



**REQUEST FOR PROPOSAL**  
**RFP 2011-001A**  
**RFP 2011-001B**  
**RFP 2011-001C**

**ADDENDUM NO. 5**

To: Prospective Bidders

From: John N. Tortelli  
Cooperative Educational Services

Date: August 20, 2010

Cooperative Educational Services (CES) has received the following questions regarding RFP 2011-001A, 2011-001B and 2011-001C by mail, e-mail, or fax. Please accept the following as responses to the questions submitted.

Submitted by: Karen Moyle  
AK Sales

**Question 1:**

It has come to our attention that if a subcontractor is not doing work greater than \$60,000.00 a DOL registration is not needed. We contacted Kim @ Public Works Workforce Solutions in the Regulation Department (505) 841-4405. She told me personally that the statute 12-4-13.1.1A (should be 13-4-13.1.1.) ...

We are asking for a clarification - if a subcontractor is doing under \$60,000.00 in labor, does he/she have to have a DOL registration number to be accepted under this RFP?

**Background:**

Taken from New Mexico State Statutes 1978, Chapter 13, Article 4, Section 13-4-13.1.1:

13-4-13.1.1. Public works contracts; registration of contractors and subcontractors.

- A. Except as otherwise provided in this subsection, in order to submit a bid valued at more than sixty thousand dollars (\$60,000) in order to respond to a request for proposals or to be considered for award of any portion of a public works project greater than sixty thousand dollars (\$60,000) for a public works project that is subject to the Public Works Minimum Wage Act [13-4-10 NMSA 1978], the contractor, serving as a prime contractor or not, shall be registered with the Labor and Industrial Division of the Labor Department. Bidding documents issued or released by a state agency or political subdivision of the state shall include a clear notification that each contractor, prime contractor or subcontractor is required to be registered pursuant to this subsection. The provisions of this section do not apply to vocational classes in public schools or public post-secondary educational institutions.
- B. The state or any political subdivision of the state shall not accept a bid on a public works project subject to the Public Works Minimum Wage Act from a prime contractor that does not provide proof of required registration for itself.
- C. Contractors and subcontractors may register with the division on a form provided by the division and in accordance with Labor Department rules. The division shall charge an annual registration fee of two hundred dollars (\$200). The division shall issue to the applicant a certificate of registration within fifteen days after receiving from the applicant and completed registration form and the registration fee.
- D. Registration fees collected by the division shall be deposited in the Labor Enforcement Fund.

**Response 1:**

Due to the fact that any contract awarded under RFP 2001-001A, RFP 2010-001B or RFP 2011-001C will be an indefinite quantity contract. Since no project(s) has been identified in any of the solicitations, and CES does not know which future projects will have a value over \$60,000 dollars therefore CES is requiring that all contractors and subcontractors be registered as required in New Mexico State Statutes 1978, Chapter 13, Article 4, Section 13-4-13.1.1.

**Submitted by:** Lisa McNary  
Shaw Contract New Mexico & W Texas

**Question 2:**

Page 55 from RFP 2011-001A, Category 1, Categorical Terms, and Conditions.

- 4. Any contract awarded under this Category is an indefinite-quantity contract for construction work requested under Lot 1 to Lot 4. 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.
- 5. All Offerors needs to be licensed pursuant to the Construction Industries Licensing Act (Act), NMSA 1978, section 60-13-1 et. seq., and the New Mexico Administrative Code, Title 14.

**Background:**

Taken from the RFP 2011-001A, Category 1, Categorical Definitions on pages 52-53.

**Construction** – As defined in the New Mexico Procurement Code Regulations, 13-1-40 NMSA 1978, 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.

**Contractor** – As defined in Construction Industries Licensing Act, 60-13-1 NMSA 1978, "contractor":

A. Means any person who undertakes, offers to undertake by bid or other means, or purports to have the capacity to undertake, by himself or through others, contracting. Contracting includes constructing, altering, repairing, installing or demolishing any:

1. road, highway, bridge, parking area or related project;
2. building, stadium or other structure;
3. airport, subway or similar facility;
4. park, trail, bridle path, athletic field, golf course or similar facility;
5. dam, reservoir, canal, ditch or similar facility;
6. sewerage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility;
7. sewerage, water, gas or other pipeline;
8. transmission line;
9. radio, television or other tower;
10. water, oil or other storage tank;
11. shaft, tunnel or mining appurtenance;
12. leveling or clearing land;
13. excavating earth;
14. air conditioning, conduit, heating or other similar mechanical works;
15. electrical wiring, plumbing or plumbing fixture, consumers' gas piping, gas appliances or water conditioners; or
16. similar work, structures or installations which are covered by applicable codes adopted under the provisions of the Construction Industries Licensing Act.

B. Includes subcontractor and specialty contractor.

C. Includes a construction manager who coordinates and manages the building process; who is a member of the construction team with the owner, architect, engineer and other consultants required for the building project; and who utilizes their skill and knowledge of general contracting to develop schedules, prepare project construction estimates, study labor conditions and advise concerning construction.

**Contractor License** - As defined in Construction Industries Licensing Act 60-13-12 NMSA 1978. Contractor's license required.

- A. No person shall act as a contractor without a license issued by the division classified to cover the type of work to be undertaken.
- B. No bid on a contract shall be submitted unless the contractor has a valid license issued by the division to bid and perform the type of work to be undertaken; provided this subsection shall not prohibit a licensed contractor from bidding or contracting work involving the use of two or more trades, crafts or classifications if the performance of the work in the trades, crafts or classifications other than the one in which he is licensed is incidental or supplemental to the performance of the work in the trades, crafts or classifications for which he is licensed; and further provided that work coming under the jurisdiction of the mechanical bureau or the electrical bureau of the division must be performed by a contractor licensed to perform that work...

**Response 2:**

In response to the first item, in the case of an Offeror(s) will be providing materials, non-construction services and products and are not consider construction as defined in 13-1-40 NMSA 1978, then the Offeror can submit a bid for materials, non-construction services and products only.

In response to the second item, in the case of an Offeror(s) will be providing materials, non-construction services and products; will not be provide construction services or acting as a construction contractor as defined in Construction Industries Licensing Act, 60-13-1 NMSA 1978; and does not require a Contractor License as defined in Construction Industries Licensing Act 60-13-12 NMSA 1978 then the Offeror does not need to be licensed. The Offeror must clearly state in their response that they will not be providing installation or construction services.

**Question 3:**

Page 56 from RFP 2011-001A, Category 1, Categorical Terms, and Conditions.

9. All Offerors must be registered with and have a current and active registration with NMDOL to submit a proposal for all Lots under this Category.

**Background:**

**Taken from the RFP 2011-001A, Category 1, Categorical Definitions on pages 54-55.**

**Public Works Registration** - As defined in Public Works Minimum Wage Act 13-4-13.1 NMSA 1978. Public works registration of contractors and subcontractors is required.

- A. Except as otherwise provided in this subsection, in order to submit a bid valued at more than Sixty Thousand Dollars (\$60,000) in order to respond to a request for proposals or to be considered for award of any portion of a public works project greater than Sixty Thousand Dollars (\$60,000) for a public works project that is subject to the Public Works Minimum Wage Act [13-4-10 NMSA 1978], the contractor, serving as a prime contractor or not, shall be registered with the division. Bidding documents issued or released by a state agency or political subdivision of the State shall include a clear notification that each contractor, prime contractor or subcontractor is required to be registered pursuant to this subsection. The provisions of this section do not apply to vocational classes in public schools or public post-secondary educational institutions.

- B. The State, or any political subdivision of the State, shall not accept a bid on a public works project subject to the Public Works Minimum Wage Act from a prime contractor that does not provide proof of required registration for itself.
- C. Contractors and subcontractors may register with the division on a form provided by the division and in accordance with workforce solutions department rules. The division shall charge an annual registration fee of Two Hundred Dollars (\$200). The division shall issue to the applicant a certificate of registration within Fifteen (15) days after receiving from the applicant the completed registration form and the registration fee.
- D. Registration fees collected by the division shall be deposited in the labor enforcement fund.

**Response 3:**

In the case of an Offeror(s) will be providing materials, non-construction services and products and are not consider construction as defined in 13-1-40 NMSA 1978, then the Offeror(s) can submit a bid for materials, non-construction services and products only and this registration does not apply.

**Question 4:**

Page 92, Category 1, Lot 4, Floor Coverings (Ceramic Tile, Rolled Carpet Products, Resilient Floor Covering, Plastic Laminate Flooring, Resilient Sheet Flooring, Resilient Tile Flooring, Resilient Carpet Tile, etc.) - Installation and Related Services

The Offeror will be responsible for obtaining, delivering, and installing the proposed products. I can't find any section that says "the Offeror" can propose material only

**Response 4:**

CES Members prefer Offeror(s) that provide a turnkey solution but understands that not all Offeror(s) can provide a turnkey solution. In the case that the Offeror will be providing materials, non-construction services and products only, the Offeror will be responsible for providing the materials, non-construction services and products and arrange for shipment or delivery unless other arrangements have been approved by the CES Member. The Evaluation Committee will take into consideration that the Offeror(s) that will be providing materials, non-construction services and products and not installation or construction services in their evaluation of the proposals submitted for this Category and Lot.

**Question 5:**

I was going to bid the contract as I material only supplier that could provide labor thru authorized dealers like High Tech Floors and New Mexico Office Furniture. Please review our questions and let me know if we can do this.

**Response 5:**

In the State of New Mexico, the Offeror needs to have a valid contractor license to act as a prime contractor or to subcontract the installation to another licensed contractor.

**Submitted by:** Dayna Marcum  
Digital Traffic Systems, Inc.

**Question 6:**

In order to be able to list project experience to meet the qualifications for RFP 2011-001B RFP C , is the submitting contractor required to have to have performed the actual installation themselves or would acting as a General Contractor overseeing the work of a sub contractor performing the installation qualify as installation experience?

**Response 6:**

In response, general contractors can response to any Category and Lot in RFP 2011-001A, RFP 2011-001B or RFP2011-001C. In their response to any Category or Lot, the contractor can use any project to demonstrate their experience. However, CES is asking when the Offeror identifies the project(s) they are submitting for references to list if they were the prime contractor and subcontract the work or were the prime contractor and the work was performed with their own staff.

**Submitted by:** Multiple persons

**Question 7:**

Please provide Exhibit 5 and 6 as listed in Form D.

**Response 7:**

Delete any reference to Exhibit 5 & 6 in revised Form D issued in Addendum 2 on August 10, 2010 for RFP 2011-001A, 2011-001B and 2011-001C.

If you have any questions regarding this Addendum, please contact my office at 505-344-5470.

By dating, signing, and including this page in your response, the Offeror acknowledges receipt of Addendum No. 5.

**(Please place behind Tab 1 of your response).**

Date: \_\_\_\_\_ Company Name (Print): \_\_\_\_\_

Printed Name: \_\_\_\_\_ Signature: \_\_\_\_\_