

**COOPERATIVE EDUCATIONAL SERVICES
(CES)
4216 Balloon Park Road NE • Albuquerque, New Mexico 87109-5801
Phone (505) 344-5470 • Fax (505) 344-9343**

**REQUEST FOR PROPOSALS
(RFP)**

RFP Issue Date Monday, June 29, 2009

RFP Number: RFP 2009-021

RFP Issue Date: Monday, June 29, 2009

RFP Commodity Titles:

Commodity Titles	Category	Title
909, 910, 912, 913, 914	1	Lot – 1: Gordian-Based Job Order Contract (JOC) for General Construction (GB98) Products and Services Lot – 2: R.S. Means-Based Job Order Contract (JOC) for General Construction (GB98) Products and Services

A job order contract is an indefinite quantity contract to which the awarded contractor provides and performs general construction products and services as individual projects at different locations throughout the State and for individual CES Members and Participating Entities on an as-needed basis. The CES JOC program is based on two nationally-accepted pricing methodologies (pricing/quoting systems), The Gordian Group and R.S. Means, which contains various construction products and services with pre-set unit pricing based on local labor, material and equipment prices. JOC contractors provide any/all project management, supervision, documentation, supplies, materials, labor and equipment required to perform and complete the individual CES Members'/Participating Entities' defined construction project's scope of work.

Non-Required Pre-Bid Conference Date**Friday, July 10, 2009**

Day / Date: Friday, July 10, 2009

Time: 2:00 p.m. local time

Location/Mail Address: Cooperative Educational Services
4216 Balloon Park Road N.E.
Albuquerque, NM 87109-5801Directions: In Albuquerque, take I-25 Northbound. Take Exit 229, Jefferson and proceed 4/10th of a mile west. Turn left on Balloon Park Road N.E. The CES offices are the third building on the left.**RFP Due Date****Friday, August 7, 2009**

Day / Date: Friday, August 7, 2009

Time: 1:30 p.m. local time

Location / Mail Address: Cooperative Educational Services
4216 Balloon Park Road NE
Albuquerque, NM 87109-5801

RFP Contents Overview

- I. Instructions to Offerors
- II. Scope of Work and Specifications
- III. Conditions Leading to and Including Contract Award
- IV. Proposal Forms

Note: The RFP has been divided into four (4) sections:

- Section I. Outlines the RFP; indicates how to prepare a response; and states the General Terms and Conditions.
- Section II. Lists the various commodity titles and, for each, states the Special Terms and Conditions, the Scope of Work and Required Categorical Responses.
- Section III. Indicates how the proposals will be evaluated and how the awards will be made.
- Section IV. Incorporates the forms used in the proposal response.

Legal Advertisement

ADVERTISEMENT FOR PROPOSAL

Cooperative Educational Services, 4216 Balloon Park Road NE, Albuquerque, NM 87109, will receive sealed proposals until 1:30 p.m. local time, Friday, August 7, 2009, for:

Category 1, Lot 1 – Gordian-Based Job Order Contract (JOC) for General Construction (GB98) Products and Services.

Category 1, Lot 2 – R.S. Means-Based Job Order Contract (JOC) for General Construction (GB98) Products and Services.

There will be a Non-Required Pre-Proposal Conference on Friday, July 10, 2009, at 2:00 p.m. For bidders who cannot attend, but would like to participate in the Pre-Proposal Conference by phone, contact CES' Procurement Office by phone at (505) 344-5470 or e-mail at bids@nmedu.org to register and receive the conference call information.

All proposals must be submitted in a sealed envelope marked "SEALED PROPOSAL – RFP 2009-021" on the front of the envelope. A list of qualifications and specifications, instructions to bidders and bid forms can be obtained upon request by fax (505-344-9343), mail, e-mail (bids@nmedu.org) or by telephone (505-344-5470) from 8:30 a.m. to 4:30 p.m., Monday-Friday, except holidays.

Cooperative Educational Services reserves the express right to accept or reject any or all bids.

/s/ Max Luft,
Executive Director

PUBLISH: Sunday, June 28, 2009
Sunday, July 5, 2009

The Albuquerque Journal
Clovis News Journal
Hobbs News-Sun
Farmington Daily News
Las Cruces Sun
Roswell Daily Record
Silver City
The Santa Fe New Mexican

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TABLE OF CONTENTS

I. <u>INSTRUCTIONS TO OFFEROR</u>	Page
A. Introduction.....	8
B. Examination of Documents.....	8
C. Non-Required Pre-Proposal Conference.....	8
D. Questions.....	8
E. Proposal Submission.....	8
1. Preparation of the Proposal.....	8
2. Format of the Proposal.....	9
3. Contents of the Proposal.....	10
4. Offeror’s Qualifications Statement.....	13
5. Subcontractor’s Qualifications Statement.....	18
F. Listing of General Terms and Conditions.....	21
II. <u>SCOPE OF WORK AND SPECIFICATIONS</u>	
A. Scope of Work	50
B. Duties of the Contractor.....	50
C. Duties of CES	51
D. Solicitation Timelines	52
E. Overview of Request.....	52
F. Special Solicitation Security.....	53
G. Bonds	54
H. Payment Retention, Progress Payments.....	54
I. Contract Between Owner, Buyer and Contractor	55
J. Contract Between Member and Prime Contractor.....	55
K. Construction Projects Without a Contract Between Member and Prime Contractor	58
L. Quality Control Issues.....	58
M. Quotes and Proposals.....	58
N. New Mexico State Wage Rate Documentation	60

O. RFP Scope of Work	61
P. Special Terms and Conditions	61
Q. Price and Cost Submittal.....	64
R. Listing of Categories.....	69
Category 1: Job Order Contracting (JOC)	70
Lot 1 - Gordian JOC (GB98)	78
Lot 2 – R.S. Means JOC (GB98)	90

III. CONDITIONS LEADING TO AND INCLUDING CONTRACT AWARD

A. Contract Form	101
B. Proposal Submission.....	101
C. Proposal Review	101
D. Evaluation Factors	101
E. Negotiations	103
F. Cost Considerations	103
G. Important Notice to Offerors	103

IV. PROPOSAL FORMS

A. Offerors Declaration (Form A).....	105
B. Offer, Acceptance of Offer and Contract Award (Form B).....	107
C. Affidavit (Form C).....	108
D. Offeror’s Indefinite Unit Price Declaration (Form D).....	109
Exhibits (provided as separate documents)	
1. The following Unit Price Schedules are provided as Excel spreadsheets and are presented as Exhibits	
a). D-1 Lot 1: Gordian JOC price sheet (Exhibit 5)	
b). D-2 RSMeans JOC price sheet (Exhibit 6)	
c). W-9 Form (Exhibit 7)	
E. Acceptance of General Terms and Conditions (Form E).....	111
E-1 Acceptance of Categorical and Lot Terms and Conditions (Form E-1)	112
F. Support and Maintenance Plans (Form F)	113
G. Offeror’s Support for CES Prices (Form G).....	114
H. Questionnaire for Offeror (Form H)	115
I. Subcontractor’s Listing (Form I)	117

J. Offeror's Qualifications (Form J)119
J-1 Subcontractor's Qualifications (Form J-1)124
K. Submission Check-Off (Form K).....127

SECTION I. INSTRUCTIONS TO OFFEROR

A. INTRODUCTION

Parties to the Joint Powers Agreement to Establish an Educational Cooperative through its administering agency, Cooperative Educational Services (CES), invite experienced vendors to submit proposals in accordance with the outlines and specifications contained herein. Proposals are requested from qualified respondents to provide construction products and services for one or more member educational institutions and participating entities in the State. Selection for award will go to the responsive Offeror whose proposal is most advantageous to CES. The method by which the Offeror or Offerors will be selected is detailed further in the evaluation section.

B. EXAMINATION OF DOCUMENTS

Offeror will carefully examine the Request for Proposals, which includes Instructions to Offerors, Scope of Work and Specifications, Conditions Leading To and Including Contract Award and Proposal Forms.

C. NON-REQUIRED PRE-PROPOSAL CONFERENCE

Due to the nature and complexity of this Request for Proposal and, in an attempt to allow prospective bidders to have an opportunity to review, discuss and make suggestions to Cooperative Educational Services' (CES's) procurement office relating to its solicitation requests, CES has scheduled this pre-proposal conference on Friday, July 10, 2009, at 2:00 p.m. MST at the CES offices at 4216 Balloon Park Road NE, Albuquerque, NM. Prospective bidders are encouraged to attend in person or by phone to develop a clear understanding of the solicitation and to address any questions, concerns and/or issues they may have. For bidders who cannot attend, but would like to participate in the Pre-Proposal Conference by phone, contact CES' Procurement Office by phone at (505) 344-5470 or e-mail at bids@nmedu.org to register and receive the conference call information.

D. QUESTIONS

Submit all questions about the Request for Proposals (RFP) in writing to Cooperative Educational Services, Attn: Max Luft, Executive Director, email to bids@nmedu.org, fax 505-344-9343, or mail to 4216 Balloon Park Rd. NE, Albuquerque, NM 87109. Replies will be made via the website (www.nmedu.org) as addenda and will become part of the proposal documents. Those not having access to the Internet can call CES at 505-344-5470, either to determine if addenda have been issued, or to request of CES by phone or fax that copies of the addenda be mailed. Questions received less than seven (7) days prior to the proposal due date will not be answered.

E. PROPOSAL SUBMISSION

1. Preparation of the Proposal

- a. By submitting a proposal under this solicitation, the Offeror acknowledges that all documents requiring a signature have been reviewed and signed by a director, officer or manager of the submitting firm who has sufficient knowledge, background and understanding to fully address all matters, respond to all inquires and complete all documents required by the solicitation; the information and documents provided are

- truthful, accurate and complete; and that the firm and the individual responsible for the submittal shall be fully responsible and bound by all information, data, certifications, disclosures and attachments included in the RFP document and the Offeror's response.
- b. Proposals will be submitted on either unaltered proposal forms furnished by CES or a reasonable facsimile thereof. Telegraphic offers, electronic mailgrams or facsimile machine offers will not be considered.
 - c. CES is providing an electronic copy of the RFP and mandatory Price Schedule for each category/lot to assist the Proposer in developing your proposal. These electronic files can be downloaded in Microsoft Word, Excel or Adobe PDF file format at www.nmedu.org. The CES copy of the RFP and Price Schedules are the official copy and changes made to the RFP or Price Schedules without the written consent of CES will not be valid and may be cause for disqualification.
 - d. The Offer, Acceptance of Offer and Contract Award document must be submitted with original ink signature by the person authorized to sign the same. If a company or corporation submits the proposal, an official or duly authorized agent will sign the proposal. Powers of Attorney, which authorize agents or others to sign proposals, must be properly certified by resolution of the board of directors, attested to by the secretary of the corporation, and attached to the proposal. Mistakes can be corrected prior to opening, but must be initialed by the person signing the proposal. Corrections and modifications received after the opening time will not be accepted.
 - e. In case of an error in extension of prices in the offer, unit prices will govern.
 - f. Periods of time stated as a number of days will be in calendar days, not business days.
 - g. It is the responsibility of all Offerors to examine the entire RFP package and seek clarification of any item or requirement that may not be clear, and to check all responses for accuracy before submitting an offer. Negligence in preparing an offer confers no right of withdrawal after due time and date.
 - h. The Offeror's ability to follow the proposal preparation instructions set forth in this solicitation will also be considered to be an indicator of the Offeror's ability to follow instructions, should they receive an award as a result of this solicitation. Any contract between CES and a vendor requires the delivery of information and data. The quality of organization and writing reflected in the proposal will be considered to be an indication of the quality of organization and writing which would be prevalent if a contract is awarded. As a result, the proposal will be evaluated as a sample of data submission. Subjective judgment on the part of CES evaluators is implicit in this process.

2. Format of the Proposal

- a. The Offeror's proposal is to be submitted in two parts. Part One is the technical proposal and Part Two is the cost proposal. Each part of the proposal shall be submitted in a separate sealed envelope or package and shall be clearly labeled with the name, address, and date of submittal, and identify each part as: "RFP 2009-021 Part 1 - Technical Proposal" and "RFP 2009-021 Part 2 - Cost Proposal".
- b. One (1) original (printed copy) of each part of the proposal will be submitted on the forms and in the format contained in the RFP. The proposal will contain all descriptive literature, specifications, samples, etc. All proposals will be submitted in three-ring binders.

- c. The forms as contained in and format as requested in the RFP will be used. CES has provided electronic files of the RFP and associated Price Sheets and can be downloaded at www.nmedu.org or can be requested by sending an e-mail to bids@nmedu.org or fax to 505-344-9343. Offerors can reproduce the forms and retype the information, but all of the required information must be presented in the order requested. All proposals must be completed in ink, on a computer or typewritten. Forms can be filled in by hand, but must be printed.
- d. In preparing a proposal, the Offeror must provide written responses, narratives and/or documentation required to address each relevant request for information relating to the Offeror's qualifications: abilities; capacity; products; services; specifications; delivery, installation, setup, maintenance; support services and pricing.
- e. Review both the General Terms, Conditions, and Requirements and the Categorical/Lot Definitions, Special Terms and Considerations, Specifications, and Requirements and, with Form E - Acceptance of General Terms and Conditions and Form E-1 - Acceptance of Categorical/Lot Terms and Conditions, accept and/or note any exceptions that may apply to your firm. Either sign off on the acceptance form(s) indicating "No Exceptions" taken or, for any "Exception(s)" taken on any item, clearly identify and provide written explanations and justifications for taking the exception. On Form E or E-1, a summary of those items identified must be included in the response to be considered valid, and exceptions may be accepted, negotiated or rejected by CES.
- f. The Offeror must possess, the ability and capacity to comply with and provide their pricing information in one (1) of the four (4) pricing methodologies/formats required by CES and as described herein.
- g. In addition to requirements in b of this Section, the Offeror is to provide an electronic copy of the proposal part on separate CD-R or CD-RW in either or combination of the following file formats: Adobe PDF (pdf), Rich Text Format (rft), and Microsoft Word (doc) or Microsoft Excel (xls). The electronic copy must be organized and laid out in the same format as outlined in Section 3, with each tab as a different folder, Contents of the Proposal (see section 3 below).
- h. Offeror's inability or failure to meet and/or comply with items (a-g) above may be sufficient to render their proposal non-responsive.

3. Contents of the Proposal

In order to ensure that every proposal receives a fair evaluation, it is required that each Offeror organize its proposal in the following manner:

Step One: Obtain three-ring binders and a set of 10 index dividers.

Step Two: Prepare your Table of Contents with the tabs in this order:

Part I. Technical Proposal

- Tab 1: The Offer
- Offerors Declaration Form (page 105) **Form A.**
 - Signed Acceptance of Offer (page 107) **Form B.**

- The RFP Affidavit, notarized signature required (page 108) **Form C.**
 - Signed copies of any addendum issued.
 - Mandatory \$25,000.00 Bid Bond
- Tab 2: Introduction
- Executive Summary (a one-page description of what you are proposing on this contract).
- Tab 3: General Terms and Conditions.
- Terms and Conditions, Section I-E (copy of each page in order) (pages 21-49).
 - Acceptance of Terms and Conditions, (**Form E**, first line must be signed) (page 111).
- Tab 4: Qualifications
- Note: If the Offeror is responding to more than one category/lot, sub-tabs/electronic folders must be set up to provide contractor's and subcontractor's information that does not apply to all categories/lots.
- Offeror questions (page 119-123) **Form J.**
 - Subcontractor questions (page 124-126) **Form J-1** for each Subcontractor listed.
 - Subcontractors List for each Category and Lot listed (pages 117-118) **Form I.**
 - A copy of Contractor's and Subcontractors NMCID Licenses applies for Category 1.
 - Confirmation of Contractor's and Subcontractors NMDOL Registration applies for Category 1.
 - Documentation from Offeror's security company.
 - Certificate of Insurance (page 15).
- Tab 5: Category
- Note: If the Offeror is responding to more than one category/lot, sub-tabs/electronic folders must be set up to provide your responses to the following items for each category/lot.
- Categorical Terms and Conditions page(s) only for the Category(s) and Lot(s) for which the Offeror will be submitting a proposal (copy of each page in order).
 - Acceptance of Categorical Terms and Conditions (**Form E-1**, second line to be signed, page 112). If submitting more than one Category/Lot, submit a separate **Form E-1** for each Category/Lot and circle the Category and Lot that applies (page 112) **Form E-1.**
 - Listing of any exceptions to the Categorical Terms and Conditions and Specifications for each Category and Lot submitted (page 112) **Form E-1.**

- Required Categorical Responses for your category (written response to every part). A separate response for each Category and Lot that is submitted, to be marked with the Category and Lot number.

Tab 7: Required Forms

- Offeror's Support for CES Prices (page 114) **Form G.**
- Questionnaire for Offeror (pages 115-116) **Form H.**
- Support and Maintenance Plans (page 113) **Form F.**
- **W-9 Form**

Tab 8: Additional Information

Note: If the Offeror is responding to more than one category/lot, sub-tabs/electronic folders must be set up to provide the following items for each category/lot.

- Additional information that you wish to include.
- Additional support pages requested in each specific category.

Tab 9: Submission Check-Off Form

- Make certain everything is included, and then sign form (page 127) **Form L.**

Tab 10: Literature, slicks, samples and supporting printed material.

Note: If the Offeror is responding to more than one category/lot, sub-tabs/electronic folders must be set up to provide the following items for each category/lot.

Part II. Cost Proposal

Tab 6: Cost Quotation

Note: If the Offeror is responding to more than one category/lot, sub tabs/electronic folders) must be set-up to provide the pricing information for each category/lot.

- Pricing – CES has provided a mandatory price sheet submittal form (Excel spreadsheet) for each of the Categories and Lots.
- Additional price information can be submitted using a separate **Form D** (pages 109) for each category offered.
- **A separate sealed Cost Proposal for each Category and Lot must be submitted and marked with RFP 2009-021 Category and Lot number and Proposer name on the outside of the envelope.**

Step Three: Go to the last page of this RFP and prepare the Submission Check-off Form. Sign it and place it after Tab 9. Send your proposal to CES so that it arrives on or before Friday, August 7, 2009, at 1:30 p.m. local time.

Step Four: Before you seal your proposal, ask yourself this question, “Did I really give my best prices to the schools?” Be sure the offer is signed and that all forms are enclosed. After verifying this has been done, make a copy of the proposal for yourself. Submit your proposal to CES.

4. Offeror’s Qualifications Statement

All proposals must contain answers or responses to the requested information listed below. The Offeror is to provide responses to questions on **Form J Contractor Qualifications** (page 119). Any Offeror failing to respond completely may be considered non-responsive. Please complete **Form J** and place it behind Tab 4. One essential part of the evaluation process is for the evaluator(s) to have current and accurate information about the company being evaluated. For the evaluator(s) to know if the response being read is within the capacity and capability of the Offeror, factual information about the Offeror is vital. After the evaluation process is finished and a contract is awarded, the information may be provided to the CES Member and Participating Entity considering utilizing the Offeror’s CES contract. This is your opportunity to present your company to the evaluator(s) and, if awarded, Members’ and Participating Entities’ staff.

a. Provide documentation and information as requested relating to the history of your company that includes its’ philosophy of doing business, its’ background, expertise, experience, past performance and ability to provide the products and services proposed herein. Generally, CES will not accept an offer from a business less than three (3) years old or which has failed to establish a proven record of business. If the Offeror 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. CES reserves the right to accept or reject newly formed companies solely based on information provided in this response and from its own investigation of the company.

b. Organization

- 1). How many years has your organization been in business as a contractor?
- 2). How many years has your organization been in business under its’ present business name?
- 3). Under what other or former names has your organization operated?
- 4). If your organization is a corporation, answer the following:
 - (a). Date of incorporation
 - (b). State of incorporation
 - (c). President’s name
 - (d). Vice-President’s name(s)
 - (e). Secretary’s name
 - (f). Treasurer’s name
- 5). If your organization is a partnership, answer the following:
 - (a). Date of organization
 - (b). Type of partnership (if applicable)
 - (c). Name(s) of general partner(s)
 - (d). If your organization is individually owned, answer the following:
 - (i) Date of organization
 - (ii) Name of owner

- 6). If the form of your organization is other than those listed above, describe it and the name of the principals.
 - 7). Where are the headquarters of the company physically located? Provide address, city, state and zip code. Provide same information on any branch offices in New Mexico. How long has your company resided at these locations? For what period of time and in what parts of New Mexico has your organization provided the services/products requested in this solicitation?
 - 8). For the key individuals who will be marketing, consulting, estimating, coordinating, supervising and managing before, during and after-sales services, warranty, maintenance, and support services offered in response to this solicitation, in your response, provide a listing of and the qualifications of these key individuals. Provide the name, title, qualifications and experience in the area(s) of services that they will be providing.
 - 9). Describe your organization's current in-house work force, equipment and facilities available to perform under this solicitation.
- c. Licensing
- 1). What year was your organization first licensed as a contractor in the State of New Mexico?
 - 2). List jurisdictions and trade categories in which your organization is legally qualified to do business, and indicate registration or license numbers, if applicable.
 - 3). List jurisdictions in which your organization's partnership or trade name is filed.
 - 4). Provide all current applicable NMCID licenses and NMDOL registration information.
 - 5). Pursuant to NMSA1978 13-4-2, Residential Contractor preference will not apply for solicitation using the RFP process.
 - 6). Has your organization or any of the qualifying parties named above ever conducted business, past or present, as a contractor under a different business name? If yes, what name(s) and when?
- d. Experience and Past Performance
- 1). List the categories of work that your company normally performs with its' own forces.
 - 2). Provide a complete list of major construction projects (over \$60,000 in total construction costs) that your company had or has in progress, as of July 1, 2009, giving the name of project, owner, architect, contract amount and scheduled completion date. Please state the total worth of all construction work in progress and under contract as of July 1, 2009.
 - 3). Within the last Two (2) years, for each region(s) you are responding to, has your company performed projects that falls under the New Mexico Public Works Act? If the answer is "yes," describe each project and your company's role. In your description, include the following information on each project described.
 - (a). Project name.
 - (b). Owner of the project.
 - (c). Owner representative or contact.
 - (d). Original bid amount and final project cost (include all change orders).
 - (e). Architect/Engineer (A/E).
 - (f). Original scheduled completion date, the final completion and acceptance date.
 - (g). Percentage of the cost of the work performed with your own forces.

- 4). For the last five (5) years, list all projects your company has completed beyond the scheduled date of substantial completion and the number of days past the scheduled substantial completion date on which substantial completion was certified as indicated by owner and architect signature.
 - 5). For the last five (5) years, list all projects in which your company failed to complete the project, including all punch list items identified by the owner and/or owner's representative by the date agreed to by all parties.
 - 6). In the last five (5) years, has your company provided any extended warranties on a project and not been able to fulfill to the owner's satisfaction? If yes, for each, describe the issues. For each, include the following information:
 - (a). Project name.
 - (b). Owner of the project.
 - (c). Owner representative or contact.
 - (d). Architect/Engineer (A/E).
 - (e). Date of substantial completion.
 - (f). Type of warranty coverage.
 - (g). Reason for inability to resolve, such as owner not fulfilling obligations.
- e. Bonding, Insurance, Claims, Suits, and Disputes
- 1). Provide with this RFP a Certificate of Insurance listing the minimum and maximum coverage for liability, vehicle and property damage. CES is not asking you to acquire additional or special insurance for this contract. CES needs proof that you are insured. Before any work can commence, you must provide a certificate that names CES and/or its Member as a certificate holder. Normally, this is a free service provided by an insurance company.
 - 2). Provide written documentation and evidence relating to the surety company that will be providing payment and performance bonds for projects performed under this solicitation. Please address the following:
 - (a). Name, address, phone number and agent's name.
 - (b). Letter from the surety company stating your firm's current bonding rate and your organization's total bonding capacity.
 - (c). Has your company used this surety company for more than two (2) years? If no, please provide the names, addresses, phone numbers, contact names and dates under agreement with any other surety company used in the past three (3) years.
 - 3). Are there any judgments, claims, arbitration proceedings, suits or disputes pending or outstanding against your company or its' officers in New Mexico or any other jurisdiction?
 - 4). Has your company filed any lawsuits or requested arbitration with regard to construction contracts within the last five (5) years?
 - 5). If the answer to items 3). or 4). above is yes, please provide complete details, including, but not limited to:
 - (a). Name and location of project owner.
 - (b). Name and location of project architect.
 - (c). Name and location of project.
 - (d). Nature of and amount in dispute.
 - (e). Forum in which dispute was presented, that is, AAA arbitration; mediation; district court (state, file name, and number).

- (f). Manner in which dispute was resolved.
- 6). For the last five (5) years, list any projects where your surety has been given notice of default of your company's performance under either its' performance bond or labor and material payment bond. For each project, state the nature of the claim against your company and the outcome of each such claim.
 - 7). Within the last five (5) years, has any surety on any project you have worked on paid or settled work that your company had contracted to complete? If yes, give complete details.
 - 8). Within the last five (5) years, has your firm had any business, trade or contracting licenses suspended or revoked? If yes, give complete details.
 - 9). Within the last five (5) years, has your company been a party in civil litigation or administrative proceedings which have alleged a violation of any of the following: environmental law or regulation; law banning workplace discrimination; law governing wages, hours, labor or employment standards; conduct of occupations; law governing professions or regulated industries; or any other law which would reflect, if convicted, a lack of business integrity or honesty? If yes, give complete details.
 - 10). Within the last five (5) years, has your company had a tax lien filed against it by any taxing authority? If yes, provide the following: when, by what tax authority and has the lien been released. If no, describe action your company has taken with respect to the lien.
 - 11). Within the last five (5) years, has your company been debarred from bidding on or performing work for any public agency (federal, state or local public body) as a contractor or subcontractor? If yes, provide complete details, including actions your company has taken to prevent such debarment in the future.
- f. Miscellaneous items
- 1). Is the workers' compensation experience modifier for the company as reported by your insurer less than 2.0? If no, what is your reported E-Mod?
 - 2). What is the incident/injury rate for your company as reported by your insurer? Is it less than the Bureau of Labor Standards published rate for New Mexico? If yes, by how much?
- g. Financial Resources and Banking Information
- 1). A major problem often facing companies awarded a CES contract is rapid growth, followed by cash flow difficulties. For purposes of determining a bidder's capacity and ability to perform financially, the Offeror is asked to provide a financial statement, preferably audited, including your company's latest balance sheet and income statement showing the following items:
 - (a). Current assets (e.g. cash, joint venture accounts, accounts receivable, notes receivable, accrued income, deposits, materials inventory and prepaid expenses).
 - (b). Net fixed assets.
 - (c). Other assets.
 - (d). Current liabilities (e.g. accounts payable, notes payable, accrued expenses, provision for income taxes, advances, accrued salaries and accrued payroll taxes).
 - (e). Other liabilities (e.g. capital, capital stock, authorized and outstanding shares par values, earned surplus and retained earnings).
 - (f). Name and address of firm preparing attached financial statement and date thereof.

- (g). Is the attached financial statement for the identical company named on page one?
 - (h). If not, explain the relationship and financial responsibility of the company whose financial statement is provided (e.g. parent-subsidiary).
 - (i). Provide written evidence or other documentation relating to your banking and/or lending institution. Include the following:
 - (i) Names, addresses, phone numbers and contact names.
 - (ii) Letters from listed financial/lending institution that indicates the amount of time your company has had a relationship with them.
 - (iii) Your line of credit available to you and evidence of financial stability over the past five (5) years. This letter does not need to identify a dollar amount. Instead, a credit range should be indicated, that is, "credit in the low six figures" or "a credit line exceeding five figures."
 - (j). Will it be necessary for your firm to assign payments to a financial institution in order to perform under this contract? If so, please name any financial institutions that you may use for assignments or for factoring. If you enter into any assignment agreements, will you sign a notarized Power of Attorney that grants the company receiving the assignment the right to endorse payments from CES? Please attach a sample assignment or factoring agreement with your bid if you intend to use these financial services. The fact that a company uses these services will not reflect on the credit stature of the CES vendor. Since CES requires a 45-day term rather than the more traditional 30 days, such payment arrangements may be necessary.
 - (k). Within the last seven (7) years, has your company been the subject of any voluntary or involuntary bankruptcy, insolvency or receivership proceeding? If so, please state the case name(s) and court file number of each proceeding, the nature of the proceeding, whether such proceeding is ongoing and the resolution of each completed proceeding.
- h. Describe your company's policies and procedures in regards to complying with the New Mexico Public Education Department (NMPED) mandate regarding security and background checks for individuals working and/or providing services within public school buildings. Please describe or provide a sample of the type of background check that you are willing and able to perform on your providers in order to comply with this requirement.
 - i. Has and does your company incorporate formal quality assurance and control processes on public works projects? If yes, describe the processes with their expected results and the benefits received by the owners by implementing such a program.
 - j. CES is the administrative agency of the Joint Powers Agreement to Establish an Educational Cooperative and its Members are the public educational institutions in New Mexico. The sole purpose of CES is to support these institutions in their day-to-day procurement. Describe, in writing, your company's ability, willingness and means to sell, deliver, provide and support the proposed products/services to New Mexico educational agencies under the most advantageous conditions including price. No Offeror will be denied a contract simply because sales are limited to New Mexico. However, CES, as an agent for the public educational institutions, will not enter into a contract with an Offeror that has an existing contract that would be more advantageous than a CES contract to sell and provide products and services to New Mexico agencies.

Do you currently have or plan to have such state or other contracts, such as a State Procurement Division Agreement or CES Member Agreement? If so, why do you wish to secure a CES contract and how would the CES contract be more advantageous in pricing of other services over other cooperative contracts?

- k. This is an RFP and, while CES is required to base an award strictly on the highest rated proposals, every CES contract must be for the public good, not for the benefit of a vendor. However, having said that, CES is totally committed to two basics in the American way of business – profit and competition. Products and services offered herein must be of good sound quality, have good durability/performance life and stand up to public use. Is there “added value” received by the customer when purchasing through you rather than a competitor, or is your major benefit price alone?
 - l. In comparing previous projects your organization has completed, do you see any areas where your organization possesses experience, production or service facilities, personnel or other service reputation that should be considered with your ability to provide on time quality construction projects for New Mexico educational institutions? If yes, fully describe these attributes and resources and how they are utilized to benefit the owner’s projects.
5. Subcontractors Qualifications Statement

All proposals must contain answers or responses to the requested information listed below. The Offeror is to provide a separate response for each subcontractor listed to questions on **Form J-1 Subcontractors Qualifications** (page 106). Any Offeror failing to respond completely may be considered non-responsive. Please complete **Form J-1** and place it behind Tab 4. One essential part of the evaluation process is for the evaluator(s) to have current and accurate information about the Subcontractors for each Category/Lot. After the evaluation process is finished and a contract is awarded, the information may be provided to the CES Members and Participating Entities considering utilizing the Offeror’s CES contract. This is your opportunity to present your company to the evaluator(s) and, if awarded, Member staff.

- a. Provide documentation and information as requested relating to the history of your company that includes its’ philosophy of doing business, its’ background, expertise, experience, past performance and ability to provide the products and services proposed herein.
- b. Organization
 - 1). How many years has your organization been in business as a contractor?
 - 2). How many years has your organization been in business under its’ present business name?
 - 3). Has your organization or any of the qualifying parties named above ever conducted business, past or present, as a contractor under a different business name? If yes, what name(s) and when?
 - 4). Where are the headquarters of the company physically located? Provide address, city, state and zip code. Provide same information on any branch offices in New Mexico. How long has your company resided at these locations? For what period of time and in what parts of New Mexico has your organization provided the services/products requested in this solicitation?
 - 5). Describe your organization’s current in-house workforce, equipment and facilities available to perform as a subcontractor under this solicitation.

- c. Licensing
 - 1). What year was your organization first licensed as a contractor in the State of New Mexico?
 - 2). Provide all current applicable NMCID licenses and NMDOL registration information.
- d. Experience and Past Performance
 - 1). For the categories of work that your company normally performs with its' own forces.
 - 2). In the last five (5) years, has your company performed projects that were covered by the New Mexico Public Work Act? If the answer is "yes," describe each project and your company's role. In your description, include the following information on each project described.
 - (a). Project name.
 - (b). Prime contractor.
 - (c). Work as subcontractor.
 - (d). Original bid and final sub-contract cost (include all change orders).
 - (e). Original scheduled completion date, the final completion and acceptance date.
 - 3). List all projects your company failed to complete as a subcontractor in the last five (5) years.
 - 4). In the last five (5) years, has your company provided any extended warranties on a project as a subcontractor and not been able to fulfill to the prime contractor satisfaction? If yes, for each, describe the issues. For each, include the following information:
 - (a). Project name.
 - (b). Prime contractor.
 - (c). Type of warranty coverage.
 - (d). Reasoning for inability to resolve with the prime contractor.
- e. Bonding, Insurance, Claims, Suits, and Disputes
 - 1). Provide written documentation and evidence relating to the Surety Company that will be providing payment and performance bonds for sub-contracts over \$5,000. Please address the following:
 - (a). Name, address, phone number and agent's name.
 - (b). Letter from the surety company stating your firm's current bonding rate and your organization's total bonding capacity.
 - (c). Has your company used this surety company for more than two (2) years? If no, please provide the names, addresses, phone numbers, contact names and dates under agreement with any other surety company used in the past three (3) years.
 - 2). Are there any judgments, claims, arbitration proceedings, suits or disputes pending or outstanding against your company or its' officers in New Mexico or any other jurisdiction?
 - 3). Has your company filed any lawsuits or requested arbitration with regard to construction contracts within the last five (5) years?
 - 4). If the answer to items 2). or 3). above is yes, please provide complete details, including, but not limited to:
 - (a). Name and location of project owner.
 - (b). Name and location of prime contractor.
 - (c). Name and location of project.
 - (d). Nature of and amount in dispute.

- (e). Forum in which dispute was presented, that is, AAA arbitration; mediation; district court (state, file name, and number).
- (f). Manner in which dispute was resolved.
- 5). For the last five (5) years, list any projects where your surety has been given notice of default of your company's performance under either its' performance bond or payment bond. For each project, state the nature of the claim against your company and the outcome of each such claim.
- 6). Within the last five (5) years, has any surety on any project you have worked on paid or settled work that your company had contracted to complete? If yes, give complete details.
- 7). Within the last five (5) years, has your firm had any business, trade or contracting licenses suspended or revoked? If yes, give complete details.
- 8). Within the last five (5) years, has your company been a party in civil litigation or administrative proceedings which have alleged a violation of any of the following: environmental law or regulation; law banning workplace discrimination; law governing wages, hours, labor or employment standards; conduct of occupations; law governing professions or regulated industries; or any other law which would reflect, if convicted, a lack of business integrity or honesty? If yes, give complete details.
- 9). Within the last five (5) years, has your company had a tax lien filed against it by any taxing authority? If yes, provide the following: when, by what tax authority and has the lien been released? If no, describe action your company has taken with respect to the lien.
- 10). Within the last five (5) years, has your company been debarred from bidding on or performing work for any public agency (federal, state or local public body) as a contractor or subcontractor? If yes, provide complete details, including actions your company has taken to prevent such debarment in the future.
- f. Miscellaneous items
 - 1). Is the workers' compensation experience modifier for the company as reported by your insurer less than 2.0? If no, what is your reported E-Mod?
 - 2). What is the incident/injury rate for your company as reported by your insurer? Is it less than the Bureau of Labor Standards published rate for New Mexico? If yes, by how much?
- g. Describe your company's policies and procedures in regards to complying with the New Mexico Public Education Department (NMPED) mandate regarding security and background checks for individuals working and/or providing services within public school buildings. Please describe or provide a sample of the type of background check that you are willing and able to perform on your providers in order to comply with this requirement.
- h. Has and does your company incorporate formal quality assurance and control processes on public works projects? If yes, describe the processes with their expected results and the benefits received by the owners by implementing such a program.
- i. In comparing previous projects your organization has completed, do you see any areas where your organization possesses experience, production or service facilities, personnel or other service reputation that should be considered with your ability to provide on-time quality construction projects for New Mexico educational institutions? If yes, fully

describe these attributes and resources and how they are utilized to benefit the owner's projects.

F. LISTING OF GENERAL TERMS AND CONDITIONS

The flow of transactions for procurement under this contract will be as follows:

1. CES Members/Participating Entities contract and engage the contractor.
2. Contractor provides quote/cost proposal to Member/Participating Entity that includes the CES one percent (1%) administration fee.
3. If acceptable, the Member/Participating Entity issues CES a purchase order for the quoted amount.
4. CES verifies the quote with the contractor's solicitation response and issues a purchase order to the contractor for one percent (1%) less than the contractor's quote to the Member/Participating Entity.
5. The contractor provides the items or services and invoices CES for the amount of CES' purchase order to the contractor.
6. CES invoices the Member/Participating Entity.
7. The Member/Participating Entity pays CES.
8. After receipt of the Member/Participating Entity payment, CES pays the contractor for items and services delivered and accepted by the Member/Participating Entity, not to exceed the purchase order amount.

For the purposes of this REQUEST FOR PROPOSALS, the following terms shall be defined as indicated below.

The term Bidder, Contractor, Offeror and Proposer can used to identify the person(s) or firm(s) submitting a response to a Request for Bid or Request for Proposal.

Acceptable Quality Level (AQL): CES expects that manufacturers in today's competitive market strive for zero (0) defects per hundred (100) units delivered. The AQL for this contract is zero (0) defects per hundred (100) units. If the quality level falls below three (3) defective units per hundred (100) delivered/installed, CES reserves the right to cancel the contract following the procedures described in this RFP (*caveat venditor*).

Acceptance of Delivered Services: The Member/Participating Entity will be the determining judge of whether materials and services delivered under the contract satisfy the requirements as identified in the contract order. If there is a dispute between the Contractor and the Member/Participating Entity, CES will make the final determination.

Accounts Payable: This is the amount owed to a contractor by CES due to an acceptable delivery of products or services to a Member/Participating Entity as a result of a contract through this RFP. The contractor agrees not to contact the accounts payable department, business manager or executive officer of a CES Member/Participating Entity which owes CES payment for a product or service delivered, unless CES has specifically requested assistance in collecting a past due payment.

Addendum: Written changes, responses to questions and/or drawing issued before the closing date and time for a RFP or RFB. An addendum may interpret or modify the solicitation documents by making additions, deletions, clarifications or corrections to the original documents.

Administrative Fee: CES' one percent (1%) administrative fee must be included in Offeror's net price for construction, material, equipment item's price, labor rates, freight charges and bond costs. The CES administrative fee will be taken as a deduction off the amount of the cost quote/proposal when CES prepares its' purchase order to the contractor, unless an alternative pricing method has been approved by CES.

Advertising: Contractor will not advertise or publish information concerning this contract prior to the award being announced by CES. Once the award is made, CES encourages the contractor to advertise to Members that products and services are available.

Agency: For the purpose of this solicitation, the term "Agency" is defined as a CES Member, Participating Entity and other entities that may utilize any contract created through this solicitation. Therefore, Agency, Member and Participating Entity are interchangeable.

Amendment of Offer: An offer can be amended up to the time of opening by submitting a sealed letter to the place indicated on the front of the response to this RFP.

Announcement of Successful Offerors: Selection will be made via written communication to successful Offerors.

Applicable Law: This contract will be governed by the laws of the State of New Mexico, both as to interpretation and performance. Suits pertaining to this contract can be brought only in courts in the State of New Mexico. Offerors doing business with CES must be in compliance with the Federal Civil Rights Acts of 1964 and Title VII of that Act, Rev. 1979. All work under this contract will be done in strict accordance with the most recent edition of any relevant regulation, standard, document or code that relate to these laws. Where conflict among the requirements or these specifications exists, the most stringent requirement will be used.

Arbitration: This contract is subject to arbitration to the extent required by the New Mexico Procurement Code.

Assignment: No right or interest in this contract will be assigned or transferred by the Offeror without prior written permission by CES, and no delegation of any duty of the Offeror will be made without prior written permission by CES. CES will not unreasonably withhold approval and will notify the contractor within fifteen (15) days of receipt of written notice by the contractor.

Assignment of CES Payments: If the Offeror requests that its payment from CES be issued to a third party or that a joint check be issued to the Offeror and a third party, CES will 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 Offeror wishes to have all payments under this contract made to a third party, Offeror must state this in its response.

Audit Rights: In accordance with applicable New Mexico law, the contractor's books, records and documentation related to this RFP and any contract/transaction thereof may be audited at a reasonable time and place. The contractor agrees to provide CES, within a reasonable time frame, copies of requested audit information.

Authority: This RFP, as well as any resultant agreement, is issued under the New Mexico Procurement Code, CES Board Policies and CES Procurement Guidelines.

Awarding of Contract: CES reserves the right to make multiple awards, to award the entire solicitation to one responsible Offeror or to reject one or all offers. A response to the RFP is an offer for an award with CES based upon the terms, conditions, scope of work and specifications contained in this Request for Proposal. A contract based on this RFP does not become an award contract until CES signs the Acceptance of Offer and Contract Award document, eliminating the need for a formal signing of a separate document.

Best and Final Offer: After initial receipt of proposals, CES reserves the right to conduct discussions with responsible Offerors who submit responsive proposals.

Bonds: All bid, performance and payment bonds are to be issued by a corporate surety 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.

Billing: All invoices will be from the contractor to CES and will be organized, detailed and contain the following: the purchase order number(s) issued by CES, the name of the CES Member or Participating Entity where the products/services were delivered, and an itemized and detailed listing of all products and services being billed with their CES contract price. The contractor will not invoice a CES Member directly. CES will invoice the CES Member/Participating Entity with payment to be made to CES. The contractor will not accept an order from or issue an invoice to any New Mexico public agency based on their contract unless authorized by CES in advance and in writing.

Brand Names: The use of the name of a manufacturer, brand name or model numbers is utilized to identify existing equipment or is used to indicate the character, quality, and/or performance equivalence of the commodity on which the offer is submitted. However, CES reserves the right to decide if alternatives to the identified manufacturer and brand are, in fact, equal to that described in the solicitation.

Bribes, Gratuities and Kickbacks: Sections 13-1-191 and 13-1-198 Procurement Code, NMSA, 1978, prohibits bribes, gratuities and kickbacks and provides for criminal prosecution for the violation thereof.

Cancellation: CES may, by written notice stating the extent and effective date, cancel this contract for convenience in whole or in part, at any time. CES will 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 will in no event exceed the total contract price.

CES reserves the right to cancel in whole or any part 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 and then invoices them directly.
7. Any other conditions that, in the opinion of CES, warrants such action.

Upon receipt of a written Notice of Concern, 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 may result in CES canceling the contract.

Contractor can, by written notice at least thirty (30) days in advance, terminate the contract issued as a result of this RFP for convenience in whole or in part. CES reserves the right to cancel or suspend the use thereof of any contract resulting from this RFP if the contractor files for bankruptcy protection or is acquired by an independent third party.

Cancellation 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 deficiency 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 and specifications;
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; and/or
6. Accepting purchase orders based on this contract from CES Members and/or invoicing CES Members directly.

Upon receipt of a written deficiency 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 Member on demand.

Captions, Headings, and Illustrations: The captions, headings and subheadings in this RFP are for convenience, enjoyment, and ease of perusal only and in no way define, limit or describe the scope or intent of the request.

Certificate of Insurance: Prior to commencing services under this contract, the contractor must furnish CES certification from insurer(s) for minimal coverage to be maintained in full effect during the term of this contract. The certificate will be issued by the contractor's insurance company and name CES as the certificate holder. In addition, contractor must be willing to provide, upon request, certification of insurance to any CES Member using this contract. If the contractor will use vehicles and workers at the Member's location, evidence of workmen's compensation and auto liability insurance must be provided.

Certification: By signature in the offer section of the offer page, the Offeror certifies:

1. The Offeror has examined and understands the terms, conditions, scope of work, specifications and other documents in this RFP solicitation.
2. The submission of the offer did not involve collusion or other anti-competitive practices.
3. The Offeror will not discriminate against any employee or applicant for employment in violation of Federal and State Laws (see Federal Executive Order 11246).
4. The Offeror has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted offer.
5. The Offeror agrees to promote and offer to CES Members only those materials and/or services allowed under resultant contract(s) as CES contract items.

Christian Doctrine: Any clause required by rule or regulation to be included in this contract will be read as if in this contract, whether or not physically included.

Clarification: As used in the RFP, clarification means communication with an Offeror 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 CES or as initiated by the Offeror.

Commencement Date/Substantial Completion Date: The Commencement Date will not be later than ten (10) days after the CES purchase order has been issued and will be established by a Notice to Proceed. The allowed duration for each project will be determined on a project-by-project basis.

Competitive Range: CES reserves the right to establish a competitive range of acceptable proposals as part of the evaluation process as defined herein. Proposals not in the competitive range are unacceptable and will not receive further award consideration.

Competitive Sealed Proposals: As required in the Procurement Code, New Mexico Administrative Code, CES has determined that competitive sealed proposals are to be utilized for this solicitation. These CES contracts will be awarded through competitive sealed proposals, with the following vendor and product requirements:

1. CES desires to conduct oral or written discussions with potential Offerors prior to an award.
2. CES desires to allow vendors to revise proposals.
3. CES wishes to award a contract on which price is only one of many determining factors.
4. Offeror meets or exceed the minimum Offeror's qualifications.
5. Offeror must be a manufacturer and/or authorized distributor/installer of the products being solicited and must have current NMCID licenses and NMDOL registration required to perform the services offered. Offeror must provide the necessary documentation to demonstrate that it complies with all solicitation requirements.
6. Offeror must be able to provide a single source contact or turnkey operation.
7. Manufacturer must have at least five (5) years of product and service history for those types of items being offered.
8. Offeror must have a bonding capacity of:
 - a. At least Five Million Dollars (\$5,000,000), where applicable, if proposing to offer its' products and/or services to seven (7) to eight (8) of the CES procurement regions; or
 - b. At lease Two Million Five Hundred Thousand Dollars (\$2,500,000) where applicable, if proposing to offer its' products and/or services to four (4) to six (6) CES procurement regions; or
 - c. A lease One Million Five Hundred Thousand Dollars (\$1,500,000) where applicable, if proposing to offer its' products and/or services to two (2) to three (3) CES procurement regions; or
 - d. At lease Two Hundred Fifty Thousand Dollars (\$250,000) where applicable, if proposing to offer its' products and/or services to a single CES procurement region.
9. Offeror must provide documentation from its security company to substantiate it current bonding rate and capacity.
10. Offeror must demonstrate its ability to control the securing of, delivery of, installation of, warranty of, and the resolution of problems with the construction products/services offered.
11. Products offered must meet or exceed the industry standards and guidelines established for use in public facilities and for public use.
12. Offeror must provide the necessary information and documentation to substantiate and demonstrate its ability and capacity to provide, perform and comply with all of the terms, conditions, specifications and requests for information stated herein.
13. Offeror's Past Performance Information (PPI) must indicate a vendor in good standing who has performed and conducted its business affairs in an acceptable manner without improprieties.

Confidential Information: If an Offeror believes that any part of its bid should be withheld from public inspection, a statement advising CES of this fact will accompany the submission. 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

Offeror will be informed in writing of such determination and, should the Offeror object in writing within five (5) days after notification thereof, no disclosure will be made. The bid may be rejected.

Construction: As defined in the New Mexico Procurement Code Regulations under Definitions, “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.

Contract: Any agreement for the procurement of items of tangible personal property, services or construction services.

Contract Between Owner, Buyer and Contractor: An Agreement between the CES Member (Owner), CES (Buyer) and the CES Contractor for the procurement of goods and services in the construction and professional services areas will be signed for each contract over Sixty Thousand Dollars (\$60,000). CES issues this Agreement in order to consummate the agreement of the parties in accordance with the terms and conditions specified in the RFP, and that the owner’s purchase order to the buyer is in accordance with the same terms and conditions.

Contract Changes: CES can make changes in the general scope of this contract by giving notice to the contractor and subsequently confirming such changes in writing. If such changes affect the cost and/or the time required for performance of this service, an equitable adjustment in the price or delivery or both will be made. No change by the contractor will be recognized without written approval of CES. Any claim of contractor for any adjustment must be made in writing within thirty (30) days from the date of receipt by the contractor of notification of such change, unless CES waives this condition. Nothing in this section will excuse contractor from proceeding with performance of the service as changed hereunder.

Contract Type: Indefinite quantity with the pricing scheme identified in each of the categories of this RFP. The pricing schemes requested may include one or all of the following:

1. Fixed discount off retail or off published educational/national catalog/price lists.
2. Fixed price with economic adjustment. Offeror must identify, in writing, in this RFP any contingencies prior to approval.
3. A fixed multiplier/factor applied to the current years R.S. Means or The Gordian Group’s Pricing System utilized for construction or construction items.

Note: A cost-plus-a-percentage-of-cost contract is prohibited. Request for a price adjustment must be submitted thirty (30) days prior to the anniversary date of the contract (first year)

and prior to the annual renewal date (last three years). Justification for any adjustment will be in writing and be accompanied by appropriate documentation. CES will consider any price adjustments due to unforeseen and/or insuperable market forces that can be fully documented and justified.

Contractor: Offeror who has responded to this solicitation and who has been awarded a contract based on its response for providing, delivering and/or installing products and services to Members and other public agencies.

Contractor's License: A document issued by New Mexico Construction Industries Division (NMCID) to the contractor that authorizes Offerors to undertake or purport to undertake, supervise, subcontract others to construct or to provide mechanical or structural service for a structure or improvements. Contractors will have all the New Mexico licenses to perform and provide the services themselves or to subcontract with other qualified firm(s). Copies of licenses will be submitted by the Offeror with its response. The Offeror agrees to keep and ensure that any required licenses for it and subcontractor are current and in compliance with the rules and regulations of the New Mexico NMCID.

Contractor's Price List: The contractor will furnish and keep current copies of the approved price list to CES to facilitate eligible procurement agencies in placing orders. Price list(s) on file must clearly state and identify any/all products/services offered with their associated costs. When contractor offers a discount off a retail price, Manufacturer's Suggested Retail Price (MSRP), R.S. Means, The Gordian Group and/or other acceptable pricing documents/methodologies, they must include a complete copy of the document and/or the document must be available to the general public by electronic media or by the internet.

Contractor's Quote/Proposal to CES Member/Participating Entity: When preparing a quote/proposal under a CES awarded contract, the contractor must clearly identify and break out supplies, materials, equipment and services into individual line items as they appear on the contractor's awarded price schedule or pricing methodology. Stated prices must include the CES one percent (1%) administrative fee.

Cooperative Purchasing: This contract is based on the need for CES to provide the economic benefits of volume purchasing and reduction in administrative costs through cooperative purchasing for public educational agencies and other procurement units. Although Offerors can restrict sales to certain public units, for example, to state agencies or local government units, any proposal that restricts sales from being made to any New Mexico public educational institutions within a designated geographical area will be considered non-responsive.

Credit Hold: Is defined as the contractor refusing to process any CES purchase order due to CES' inability to pay an invoice because it has not received the payment from its Member(s). CES will investigate, pursue and take whatever action it can to collect any outstanding payment due to the contractor for acceptable products/services delivered. Contractor must agree not to place CES on "credit hold" without ten (10) business days advanced notice in writing, either by letter, facsimile or e-mail to the CES Director of Finance. 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.

Cost of Proposal Preparation: CES will not reimburse the cost of developing, presenting, or providing any response to this solicitation.

Current Products: All equipment, supplies, materials and commodities proposed must be current and proven model, vintage, technology and/or solution available from the contractors’ manufacturer/supplier and marketed to the general public and educational/governmental agencies.

Default in One Installment to Constitute Total Breach: Contractor will deliver conforming materials in each installment of this contract and will not substitute nonconforming materials. CES reserves the right to declare a breach of contract if the contractor delivers nonconforming materials to any agency purchasing under this contract.

Defective Goods: Offeror agrees to pay for return shipment on goods that arrive in a defective or non-operable condition. Offeror must agree to arrange for return shipment and replacement of damaged goods.

Delivery: Delivery is to be made within thirty (30) days of receipt of the purchase order, unless otherwise stipulated in writing and accepted by all parties (buyer, contractor and Member/Participating Entity). The contractor agrees to notify CES if an order cannot be processed and/or delivered within the 30-day period and/or the agreed upon timelines. The agency placing the order will then have the option of canceling the purchase order or invoking other options enumerated within the buyer, contractor and Member/Participating Entity agreement. Ownership of products and services happens only after acceptance of delivery by the Member/Participating Entity.

Descriptive Literature and Brand Names: All offers must include a complete set of the manufacturers’ descriptive literature regarding the equipment and construction components offered. Brand names, trade names, and/or catalog numbers used in the RFP will be intended to describe and identify equipment and software.

Deviations or Exceptions to Requirements: Deviations or exceptions stipulated in an Offeror’s proposal can result in rejection of the response. CES reserves the right to determine whether the deviation or exception does or does not serve the interest of or is not advantageous or acceptable to CES or its Members.

Disclosure: Offerors submitting a proposal will disclose any and all owners, contractors or employees who are active employees of CES or are immediate relatives of an employee of CES.

Discontinued Products: In the event that a product or model under contract is discontinued by the manufacturer, CES will allow the contractor to substitute a new product if model is equal to and meets or exceeds the existing specifications and performance guidelines. The pricing discount must be equivalent to the discontinued product or model it is replacing under contract.

Discussions: Discussions occur when oral or written communications between CES and the Offeror are conducted for the purpose of minor clarifications involving information essential for determining the acceptability of a proposal or that provides the Offeror an opportunity to revise or modify its proposal. CES will not help an Offeror bring its proposal up to the level of other proposals through discussions. CES will not disclose technical information pertaining to a competing proposal. CES will neither indicate to an Offeror a cost or price that it must meet to obtain further consideration, nor will it provide any information about other Offerors' proposals or prices. CES is willing to discuss with an Offeror having a proposal in the competitive range any weaknesses, excesses, or deficiencies in its proposal.

Eligible Agencies: Any CES Member/Participating Entity can use the services of Cooperative Educational Services upon request. CES reserves the right to reject any purchase authorizations it receives from New Mexico educational institutions and/or agencies without cause.

Estimated Quantities: CES anticipates considerable activity resulting from this solicitation. However, no commitment of any kind is made concerning quantities actually to be acquired. CES does not guarantee usage. Usage depends on the actual needs of the Members/Participating Entity and on the marketing expertise of the contractor.

Exculpatory Provisions: All parties to this contract agree to save harmless one another from simple negligence.

Federal Requirements: Contractor agrees, when working on any federally assisted projects with more than Sixty Thousand Dollars (\$60,000) in labor costs, to comply with the Contract Work Hours and Safety Standards Act, the Davis-Bacon Act (Section 29, CFR Part 5), the Copeland "Anti-Kickback" Act, and the Equal Opportunity Employment requirements of Executive Order 11375. In such projects, the contractor agrees to post wage rates at the work site, and comply with all reporting requirements. The contractor will provide CES with a copy of any required report filed. In addition, to comply with the Copeland Act, the contractor must keep records for three (3) years, and allow the federal grantor agency access to these records upon demand. All federally assisted contracts to Members that exceed Ten Thousand Dollars (\$10,000) may be terminated by the federal grantee for noncompliance by the contractor. In projects that are not federally funded, Offeror 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.

Force Majeure: Except for payments of sums due, neither party will be liable to the other nor 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 that party's 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; earthquakes; famine; volcanic eruptions; meteor strikes; lockouts; injunctions-interventions-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 will be

deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure, and will be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this agreement. Force majeure will not include late deliveries of software or materials caused by congestion at a manufacturer's plant, or elsewhere, an over-sold condition of the market, inefficiencies and poor management practices, or similar occurrences. If either party is delayed at any time by force majeure, then the delayed party will notify the other party, in writing, of such delay within 48 hours.

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.

Gratuity: By written notice, CES will cancel this contract if it is found that gratuities in the form of entertainment, gifts, etc., 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 with respect to the performance of the contract. Paying the expenses of normal business meals, which are generally made available to all eligible Members and government employees, will 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.

Improper Delivery: Unless contrary to other parts of this solicitation, if the goods or the tender of delivery fails in any respect to conform to this contract, the purchasing agency can:

1. Reject the whole; or
2. Accept the whole; or
3. Accept any unit or units and reject the rest.

Indemnification: Contractor will indemnify, defend and save harmless CES 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 CES 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 contractor, 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 contractor, and/or its subcontractors or claims under similar such laws or obligations. Contractor's obligation under this section will not extend to any liability caused by the sole negligence of CES, its Members or its employees.

Information Systems: All contractors of information systems must include information on the total lifecycle cost and application benefit to the Member or public agency. An information system is a system of hardware, software or contractor support that processes information or data by electronic data processing methods and devices.

Inquiries: Any question related to this RFP will be directed to CES. Submit all questions about the RFP in writing to Cooperative Educational Services, Max Luft, Executive Director. Replies will be made to all who have received this RFP as addenda and will become part of the bid documents. CES may require any and all questions to be submitted in writing. Any inquiries related to this RFP should not have the solicitation number on the envelope, since it might then be confused with a sealed proposal response and not be opened until the due time and date. Inquiries can be faxed to 505-344-9343 or sent by e-mail to bids@nmedu.org.

Installation: Equipment or products that require professional installation will be installed within two (2) weeks of product delivery, unless CES or the Member or Participating Entity asks that installation be delayed. If delayed, the contractor will establish and confirm in writing to both CES and the Member or Participating Entity of the revised installation date.

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 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. Bidders will submit proof of coverage under the Workman's Compensation Insurance, as required by the Labor Laws and New Mexico Statutes. 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 \$1,050,000 combined single limit for bodily injury and property damage, or \$750,000 bodily injury and \$250,000 property damage (each occurrence). The Offeror will name CES and the CES Member as co-insured up to the limits of the Tort Claims Act. Additional punitive damages liability to \$500,000 will be provided naming CES as co-insured. In addition, contractor must provide, upon request, identical certification of insurance to any CES Member using this contract. Prior to commencing any work, any subcontractor must 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 contractor. All subcontractors will provide workers' compensation insurance, which waives all subrogation rights against the prime contractor and CES Member.

Interviews: If an interview is required by an RFP or RFB or should the evaluation committee elect to conduct interviews, CES staff will coordinate with each interviewee as to the time, date, place and the time allowed for each presentation. The evaluation committee members may question each interviewee during or after its presentation. Interviews will be closed to any persons not representing the interviewee. At the conclusion of all interviews, each Member shall freshly rate each interviewee in accordance with the criteria and standards stated. CES will not be responsible or reimburse any interviewee for the cost of their presentation or travel.

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

Late Offers: Late offers will not be considered and will be returned, upon request, unopened.

Lease and Rentals: Contractor may allow Members/Participating Entities to enter into rent, lease or lease/purchase agreements, providing such agreements are in compliance with New Mexico Statutes and Public Education Department policies, rules and regulations. CES must receive a copy of the executed leasing documents before it will process a purchase order. CES will not collect lease payments. Offeror agrees that leases will be in compliance with the Uniform Commercial Code. All terms of leasing must be included in the Offeror's response, with interest rates described as related to a government standard. Offeror 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 procurement unit, and what that cost will be. No sale of a contract to a third party will be made without informing CES and the procurement unit 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.

Legal Remedies: All claims and controversies will be subject to the New Mexico Procurement Code.

Liability: The contractor will hold CES harmless from and will indemnify CES from and against any and all claims, demands, and causes of action of whatever kind or nature asserted by any third party and occurring or in any way incident to, arising out of, or in connection with the contractor's conduct of the contract awarded as a result of this procurement process, to the extent the negligent act or failure to act or willful act of the contractor, its agents, representatives or employees is deemed to be the cause of the resulting personal injury or property damage claimed. It is expressly agreed that, to the extent it is determined that the damage claimed was in part caused by the negligence of CES or other parties, the contractor's liability pursuant to this indemnification provision will not be greater than that portion of the total liability in the same proportion as vendor's negligence bears to the entire negligence giving rise to the liability.

Licenses: The contractor will 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 this RFP. Any contractor using subcontractors must hold a current and appropriate contractor's license, as required by NMCID and New Mexico statutes to enter into such contracts. It is the responsibility of the contractor to ensure that any subcontractors performing under this RFP hold and maintain the appropriate licenses. The contractor will submit copies of licenses with the response to the RFP (place behind Tab 4) and submit copies of any subcontractors' licenses to CES prior to the start of any work. The contractor agrees to keep and ensure that subcontractors keep any required license, permit or bond current and in compliance with the New Mexico rules, regulations and statutes.

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

Liquidated Damages: The CES Member/Participating Entity may suffer financial loss if the project is not substantially complete on the established date. The Contractor (and his Surety) shall be liable for and shall pay to the CES Member/Participating Entity, not as a penalty, the sums that may be hereinafter agreed upon as liquidated damages per calendar day of delay until the work is determined

by the CES and its Member/Participating Entity to be substantially complete. Liquidated damages will be determined on a project-by-project basis.

Local Public Body: All political subdivisions of the State, its agencies and institutions thereof as defined in 13-1-67 of the New Mexico Procurement Code.

Maintenance: The Offeror of the various building/facility components/system (electrical/mechanical/structural) must have or have access to and offer comprehensive maintenance support services/programs to CES Members/Participating Entities. If a third party is used to provide maintenance or warranty work, Offerors must include with the proposal details of any such arrangement. Factory certified and trained technicians will be available to cover all parts of the state. Maintenance service in metropolitan areas of New Mexico should be available within 12 business hours; service in rural areas within 24 business hours. Any maintenance facility must have sufficient parts inventory to provide quality service on units sold to Members/Participating Entities. On small pieces of equipment, out-of-state manufacturers may offer mail-in service, if normal turn-around time is 48 hours.

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 Offeror is a bona fide manufacturer's agent for the specific products/services proposed, the Offeror is authorized to submit an offer on such products/services, and a guarantee that should the Offeror fail to satisfactorily fulfill any obligations established as a result of the award of contract, the manufacturer will either assume and discharge such obligations or provide for their competent assumption by one or more bona fide representatives for the balance of the contract period. Offerors 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.

Member of CES: Any public educational institution in the State of New Mexico that has by their board resolution resolved to become a party of the Joint Powers Agreement to Establish an Educational Cooperative and has been approved for Membership by CES' Board of Directors and the New Mexico Department of Finance and Administration.

Money: All transactions are payable in U. S. currency only.

Most Favored Customer: Although CES expects contractors to offer their very best prices to Members, nothing in this contract establishes a most-favored customer relationship between CES and the contractor. The contractor can respond to any solicitation from any public procurement unit without regard to this contract. If contractor offers lower prices to any of its other customers, it can lower its prices to its CES customers at the same time by facsimile or written notice.

Multiple Awards: CES has determined that often contracts awarded to more than one supplier for comparable goods and services at various prices best meet the many needs of the Members. Hence, when in the opinion of CES an award to one supplier would be impractical or fail to meet the total requirements of comparison or evaluation, multiple awards can be made.

Multi-Term Contract: A contract having a term longer than one (1) year.

Negotiations: Where there is no competition that would result in a better contract, negotiation may be conducted until a detailed agreement is reached.

New Technology and Products: New products announced by the manufacturer may be added to the existing contract. Pricing shall be equivalent to the percentage discount of other products. Dealers may replace or add product lines to an existing contract if the line is replacing previous products; is substantially superior to the original products offered; is discounted in a similar or to a greater degree; and if the products meet the requirements of the original RFP. No products may be added to avoid competitive procurement procedures. CES can reject any additions, without cause.

NMCID: New Mexico Construction Industries Division, a state agency who is responsible for overseeing, administering, issuing and ensuring that construction projects, contractors and owners follow and comply with New Mexico laws, rules, regulations, policies and procedures.

NMDOL: New Mexico Department of Labor, a state agency responsible for the overseeing, administering, issuing, implementing and ensuring that all employers, contractors, and subcontractors follow and comply with New Mexico and Federal labor laws, rules, regulations, policies and procedures governing employment and the general workforce.

NMDOL Contractor Registration Requirement: The 2004 legislative session passed HB 471 that: *“All contractors and all tiers of subcontractors bidding or performing on public works construction projects, except for street, highway, bridge, road and utility contracts, after May 19, 2004 shall be registered with the Labor and Industrial Division of the Labor Department if the amount of their bid or contract is more than \$50,000. All contractors and all tiers of subcontractors on street, highway, bridge, road and utility paving projects do not have to be registered with the Labor and Industrial Division of the Labor Department prior to bidding on public work, but must be registered before performing on a public work contract in excess of \$50,000 signed after May 19, 2004.”*

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 Offerors be registered on or before the date of the proposal opening.

NMPED: New Mexico Public Education Department, formerly called the New Mexico State Department of Education.

No Replacement of Defective Tender: Every tender of products/services must fully comply with all provisions of this contract. If tender is made which does not fully conform, this will constitute a breach and contractor will not have the right to substitute a conforming tender without written consent of all parties involved.

Non-Exclusive Contract: Any contract resulting from this solicitation will be awarded with the understanding and agreement that it is for the sole convenience of local procurement units in New

Mexico. CES reserves the right to obtain like goods and services from another source when necessary.

Non-Responsive Offer: Any offer that does not conform to the mandatory or essential terms, conditions and/or specified bid requirements for this solicitation is considered non-responsive.

Notation: If the original 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. CES reserves the right to accept or object to the new party with the original contractor being obligated if the new party fails to perform. A simple change of name agreement will not change the contractual obligations of the contractor.

Notice: Notices under this 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, 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.

Offer Acceptance Period: In order to allow CES Members/Participating Entities the opportunity to evaluate the proposals offered, CES requires that an offer in response to this solicitation be valid and irrevocable for ninety (90) days after opening time and date.

Offeror Qualifications: The Offeror must have extensive knowledge and experience and possess the background, capacity and resources necessary to manufacturer, obtain, deliver, install, configure, and/or maintain the quality and support of products and services offered and comply with the terms, conditions and requirements stated herein. CES prefers that the Offeror have at least three (3) years experience with the products and services offered.

Options: Optional products/services may be added to the contract at the time they become available under the following conditions:

1. The option meets and complies with the solicitation's scope of work, specifications and requirements.
2. The option is priced at a discount similar to other options.
3. The option is an enhancement to the unit that improves performance or reliability.

Ordering Process: CES currently offers two (2) procurement/purchasing options: the *traditional method* which occurs when online purchasing is not selected by the Member/Participating Entity; all orders accepted by the Contractor under this method must be issued by CES. CES Members/Participating Entities will submit signed purchase orders to CES. CES will then issue a purchase order to the Contractor. When necessary, one or more orders may be combined. The Contractor must agree never to accept a purchase order based on this procurement method, unless the purchase order is issued by CES. The second method is the *CES e-commerce CPP (Cooperative Purchasing Program)* online ordering solution, which allows the CES Members/Participating Entities to go online and create an order and issue a purchase order through the system directly to the Contractor; the Contractor delivers the product/services; invoices the Member/Participating Entity; the Member/Participating Entity pays the Contractor; and the

Contractor rebates the CES administrative fee to CES, unless an agreement to deviate from this process has been approved in writing by both parties.

Overcharges by Antitrust Violations: CES maintains that in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the contractor hereby assigns to CES any and all claims for overcharges as to the goods and services used to fulfill the contract.

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 right, 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.

Parol 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 Entities: Is defined as non-public educational agencies and/or organizations classified as local public bodies and state agencies within the State of New Mexico. These agencies and organizations may participate in and purchase tangible personal property, professional, non-professional and construction services through their cooperative purchasing agreement with CES.

Past Performance Information (PPI): PPI is relevant information regarding a contractor's actions under previously awarded contracts to educational institutions, local, state or federal agencies. It includes the contractor's record of conforming to specifications and to standards of products/services; workmanship; the contractor's record of containing and forecasting costs on any previously performed cost reimbursable contract schedules, including the administrative aspects of performance; the contractor's history for reasonable and cooperative behavior and commitment to customer satisfaction; and generally, the contractor's business-like concern for the interests of the customer.

Patent and Copyright Infringement: Contractor will, at its expense, defend CES and its Members against any claim that any equipment or software supplied hereunder, even if such equipment or software is modified by CES or its Members subject to the last paragraph of this section, infringe a patent or copyright in the United States, Puerto Rico 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 that are not reimbursable by the contractor. If any party in any way involves any CES Member, the same provisions that apply to CES in this paragraph will apply to the CES Member. 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 to continue using the equipment and/or software, or to replace or so modify them 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 to return the equipment or software on written request by contractor at contractor's expense.

Contractor agrees to refund CES and/or its Members for returned equipment as depreciated. 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, 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 modification of the equipment or software or combination, operation or use with apparatus, data or programs not furnished by contractor. However, one school's or procurement unit'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/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/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/Participating Entities: For the purchase of goods and services received and accepted, payment will be made within thirty (30) days after the receipt of 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. 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 Discounts: Any payment discount offered must be made directly to CES and not to the Member receiving the materials or services. Quick-payment discounts of ten (10) days are normally impossible; 20, 30 and 45 days are more reasonable. Payment discounts of forty-five (45) calendar days or more will be deducted from the bid price to determine low price.

Peripheral Items: Offeror can include various peripheral products and software that function with the primary offering.

Price List: The contractor will furnish CES with copies of the approved price list to facilitate eligible procurement agencies in placing orders. When the contractor offers a discount off retail price, the Manufacturer's Suggested Retail Price (MSRP), such discounts will include the CES one percent (1%) administrative fee and must be submitted as printed by the manufacturer.

Price Reduction and Adjustment: A price reduction can be offered at any time and will become effective upon notice. Special, time-limited reductions are permissible under the following conditions:

1. The price reduction is available to all CES Members equally.
2. The price reduction is for a specific time period, no less than thirty (30) days.
3. The original price is not exceeded after the time limit.
4. CES is to be notified and have the new prices on record prior to any offer of the new prices to a CES Member.

Price increases (change in discount rate) will be considered at the time of a contract extension and will be a factor in renewal.

Pricing: Offeror will describe discounts and special pricing offered. Offeror must agree that prices offered through this contract will include the CES one percent (1%) administration fee and, while this contract is in effect, prices offered will be at least two percent (2%) below the lowest price offered by the Offeror to New Mexico public educational institutions and local/state procurement units for a similar volume. Should a lesser cost be provided to any other client, the preceding and existing work through this contract will be reduced in price to meet that rate. Documentation and/or other evidence of the current retail manufacturer's price list will be included in the proposal submitted. If the Offeror has a leasing department or a leasing company, the cost of leasing can be included in the proposal; however, CES Members/Participating Entities reserve the right to choose a different leasing company. Leases with options to purchase must be described and must comply with New Mexico state statutes. Rental plans should not contain end-of-rental-term buy out options.

CES Members/Participating Entities pay an administration fee equal to one percent (1%) of the total amount of the purchase including tax, bond and freight. Offerors will include the administration fee in costs included in an invoice.

Pricing-Alternative Method of Costing: This method covers any product and service not covered by an established and approved pricing system (Gordian/RSMMeans), price list or is a custom design and manufactured to meet the requirements of an individual project or sole source. The alternative cost is calculated as follows:

1. The Offeror must prepare, issue and receive three written quotes from available suppliers and select the supplier that offers the products and services that meets the stipulated requirements and specifications and the most cost effective solution. All quotes must be made available upon request.

2. The Offeror 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.
3. The Offeror must indicate the percent of discount offered to CES and its Members/Participating Entities on the normal and customary retail price.
4. The CES price is calculated by taking the product and services cost to the Offeror plus the indicated percent of profit/overhead to equal the normal and customary retail price. The Offeror will then subtract the approved CES discount to obtain the CES price. Example: item cost \$1,000; percent of profit/overhead of 20% equals retail price of \$1,200; less the CES discount of 10% or \$100 equals the CES price of \$1,100.

Pricing Line-Item: Products and/or services are broken down in detail by product category and product type and each product and/or service is presented as an individual item which provides the following information.

- | | |
|------------------------|------------------------------|
| 1. Vendor/Manufacturer | 6. Price |
| 2. Product Number | 7. Category |
| 3. Product Name | 8. Brand |
| 4. Product Description | 9. Manufacturer's Number |
| 5. Unit of Measure | 10. Image Name (Thumb Image) |

Pricing Open-Item: Is when the product and/or services consist of a number of different variables or configurations that must be identified before a price can be established or the pricing is based on an established pricing methodology (custom manufactured items) or price book such as Gordian/RS Means, in which the scope of work or design is specific to an individual project or application. The Contractor provides the individual project cost in a specially prepared quote based on the project's terms, conditions and requirements.

Prime Contractor: Any firm, business and/or individual(s) who submits a response to this RFP and is awarded a contract. The contractor will be considered a prime contractor to CES and CES will not enter into any agreements with a subcontractor. Any contractor paid directly by CES is a prime contractor. Any subcontractor performing under this RFP is contracted and paid by the prime contractor. Prime contractors using subcontractors must be responsible for any subcontractors required to perform and/or provide products and services offered herein.

Product Discontinuance: In the event that a product or model is discontinued by the manufacturer, the contractor may substitute a new product or model if the replacement product meets or exceeds the performance of the discontinued model and the discount from retail is the same or greater than the discontinued model.

Product Line: The various supplies, materials, equipment, peripherals software, related installation and maintenance services which an Offeror has available that meets and/or exceeds the scope of work, specifications and requirements found herein. If Offeror has a published catalog, it can submit the entire catalog. However, CES reserves the right to select products within the catalog for award without having to award all the contents.

Progress Payments: Under this solicitation, CES, its Members and Participating Entities may allow progress payments to be made on goods and/or services received and accepted under the following conditions:

1. The agency and the Contractor agree to the terms of the progress payments prior to issuing a purchase order to the Contractor.
2. The purchase order and/or the cost proposal in which the purchase order is based clearly identify and describe the amount(s) to be paid and the date(s) payment(s) are to be made.
3. The agency has satisfactory method/criteria of verifying progress (milestones) stated and agreed to in the written cost proposal and/or purchase order.
4. Payments will be made only after actual goods and/or services are verified, received and accepted.
5. Payments will be made in full compliance with the agency's local administrative procedures, board policies and any/all other applicable state rules, regulations and statutes.

Progress Payments to Contractors Processed by CES: All progress payments involving CES purchase orders must be invoiced through CES. It is the responsibility of the Member/Participating Entity to review, verify and approve any estimates of work completed and/or goods received. The Contractor must obtain from the Member/Participating Entity a written document/statement identifying work completed and/or the goods received and approved and certifying the payment is due. If the estimate of work and/or goods received are not approved and certified, the Member/Participating Entity can withhold an amount from the progress payment that reasonably represents the deficiency identified in the Contractor's payment request. 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. Any late charges will be the total responsibility of the CES Member/Participating Entity. The Contractor can extend any due date to avoid the requirement to pay interest. Acceptance of final payment is a waiver of all claims, except unsettled claims previously made in writing.

Progress Payments on Construction: All progress payments must be invoiced through CES. It is the responsibility of the procurement unit and/or its designee to review and approve any estimates of work completed. If the procurement unit or their designee issues a written statement to the contractor that the estimate of work is not approved and certified, the procurement unit may withhold an amount from the progress payment determined to be reasonably sufficient to cover the deficiency set forth in the written finding. In such cases, the contractor agrees to hold CES harmless for any deficiency of payment. If any payment is delayed beyond 45 days from the due date, the contractor agrees not to charge CES interest on the late payment. Any late charges will be the total responsibility of the procurement unit. The contractor can extend any due date to avoid the requirement to pay interest. Acceptance of final payment is a waiver of all claims, except unsettled claims previously made in writing.

Project Director: The contractor will assign a project director to coordinate operational activities with the Executive Director of CES and will make monthly reports to the Executive Director.

Protests: Protests will be filed and resolved in accordance with the State of New Mexico Procurement Code §13-1-172 NMSA 1978 and applicable CES board policies. Venue for any and all legal actions regarding or arising out of the transactions covered herein shall be solely in the

District Court in and for the County of Bernalillo, State of New Mexico. The laws of the State of New Mexico will govern any resulting transactions.

A protest period of fifteen (15) days shall begin on the day following the contract award notice and end at 5:00 p.m. Mountain Daylight Time at the end of the fifteenth (15) day. A protest must be written and include:

1. The company name, contact name, address and telephone number of the protester;
2. The original signature of the protester or its representative;
3. Identification of the Request for Proposal (RFP) or Request for Bid (RFB) by solicitation number;
4. A detailed statement of the legal and factual grounds of protest, including copies of any relevant and supporting documents and exhibits; and
5. The form of relief requested.

Protests shall be filed with Dr. Max Luft, the Executive Director of CES, at 4216 Balloon Park Road, Albuquerque, NM 87109. *Any protest received after the deadline will not be accepted.*

Provisions Required by Law: Each and every provision of law and any clause required by law to be in the contract will be read and enforced as though it were included therein, and if through mistake or otherwise any such provision is not inserted or is not correctly inserted, then upon application of either party, the contract will forthwith be physically amended to make such insertion or correction.

Public Record: All Proposals submitted to this invitation will become the property of CES and will become a matter of public record available for review after the final award has been made, and under the supervision of the Executive Director of CES or designee from 9:00 a.m. to 4:00 p.m., Monday through Friday, at 4216 Balloon Park Road NE, Albuquerque, New Mexico.

Qualifications: Includes any and all skills, knowledge, capacities, capabilities, experience, financial stability, available human and physical resources, historical background, past and present performance, properly licensed to perform and do business in New Mexico, proposed products/services meet or exceed specifications specified herein and proposed pricing complies with state and local requirements. The evaluation of a respondent's qualifications will be done in accordance with the criteria set forth herein, and the most recent edition of any relevant regulation, standard, document or code that will be in effect. Where conflict among the requirements or with these specifications exists, the most stringent requirement will be used.

Quality: Unless otherwise modified elsewhere in this solicitation, contractor warrants that for one (1) year after acceptance of the equipment or materials by Member/Participating Entity, they shall be:

1. Of a quality to pass without objection in the industry or trade normally associated with them;
2. Fit for the intended purpose(s) for which they are used;
3. Of even kind, quantity and quality within each unit and among all units, within the variations permitted by the contract;

4. Adequately contained, packaged and marked as the contract may require; and
5. Conform to the written promises or affirmations of fact made by contractor.

Request for Proposal (RFP): All documents, including those attached or incorporated by reference, which are used for soliciting a proposal.

Residential Contractor Preference - Pursuant to NMSA1978 13-4-2, Residential Contractor preference will not apply for solicitations using the RFP process.

Responsible Offeror: An Offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make acceptable delivery of the services or items of tangible personal property and/or services described in the RFP.

Responsive Proposal: An offer which conforms in all material respects to the requirements set forth in the REQUEST FOR PROPOSAL. Material respects of a request for a proposal include, but are not limited to, Offeror's qualifications, price, quality, quantity or delivery requirements.

Right to Assurance: Whenever one party to this contract in good faith has reason to question the other party's intent to perform, he 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.

Safety Measures: Contractors must take all necessary precautions for the safety of employees on the worksite, and will 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 will post danger-warning signs against the hazards created by their operation and work in progress. Proper precautions will 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 will comply with all current applicable Occupational Safety and Health Standards, National Electric Code, American Refrigeration Institute (ARI), National Electrical Manufacturers Association (NEMA), American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE), American National Standards Institute (ANSI), and National Fire Protection Association Standards (NFPA).

Sample: Samples may be required prior to awarding a contract and/or prior to entering into an individual project contract. Upon request of CES or its Members, the Offeror will provide adequate samples and detailed specifications for any item offered. Samples must be submitted within ten (10) days of request from CES or its Member. Samples will be free of charge and submitted and removed by Offeror at Offeror's expense. Samples will be compared to RFP specifications and evaluated as to materials used in construction, quality and workmanship, durability, adaptability to the use for which the items were intended and overall appearance. Samples received may be held for comparison with deliveries. CES and its Members will not be held responsible for samples damaged or destroyed in examination or testing. Samples not removed within thirty (30) days after notice to Offeror will be considered abandoned and the CES Member will have the right to dispose of them.

Serial Numbers: Contractor must verify that original manufacturer's serial number has not been altered in any way.

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.

Shipment Under Reservation: Contractor is not authorized to ship materials under reservation, and no tender of a bill of lading will operate as a tender of the materials.

Shipping Errors: Contractor agrees that shipping errors will be at the expense of the contractor. For example, if a contractor ships a product to a Member that was not ordered, it is the responsibility of the contractor to pay for return mail or shipment, at the convenience of the CES Member.

Shipping Terms: Identify and state the associated cost of delivering products offered under this contract to any designated location in New Mexico. Contractor will retain title and control of all goods until they are delivered, received and signature of delivery has been obtained. All risk of transportation and all related charges will be the responsibility of the contractor. CES or the Member/Participating Entity will notify the contractor and freight company promptly of any damaged goods and will assist them in arranging an inspection. No F.O.B. vessel, car or other vehicle terms will be accepted.

Shortlist: The evaluation committee will review each Offeror's proposal. Points will be allocated, by each member, as outlined herein. Each committee member's point totals will be translated into a numeric ranking of all proposals. The committee will select those respondents based on these rankings and conduct oral interviews. The committee will determine number of Offerors on the shortlist. This decision will be based on the number and quality of proposals received.

Site Cleanup: Contractor will clean up and remove all debris resulting from its work as required by the Member/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/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 Member/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 Member/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.

Smoking: All contractors and subcontractors must adhere to local smoking policies when inside a building working on this contract. Smoking will only be allowed in posted areas or on premises where permitted.

Specifications: All Scope of Work specifications in this RFP are designed to enable a contractor to satisfy a requirement for a product, material, process or service. A specification may be expressed as a standard, a part of a standard, or independent of a standard. No specifications are intended to unnecessarily limit competition by eliminating items capable of satisfactorily meeting the actual needs of the procurement. Any contractor believing a specification is unnecessarily restrictive, and submits a proposal, must indicate such in its initial response.

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, as established by the New Mexico State Labor and Industrial Commission, will pay 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.

Stored Materials: Upon prior written agreement between the Contractor and Member/Participating Entity, 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 Member prior to payment. Such materials must be stored and protected in a secure location, and be insured for their full value by the contractor against loss and damage. Contractor agrees to provide proof of coverage and the Member/Participating Entity has the option to be additionally insured under the Contractor's general liability insurance policy. Additionally, if stored offsite, the materials must also be clearly identified as property of buying Member/Participating Entity and be separated from other materials. Member/Participating Entity must be allowed reasonable opportunity to inspect and take inventory of stored materials, on or offsite, as necessary.

Until final acceptance by the Member/Participating Entity, it shall be the Contractor's responsibility to protect all materials and equipment. The Contractor warrants and guarantees that title for all work, materials and equipment shall pass to the Member/Participating Entity upon final acceptance. Payment for stored materials shall not constitute final acceptance of such materials.

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 awarding subcontracts, the contractor agrees that any subcontract competitively solicited by contractor will not be awarded solely upon membership, non-membership or affiliation in a union or professional association or other organized group or agency, but on competitive bid and ability to meet the specifications and comply with the requirements of the individual project.
2. CES, its Members/Participating Entities reserves the right to approve or reject any subcontractor listed in the Offeror's project proposal.
3. Subcontractors will need to provide performance and payment bonds to prime contractor if the subcontract is greater than \$50,000.
4. The contractor will not enter into any subcontract subject to this solicitation without prior notification and approval from CES or its Member/Participating Entity. Any such subcontract shall incorporate by reference the terms and conditions of this solicitation and each individual project contract.
5. No subcontracts 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 and the New Mexico Public Works Act and Procurement Code. No subcontracting costs can be hidden in a cost proposal to CES.
6. Subcontractor Payment: Contractor agrees to pay subcontractors in a timely manner and in accordance with the New Mexico Subcontractors Act. If contractor receives a progress payment from CES, the contractor will pay subcontractor(s) their correct proportion of the amount paid. CES will contract to provide release of liens from subcontractors within fifteen (15) days of date of payment. Failure to pay subcontractors for work faithfully performed and properly invoiced can result in the suspension or cancellation of this contract.
7. 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.

Suspension or Debarment Status: If any firm, business, person or vendor submitting an offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity with any federal, state or local government, the Offeror must include a letter with its response or offer 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, will result in the cancellation of any contract. By signing the offer section, the Offeror certifies that no suspension or debarment exists.

Tare: If the contractor requires the buyer to pay for shipping, the weight of the empty container and any material used for packing will be of the lightest weight practical for safe delivery of the contents.

Taxes: Prices offered will not include applicable state and local taxes. All applicable taxes must be listed as a separate item on all invoices, and will be paid by the educational agency issuing the purchase order to CES. No gross receipts tax may be collected on delivery charges to the Member's location.

Term of Contract and Extension: The term of the agreement will commence on award and continue until September 1, 2010, unless terminated, canceled or extended. By mutual written agreement, the contract may be extended for Three (3), additional 12-month periods ending on September 1, 2011, September 1, 2012, and September 1, 2013. Since technology changes rapidly, CES may require a Contractor to respond to a new RFP rather than extend a contract secured under this RFP.

Termination for Non-Appropriation: Any individual Member's or Participating Entity's project covered by this RFP and executed through the CES procurement process 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 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 Members or Participating Entities decision as to whether sufficient appropriations and authorizations are available shall be accepted by the Contractor and shall be final.

Termination of Contract by CES: CES can cancel any contract secured by solicitation without any further obligation, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract on behalf of CES is or becomes at any time while the contract or any extensions of the contract are 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 will be effective when written notice from CES is received by the parties to this contract, unless the notice specifies a later time. (See also Cancellation)

Termination of RFP: The RFP in no manner obligates CES to the eventual purchase of any product or services described or which may be proposed until confirmed by a written Acceptance of Offer and Contract Award. Progress towards this end is solely at the discretion of CES, and may be terminated without penalty or obligation at any time prior to the signing of a contract. CES reserves the right to cancel this RFP at any time for any reason and to reject any or all proposals.

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

Token Proposals: If any Offeror submits a perfunctory offer with no serious intent of being accepted, CES reserves the right to remove the Offeror from its potential vendor's list. If an Offeror wishes to remain on the vendor's list, either a no response or a request to remain on the list is all that is needed.

Trade-In Equipment: Equipment for trade-in will be dismantled by the contractor and removed at the contractor's expense. The condition of the trade-in equipment at the time it is turned over to the contractor will 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 offer and the trade-in. Values placed on trade-in products are between the Member purchasing the new unit and the contractor.

Total Project Costs: Total Member's/Participating Entity's costs include energy, facilities, repair costs, present values of monies, vendor charges, personnel costs, bonds, New Mexico gross receipt taxes, CES one percent (1%) administrative fee and all other identifiable costs. Contractor charges include all the costs of contractor support, materials, transportation, permit fees and all other identifiable costs associated with the proposal. Contractor costs means the costs of all hardware, materials, software, transportation, contractor support, warranty fees and all other identifiable costs associated with the project proposal. Contractor support means services provided by the contractor, such as consulting, education, training, management of the system purchased and other integration and maintenance support.

Warranty/Quality Guarantee: The Offeror warrants that all equipment, supplies, materials and services delivered under this solicitation conforms to the specifications of this solicitation and/or the specifications as defined in individual projects performed under this solicitation. The manufacturer has the primary responsibility to honor a manufacturer's warranty. The Offeror must agree to assist the Member/Participating Entity in reaching a solution regarding a dispute with the manufacturer over a warranty's terms and comply with the following:

1. Contractor warrants that any equipment or material supplied to CES or its Members/Participating Entities will conform to all requirements of the contract and all representations of contractor and will be fit for all purposes and uses required and defined in each individual project. All work performed, equipment and materials must carry a minimum 12-month manufacturer's/contractor's warranty that includes parts, labor and reimbursable expenses.
2. Unless modified elsewhere in this solicitation, contractor warrants that for one (1) year after acceptance of the individual project, the work performed, equipment and/or materials provided to the Member/Participating Entity will be:
 - a. Of a quality to pass without objection in the industry or trade normally associated with them;
 - b. Fit for the intended purpose(s) for which they are being purchased and/or being used;
 - c. Of even kind, quantity and quality within each unit and among all units, in the variations permitted by the contract;
 - d. Adequately contained, packaged and marked as the contract may require; and
 - e. Conform to the written promises or affirmations of fact made by contractor.
3. Any extended manufacturer's warranty that is obtained to meet the 12-month requirement will be passed to the Member/Participating Entity without exception. CES reserves the right to cancel the contract if contractor charges the Member/Participating Entity for any product and/or services received at no cost under a warranty.

Weighted Evaluation: CES reserves the right to use a point system to evaluate responses and to assign points to the cost elements as it determines most appropriate. The scoring system will be based on the point system defined in each category.

Withdrawal of Offer: An Offeror can withdraw its bid, provided such written notice is received at the CES office prior to the specified due date and time.

Year-End Procurement: For purchase orders (PO) issued to a contractor, goods must be delivered and services must be completed five (5) days prior to the end of the Member's fiscal year (June 30th).

CES must receive all invoices dated for the prior fiscal year by the 10th of July. The Member can cancel purchase orders not completed by June 25th. The Member can issue revised purchase orders dated after July 1st for any goods not delivered or services not completed by June 25th.

SECTION II: SCOPE OF WORK AND SPECIFICATIONS

A. SCOPE OF WORK

1. CES, which is based in Albuquerque, is composed of all of the 89 New Mexico public school districts and 71 other public educational institutions that are parties to the Revised and Amended Joint Powers Agreement 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. Currently, 170+ public educational institution members use one or more of the CES provided programs or services each year.
2. Members and Participating Entities will individually elect to participate or not participate in each section of the provided Scope of Work. No estimate or guarantee of services is made to the Offeror.
3. It is important that the Offeror understands that CES is not a sales agency or a marketing firm. If you are awarded a contract, you must be committed to work your contract. Due to the scope of work solicited herein, the Offeror must be willing and able and possess the manpower to make one-on-one contact with Members'/Participating Entities' maintenance and operations directors, construction managers, business officers and buyers to ascertain their needs and requirements in order to develop and propose a solution that they can consider to meet their needs.
4. When you respond, CES is asking you to become a partner in providing quality goods and services to its Members/Participating Entities at competitive prices. Partnership with a contract awarded through competitive proposals saves Members/Participating Entities both time and money. Time is saved by being able to purchase what is needed without having to wade through the solicitation process (write solicitation, advertise RFP, open each response, evaluate and have the board make a selection). Money is saved because each CES partner has already agreed that our Members/Participating Entities have the lowest prices it will offer to procurement units in the State.
5. The work performed under this solicitation will be set forth in each individual job order project's detailed Scope of Work based on the construction products and services available and acquired through this solicitation.
6. Read through the section of this solicitation that concerns you as an Offeror. Next, prepare a rough draft of your offer, fill out the forms necessary, and gather all the advertising slicks you want to send along with your proposal. Finally, print a final offer, write the executive summary, and organize everything into a three-ring binder as required.

B. DUTIES OF THE CONTRACTOR

Once the award is made to the Offeror, the Offeror, as Contractor:

1. Shall assign a Project Manager to coordinate operational activities with the designated representative of CES to:
 - a. Coordinate and work with CES staff to develop, provide, establish, communicate and implement their awarded job order contract and make their construction product and service available to CES Members and Participating Entities.

- b. Upon CES' request, assist CES to set up and offer their products and services utilizing CES' traditional and/or e-commerce/web-based applications (CPP/Gordian).
 - c. Monitor, verify, audit and ensure procurement transactions conducted under this solicitation follows and complies with the processes, procedures and requirements of the procurement methodologies/processes stipulated and described herein and in their response accepted by CES.
 - d. Ensure that product, service and pricing information are kept current and on file with CES.
 - e. Work with and assist CES Members'/Participating Entities' staff to becoming familiar with and utilize the CES e-commerce solutions and/or the traditional procurement process.
 - f. Communicate and work with CES Members'/Participating Entities' staff to utilize the CES JOC program to develop, execute and complete construction projects relating to constructing, renovating, modifying and maintaining their facilities.
 - g. Obtain the necessary and/or required purchasing and transaction details and documentation required for CES and its Members/Participating Entities to execute, audit and track transactions processed through the awarded contract.
2. Shall provide the necessary resources to market and assist Members/Participating Entities in assessing and determining the type and level of products and services they need in order to meet their individual projects needs and requirements.
 3. Shall coordinate, supervise and insure that all products utilized and work performed under the awarded contract meets, complies with and/or is in accordance with the terms, conditions, stipulations and requirements of the CES solicitation; Offeror's response to this solicitation; federal, state and local rules, regulations, statutes and industry standards; and the individual project's contract documents.
 4. Shall coordinate, supervise and be responsible for the activities, products and services provided and/or performed by their employees/representatives and suppliers (subcontractors).
 5. Shall support and assist the Members/Participating Entities to resolve any concerns and/or issues that may occur before, during and after the procurement, contract, or project process.

C. DUTIES OF CES

The general duties of CES shall include:

1. Coordinating and working with the Contractors' designated representative and staff to:
 - a. Communicate and assist the Contractor in being aware of and understanding how, when and by whom the various aspects of the CES procurement/purchasing process functions and operates on a day-to-day basis in relationship to the Contractor's own internal processes.
 - b. Develop, establish and implement the processes, procedures and/or infrastructure they, the Contractor, will need to put into place, to provide the information relating to their products, services and pricing that CES needs and requires depending on the procurement/purchasing methodology(ies)/processes and/or pricing method(s) utilized to make the Contractor's products and services available to CES Members/Participating Entities.
 - c. Monitor, verify and audit procurement transactions conducted under its solicitation and ensure that projects performed follows and complies with the terms, conditions, stipulations and requirements of its solicitation, Offeror's response to this solicitation and

- federal, state and local rules, regulations, statutes. and the individual project's contract documents.
- d. Assist Contractor in marketing and making their products and services available to Members/Participating Entities.
 - e. Work with and assist CES Members'/Participating Entities' staff to becoming familiar with and utilize the CES e-commerce solutions and/or the traditional procurement process.
 - f. Assist Members/Participating Entities and Contractors with communicating, mediating and resolving concerns and issues that may occur before, during and after the procurement process.
 - g. Conduct periodic assessments and reviews with the Contractor and Members/Participating Entities to assess their performance and satisfaction and to receive feedback on how the awarded contract is working for all parties.
2. When either the traditional or e-commerce procurement/purchasing process is utilized:
- a. Receive and verify Contractor's quotes.
 - b. If necessary, prepare, request and obtain the required information and documentation necessary to conduct and complete the procurement transaction, i.e., Wage Decision, CES Three-Party Agreement, Bonds, etc.
 - c. Issue CES purchase order to the Contractor with all of the required backup documentation.
 - d. Receive and process Contractor's invoices to CES Members/Participating Entities.
 - e. Receive and process payments from Members/Participating Entities to Contractors.
 - f. Assist Members/Participating Entities and Contractors with communicating, mediating and resolving concerns and issues that may occur during the procurement process. Follow up as needed with all parties during the procurement process.

D. SOLICITATION TIMELINES – CES will make its best effort to adhere to the following schedule of events.

Published RFP and legal advertisement	Sunday 06/28/09 and 07/5/09
RFP documents will be available	Monday 06/29/09
Non-Mandatory Pre-Proposal Meeting at 2:00 p. m.	Friday 07/10/09
Written questions submittal deadline	Friday 07/31/09
RFP proposal due date	Friday 08/7/09, 1:30 p.m.
3RFP proposal evaluation	Monday 08/11/09 to Wednesday 8/26/09
Preliminary award notice	Wednesday 8/26/09
Final award notice	Friday 9/11/09

E. OVERVIEW OF REQUEST

1. CES and its Members/Participating Entities desire to contract with a responsible firm or firms to provide products; perform construction services; install finished products, materials or articles of merchandise and equipment which are fabricated into and become a permanent fixed part of a structure; construct, alter, repair, add to, subtract from, improve, move, remove and demolish any building system, structure, facility, roadway, excavation or to do any part thereof or perform preventative maintenance inspect and repair services in

connection with improvements to roofing systems, electrical systems, HVAC units, utility service lines and metering devices, sewer lines and other related infrastructures on an as-needed basis. The work offered will depend on the category and lot awarded and may include, but is not limited to, inspection, assessment, design, installation, maintenance, repair and alteration of a variety of educational and public buildings and facilities for CES Members and Participating Entities.

2. Under this solicitation, a master contract is established with technical specifications and pricing based upon the pricing methodology(ies) accepted and approved by CES (a multiplier/factor/discount applied to quotations/cost proposals based on unit prices set forth in the R.S. Means or The Gordian Group Pricing systems and/or other pricing methodologies established herein). When a specific project is requested by a CES Member/Participating Entity, they will select from the available CES contractors who are qualified and awarded a JOC contract to provide and perform the scope of work for the requested project. The selected contractor will jointly review the project and develop and prepare a proposal to complete the project with the associated cost based on the pricing methodology identified in the contractor's response and awarded CES contract.
3. The contractor, if it is unable to assess, evaluate and/or conduct the necessary investigations required to be aware of, understand and/or determine the project's existing status, conditions and/or establish the detailed scope of work due to the project's components location and/or accessibility, the contractor must as part of its cost proposal identify the costs associated with performing the necessary investigation to determine and establish the products and services required to complete the project's scope of work.
 - a. Due to these unforeseen conditions, the contractor must communicate to the Member/Participating Entity that the actual project cost cannot be determined until such investigations/discovery is completed.
 - b. The Member/Participating Entity can ask the contractor to provide a cost proposal/estimate to identify and state what needs to be done to address the assumptions and conditions that need to be resolved to develop the final scope of work. The agency reserves the right to accept or reject the contractor's offer.
 - c. The Member/Participating Entity may contract with another vendor to conduct and perform the necessary investigation and then ask the contractor to quote the project.
4. Because all work under this solicitation is on a project-by-project basis, exact project specifications are not available. General specifications and requirements are listed under each category/lot. Firms whose statements of qualifications and offerings are accepted, approved and awarded will be used to develop and establish the specifications for any work to be performed under individual projects.
5. CES currently has contracts for the products and services solicited herein. The volume for these construction product and services during the past 12 months is in excess of forty-five million dollars (\$45,000,000). This information is provided only as an aid and is not to be considered a guarantee or estimate of volume.

F. SPECIAL SOLICITATION SECURITY

1. CES has determined that, for this proposal, it will require security, bid bond or other acceptable bid security in the amount of Twenty-Five Thousand Dollars (\$25,000). It must accompany the contractor's RFP response when submitted and be placed behind Tab 1.

2. Acceptable bid security, which must be provided with the submission of the initial offer, will be an amount equal to that specified above, or an annual or one-time bid bond underwritten by a surety company licensed to issue bid bonds in New Mexico. Bid security can be provided using a form similar to the New Mexico State Procurement Department, with the principal being the prime contractor and CES being the Agency of Record.

Note: Prime contractor must identify its bonding capacity. Contractor will have the right to refuse work once its bonding capacity has been reached.

G. 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 (\$25,000.00) or more, performance and payment bonds will be provided the Member/Participating Entity as required by New Mexico law.
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 Member/Participating Entity and the prime contractor by a surety company authorized to do business in New Mexico. Performance bonds between the Member/Participating Entity and the prime contractor will be on standard forms. This bond will protect all persons supplying labor and material to the prime contractor for the performance of the work provided in the contract.
3. The prime contractor will deliver both the performance and payment bonds to the CES Member/Participating Entity at the time the contract between the Member/Participating Entity and the prime contractor is executed and a copy will be provided to CES for its records.
4. All suits for nonpayment or nonperformance will be filed as allowed under New Mexico law.
5. The prime contractor will be responsible for providing CES with copies of all contracts and bonds in accordance with CES purchasing procedures.
6. Performance and payment bonds for public agencies outside New Mexico must be provided by companies licensed to provide bonds for public entities in the state of the agency.

H. PAYMENT RETENTION, PROGRESS PAYMENTS

1. In order to comply with New Mexico House Bill 320, N.M.S.A., 2001, Section 4. A., Retainage Act, 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 Member/Participating Entity.
2. Final payment of a contract, for which progress payments have been made, will not be made until 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/Participating Entity, received and audited by CES.
3. If the Member/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 House Bill 320. 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.

I. CONTRACT BETWEEN OWNER, BUYER AND CONTRACTOR

1. An agreement by CES, its Member/Participating Entity and a CES contractor for the purpose of procuring construction and professional services for a particular project must be completed for any construction project offered and performed under this RFP with a total value of Sixty Thousand Dollars (\$60,000) or more. This agreement must be signed by all parties prior to the contractor starting any work.
2. Owner (Member) is an educational institution which is a party to the aforementioned Joint Powers Agreement or NMPSFA (New Mexico Public School Facilities Authority), a state agency or Participating Entity which is a local public body desiring to receive certain goods and services offered by the CES contractor under this RFP.
3. Buyer (CES) is an entity created by a Joint Powers Agreement as Authorized by Section 11-1-1, et. seq., N.M.S.A., 1978, which is acting as a conduit through which title to tangible goods may be vested in Owner. Buyer warrants and assures the Owner that it has complied with the Procurement Code, the Public Works Contract Act and the Subcontractor Fair Practices Act in contracting for procurements from CES contractors.
4. Contractor is a vendor who has responded to a Request for Proposal published by buyer in accordance with the Procurement Code, Section 13-1-137 (A), N.M.S.A., 1978, and a resultant contract has been issued to the vendor of goods and services in the construction area.
5. The contractor will be responsible for providing CES with the information required to complete this form.
6. It is at the discretion of the owner and the contractor to determine if an additional industry standard owner/contractor contract is to be executed in addition to this contract.

J. CONTRACT BETWEEN MEMBER/PARTICIPATING ENTITY AND PRIME CONTRACTOR

In any contract between the prime contractor and a CES Member/Participating Entity based on this contract, the terms and conditions of this contract will prevail. A contract between the CES Member/Participating Entity and the prime contractor for construction items will be an industry standard agreement that includes the principal segments below:

1. The narrative should be a comprehensive description of the project to be constructed by the contractor. It is an overview of the entire project.
2. The Scope of Work is a description of the work to be performed by the prime contractor that includes all specifications, drawings and other official documents. All applicable codes around which the contract is made will be included, as will any technical specifications and general conditions.
3. Work to be performed and/or items to be provided by the CES Member/Participating Entity must be clearly described.
4. The Member/Participating Entity must provide an all-weather road to the site and prepare the site with room for construction equipment.
5. The condition of the site prior to startup will be agreed upon between the Member/Participating Entity and the prime contractor and will be written into the contract. The prime contractor will assume full responsibility for the protection and safekeeping of any products stored on the premises.
6. Temporary electrical service and the cost for power, water and other Member/Participating Entity costs will be identified.

7. The method and manner of performance must be stated. Employees of the prime contractor are not employees of the CES Member. The level of competency of the personnel will be subject to approval by the CES Member. The prime contractor must agree to comply with all local, state and federal laws. Noise, pollutants, and material hauling operations must not annoy adjoining property owners. Procedures for dealing with fire, theft, and storm damage must be established. Methods the prime contractor will use to guarantee safe job practices relating to the health and welfare of the Member's employees must be established.
8. Project Site;
 - a. The condition of the site before start-up will be agreed upon between the CES Member/Participating Entity and the contractor and will be written into the project's contract documents.
 - b. The contractor, prior to taking position of the site, must assess and approve the site as meeting and complying with the agreed-to conditions, and notify the owner if it doesn't with the reason it doesn't and what needs to be done to make it acceptable.
 - c. If there is no written agreement signed by all parties, by the contractor taking possession of the project site and commencing work, the contractor acknowledges that the site's condition meets their expectations and requirements for completing the project.
9. If construction space is directly under, above, in or near Member/Participating Entity used space, the prime contractor must agree to receive written approval from the contact person prior to interrupting any activities or programs.
10. Access to the construction space will be limited to the way agreed upon by the parties.
11. Fixtures, that is, air conditioning units and other equipment, will be moved as required for performance of work, installation structures, and in accordance with plans and specifications. When fixtures are moved, they will be placed in a protected area so as not to damage any part or component. Appropriate measures will be taken to prevent rust, vapors, gases or odors from entering the owner-occupied areas used during construction, replacement, or repair services. The appropriate tradesmen, and/or company, licensed to perform such work will perform all disconnections and reconnections. Any damage caused by the disconnection, storage, or reconnection of equipment will be repaired at no additional cost to the CES Member/Participating Entity.
12. All work will be accomplished in conformance to Occupational Safety and Health Administration (OSHA) safety requirements and any additional federal, state, or local fire or safety requirements. Contractor must advise Member contact person whenever work is expected to be hazardous to students, Member employees and/or operators.
13. When working, loading, unloading, repairing or operating equipment near an owner-used area, the prime contractor will maintain a crewman in the area as a guard to keep students and adults from wandering in, if the area is not protected.
14. Fire extinguishers will be maintained within easy reach whenever power tools and torches are being used. The prime contractor will advise the Member/Participating Entity contact person when volatile materials are to be used near air ventilation intakes, so that they can be shut down or blocked as directed.
15. The prime contractor will deliver materials to the worksite in new, dry, unopened, and well-marked containers showing product and prime contractor's name. Damaged or un-labeled materials will not be accepted. The prime contractor will deliver materials in sufficient quantity to allow for continuity of work. Delivery will be coordinated with the Member/Participating Entity contact person.

16. The prime contractor must agree to treat its labor in keeping with its labor contract agreement and in the best interest of the CES Member/Participating Entity. Any overtime practices or retroactive agreements with labor unions that would be to the detriment of the Member/Participating Entity must be limited to only those approved by the Member/Participating Entity.
17. Change orders are to be avoided, if possible, since they often indicate poor planning. A mutually agreed upon system for establishing changes must be identified, including changes in scope and changes in compensation for the prime contractor. Because of cost, safety and scheduling considerations, the ability to make field change orders needs to be permitted, and mutually agreed-upon paperwork to document these changes must be allowed. A change order that increases the contract amount in excess of Fifteen Thousand Dollars (\$15,000), or five percent (5%) of the contract amount, whichever is greater, must be approved, in writing, by the governing board of the CES Member/Participating Entity. A copy of the approval must accompany a revised purchase order to CES. No change order that increases the cost of the project will be permitted without a purchase order to CES from the Member ordering the change. Minor changes mutually agreed upon between the Member/Participating Entity and the prime contractor that do not involve compensation may be made without informing CES, unless such change significantly modifies the scope and needs to be documented.
18. The prime contractor must agree that the CES Member/Participating Entity reserves the right to release information about the project, and that any advertising of the project by the prime contractor must be approved by an authorized official of the Member/Participating Entity.
19. Compensation
 - a. Compensation for received goods, terms of progress payments, and a schedule of payments will be described in the contract document. The agreement must state that CES will not be responsible for any late fees due the prime contractor by the CES Member/Participating Entity.
 - b. The CES Member/Participating Entity retains the right to extend the schedule of work or to suspend the work and to direct the prime contractor to resume work, when appropriate. The agreement must describe an equitable adjustment for added costs caused by any suspension. Any increases will be invoiced through CES as allowed in the agreement.
 - c. A schedule for performance of work that can be met without planned overtime is the responsibility of the prime contractor. Monthly progress reports must be given to the CES Member/Participating Entity by the prime contractor. The specifics of what is reported should be described in the contract.
 - d. Terms for acceptance by the Owner and title to work must be clearly agreed upon and described in the contract. If any part of the construction requires the Owner to assume control prior to the completion, this needs to be defined. Both parties must agree on the definition of what constitutes final acceptance before payment of any retained compensation.
20. For audit purposes, a copy of any contract(s)/agreement(s) between the CES Member/Participating Entity and the prime contractor must be kept on file in the CES office. It is the responsibility of the prime contractor to supply a signed copy of any contract(s)/agreement(s) to CES.
21. Upon substantial completion of the project and as part of the project close-out phase, the prime contractor will deliver to the CES Member/Participating Entity all associated

paperwork (as built drawings, executed warranties/guarantees applicable to the goods and services provided and any owners/operating manuals).

K. CONSTRUCTION PROJECTS WITHOUT A CONTRACT BETWEEN MEMBER /PARTICIPATING ENTITY AND PRIME CONTRACTOR

Any construction project entered into and performed under this RFP for which a formal contract between the CES Member/Participating Entity and the prime contractor has not been executed, the terms, conditions and stipulations in item (J), paragraphs 1 through 21 above, must be clearly identified and stated, if applicable, within the written quote or proposal provided by the prime contractor to CES and the CES Member/Participating Entity.

L. QUALITY CONTROL ISSUES

1. CES is aware of and understands that its Members'/Participating Entities' staff's background, knowledge and construction expertise varies greatly and, due to the size and scope of work of the project, may not have a design professional engaged to review and assess the contractors quote/cost proposal to ensure that it is complete and appropriate for the products and services offered to complete the detailed scope of work. This service is provided as part of the Gordian JOC program/pricing methodology as part of The Gordian Groups' fee. For the other JOC programs/pricing methodologies allowed under this solicitation, CES has put into place consultants that will provide this service for a fee paid by the Member/Participating Entity. The individual Member/Participating Entity may choose to or not to utilize these consultants.
2. 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 specified material, the prime contractor will be notified of the results.
3. During the execution of the project and/or during the project close-out process, the Member/Participating Entity and the contractor encounters a situation and/or condition that they cannot agree on or resolve, 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.

M. QUOTES AND PROPOSALS

1. All proposals submitted to a CES Member/Participating Entity under this RFP will be based on the pricing methodology described and stipulated within each category/lot of this RFP (R.S. Means/The Gordian Group and/or other methods) identified herein, for which the contractor's response is based and awarded by CES.
2. R.S. Means
 - a. If this pricing methodology is utilized to price a project, contractor must use the current year, standard cost data. Only the following cost data titles will be accepted:

- 1) Repair and Remodeling Cost Data;
 - 2) Building Construction Cost Data; or
 - 3) Facility Construction Cost Data.
- b. All work performed must be quoted per R.S. Means by the prime contractor, even if subcontractors are used. Subcontractor's invoices must tie to the R.S. Means spreadsheet.
 - c. An R.S. Means spreadsheet must be submitted to substantiate the quote given to the CES Member/Participating Entity. Make sure that spreadsheet columns are expanded to show the full R.S. Means number and a sufficient amount of the description.
 - d. 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 New Mexico. The same criteria are used by R.S. Means. As an example, if the project is in Hobbs, which has a zip code of 88240, the city index to be used is Roswell, which has a zip code of 88201.
 - e. The contractor's multiplier/factor and the associated amount, bonding cost and NMGRT must be shown as separate line items at the bottom of the R.S. Means spreadsheet. This information can be handwritten or typed on the spreadsheet or 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.
 - f. All change orders must be supported by an R.S. Means spreadsheet and/or documentation based on other pricing methodologies identified herein.
3. The Gordian Group
 - a. All proposals submitted to a CES Member/Participating Entity under this pricing methodology will be based upon tasks and unit prices obtained from the Gordian's Technical Specification Book (Exhibit ?) and the Construction Task Catalog® (Exhibit ?), both dated June, 2009. All work performed **must** be quoted per the Technical Specification Book and the Construction Task Catalog® by the prime contractor, even if subcontractors are used. Subcontractor's invoices must tie to the price quotes submitted for the project.
 - b. A unit price spreadsheet **must** be submitted to substantiate the quote given to the CES Member/Participating Entity.
 - c. Bonding cost and New Mexico Gross Receipt Tax (NMGRT) must be shown as separate line items at the bottom of the cost spreadsheet. This information can be handwritten or typed on the spreadsheet or can be entered and printed off of the JOC web-based application. The information submitted must clearly identify and contain all of the required detail for each of the items that make up each individual construction project.
 - d. All change orders must be supported and submitted in accordance with the Technical Specification and Unit Price books.
 4. Other Pricing Methodologies
 - a. Quotes and cost proposals submitted based on a discount of manufacturer's/distributor's/supplier's/provider's published/printed retail price lists (MSRP).
 - 1) Must be presented by line items indicating the catalog/product number, description, quantity, unit of measure, retail unit price, CES discount, CES unit price and CES extended price.

- 2) Bonding cost New Mexico Gross Receipt Tax (NMGRT) must be shown as separate line items at the bottom of the quote/cost proposal.
 - 3) Items on change orders based on MSRP price sheets must be presented as indicated above.
- b. Alternative pricing methodology is utilized when goods and services required by a project cannot be priced by utilizing the R.S. Means or the Gordian or published price list methods of pricing.
- 1) The alternative pricing method involves issuing, receiving and evaluating written quotes from a least three (3) qualified suppliers/distributors/subcontractors and will utilize the quote that meets the project's terms, conditions, specifications, requirements and is the most cost effective solution.
 - 2) All quotes received with a summary and recommendation will be provided to the Member/Participating Entity in advance and approved by the Member/Participating Entity prior to being included into any final project's cost proposal.
 - 3) CES and its Members/Participating Entities reserve the right to accept or reject any quote or proposal including such items and may obtain these items through other procurement means (existing CES contracts).
- c. Sole source method is utilized when products or services are required as part of a project that can only be obtained and/or manufactured from a single source because it is custom designed to meet the project's application and requirements or is an enhancement or addition to an existing system. Any goods or services acquired under this method must be justified and documented in compliance and accordance with the sole source provision of the New Mexico Procurement Code (13-1-126).
- 1) The CES price will be determined by taking the supplier's/distributor's/subcontractor's invoice and adding the contractor's established normal and customary overhead and profit and taking the established CES discount to arrive at the CES price.
 - 2) The contractor must provide CES with the necessary documentation to substantiate the purchasing/pricing method (supplier's/distributor's/subcontractors invoice and written justification).

N. NEW MEXICO STATE WAGE RATE DOCUMENTATION

1. The New Mexico Department of Labor (NMDOL) requires that certain forms be completed for every project that needs a wage decision issued. 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 NMDOL 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 the New Mexico Department of Labor, with a copy being mailed or faxed to CES, prior to the start of the project. The Affidavit of Wages Paid must be submitted to the New Mexico Department of Labor, with a copy being mailed or faxed to CES, at the conclusion of your work on the project. The minimum information required for the Notification of Award is: general contractor's name, address, telephone and fax numbers, approximate date work to start, estimated completion date, estimated cost of project and

subcontractor list, being sure to provide name, address, telephone and fax numbers for each subcontractor. 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 the New Mexico Department of Labor, with a copy being mailed or faxed 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, the Payment and Performance Bond, are received by CES. Final payment will not be released until CES receives a copy of the Affidavit of Wages Paid.

O. RFP SCOPE OF WORK

CES Members/Participating Entities are continually upgrading existing facilities to meet their current and future facility needs. CES is seeking qualified proposers who are licensed in the State of New Mexico to provide the construction products and services solicited for identified and described in each of the categories and lots covered by this solicitation.

P. SPECIAL TERMS AND CONDITIONS

The terms and conditions listed below apply to all categories and lots of this RFP. Each category and lot will contain additional terms, conditions and specifications, which are in addition to these. If there is a conflict between general terms, conditions and the categorical terms and conditions and those listed below, the categorical terms and conditions will take precedence.

1. New Mexico is a large state geographically. For this solicitation, CES is dividing the state into eight (8) service regions. Offerors will be required to indicate within their response to which of the eight service regions of the state they wish to provide their products and services. The eight service regions are described below.
 - a. **Region One (1)** – Aztec, Bloomfield, Central, Dulce, Farmington, Gallup-McKinley, and Zuni School Districts; Navajo Preparatory School, Pine Hill Schools, San Juan College, Shiprock Associated Schools, and University of New Mexico - Gallup Branch
 - b. **Region Two (2)** – Chama Valley, Cuba, Española, Jemez Mountain School, Los Alamos, Mesa Vista, Pecos, Peñasco, Pojoaque Valley, Questa, Santa Fe and Taos School Districts; New Mexico School for the Deaf, Northern New Mexico College, Santa Fe Community College, Santa Fe Indian School, University of New Mexico - Los Alamos Branch, and University of New Mexico – Taos Branch
 - c. **Region Three (3)** – Cimarron, Clayton, Des Moines, Las Vegas City, Maxwell, Mora, Mosquero, Pecos, Raton, Roy, Santa Rosa, Springer, Wagon Mound and West Las Vegas School Districts; Luna Community College and New Mexico Highlands University
 - d. **Region Four (4)** – Albuquerque, Belen, Bernalillo, Estancia, Grants-Cibola, Jemez Valley, Los Lunas, Magdalena, Moriarty, Mountainair, Quemado, Rio Rancho, Socorro and Vaughn School Districts; Alamo Navajo School, New Mexico CFYD, New Mexico Institute of Mining and Technology, New Mexico State University at Grants, University of New Mexico and University of New Mexico - Valencia Campus
 - e. **Region Five (5)** – Clovis, Dora, Elida, Floyd, Fort Sumner, Grady, House, Logan, Melrose, Portales, San Jon, Texico, and Tucumcari School Districts; Clovis Community College, Eastern New Mexico University and Mesalands Community College

- f. **Region Six (6)** – Artesia, Carlsbad, Dexter, Eunice, Hagerman, Hobbs, Jal, Lake Arthur, Loving, Lovington, Roswell and Tatum School Districts; Eastern New Mexico University-Roswell, New Mexico Junior College, New Mexico Military Institute and New Mexico State University at Carlsbad
 - g. **Region Seven (7)** – Alamogordo, Capitan, Carrizozo, Cloudcroft, Corona, Hondo Valley, Ruidoso, and Tularosa School Districts; Mescalero Apache School, New Mexico School for the Blind and Visually Impaired, New Mexico State University at Alamogordo.
 - h. **Region Eight (8)** – Animas, Cobre, Deming, Gadsden, Hatch Valley, Las Cruces, Lordsburg, Reserve, Silver and Truth or Consequences School Districts; New Mexico State University and Western New Mexico University
 - i. Charter Schools and other public agencies (Participating Entities) physically located within the Public School Districts’ service areas are considered to be in that region.
2. CES will not withhold an amount for retainage. However, final payment will be released by CES only when the project is complete and all close-out activities and required documents have been completed, received and audited by CES. Progress payments may be a part of any project and must be stipulated in the project’s cost proposal and/or contract documents.
 3. In the construction, erection or repair of all buildings and structures under this award, the Offeror is hereby required to use, whenever the species of lumber necessary for such construction or repair work is available in this state, such species of lumber produced from timber grown in the State of New Mexico.
 4. The listing threshold for this RFP will be Five Thousand Dollars (\$5,000). The Offeror will list all persons, businesses and contractors who the Offeror anticipates to be a subcontractor under this RFP. This information will include: (a) name, address and county of the place of business; (b) category of product and services that will be performed by each subcontractor; and (c) their NMCID license number. Pursuant to Section 13-4-38, et., N.M.S.A., 1978, if an Offeror fails to list a subcontractor in excess of the listing threshold, 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 and stating that they are fully qualified to perform the proposed products and services themselves and that they will perform all work themselves.
 5. If after the award of an individual project’s contract the Offeror subcontracts any portion of the work in excess of the listing threshold to an unlisted subcontractor, the Offeror will be guilty of violation of the Subcontractors Fair Practices Act and subject to the penalties provided therein.
 6. Progress payments may be made to the contractor on the basis of a duly certified and approved estimate of work performed during a designated period of time or percentage of project completed. The contractor must agree to pay all subcontractor or material suppliers for work completed, accepted and billed within seven (7) days of their receipt of the progress payment from CES, unless otherwise agreed on in writing between the parties.
 7. A subcontractor to the contractor may request, in writing, that the subcontractor be notified by CES within five (5) days from payment of each progress payment made to the contractor. 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 Member/Participating Entity must make payments before CES can issue progress payments. The contractor must provide

CES with all subcontractors and suppliers information utilized for any individual project performed under this RFP.

8. Any subcontractor providing and/or performing fifty-thousand dollars (\$50,000) or more of work for an individual project, the subcontractor must obtain and submit to the prime contractor a performance and payment bond equal to one hundred percent (100%) of the total project's cost.
9. The contractor and the CES Member/Participating Entity will agree upon a schedule of values and payments based on identifiable and stated milestones of the project and must include these timelines, milestones and requirements in project contract documents.
10. In any additional contract between the contractor and a CES Member/Participating Entity based on this RFP, the terms and conditions of the RFP will prevail. A contract between the CES Member/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.
11. In any contract between the CES Member/Participating Entity and the contractor, a scope of work (a description of the work to be performed by the contractor) will include all specifications, requirements, drawings and other support documents, timelines, milestones, liquidated damages, terms, conditions and all applicable codes around which the contract is made.
12. Any agreements on liquidated damages and early completion incentives will be between the CES Member/Participating Entity and the contractor and must be agreed upon in writing prior to start up. If the CES Member/Participating Entity declines a liquidated damages or early incentive agreement, the contractor will ensure such agreement is reflected and included in the project's contract documents.
13. Project site preparation, utilities, products/equipment and work to be provided and/or performed by the CES Member/Participating Entity must be clearly described and agreed to by the contractor and CES Member/Participating Entity and described and included in the project's contract documents.
14. A schedule for performance of work that can be met without planned overtime is the responsibility of the contractor and, if overtime is required, it must be priced in accordance with the appropriate pricing methodology adopted as part of the contractor's award to this RFP.
15. The Offeror may offer extended warranties and maintenance agreements for additional cost to Members/Participating Entities and must be offered as a separate line item. Upon request, no-cost training must be offered by the prime contractor for the maintenance staff of the Member/Participating Entity and will be arranged after the installation and as part of the purchase contract.
16. Even if final payment is made, if the Member/Participating Entity discovers an unfinished job that should have been completed, the contractor will complete the work in a timely fashion at no additional cost.
17. The contractor will be responsible for ensuring that all warranty work is completed either by performing the work itself or by working with the Member/Participating Entity to have it completed by a subcontractor/third party. The contractor will remain available to the Member/Participating Entity should continued service be required after warranty obligations are met.

Q. PRICE AND COST SUBMITTAL

1. The offeror is responsible for reviewing all of the solicitation documents and conducting and performing the necessary research, investigations, assessments, and analysis to obtain a complete and comprehensive understanding of:
 - a. What construction products and/or services are being requested within each category/lot;
 - b. What are the terms, conditions, specifications, requirements and pricing methodologies involved with each category/lot;
 - c. What are the necessary in-house and external resources required to provide, perform and complete the construction tasks, products being requested under this solicitation; and
 - d. What are the associated costs with each and what overhead and profit is required, multiplier/factor needs to be applied and discounts offered on price lists and alternative costing.
2. All prices and information required on the Indefinite Quantity Price Schedule (Exhibits 5 and 6) required by each category/lot must be typewritten or written in ink and must contain all of the pricing information requested. The offeror can propose and include additional products and services as long as they relate to the scope of work identified and stated within each category/lot.
3. All construction products and services offered under this solicitation must be priced utilizing one or more of the following pricing methodologies.
 - a. CES issued a Request for Proposal (RFP) to acquire a vendor/contractor to provide a comprehensive and turn-key solution that allows CES and its Members/Participating Entities to establish a JOC program that consists of a web-based application/system to acquire construction contractors to conduct, manage and track the procurement process utilized to complete individual job orders. The Gordian Group responded and was awarded a contract to provide these services. The Gordian pricing methodology adopted by CES is based upon tasks and unit prices obtained from the Gordian's Technical Specification Book and the Construction Task Catalog® established in conjunction with CES.
 - 1) The categories and lots of this solicitation that utilize the Gordian pricing methodology will be performed and priced utilizing the Gordian's Technical Specifications® and Construction Task Catalog® books established and adopted by CES for those categories and lots indicated.
 - 2) All products provided and work performed **must** be quoted per the Technical Specification Book and the Construction Task Catalog® by the contractor, even if subcontractors are used. Subcontractor's invoices must tie to the price quotes submitted for the project.
 - 3) Quotes and cost proposals submitted to Members/Participating Entities must consist of line items based on the Gordian's Technical Specifications, project's detailed scope of work, drawings and Catalog of Construction Tasks®, with the following adjustment factors applied.
 - a) Normal Working Hours (Defined as 7:00 a.m. to 5:00 p.m. Monday-Friday): The contractor will perform all functions called for in the contract documents during normal working hours in the quantities specified in individual work orders against this contract for the unit price sum specified in the Catalog of Construction Tasks® (CTC dated June 2009) multiplied by the adjustment factor of:

- i. Normal Working Hours - for job order totals in excess of \$60,000 requiring State Wage Rates. Specify an adjustment factor to four (4) decimal places.
 - ii. Normal Working Hours – for job order totals less than \$60,000 not requiring State Wage Rates. Specify an adjustment factor to four (4) decimal places.
 - b) Other Than Normal Working Hours (Defined as all hours not defined as normal hours above): The contractor will perform all functions called for in the contract documents during other than normal working hours in the quantities specified in individual work orders against this contract for the unit price sum specified in the Catalog of Construction Tasks® (CTC dated June 2009) multiplied by the adjustment factor of:
 - i. Other Than Normal Working Hours – for job order totals in excess of \$60,000 requiring state wage rates. Specify an adjustment factor to four (4) decimal places.
 - ii. Other Than Normal Working Hours – for job order totals less than \$60,000 not requiring state wage rates. Specify an adjustment factor to four (4) decimal places.
 - c) Normal Working Hours (Defined as 7:00 a.m. to 5:00 p.m. Monday-Friday) projects funded by federal funds and require Davis Bacon Wage rates. The contractor will perform all functions called for in the contract documents during normal working hours in the quantities specified in individual work orders against this contract for the unit price sum specified in the Catalog of Construction Tasks® (CTC dated June 2009) multiplied by the adjustment factor of:
 - i. Normal Working Hours - for job order totals in excess of \$2,500 requiring State Wage Rates. Specify an adjustment factor to four (4) decimal places.
 - ii. Normal Working Hours – for job order totals less than \$2,500 not requiring State Wage Rates. Specify an adjustment factor to four (4) decimal places.
 - d) Other Than Normal Working Hours (Defined as all hours not defined as normal hours above) projects funded by federal funds and require Davis Bacon Wage rates. The contractor will perform all functions called for in the contract documents during other than normal working hours in the quantities specified in individual work orders against this contract for the unit price sum specified in the Catalog of Construction Tasks® (CTC dated June 2009) multiplied by the adjustment factor of:
 - i. Other Than Normal Working Hours – for job order totals in excess of \$60,000 requiring state wage rates. Specify an adjustment factor to four (4) decimal places.
 - ii. Other Than Normal Working Hours – for job order totals less than \$60,000 not requiring state wage rates. Specify an adjustment factor to four (4) decimal places.
- 4) The multiplier/factor must include all costs relating to the following, and the listed items are provided as examples only:
 - a) General cost such as home office overhead; all types of insurance, fringe benefits, payroll taxes, worker’s compensation, etc.; site visits; project meetings and owner support services; project development; project office staff supplies, equipment and paperwork; inspection and testing fees; training; supervision; project mobilization and close-out; and other related costs.

- b) Subcontractor's overhead and profit such as project development; project oversight and supervision; project mobilization, meetings, close-out; all types of insurance, fringe benefits, payroll taxes, worker's compensation, etc.; subcontractors bond, if applicable; administrative and other related cost.
 - c) Construction-related cost such as developing, preparing, modifying and submitting paperwork relating to project proposals, sketches, drawings, NMPSFA documents, change order submittal, as-built drawings, preparing and submitting close-out documents; provide project information electronically; safety and protection equipment, supplies, materials and signage; vehicles such as pickup trucks, vans, utility trucks, service trucks, office trailers and portable toilets, for contractor's use; storage devices/containers supplies; tools, equipment and materials, etc.; and temporary utilities.
 - d) Other project costs such as transporting of workers to and from the job site; housing workers while on the project; transporting supplies, materials and equipment to and from the job site; and differences in project size, complexity, location; etc.
- 5) A unit price spreadsheet (quote/cost proposal) will be prepared and submitted to the Member/Participating Entity to substantiate the project's detailed scope of work requested. The information submitted must clearly identify and contain all of the required detail for each of the items that make up each individual construction project.
- a) Bonding cost and New Mexico Gross Receipt Tax (NMGRT) must be shown as separate line items at the bottom of the cost spreadsheet. This information can be handwritten or typed on the spreadsheet or can be entered and printed off of the JOC web-based application.
 - b) For goods and/or services required for a project covered by a category/lot of this RFP that utilize the Gordian pricing methodology and, due to the item's technical specifications, application and/or project conditions, an appropriate line item within Gordian's Construction Task Catalog cannot be utilized to properly price the item. A pre-priced item can be established by one of the following methods and the Member/Participating Entity must be made aware of and informed why such pre-priced items are required as part of the quoting and cost proposal process.
 - i. The cost of these items may be calculated by utilizing a manufacturer's/supplier's/distributor's published price list and the appropriate multiplier/factor is applied. The published price list utilized must be submitted as backup to the quote/cost proposal.
 - ii. Any items found not to be listed on a manufacturer's/supplier's/distributor's price list and/or is custom designed, manufactured and is provided for a unique application or project, the Offeror must utilize the alternative pricing methodology by issuing a written request for quote to three (3) or more manufacturers, providers and suppliers of such products/services. All written responses to the Offeror's written quote must be submitted to and accepted by Member/Participating Entity in order to establish pre-priced items. Members/Participating Entities reserve the right to accept or reject any quote received in this process.

- iii. If it is found that the product/service is required for a project and is available through a single source due to the application, project conditions or is only manufactured and distributed by one company, such acquisitions must comply with the sole source provision of the New Mexico Procurement Code (13-1-126), and will be stated as a pre-priced item and the appropriate multiplier/factor applied.
- 6) Factors affecting cost, including quality of materials, productivity of labor force, size of project and location have been included in the Technical Specification Book and the Construction Task Catalog®. Overhead, profit, season of the year, contract management, weather conditions, building code requirements, safety and environmental concerns have not been addressed in the Construction Task Catalog® and must be built into the offeror's adjustment factor.
- 7) All change orders must be supported and submitted in accordance with the Technical Specification and the Construction Task Catalog®.
- b. The R.S. Means Company publishes a CD and books covering a wide range of the various construction services and products that may be required under this RFP. For those categories/lots which stipulate that the R.S. Means pricing methodology be utilized, the current R.S. Means CD/books will be the basis for construction products and services provided. When a quote or cost proposal involves products and services that cannot be properly identified and priced utilizing the R.S. Means methodology, then the contractor is authorized to utilize one of the other pricing methodologies stipulated in the category/lot.
 - 1) The Offeror represents what portion of the R.S. Means total cost (including overhead and profit) will be charged the CES Member/Participating Entity for construction costs. A bid cost of 92% indicates that the contractor will charge the Means Total Cost for each assembly item times .92 as the billable amount; a bid cost of 102% indicates that the contractor will charge the Means Total Cost for each assembly item times 1.02 as the billable amount. Factors affecting cost include quality of materials, productivity of labor force, size of project, environmental and site conditions. Therefore, note the following:
 - a) The individual item cost will not include New Mexico Gross Receipt Tax (NMGRT), which will be listed as a separate line item.
 - b) Bonding costs will be listed as a separate line item.
 - c) Travel and per diem costs will be included as part of the Offeror's multiplier/factor and will not be allowed as a separate line item. for projects one hundred fifty (150) map miles or less from the home location of the contractor and/or subcontractor (round-trip).
 - d) In preparing a proposal for a project further than one hundred fifty (150) map miles (round-trip) from the home location of the contractor and/or subcontractors providing the products and/or services, to cover these projects the Offeror will proposed an additional multiplier/factor to be added to normal hours, other than normal hours and federal funded project factors. For example if the offeror's normal hours, projects over \$60,000 in 0.92 and they propose a 0.05 factor for projects over 150 miles the factor to be applied to the project will be 0.97.

- e) If overtime is required to meet the CES Member's/Participating Entity's timelines or project requirements, the contractor will utilize the appropriate multiplier/factor.
 - f) Within R.S. Means there are modifiers that can be applied due to circumstances and conditions such as season of the year, weather conditions, building code requirements, safety and environmental concerns, etc. If a project's quote/cost proposal requires any of these modifiers, they must be identified and presented to the Member/Participating Entity for its approval prior to them being utilized to calculate a project's cost.
- 2) For goods and/or services required for a project covered by a category/lot of this RFP that utilize the R.S. Means pricing methodology and, due to the item's technical specifications, application and/or project conditions an appropriate line item within R.S. Means cannot be utilized to properly price the item, one of the other pricing methodologies allowed by the category/lot shall be used. The Member/Participating Entity must be made aware of and informed why such deviations are required as part of the quoting and cost proposal process.
- a) The cost of these items may be calculated by utilizing a manufacturer's/supplier's/distributor's published retail price list less the CES discount. Published price list utilized must be submitted in advance and approved by CES prior to utilizing it to develop any quotes or cost proposal.
 - b) For any items found not to be listed on a manufacturer and/or retail price list and is custom designed, manufactured and is provided for a unique application or project, the Offeror must utilize the alternative pricing methodology by issuing a written request for quote to three (3) or more manufacturers, providers and suppliers of such products/services. All written responses to the Offeror's written quote must be submitted to and accepted by Member/Participating Entity prior to the cost of said item(s) being included in any quote or cost proposal submitted for a project. CES Members/Participating Entities reserve the right to accept or reject any quote or proposal including such items.
 - c) If it is found that the product/service is required for a project and is available through a single source due to the application, project conditions or is only manufactured and distributed by one company, such acquisitions must comply with the sole source provision of the New Mexico Procurement Code (13-1-126), and contractor must provide CES with the necessary documentation to substantiate the sole source purchasing method.
- 3) The contractor's multiplier/factor applied to the R.S. Means cost proposal to arrive at the CES price must include all costs relating to the following, and the listed items are provided as examples only:
- a) General cost such as home office overhead; all types of insurance, fringe benefits, payroll taxes, worker's compensation, etc.; site visits; project meetings and owner support services; project development; project office staff supplies, equipment and paperwork; inspection and testing fees; training; supervision; project mobilization and close-out; and other related costs.
 - b) Subcontractor's overhead and profit such as project development; project oversight and supervision, project mobilization; meetings; close-out; all types of

- insurance, fringe benefits, payroll taxes, worker's compensation, etc.; subcontractors bond, if applicable; and administrative and other related cost.
- c) Construction related cost such as developing, preparing, modifying and submitting paperwork relating to project proposals, sketches, drawings, NMPSFA documents, change order submittal, as-built drawings, preparing and submitting close-out documents; provide project information electronically; safety and protection equipment, supplies, materials and signage; vehicles, such as pickup trucks, vans, utility trucks, service trucks, office trailers and portable toilets, for contractor's use; storage devices/containers supplies; tools, equipment and materials, etc.; and temporary utilities.
 - d) Other project costs, such as transporting of workers to and from the job site; housing workers while on the project; transporting supplies, materials and equipment to and from the job site unless project site is located one hundred fifty (150) map miles (round trip) from the contractor's or subcontractor's home location.
4. Cost evaluation will be based on a point system, with points being awarded for being low to high bidder for each cost evaluation item identified in each category/lot, that is:
- a. Contractor's multiplier/factor applied to the Gordian or R.S. Means pricing methodologies;
 - b. Discounts offered on published retail/price lists;
 - c. Normal and customary markup/overhead/profit percentage to be applied to alternative and sole source pricing methodologies;
 - d. CES discount percentage applied to normal and customary markup/overhead/profit amount;
 - e. Mileage charges, per Diem rate, travel time, etc., if applicable;
 - f. If an Offeror leaves an item blank that is required, CES will allot zero (0) points to that item, and if awarded a contract, that item cannot be used in providing products or services. The low bidder will receive the full point value and all other bidders will receive points calculated as follows: $(\text{Lowest Bid} / \text{Other bid}) \times \text{point value}$.
 - g. Other points will be awarded for labor rates. Low bid on each labor rate for each category/lot will be awarded the total points for that individual rate. Each labor rate in each category/lot will have a total value of the points indicated, and each other bidder will receive points calculated as follows: $(\text{Lowest Bid} / \text{Other bid}) \times \text{point value}$.

R. LISTING OF CATEGORIES

This RFP is for two categories with two lots, the categories are divided into the following sections:

1. Categorical Scope of Work.
2. Categorical Definitions.
3. Categorical Terms and Conditions.
4. Lot Scope of Work.
5. Lot Terms and Conditions.
6. Lot Specifications.
7. Required Lot Responses.
8. Lot Price and Cost Submittal.

9. Lot Cost Evaluation Information.

Category 1: Qualified and Experienced General Contractors To Provide (GB, GA, GS, EE, MM) Construction Products and Services

Categorical Scope of Work

Cooperative Educational Services' (CES') cooperative purchasing program since 1998 has solicited for, awarded and made available to its Members general contracts to provide construction products and services relating to altering, demolishing, modifying, renovating, remodeling, rehabilitating, modernization, improving and constructing infrastructures, structures, buildings and facilities found within the various public educational institutions and other public agencies located throughout the State. CES' current Gordian JOC expires in July of 2009 and CES re-solicits construction contracts every two years.

To continue its efforts to support and make available to its Members and Participating Entities the procurement option to engage and contract with general contractors who are qualified, experienced and holds a GB-98 (General Contractor's) license to offer and provide construction products and services on an as-needed basis; therefore, CES is seeking general contractor(s) located throughout the State of New Mexico who possess the background, qualifications, experience, resources, capacity and ability to provide and perform the construction products and services requested under Lot 1: Gordian-Based Job Order Contract (JOC) for General Construction (GB98) Products and Services and Lot 2: R.S. Means-Based Job Order Contract (JOC) for General Construction (GB98) Products and Services that may include, but is not limited to:

1. Assist CES Members/Participating Entities in assessing, evaluating, developing and designing, remodeling, renovating, and new addition projects of existing facilities.
2. Minor remodeling of individual classrooms, offices, restrooms for ADA compliance, storage and common areas, etc., that involves and requires multiple construction trades such as plumbing, electrical, carpentry, utilities, mechanical, masonry, site work, etc.
3. Major renovation of and updating of a variety of administrative, vocational, athletic, activity, storage, etc., that involves and requires multiple construction trades such as plumbing, electrical, carpentry, utilities, mechanical, masonry, site work, etc.
4. New construction of additions such as classrooms, administrative, athletic, storage, land development, etc., that involves and requires multiple construction trades such as plumbing, electrical, carpentry, utilities, mechanical, masonry, site work, etc.
5. Provide various types of construction-related services to CES Members/Participating Entities involving heavy maintenance and repair of existing facilities or to supplement or assist the Member's/Participating Entity's own maintenance crews in completing projects they are working on.

New Mexico currently requires public school districts to have in place and update on an annual basis a facility master plan. Likewise, on an ongoing basis, public schools submit applications to the PSCOC and receive state funds to maintain, update and construct new facilities. Therefore, educational leaders are continually seeking and asking for assistance in assessing existing facilities and developing and looking at available options to provide and meet their short and long-term educational facilities' needs. CES and its Members are seeking contractors who are willing and able

to assist them in this endeavor and provide timely and cost-effective construction products and services to meet these ongoing needs.

The minimum New Mexico contractor's license required for this category is a GB98; however, the Offeror is asked to list and provide copies of all New Mexico contractor's licenses they hold because this supports their background, knowledge and expertise.

Categorical Definitions

AA -Aluminum Association Inc. (The) www.aluminum.org

AAMA - American Architectural Manufacturers Association www.aamanet.org

ACI – American Concrete Institute www.aci-int.org

ADA – Americans with Disabilities Act

Adjustment Factor – The competitively bid adjustment to be applied to the unit prices listed in the Construction Task Catalog® utilized by the Gordian pricing methodology.

A/E – Architectural and Engineering

AGA – American Gas Association www.aga.org

AGCA - Associated General Contractors of America (The) www.agc.org

AI – Asphalt Institute www.asphaltinstitute.org

AIA - American Institute of Architects (The) www.aia.org

AISC – American Institute of Steel Construction www.aisc.org

AISI – American Iron and Steel Institute www.steel.org

AITC - American Institute of Timber Construction www.aitc-glulam.org

ANSI – American National Standards Institute www.ansi.org

APA - Architectural Precast Association www.archprecast.org

ASCE - American Society of Civil Engineers www.asce.org

ASME – American Society of Mechanical Engineers www.asme.org

ASTM – American Society for Testing and Materials www.astm.org

AWS – American Welding Society www.aws.org

AWWA - American Water Works Association www.awwa.org

BHMA - Builders Hardware Manufacturers Association www.buildershardware.com

BIA - Brick Industry Association (The) www.bia.org

Builders Work - Work done in conjunction with and subsidiary to work performed by mechanical, electrical, or other trades such as installations requiring cutting and patching of others work.

CAD - Computer Assisted Design for graphical representations and calculations.

CCI – Construction Cost Index

CISCA - Ceilings & Interior Systems Construction Association www.cisca.org

CFM – Cubic Feet per Minute

CFR - Code of Federal Regulations www.gpoaccess.gov/cfr/index.html

Change Order Document - Issued by the Owner to the contractor to make a specific change in the work that may result in a change in the scope of the contract's work, the contract sum, or the contract time.

CID – Construction Industries Division

Construction – As defined in the New Mexico Procurement Code Regulations under Definitions, “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 Task Catalog® – Comprehensive listing of specific construction-related tasks, together with a specific unit of measurement and a unit price (also referred to as the “Unit Price Book” or “UPB”) utilized by the Gordian pricing methodology.

Consumables - Items used, worn, or consumed such as fuel and lubricants, and parts of tools such as saw blades.

CPSC – Consumer Product Safety Commission www.cpsc.gov

CRSI - Concrete Reinforcing Steel Institute www.crsi.org

CSI - Construction Specifications Institute (The) www.csinet.org

Detailed Scope of Work – A written description setting forth the work the Contractor is obligated to complete for a particular Job Order/project.

DOE - Department of Energy www.energy.gov

EIA - Electronic Industries Alliance www.eia.org

EMI – Abbreviation for electromagnetic interference. High frequency interference (electrical noise) caused by electronic components or fluorescent lamps that interferes with the operation of electrical equipment is included. EMI is measured in microvolts, and can be controlled by filters. Because EMI can interfere with communication devices, the Federal Communication Commission (FCC) has established limits for EMI.

EPA – Environmental Protection Agency www.epa.gov

Factory-Built Building – A residential or nonresidential building including a dwelling unit or habitable room thereof which is either wholly or in substantial part manufactured at an off-site location to be assembled on-site.

FCC – Federal Communications Commission www.fcc.gov

Federal Regulations and Codes – Title 29 – Hazardous materials handling, removal and disposal; respiratory protection and monitoring; employee exposure to hazardous materials; employee exposure and medical records; construction involving hazardous materials and hazardous communications.

Federal Regulations and Codes – Title 40 – National emission standards for hazardous materials and asbestos abatement projects, worker protection, asbestos-containing materials in schools.

HID – High Intensity Discharge – Generic term describing mercury vapor, metal halide, high-pressure sodium and (informally) low-pressure sodium light sources and luminaries.

HVAC System – An EPA approved vacuum system. The abbreviation for heating, ventilation, and air conditioning systems, used in building design and construction.

IAPMO - International Association of Plumbing and Mechanical Officials www.iapmo.org

ICBO - International Conference of Building Officials www.iapmo.org

ICC - International Code Council www.iccsafe.org

IEEE – Institute of Electrical and Electronics Engineers www.ieee.org

IESNA – Illuminating Engineering Society of North America – Organization which establishes recommendations and practices for sports lighting facilities www.iesna.org.

International Association of Plumbing and Mechanical Officials Uniform Plumbing Code – Association that publishes and recommends standards and guidelines relating to plumbing and mechanical system design and installation.

International Conference of Building Officials Uniform Building Code – A set of guidelines, standards and best practices relating to the various trades involved in building construction.

ISO – International Standards Organization www.iso.ch

ISO 9000/9001 – International Standards Organization Quality Standards

Job Order – A written order requiring the contractor to complete the detailed scope of work in the job order completion time for the job order amount. The CES Member will be responsible for the development of the job order, as well as the supervision and acceptance of the work contained in the job order description. Cooperative Educational Services will review the contractor’s proposal for each job order requested and, if acceptable, will issue a CES purchase order for the work described therein. Each job order will include a detailed scope of work, a lump sum, firm fixed price proposal from the contractor, with New Mexico Gross Receipts Tax (NMGRT) shown as a separate line item, time duration for the completion of the work and any special conditions that might apply to that specific job order.

Job Order Amount – The amount the contractor will be paid for completing a job order.

Job Order Completion Time – The time in which the contractor must complete the detailed scope of work.

Job Order Contract (JOC) – A job order contract is an indefinite quantity contract pursuant to which the contractor will perform an ongoing series of individual small to medium, multi-traded maintenance, repair and minor new construction projects at different locations throughout the identified CES regions.

Job Order Price Proposal – A price proposal prepared by the contractor that includes the pre-priced tasks, non pre-priced tasks, quantities and appropriate adjustment factors required to complete the detailed scope of work in accordance with the Gordian pricing methodology.

Joint Scope Meeting – A site meeting to discuss the work before the detailed scope of work is finalized.

MBMA - Metal Building Manufacturers Association www.mbma.com

Member’s Representative – An individual identified by the Member as contact person for individual projects. Member’s representative has authority to make decisions and to authorize any actions as defined for the project.

MFMA - Metal Framing Manufacturers Association www.metalframingmfg.org

Modular/Pre-Engineered Building – A factory-built building where the different components/sections are constructed at the manufacturer’s facilities and then

transported to the project site where they are assembled, erected and/or constructed to make a complete building. Additional construction services may be needed to finish and/or install other components.

MPI - Master Painters Institute www.paintinfo.com

MSRP – Manufacturers Suggested Retail Price

MVIP – Multi-Vendor Integration Protocol

NAAMM - National Association of Architectural Metal Manufacturers www.naamm.org

NAIMA - North American Insulation Manufacturers Association www.naima.org

NBFU – National Board of Fire Underwriters

NCMA - National Concrete Masonry Association www.ncma.org

NEC – National Electrical Code

NECA - National Electrical Contractors Association www.necanet.org

NEISS – National Electronic Injury Surveillance System

NEMA - National Electrical Manufacturers Association www.nema.org

NETA - National Electrical Testing Association www.netaworld.org

NFPA – National Fire Protection Association www.nfpa.org

NFPA 54 - Liquid Petroleum Gas Code for installation of piping and appliances for both residential and commercial applications.

NFPA 58 – Liquid Petroleum Gas Code, for gas piping materials and components, gas piping installations, and inspection, testing, and purging of gas piping systems.

NFPA 70 - National Electrical Code

NFS – National Sanitation Foundation www.nsf.org

NIST - National Institute of Standards and Technology www.nist.gov

NMAC 14.7.2 - 2006 New Mexico Commercial Building Code

NMDOL – New Mexico Department of Labor www.dol.state.nm.us

NMPED – New Mexico Public Education Department www.ped.nm.us

NMPSFA – New Mexico Public School Facilities Authority www.nmschoolbuilding.org

NMSHD – New Mexico State Highway Department www.nmshtd.nm.us

Non Pre-Priced Tasks – An item of work required by the detailed scope of work, but not included in the Construction Task Catalog®. Architectural and engineering services may be required periodically during the life of this contract. If architectural and engineering services are required, they will be priced as a non pre-priced task. Any architectural and engineering fees will be negotiated with the contractor. Such work requirements will be incorporated into and made a part of this contract for the job order to which they pertain, and can be incorporated into the Construction Task Catalog®, if determined appropriate by CES, at the base price determined in this contract. Non pre-priced tasks will be separately identified and submitted in the job order proposal. Utilized by the Gordian pricing methodology.

NRCA - National Roofing Contractors Association www.nrca.net

NSSGA - National Stone, Sand & Gravel Association www.nssga.org

OSHA – Occupational Safety and Health Administration www.osha.gov

Owner's Representative – A CES Member's employee or contracted consultant who has been designated by the Member to coordinate, supervise, manage, make decisions and act on the Member's behalf during a procurement transaction or construction project.

Portable/Relocateable Building – A factory-built building which is completely constructed at the manufacturer’s facilities and then is transported to the designated project site. The only services performed on the project site relates to setting the building in place and connecting the utilities.

PDI - Plumbing & Drainage Institute www.pdionline.org

PLANET - Professional Landcare Network www.landcarenetwork.org

PPCI - Precast/Prestressed Concrete Institute www.pci.org

Pre-Priced Task – An item of work included in the Construction Task Catalog® for which a unit price is given. Utilized by the Gordian pricing methodology.

Proposal – A set of documents including at least: (1) a job order price proposal; (2) a proposed project schedule; (3) a list of proposed subcontractors indicating MBE/WBE status; (4) sketches, drawings or layouts; and (5) technical data or information on proposed materials or equipment.

RFI – Radio Frequency Interference – Interference to the radio frequency band caused by other high frequency equipment or devices in the immediate area. Fluorescent light systems generate RFI.

Subassembly – A prefabricated wall, floor, ceiling, roof or similar combination of components.

Third Party Contractor – A contractor selected and named by the Owner in specifications or in a designer's instructions to the contractor who is not a party to the contract in question, but who also has a construction contract with the same Owner for providing the specialized, individual building component and/or system the owner has chosen to incorporate into the project, therefore, creating a need for recognition, coordination and cooperation among the Owner's engaged contractors on the same project, provided neither contractor raises no reasonable objections.

TIA – Telecommunications Industries Association

UBC – Uniform Building Codes

UFAS - Uniform Federal Accessibility Standards www.access-board.gov

Unit Price – The price published in the Gordian Construction Task Catalog®/R.S. Means for a specific construction or construction-related task. Each unit price is comprised of the labor, equipment and material costs to accomplish that specific task.

USPHS – United States Public Health Service

UL – Underwriters Laboratories is an independent organization whose responsibilities include rigorous testing of electrical products. When products pass these tests, they can be labeled (and advertised) as “UL listed”. UL tests for product safety only.

www.ul.com

USGBC - U.S. Green Building Council www.usgbc.org

Categorical Terms and Conditions

- A. In its response, the Offeror must demonstrate that it has the skill, knowledge, background, experience, capacity, financial resources and other resources to provide and perform the construction products and services covered by this category.
- B. The contractor shall hold CES, its Members and Participating Entities harmless from damage from trespassing on property of others. There shall be no dumping of construction debris or other material on Member’s/Participating Entity’s property. Any material that requires special handling

- as dictated by federal or state law shall be removed in compliance with the requirements of those laws. All such materials shall be removed from the site and properly disposed of by the contractor.
- C. The contractor will familiarize itself with the site in order to obtain a complete and comprehensive knowledge and understanding of its conditions and to anticipate unseen problems that may develop as the work progresses. Failure to have visited the site before submitting a job order/quote/cost 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 CES or its Member/Participating Entity.
 - D. Any contract awarded under this category is an indefinite-quantity contract for construction work requested under either Lot 1 and/or 2. 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.
 - E. Cost for temporary utility services electrical, water, gas, etc., that is part of/used during the construction process will be identified and agreed upon in writing by the Member/Participating Entity. 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 Member/Participating Entity on written agreement specifically stating what contractor's utilities it will be responsible for. Copies of such agreements shall be provided to CES prior to a CES purchase order being issued.
 - F. 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 Member's/Participating Entity's representative of the situation. The contractor will not construct any sub-assembly, structure, or device or produce any condition that intentionally violates a fire, health, safety or UBC code or safety standard.
 - G. The contractor understands and agrees that it will offer and accept only projects under this category in which they have done their own due diligence in assessing, evaluating, exploring and determining existing site conditions, the level, quality and appropriateness of the construction products and services being requested, and whether or not the project, as requested, allows the contractor to comply with all existing federal, state or local laws, codes and regulations. During the contractor's due diligence, if a concern or issue arises, the contractor must immediately notify CES and the Member/Participating Entity, in writing, so that it can be corrected or properly addressed.
 - H. In the construction, erection or repair of buildings, structures and/or infrastructure under this RFP, the contractor is required to make themselves aware and knowledgeable of and comply with all New Mexico Procurement Code, NMCID Building Codes and NMPSFA standards and requirements, if applicable.
 - I. During all phases of a project, the contractor will have a qualified and experienced foreman, supervisor and/or superintendent in the area of construction being performed, in charge of and in full control of the worksite and all construction activities being performed on the project. The individual assigned must be knowledgeable, qualified, and aware of all aspects, specifications and requirements of the project and provide continuous supervision, coordination communication and inspections in order to assure that quality control standards or project outcomes are met.
 - J. For a public building built in an area that has not adopted local codes, the building will be designed or constructed according to the UBC and fire codes adopted by the State of New

Mexico and the standards established by NMPSFA. Public buildings are subject to those codes that apply and are in effect when the buildings were originally designed and constructed. The contractor is required and responsible for performing and completing the necessary research to become aware of and understanding all the current state, NMPSFA, and local building requirements and codes that are in force and must be complied with for the individual project the owner has requested. Failure of the work provided and/or performed to comply with the currently adopted codes and requirements when a project is inspected and a certificate of occupancy is required will be corrected by the contractor at no additional cost of the owner.

- K. All equipment, tools and machines used in the performance of this work by either the prime contractor or subcontractors will be maintained in satisfactory working conditions and meet or exceed industry standards at all times.
- L. If a contractor intends to subcontract any part of an individual project, the contractor will be responsible for notifying and furnish subcontractor (local is preferred) the following:
 1. A description of the products to be provided, the tasks to be performed, the project's drawings, standard specifications, requirements and timelines the subcontractor must meet.
 2. The contractor will instruct subcontractors to complete their own investigation, assessment and careful examination of all elements of a project before it submits a quote or proposal to provide construction products and/or perform construction services for the project. The subcontractor will promptly notify the contractor if it finds any discrepancies in, or omissions from, any plans, drawings, specifications and/or any other documents associated with the project. The contractor will immediately issue written notification to the Member/Participating Entity. The involved parties' representatives will jointly work with each other to resolve the concerns or issues raised and issue written instructions to the contractor on how the matters raised are to be handled. The contractor will be responsible for ensuring the subcontractor is aware of and incorporates any modifications into its quote/proposal. The Member/Participating Entity will not be responsible for communicating instructions and/or information to subcontractors.
 3. All cost quotes/proposals submitted by subcontractors must be in a format that the contractor needs to prepare and submit its cost quote/proposal in compliance with one of CES' pricing methodologies defined herein.
 4. All subcontractors' quotes/proposals received as part of the project's cost development process and depending on the CES pricing methodology utilized must be provided to CES prior to the issuing of the CES purchase order and/or made available upon request.

Lot 1 Gordian-Based Job Order Contract (JOC) for General Construction (GB98) Products and Services

Lot 1 Scope of Work

CES is seeking a qualified general contractor(s) who is licensed in the State of New Mexico to provide a variety of construction products and services for a firm, fixed price based on the Technical Specifications Book (Exhibit 2) and the Construction Task Catalog® (Exhibit 1) of this solicitation. The scope of work may include, but is not limited to, construction services relating to the repair, alteration, renovation, modernization, rehabilitation, demolition, and construction of infrastructures, buildings, structures or other public facilities. The work will be accomplished by issuing a series of individual job orders under a JOC contract awarded in accordance with this solicitation. The JOC contractor will furnish all management, documentation, labor, materials and equipment needed to perform and complete the scope of work stated for each individual project requested under this RFP. The services may include, but are not limited to, the following areas of licensure: GB, GA, GF GS, EE, MM, etc., which are required to perform the tasks identified in Exhibit 1 and 2 for Members under this RFP.

Lot 1 Terms and Conditions

- A. This contract shall include the work of the Job Order Contract as required by the contract documents. Unless otherwise specified, the contractor shall supply all labor, transportation, materials, apparatus, storage sheds, fuel, scaffolding, and tools necessary for the entire, proper and substantial completion of the work, all according to proper construction standards and practices; and shall install, maintain and remove all equipment of the general installation and be responsible for the safe, proper, and lawful installation, maintenance and use of same; and shall install everything properly, incidentally, or reasonably implied either from the drawings or the specifications. Architectural and engineering services may be required periodically. If so, the architectural and engineering fees will be addressed as a non pre-priced item.
- B. After award of the contract and at the issuance of each job order under this contract, a conference will be conducted by the CES Member to discuss with the contractor issues of access and special requirements that are to be observed during the execution of the work.
 1. The work of this contract will be determined by individual job orders. The contractor shall perform its job order construction work in accordance with this contract, including provision of all pricing, management, shop drawings, documents, labor, materials, supplies, parts (to include system components), transportation, facilities, supervision, and equipment needed to complete each job order.
 2. Contractor shall maintain accurate and complete records, files and documents to include state and local laws, ordinances, rules, regulations, manufacturers' instructions and recommendations which are necessary and related to the work to be performed.
 3. The contractor shall prepare and submit required reports, maintain current record drawings, and submit required information. The contractor will provide materials lists to include trade names and brand names and model materials lists to include trade names, brand names, model number, and ratings (if appropriate) for all materials necessary for a complete job. If

CES or the Member/Participating Entity requests any information, the records and files will be made available to them.

4. In addition to the tasks and requirements in the Construction Task Catalog®, the CES Member's/Participating Entity's project may, from time to time, require non-pre-priced tasks. The parties will price these requirements in accordance with the procedures set forth below.
5. The contractor may be required to provide minor architectural, structural, mechanical, electrical, civil, or other engineering services for small performance-based scopes of work as requested by the CES Member/Participating Entity or as required for filings or permits. The services shall be provided by architects or engineers registered and insured in the State of New Mexico to practice in the particular professional field involved. Professional liability coverage shall be at least \$500,000. All documents prepared by architects, consultants and engineers for the contractor under this contract are subject to review by the CES Member and/or NMPSFA or Participating Entity.
6. The procedure for initiating a job order (CES Member's/Participating Entity's project) under the CES Gordian JOC program is as follows:
 - a. As the need exists for performance by the contractor under the terms of this contract, the CES Member/Participating Entity will notify the Gordian Group's designated representative and the contractor of a project. The CES Member/Participating Entity and the contractor will schedule a site visit (Joint Scope Meeting) to discuss and develop a scope of work, determine the project requirement and compile all pertinent documents. From this meeting, the contractor and CES Member/Participating Entity shall come away at a minimum with the following:
 - 1) Job order number and title.
 - 2) The general scope of work.
 - 3) Existing site conditions.
 - 4) Definition and refinement of requirements.
 - 5) Detailed scope of work.
 - 6) Establishing requirements for design drawings, sketches, submittals, catalogue cuts, samples, shop drawings, etc.
 - 7) Tentative construction schedule (bar chart or critical path method [CPM] schedule).
 - 8) Preliminary quantity estimates.
 - 9) Proposal due date.
 - 10) Methods and alternatives for accomplishing work.
 - 11) Access to the site and protocol for admission.
 - 12) Staging area.
 - 13) Presence of hazardous materials.
 - 14) Liquidated damages.
 - b. Upon completion of the joint scope process, the contractor will prepare and submit a draft of the detailed scope of work, referencing any sketches, drawings, photographs and specifications required to document accurately the work to be accomplished for the CES Member/Participating Entity to review and approve, amend and/or reject. The detailed scope of work, unless modified and agreed to by both the contractor and the CES Member/Participating Entity, will be the basis on which the contractor will develop its cost proposal and submit it to the Member/Participating Entity for its final acceptance or rejection. The contractor does not have the right to refuse to perform any task or any work in connection with a particular project.

- c. The contractor will prepare its proposal in accordance with the following:
- 1) Pre-priced tasks: For pre-priced tasks, the contractor shall identify the task and quantities required from the Construction Task Catalog®. The unit price set forth in the Construction Task Catalog® shall serve as the base price for the purpose of the operation of this provision. The contractor's proposal will include support documentation to indicate that adequate engineering and planning for the requirement has been done and that the tasks proposed are reasonable for the work to be performed. Documentation to be submitted with the proposal shall include, as appropriate, but not be limited to, design drawings, calculations, catalog cuts, specifications, and architectural renderings, subcontractor list and construction schedule.
 - 2) Non pre-priced tasks, if any, shall be separately identified and submitted in the proposal. Information submitted in support of non-pre-priced tasks shall include, but not be limited to, the following:
 - a) Complete specifications and technical data, including task content, support drawings, task cost data, quality control and inspection requirements.
 - b) Work schedule.
 - c) Costing data shall include a cost analysis report, establishing the basis for selecting the approach proposed for accomplishment of the requirements. Unless otherwise directed by the designated CES and/or its Member's/Participating Entity's representative, costing data will be submitted to CES and/or its Member/Participating Entity, demonstrating that the contractor sought and received three quotes. Contractor shall provide an installed unit price (or demolition price, if appropriate), which shall include all costs required to accomplish the non-pre-priced task.
 - d) The final price submitted for non-pre-priced tasks shall be according to the following formula:
 - A = Direct labor cost and fringe benefits per prevailing wage rates labor that are not in Construction Task Catalog®).
 - B = Direct material costs (supported by three quotes).
 - C = Direct equipment costs (supported by three quotes) for equipment not in Construction Task Catalog®.
 - D = Subcontractor costs (supported by three quotes).
 - E = Allowable overhead costs = $A \times 55\%$.
 - F = Allowable profit = $(A + B + C) \times 10\%$.
 - G = Subcontractor allowance = $D \times 5\%$.
 Total Cost of Non-Pre-Priced Task = $A + B + C + D + E + F + G$.
 - e) Following approval by CES and/or its Member's/Participating Entity's representative of a non-pre-priced task and unit price, the non-pre-priced task unit price will be entered into the computer database.
 - f) The total extended price for the non-pre-priced task will be determined by multiplying the unit price by the quantity required. The price offered in the proposal will be determined by multiplying the total extended price by an adjustment factor of 1.000.
 - g) After a non-pre-priced task is used on three separate job orders, the unit price for such task will be established, following approval by CES' representative, and

- fixed as a permanent pre-priced task, which will no longer require price justification.
- h) CES representatives' determination as to whether an item is a pre-priced task or a non-pre-priced task shall be final, binding and conclusive as to the contractor.
- 3) The contractor's proposal shall include support documentation to indicate that adequate engineering and planning for the requirement has been done and that the tasks proposed are reasonable for the work to be performed. Documentation to be submitted with the proposal shall include, but not be limited to:
- a) Job order price proposal.
 - b) Design drawings, calculations, specifications, and architectural renderings.
 - c) Catalog cuts.
 - d) Subcontractor and material supplier list.
 - e) Construction schedule (detailed bar chart).
 - f) Special insurance.
 - g) For special equipment, a copy of the warranty document may be required.
- 4) Contractor's proposal shall be submitted by the date indicated on the Request for Job Order Proposal. All incomplete proposals shall be rejected. The time allowed for preparation of the contractor's proposal will depend on the complexity and urgency of the job order. On complex job orders, such as job orders requiring engineering/architectural drawings and approvals and permits, allowance will be made to provide adequate time for preparation and submittal of the necessary documents with the proposal and so reflected in the proposal due date entered on the Request for Job Order Proposal. In emergency situations and minor maintenance and repair job orders requiring immediate completion, the job order proposal may be required quickly and the due date will be so indicated on the Request for Proposal or, as described below, the contractor may be directed to begin work immediately with the paperwork to follow.
- d. Review of the Proposal and Issuance of Job Order and CES Purchase Order.
- 1) The CES Member's/Participating Entity's representative will evaluate the contractor's proposal, and proposed tasks, and compare these with the cost estimate of the detailed scope of work to determine the reasonableness of approach, including the nature and quantity of tasks proposed.
 - 2) The CES Member/Participating Entity reserves the right to reject a proposal for any reason, including, but not limited to, the quantities or tasks selected by the contractor, schedule, inadequate documentation, unacceptable pricing for non-pre-priced tasks, selection of material, equipment or subcontractors. The CES Member/Participating Entity also reserves the right not to proceed with a job order (issue a purchase order to CES) if it is determined to be in the best interest of the Member/Participating Entity, or the proposed cost exceeds the Member's/Participating Entity's estimate. The contractor has no claim to recoup proposal expenses. The Member/Participating Entity may pursue the performance of such work by other means.
 - 3) By submitting a signed job order price proposal to the CES Member/Participating Entity, the contractor agrees to accomplish the work set forth in the detailed scope of work in accordance with the Request for Proposal. It is the contractor's responsibility to include the necessary tasks and quantities in each job order price proposal prior to delivering it to the CES Member/Participating Entity.

- 4) Once the CES Member/Participating Entity has reviewed, and evaluated the contractor's completed price proposal and desires to have the project done by the contractor, the CES Member will issue CES a purchase order identifying the job order number/project. CES will review all information submitted and, if CES finds the job order to be in compliance with the terms, conditions and specifications, CES will issue the contractor a CES purchase order, which is considered contractor's notice to proceed. All job orders/projects performed must be authorized by a CES purchase order.
 - e. Each job order awarded to the contractor must state the agreed-upon requirements and project cost. All clauses of this contract will be applicable to each job order. Job orders will be authorized by a CES purchase order and shall include all documents relating to the identified project. The job order/CES purchase order, signed by and delivered to the contractor, constitutes CES and its Member's/Participating Entity's acceptance of the contractor's proposal. A signed copy will be provided to the contractor, together with the Notice to Proceed.
 - f. In the event that immediate emergency response is necessary, the contractor shall be required to follow alternative procedures as established by CES. The contractor will begin work as directed by the CES Member/Participating Entity and approved by CES, notwithstanding the absence of a fully developed Request for Proposal, Detailed Scope of Work or Job Order. The contractor shall be compensated as if the work had been ordered under the standard procedures.
10. The CES-furnished JOC software (Progen®) will be provided to the contractor for use as a tool to assist with expedient preparation of proposals in response to the CES Member's/Participating Entity's issued request for job order proposals. This software will contain an electronic version (copy) of the Construction Task Catalog®, which can be accessed on the equipment provided by the contractor to locate and select desired items from the Construction Task Catalog®. Once the desired items are selected, the software shall provide for selection of quantities and, based on the selected quantities, will extend and total Construction Task Catalog® costs for each proposal. The software will also permit introduction of non-pre-priced tasks and the application of the adjustment factors. The cost of installation and maintenance of the software is the responsibility of CES Members/Participating Entities and is covered by CES' contract with The Gordian Group.
 11. The contractor will prepare and submit with each proposal a bar chart or CPM schedule setting forth the manner and sequence of the work. The contractor shall schedule the work in accordance with the time duration set forth in the Request for Job Order Proposal.
 12. Changes in the work requested in a job order shall be dealt with by a change order. Additions or deletions are calculated by using the appropriate item in the Construction Task Catalog®, times the quantity to be added or deleted, times the appropriate adjustment factor. Time will be negotiated as appropriate for the scope of work.
 13. Notice to Proceed: The contractor will not begin work on a job order until CES' purchase order is issued and all documents relating to that job order are signed by CES, its Member/Participating Entity and the contractor and Notice to Proceed has been issued to the contractor.
 14. The contractor shall provide for the safety of workers, CES Member's/Participating Entity's personnel and the public, and shall comply with the requirements of regulating agencies for public health and safety, the Occupational Safety and Health Administration's (OSHA) rules

and regulations, and with all applicable safety laws and regulations. The contractor will provide temporary enclosures or barricades at excavations and the removable sites of hazardous materials.

- a. The Member/Participating Entity will make asbestos-containing material (ACM), presumed asbestos-containing material (PACM) and lead paint surveys as required to comply with OSHA Standard 1926.1101. If such materials are present and will remain in-place when the contractor enters the site, the Member/Participating Entity will show the location of such materials on its Request for Job Order Proposal drawings. The contractor will inform its' employees and all tiers of subcontractors and sub-subcontractors of such locations and shall provide all training and disclosures required by OSHA Standard 1926.1101.
 - b. Contractor shall take all reasonable precautions and shall have the complete responsibility during performance of the work for preventing the disturbance of any such materials, which are not scheduled for disturbance, removal or abatement as part of the work required by the contract documents. Such precautions shall apply to each individual job order issued under the contract.
 - c. If contractor encounters at the site material reasonably believed to contain ACM, PACM, lead paint or polychlorinated biphenyl (which has not been rendered harmless and is not scheduled during the performance of the work to be rendered harmless) and it must be disturbed for performance of the work, the contractor shall immediately stop work in the area affected and report the condition to CES and its' Member/Participating Entity and architect in writing. Work in the affected area shall not resume until the material is rendered harmless, and it is agreed in writing by the CES Member/Participating Entity, the architect and the contractor (or as otherwise allowed by law) that work in the area should resume.
 - d. Contractor shall not bring to the site, nor allow to be incorporated into the work, any material containing ACM, lead paint, or polychlorinated biphenyl (PCB). Any materials incorporated into the work, and later found to contain ACM, lead paint or PCB shall be removed at the expense of the contractor, including all containment, air clearances and disposal, without any additional or incidental costs to CES or its' Member.
 - e. Light fixtures supplied or installed under contract with CES shall not contain lead or mercury.
15. All of the contractor's and subcontractor's personnel while on public property must comply with and conduct themselves in accordance with all federal, state, local and CES Member's/Participating Entity's policies, rules, regulations and code of conduct. Copies of these policy statements are available upon request to the CES Member/Participating Entity. The contractor shall require all persons in its employ, directly or by subcontract, and all representatives of suppliers to comply with these policies while on the CES Member's/Participating Entity's property and/or construction sites.
16. Utility locations and shutoffs:
- a. Shall be in compliance with 62-14-1 to 62-14-8 NMSA 1978 of the New Mexico State Code regarding the location of utilities. Responsibilities for the location of existing utilities, their protection and repair of damaged utilities shall be assigned in accordance with this code. At project site locations, the contractor shall call the One-Call Utility Locate Service in place for that area, or it shall call all utility owners for location of their

- utilities at the site. Marks placed in response to One-Call Utility Locate Requests will be valid for five calendar days only.
- b. The contractor will submit to the CES Member/Participating Entity a written request to schedule construction activities which require interruption of any power, water, sewer, laboratory or natural gas, steam, chilled water, vacuum, compressed air, HVAC, security, fire alarms or suppression, or any other systems, or which will impede pedestrian traffic, emergency egress, or vehicle access of any kind.
 - 1) Unless a longer time period for notification of request is required by the specifications or drawings, the contractor shall submit its written request not less than 14 days before all intended utilities shutoffs. In no case shall the period for notification be less than 14 days.
 - 2) The contractor's request for approval of shutoffs or impediment of access shall state the nature of the task, the anticipated duration of the activity and the impact the work will have on adjacent facilities and users.
 - 3) Written approval of the CES Member/Participating Entity shall be received before commencement of any work requiring shutoff of a utility or impediment of any access.
 - 4) Unless otherwise instructed in writing by the CES Member/Participating Entity, the actual closing and opening of valves and switches for shutoff and reconnection of utilities and services shall be performed by CES Member/Participating Entity personnel only.
17. Reverence Standards
- a. In the event of contradiction, the CES RFP and contract documents shall take precedence over the requirements of industry or other standards referenced in the specifications and drawings.
 - b. Provisions of reference standard specifications shall not be construed or effective to change the duties and responsibilities of CES, its Members/Participating Entities, the contractor or the architect from those set forth in the general and supplementary conditions.
18. Disposition of excess natural soils excavated at site:
- a. For job orders on CES Member's/Participating Entity's campuses, all clean, uncontaminated soils excavated and not reused at the site for the work in accordance with the contract documents shall be transported and dumped by the contractor off site, as part of this contract.
 - b. Soils for this purpose shall include only natural soils, sand, clay, gravel, and rock. No limitation shall be placed on the size of rock allowed. No concrete, asphalt, rebar, wood or construction waste of any kind will be allowed.
 - c. All soils intended for deposit at the landfill site shall be first inspected and approved by the architect or his representative. Times and access for such deposition shall be coordinated with, and only by approval of, the architect or his representative.
19. Submittals or requests for prior approval shall not be sent by email, and will not be considered if so received.
20. Record Documents:
- a. Nothing in the general conditions shall be construed to limit the requirements for record documents.
 - b. It is CES' intent that record documents shall provide very detailed information regarding the work of this contract, as well as the existing site conditions encountered.

- c. Except as otherwise specified, the contractor shall be required to provide accurate record documents for each portion of the work as part of its bid for that portion of the work, without additional cost to CES or its Members/Participating Entities.
21. Delay in Completion – Liquidated Damages: The following is a schedule for liquidated damages.

<u>Job Order Amount</u>	<u>Calendar Day</u>
\$1.00 to \$25,000.00	\$ 235.00
\$25,001.00 to \$100,000.00	\$ 325.00
\$100,001.00 to \$250,000.00	\$ 410.00
\$250,001.00 and above	\$ 500.00

Lot 1 Specifications and Exhibits

- A. The documents listed below and provided as exhibits are to be considered part of the RFP 2009-021 solicitation and are to be included as part of any contract awarded as a result of this solicitation.
1. Technical Specification Book dated June, 2009 (provided by The Gordian Group).
 2. Construction Task Catalog® dated September June, 2009 (provided by The Gordian Group).
 3. Three Party Contract (Contract Between Owner, Buyer and Contractor).
 4. NMPSFA General Conditions of the Contract for Construction Exhibit 4, Edition Version 3.
- B. Due to the nature of this Request for Proposals and the variety and level of construction products and services requested and the standard of quality and performance required in the specifications and scope of work by the Member’s/Participating Entity’s individual projects, the minimum acceptable product and performance standards are those set up and established by the various trade industry organizations, federal, state and local governmental agencies listed under Categorical Definitions; specific product manufacturers of the products requested, unless otherwise stated in the final project’s detailed scope of work, specifications, drawings, product manufacturer’s instruction, industry standards stated or as identified in the CES three-party agreement or addendums.
- C. Contractor will pay for any failure to conform or for any defect. In addition, contractor will fix any damage to Member’s/Participating Entity’s 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 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.
- D. If contractor fails to remedy any failure, defect or damage within a reasonable time after receipt of notice, the Member/Participating Entity will have the right to replace, repair or otherwise remedy the failure, defect or damage at the contractor’s expense in accordance with New Mexico state law.

Lot 1 Required Response

- A. The Offeror, through written narratives and documentation, must provide responses to all items found on Form J - Offeror's Qualifications. Failure to provide the information requested may result in the Offeror's response being non-responsive.
- B. The Offeror must, through written narratives and documentation, demonstrate its capacity and ability to provide and perform construction products and services solicited for by this Lot by providing five (5) examples of prior experience with public educational institutions and Participating Entities for whom you have performed work in each of the regions to which you are responding. The documentation shall include:
 1. Provide the general scope of work for each project.
 2. Provide the total cost of each project.
 3. Provide the institution's name, address, phone number, and contact person's name and title for each project.
 4. Provide the timeline for each project listed and provide a brief narrative of the pre-sale and follow-up consulting services offered to ensure institution's satisfaction.
- C. Provide a narrative of your company's policies, procedures and strategies to ensure quality control and response to concerns before, during and after the project. Indicate what follow-up, review and oversight process your management team has in place to ensure customer's satisfaction.

Lot 1 Price and Cost Submittal

- A. **Adjustment Factor** – The contractor's competitively bid price adjustment to the unit prices as published in the Construction Task Catalog®. Contractors must bid eight (8) adjustment factors as follows:
 1. **Normal Working Hours (Defined as 7:00 a.m. to 5:00 p.m. Mondays-Fridays)**
 - a. One for work in normal hours when the total project cost (job order) is in excess of \$60,000, requiring state wage rates.
 - b. One for work in normal hours when the total project cost (job order) is less than \$60,000 and does not require state/federal wage rates.
 2. **Other Than Normal Working Hours (Defined as all hours not defined as normal hours above).**
 - a. One for work in other than normal working hours when the total project cost (job order) is in excess of \$60,000, requiring state wage rates.
 - b. One for work in other than normal working hours when the total project cost (job order) is less than \$60,000 and does not require state wage rates.
 3. **Normal Working Hours (Defined as 7:00 a.m. to 5:00 p.m. Mondays-Fridays) Federal-Funded Projects.**

Note: these factors are utilized for projects funded by federal funds and require Davis Bacon Wage rates or for projects located on tribal lands.

 - a. One for work in other than normal working hours when the total project cost (job order) is in excess of \$2,500, requiring state wage rates.
 - b. One for work in other than normal working hours when the total project cost (job order) is less than \$2,500 and does not require state/federal wage rates.
 4. **Other Than Normal Working Hours (Defined as all hours not defined as normal hours above) Federal-Funded Projects.**

Note: these factors are utilized for projects funded by federal funds and require Davis Bacon Wage rates or for projects located on tribal lands.

- a. One for work in other than normal working hours when the total project cost (job order) is in excess of \$2,500, requiring state wage rates.
- b. One for work in other than normal working hours when the total project cost (job order) is less than \$2,500 and does not require state wage rates.

B. All adjustment factors are expressed as an increase or decrease from the published prices.

C. When offering an adjustment factor, the Offeror must include in its factor:

1. All general cost (General Conditions) such as home office overhead; all types of insurance, fringe benefits, payroll taxes, worker's compensation etc.; site visits; project meetings and owner support services; project development; project office staff, supplies, equipment and paperwork; inspection and testing fees; training; supervision; project mobilization and close-out and other related costs.
2. Plan Checking and Permit Fees – Include as part of the response any plan checking fee as charged by any municipality, county or state government (or any other applicable entity or agency with jurisdiction over the project) for checking contract documents prior to obtaining a building permit. Include in your response all costs incurred for permits relating to this requirement.

Note: Offerors and/or Subcontractors whose home location is in one region and the project is in another must build into their adjustment factor the above costs associated for doing projects in other regions. No general conditions relating to the above items will be allowed in a project's quote/cost proposal unless it is submitted and approved in advance by The Gordian Group and CES.

D. Adjustment of Factors for Option Year – This provision provides a means to adjust the base year adjustment factor to the option year adjustment factors by using actual escalation/de-escalation as measured by the Construction Cost Index (CCI) published in the ENR (formerly known as Engineering News and Record). This clause will apply only to those option periods awarded after the initial contract period end date of the original contract award. The originally bid adjustment factors are valid for the initial contract period beginning with the date of contract award.

1. CCI indexes are published monthly. The "base year" for the purposes of this clause is the last 12-month period just prior to the month in which this contract is awarded. The "base year index" is determined by totaling the monthly CCI indexes for each of the 12 months of the "base year" and dividing by 12. The result is the average CCI for the "base year".
2. The "first option extension period" for the purposes of this clause is established as September 1, 2010, the end of the initial contract period. The "first option extension index" is determined by totaling the monthly CCI indexes for the initial contract period and dividing by the number of months in the initial contract period. The result is the average CCI for the "first option extension period".
3. The price adjustment for the "option extension period" is determined by dividing the "option extension index" by the "base year index". The "option year adjustment factor" for the option period is determined by multiplying the price adjustment by the original adjustment factor.

4. All the above computations shall be carried to five (5) decimal places and then rounded to four (4) decimal places. Rounding of numbers shall be accomplished by increasing the fourth decimal place if the fifth decimal is equal to five (5) or greater. If the fifth decimal place is equal to four (4) or less, the fourth decimal shall remain unchanged.

Lot 1 Cost Evaluation Information

- A. After Offerors responses have been determined to be responsive and their Part 1 Technical Proposal has been reviewed, evaluated and scored utilizing the Part 1 Technical Proposal scores, the respondents will be ranked high score to low score, the highest score being the most qualified respondent to the least qualified based on the Part 1 Technical Proposal evaluation criteria.
- B. The committee will then review and discuss the cost evaluation summary sheets prepared and provided by CES based on the calculations/formulas listed below.
 1. **Normal Working Hours (Defined as 7:00 a.m. to 5:00 p.m. Mondays-Fridays) Outside tribal lands/remote locations.**
 - a = 140 pts. One for work in normal hours when the total project cost (job order) is in excess of \$60,000, requiring state wage rates.
 - b = 100 pts. One for work in normal hours when the total project cost (job order) is less than \$60,000 and does not require state/federal wage rates.
 2. **Other Than Normal Working Hours (Defined as all hours not defined as normal hours above).**
 - a = 20 pts. One for work in other than normal working hours when the total project cost (job order) is in excess of \$60,000, requiring state wage rates.
 - b = 40 pts. One for work in other than normal working hours when the total project cost (job order) is less than \$60,000 and does not require state wage rates.
 3. **Normal Working Hours (Defined as 7:00 a.m. to 5:00 p.m. Mondays-Fridays) Federal-Funded Projects.**

Note: These factors are utilized for projects funded by federal funds requiring Davis Bacon Wage rates.

 - a = 60 pts. One for work in other than normal working hours when the total project cost (job order) is in excess of \$2,500, requiring state wage rates.
 - b = 5 pts. One for work in other than normal working hours when the total project cost (job order) is less than \$2,500 and does not require state/federal wage rates.
 4. **Other Than Normal Working Hours (Defined as all hours not defined as normal hours above) Federal-Funded Projects.**

Note: These factors are utilized for projects funded by federal funds requiring Davis Bacon Wage rates or located on tribal lands.

 - a = 30 pts. One for work in other than normal working hours when the total project cost (job order) is in excess of \$2,500, requiring state wage rates.
 - b = 5 pts. One for work in other than normal working hours when the total project cost (job order) is less than \$2,500 and does not require state wage rates.

SUBTOTAL COST EVALUATION POINTS = scores awarded for 1 + 2 + 3 and + 4 noted above.

Lot 2 R.S. Means-Based Job Order Contract (JOC) for General Construction (GB98) Products and Services

Lot 2 Scope of Work

CES is seeking qualified general contractor(s) who are licensed in the State of New Mexico to provide a variety of construction (GB98) products and services for a firm, fixed price based on R.S. Means and/or other pricing methodologies identified herein. The scope of work may include, but is not limited to, construction services relating to the repair, alteration, renovation, modernization, rehabilitation, demolition, and construction of infrastructures, buildings, structures or other public facilities. Individual projects will be accomplished by the awarded contractor and the Member/Participating Entity developing and agreeing to a detailed scope of work, and the contractor preparing and submitting a detailed quote/cost proposal based on R.S. Means and/or other pricing methodologies identified herein. The JOC contractor will furnish all management, documentation, labor, materials and equipment needed to perform and complete the scope of work stated for each individual project requested under this RFP. The services may include, but are not limited to, the following areas of licensure GB, GA, GF, GS, EE, MM, etc., which are required to perform the tasks that may be required for any of the various projects covered by this RFP.

Lot 2 Terms and Conditions

The following are terms, conditions and stipulations that the Offeror must be aware of and comply with under this lot. They are in addition to the Listing of General Terms and Conditions and the Categorical Terms and Conditions listed herein. Please review them and sign the acceptance of Categorical and Lot Terms and Conditions form. Place after Tab 5.

- A. At no cost to CES or its Member/Participating Entity and upon request of the Member/Participating Entity, the Contractor will arrange a joint scope of work meeting with the Member/Participating Entity to assess and review the type and scope of construction products and services to be provided, project's location, conditions and timelines, along with the Member's/Participating Entity's requirements, expectations and desired outcomes, and be able to prepare, provide and submit all of the necessary paperwork and quote/cost proposal in order for the Member/Participating Entity to make a decision to proceed with the proposed project.
1. As part of the joint scope of work meeting, the contractor will perform a preliminary investigation and develop the project's detailed scope of work. The contractor shall obtain, and make themselves aware of, if the designated project is being funded in part or in whole by the Member/Participating Entity, the Federal Government and/or the NMPSFA. If so, the contractor shall involve and communicate with all parties that have been identified as co-owner's representatives.
 2. It is essential and critical that the contractor be prepared to ask all of the pertinent question and to discuss all of the potential options that may be available that will allow the Member/Participating Entity to make a cost-effective and data-driven decision that will ensure project success.
 3. Based on the information obtained from the owner's designated representative(s), and the contractor's own evaluation and review of the project's documentation and detailed scope of

work developed and agreed to by all parties, the contractor will prepare a clear and detailed quote/cost proposal covering the services, supplies, materials, equipment and other related items needed to obtain, provide, perform and complete the proposed project's detailed scope of work. This will include, but is not limited to, the estimated timelines, terms, conditions and specifications of performance, warranties, etc., with their associated costs.

- a). The contractor will clearly identify each individual product and service and its CES cost in accordance with the R.S. Means or other pricing methodology as allowed under this lot. Detailed price and cost submittal with all options that need to be considered will be submitted to the Member/Participating Entity in the format required by this RFP as part of its total proposal.
 - b). In its' proposal, the contractor will clearly identify and state which of the proposed products and services will be provided by its own employees and which items it intends to subcontract. The contractor will provide a list of all subcontractors with their contact information, NMCID license information, type of product/services provided and dollar value of work to be performed. If applicable, include the subcontractors NMDOL registration number.
 - c). The member, upon receipt of the contractor's proposal, will review, evaluate and determine if changes or modifications need to be made or if it is acceptable. The Member/Participating Entity reserves the right, without cause, to accept or reject any project proposal submitted by contractor.
 - d). The contractor may be asked by the Member/Participating Entity to work with them to refine, modify or adjust the proposal to meet their needs and/or available resources. It should be noted that decrease in project cost should be directly related to a change in scope of work, quality or level of products and materials. If so, these changes should be clearly identified, stated, discussed with and approved by the Member/Participating Entity in writing so the Member/Participating Entity clearly understands the impact such changes may have on the outcome, performance and/or overall quality of the project.
- B. Let the contractor be forewarned that, based on the Member's/Participating Entity's original scope of work, terms, conditions, specifications, expectations and requirements of the project as presented need to be modified and/or changed for whatever reason, and the contractor, based on its knowledge, experience and/or expertise, determines that the proposed solution is not going to meet the Member's/Participating Entity's needs or the contractor is uncomfortable with the solution requested or knows that the Member/Participating Entity is going to be dissatisfied over the long term, and if the contractor is unable to work with the Member/Participating Entity to develop an acceptable project, they are asked to walk away from the project.
- C. On the acceptance of the project proposal and based on the proposal's total cost, the Member/Participating Entity and the contractor will need to generate and file all required documents with CES, the appropriate state and local governing authorities and acquire permits and authorization. If required, the contractor will complete and sign a CES and/or CES/NMPSFA third-party agreement between the buyer, contractor and owner. The owner and contractor may mutually agree to also enter into a standard AIA owner/contractor contract. If so, the contractor will submit a copy of the signed industry standard contract along with its project and cost proposal to CES. CES will verify the pricing to be in accordance with the RFP pricing and will issue a CES purchase order to the contractor.
1. The contractor must provide the owner a scope of work (a description of the work to be performed either by the contractor, subcontractor and/or owner) prior to a purchase order

- being issued under this RFP. It will include all specifications, drawings and other related documents, as well as any technical specifications and applicable codes at which the contract is made and general conditions that may affect the outcome of the project.
2. In any contract between the contractor and an owner based on this RFP, the terms and conditions of the RFP will prevail. A contract between the owner and the contractor for construction will be an industry standard agreement. The parties can use the American Institute of Architects (AIA) General Conditions of Contract for Construction Form A201 as a guide.
- D. The contractor, upon receipt of the CES purchase order, will, if required, provide CES with a copy of the performance and payment bonds (contractor/subcontractor), finalized project timelines, schedules of values, the NMDOL paperwork and other documents in accordance and in compliance with this RFP.
 - E. The contractor will provide the proposed products and services to the Member/Participating Entity in accordance with the project contract documents. Any change orders or modifications to the project will occur only with written approval of CES, the Member/Participating Entity and the contractor.
 - F. Sign off on work completed and processing the pay application.
 1. If progress payments are called for in the project documents, the contractor will, as part of its proposal submitted to the Member/Participating Entity, clearly identify and state the following:
 - a. Suggested schedule when all parties will get together to review and approve pay applications.
 - b. Evaluation factors and criteria to be utilized to determine what has been delivered and completed.
 - c. How errors and discrepancies are to be noted and addressed.
 - d. CES recommends that the contractor be responsible for submitting the signed pay application along with their invoice. If the contractor uses the pay application for their invoice, CES requests that a unique number be assigned to each pay application. For example, CES' purchase order number followed by a 1 for the first pay application, 2, 3, etc.
 2. It should be noted that when PSCOC and/or state appropriated funds are providing some and/or all funding for the various projects covered by this RFP, the contractor needs to be aware of the following:
 - a. NMJPSFA, through a memorandum of understanding, is entered into by NMPSFA and the school district and NMPSFA becomes a co-owner before, during and until the project has been completed and accepted.
 - b. Therefore, when developing a schedule when all parties will get together and review and approve pay applications, NMPSFA needs to be involved because their representative must sign off and submit the documents before payment can be issued. CES recommends that these meeting be held between the 19th and 25th of the month in order to allow the time necessary for paperwork to flow through the process.
 - c. Evaluation factors and criteria should be established and stated.
 - d. How errors and discrepancies are to be noted and addressed.
 - e. CES recommends that the contractor be responsible for submitting the signed pay application along with their invoice to both CES and NMPSFA's representative. If the contractor uses the pay application for their invoice, CES requests that a unique number

be assigned to each pay application. For example, CES' purchase order number followed by a 1 for the first pay application, 2, 3, etc. MMPSFA requires that the unique project identifier all appear on the pay application/invoice.

3. Upon obtainment of substantial competition, the contractor, Member's/Participating Entity's and, if applicable, NMPSFA's representative will develop a punch list of those items that need to be completed or resolved. The contractor will complete the punch list and provide required close-out documents and applicable certificates of compliance of codes from the various state and local governing authorities prior to requesting final payment.
4. When the job is totally complete, the punch list items have been addressed and close-out documents have been provided and accepted by the Member/Participating Entity and NMPSFA, the prime contractor will close out the project with CES and receive final payment.
5. Even if final payment is made, if the Member/Participating Entity discovers an unfinished and/or missing job component and/or improperly installed product, material or piece of equipment during the first year after acceptance that should have been completed as part of the original project scope of work, the contractor will complete the work in a timely fashion at no additional cost.
6. Delay in Completion – Liquidated Damages shall follow and will be calculated in accordance with the schedule indicated below if omitted or not specified in the individual project's contract documents.

<u>Job Order Amount</u>	<u>Calendar Day</u>
\$1.00 to \$25,000.00	\$ 235.00
\$25,001.00 to \$100,000.00	\$ 325.00
\$100,001.00 to \$250,000.00	\$ 410.00
\$250,001.00 and above	\$ 500.00

Lot 2 Specifications and Exhibits

- A. The documents listed below and provided as exhibits are to be considered part of the RFP 2009-021 solicitation and are to be included as part of any contract awarded as a result of this solicitation.
 1. Three-Party Contract (Contract Between Owner, Buyer and Contractor)
 2. NMPSFA General Conditions of the Contract for Construction Exhibit 4, Edition Version 3.
- B. Due to the nature of this Request for Proposals and the variety and level of construction products and services requested and the standard of quality and performance required in the specifications and scope of work by the Member's/Participating Entity's for the individual projects, the minimum acceptable product and performance standards are those set up and established by the various trade industry organizations and federal, state and local governmental agencies listed under Categorical Definitions and specific product manufacturers of the products requested unless otherwise stated in the final project's detailed scope of work, specifications, drawings, product manufacturer's instructions, industry standards stated or as identified in the CES three-party agreement or addendums.
- C. Contractor will pay for any failure to conform or for any defect. In addition, contractor will fix any damage to Member/Participating Entity 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.

- D. If contractor fails to remedy any failure, defect or damage within a reasonable time after receipt of notice, the Member/Participating Entity will have the right to replace, repair or otherwise remedy the failure, defect or damage at the contractor's expense in accordance with New Mexico state law.

Lot 2 Required Response

- A. The Offeror, through written narratives and documentation, must provide responses to all items found on Form J - Offeror's Qualifications. Failure to provide the information requested may result in the Offeror's response being non-responsive.
- B. The Offeror must, through written narratives and documentation, demonstrate its capacity and ability to provide and perform construction products and services solicited for by this lot by providing five (5) examples of prior experience with public educational institutions and Participating Entities for whom you have performed work in each of the regions to which you are responding. The documentation shall include:
 - 1. Provide the general scope of work for each project.
 - 2. Provide the total cost of each project.
 - 3. Provide the institution's name, address, phone number, and contact person's name and title for each project.
 - 4. Provide the timeline for each project listed and provide a brief narrative of the pre-sale and follow-up consulting services offered to ensure institution's satisfaction.
- C. Provide a narrative of your company's policies, procedures and strategies to ensure quality control and response to concerns before, during and after the project. Indicate what follow-up, review and oversight process your management team has in place to ensure customer's satisfaction.

Lot 2 Price and Cost Submittal

- A. As noted throughout this solicitation, for the nature, types, kinds and levels of construction products and services that may or may not be required within any of the individual projects that may be executed under an awarded contract covered by this solicitation, CES has established three (3) pricing methodologies that will be utilized to develop and establish each project's total cost to be paid by the Member/Participating Entity. Also, as indicated herein, CES has been conducting and managing this type of contract since 1998 and has encountered, experienced and dealt with a variety of concerns and issues relating to how project costs are calculated, developed and established when utilizing an indefinite quantity type contract. Due to its encounters and experiences, CES has needed to make modifications and adjustments to address the cost-related concerns and issues raised, and those changes are included in the following.

- B. It is understood that the contractor will be required to perform whatever investigation is necessary and request whatever information (scope of work, drawings, specifications, outcomes, etc.) necessary to develop a comprehensive and clear understanding of the types, kinds, and levels of construction products and services required to complete the project. Therefore, the contractor shall carefully examine and work through the following pricing methodologies with their terms, conditions, stipulations, calculations and requirements prior to preparing their cost proposal in response to this lot of CES' solicitation.
- C. **R.S. Means Pricing Methodology** As indicated herein, the R.S. Means Company publishes a CD Rom and hard copy books with a number of individual sections that cover construction products and services that relate to the various major trades that make up the construction industry and covered by the scope of work, terms, conditions and requirements of this solicitation.
1. The Offeror responding to this lot will acquire the current version of the R.S. Means CD/Software or copies of the bound books that are required in order to prepare a cost proposal covered by this lot.
 2. The R.S. Means pricing method is to be the primary method for pricing projects covered by this lot, unless it cannot clearly and accurately reflect cost. In these cases, the project may require the use of multiple pricing methodologies.
 3. When utilizing the R.S. Means pricing methodology, there are options/configurations that can be established that will govern how individual construction cost items within the R.S. Means software/cost-books can effect and modify the individual item's costs as a global setting and will determine the actual item's cost that appears on the project's price quote/cost proposal. Any/all such options/setting/configurations must be disclosed and noted within the Offeror's cost submittal response.
 4. The individual item's cost shown in the R.S. Means' cost-listing indicates the materials, equipment, labor, overhead and profit that will be charged the Owner for the construction item.
 5. Costs relating to non-construction items/assemblies (General Condition items) such as contract management/supervision, proposal preparation, paperwork preparation, season of the year; home office costs; insurance; project management and supervision; office and storage trailers; pickup trucks, mileage, per diem, transportation/delivery; safety equipment, weather conditions, etc., must be included as part of the contractor's multiplier/factor to be applied to the R.S. Means cost proposal total to achieve the subtotal for the R.S. Means portion of the project's costs. These general condition items will not to be included as part of the Contractor's R.S. Means construction cost proposal.
 6. CES understands that there may be project(s) performed under this lot that, due to unusual, unordinary and/or special circumstances, conditions, situations and/or project needs may require these general condition items be utilized. If so, a separate R.S. Means cost proposal listing these items must be submitted with justification and other backup documentation to CES staff for its review and approval prior to their being included as part of a total project's cost proposal. CES reserves the right to approve or disapprove such requests and, if the vendor feels CES' decision is in error, the contractor may request third party review. The findings of the third party's review will determine weather the Contractor or CES pays for the review. Items that fall within this area may include, but are not limited to:
 - a. Architectural and engineering services, if required.

- b. Pre-construction site investigation to ascertain and discover conditions that may effect, impact and/or change the project's detailed scope of work. It is understood that unforeseen conditions and/or circumstances may arise and/or be encountered during the construction process that may need to be addressed in a change order.
 - c. Special requests made by the Owner that is outside the normal and customary process.
7. R.S. Means cost proposals are to be the primary method utilized for projects covered by this lot.
- a. All cost items/assembly required by a project to clearly provide, accurately represent and describe the construction products and services required to complete the project's detailed scope of work provided must be listed.
 - b. The contractor must for each individual cost item/assembly shown on their cost proposal, indicate and document any of the R.S. Means special factors that are applicable, including factors affecting cost, quality of materials, productivity of labor force, size of project, physical location/height of where the item was being stored/utlized, constructed/installed, etc.
 - c. Since the most recent edition of R.S. Means is utilized and a new edition comes out January 1st of each year, adjustments and updates to reflect current material costs, equipment costs, labor rates, market conditions, etc., are included in the new addition and will limit the need for item prices to be adjusted. It should be noted that, within an individual trade/industry, due to an act of God, economic/market condition, material shortage etc., out of the control of CES or the Contractor an adjustment may be required. If a price anomaly/increase should occur during the year that is felt across the trade/industry, the Contractor may request CES' approval for an adjustment.
 - d. The quantity of the item (unit measure) indicated must accurately represent the amount to be utilized. If the Contractor feels that it is necessary to either increase or decrease the quantity to arrive at an extended price, this is an indication that the item selected does not clearly identify and/or represent construction products/tasks/processes needed by the project. If this situation should arise, the Contractor must utilize one of the other pricing methodologies allowed under this lot.
 - e. A subtotal of all of the items selected will be presented and the Contractor's multiplier/factor awarded for the region will be applied to arrive at the R.S. Means project cost.
 - f. Contractor's R.S. Means factor/multiplier.
 - 1) As part of the Offeror's response to this Lot, it will propose a multiplier/factor that will be applied to the R.S. Means' construction cost proposal to reflect the additional contractor's costs to prepare for, mobilize, take possession of, secure and take control of the construction site, and to manage, supervise and complete all activities required by the project and the CES one percent (1%) administrative fee.
 - 2) The Offeror's Multiplier must include all non-construction (General Conditions) items such as contract management/supervision, proposal preparation, paperwork preparation; season of the year; home office costs; insurances; project management, supervision, construction management; office and storage trailers; pickup trucks, tools and tool boxes, mileage, per diem, transportation/delivery; safety equipment; weather conditions; etc.; and the CES one percent (1%) administrative fee.
 - 3) Since all mobilizations, transportation and travel costs for both his and its subcontractor's employees/staff are to be included in the Offeror's multiplier/factor,

if the offeror intends to service other CES procurement regions than the region in which Offeror is located and intends to utilize subcontractor's that are not located in the CES procurement region where the project is located, the Offeror must take into consideration all of these variables and appropriately allow for them in its multiplier/factor for each region it intends to serve.

- 4) The Offeror will propose a multiplier/factor for each of the CES procurement regions it intends to serve. This multiplier/factor will be expressed as a whole number plus three (3) decimals places. For example, if the Offeror proposes (0.925) and the project's construction quote/cost proposal subtotal is ten thousand (\$10,000) dollars, then the calculation would be (\$10,000 multiplied by 0.925 equals \$9,250) total construction costs. If the Offeror proposes (1.125) and the project's construction quote/cost proposal subtotal is ten thousand (\$10,000) dollars, then the calculation would be (\$10,000 multiplied by 1.125 equals \$11,250) total construction costs
- 5) The Offeror will propose the following multipliers/factors for each CES procurement regions it intends to service.
 - a) **Normal Working Hours (Defined as 7:00 a.m. to 5:00 p.m. Mondays-Fridays.**
 - i. One for work in normal hours when the total project cost (job order) is in excess of \$60,000, requiring state wage rates.
 - ii. One for work in normal hours when the total project cost (job order) is less than \$60,000 and does not require state/federal wage rates.
 - b) **Other Than Normal Working Hours (Defined as all hours not defined as normal hours above).**
 - i. One for work in other than normal working hours when the total project cost (job order) is in excess of \$60,000, requiring state wage rates.
 - ii. One for work in other than normal working hours when the total project cost (job order) is less than \$60,000 and does not require state wage rates.
 - c) **Project funded by Federal Funds Requiring Davis Bacon Wage Rates and performed during working hours.**
 - i. One for work performed during normal hours when the total project cost (job order) is in excess of \$2,500, requiring state wage rates.
 - ii. One for work performed during normal hours when the total project cost (job order) is less than \$2,500 and does not require state/federal wage rates.
 - d) **Project funded by Federal Funds Requiring Davis Bacon Wage Rates and performed outside normal working hours.**
 - i. One for work performed outside of normal hours when the total project cost (job order) is in excess of \$2,500, requiring state wage rates.
 - ii. One for work performed outside of normal hours when the total project cost (job order) is less than \$2,500 and does not require state/federal wage rates.
 - e) **An Add-on factor for projects located 150 (round-trip) map miles from the contractor's and/or subcontractor's home locations.**
 - i. Propose a factor to be added to the normal hours, other than normal hours or the federal funded factor for projects located 150 map miles (round-trip) from the contractor's and/or subcontractors home location.
- 6) The Offeror's awarded multiplier/factor will be adjusted on the Offeror's CES contract anniversary date by applying the escalation/de-escalation as measured by the

Construction Cost Index (CCI) published in the ENR (formerly known as Engineering News and Record).

- g. Cost of permits, performance and payment bond costs, tribal taxes and New Mexico Gross Receipt taxes are shown as separate line items on the cost proposal.

D. Alternative Pricing Methodology

1. If there are R.S. Means' cost items/assemblies that cannot accurately identify or describe the individual construction product and/or services required by the project's detail scope of work, the cost of these items/assemblies will be calculated by utilizing the alternative pricing methodology.
2. The costs of these items/assemblies (construction products and services) will be obtained by the Contractor for issuing, receiving and evaluating three (3) written quotes specifying the terms, conditions, specifications and requirements to the available qualified and experienced suppliers, distributors, service providers/subcontractors. The contractor will rank and submit to the project's Owner the quotes received from the one that best meets item's/assemblies' specifications, and requirements and is most cost effective. The quotes must be submitted and approved by the Owner prior to being made part of any project's cost proposal.
3. Once the quote to be utilized in the project's quote/cost proposal is approved, the contractor will take the total on the quote and apply the percentage awarded to establish the normal and customary standard/retail price. For example, the total cost of the quote /cost proposal is ten thousand (\$10,000) dollars and the Contractor's awarded percentage is eighteen percent (18%), the standard/retail price would be determined by taking \$10,000 multiplied by 1.18 equals \$11,800. In developing this percentage, the Offeror must take into account any non-construction general conditions and include them as part of its percentage.
4. The CES price would be calculated by taking the alternative standard/retail price of \$11,800 and multiply it by the Contractor's percentage awarded as the CES discount of the alternative standard/retail price of five percent (5%). \$11,800 multiplied by .05 equals \$590 the CES discount and by taking \$11,800 the standard/retail pricing and subtracting \$590, the CES price of \$11,210 would be made a part of the project's quote/cost proposal.
5. The Offeror, as part of its cost submittal, will propose a percentage that includes the Offeror's overhead, markup and profit.
6. The Offeror, as part of its cost submittal, will propose a percentage that reflects the amount of discount offered to CES and its Members/Participating Entities to establish the CES price.
7. The Contractor must provide CES all of the quotes and documents associated with its final project quote/cost proposal when the alternative pricing methodology is utilized.
8. Cost of permits, performance and payment bond costs, tribal taxes and New Mexico Gross Receipt taxes are shown as separate line items on the cost proposal.
9. All quotes/cost proposals and alternative documentation utilized by the Contractor to establish a project's cost must be submitted to CES with its project's quote/cost proposal so that it will be available to CES and/or its Members/Participating Entities to verify and audit.

Lot 2 Cost Evaluation Information

- A After Offerors' response has been determined to be responsive and their Part 1 Technical Proposal has been reviewed, evaluated and scored utilizing the Part 1 Technical Proposal scores,

the respondents will be ranked high score to low score, the highest score being the most qualified respondent to the least qualified based on the Part 1 Technical Proposal evaluation criteria.

B. The committee will then review and discuss the cost evaluation summary sheets prepared and provided by CES based on the calculations/formulas listed below.

1. **Normal Working Hours (Defined as 7:00 a.m. to 5:00 p.m. Mondays-Fridays).**

a = 40 pts. One for work in normal hours when the total project cost (job order) is in excess of \$60,000, requiring state wage rates.

b = 40 pts. One for work in normal hours when the total project cost (job order) is less than \$60,000 and does not require state/federal wage rates.

2. **Other Than Normal Working Hours (Defined as all hours not defined as normal hours above).**

a = 15 pts. One for work in other than normal working hours when the total project cost (job order) is in excess of \$60,000, requiring state wage rates.

b = 30 pts. One for work in other than normal working hours when the total project cost (job order) is less than \$60,000 and does not require state wage rates.

3. **Project Funded by Federal Funds Requiring Davis Bacon Wage Rates and Performed during Normal Working Hours.**

a = 20 pts. One for work performed during normal hours when the total project cost (job order) is in excess of \$2,500, requiring state wage rates.

b = 5 pts. One for work performed during normal hours when the total project cost (job order) is less than \$2,500 and does not require state/federal wage rates.

4. **Project Funded by Federal Funds and Requiring Davis Bacon Wage Rates and Performed Outside Normal Working Hours**

a = 15 pts. One for work performed outside of normal hours when the total project cost (job order) is in excess of \$2,500, requiring state wage rates.

b = 5 pts. One for work performed outside of normal hours when the total project cost (job order) is less than \$2,500 and does not require state/federal wage rates.

5. **An Add-on factor for projects located 150 (round-trip) map miles from the contractor's and/or subcontractor's home locations.**

A = 15 pts Propose a factor to be added to the normal hours, other than normal hours or the federal funded factor for projects located 150 map miles (round-trip) form the contractor's and/or subcontractors home location.

6. **Alternative Pricing Methodology Offeror's overhead, markup and profit to be applied to supplier's/distributor's/provider's/subcontractor's quote/cost proposal to obtain the normal and customary standard/retail price.**

a = 30 pts. One for work performed during normal hours when the total project cost (job order) is in excess of \$60, 000, requiring state wage rates.

b = 25 pts. One for work performed during normal hours when the total project cost (job order) is less than \$60,000 and does not require state wage rates.

c = 5 pts. One for work performed outside of normal hours or when the total project cost (job order) is in excess of \$60,000, requiring state wage rates.

d = 20 pts. One for work performed outside of normal hours when the total project cost (job order) is less than \$60,000 and does not require state wage rates.

e = 30 pts. One for work performed during normal hours when the total project cost (job order) is in excess of \$2,500, requiring federal wage rates.

f = 5 pts. One for work performed outside of normal hours or when the total project cost (job order) is less than \$2,500, not requiring federal wage rates.

g = 50 pts. One for products **ONLY** and does not involve any labor.

7. **Alternative Pricing Methodology Offeror's percentage of CES discount to be taken off standard/retail pricing to determine CES price.**

a = 50 pts. Percentage of discount to be applied to item 5 a through d above to determine CES price.

SUBTOTAL COST EVALUATION POINTS = scores awarded for 1 + 2 + 3 + 4 + 5 + 6+7 noted above.

SECTION III: CONDITIONS LEADING TO AND INCLUDING CONTRACT AWARD

A. CONTRACT FORM

The form of the contract between CES and the vendor will be as per that in Section IV.

B. PROPOSAL SUBMISSION

Sealed proposals will be received until 1:30 p.m. local time, on Friday, August 7, 2009, whether hand delivered or mailed to the Cooperative Educational Services offices, 4216 Balloon Park Road NE. Responses will be submitted in two (2) sealed individual envelopes/packages marked "RFP 2009-021 Part 1 Technical Proposal" and the second "RFP 2009-021 Part 2 Cost Proposal". The documentation for each Part must be in a binder and on CD-Rom.

C. PROPOSAL REVIEW

Commencing on Monday, August 10, 2009, proposals will be reviewed by the CES Procurement Office and a committee designated by the CES Executive Director or his designated representative.

D. EVALUATION FACTORS

CES has utilized a Request for Proposal (RFP) to solicit and acquire various construction products and services because this type of public solicitation allows CES and its Members/Participating Entities greater flexibility to achieve the best overall value while permitting CES to take into consideration certain contractor qualification and performance factors that add value to its contracts made available to its Members/Participating Entities, such as contractor past performance, technical expertise and experience, management capabilities, available resources, and subcontractor's offerings in various types of facilities.

To qualify for evaluation, a proposal must be responsive, must have been submitted on time, and materially satisfy all mandatory requirements identified throughout the RFP. To be considered responsive, a proposal must reasonably and substantially conform to all of the specified requirements in the RFP in the judgment of CES and the evaluation committee. Any deviation from requirements indicated herein must be stated, identified and presented as requested, attached behind Tabs 3 and 5. Otherwise, it will be considered that proposals are in strict compliance with all requirements, and any successful Offeror will be held responsible therefore. Deviations or exceptions stipulated in an Offeror's responses, while possibly necessary in the view of a particular Offeror, can result in a penalty assessment being assigned during the evaluation process. Language to the effect that the Offeror does not consider this proposal to be part of a contractual obligation will result in that Offeror's proposal being disqualified. Due to the unpredictable nature of what any particular Offeror may wish to stipulate with regard to exceptions, exclusions or limitations of liabilities, Offerors are forewarned that CES reserves the right to assign any penalties it considers warranted. Terms of the RFP that any Offeror considers particularly unwarranted, and to which that Offeror would have to take significant exception in its response, should be stated in the proposal clearly and concisely as exceptions and/or deviations.

Part 1: Technical Proposal Evaluation Criteria

1. Contract Documents (Tab 1)

Yes	No	Form A – Offerors Declaration Form (page 105)
Yes	No	Form B – The signed Offer and Contract Award (page 107)
Yes	No	Form C – The signed Affidavit (page 108)
Yes	No	Acknowledgement of any addendums issued

2. Offeror Qualification Statement (Tab 4)

100 Points	Organization – History, Qualifications and Background (Items A and B, Pages 13-14)
20 Points	Licensing (Item C, Page 14)
80 Points	Experience and Past Performance (Item D, Page 14)
30 Points	Bonding, Insurance Claims, Suits, and Disputes (Item E and F, Page 15-16)
30 Points	Offeror’s capacity and ability to perform financially and financial stability (Item G, Page 16-17)
30 Points	Described their company’s policies and procedures in regards to complying with the New Mexico Public Education Department (NMPED) mandate regarding security and background checks (Item H, Page 17)
10 Points	Contractor has a formal quality and assurance program (Item I, Page 17)
5 Points	Ability to contract – other contracts (Item J, Page 17)
5 Points	Justification why Offeror’s products and services are the most advantageous to CES and its Members (Item K, Page 18)

3. Subcontractors Qualification Statement (Tab 4)

30 Points	Organization – History, Qualifications and Background (Item A and B, Page 18)
20 Points	Licensing (Item C, Page 18)
30 Points	Experience and Past Performance (Item D, Page 19)
20 Points	Bonding, Insurance Claims, Suits, and Disputes (Item E and F, page 19-20)
20 Points	Described their company’s policies and procedures in regards to complying with the New Mexico Public Education Department (NMPED) mandate regarding security and background checks (Item G, Page 20)
10 Points	Contractor has a formal quality and assurance program (Item H, Page 20)

4. Responses to Specific Requests for General Terms and Conditions (Place after Tab 3)

Yes	No	Copy of Listing of General Terms and Conditions (Pages 21-49)
Yes	No	Signed copy of Acceptance of General Terms and Conditions Form E (Page 111)
Yes	No	Offeror’s listing of deviations and exceptions to General Terms and Conditions

5. Responses to Specific Requests for each Category (Place after Tab 5)

- | | |
|-----------|---|
| Yes No | Copy of Special Terms, Conditions and Specifications – Categorical (Pages 75-77) Lot 1 (Pages 78-85) Lot 2 (Pages 90-94) |
| Yes No | Acceptance of Special Terms, Conditions and Specifications Categorical |
| Yes No | Acceptance of Special Terms, Conditions and Specifications Lot 1 |
| Yes No | Acceptance of Special Terms, Conditions and Specifications Lot 2 |
| Yes No | Offeror’s listing of deviations and exceptions to Categorical Special Terms, Conditions and Specifications |
| Yes No | Offeror’s listing of deviations and exceptions to Lot 1 Special Terms, Conditions and Specifications |
| Yes No | Offeror’s listing of deviations and exceptions to Lot 2 Special Terms, Conditions and Specifications |
| 60 points | Responses as to how well total proposed solution meets our request, as evidenced in timelines, product information and performance specifications, and requested presentations provided in Tabs 5, 8 and 10 |
| 60 points | Response to Lot required written responses |
| 40 points | Responses to items related to customer and support services, warranty and assistance offered before, during and after-the-sale |

Total Points Part One – Technical Responses 600 Points

Part 2: Cost Submittal

- | | |
|--------------|---|
| 400 points | Cost with responses prorated on total cost evaluation factors |
| 1,000 points | TOTAL POINTS POSSIBLE |

E. NEGOTIATIONS

In order to obtain the most favorable price and support for its Members, CES reserves the right to enter into negotiations with responsible Offerors (see also Best and Final Offer, Section I.E).

F. COST CONSIDERATIONS

The negotiated contract between CES and the vendor will be for a firm, fixed multiplier/factor/discount applied to the Gordian or R.S. Means pricing methodologies or a discount of the Alternative Pricing Methodology which are indefinite quantity pricing methods. CES will not be liable for any cost in proposal response preparation and submittal.

G. IMPORTANT NOTICE TO OFFERORS

CES is an educational service agency that provides needed education-related materials and services to New Mexico public education institutions. Under CES policy, CES charges an administrative fee to its Members and Participating Entities when it provides a service. There are no other annual Membership fees or dues other than what CES collects for offering its procurement services.

Finally, Offerors should keep in mind that CES desires to provide small, rural CES Members and Participating Entities the same prices that larger Members/Participating Entities pay. Therefore, offers that require minimum purchases or minimum dollar amounts on a purchase order may be either rejected or have very little business, if accepted.

SECTION IV: PROPOSAL FORMS

Form A

OFFERORS DECLARATION FORM

Offerors must indicate the Lot or Lots to which it is submitting a response by placing an “X” next to each item that applies.

- Lot – 1: Gordian-Based Job Order Contract (JOC) for General Construction (GB98) Products and Services
- Lot – 2: R.S. Means-Based Job Order Contract (JOC) for General Construction (GB98) Products and Services

As indicated within this solicitation, CES has divided the State of New Mexico into eight (8) service regions. In the spaces below, the Offeror must indicate (by placing an “X”) next to those regions to which it will provide its construction products and services if awarded a contract under this solicitation.

- Region One (1)** – Aztec, Bloomfield, Central, Dulce, Farmington, Gallup-McKinley, and Zuni School Districts; Navajo Preparatory School, Pine Hill Schools, San Juan College, Shiprock Associated Schools, and University of New Mexico - Gallup Branch
- Region Two (2)** – Chama Valley, Cuba, Española, Jemez Mountain School, Los Alamos, Mesa Vista, Pecos, Peñasco, Pojoaque Valley, Questa, Santa Fe and Taos School Districts; New Mexico School for the Deaf, Northern New Mexico College, Santa Fe Community College, Santa Fe Indian School, University of New Mexico - Los Alamos Branch, and University of New Mexico – Taos Branch
- Region Three (3)** – Cimarron, Clayton, Des Moines, Las Vegas City, Maxwell, Mora, Mosquero, Pecos, Raton, Roy, Santa Rosa, Springer, Wagon Mound and West Las Vegas School Districts; Luna Community College and New Mexico Highlands University
- Region Four (4)** – Albuquerque, Belen, Bernalillo, Estancia, Grants-Cibola, Jemez Valley, Los Lunas, Magdalena, Moriarty, Mountainair, Quemado, Rio Rancho, Socorro and Vaughn School Districts; Alamo Navajo School, New Mexico CFYD, New Mexico Institute of Mining and Technology, New Mexico State University at Grants, University of New Mexico and University of New Mexico - Valencia Campus
- Region Five (5)** – Clovis, Dora, Elida, Floyd, Fort Sumner, Grady, House, Logan, Melrose, Portales, San Jon, Texico, and Tucumcari School Districts; Clovis Community College, Eastern New Mexico University and Mesalands Community College

- (____) **Region Six (6)** – Artesia, Carlsbad, Dexter, Eunice, Hagerman, Hobbs, Jal, Lake Arthur, Loving, Lovington, Roswell and Tatum School Districts; Eastern New Mexico University-Roswell, New Mexico Junior College, New Mexico Military Institute and New Mexico State University at Carlsbad
- (____) **Region Seven (7)** – Alamogordo, Capitan, Carrizozo, Cloudcroft, Corona, Hondo Valley, Ruidoso, and Tularosa School Districts; Mescalero Apache School, New Mexico School for the Blind and Visually Impaired, New Mexico State University at Alamogordo.
- (____) **Region Eight (8)** – Animas, Cobre, Deming, Gadsden, Hatch Valley, Las Cruces, Lordsburg, Reserve, Silver and Truth or Consequences School Districts; New Mexico State University and Western New Mexico University

OFFER AND ACCEPTANCE OF OFFER AND CONTRACT AWARD

PROJECT: RFP 2009-021

OFFER
ACCEPTANCE OF OFFER
and
CONTRACT AWARD

OFFER TO BE COMPLETED BY VENDOR

In compliance with the Request for Proposal, the undersigned warrants that I/we have examined the Instruction to Offerors, and, being familiar with all of the conditions surrounding the proposed projects, hereby offer and agree to furnish all labor, materials, and supplies incurred in compliance with all terms, conditions, specifications and amendments in this Request for Proposal and any written exceptions in the offer. Signature also certifies understanding and compliance with the certification requirements of the Categorical Terms and Conditions. The under-signed understands that his/her competence and responsibility and that of his/her proposed subcontractors, time of completion, as well as other factors of interest to CES as stated in the evaluation section, will be a consideration in making the award.

Company Name _____ Contact Person _____
Address _____ Authorized Signature _____
City _____ State ___ Zip _____ Printed Name _____

ACCEPTANCE OF OFFER AND CONTRACT AWARD TO BE COMPLETED ONLY BY AGENCY

Your offer for services and materials is hereby accepted. As vendor, you are now bound to sell the materials and services listed by the attached offer based upon the solicitation, including all terms, conditions, specifications, amendments as set forth in the Request for Proposal. As vendor, you are hereby cautioned not to commence any billable work or provide any material or service under this contract until vendor receives an executed purchase order from Agency.

The parties intend this contract to constitute the final and complete agreement between agency and contractor, and no other agreements, oral or otherwise, regarding the subject matter of this contract, will bind any of the parties hereto. No change or modification of this contract will be valid unless it is 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 will not be affected thereby. The term of the agreement will commence on award and continue until September 1, 2010, unless terminated, canceled or extended. By mutual written agreement, the contract may be extended for three (3) additional 12-month periods, ending September 1, 2011, September 1, 2012 and September 1, 2013.

Authorized Signature Contract Number
Awarded this ____ day of _____, 2009.

AGENCY
SEAL
or
STAMP

Form D: **OFFEROR'S INDEFINITE QUANTITY UNIT PRICE DECLARATION FORM**

Instructions: (Place behind Tab 6)

To complete and submit your pricing information in response to this solicitation, please utilize Exhibits 5 and 6: Indefinite Quantity Offeror's Cost Proposal Excel Price Book, which has individual price sheets labeled for each Category-Lot to which you may respond. Please complete and place this form (Form D) document behind Tab 6.

Check the Category that applies.

Lot – 1: Gordian-Based Job Order Contract (JOC) for General Construction (GB98)
Products and Services

Lot – 2: R.S. Means-Based Job Order Contract (JOC) for General Construction (GB98)
Products and Services

By placing my initials here (____), I acknowledge that I have read and reviewed the solicitation document sections and exhibits that relate to preparing and submitting cost and pricing information.

For this solicitation, the offeror will utilize the e-commerce Open Item methodology format for offering its pricing on CES e-commerce solution. The Offeror's price submittal will include its multiplier(s) factor(s), to be applied to the Gordian's custom price book, the R.S. Means price books and/or Discounts applied to the Alternative Pricing Method.

1. All pricing information must be organized, categorized and indexed in a way that the following information is clearly identified (See Exhibits 5 and 6).
 - a. Offeror's Name - alpha/numeric fifty (50) characters maximum (Required)
 - b. Product/Item Number - unique product number/identifier (Manufacturer/Vendor /CES) assigned, alpha/numeric twenty-one (21) characters maximum (Required). Will be filled in by CES.
 - c. Product/Item Name – short name/description alpha/numeric fifty (50) characters maximum (Required). This field will probably be the most searched field. Will be filled in by CES.
 - d. Product/Item Description – product/item description/specifications alpha/numeric two hundred-fifty (250) characters maximum (Required). Will be filled in by CES.
 - e. Unit - unit of measure alpha/numeric 25 characters maximum (Required). Example to be applied, each, per dozen, 12 oz bottle, etc.
 - f. Price - unit price numeric 15 characters two decimals (Required).
 - g. Category - NIGP five (5) digit Code and description 50 characters (Do Not Complete). Will be filled in by CES.
 - h. Brand - alpha/numeric 25 characters maximum (Required) Will be filled in by CES.
 - i. Manufacturer's Name – alpha/numeric 50 characters maximum (Not required). Will be filled in by CES.
 - j. Image Name - Product Image file name must be correct with (jpg) extension, example (5236421.jpg) (Not Required). Do not place images in Excel Spreadsheet, provide separately.

- k. Product Thumb Image – Provide an image/picture of the product, must be in (jpg) file format. (Not Required).
2. Once your offer is accepted, any future price adjustments must be made in the same manner and in accordance with the solicitation's general terms and conditions.
3. It is your responsibility to keep your contract current in every way. Auditors review our contracts, and we want to keep everything legal.

Acceptance of General Terms and Conditions

Rather than duplicate each general term and condition and indicate acceptance, Offeror may sign the statement below. Any exceptions must be listed on this page (additional pages may be attached, if necessary). **Place Behind Tab 3**

I accept the General Terms and Conditions of this RFP 2009-021, except as listed below.

Printed Name and Title

Signature (should match cover signature)

List exceptions taken below:

Acceptance of Categorical Terms and Conditions

Rather than duplicate each Categorical/Lot term and condition and indicate acceptance, Offeror may sign the statement below. Any exceptions must be listed on this page (additional pages may be attached, if necessary). Indicate the category by placing an (X) in the space provided. **(Place Behind Tab 5)**

I accept the Categorical Terms and Conditions, except as listed below.

I accept the Lot 1 Terms and Conditions, except as listed below.

I accept the Lot 2 Terms and Conditions, except as listed below.

Printed Name and Title

Signature (should match cover signature)

List exceptions taken below:

Form F

SUPPORT AND MAINTENANCE PLANS

The best warranty and maintenance plans offer toll-free or collect calls from buyers. Please identify the phone numbers below.

- o Toll Free Number _____
Contact Person _____
- o Collect Calls Accepted at this Number _____
Contact Person _____
- o Service and Maintenance Number _____
Contact Person _____
- o Technical Help Phone Line _____
Contact Person _____

Describe your maintenance facilities: location, number of technicians, and value of parts inventory normally on hand.

Describe the steps a buyer should take to activate the warranty.

Describe any maintenance plan available beyond the one-year warranty, including costs.

Cooperative Educational Services (CES) is a school service agency established as a JPA. All school service agencies in New Mexico are supported by user's fees rather than by appropriated funds. The procurement activities of CES, therefore, are funded through a small administration fee paid by the school district or local procurement unit using one or more of our contracts. There is no cost or fee paid by the vendor to CES.

There are many reasons the Members use CES contracts. Because each of CES' contracts is based on a sealed proposal, Members are exempt from having to issue a proposal or RFP. This saves them a great deal of time and a large amount of money. In addition, because each vendor agrees that the price charged through a CES contract will be the lowest that vendor will offer, the Member knows that issuing its own proposal will not necessarily reduce the cost of the procurement. Finally, the service and convenience of processing orders through one agency (CES) simplifies the procurement process. Rather than having to issue a dozen purchase orders, for example, a Member can issue one to CES. If problems occur, the Member has the assistance of CES in reaching a satisfactory solution.

A vendor receives many of the same benefits as a CES Member. Rather than having to respond to dozens of individual proposals and RFPs (which is a big cost of doing business), a response to CES opens the door to over 100 procurement units. The business office of the vendor has the advantage of invoicing CES rather than each individual account. The vendor also has CES' service in collection (some public entities are slow in processing payments). If problems develop, the vendor has the mediation service of CES to settle difficulties.

Purchase orders from the Members are sent to CES. CES then issues its purchase order to the vendor asking the vendor to ship directly to the Member, but to send CES the invoice. Next, CES invoices the Member, and adds a one percent administration fee to that invoice. This fee (\$10 minimum) is CES' income. The state does not give CES any funds to provide procurement services for schools.

Because CES asks the Members to pay one percent for the services, CES also expects vendors who are awarded contracts to provide an incentive to the Members to use a CES contract. If a vendor will sell a product to a Member for the same price as on the CES contract, the Member, in effect, is paying one percent more when it purchases through CES. On large purchases the convenience of not having to issue a proposal may be overshadowed by the amount of the administration fee.

Therefore, CES requests that each vendor offer prices on CES contracts lower than the price it offers to Members that purchase directly, or that might issue a local proposal. CES asks this not for a "most favored nation" relationship, but as a commitment of partnership between CES and the vendor. CES wants Members to understand that when using a CES vendor, they are not only satisfying the procurement code, but are truly reducing the costs of education.

Please indicate the level of support you will offer on this contract. *Check only one box*

Prices will be **no different** from what we ordinarily offer to individual public educational Institutions. (If this is checked, Offeror's response will be considered **Non-Responsive**)

- | | | | |
|--------------------|--------------------------|--------------------|--|
| Prices are (check) | <input type="checkbox"/> | two percent (2%) | Lower than our best price to individual Members. |
| | <input type="checkbox"/> | three percent (3%) | Lower than our best price to individual Members. |
| | <input type="checkbox"/> | four percent (4%) | Lower than our best price to individual Members. |
| | <input type="checkbox"/> | five percent (5%) | Lower than our best price to individual Members. |
| | <input type="checkbox"/> | ten percent (10%) | Lower than our best price to individual Members. |
| | <input type="checkbox"/> | other | Explain other _____. |

Signature (must match signature on cover sheet)

Title

QUESTIONNAIRE FOR OFFEROR

Company Name: _____

Circle Answers Where Appropriate

1. Do you guarantee that prices in the RFP are the lowest you will offer to schools and other procurement units in New Mexico during the time of any contract between CES and your company? * Do you also agree to immediately reduce any price to CES equal to or lower than a price quoted to any other New Mexico procurement unit?
YES NO
2. If applicable, list any New Mexico contractor's licenses held by your company.

Name of Licensee	Classification	Number

3. Describe your return policy? What is your restock fee, if any? _____

4. Where should CES mail purchase orders?

Vendor Name _____

Attention Line _____

UPS Address _____

Mailing Address _____

City _____ State _____ Zip _____

Email Address _____

Telephone (to verify prices) _____ Fax _____

5. Where do you want payments sent?

Vendor Name _____

Attention Line _____

UPS Address _____

Mailing Address _____

City _____ State _____ Zip _____

Form H

QUESTIONNAIRE FOR OFFEROR (Continued)

5. Where do you want payments sent? (Continued)

Telephone (invoice questions) _____ Fax _____

If you want CES to send payments by a private, NEXT DAY carrier, please identify the carrier and your account number: _____

6. What is your New Mexico CRS # utilized to report Gross Receipts Taxes? _____

7. Additional contacts for CES

Accounts Receivable Contact: _____

Telephone _____ Fax _____

Email Address _____

RFP Contract Contact _____

Telephone _____ Fax _____

Email Address _____

Sales Support by Region

<u>Name</u>	<u>Region(s) Served</u>	<u>Telephone</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Will you offer CES a quick pay discount? If YES, what is the discount? _____ days? _____

Form I Subcontractor List for RFP 2009-005 continued

The listing threshold for this RFP will be Five Thousand Dollars (\$5,000). The Offeror will list all persons, businesses and contractors that the Offeror anticipates to be a subcontractor under this RFP. Pursuant to Section 13-4-38, et., N.M.S.A., 1978, if an Offeror fails to list a subcontractor in excess of the listing threshold, 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 and stating that they are fully qualified to perform the proposed products and services themselves and that they will perform all work themselves.

Signature (must match signature on cover sheet)

Title

This is reprinted from Section 1, No. 4 – Offer Qualifications – Please provide your responses on this form and submit with your Proposal

- A. Provide documentation and information as requested relating to the history of your company that includes its' philosophy of doing business, its' background, expertise, experience, past performance and ability to provide the construction products and services proposed herein. Generally, CES will not accept an offer from a business less than three (3) years old or which has failed to establish a proven record of business. If the Offeror 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. CES reserves the right to accept or reject newly formed companies solely based on information provided in this response and from its own investigation of the company.
- B. Organization
- 1). How many years has your organization been in business as a contractor?
 - 2). How many years has your organization been in business under its' present business name?
 - 3). Under what other or former names has your organization operated?
 - 4). If your organization is a corporation, answer the following:
 - (a). Date of incorporation
 - (b). State of incorporation
 - (c). President's name
 - (d). Vice-President's name(s)
 - (e). Secretary's name
 - (f). Treasurer's name
 - 5). If your organization is a partnership, answer the following:
 - (a). Date of organization
 - (b). Type of partnership (if applicable)
 - (c). Name(s) of general partner(s)
 - (d). If your organization is individually owned, answer the following:
 - (i). Date of organization
 - (ii). Name of owner
 - 6). If the form of your organization is other than those listed above, describe it and the name of the principals.
 - 7). Where are the headquarters of the company physically located? Provide address, city, state and zip code. Provide same information on any branch offices in New Mexico. How long has your company resided at these locations? For what period of time and in what parts of New Mexico has your organization provided the services/products requested in this solicitation?
 - 8). For the key individuals who will be marketing, consulting, estimating, coordinating, supervising and managing before, during and after-sales services, warranty, maintenance, and support services offered in response to this solicitation, in your response, provide a listing of and the qualifications of these key individuals. Provide the name, title, qualifications and experience in the area(s) of services that they will be providing.
 - 9). Describe your organization's current in-house work force, equipment and facilities available to perform under this solicitation.

C. Licensing

- 1). What year was your organization first licensed as a contractor in the State of New Mexico?
- 2). List jurisdictions and trade categories in which your organization is legally qualified to do business, and indicate registration or license numbers, if applicable.
- 3). List jurisdictions in which your organization's partnership or trade name is filed.
- 4). Provide all current applicable NMCID licenses and NMDOL registration information.
- 5). Pursuant to NMSA1978 13-4-2, Residential Contractor preference will not apply for solicitation using the RFP process.
- 6). Has your organization or any of the qualifying parties named above ever conducted business, past or present, as a contractor under a different business name? If yes, what name(s) and when?

D. Experience and Past Performance

- 1). List the categories of work that your company normally performs with its' own forces.
- 2). Provide a complete list of major construction projects (over \$60,000 in total construction costs) that your company had or has in progress, as of July 01, 2009, giving the name of project, owner, architect, contract amount and scheduled completion date. Please state the total worth of all construction work in progress and under contract as of July 01, 2009.
- 3). Within the last five (5) years, has your company performed work on New Mexico public works projects? If the answer is "yes," describe each project and your company's role. In your description, include the following information on each project described.
 - (a). Project name
 - (b). Owner of the project
 - (c). Owner representative or contact
 - (d). Original bid amount and final project cost (include all change orders)
 - (e). Architect/Engineer (A/E)
 - (f). Original scheduled completion date, the final completion and acceptance date
 - (g). Percentage of the cost of the work performed with your own forces
- 4). List all projects your company has completed beyond the scheduled date of substantial completion and the number of days past the scheduled substantial completion date on which substantial completion was certified as indicated by owner and architect signature.
- 5). List all projects in which your company failed to complete the project, including all punch list items identified by the owner and/or owner's representative by the date agreed to by all parties.
- 6). In the last five (5) years, has your company provided any extended warranties on a project and not been able to fulfill to the owner's satisfaction? If yes, for each, describe the issues. For each, include the following information:
 - (a). Project name.
 - (b). Owner of the project.
 - (c). Owner representative or contact.
 - (d). Architect/Engineer (A/E).
 - (e). Date of substantial completion.
 - (f). Type of warranty coverage.
 - (g). Reason for inability to resolve, such as owner not fulfilling obligations.

E. Bonding, Insurance, Claims, Suits, and Disputes

- 1). Provide with this RFP a Certificate of Insurance listing the minimum and maximum coverage for liability, vehicle and property damage. CES is not asking you to acquire additional or

special insurance for this contract. CES needs proof that you are insured. Before any work can commence, you must provide a certificate that names CES and/or its Member as a certificate holder. Normally, this is a free service provided by an insurance company.

- 2). Provide written documentation and evidence relating to the surety company that will be providing payment and performance bonds for projects performed under this solicitation. Please address the following:
 - (a). Name, address, phone number and agent's name.
 - (b). Letter from the surety company stating your firm's current bonding rate and your organization's total bonding capacity.
 - (c). Has your company used this surety company for more than two (2) years? If no, please provide the names, addresses, phone numbers, contact names and dates under agreement with any other surety company used in the past three (3) years.
- 3). Are there any judgments, claims, arbitration proceedings, suits or disputes pending or outstanding against your company or its' officers in New Mexico or any other jurisdiction?
- 4). Has your company filed any lawsuits or requested arbitration with regard to construction contracts within the last five (5) years?
- 5). If the answer to items 3). or 4). above is yes, please provide complete details, including, but not limited to:
 - (a). Name and location of project owner.
 - (b). Name and location of project architect.
 - (c). Name and location of project.
 - (d). Nature of and amount in dispute.
 - (e). Forum in which dispute was presented, that is, AAA arbitration; mediation; district court (state, file name, and number).
 - (f). Manner in which dispute was resolved.
- 6). For the last five (5) years, list any projects where your surety has been given notice of default of your company's performance under either its' performance bond or labor and material payment bond. For each project state the nature of the claim against your company and the outcome of each such claim.
- 7). Within the last five (5) years, has any surety on any project you have worked on paid or settled work that your company had contracted to complete? If yes, give complete details.
- 8). Within the last five (5) years, has your firm had any business, trade or contracting licenses suspended or revoked? If yes, give complete details.
- 9). Within the last five (5) years, has your company been a party in civil litigation or administrative proceedings which have alleged a violation of any of the following: environmental law or regulation; law banning workplace discrimination; law governing wages, hours, labor or employment standards; conduct of occupations; law governing professions or regulated industries; or any other law which would reflect, if convicted, a lack of business integrity or honesty? If yes, give complete details.
- 10). Within the last five (5) years, has your company had a tax lien filed against it by any taxing authority? If yes, provide the following: when, by what tax authority and has the lien been released. If no, describe action your company has taken with respect to the lien.
- 11). Within the last five (5) years, has your company been debarred from bidding on or performing work for any public agency (federal, state or local public body) as a contractor or subcontractor? If yes, provide complete details, including actions your company has taken to prevent such debarment in the future.

F. Miscellaneous items

- 1). Is the workers' compensation experience modifier for the company as reported by your insurer less than 2.0? If no, what is your reported E-Mod?
- 2). What is the incident/injury rate for your company as reported by your insurer? Is it less than the Bureau of Labor Standards published rate for New Mexico? If yes, by how much?

G. Financial Resources and Banking Information

- 1). A major problem often facing companies awarded a CES contract is rapid growth, followed by cash flow difficulties. For purposes of determining a bidder's capacity and ability to perform financially, the Offeror is asked to provide a financial statement, preferably audited, including your company's latest balance sheet and income statement showing the following items:
 - (a). Current assets (e.g. cash, joint venture accounts, accounts receivable, notes receivable, accrued income, deposits, materials inventory and prepaid expenses)
 - (b). Net fixed assets
 - (c). Other assets
 - (d). Current liabilities (e.g. accounts payable, notes payable, accrued expenses, provision for income taxes, advances, accrued salaries and accrued payroll taxes)
 - (e). Other liabilities (e.g. capital, capital stock, authorized and outstanding shares par values, earned surplus and retained earnings)
 - (f). Name and address of firm preparing attached financial statement and date thereof
 - (g). Is the attached financial statement for the identical company named on page one?
 - (h). If not, explain the relationship and financial responsibility of the company whose financial statement is provided (e.g. parent-subsiary).
 - (i). Provide written evidence or other documentation relating to your banking and/or lending institution. Include the following:
 - (i). Names, addresses, phone numbers and contact names.
 - (ii). Letters from listed financial/lending institution(s) that indicates the amount of time your company has had a relationship with them.
 - (iii). Your line of credit available to you and evidence of financial stability over the past five (5) years. This letter does not need to identify a dollar amount. Instead, a credit range should be indicated, that is, "credit in the low six figures" or "a credit line exceeding five figures."
 - (j). Will it be necessary for your firm to assign payments to a financial institution in order to perform under this contract? If so, please name any financial institutions that you may use for assignments or for factoring. If you enter into any assignment agreements, will you sign a notarized Power of Attorney that grants the company receiving the assignment the right to endorse payments from CES? Please attach a sample assignment or factoring agreement with your bid if you intend to use these financial services. The fact that a company uses these services will not reflect on the credit stature of the CES vendor. Since CES requires a 45-day term rather than the more traditional 30 days, such payment arrangements may be necessary.
 - (k). Within the last seven (7) years, has your company been the subject of any voluntary or involuntary bankruptcy, insolvency or receivership proceeding? If so, please state the case name(s) and court file number of each proceeding, the nature of the proceeding, whether such proceeding is ongoing and the resolution of each completed proceeding.

- H. Describe your company's policies and procedures in regards to complying with the New Mexico Public Education Department (NMPED) mandate regarding security and background checks for individuals working and/or providing services within public school buildings. Please describe or provide a sample of the type of background check that you are willing and able to perform on your providers in order to comply with this requirement.
- I. Has and does your company incorporate formal quality assurance and control processes on public works projects? If yes, describe the processes with their expected results and the benefits received by the owners by implementing such a program.
- J. CES is the administrative agency of the Joint Powers Agreement to Establish an Educational Cooperative and its Members are the public educational institutions in New Mexico. The sole purpose of CES is to support these institutions in their day-to-day procurement. Describe in writing your company's ability, willingness and means to sell, deliver, provide and support the proposed products/services to New Mexico educational agencies under the most advantageous conditions including price. No Offeror will be denied a contract simply because sales are limited to New Mexico. However, CES, as an agent for the public educational institutions, will not enter into a contract with an Offeror that has an existing contract that would be more advantageous than a CES contract to sell and provide products and services to New Mexico agencies. Do you currently have or plan to have such state or other contracts, such as a State Procurement Division Agreement or CES Member Agreement? If so, why do you wish to secure a CES contract and how would the CES contract be more advantageous in pricing of other services over other cooperative contracts?
- K. This is an RFP and while CES is required to base an award strictly on the highest rated proposals, every CES contract must be for the public good, not for the benefit of a vendor. However, having said that, CES is totally committed to two basics in the American way of business – profit and competition. Products and services offered herein must be of good sound quality, have good durability/performance life and stand up to public use. Is there “added value” received by the customer when purchasing through you rather than a competitor, or is your major benefit price alone?
- L. In comparing previous projects your organization has completed, do you see any areas where your organization possesses experience, production or service facilities, personnel or other service reputation that should be considered with your ability to provide on time quality construction projects for New Mexico educational institutions? If yes, fully describe these attributes and resources and how they are utilized to benefit the owner's projects.

Form J-1 Subcontractor Qualifications (Tab 4)

This is reprinted from Section 1, No. 5 – Offeror Qualifications – Please provide subcontractors responses to this form for every Subcontractor listed and submit with your RFP.

A. Organization

- 1). How many years has your organization been in business as a contractor?
- 2). How many years has your organization been in business under its' present business name?
- 3). Has your organization or any of the qualifying parties named above ever conducted business, past or present, as a contractor under a different business name? If yes, what name(s) and when?
- 4). Where are the headquarters of the company physically located? Provide address, city, state and zip code. Provide same information on any branch offices in New Mexico. How long has your company resided at these locations? For what period of time and in what parts of New Mexico has your organization provided the services/products requested in this solicitation?
- 5). Describe your organization's current in-house workforce, equipment and facilities available to perform as a subcontractor under this solicitation.

B. Licensing

- 1). What year was your organization first licensed as a contractor in the State of New Mexico?
- 2). Provide all current applicable NMCID licenses and NMDOL registration information.

C. Experience and Past Performance

- 1). List the categories of work that your company normally performs with its' own forces.
- 2). Within the last five (5) years, has your company performed work on New Mexico public work projects? If the answer is "yes," describe each project and your company's role. In your description, include the following information on each project described.
 - (a). Project name
 - (b). Prime contractor
 - (c). Work as subcontractor
 - (d). Original bid and final sub-contract cost (include all change orders)
 - (e). Original scheduled completion date, the final completion and acceptance date
- 3). List all projects which your company failed to complete as a subcontractor in the last five (5) years.
- 4). In the last five (5) years, has your company provided any extended warranties on a project as a subcontractor and not been able to fulfill to the prime contractor satisfaction? If yes, for each, describe the issues. For each, include the following information:
 - (a). Project name.
 - (b). Prime contractor.
 - (c). Type of warranty coverage.
 - (d). Reasoning for inability to resolve with the prime contractor.

D. Bonding, Insurance, Claims, Suits, and Disputes

- 1). Provide written documentation and evidence relating to the Surety Company that will be providing payment and performance bonds for sub-contracts over \$5,000. Please address the following:
 - (a). Name, address, phone number and agent's name.
 - (b). Letter from the surety company stating your firm's current bonding rate and your organization's total bonding capacity.
 - (c). Has your company used this surety company for more than two (2) years? If no, please provide the names, addresses, phone numbers, contact names and dates under agreement with any other surety company used in the past three (3) years.
- 2). Are there any judgments, claims, arbitration proceedings, suits or disputes pending or outstanding against your company or its' officers in New Mexico or any other jurisdiction?
- 3). Has your company filed any lawsuits or requested arbitration with regard to construction contracts within the last five (5) years?
- 4). If the answer to items 2). or 3). above is yes, please provide complete details, including, but not limited to:
 - (a). Name and location of project owner.
 - (b). Name and location of prime contractor.
 - (c). Name and location of project.
 - (d). Nature of and amount in dispute.
 - (e). Forum in which dispute was presented, that is, AAA arbitration; mediation; district court (state, file name, and number).
 - (f). Manner in which dispute was resolved.
- 5). For the last five (5) years, list any projects where your surety has been given notice of default of your company's performance under either its' performance bond or payment bond. For each project, state the nature of the claim against your company and the outcome of each such claim.
- 6). Within the last five (5) years, has any surety on any project you have worked on paid or settled work that your company had contracted to complete? If yes, give complete details.
- 7). Within the last five (5) years, has your firm had any business, trade or contracting licenses suspended or revoked? If yes, give complete details.
- 8). Within the last five (5) years, has your company been a party in civil litigation or administrative proceedings which have alleged a violation of any of the following: environmental law or regulation; law banning workplace discrimination; law governing wages, hours, labor or employment standards; conduct of occupations; law governing professions or regulated industries; or any other law which would reflect, if convicted, a lack of business integrity or honesty? If yes, give complete details.
- 9). Within the last five (5) years, has your company had a tax lien filed against it by any taxing authority? If yes, provide the following: when, by what tax authority and has the lien been released? If no, describe action your company has taken with respect to the lien.
- 10). Within the last five (5) years, has your company been debarred from bidding on or performing work for any public agency (federal, state or local public body) as a contractor or subcontractor? If yes, provide complete details, including actions your company has taken to prevent such debarment in the future.

- E. Miscellaneous items
- 1). Is the workers' compensation experience modifier for the company as reported by your insurer less than 2.0? If no, what is your reported E-Mod?
 - 2). What is the incident/injury rate for your company as reported by your insurer? Is it less than the Bureau of Labor Standards published rate for New Mexico? If yes, by how much?
- F. Describe your company's policies and procedures in regards to complying with the New Mexico Public Education Department (NMPED) mandate regarding security and background checks for individuals working and/or providing services within public school buildings. Please describe or provide a sample of the type of background check that you are willing and able to perform on your providers in order to comply with this requirement.
- G. Has and does your company incorporate formal quality assurance and control processes on public works projects? If yes, describe the processes with their expected results and the benefits received by the owners by implementing such a program.
- H. In comparing previous projects your organization was a subcontractor for, do you see any areas where your organization possesses experience, production or service facilities, personnel or other service reputation that should be considered with your ability to provide on-time quality subcontractor services for construction projects? If yes, fully describe these attributes and resources and how they are utilized to benefit the owner's projects.

Form K

In order for CES to clearly understand the proposal being presented by the Offeror, a complete response to this RFP must contain the following:

It is suggested that the vendor preparing a response check off each required item as it is completed. Numbers provided below indicate the Tab and order in which the documents should appear within the Tabs.

- _____ 1.1 **Form A** – Offerors Declaration Form (page 105) (**PLACE BEHIND TAB 1**)
- _____ 1.2 **Form B** – The signed Offer and Contract Award (page 107) (**PLACE BEHIND TAB 1**)
- _____ 1.3. **Form C** – The signed Affidavit (page 108) (**PLACE BEHIND TAB 1**)
- _____ 1.4 Signature Page(s) acknowledging any Addendums issued (**PLACE BEHIND TAB 1**)
- _____ 3.1 Copy of Item F: Listing of General Terms and Conditions (Pages 21–49) taken from the solicitation document. (**PLACE BEHIND TAB 3**)
- _____ 3.2 Signed Acceptance of General Terms and Conditions **Form E** (page 111) **PLACE BEHIND TAB 3**
- _____ 3.3 Listing of any exceptions and/or deviations taken by the Offeror in regards to the General Terms and Conditions (**PLACE BEHIND TAB 3**)
- _____ 4.1.1 **Form J** – Vendor Qualifications Form: a point-by-point response to questions listed (pages 119-123) (**PLACE BEHIND TAB 4**)
- _____ 4.1.2 Financial documentation, letters of financial stability and credit limit for Offeror (**PLACE BEHIND TAB 4**)
- _____ 4.1.3 Copies of all NMCID Licenses (**PLACE BEHIND TAB 4**)
- _____ 4.1.4 Letter from security company stating Offeror’s bonding capacity and current bonding rate(s) (**PLACE BEHIND TAB 4**)
- _____ 4.1.5 Insurance Certificate from insurance company (**PLACE BEHIND TAB 4**)

For Each Subcontractor Listed

- _____ 4.2.1. **Form J-1** – Subcontractors Qualifications Form: a point-by-point response to questions listed (pages 124-126) (**PLACE BEHIND TAB 4**)
- _____ 4.3.2 Financial documentation, letters of financial stability and credit limit for Offeror (**PLACE BEHIND TAB 4**)
- _____ 4.1.3 Copies of all NMCID Licenses (**PLACE BEHIND TAB 4**)
- _____ 4.1.4 Letter from security company stating Offeror’s bonding capacity and current bonding rate(s) (**PLACE BEHIND TAB 4**)
- _____ 4.1.5 Insurance Certificate from insurance company (**PLACE BEHIND TAB 4**)
- _____ 5.1 Copy of Categorical Terms and Conditions (Pages 75-77) taken from the solicitation document. (**PLACE BEHIND TAB 5**)

- _____ 5.2 Copy of the Lot Terms and Conditions (For Lot 1 Pages 78-85) (Lot-2 Pages 90-94) taken from the solicitation document. **(PLACE BEHIND TAB 5).**
- _____ 5.3 **Form E-1** – Acceptance of Categorical and Lot Terms and Conditions, Form E-1 (Page 112) **(PLACE BEHIND TAB 5)**
- _____ 5.4 Listing of any exemptions and/or deviations of either Categorical and/or Lot(s) Terms and Conditions **(PLACE BEHIND TAB 5)**
- _____ 5.5 Written narratives, responses and other documentation provided to respond to the Lot(s) required responses (Lot 1 Page 86) (Lot 2 Page 94) **(PLACE BEHIND TAB 5)**
- _____ 5.6 **Form I** - Subcontractor’s Listing Form I (Pages 117-118) for each regions proposing to offer products and services. **(PLACE BEHIND TAB 5)**
- _____ 6.1. **Form D** – Offeror’s indefinite unit price declaration form (Pages 109) **(PLACE BEHIND TAB 6)**
- _____ 6.2 If applicable D-1 Lot 1: Gordian JOC price sheet (Exhibit 5) **(PLACE BEHIND TAB 6)**
- _____ 6.3 If applicable D-2 R.S. Means JOC price sheet (Exhibit 6) **(PLACE BEHIND TAB 6)**
- _____ 6.4 W-9 Form (Exhibit 7) **(PLACE BEHIND TAB 6)**
- _____ 7.1 **Form G** – Offeror’s Support for CES Prices (page 114) **(PLACE BEHIND TAB 7)**
- _____ 7.2 **Form H** – Questionnaire for Offeror (pages 115-116) **(PLACE BEHIND TAB 7)**
- _____ 7.3. **Form F** – Support and Maintenance Plans (page 113) **(PLACE BEHIND TAB 7)**
- _____ 8.1 All miscellaneous forms that apply **(PLACE BEHIND TAB 8)**
- _____ 9.1 **Form K** – Submission Check-Off Form (page 127) **(PLACE BEHIND TAB 9)**
- _____ 10.1 Appendix with catalogs, slicks, model information, etc. **(PLACE BEHIND TAB 10)**
- _____ Enclosed. **Electronic Copy of the proposal in Tab format with proposal submission.**

Signature