

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

COOPERATIVE PURCHASING PROGRAM
(CPP)

REQUEST FOR BID

RFB Date **Monday, February 21, 2005**

RFB Number: RFB 2005-007

Issue Date: Monday, February 21, 2005

Commodity Titles:

<u>NIGP Code</u>	<u>Catalog</u>	<u>Description</u>
485	A	Janitorial Equipment and Supplies
540	B	Lumber Products
570	C	Metal Products
645	D	Paper Products – Administration/Teacher
646	D-1	Paper Products – Classroom/Art
647	D-2	Paper Products
805	E	Athletic, Physical Education and Recreational Products
466	E-1	School Nurse and Athletic Equipment and Supplies
608	F	Office and School Supplies – General
610	F-1	Office and School Supplies – Writing Products
609	F-2	Office and School Supplies – Preprinted Forms, Binders, Binding and Filing Equipment and Supplies
615	G	Media Center/Library Equipment, Supplies and Furniture
616	G-1	Media Center (Audio, Visual, Computer) Equipment and Supplies
611	H	Science Classroom Products
415, 425	I	Furniture and Equipment
450	J	Maintenance Equipment and Supplies
580	K	Musical Equipment and Supplies
612	L	School Supplies – Classroom
614	L-1	School Supplies – Art
613	L-2	School Supplies – Crafts and Miscellaneous
388	M	Food Service Non-Food Equipment and Supplies

Day / Date: Friday, April 1, 2005
Time: 1:30 p.m. local time
Location/Mail Address: Cooperative Educational Services
4216 Balloon Park Road N.E.
Albuquerque, NM 87109-5801

Directions: 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 will be the third building on the left. The office manager will receive the bids.

RFB Contents Overview

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

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

- ? Section I outlines the RFB, 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 Additional Responses.
- ? Section III indicates how the bids will be evaluated and how the awards will be made.
- ? Section IV incorporates the forms used in the bid response.

Legal Advertisement

ADVERTISEMENT FOR BID

Cooperative Educational Services, 4216 Balloon Park Rd NE, Albuquerque, NM 87109, will receive sealed bids until 1:30 p.m. local time, Friday April 1, 2005 for:

Janitorial Equipment and Supplies; Lumber Products; Metal Products; Paper Products – Administration/Teacher; Paper Products – Classroom/Art; Paper Products; Athletic, Physical Education and Recreational Products; School Nurse and Athletic Equipment and Supplies; Office and School Supplies – General; Office and School Supplies – Writing Products; Office and School Supplies – Preprinted Forms, Binders, Binding and Filing Equipment and Supplies; Media Center/Library Supplies, Equipment and Furniture; Media Center (Audio, Visual, Computer) Equipment and Supplies; Science Classroom Products; Furniture and Equipment; Maintenance Equipment and Supplies; Musical Equipment and Supplies; School Supplies – Classroom; School Supplies – Art; School Supplies – Crafts and Miscellaneous; Food Service Non-Food Supplies and Equipment.

All bids must be submitted in a sealed envelope marked “**SEALED BID – RFB 2005-007**” 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, February 20, 2005
Sunday, February 27, 2005

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SECTION I INSTRUCTIONS TO OFFERORS

A. INTRODUCTION

Cooperative Educational Services (CES) offers a Bulk Purchasing Program (BPP) and a Just In Time Purchasing Program (JITPP) to allow its members the flexibility to use both systems in purchasing their janitorial equipment/supplies, lumber products, metal products, paper products, physical education products, office and school supplies – administrator/teacher, AV/library products, science products, furniture and equipment, maintenance supplies/equipment, musical equipment/supplies and school supplies – classroom/arts and crafts. The combined programs will be called the Cooperative Purchasing Program (CPP).

1. Qualification: CES invites experienced offerors to submit bids in accordance with the outlines and specifications contained herein. Bids are requested from qualified respondents to provide products to members. The offeror must have extensive knowledge and experience with the products and services being offered and must meet all other bid requirements. These CPP contracts will be awarded through competitive sealed bids with the following offeror and product requirements:
 - a. Offeror must be a manufacturer and/or authorized distributor of the products being bid.
 - b. Offeror must be able to provide a single source contact or turnkey operation.
 - c. Manufacturer of products offered must have at least five (5) years of product and service history for those types of items being bid.
 - d. Offeror must demonstrate its ability to control the security of, delivery of, warranty of and resolution of problems with products offered.
 - e. Products bid must meet or exceed the industry standards and guidelines established for use in public educational institutions.
 - f. Offeror must provide the necessary information and documentation to substantiate its ability to provide, and to comply with all of the terms, conditions and specifications stated herein.
 - g. Offeror's Past Performance Information (PPI) must indicate an offeror in good standing who has performed and conducted its business affairs in an acceptable manner and without improprieties. CES reserves the right to accept or reject offers made by vendors who have participated in past solicitations and who have failed to meet, perform and/or comply with the solicitation specifications and requirements.
2. Contract Constraints: The resulting contract for this RFB will consist of two (2) parts. The first part will be known as the Bulk Purchasing Program and the second part will be known as Just In Time Purchasing Program. Any contract awarded to an offeror under this RFB must contain part one and at the option of the offeror may contain part two. Both are defined below.
 - a. *Bulk Purchasing Program* – The annual purchasing of supplies, materials and equipment used by members. This program is managed by CES through the use of a web-based or ASP application. Through BPP, members have access to 21 catalogs in 12 categories. Each member surveys its individual educational, support and administrative units to determine the quantity of each of the items it wishes to purchase at one time for the next school year. The BPP participants summarize their requests into a single bulk order request, which is submitted to CES. CES then compiles all of the requests and issues a Request for Bid for the items at a specified quantity. Responses from offerors are received and evaluated in accordance with the

bid's terms and conditions. Awards are made by an evaluation committee of CES staff and members' staff and then posted to the BPP website. Each member then reviews the results of the awards and the bid prices for the items requested. The member uses this information to issue individual purchase orders for items requested to each of the vendors awarded. The vendor(s) then delivers the products ordered to the member, invoices the member and the member issues payment to the vendor upon receipt of the products. The vendor issues CES payment for a one percent (1%) administrative fee.

- b. *Just In Time Purchasing Program* – CES issues a Request for Bid (RFB) for a specific group of products needed by its members on an as-needed basis during the next school year. The RFB is issued for an indefinite quantity and for a particular list of supplies, materials, furniture, fixtures and equipment. The ordering time frame is between July 1st and May 1st of the following year, and the members can order any quantity at a pre-established CPP price. CES receives and evaluates these responses and an evaluation committee of CES staff and members' staff makes awards to vendors to provide these items. The member places an order by submitting a purchase order to CES, who verifies the contract prices, which includes the CES one percent (1%) administrative fee, and submits a CES purchase order to the vendor. The vendor delivers the products ordered to the member and invoices CES. The vendor's invoice is verified and a CES invoice is issued to the member. The member then pays CES; CES retains its one percent (1%) administrative fee, and pays the balance to the vendor.

In summary, the Bulk Purchasing Program quantities are determined by members' submittal of items it is purchasing, and the offeror's price is to include the one percent (1%) administrative fee. This fee is to be remitted to CES no later than December 31, 2005. The Just In Time Purchasing Program's quantities are indefinite and the offeror's price includes the one percent (1%) administrative fee. Just In Time Purchasing Program awards will be given to the offeror receiving the award under the Bulk Purchasing Program.

B. EXAMINATION OF DOCUMENTS

Offeror will carefully examine the Request For Bid (RFB), which includes Instructions to Offerors, Scope of Work and Specifications, Conditions Leading To and Including Contract Award and Bid Forms.

C. QUESTIONS

Submit all questions about the Request for Bid (RFB) in writing to Cooperative Educational Services (email to llew@nmedu.org, fax 505-344-9343 or mail to Llew Perry, Assistant Executive Director).

Replies will be made via the website (http://www.nmedu.org/ces/jobrfp/rfprfb_lst.asp) as addenda and will become part of the bid document. Any inquiries related to this RFB should not have the solicitation number on the envelope because it might then be confused with a sealed bid response and not be opened until the due time and date.

D. BID RESPONSE SUBMISSION

1. Preparation of the Bid Response

- a. Bids will be submitted on unaltered bid forms furnished by CES or a reasonable facsimile thereof. Telegraphic offers, electronic mailgrams or facsimile machine offers will not be considered.
- b. The Offer, Acceptance of Offer, and Contract Award document must be submitted with original ink signature by the person authorized to sign the Offer. If a company or corporation submits the bid, an official or duly authorized agent will sign the bid documents. Powers of Attorney, which authorize agents or others to sign bid forms, must be properly certified by resolution of the Board of Directors, attested to by the secretary of the corporation and attached to the bid document. Mistakes can be corrected prior to opening but will be initialed by the person signing the bid documents. Corrections and/or modifications received after the opening time will not be accepted.
- c. In case of an error in extension of prices in the offer, unit prices will govern.
- d. Periods of time stated as a number of days will be in calendar days, not business days.
- e. It is the responsibility of offeror to examine the entire RFB package, seek clarification of any item or requirement that may not be clear and to check all responses for accuracy before submitting its offer. Negligence in preparing an offer confers no right of withdrawal after the due time and date.

2. Format of the Bid

- a. One (1) original copy of the bid response must be submitted on the forms and in the format contained in the RFB. The bid response must contain all descriptive literature, specifications, samples, etc. as required herein.
- b. The forms and format as contained in this RFB will be used. Offeror may reproduce the printed forms and retype the information but all of the required information must be presented in the order requested. All bid forms must be completed in ink or typewritten. No pencil submissions are allowed. Forms can be filled in by hand, but must be in ink and printed.
- c. Should the offeror take any "exceptions" to this RFB, a summary of those items must be included in the response to be considered valid. Exceptions can be accepted, negotiated or rejected by CES.

3. Contents of the Bid

In order to ensure that every bid receives a fair evaluation, it is required that each offeror organizes its bid in the following manner:

Step One: Prepare RFB paper and supporting documents regarding offeror's general information.

- Enclose a Twenty-Five Dollar (\$25.00) bid fee (page 26).
- Signed Offer of Acceptance (page 30).
- The Affidavit page, notarized signature required (page 31).
- Acceptance of all Terms and Conditions (first line must be signed – page 34).
- Questionnaire for Offeror (page 35).
- All miscellaneous forms that apply.

Step Two: Prepare the paper forms for submitting your pricing on those items you wish to bid.

- Offeror must provide prices for each item in each catalog being bid under the Bulk Purchasing Program. Items can be presented as a group, but the offeror must provide a price for all items contained within each designated group. Failure to do this can result in the offeror's bid price for items in the bid to be considered non-responsive.
- Just In Time Purchasing Program – Provide pricing for each item in each catalog that you wish to offer as part of this contract.

Step Three: Prepare all of the product information and samples required to comply with this RFB. Make sure that all items are properly labeled and neatly organized.

Required samples must be clearly noted.

Step Four: Offeror's Checklist

- Make certain everything is provided as requested, and then sign the Submission Check-Off form (page 37).

Step Five: Before you seal your bid submittal, 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 and samples are provided. After verifying this has been done, make a copy of the bid documents for yourself. Submit or deliver your bid response to CES so that it arrives on or before Friday, April 1, 2005 at 1:30 p.m. local time.

Bid documents must be submitted in a sealed envelope/package with the bid number, catalog(s) being bid, and the date and time of bid opening clearly marked on the outside.

Required samples must be clearly marked and received by CES on or before bid opening.

E. LISTING OF GENERAL TERMS AND CONDITIONS

The following Terms and Conditions govern the CES Cooperative Purchasing Program (CPP). When the terms and conditions of the member differ, the terms and conditions of the RFB will supersede the terms and conditions of the member. For the purpose of this RFB, the following terms will be defined as indicated below.

Acceptable Quality Level (AQL): CES expects manufacturers in today's competitive market to strive for zero (0) defects per hundred (100) units sold. The AQL for this contract is zero (0) defects per hundred (100) units. If the quality level falls below one (1) defective unit per hundred (100) delivered, CES reserves the right to cancel the contract following the procedures described in this RFB (*caveat venditor*).

Acceptance and/or Rejection of Delivered Products: Prior to final acceptance, if any goods are found to be defective or not as specified, the member is entitled to revoke acceptance of the order in part or in whole. The member can reject or revoke acceptance and require the offeror to correct without charge within a reasonable time, or require delivery at an equitable reduction in price, at the member's option. Offeror will reimburse the member for all incidental and consequential costs related to unaccepted goods. Notwithstanding final acceptance and payment, offeror will be liable for latent defects, fraud or such gross mistakes as amount to fraud. Acceptance of performance will not waive the right to claim damages for breach.

Accounts Payable: The offeror agrees to contact the accounts payable department, business manager, or executive officer of the member making a purchase under the Bulk Purchasing Program that owes them money. The offeror will contact CES for payment owed for products purchased and delivered to the member under the Just In Time Purchasing Program.

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 Request For Bid.

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

Applicable Law: This contract is 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 regulation, standard, document or code that relates 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 vendor within 15 days of receipt of written notice by the vendor.

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

Awarding of Contract: CES reserves the right to make an award or to reject one or all bids. A response to the RFB is an offer to contract with CES based upon the terms, conditions, scope of work and specifications contained in this Request For Bid. An RFB does not become a contract until CES signs the Acceptance of Offer and Contract Award document, eliminating the need for a formal signing of a separate contract. Awards will be made on a unit-price basis for individual items, or on a group basis when so specified. All items so indicated as a group will be awarded as a group, unless it is in the best interest of the member to award the items separately.

Bid Quantities: Offeror should consider quantities in the specifications as estimated quantities on which to bid. However, offeror needs to be aware of the following

1. In the unlikely event that through the matching of member orders and bid awards, a member would be receiving less than One Hundred Dollars (\$100) of supplies or equipment from a vendor, it may not be cost effective for that order to be filled due to the proportionately high delivery cost to merchandise cost, and members have the option to cancel the order.
2. Last year's prices have been provided to members to be used as cost guidelines. If the bid award price increases more than six (6%) percent, members have the option to cancel the order.
3. If delivery cost of merchandise ordered is greater than fifteen (15%) percent of the total cost of items ordered, members have the option to cancel such orders.
4. Vendor is under no obligation to accept any orders or changes in orders after June 30th.

Billing: All invoices under the Bulk Purchasing Program will be from the vendor to the member, with payment going directly to the vendor and with the vendor paying CES the one percent (1%) administrative fee. Accrued administrative fee payments will be made monthly. For purchases under the Just In Time Purchasing Program, the invoices will be sent to CES, CES will invoice the member, the member will pay CES and CES will pay the vendor. All invoices will list the purchase order number(s) issued by purchasing agency. The vendor will not accept a purchase order from a member or other procurement unit based on this RFB unless CES notifies the vendor that the member is participating in the Bulk Purchasing Program.

Brand Names: The use of the name of a manufacturer, brand name or catalog number does not restrict the offer. Brand names are used to indicate the character, quality, and/or performance equivalence of the commodity on which bids are 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 invitation.

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 reserves the right to cancel in whole or any part of the contract due to the failure of the vendor to carry out any obligation, term or condition of the contract. CES may issue written Notice of Concern to the vendor for acting or failing to act under the following conditions:

1. The vendor provides material that does not meet the specifications of the contract.
2. The vendor fails to complete the contract as set forth in the specifications of the contract.
3. The vendor fails to provide the products ordered by a member or fails to furnish the materials within the specified time.
4. The vendor fails to make progress in the performance of the contract, and/or gives CES cause to believe that the vendor is unwilling, unable or cannot perform the requirements of the contract.
5. The vendor fails to observe any or all of the terms and conditions of the contract.
6. Any other conditions that, in the opinion of CES, warrants such action.

Upon receipt of a written Notice of Concern, the vendor will have 10 days to provide a satisfactory written response to CES. Failure on the part of the vendor to satisfactorily respond may result in CES canceling the contract.

Vendor can, by written notice at least 30 days in advance, terminate the Just In Time Purchasing part of this contract issued as a result of this RFB for convenience in whole or in part. CES reserves the right to cancel or suspend the use thereof, of any contract resulting from this RFB if the vendor files for bankruptcy protection or is acquired by an independent third party.

CES reserves the right to reduce amounts ordered or cancel the contract if the funding for the members is reduced or becomes unavailable.

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

Changes In Orders: The member can make changes within the general scope of its orders by giving notice to the vendor and subsequently confirming such changes in writing. If such changes affect the cost of, or the time required for performance of the order, an appropriate equitable adjustment will be made. No change by vendor will be recognized without written approval of CES. Any claim of vendor for an adjustment under this paragraph must be made in writing within 30 days from the date of receipt by vendor of notification of such change. Nothing in this paragraph will excuse the vendor from proceeding with performance of the order as changed hereunder.

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 RFB, 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.

Color: When a choice of product colors is required by the specifications and furnished by the offeror, the member must identify requested color(s) on its purchase order. For members not designating a color choice, the vendor must attempt to verify the color with the member.

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

Credit Hold: For Just In Time purchases, the vendor must agree not to place CES on “credit hold” without 10 days’ advanced notice in writing, either by letter or facsimile. Before CES can pay a vendor’s invoice, it must collect payment from the member or political subdivision that received the product. CES believes it is better for the vendor if CES places the slow-paying agency on credit hold. If a vendor 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.

Current Products: All offers must be for equipment, supplies, commodities and materials in current production and marketed to the general public and educational/governmental agencies.

Default in One Installment to Constitute Total Breach: Vendor will deliver conforming materials in each installment of this contract and cannot substitute nonconforming materials. CES reserves the right to declare a breach of contract if the vendor delivers nonconforming materials to any member under this contract.

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

Delivery: Vendor(s), where possible, should honor delivery dates requested on individual member’s purchase orders. Delivery may commence as soon as possible after orders are received, May through June 2005 for bulk purchases and July 2005 through May 2006 for just in time purchases. For janitorial and maintenance items (Categories A and J) needed by CES members in early June, delivery should be as soon as possible to accommodate the members’ summer maintenance schedule and purchase order requests. **ALL DELIVERIES, except for the sports equipment for winter and spring sports (found in Category E/Athletic, Physical Education and Recreational Products, which are seasonally manufactured) MUST BE MADE BY AUGUST 30, 2005.** Vendors are expected to communicate and work with members to facilitate delivery before the above deadlines for bulk purchases.

Please note that some of the members do not have a full staff working in July and August. Therefore, acceptance of delivery of items ordered may not happen until September. Vendors may not be notified of shortages or unsatisfactory deliveries until late September. For all items delivered on or before August 30th, the deadline to notify the vendor of a problem will be October 20th, 2005.

Members can cancel orders that are not delivered by August 30, 2005, except for seasonal sporting goods, provided that:

1. Member has provided vendor with written notification, and
2. The merchandise is not already in route as of the date of notification, shipping directly to the member's site from a point of shipment within the continental United States. Vendors must label each carton of merchandise delivered to clearly identify the product being delivered. When possible, the agency's purchase order number should appear on the carton.

Descriptive Literature and Brand Names: All offers must include a complete set of the manufacturers' descriptive literature regarding any equipment, product or material that is being offered as a substitute is equal to or better than the item specified. Brand names, trade names and/or catalog numbers used in the RFB are used to describe, identify and stipulate the requested product(s).

Discontinued Products: In the event that a product or model specified herein is discontinued by the manufacturer or not available on the open market, CES will allow the vendor to substitute a new product or model if the product offered is equivalent to the discontinued product or model.

Discounts: If prompt payment discounts apply to these purchases, any discount time will not begin until the materials, supplies or equipment have been received, accepted and a correct invoice received by the member. In the event testing is required prior to acceptance, the discount time shall begin upon completion of the tests.

Eligible Agencies: Only members who are registered for the CPP program can purchase under this contract. CES reserves the right to reject any purchase authorizations.

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

Force Majeure: Except for payments of sums due, neither party shall 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-intervention-acts or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure, and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this agreement. Force majeure shall 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 shall notify the other party, in writing, of such delay within 48 hours.

Freight: Vendor agrees to ship F.O.B. destination, prepaid (no COD's). Allowable freight charges to members include those from Albuquerque, New Mexico to the delivery point, or from the vendor to the delivery point, whichever is less. All members located in the Greater Albuquerque metropolitan area, which includes all of Bernalillo County, Rio Rancho and Corrales, are to receive their supplies and equipment at the F.O.B destination. Vendor will only be allowed to charge members for one shipment per purchase order. Freight charges for backorders and/or additional shipments will be absorbed by the vendor and not incurred by the member.

Vendor will provide a copy of the actual freight bill to members in addition to incorporating said charges into the billing.

Members reserve the right to make other, lower cost arrangements for delivery, that is, pick up by a member owned vehicle, a member's employee, etc. In the case where the member elects to pick up items, the F.O.B. point is the point where the pick up is made.

Members reserve the right to specify a preferred delivery method. The vendor will be responsible for taking notice of instructions provided on the member's purchase order. Failure of the vendor to comply with the request by the member to be contacted regarding making shipping arrangements will be liable for the shipping costs.

Vendor can deliver merchandise via its own trucks only upon request or with the permission of the member if the vendor is charging for delivery and only when the quoted delivery charge has been approved by the receiving agency prior to the delivery.

Fungible Goods: Title to an undivided share or quantity of an identified mass of fungible goods will not pass to a member until a separation of the purchased share has been made, delivered and received.

Gratuity: CES can, by written notice, cancel this contract if it is found that gratuities in the form of entertainment, gifts, etc. were offered or given by the vendor or any agent or representative of the vendor 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 school and government employees, are not 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 fail in any respect to conform to this contract, the member can:

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

Indemnification: Vendor will hold CES harmless from and will indemnify, defend and hold 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 may 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, profession error, fault, mistake or negligence of vendor, its employees, agents, representative or sub-vendor, its employees, agents or representative in connection with or incident to the performance of this agreement, or arising out of worker's compensation claims, unemployment compensation claims, or unemployment disability compensation claims of employees of vendor, and/or its subcontractors or claims under similar such laws or obligations. Vendor's obligation under this section will not extend to any liability caused by the sole negligence of CES or its employees. 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 vendor's liability pursuant to this indemnification provision shall 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.

Insurance: On contract, the vendor will, at its own expense, purchase or have purchased, 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 vendors or by anyone for whose acts may be liable during the entire performance period of this contract. The successful offeror must furnish a Certificate of Insurance to the CES procurement office prior to official award. If policy changes occur during the life of the contract, it is the vendor's responsibility to provide updated proof of coverage to the CES procurement office. Offeror must submit proof of coverage under the Workman's Compensation Insurance, as required by the Labor Laws and New Mexico Statutes. Offerors will submit a certificate of general liability insurance for the personal injury, occupational disease, sickness or death and property damage. Insurance must 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 \$300,000 property damage (each occurrence). The offeror will name CES and its members as co-insured up to the limits of the Tort Claims Act. Additional punitive damages liability to \$750,000 will be provided naming CES and its members as co-insured.

Inspections: CES or its members can inspect, at any reasonable time, any part of vendor's plant or place of business that is related to performance of this contract. Final inspection will be made at the destination upon completion of delivery of goods and services. Acceptance of delivery will not be considered acceptance of the goods and/or services furnished. Final inspection will include any testing or inspection procedures required by the specifications.

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

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

Manufacturer's Representative: Dealers of high technology electrical/mechanical equipment, who, if permitted by the scope of the work, submit an offer as a manufacturer's representative must be able, if asked, to supplement the offer with a letter from the manufacturer certifying that the vendor is a bona fide dealer for the specific equipment presented, the vendor is authorized to submit an offer on such equipment and a guarantee that should the dealer 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 its competent assumption by one or more bona fide dealers for the balance of the contract period. Dealers of software, mechanical devices, electronic goods and other commodities must be able, upon request, to provide the same information from a manufacturer.

Member: For the sole purpose of this solicitation, member will include:

1. Any public educational institution that has by its board resolution resolved to become a party to the Joint Powers Agreement with CES and has been approved and has complied with the membership requirements and the New Mexico Department of Finance and Administration requirements, or
2. Private non-profit entity that has a contractual relationship with CES.

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

No Replacement of Defective Tender: Every tender of materials must fully comply with all provisions of this contract. If tender is made which does not fully conform, this will constitute a breach and vendor 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 the members. CES and its members reserve the right to obtain like goods and services from another source.

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 vendor 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 vendor being obligated if the new party fails to perform. A simple change of name agreement will not change the contractual obligations of the vendor.

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 the opportunity to evaluate the bids offered, CES requires that an offer in response to this solicitation to be valid and irrevocable for 45 days after opening time and date.

Ordering Process: All orders accepted by the vendor must be in accordance with the Bulk Purchasing Program or the Just In Time Purchasing Program requirements. CES or a member will submit signed purchase orders based on the part of this contract being used. The vendor must agree never to accept a purchase order for the awarded items at or below the bid cost unless it is in full compliance of the terms and conditions of this contract.

Other Applicable Laws: Any provision required to be included in a contract of this type by any applicable and valid executive order, federal, state or local law, ordinance, rule or regulation shall be deemed to be incorporated herein.

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

Past Performance Information (PPI): PPI is relevant information regarding a vendor's actions under previously awarded contracts by educational institutions, local, state or federal agencies. It includes the vendor's record of conforming to specifications, conditions and to standards of good workmanship; the vendor's record of containing and forecasting costs on any previously performed cost reimbursable contract schedules, including the administrative aspects of performance; the vendor's history for reasonable and cooperative behavior and commitment to customer satisfaction; and generally, the vendor's business-like concern for the interests of the customer. CES and its members reserve the right to reject an offeror's bid on any or all items based on PPI. To qualify for such action CES must:

1. Provide information, documentation and evidence of any such claim after becoming aware of such claim.
2. Allow the vendor the opportunity to negotiate with CES and its member to reach an agreeable settlement.

Patent and Copyright Infringement: Vendor 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 may award as a result of such a claim. To qualify for such a defense and payment, CES must:

1. Give vendor prompt written notice of any such claim after becoming aware of such claim.
2. Allow vendor to negotiate with CES and the member regarding any settlement negotiations.

CES will be reimbursed by vendor for all expenses incurred by CES in fully cooperating with vendor as specifically requested by contract. CES is not required to incur any expenses specified in this paragraph that are not reimbursable by the vendor. If any party in any way involves any CES member, the same provisions that apply to CES in this paragraph will apply to the member. Vendor's obligation under this section is conditioned on CES' agreement that if the subject of such a claim, CES will permit the vendor, 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 that are reasonable in vendor's judgment and satisfactory to CES, CES will request its member to return the equipment or software on written request by vendor at vendor's expense.

Vendor agrees to give CES and/or its members a refund for returned equipment as depreciated. The depreciation shall be an equal amount per year over six (6) years. In the event that vendor's written request for return is made after full depreciation, the vendor 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 vendor is not obligated to that member under this clause.

Vendor 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 vendor. However, one school's or procurement unit's action will not preclude vendor's obligation to others not having modified its equipment or software.

Payment for Bulk Purchasing Program: Members will pay the vendor(s) directly and the vendor(s) will pay CES the one percent (1%) administrative fee. When, on the initial attempt, a vendor is unable to ship or deliver a complete order, the vendor must receive approval from the member to ship a partial order. Partial payment will be made by the member for goods received, only if the member has authorized partial shipments. Otherwise, the member can choose to withhold further payment until the order is complete. A member is not required to make more than two payments to a vendor to complete payment on one order.

Payment for Just In Time Purchasing Program: CES will make every effort to collect payment from members for the purchase of goods and services within 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 45 days may not be considered.* CES must first receive payment from the member in order to process payment to the vendor. Any vendor, whose business would be in jeopardy due to slow payments, is encouraged not to respond. It has been CES' experience that members most always pay, but many are slow in processing payments.

Performance Bond: Within seven (7) working days of notification of award, the vendor agrees to provide, at its own expense, a performance bond underwritten by a surety company licensed to issue performance bonds in New Mexico equal to one hundred 100% of the amount awarded the vendor under the CPP program, with the principal being the offeror and Cooperative Educational Services being the Agency of Record. If the vendor fails to deliver the required performance bond, the contract with CES will be canceled. All claims for non-performance will be filed as allowed under New Mexico law.

Penalties: The Procurement Code, Section 13-1-28 et. seq. NMSA 1987, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

Prepayment: New Mexico Statutes prohibit paying for goods or services prior to receipt of the goods or services.

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

1. The price reduction is available to all members equally.
2. The price reduction is for a specific time period.
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 member.

A price increase might be allowed if prices the vendor submitted indicate a catalog price increase, after six (6) months from award.

Product Discontinuance: In the event that a product or model is discontinued by the manufacturer, the vendor can 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 Safety Sheets: Vendors must include, when required by the federal, state or local government, CES or the member, "Material Safety Data Sheets" with all merchandise delivered.

Product Shelf Life: All products delivered by vendor will have a "shelf life" of at least 15 months following the date of receipt by the member. This includes such items as pens, markers, glues, liquid paper, stencil masters, batteries, chemicals and other such items on which the quality of the product is affected by age.

Product Substitution After Award: Vendor must deliver the exact products submitted in its bid. Vendor cannot make any substitution of products without the prior written approval of CES.

Project Director: The vendor will assign a project director to coordinate operational activities with the CES staff.

Protests: Any offeror who is aggrieved in connection with this RFB can protest the award to the CES Purchasing Department as provided by the New Mexico State Procurement Code 13-1-172. The protest must be submitted in writing within 15 calendar days after knowledge of the facts or occurrence giving rise thereto. Protests will be filed and resolved in accordance with the State of New Mexico Procurement Code and CES procurement procedures. Venue for any and all legal actions regarding or arising out of the transactions covered herein will 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 this RFB and resulting transactions.

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 herein, 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 bids submitted will become the property of CES and be a matter of public record available for review, subsequent to the bid opening, under the supervision of the Executive Director of CES, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except holidays, at 4216 Balloon Park Road NE, Albuquerque, New Mexico.

Purchase Disputes: It is the responsibility of each member and vendor to resolve any apparent errors on purchase orders or deliveries.

In the event of a delivery dispute, each member count of items received must be accepted as final and correct by the vendor. **WITHIN 30 DAYS AFTER RECEIPT, MEMBER MUST REPORT IN WRITING TO THE VENDOR ANY SHORTAGES OF OR DAMAGES OF MERCHANDISE.** After 30 days, the vendor is not obligated to furnish what the member claimed was not delivered or replace what was reported as damaged.

Request for Bid (RFB): All documents, including those attached or incorporated by reference, which are used for soliciting a bid.

Responsive Offer: An offer which conforms in all material respects to the requirements set forth in the Request For Bid will be deemed a responsive offer. Material respects of a request for a bid include, but are not limited to: price, quality, quantity or delivery requirements. (See also Non-Responsive Offer)

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

Safety Standards: All items furnished under this contract must 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, Air Conditioning Engineers (ASHRAE), American National Standards Institute (ANSI) and National Fire Protection Association Standards (NFPA).

Serial Numbers: Offeror must offer only equipment on which the 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: Vendor 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: Vendor agrees that shipping errors will be at the expense of the vendor. For example, if a vendor ships a product to a member that was not ordered, it is the responsibility of the vendor to pay for return mail or shipment, at the convenience of the member.

Specifications: All scope of work specifications in this RFB are designed to enable a vendor to satisfy a requirement for a product, material, process or service. A specification can 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. An offeror that believes a specification is unnecessarily restrictive, and submits a bid, must indicate such in its initial response.

Suspension or Debarment Status: If any firm, business or person 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 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 and Acceptance of Offer form, the offeror certifies that no suspension or debarment exists.

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

Taxes: Prices offered will not include state and local taxes.

Term of Contract: The term of the agreement will commence on award and will continue until May 2, 2006 unless terminated or canceled.

Termination and Delays of Orders: The member can, by written notice stating the extent and effective date, terminate its order for convenience in whole or in part, at any time. The member will pay vendor as full compensation for performance until such termination:

1. The unit or pro rata order price for the delivered and accepted portion.
2. Incidental damages, not otherwise recoverable from other sources by vendor, as approved by the member, with respect to the undelivered or unaccepted portion of this order, provided compensation hereunder will in no event exceed the total order price. Such amount will be limited to vendor's actual cost and will not include anticipated profits. The member will not be liable for consequential damages.

By written notice, the member can terminate this order in whole or in part for vendor's default if vendor refuses or fails to comply with the provisions of this order, or so fails to make progress as to endanger performance and does not cure such failure within a reasonable period of time. In such event, the member can otherwise secure the materials, supplies or services ordered and vendor will be liable for damages suffered by the member thereby, including incidental and consequential damages.

If, after notice of termination, CES determines the vendor was not at fault, or if vendor's default is due to failure of the member, termination shall be deemed for convenience of the member.

The rights and remedies of the members provided in this article will not be exclusive and are in addition to any other rights and remedies provided by law or under this RFB.

Termination of RFB: The RFB 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 can be terminated without penalty or obligation at any time prior to the signing of a contract. CES reserves the right to cancel this RFB at any time for any reason and to reject any or all bids.

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

Title and Delivery: Title to the materials, equipment and supplies passed hereunder will pass to the member upon acceptance at the F.O.B. point specified, subject to the right of the member to reject. For any exception to the delivery date specified, vendor will give prior notification and obtain approval thereto from the member's purchasing department. Time is of the essence and the order is subject to termination for failure to deliver on time.

Vendor: Offeror who has been awarded a contract for delivery of products, materials and/or services in response to this solicitation.

Vendor's Price List: The vendor's price list will consist of the documents submitted for this RFB indicating its Bulk Purchasing pricing and its Just In Time Purchasing pricing.

Warranties: Offeror(s) warrants the products, materials and/or services furnished to be exactly as specified in this RFB, free from defects in manufacturer's design, labor, materials and to be in compliance with any drawings or specifications incorporated herein and with any samples furnished by the offeror. All applicable Uniform Commercial Code (UCC) warranties, express and implied, are incorporated herein. The manufacturer has the primary responsibility to honor a manufacturer's warranty. A distributor or dealer must agree to assist the member in reaching a solution regarding a dispute with the manufacturer over a warranty term.

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.

SECTION II SCOPE OF WORK AND SPECIFICATIONS

A. SCOPE OF WORK AND SPECIFICATIONS

Offeror is invited to submit a bid for furnishing supplies, equipment and tangible personal property to Cooperative Educational Services (CES) members. Offeror is asked to submit price for the Bulk Purchasing Program and prices for the Just In Time Purchasing Program. Offeror is required to offer bulk purchasing prices. Offeror is not required to offer but is encouraged to offer prices for the Just In Time Purchasing Program.

Bids are solicited for 12 categories in the following 21 catalogs of equipment, supplies and furniture:

Catalog A	Janitorial Equipment and Supplies
Catalog B	Lumber Products
Catalog C	Metal Products
Catalog D	Paper Products – Administration/Teacher
Catalog D-1	Paper Products – Classroom/Art
Catalog D-2	Paper Products
Catalog E	Athletic, Physical Education and Recreational Products
Catalog E-1	School Nurse and Athletic Equipment and Supplies
Catalog F	Office and School Supplies – General
Catalog F-1	Office and School Supplies – Writing Products
Catalog F-2	Office and School Supplies – Preprinted Forms, Binders, Binding and Filing Equipment and Supplies
Catalog G	Media Center/Library Equipment, Supplies and Furniture
Catalog G-1	Media Center (Audio, Visual, Computer) Equipment and Supplies
Catalog H	Science Classroom Products
Catalog I	Furniture and Equipment
Catalog J	Maintenance Equipment and Supplies
Catalog K	Musical Equipment and Supplies
Catalog L	School Supplies – Classroom
Catalog L-1	School Supplies – Art
Catalog L-2	School Supplies – Crafts and Miscellaneous
Catalog M	Food Service Non-Food Equipment and Supplies

Offeror can prepare its bid by accessing the CPP web application. Offeror can then print out its bid submittal price bid sheet, or offeror can submit a hand or typewritten price bid form.

Awards will be made to the lowest responsible bidder complying with the terms, conditions and specifications of this RFB.

Note: If an offeror is not able to bid on every item in a group, please explain in writing. This statement must be submitted with the bid for the bid to be considered. CES may reject any or all bids for a particular item(s) if such action is in the best interest of its members.

When offeror responds, CES is asking offeror to become a partner in providing quality goods to its members at competitive prices. Partnership with a contract awarded through competitive bidding saves members both time and money. Time is saved by the members not having to go to bid individually to purchase what is needed (write bid, advertise bid, open each response, evaluate and have the board make a selection). Money is saved because each partner has already agreed that CES members have the lowest prices it will offer to procurement units in the state.

- B. DUTIES OF THE VENDOR: Once an award is made to the offeror, as the vendor it will assign a project director to coordinate operational activities with the designated representatives of CES and will make monthly reports to this representative regarding purchases, invoicing, issues and concerns with both products and procedures. It is the responsibility of the vendor to market if offered the Just In Time Purchasing Program products to the members.
- C. DUTIES OF CES: The general duties of CES will include:
1. Inform members of vendor awards and assist participating members in processing their requested orders under the Bulk Purchasing Program.
 2. Assist members in preparing orders under the Just In Time Purchasing Program, receive and process orders with the individual vendors.
 3. Inform vendors of the members who have signed up to participate in this purchasing program.
 4. Process invoices and pay requests for payment under the Just In Time Purchasing Program.
 5. Follow up as needed with both vendor(s) and member(s) on problems, issues and concerns.
- D. SPECIAL BID FEE REQUIREMENT: All bidders are required to pay a non-refundable Twenty-Five Dollar (\$25) fee to defray the cost of distributing and processing bid documents, etc. Checks are to be made payable to CES and must be received at the CES office no later than the opening of bids.
- E. PERFORMANCE BOND: Within seven (7) working days of notification of award, the vendor will provide at its own expense, a performance bond underwritten by a surety company licensed to issue performance bonds in New Mexico equal to one hundred 100% of the amount awarded under the CPP program with the principal being the vendor and Cooperative Educational Services being the Agency of Record. If the vendor fails to deliver

the required performance bond, the contract with CES will be canceled. All claims for non-performance will be filed as allowed under New Mexico law.

- F. QUALITY CONTROL ISSUES: During the course of the contract, the member's representative will review samples of products delivered to determine if said products meet, perform and conform to the specifications of this RFB. The member will notify both the vendor and CES of its findings if they are unsatisfactory.

- G. LISTING OF CATALOGS: CES has prepared a single RFB document which includes 21 categories (12 categories) of school, office, maintenance and cafeteria supplies, materials and equipment. Offeror will select the category(s)/catalog(s) which it chooses and will prepare its response only for those items. Offeror does not have to respond to all catalogs.

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, Form A.

- B. **BID SUBMISSION:** Sealed bids will be received until 1:30 p.m. local time, Friday, April 1, 2005 by either hand delivery to the agency offices, 4216 Balloon Park Rd NE, Albuquerque, New Mexico 87109-5801, or by mail at the same address. One (1) original of the bid submittal, supporting documents and required samples must be included.

- C. **BID REVIEW:** On Monday, April 4, 2005, the CPP representatives will begin reviewing the bids received. Recommendation of award and notification to all respondents will be made by Friday, May 2, 2005.

- D. **EVALUATION FACTORS:** Bids will be evaluated on the following criteria to qualify as a responsive bid: quality meets or exceeds specifications; examination of samples and technical data; unit/group acquisition costs; suitability for school usage; workmanship, safety; vendor's PPI and member's satisfaction with products previously purchased. CES reserves the right to reject an offeror's offer if after the evaluation process items awarded to the vendor would require members to issue purchase orders for less than Seventy-Five Dollars (\$75).

A responsive bid must have been submitted on time, materially satisfy all mandatory requirements identified in the RFB, and substantially conform to all of the specified requirements in the RFB in the judgment of the CPP representatives. Any deviation from requirements stipulated herein must be stated on an attached sheet(s), otherwise it will be considered that bids are in strict compliance with all requirements and any successful vendor will be held responsible therefore. Deviations or exceptions stipulated in vendor responses, while possibly necessary in the view of a particular vendor, may result in a penalty being assigned during the evaluation process. Language to the effect that the vendor does not consider this bid to be part of a contractual obligation will result in that vendor's bid being disqualified. Due to the unpredictable nature of what any particular vendor may wish to stipulate with regard to exceptions, exclusions, or limitations of liabilities, vendors are forewarned that CES reserves the right to assign any penalties it considers warranted. Terms of the RFB that any vendor considers particularly unwarranted and to which that vendor would have to take significant exception in its response should be stated in the bid clearly and concisely as exceptions and/or deviations. Offeror's required responses "Yes" are responsive and "No" are non-responsive.

Vendor Qualifications

- Yes No Provided Twenty-Five Dollar (\$25) Special Bid Requirement to CES on or before the bid due date and time.

- Yes No Provided narratives, specifications and manufacturers' data sheets describing products, standards and/or how the proposed products meet or exceed the specified products.

- Yes No Provided the required and necessary samples of products to be evaluated.
- Yes No Provided and signed the required and necessary bid forms.
- Yes No Verification of New Mexico residency for those requesting the five percent (5%) preference.
- Yes No Submitted pricing information on acceptable forms and in the proper format.
- Yes No Signed off on acceptance of general terms and conditions, with no exceptions or exclusions unacceptable to CES.

E. COST CONSIDERATIONS: The contract between CES and the vendor will be for a firm, fixed price with specified quantities under the Bulk Purchasing Program, and if offered a price, for an indefinite quantity under the Just In Time Purchasing Program. CES will not be liable for any cost in bid submission.

F. IMPORTANT NOTICE TO OFFERORS: CES is an educational service agency that provides needed education-related services to New Mexico public educational institutions. Under New Mexico law, CES charges a fee to the members when CES provides a service. There are no other annual membership fees or dues, other than what CES collects for offering a service. For the purposes of this bid, the offeror's prices submitted for the Cooperative Purchasing Program must include the one percent (1%) administrative fee.

Finally, offeror should keep in mind that CES desires to provide the small, rural New Mexico educational institutions the same prices that larger institutions 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.

G. VENDOR AWARD REVIEW: Prior to making the final awards, CES will notify offeror of the availability and location of the bid documentation and tabulation listing of all bid prices received. Any bid-price concerns directly related to the award of the bids should be submitted in writing to CES. All written concerns received by the deadline will be carefully considered by committee. **Offeror is encouraged to check tentative awards.**

Form B

AFFIDAVIT

The undersigned, duly authorized to represent the persons, firms and corporations joining and participating in the submission of the foregoing bid (such persons, firms and corporations hereinafter being referred to as the offeror), being duly sworn, on his oath, states that to the best of his belief and knowledge, no person, firm or corporation, nor any person duly representing the same joining and participating in the submission of the foregoing bid, has directly or indirectly entered into any agreement or arrangement with any other offerors, or with any official of CES, or any employee thereof, or any person, firm or corporation under contract with CES, whereby the offeror, in order to induce the acceptance of the foregoing bid by CES, has paid or is to pay to any other offeror or to any of the aforementioned persons anything of value whatever, and that the offeror has not, directly or indirectly, entered into any arrangement or agreement with any other offeror or offerors which tends to or does lessen or destroy free competition in the letting of the contract sought for by the foregoing bid.

This is to certify that the offeror, or any person on its behalf, has not agreed, connived, or colluded to produce a deceptive show of competition in the manner of the bidding or award of the referenced contract.

This is to certify that neither I, nor to the best of my knowledge, information and belief, the offeror, nor any officer, director, partner, member or associate of the offeror, nor any of its employees directly involved in obtaining contracts with the State of New Mexico, Cooperative Educational Services (CES) or any subdivision of the state has been convicted of false pretenses, attempted false pretenses, or conspiracy to commit false pretenses, bribery, attempted bribery or conspiracy to bribe under the laws of any state or federal government for acts or omissions after January 1, 1985.

This is to certify that no employee of CES has a direct or indirect interest in the vendor or in the proposed transaction (unless vendor is a publicly traded company and the employee's interest is less than one percent of the vendor). Vendor neither employs, nor is negotiating to employ any CES or member's employee or member of its Board of Regents/Directors. Vendor did not participate directly or indirectly in the preparations of specifications for this purpose.

This is to certify that the following is true, or that it has filed a Conflict of Interest Disclosure form with CES: Vendor is not a New Mexico state legislator, and no New Mexico state legislator holds a controlling interest (greater than 20 percent) in vendor.

This is to certify by signature in the offer section of the offer page that: The submission of the offer did not involve collusion or other anti-competitive practices; the vendor shall not discriminate against any employee, or applicant for employment in violation of Federal and State Laws (see Federal Executive Order 11246); and/or the vendor 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.

This is to certify that in performing the services required in this contract, vendor shall be an Equal Opportunity Employer and shall conform to all Affirmative Action and other applicable requirements; accordingly, vendor shall neither discriminate nor permit discrimination in its operations or employment practices against any person or group of persons on the basis of race, age, religion, color, national origin, ancestry, sex, age, physical or medical conditions, or sexual preference or prior military involvement, in any manner prohibited by law.

Authorized Representative (Please print or type)

Position (Please print or type)

Signature of Authorized Representative

Date

Subscribed and sworn to before me this _____ day of _____, 2005.

Notary Public in and for County of _____, State of _____.

Signature: _____

My commission expires: _____

Offeror will need to consider and take into account the following items when completing the price submittal.

1. For each item, whether the brand specified or a substitute for the specified item, offer will specify in the Brand and Model column on the response form, the manufacturer's name, model or product number and trade name if applicable. Where a brand name or equal specification is used, the brand name is used only for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition. **Bids will not be considered when such information is not provided.**
2. Offeror will quote prices in the units of measure specified in the bid document. In the specifications for many items, a specific-size container or number per package is requested. Because manufacturers' and suppliers' containers and packaging vary, bid the container or packaging size as close as possible to that specified and note size change on bid. In preparing your bid using the ASP application, note the size change in the Vendor Alert Box.
3. If you are submitting your bid in the paper format, bids for recycled products ONLY should be written in red ink. If you are preparing your bid using the CPP ASP application, type an "R" in the alert column for recycled product bids. Recycled products must meet the guidelines of the Federal Environmental Protection Agency. Offeror must furnish technical data for all recycled products bid. A five percent (5%) preference will be given to bids for recycled products but in no case shall the offeror's allowed preference exceed five percent (5%).
4. For in-state preference and manufacturer's preference (New Mexico Statutes 13-1-21), offeror must provide the appropriate documentation.
5. No offeror shall receive more than five percent (5%) preference on any one item or bid.
6. Samples (SAM), technical data (TD), and descriptive literature (MSDS, COL, SZ) must be submitted on items specified in the Alerts column of the Vendor Bid List. If a substitute product is offered, a catalog literature describing the substitute or a sample must be furnished. Where color is specified, offeror is to offer standard color choices to members and send a list of color choices with its bid.
7. Where required, OSHA data sheets should **not** be submitted with bids, but must be made available to CES upon request. Technical data regarding the chemical composition of a product still must be provided when requested in the "Alerts" column of the bid document.
8. Offeror is to provide additional samples, literature and information upon request.

9. All samples and technical data, including descriptive literature, are to be submitted, free of all delivery charges, to the Cooperative Educational Services' offices on or before the bid opening; **all such samples and technical data, including descriptive literature, are to be plainly marked with the bidder's name and the CPP item number for which the material is being submitted.** If samples are being sent from a manufacturer directly to CES, it is the offeror's responsibility to be sure that the manufacturer has them labeled with the bidder's name and the CPP item number. The CPP Samples Submission List must be completed and submitted with the requested samples for each bid category/ catalog.
10. Bid samples will be available for pick-up by unsuccessful bidders during the times specified in the Notification of Award Letter. Unclaimed samples become the property of the CES. The standard practice for disposing of unclaimed samples is to donate them to member institutions. Samples of items for which offerors receive awards automatically become the property of the CES. At the end of the year, these samples are donated to member institutions.
11. Any offeror bidding and subsequently receiving an award in the Lumber Category (Category B) will strictly adhere to the lumber grading and measurement standards established and provided by the National Hardwood Lumber Association and the Western Wood Products Association.
12. Offeror will not include any taxes in its quoted prices, however, the one percent (1%) administrative fee must be included in the prices.

Acceptance of Terms and Conditions

This Request for Bid governs any quote and selection process. Submission of a quote in response to this request constitutes acceptance of all of the terms and conditions. The Terms and Conditions cannot be modified, altered or amended in any way by any quote. Any such modification, alteration or amendment shall be considered to be a request for modification, alteration or amendment, and shall be deemed denied unless specifically accepted in writing by CES.

Rather than duplicate each term and condition and indicate acceptance, offeror may sign the statement below. Any exceptions must be listed on this page (please attach additional pages if necessary).

I accept the Terms and Conditions of this RFB, except as listed below.

Printed Name and Title

Signature (should match cover signature)

Form E

QUESTIONNAIRE FOR OFFEROR

Company Name: _____

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

2. Where should CES or CPP members mail purchase orders?

Vendor Name: _____

Attention Line: _____

UPS Address: _____

Mailing Address: _____

City: _____ State: _____ Zip _____

Telephone (to verify prices): _____ Fax: _____

Email Address: _____

If you want CES or members to send purchase orders by a private, NEXT DAY carrier, please identify the carrier and your account number:

3. Where do you want payments sent?

Vendor Name: _____

Attention: _____

UPS Address: _____

Mailing Address: _____

City: _____ State: _____ Zip _____

Telephone: _____ Fax: _____

Email Address: _____

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

4. Additional contacts for CES records.

New Mexico Representative: _____

Telephone: _____ Fax: _____

Email Address _____

Contact for RFB/Contract: _____

Telephone: _____ Fax: _____

Email Address _____

5. Sales Support by Region

<u>Name</u>	<u>Region Served</u>	<u>Telephone</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. Will you offer CES or members a quick pay discount? If YES, what is the discount? _____ Days? _____

SUBMISSION CHECK-OFF FORM

In order for CES to clearly understand the bid being presented by the offeror, a complete response to this RFB must contain the following. It is suggested that the offeror preparing its response should check off each required item as it is completed.

- _____ 1. The signed Offer, Acceptance of Offer and Contract Award cover sheet has been completed (page 30)

- _____ 2. Affidavit (page 31)

- _____ 3. A list of any additions, exemptions, or modifications of Terms and Conditions (page 34)

- _____ 4. Price submittal forms

- _____ 5. Twenty-Five Dollar (\$25) special bid requirement (page 26)

- _____ 6. All miscellaneous forms that apply (for example, MSDS, etc.)

- _____ 7. Questionnaire for Offeror (page 35)

- _____ 8. Copy of New Mexico resident vendor form (if applicable)

- _____ 9. Individual samples with manufacturer's specifications, slicks, model information, etc.

- _____ 10. Signed Submission Check-Off Form (page 37)

Completed: _____
Signature

