acceptance of wage determination.

Bidder further agrees that is shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each construction completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled under his contract of employment, shall be defined under this titled or imprisoned not more than five (5) years, or both.

5. Contract Work Hours and Safety Standards Act

Where applicable, for all participating agency purchases in excess of \$100,000 that involve the employment of mechanics or laborers, bidder agrees to comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, bidder is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of the 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions that are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies, materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

6. Right to Inventions Made Under a Contract or Agreement

If the participating agency's federal award meets the definition of "funding agreement" under 37 CFR 401.2(a) and the recipient or sub recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance or experiments, developmental or research work under the "funding agreement," the recipient or sub recipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

7. Clean Air Act and Federal Water Pollution Control Act

Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended, contracts and sub grants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). When required, bidder agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act.

8. Debarment and Suspension

Debarment and Suspension (Executive Orders 12549 and 12689), a contract award (see 2 CFR 180.222) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1966 Comp. p. 189) and 12689 (3 CFR Part 1989 Comp. p. 235), "Debarment and Suspension." SAM exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Bidder certifies that the bidder is not current listed and further agrees to immediately notify AEPA and all participating agencies with pending purchases or seeking to purchase from the bidder if bidder is later listed on the government-wide exclusions in SAM, or is debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549.

9. Byrd Anti-Lobbying Amendment

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352), bidders that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that take place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

10. Procurement of Recovered Materials

For participating agency purchases utilizing Federal funds, bidder agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act where applicable and provide such information and certifications as a participating agency may require to confirm estimates and otherwise comply. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recover, and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

11. Profit as a Separate Element of Price

For purchases using federal funds in excess of \$150,000, a participating agency may be required to negotiate profit as a separate element of the price. See 2 CFR 200.323(b). When required by a participating agency, bidder agrees to provide information and negotiate with the participating agency regarding profit as a separate element of the price for a particular purchase. However, bidder agrees that the total price, including profit, charged by the bidder to the participating agency shall not exceed the awarded pricing, including any applicable discount, under the bidders contract with AEPA.

12. General Compliance with Participating Agencies

In addition to the foregoing specific requirements, bidder agrees, in accepting any purchase order from a participating agency, it shall make a good faith effort to work with participating agency to provide such information and to satisfy requirements as may apply to a particular purchase or purchases including, but not limited to, applicable record keeping and record retention requirements as noted in the Federal Acquisition Regulation, FAR 4.703(a).

By initialing the table (1-12) and signing below, I certify that the information in this form is true, complete and accurate and that I am authorized by my business to make this certification and all consents and agreements contained herein.

Bidder Certification (By Item)	<u>Bidder Certification:</u> YES, I agree or NO, I do NOT agree	Initial
1. Violation of Contract Terms and Conditions		
2. Termination for Cause of Convenience		
3. Equal Employment Opportunity		
4. Davis-Bacon Act		
5. Contract Work Hours and Safety Standards Act		
6. Right to Inventions Made Under a Contract or Agreement		
7. Clean Air Act and Federal Water Pollution Control Act		
8. Debarment and Suspension		
9. Byrd Anti-Lobbying Amendment		
10. Procurement of Recovered Materials		
11. Profit as a Separate Element of Price		
12. General Compliance with Participating Agencies		

Name of Business

Signature of Authorized Representative

Printed Name

Date



Acceptance of Bid & Contract Award

Instructions: PART I of this form is to be completed by the Bidder and signed by its Authorized Representative. PART II will be completed by the AEPA Member Agency only upon the occasion of the bid award. If approved by AEPA, the Bidder is required to produce a copy of the document for each of the AEPA Member Agency with which it contracts.

PART I: BIDDER

In compliance with the Invitation for Bid (IFB), the undersigned warrants that I/we have examined all Instructions to Bidders, associated documents, and being familiar with all of the conditions of the bid, hereby offer and agree to furnish all labor, materials, supplies and equipment incurred in compliance with all terms, conditions, specifications and amendments associated with this IFB and any written exceptions to the bid. Signature also certifies understanding and compliance with the certification requirements of the AEPA Member Agency's Terms and Conditions and/or Special Terms and Conditions. The undersigned understands that their competence, ability, capacity and obligations to offer and provide the proposed tangible personal property, professional services, construction services and other services on behalf of the Bidder Partner as well as other factors of interest to the AEPA Member Agency as stated in the evaluation section, will be a consideration in making the award.

Business Name	_____	Date	_____
Address	_____	City, State Zip	_____
Contact Person	_____	Title	_____
Authorized Signature	_____	Title	_____
Email	_____	Phone	_____

PART II: AWARDING MEMBER AGENCY

Your bid response for the above identified bid is hereby accepted. As a Bidder Partner you are now bound to offer and provide the products and services identified within this IFB, your response and approved by AEPA, including all terms, conditions, specifications, exceptions and amendments. As Bidder Partner, you are hereby not to commence any billable work or provide any products or services under this contract until an executed purchase order is received from the AEPA Member Agency or Participating Entities. The intent of this contract is to constitute the final and complete agreement between the AEPA Member Agency and Bidder Partner, and no other agreements, oral or otherwise, regarding the subject matter of this contract, shall bind any of the parties hereto. No change or modification of this contract shall be valid unless in writing and signed by both parties to this contract. If any provision of this contract is deemed invalid or illegal by any appropriate court of law, the remainder of this contract shall not be affected thereby. The initial term of this contract shall be for up to fifteen (15) months and will commence on the date indicated below and continue until February 28, 2021, unless terminated, canceled or extended. By mutual written agreement as warranted, the contract may be extended month by month up to six (6) months or for three (3) additional 12-month periods.

Awarding Agency _____

Authorized Representative _____

Awarded this	day of	Contract Number
Contract to commence		
(Member Agency to select)		Or March 1, 2020

Bid Checklist

Instructions: Utilize the checklist below, reviewing to confirm that all the required documents have been uploaded to Public Purchase, in their **specified/required format**, by the due date and time listed for this IFB. Bid **submissions not following the specified/required format may result as being marked non-responsive and may not be considered for evaluation.** Bidders are reminded that failure to follow, comply with, and adhere to the enclosed instructions of this solicitation may result in their response being deemed non-responsive. AEPA, its Member Agencies, affiliate agencies and authorized representatives are not responsible for bid proposals that are incomplete, unreadable, or received after the IFB deadline submission date.

"X"	Document Title, Uploaded to Public Purchase (Bidder must submit documents in the required title/format)	Format of Uploaded Document	Notes
	Bid Bond – if Required, see Part B if applicable.	Upload PDF copy. The original <u>must be</u> received by Oakland Public Schools by due date and time.	Send to Oakland Public Schools.
	Part C – State Specific Forms – Name of Bidding Company	Single, Scanned PDF	Required. Signatures Required.
	Part D - Questionnaire – Name of Bidding Company Includes: <ul style="list-style-type: none"> • Company Information • Service Questionnaire • Exceptions • Deviations 	Single, Scanned PDF	Required.
	Part E – Signature Forms – Name of Bidding Company Includes: <ul style="list-style-type: none"> • Uniform Guidance “EDGAR” Certification • Bid Affidavit • Acceptance of Bid & Contract Award 	Single, Scanned PDF	Required. Signatures required.
	Part F – Pricing Schedule – Name of Bidding Company	Excel Workbook	Required.
	Exhibit A – Annual Report/Letter of Credit – Name of Bidding Company	Scanned PDF	Required. Not provided by AEPA, Bidder Created
	Exhibit B – Marketing Plan – Name of Bidding Company	Scanned PDF	Optional. Not provided by AEPA, Bidder Created
	Exhibit C – Warranties, Additional Services – Name of Bidding Company	Scanned PDF	Optional. Not provided by AEPA, Bidder Created
	Exhibit D – Additional Discounts – Name of Bidding Company	Scanned PDF	Optional. Not provided by AEPA, Bidder Created



Bidding Company Name:	<i>Enter company name here</i>
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Check the Category(s) and the Regions that you will be supplying Products and Services.

AEPA Vehicle Bid Regions: This solicitation may be awarded on a national or at a regional level. See regions below. AEPA reserves the right to modify the regions below after recommendation of award.	Category 1- Synthetic Turf for Sport Fields,	Category 2 - Natural Turf for Sport Field,	Category 3 - Running Track, Tennis and Athletic Courts	Category 4 - Synthetic Turf for Playground, Pet, Commercial, Landscaping Applications
Region 1: New England (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont)				
Region 2: Mid-Atlantic (New Jersey, New York, Maryland, Delaware and Pennsylvania)				
Region 3: East North Central (Illinois, Indiana, Michigan, Ohio, Wisconsin)				
Region 4: West North Central (Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota)				
Region 5: South Atlantic (Florida, Georgia, North Carolina, South Carolina, Virginia, District of Columbia, Kentucky and West Virginia)				
Region 6: East South Central (Alabama, Mississippi, Tennessee, Arkansas and Louisiana)				
Region 7: Mountain (Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah Wyoming, Texas and Oklahoma)				
Region 8: Pacific (Alaska, California, Hawaii, Oregon and Washington)				



Part F.1.1 – Base Bid Schedule

AEPA IFB #020-A Category 1 - Synthetic Turf for Sport Fields

Bidding Company Name:

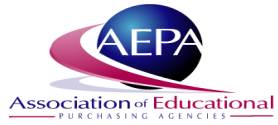
Enter company name here

INSTRUCTIONS: Part B: Specifications refer to the type and quality of products and services being bid. In the form below, enter your bid prices for those items indicated, the prices and/or discounts offered for providing all equipment, goods, services, supplies and related items. The prices you offer on these pages affirm that you have accepted the specifications to obtain, deliver and provide those goods and services requested. Each Bidder is encouraged to offer its complete product line and provide the lowest and best prices for the complete product line(s) offered. Bidders are encouraged to include new technologies and may add additional pricing sheets as necessary. Bidders may also provide catalogs or pricing sheets that provide different discounts by category to ensure the most aggressive pricing structure. Please provide price lists and/or catalogs that state a list/retail/regular price, AEPA discount and the AEPA price. *If additional clarification, price sheet(s) and/or catalog(s) pertaining to the bid being submitted are needed, include them behind the last tab.* Clearly indicate and identify the items involved and what you wish to communicate in your response.

Part F.1.1 is a REQUIRED FORM for Category 1 - Synthetic Turf for Sport Fields

No.	Description	Unit of Measure	List Price	Percentage Discount	Bid Price	Comments	No.
1	Turf Installation on a Prepared Site						1
2	Installation of Fields 0-10,000 sq. ft.	Cost Per Sq. Ft.			\$ -		2
3	Installation of Fields 10,001 to 25,000 sq. ft.	Cost Per Sq. Ft.			\$ -		3
4	Installation of Fields 25,001 to 50,000 sq. ft.	Cost Per Sq. Ft.			\$ -		4
5	Installation of Fields 50,001 to 100,000 sq. ft.	Cost Per Sq. Ft.			\$ -		5
6	Field Markings						6
7	Football Numbers or Arrows - Per Field	Per Field			\$ -		7
8	Football Yard Marks - Per Field	Per Field			\$ -		8
9	Soccer Markings - Per Field	Per Field			\$ -		9
10	Baseball Markings - Per Field	Per Field			\$ -		10
11	SOFTBALL Markings - Per Field	Per Field			\$ -		11
12	Lacrosse Markings - Per Field	Per Field			\$ -		12
13	Field Hockey Markings - Per Field	Per Field			\$ -		13
14	Rugby Markings - Per Field	Per Field			\$ -		14
15	Media Line - Per Field	Per Field			\$ -		15
16	Tick Marks One Sport - Per Sport	Per Field			\$ -		16
17	Field or End-Zone Logo Inlaid - One Color (30') - Each	Per Field			\$ -		17
18	Field or End-Zone Logo Inlaid - Two or more Color (30') - Each	Per Field			\$ -		18
19	Field or End-Zone Logo - Painted One Color (30') (at installation) - Each	Per Field			\$ -		19
20	Field or End-Zone Logo - Painted Two or more Color (30')(at installation) - Each	Per Field			\$ -		20
21	Colored End Zone - Each	Per Field			\$ -		21
22	Field or End-Zone Letter Inlaid - One Color - Each	Per Field			\$ -		22
23	case by case basis) - Each	Per Field			\$ -		23
24	Field or End-Zone Letter - Painted One Color (at installation) - Each	Per Field			\$ -		24
25	Field or End-Zone Letter - Painted Two or more Color (at installation) - Each	Per Field			\$ -		25
26	Custom Logo in 3 standard colors (Maximum 59') - Each	Per Field			\$ -		26
27	Field Equipment and Accessories						27
28	Pole Vault Pit	Each			\$ -		28
29	Take-Off Boards	Each			\$ -		29
30	Shot Put Toe Boards	Each			\$ -		30
31	Shot Put Rings	Each			\$ -		31
32	Discus Rings	Each			\$ -		32

No.	Description	Unit of Measure	List Price	Percentage Discount	Bid Price	Comments	No.
33	Combination Hammer/Discus Cage and cage must meet IAAF rules	Each			\$ -		33
34	Hammer/Discus Conversion Ring	Each			\$ -		34
35	Water Jump Hurdle with sleeves	Each			\$ -		35
36	Water Jump Cover	Each			\$ -		36
37	Removable Track Curbing. The curb shall meet the requirements of the IAAF.	Each			\$ -		37
38	Long Jump Sandpits and Traps.	Each			\$ -		38
39	Sand for Sand Pits and Traps	Each			\$ -		39
40	Football Goal Posts - Set	Each			\$ -		40
41	Access Frame Kit with Infill retainer System for Adjust Right Football Goal Post - Set	Each			\$ -		41
42	Soccer Goals - Set	Each			\$ -		42
43	SGMobile Integrated Soccer Goal Wheel Kit for Round post Soccer Goal - Set	Each			\$ -		43
44	Batting Cages	Each			\$ -		44
45	Construction Services						45



Part F.2.1 – State Multiplier

AEPA IFB #020-A Category 1 - Synthetic Turf for Sport Fields

Bidding Company Name: Enter company name here

INSTRUCTIONS: For each of the states listed below provide your multiplier/factor (wage and transportation) to be applied to the *Net Effective Bid Pricing (shown in F.1)* provided to arrive at the individual AEPA state price for each item. Complete all tables on this form, including all cost factors and service rates for installation services, if provided.

**Part F.2.1 is a REQUIRED FORM for
Category 1 - Synthetic Turf for
Sport Fields**

Wages - Percentage added to the Catalog

Project types	CA State Multiplier	CO State Multiplier	CT State Multiplier	FL State Multiplier	GA State Multiplier	IN State Multiplier	IA State Multiplier	IL State Multiplier	KS State Multiplier	KY State Multiplier	MA State Multiplier	MI State Multiplier	MN State Multiplier	MO State Multiplier
	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Non-prevailing wage project:														
Prevailing wage project:														
Davis Bacon wage project:														

Project types	MT State Multiplier	NE State Multiplier	NJ State Multiplier	NM State Multiplier	ND State Multiplier	OH State Multiplier	OR State Multiplier	PA State Multiplier	TX State Multiplier	VA State Multiplier	WA State Multiplier	WV State Multiplier	WI State Multiplier	WY State Multiplier
	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Non-prevailing wage project:														
Prevailing wage project:														
Davis Bacon wage project:														

Product Description	Unit of Measure	Bid Price	Comments
Description of Cost Factors			
Per diem rate - meals and lodging per 24 hour period	Per Day	\$ -	
Performance and payment bond - bonding rate (percent of project)	Percent	0%	
Alternative methods of costing - percent of overhead/markup to cost	Percent	0%	
Discounts offered of alternative costing methods (cost + profit & overhead) Rate of discount.	Percent	0%	
R.S. Means Multiplier/Factor - Normal Hours - Non-Prevailing Wage Rates	Percent	0%	
R.S. Means Multiplier/Factor - Out Side of Normal Hours - Non-Prevailing Wage Rates	Percent	0%	
R.S. Means Multiplier/Factor - Normal Hours - Prevailing Wage Rates	Percent	0%	
R.S. Means Multiplier/Factor - Out Side of Normal Hours - Prevailing Wage Rates	Percent	0%	
Performance and payment bond - bonding rate (percent of project)	Percent	0%	
Bonding capacity - total amount of capacity available	Dollar Amount	\$ -	
Service/Labor Rates			
Consulting Services	Hourly Rate	\$ -	
Engineering Services - Civil	Hourly Rate	\$ -	
Design Services	Hourly Rate	\$ -	
Survey Services	Hourly Rate	\$ -	
Architect Services	Hourly Rate	\$ -	
Landscape Architect Services	Hourly Rate	\$ -	
Project Manager	Hourly Rate	\$ -	
Construction Manger	Hourly Rate	\$ -	
Construction Admin.	Hourly Rate	\$ -	
On Site Superintendent	Hourly Rate	\$ -	
Crew Supervisor	Hourly Rate	\$ -	
Installer	Hourly Rate	\$ -	
General Labor	Hourly Rate	\$ -	
On Site Superintendent	Overtime Hourly Rate	\$ -	
Crew Supervisor	Overtime Hourly Rate	\$ -	

Installer	Overtime Hourly Rate	\$	-	
General Laborer	Overtime Hourly Rate	\$	-	



Part F.1.2 – Base Bid Schedule

AEPA IFB #020-A Category 2 - Natural Turf for Sport Field

Bidding Company Name:	<i>Enter company name here</i>
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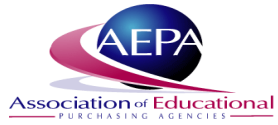
INSTRUCTIONS: Part B: Specifications refer to the type and quality of products and services being bid. In the form below, enter your bid prices for those items indicated, the prices and/or discounts offered for providing all equipment, goods, services, supplies and related items. The prices you offer on these pages affirm that you have accepted the specifications to obtain, deliver and provide those goods and services requested. Each Bidder is encouraged to offer its complete product line and provide the lowest and best prices for the complete product line(s) offered. Bidders are encouraged to include new technologies and may add additional pricing sheets as necessary. Bidders may also provide catalogs or pricing sheets that provide different discounts by category to ensure the most aggressive pricing structure. Please provide price lists and/or catalogs that state a list/retail/regular price, AEPA discount and the AEPA price. *If additional clarification, price sheet(s) and/or catalog(s) pertaining to the bid being submitted are needed, include them behind the last tab.* Clearly indicate and identify the items involved and what you wish to communicate in your response.

Part F.1.2 is a REQUIRED FORM for Category 2 - Natural Turf for Sport Field

No.	Description	Unit of Measure	List Price	Percentage Discount	Bid Price	Comments	No.
1	Turfgrass from Seed including Materials and Installation on a Prepared Site						1
2	High School Football Field - Includes Seeding, Planting, Site Prepration, and Labor	Cost Per Sq. Ft.			\$ -		2
3	College or University Football Field - Includes Seeding, Planting, Site Prepration, and Labor	Cost Per Sq. Ft.			\$ -		3
4	High School Soccor Field - Includes Seeding, Planting, Site Prepration, and Labor	Cost Per Sq. Ft.			\$ -		4
5	College or University Soccor Field - Includes Seeding, Planting, Site Prepration, and Labor	Cost Per Sq. Ft.			\$ -		5
6	High School Baseball Field - Includes Seeding, Planting, Site Prepration, and Labor	Cost Per Sq. Ft.			\$ -		6
7	College or University Baseball Field - Includes Seeding, Planting, Site Prepration, and Labor	Cost Per Sq. Ft.			\$ -		7
8	High School Softball Field - Includes Seeding, Planting, Site Prepration, and Labor	Cost Per Sq. Ft.			\$ -		8
9	College or University Softball Field - Includes Seeding, Planting, Site Prepration, and Labor	Cost Per Sq. Ft.			\$ -		9
10	High School Rugby Field - Includes Seeding, Planting, Site Prepration, and Labor	Cost Per Sq. Ft.			\$ -		10
11	College or University Rugby Field - Includes Seeding, Planting, Site Prepration, and Labor	Cost Per Sq. Ft.			\$ -		11
12	High School Lacrosse Field - Includes Seeding, Planting, Site Prepration, and Labor	Cost Per Sq. Ft.			\$ -		12
13	Turfgrass from Sod to include Materials and Installation on a Prepared Site						13
14	High School Football Field - Includes Site Prepration, Installation, and Labor	Cost Per Sq. Ft.			\$ -		14
15	College or University Football Field - Includes Site Prepration, Installation, and Labor	Cost Per Sq. Ft.			\$ -		15
16	High School Soccor Field - Includes Site Prepration, Installation, and Labor	Cost Per Sq. Ft.			\$ -		16
17	College or University Soccor Field - Includes Site Prepration, Installation, and Labor	Cost Per Sq. Ft.			\$ -		17
18	High School Baseball Field - Includes Site Prepration, Installation, and Labor	Cost Per Sq. Ft.			\$ -		18
19	College or University Baseball Field - Includes Site Prepration, Installation, and Labor	Cost Per Sq. Ft.			\$ -		19
20	High School Softball Field - Includes Site Prepration, Installation, and Labor	Cost Per Sq. Ft.			\$ -		20

No.	Description	Unit of Measure	List Price	Percentage Discount	Bid Price	Comments	No.
21	College or University Softball Field - Includes Site Prepration, Installation, and Labor	Cost Per Sq. Ft.			\$ -		21
22	High School Rugby Field - Includes Site Prepration, Installation, and Labor	Cost Per Sq. Ft.			\$ -		22
23	College or University Rugby Field - Includes Site Prepration, Installation, and Labor	Cost Per Sq. Ft.			\$ -		23
24	High School Lacrosse Field - Includes Site Prepration, Installation, and Labor	Cost Per Sq. Ft.			\$ -		24
25	College or University Lacrosse Field - Includes Site Prepration, Installation, and Labor	Cost Per Sq. Ft.			\$ -		25
26	Turfgrass Installation on a Prepared Site						26
27	Installation of Fields 0-10,000 sq. ft.	Cost Per Sq. Ft.			\$ -		27
28	Installation of Fields 10,001 to 25,000 sq. ft.	Cost Per Sq. Ft.			\$ -		28
29	Installation of Fields 25,001 to 50,000 sq. ft.	Cost Per Sq. Ft.			\$ -		29
30	Installation of Fields 50,001 to 100,000 sq. ft.	Cost Per Sq. Ft.			\$ -		30
31	Field Markings						31
32	Football Numbers or Arrows - Per Field	Per Field			\$ -		32
33	Football Yard Marks - Per Field	Per Field			\$ -		33
34	Soccer Markings - Per Field	Per Field			\$ -		34
35	Baseball Markings - Per Field	Per Field			\$ -		35
36	SOFTBALL Markings - Per Field	Per Field			\$ -		36
37	Lacrosse Markings - Per Field	Per Field			\$ -		37
38	Field Hockey Markings - Per Field	Per Field			\$ -		38
39	Rugby Markings - Per Field	Per Field			\$ -		39
40	Media Line - Per Field	Per Field			\$ -		40
41	Tick Marks One Sport - Per Sport	Per Field			\$ -		41
42	Field or End-Zone Logo Inlaid - One Color (30') - Each	Per Field			\$ -		42
43	Field or End-Zone Logo Inlaid - Two or more Color (30') - Each	Per Field			\$ -		43
44	Field or End-Zone Logo - Painted One Color (30') (at installation) - Each	Per Field			\$ -		44
45	Field or End-Zone Logo - Painted Two or more Color (30')(at installation) - Each	Per Field			\$ -		45
46	Colored End Zone - Each	Per Field			\$ -		46
47	Field or End-Zone Letter Inlaid - One Color - Each	Per Field			\$ -		47
48	case by case basis) - Each	Per Field			\$ -		48
49	Field or End-Zone Letter - Painted One Color (at installation) - Each	Per Field			\$ -		49
50	Field or End-Zone Letter - Painted Two or more Color (at installation) - Each	Per Field			\$ -		50
51	Custom Logo in 3 standard colors (Maximum 59') - Each	Per Field			\$ -		51
52	Field Equipment and Accessories						52
53	Pole Vault Pit	Each			\$ -		53
54	Take-Off Boards	Each			\$ -		54
55	Shot Put Toe Boards	Each			\$ -		55
56	Shot Put Rings	Each			\$ -		56
57	Discus Rings	Each			\$ -		57
58	Combination Hammer/Discus Cage and cage must meet IAAF rules	Each			\$ -		58
59	Hammer/Discus Conversion Ring	Each			\$ -		59
60	Water Jump Hurdle with sleeves	Each			\$ -		60
61	Water Jump Cover	Each			\$ -		61
62	Removable Track Curbing. The curb shall meet the requirements of the IAAF.	Each			\$ -		62
63	Long Jump Sandpits and Traps.	Each			\$ -		63
64	Sand for Sand Pits and Traps	Each			\$ -		64
65	Football Goal Posts - Set	Each			\$ -		65
66	Access Frame Kit with Infill retainer System for AdjustRight Football Goal Post - Set	Each			\$ -		66

No.	Description	Unit of Measure	List Price	Percentage Discount	Bid Price	Comments	No.
67	Soccer Goals - Set	Each			\$ -		67
68	SGMobile Integrated Soccer Goal Wheel Kit for Round post Soccer Goal - Set	Each			\$ -		68
69	Batting Cages	Each			\$ -		69
70	Construction Services						70



Part F.2.2 – State Multiplier

AEPA IFB #020-A Category 2 - Natural Turf for Sport Field

Bidding Company Name: *Enter company name here*

INSTRUCTIONS: For each of the states listed below provide your multiplier/factor (wage and transportation) to be applied to the *Net Effective Bid Pricing (shown in F.1)* provided to arrive at the individual AEPA state price for each item. Complete all tables on this form, including all cost factors and service rates for installation services, if provided.

**Part F.2.2 is a REQUIRED FORM for
Category 2 - Natural Turf for Sport
Field**

Wages - Percentage added to the Catalog

Project types	CA State Multiplier	CO State Multiplier	CT State Multiplier	FL State Multiplier	GA State Multiplier	IN State Multiplier	IA State Multiplier	IL State Multiplier	KS State Multiplier	KY State Multiplier	MA State Multiplier	MI State Multiplier	MN State Multiplier	MO State Multiplier
	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Non-prevailing wage project:														
Prevailing wage project:														
Davis Bacon wage project:														

Project types	MT State Multiplier	NE State Multiplier	NJ State Multiplier	NM State Multiplier	ND State Multiplier	OH State Multiplier	OR State Multiplier	PA State Multiplier	TX State Multiplier	VA State Multiplier	WA State Multiplier	WV State Multiplier	WI State Multiplier	WY State Multiplier
	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Non-prevailing wage project:														
Prevailing wage project:														
Davis Bacon wage project:														

Product Description	Unit of Measure	Bid Price	Comments
Description of Cost Factors			
Per diem rate - meals and lodging per 24 hour period	Per Day	\$ -	
Performance and payment bond - bonding rate (percent of project)	Percent	0%	
Alternative methods of costing - percent of overhead/markup to cost	Percent	0%	
Discounts offered of alternative costing methods (cost + profit & overhead) Rate of discount.	Percent	0%	
R.S. Means Multiplier/Factor - Normal Hours - Non-Prevailing Wage Rates	Percent	0%	
R.S. Means Multiplier/Factor - Out Side of Normal Hours - Non-Prevailing Wage Rates	Percent	0%	
R.S. Means Multiplier/Factor - Normal Hours - Prevailing Wage Rates	Percent	0%	
R.S. Means Multiplier/Factor - Out Side of Normal Hours - Prevailing Wage Rates	Percent	0%	
Performance and payment bond - bonding rate (percent of project)	Percent	0%	
Bonding capacity - total amount of capacity available	Dollar Amount	\$ -	
Service/Labor Rates			
Consulting Services	Hourly Rate	\$ -	
Engineering Services - Civil	Hourly Rate	\$ -	
Design Services	Hourly Rate	\$ -	
Survey Services	Hourly Rate	\$ -	
Architect Services	Hourly Rate	\$ -	
Landscape Architect Services	Hourly Rate	\$ -	
Project Manager	Hourly Rate	\$ -	
Construction Manger	Hourly Rate	\$ -	
Construction Admin.	Hourly Rate	\$ -	
On Site Superintendent	Hourly Rate	\$ -	
Crew Supervisor	Hourly Rate	\$ -	
Installer	Hourly Rate	\$ -	
General Labor	Hourly Rate	\$ -	
On Site Superintendent	Overtime Hourly Rate	\$ -	
Crew Supervisor	Overtime Hourly Rate	\$ -	

Installer	Overtime Hourly Rate	\$	-	
General Laborer	Overtime Hourly Rate	\$	-	



Part F.1.3 – Base Bid Schedule

AEPA IFB #020-A Category 3 - Running Track, Tennis and Athletic Courts

Bidding Company Name:

Enter company name here

INSTRUCTIONS: Part B: Specifications refer to the type and quality of products and services being bid. In the form below, enter your bid prices for those items indicated, the prices and/or discounts offered for providing all equipment, goods, services, supplies and related items. The prices you offer on these pages affirm that you have accepted the specifications to obtain, deliver and provide those goods and services requested. Each Bidder is encouraged to offer its complete product line and provide the lowest and best prices for the complete product line(s) offered. Bidders are encouraged to include new technologies and may add additional pricing sheets as necessary. Bidders may also provide catalogs or pricing sheets that provide different discounts by category to ensure the most aggressive pricing structure. Please provide price lists and/or catalogs that state a list/retail/regular price, AEPA discount and the AEPA price. *If additional clarification, price sheet(s) and/or catalog(s) pertaining to the bid being submitted are needed, include them behind the last tab.* Clearly indicate and identify the items involved and what you wish to communicate in your response.

Part F.1.3 is a REQUIRED FORM for Category 3 - Running Track, Tennis and Athletic Courts

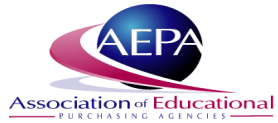
No.	Description	Unit of Measure	List Price	Percentage Discount	Bid Price	Comments	No.
1	Install a New Running Track on a Concrete or Asphalt Base for 6 Lane Track						1
2	Pour-in-place, all-weather synthetic track surface consisting of permeable polyurethane bound rubber base mat and a structural spray coating of pigmented polyurethane and rubber. Including materials and labor.	Cost Per Sq. Ft.			\$ -		2
3	Pour-in-place, all-weather synthetic track surface consisting of impermeable polyurethane bound rubber base mat and a solid pour polyurethane coating with rubber granules in a light encapsulating finish. Including materials and labor.	Cost Per Sq. Ft.			\$ -		3
4	Impermeable polyurethane synthetic track system comprised of a base layer of polyurethane bound SBR rubber granules, an impermeable layer (seal coat) of a two-component urethane, and topped with a spray-applied coating of single-component polyurethane and EPDM granules. Including materials and labor.	Cost Per Sq. Ft.			\$ -		4
5	A porous, paved-in-place system, utilizing a machine installed base of single compound polyurethane binder and SBR rubber granules. The surface is finished with multiple spray applications of 100% solids, pigmented polyurethane and EPDM granules or water-based structural spray. Including materials and labor.	Cost Per Sq. Ft.			\$ -		5
6	Impermeable polyurethane synthetic track system consisting of SBR Rubber, a single-component polyurethane binder and, a poured-in-place, two-component U.V. stabilized elastomeric polyurethane wearing layer with an embedded textured finish. Including materials and labor.	Cost Per Sq. Ft.			\$ -		6
7	Full depth poured-in-place two component, UV stabilized elastomeric polyurethane Dual Durometer synthetic surfacing system with embedded textured finish. Including materials and labor.	Cost Per Sq. Ft.			\$ -		7
8	A full depth poured-in-place two component, UV stabilized elastomeric polyurethane Tri-Durometer synthetic surfacing system with embedded textured finish and contain no SBR granulate in the system. Including materials and labor.	Cost Per Sq. Ft.			\$ -		8
9	Pour-in-place, all-weather synthetic track surface consisting of polymer resin binders and rubber granules. Including materials and labor.	Cost Per Sq. Ft.			\$ -		9
10	Pour-in-place, all-weather synthetic track surface consisting of polymer resin binders and rubber granules and multiple sprays of polymer resin coating. Including materials and labor.	Cost Per Sq. Ft.			\$ -		10
11	Pour-in-place, all-weather synthetic track surface consisting of impermeable polyurethane bound rubber base mat and a solid pour polyurethane coating with rubber granules in a light encapsulating finish. Including materials and labor	Cost Per Sq. Ft.			\$ -		11
12	Install a New Running Track on a Concrete or Asphalt Base for 8 Lane Track						12

No.	Description	Unit of Measure	List Price	Percentage Discount	Bid Price	Comments	No.
13	Pour-in-place, all-weather synthetic track surface consisting of permeable polyurethane bound rubber base mat and a structural spray coating of pigmented polyurethane and rubber. Including materials and labor.	Cost Per Sq. Ft.			\$ -		13
14	Pour-in-place, all-weather synthetic track surface consisting of impermeable polyurethane bound rubber base mat and a solid pour polyurethane coating with rubber granules in a light encapsulating finish. Including materials and labor.	Cost Per Sq. Ft.			\$ -		14
15	Impermeable polyurethane synthetic track system comprised of a base layer of polyurethane bound SBR rubber granules, an impermeable layer (seal coat) of a two-component urethane, and topped with a spray-applied coating of single-component polyurethane and EPDM granules. Including materials and labor.	Cost Per Sq. Ft.			\$ -		15
16	A porous, paved-in-place system, utilizing a machine installed base of single compound polyurethane binder and SBR rubber granules. The surface is finished with multiple spray applications of 100% solids, pigmented polyurethane and EPDM granules or water-based structural spray. Including materials and labor.	Cost Per Sq. Ft.			\$ -		16
17	Impermeable polyurethane synthetic track system consisting of SBR Rubber, a single-component polyurethane binder and, a poured-in-place, two-component U.V. stabilized elastomeric polyurethane wearing layer with an embedded textured finish. Including materials and labor.	Cost Per Sq. Ft.			\$ -		17
18	Full depth poured-in-place two component, UV stabilized elastomeric polyurethane Dual Durometer synthetic surfacing system with embedded textured finish. Including materials and labor.	Cost Per Sq. Ft.			\$ -		18
19	A full depth poured-in-place two component, UV stabilized elastomeric polyurethane Tri-Durometer synthetic surfacing system with embedded textured finish and contain no SBR granulate in the system. Including materials and labor.	Cost Per Sq. Ft.			\$ -		19
20	Pour-in-place, all-weather synthetic track surface consisting of polymer resin binders and rubber granules. Including materials and labor.	Cost Per Sq. Ft.			\$ -		20
21	Pour-in-place, all-weather synthetic track surface consisting of polymer resin binders and rubber granules and multiple sprays of polymer resin coating. Including materials and labor.	Cost Per Sq. Ft.			\$ -		21
22	Pour-in-place, all-weather synthetic track surface consisting of impermeable polyurethane bound rubber base mat and a solid pour polyurethane coating with rubber granules in a light encapsulating finish. Including materials and labor.	Cost Per Sq. Ft.			\$ -		22
23	Install a New Court on a Concrete or Asphalt Base						23
24	To install a Singles Tennis Court include all material and labor .	Cost Per Sq. Ft.			\$ -		24
25	To install a Doubles Tennis Court include all material and labor .	Cost Per Sq. Ft.			\$ -		25
26	To install a Basketball Court College include all material and labor .	Cost Per Sq. Ft.			\$ -		26
27	To install a Basketball Court High School include all material and labor .	Cost Per Sq. Ft.			\$ -		27
28	Preparation, cleaning of existing stable asphalt/concrete base, prior to installation of track or court surfacing	Cost Per Sq. Ft.			\$ -		28
29	Patching existing stable asphalt/concrete base, prior to installation of track or court surfacing	Cost Per Sq. Ft.			\$ -		29
30	Resurface 6 Lane Track						30

No.	Description	Unit of Measure	List Price	Percentage Discount	Bid Price	Comments	No.
31	Pour-in-place, all-weather synthetic track surface consisting of permeable polyurethane bound rubber base mat and a structural spray coating of pigmented polyurethane and rubber. Including materials and labor.	Cost Per Sq. Ft.			\$ -		31
32	Pour-in-place, all-weather synthetic track surface consisting of impermeable polyurethane bound rubber base mat and a solid pour polyurethane coating with rubber granules in a light encapsulating finish. Including materials and labor.	Cost Per Sq. Ft.			\$ -		32
33	Impermeable polyurethane synthetic track system comprised of a base layer of polyurethane bound SBR rubber granules, an impermeable layer (seal coat) of a two-component urethane, and topped with a spray-applied coating of single-component polyurethane and EPDM granules. Including materials and labor.	Cost Per Sq. Ft.			\$ -		33
34	A porous, paved-in-place system, utilizing a machine installed base of single compound polyurethane binder and SBR rubber granules. The surface is finished with multiple spray applications of 100% solids, pigmented polyurethane and EPDM granules or water-based structural spray. Including materials and labor.	Cost Per Sq. Ft.			\$ -		34
35	Impermeable polyurethane synthetic track system consisting of SBR Rubber, a single-component polyurethane binder and, a poured-in-place, two-component U.V. stabilized elastomeric polyurethane wearing layer with an embedded textured finish. Including materials and labor.	Cost Per Sq. Ft.			\$ -		35
36	Full depth poured-in-place two component, UV stabilized elastomeric polyurethane Dual Durometer synthetic surfacing system with embedded textured finish. Including materials and labor.	Cost Per Sq. Ft.			\$ -		36
37	A full depth poured-in-place two component, UV stabilized elastomeric polyurethane Tri-Durometer synthetic surfacing system with embedded textured finish and contain no SBR granulate in the system. Including materials and labor.	Cost Per Sq. Ft.			\$ -		37
38	Pour-in-place, all-weather synthetic track surface consisting of polymer resin binders and rubber granules. Including materials and labor.	Cost Per Sq. Ft.			\$ -		38
39	Pour-in-place, all-weather synthetic track surface consisting of polymer resin binders and rubber granules and multiple sprays of polymer resin coating. Including materials and labor.	Cost Per Sq. Ft.			\$ -		39
40	Pour-in-place, all-weather synthetic track surface consisting of impermeable polyurethane bound rubber base mat and a solid pour polyurethane coating with rubber granules in a light encapsulating finish. Including materials and labor.	Cost Per Sq. Ft.			\$ -		40
41	Resurface 8 Lane Track						41
42	Pour-in-place, all-weather synthetic track surface consisting of permeable polyurethane bound rubber base mat and a structural spray coating of pigmented polyurethane and rubber. Including materials and labor.	Cost Per Sq. Ft.			\$ -		42
43	Pour-in-place, all-weather synthetic track surface consisting of impermeable polyurethane bound rubber base mat and a solid pour polyurethane coating with rubber granules in a light encapsulating finish. Including materials and labor.	Cost Per Sq. Ft.			\$ -		43

No.	Description	Unit of Measure	List Price	Percentage Discount	Bid Price	Comments	No.
44	Impermeable polyurethane synthetic track system comprised of a base layer of polyurethane bound SBR rubber granules, an impermeable layer (seal coat) of a two-component urethane, and topped with a spray-applied coating of single-component polyurethane and EPDM granules. Including materials and labor.	Cost Per Sq. Ft.			\$ -		44
45	A porous, paved-in-place system, utilizing a machine installed base of single compound polyurethane binder and SBR rubber granules. The surface is finished with multiple spray applications of 100% solids, pigmented polyurethane and EPDM granules or water-based structural spray. Including materials and labor.	Cost Per Sq. Ft.			\$ -		45
46	Impermeable polyurethane synthetic track system consisting of SBR Rubber, a single-component polyurethane binder and, a poured-in-place, two-component U.V. stabilized elastomeric polyurethane wearing layer with an embedded textured finish. Including materials and labor.	Cost Per Sq. Ft.			\$ -		46
47	Full depth poured-in-place two component, UV stabilized elastomeric polyurethane Dual Durometer synthetic surfacing system with embedded textured finish. Including materials and labor.	Cost Per Sq. Ft.			\$ -		47
48	A full depth poured-in-place two component, UV stabilized elastomeric polyurethane Tri-Durometer synthetic surfacing system with embedded textured finish and contain no SBR granulate in the system. Including materials and labor.	Cost Per Sq. Ft.			\$ -		48
49	Pour-in-place, all-weather synthetic track surface consisting of polymer resin binders and rubber granules. Including materials and labor.	Cost Per Sq. Ft.			\$ -		49
50	Pour-in-place, all-weather synthetic track surface consisting of polymer resin binders and rubber granules and multiple sprays of polymer resin coating. Including materials and labor.	Cost Per Sq. Ft.			\$ -		50
51	Pour-in-place, all-weather synthetic track surface consisting of impermeable polyurethane bound rubber base mat and a solid pour polyurethane coating with rubber granules in a light encapsulating finish. Including materials and labor.	Cost Per Sq. Ft.			\$ -		51
52	Acrylic Paint Striping for All Weather Latex Running Tracks						52
53	New striping of 1 lane	Lane Price			\$ -		53
54	New striping of 2 lane	Lane Price			\$ -		54
55	New striping of 3 Lanes	Lane Price			\$ -		55
56	New striping of 4 Lanes	Lane Price			\$ -		56
57	New striping of 5 Lanes	Lane Price			\$ -		57
58	New striping of 6 Lanes	Lane Price			\$ -		58
59	New striping of 7 Lanes	Lane Price			\$ -		59
60	New striping of 8 Lanes	Lane Price			\$ -		60
61	New striping of Additional lane	Lane Price			\$ -		61
62	Acrylic Paint Striping adder for Polyurethane, Polyurethane Sandwich, Polyurethane Structural, Polyurethane Full Pour Pre-Manufactured Rubber Track	Adder Price			\$ -		62
63	Acrylic Paint Restriping for All Weather Latex Running Tracks						63
64	Restriping of 1 lane	Lane Price			\$ -		64
65	Restriping of 2 Lanes	Lane Price			\$ -		65
66	Restriping of 3 Lanes	Lane Price			\$ -		66
67	Restriping of 4 Lanes	Lane Price			\$ -		67

No.	Description	Unit of Measure	List Price	Percentage Discount	Bid Price	Comments	No.
68	Restriping of 5 Lanes	Lane Price			\$ -		68
69	Restriping of 6 Lanes	Lane Price			\$ -		69
70	Restriping of 7 Lanes	Lane Price			\$ -		70
71	Restriping of 8 Lanes	Lane Price			\$ -		71
72	Restriping of Additional Lane	Lane Price			\$ -		72
73	Acrylic Paint Restriping adder for Polyurethane, Polyurethane Sandwich, Polyurethane Structural, Polyurethane Full Pour Pre-Manufactured Rubber Track	Adder Price			\$ -		73
74	Paint Play Lines for Tennis, Basketball or Volleyball Court						74
75	Singles Tennis Court	Court			\$ -		75
76	Doubles Tennis Court	Court			\$ -		76
77	Basketball Court - College	Court			\$ -		77
78	Basketball Court -High School	Court			\$ -		78
79	Volleyball Court	Court			\$ -		79
80	Restriping Doubles Tennis Court						80
81	Restriping Singles Tennis Court	Court			\$ -		81
82	Restriping Doubles Tennis Court	Court			\$ -		82
83	Restriping Basketball Court - College	Court			\$ -		83
84	Restriping Basketball Court - High School	Court			\$ -		84
85	Restriping Volleyball Court	Court			\$ -		85
86	Field Equipment and Accessories						86
87	Pole Vault Pit	Each			\$ -		87
88	Take-Off Boards	Each			\$ -		88
89	Shot Put Toe Boards	Each			\$ -		89
90	Shot Put Rings	Each			\$ -		90
91	Discus Rings	Each			\$ -		91
92	Combination Hammer/Discus Cage and cage must meet IAAF rules	Each			\$ -		92
93	Hammer/Discus Conversion Ring	Each			\$ -		93
94	Water Jump Hurdle with sleeves	Each			\$ -		94
95	Water Jump Cover	Each			\$ -		95
96	Removable Track Curbing. The curb shall meet the requirements of the IAAF.	Each			\$ -		96
97	Long Jump Sandpits and Traps.	Each			\$ -		97
98	Sand for Sand Pits and Traps	Each			\$ -		98
99	Football Goal Posts - Set	Each			\$ -		99
100	Access Frame Kit with Infill retainer System for Adjust Right Football Goal Post - Set	Each			\$ -		100
101	Soccer Goals - Set	Each			\$ -		101
102	SGMobile Integrated Soccer Goal Wheel Kit for Round post Soccer Goal - Set	Each			\$ -		102
103	Batting Cages	Each			\$ -		103
104	Grind Uneven Cracks or Joints in Concrete and Level						104



Part F.2 - State Multiplier

AEPA IFB #020-A Category 3 - Running Track, Tennis and Athletic Courts

Bidding Company Name: *Enter company name here*

INSTRUCTIONS: For each of the states listed below provide your multiplier/factor (wage and transportation) to be applied to the *Net Effective Bid Pricing (shown in F.1)* provided to arrive at the individual AEPA state price for each item. Complete all tables on this form, including all cost factors and service rates for installation services, if provided.

Part F.2.3 is a REQUIRED FORM for Category 3 - Running Track, Tennis and Athletic Courts

Wages - Percentage added to the Catalog

Project types	CA State Multiplier	CO State Multiplier	CT State Multiplier	FL State Multiplier	GA State Multiplier	IN State Multiplier	IA State Multiplier	IL State Multiplier	KS State Multiplier	KY State Multiplier	MA State Multiplier	MI State Multiplier	MN State Multiplier	MO State Multiplier
	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Non-prevailing wage project:														
Prevailing wage project:														
Davis Bacon wage project:														

Project types	MT State Multiplier	NE State Multiplier	NJ State Multiplier	NM State Multiplier	ND State Multiplier	OH State Multiplier	OR State Multiplier	PA State Multiplier	TX State Multiplier	VA State Multiplier	WA State Multiplier	WV State Multiplier	WI State Multiplier	WY State Multiplier
	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Non-prevailing wage project:														
Prevailing wage project:														
Davis Bacon wage project:														

Product Description	Unit of Measure	Bid Price	Comments
Description of Cost Factors			
Per diem rate - meals and lodging per 24 hour period	Per Day	\$ -	
Performance and payment bond - bonding rate (percent of project)	Percent	0%	
Alternative methods of costing - percent of overhead/markup to cost	Percent	0%	
Discounts offered of alternative costing methods (cost + profit & overhead) Rate of discount.	Percent	0%	
R.S. Means Multiplier/Factor - Normal Hours - Non-Prevailing Wage Rates	Percent	0%	
R.S. Means Multiplier/Factor - Out Side of Normal Hours - Non-Prevailing Wage Rates	Percent	0%	
R.S. Means Multiplier/Factor - Normal Hours - Prevailing Wage Rates	Percent	0%	
R.S. Means Multiplier/Factor - Out Side of Normal Hours - Prevailing Wage Rates	Percent	0%	
Performance and payment bond - bonding rate (percent of project)	Percent	0%	
Bonding capacity - total amount of capacity available	Dollar Amount	\$ -	
Service/Labor Rates			
Consulting Services	Hourly Rate	\$ -	
Engineering Services - Civil	Hourly Rate	\$ -	
Design Services	Hourly Rate	\$ -	
Survey Services	Hourly Rate	\$ -	
Architect Services	Hourly Rate	\$ -	
Landscape Architect Services	Hourly Rate	\$ -	
Project Manager	Hourly Rate	\$ -	
Construction Manger	Hourly Rate	\$ -	
Construction Admin.	Hourly Rate	\$ -	
On Site Superintendent	Hourly Rate	\$ -	
Crew Supervisor	Hourly Rate	\$ -	
Installer	Hourly Rate	\$ -	
General Labor	Hourly Rate	\$ -	
On Site Superintendent	Overtime Hourly Rate	\$ -	
Crew Supervisor	Overtime Hourly Rate	\$ -	

Installer	Overtime Hourly Rate	\$	-	
General Laborer	Overtime Hourly Rate	\$	-	



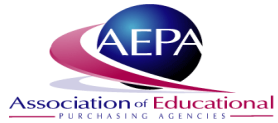
Part F.1.4 – Base Bid Schedule
AEPA IFB #020-A Category 4 – Synthetic Turf for Playground, Pet, Commercial, Landscaping Applications

Bidding Company Name: *Enter company name here*

INSTRUCTIONS: Part B: Specifications refer to the type and quality of products and services being bid. In the form below, enter your bid prices for those items indicated, the prices and/or discounts offered for providing all equipment, goods, services, supplies and related items. The prices you offer on these pages affirm that you have accepted the specifications to obtain, deliver and provide those goods and services requested. Each Bidder is encouraged to offer its complete product line and provide the lowest and best prices for the complete product line(s) offered. Bidders are encouraged to include new technologies and may add additional pricing sheets as necessary. Bidders may also provide catalogs or pricing sheets that provide different discounts by category to ensure the most aggressive pricing structure. Please provide price lists and/or catalogs that state a list/retail/regular price, AEPA discount and the AEPA price. *If additional clarification, price sheet(s) and/or catalog(s) pertaining to the bid being submitted are needed, include them behind the last tab.* Clearly indicate and identify the items involved and what you wish to communicate in your response.

Part F.1.4 is a REQUIRED FORM for Category 4 – Synthetic Turf for Playground, Pet, Commercial, Landscaping Applications

No.	Description	Unit of Measure	List Price	Percentage Discount	Bid Price	Comments	No.
1	Turf Installation on a Prepared Site						1
2	Turf Installation 0-10,000 sq. ft.	Cost Per Sq. Ft.			\$ -		2
3	Installation of Fields 10,001 to 25,000 sq. ft.	Cost Per Sq. Ft.			\$ -		3
4	Turf Installation 25,001 to 50,000 sq. ft.	Cost Per Sq. Ft.			\$ -		4
	Turf Installation 50,001 to 100,000 sq. ft.	Cost Per Sq. Ft.			\$ -		5
5	Turf Installation Over 100,001 sq. ft.	Cost Per Sq. Ft.			\$ -		6
45	Construction Services						7



Part F.2.4 – State Multiplier

AEPA IFB #020-A Category 4 – Synthetic Turf for Playground, Pet, Commercial, Landscaping Applications

Bidding Company Name: *Enter company name here*

INSTRUCTIONS: For each of the states listed below provide your multiplier/factor (wage and transportation) to be applied to the *Net Effective Bid Pricing (shown in F.1)* provided to arrive at the individual AEPA state price for each item. Complete all tables on this form, including all cost factors and service rates for installation services, if provided.

Part F.2.4 is a REQUIRED FORM for Category 4 – Synthetic Turf for Playground, Pet, Commercial, Landscaping Applications

Wages - Percentage added to the Catalog

Project types	CA State Multiplier	CO State Multiplier	CT State Multiplier	FL State Multiplier	GA State Multiplier	IN State Multiplier	IA State Multiplier	IL State Multiplier	KS State Multiplier	KY State Multiplier	MA State Multiplier	MI State Multiplier	MN State Multiplier	MO State Multiplier
	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Non-prevailing wage project:														
Prevailing wage project:														
Davis Bacon wage project:														

Project types	MT State Multiplier	NE State Multiplier	NJ State Multiplier	NM State Multiplier	ND State Multiplier	OH State Multiplier	OR State Multiplier	PA State Multiplier	TX State Multiplier	VA State Multiplier	WA State Multiplier	WV State Multiplier	WI State Multiplier	WY State Multiplier
	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Non-prevailing wage project:														
Prevailing wage project:														
Davis Bacon wage project:														

Product Description	Unit of Measure	Bid Price	Comments
Description of Cost Factors			
Per diem rate - meals and lodging per 24 hour period	Per Day	\$ -	
Performance and payment bond - bonding rate (percent of project)	Percent	0%	
Alternative methods of costing - percent of overhead/markup to cost	Percent	0%	
Discounts offered of alternative costing methods (cost + profit & overhead) Rate of discount.	Percent	0%	
R.S. Means Multiplier/Factor - Normal Hours - Non-Prevailing Wage Rates	Percent	0%	
R.S. Means Multiplier/Factor - Out Side of Normal Hours - Non-Prevailing Wage Rates	Percent	0%	
R.S. Means Multiplier/Factor - Normal Hours - Prevailing Wage Rates	Percent	0%	
R.S. Means Multiplier/Factor - Out Side of Normal Hours - Prevailing Wage Rates	Percent	0%	
Performance and payment bond - bonding rate (percent of project)	Percent	0%	
Bonding capacity - total amount of capacity available	Dollar Amount	\$ -	
Service/Labor Rates			
Consulting Services	Hourly Rate	\$ -	
Engineering Services - Civil	Hourly Rate	\$ -	
Design Services	Hourly Rate	\$ -	
Survey Services	Hourly Rate	\$ -	
Architect Services	Hourly Rate	\$ -	
Landscape Architect Services	Hourly Rate	\$ -	
Project Manager	Hourly Rate	\$ -	
Construction Manger	Hourly Rate	\$ -	
Construction Admin.	Hourly Rate	\$ -	
On Site Superintendent	Hourly Rate	\$ -	
Crew Supervisor	Hourly Rate	\$ -	
Installer	Hourly Rate	\$ -	
General Labor	Hourly Rate	\$ -	
On Site Superintendent	Overtime Hourly Rate	\$ -	

Crew Supervisor	Overtime Hourly Rate	\$	-	
Installer	Overtime Hourly Rate	\$	-	
General Laborer	Overtime Hourly Rate	\$	-	

<u>Customer Name</u>	<u>Street Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>PO #</u>	<u>Item #</u>	<u>Item Description</u>	<u>Manufacturer #</u>	<u>Qty</u>	<u>Extended Advertised Price</u>	<u>Extended AEPA Price</u>	<u>Savings</u>
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Total Purchases

Total Administrative Fee

FEB 12 2020

Shaw Sports Turf, (Shaw Contract Flooring Services, Inc)
Jimmy Marshall, Dir. Of Cooperative Sales
185S Industrial Blvd
Calhoun, GA 30701

Reference: 4400009598- AEPA 020A - Athletic Surfaces - Natural & Synthetic Surfaces for Sport Fields, Tracks, Courts, Playground & Landscaping Applications

Dear Mr. Marshall:

Attached is the signed acceptance of bid and contract award documents for AEPA Bid 020A and contract 4400009598 between Fairfax County Public Schools and Shaw Sports Turf,(Shaw Contract Flooring Services, Inc). Please retain this copy of the contract for your files.

The period of the contract is from March 01, 2020 through February 28, 2021 with the option to renew for three (3) additional one-year periods.

Please provide your Certificate of Insurance to the address listed above within ten (10) days after receipt of this letter.

If you have questions or comments, please direct them to the Contract Administrator, Michelle Pratt at 571-423-3550 or via email at mrpratt@fcps.edu.

Sincerely,



Michelle R. Pratt
Director

MRP/pak

UO
2-13-20



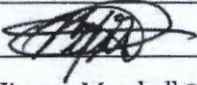
Association of Educational
PURCHASING AGENCIES

Acceptance of Bid & Contract Award

Instructions: PART I of this form is to be completed by the Bidder and signed by its Authorized Representative. PART II will be completed by the AEPA Member Agency only upon the occasion of the bid award. If approved by AEPA, the Bidder is required to produce a copy of the document for each of the AEPA Member Agency with which it contracts.

PART I: BIDDER

In compliance with the Invitation for Bid (IFB), the undersigned warrants that I/we have examined all Instructions to Bidders, associated documents, and being familiar with all of the conditions of the bid, hereby offer and agree to furnish all labor, materials, supplies and equipment incurred in compliance with all terms, conditions, specifications and amendments associated with this IFB and any written exceptions to the bid. Signature also certifies understanding and compliance with the certification requirements of the AEPA Member Agency's Terms and Conditions and/or Special Terms and Conditions. The undersigned understands that their competence, ability, capacity and obligations to offer and provide the proposed tangible personal property, professional services, construction services and other services on behalf of the Bidder Partner as well as other factors of interest to the AEPA Member Agency as stated in the evaluation section, will be a consideration in making the award.

Business Name	<u>Shaw Sports Turf, a brand of Shaw Contract Flooring Services, Inc.</u>	Date	<u>9/12/2019</u>
Address	<u>185 S. Industrial Blvd.</u>	City, State Zip	<u>Calhoun, GA 30701</u>
Contact Person	<u>Jimmy Marshall</u>	Title	<u>Director of Cooperative Sales</u>
Authorized Signature		Title	<u>Director of Operations</u>
Email	<u>Jimmy.Marshall@shawinc.com</u>	Phone	<u>615.879.0136</u>

PART II: AWARDING MEMBER AGENCY

Your bid response for the above identified bid is hereby accepted. As a Bidder Partner you are now bound to offer and provide the products and services identified within this IFB, your response and approved by AEPA, including all terms, conditions, specifications, exceptions and amendments. As Bidder Partner, you are hereby not to commence any billable work or provide any products or services under this contract until an executed purchase order is received from the AEPA Member Agency or Participating Entities. The intent of this contract is to constitute the final and complete agreement between the AEPA Member Agency and Bidder Partner, and no other agreements, oral or otherwise, regarding the subject matter of this contract, shall bind any of the parties hereto. No change or modification of this contract shall be valid unless in writing and signed by both parties to this contract. If any provision of this contract is deemed invalid or illegal by any appropriate court of law, the remainder of this contract shall not be affected thereby. The initial term of this contract shall be for up to fifteen (15) months and will commence on the date indicated below and continue until February 28, 2021, unless terminated, canceled or extended. By mutual written agreement as warranted, the contract may be extended month by month up to six (6) months or for three (3) additional 12-month periods.

Awarding Agency	<u>Fairfax County Public Schools</u>		
Authorized Representative	<u>Michelle Pratt</u>		
Awarded this	day of	Contract Number	<u>440000 9598</u>
Contract to commence		Or	<u>March 1, 2020</u>
(Member Agency to select)			