



**REQUEST FOR PROPOSAL
RFP 2009-021 and 2009-024**

ADDENDUM NO. 4

To: Prospective Bidders

From: Llew F. Perry
Cooperative Educational Services

Date: August 3, 2009

Cooperative Educational Services (CES) has received the following questions regarding RFP 2009-021 and 2009-024 by email or as otherwise noted. The following are the responses to the questions asked.

<u>QUESTION 1</u>	
<u>Submitted by:</u>	Victoria (Vickie) Grimm vickie-omega@swcp.com Received July 31, 2009
<u>Item 1:</u>	Can you please tell us what is the Bureau of Labor Standards published incident/injury rate for the state of New Mexico? I cannot find a website or other source of information where a published incident/injury rate is provided. See the hi-lighted area below from form J, paragraph F, #2. F. <i>Miscellaneous items</i> 1). <i>Is the workers' compensation experience modifier for the company as reported by your insurer less than 2.0? If no, what is your reported E-Mod?</i> 2). <i>What is the incident/injury rate for your company as reported by your insurer? Is it less than the Bureau of Labor Standards published rate for New Mexico? If yes, by how much?</i> (CES Edit for printability: Author highlighted the second sentence of Form J, Paragraph F, #2. CES removed highlight, replaced with bold font.)
<u>Background:</u>	None Provided
<u>CES Response:</u>	This item relates to Workers' Companion and the rating your Workers' Comp carrier (insurance company) has rated your company's based on the type of workforce and your past claim history in order to establish you premiums. CES utilize this information as one element to determine your company's safety record as it applies to proper safety training and ensuring a safe working condition. Your carrier should be able to provide you with this rating.

<p><u>Item 2:</u></p>	<p>What is the New Mexico Public Education Department (NMPED) <u>mandate</u> regarding security and background checks for individuals working and/or providing services within public school buildings? I could not find anything specifically related to a mandate on security and background checks on the NMPED website, so I called the PED to seek guidance and left a message for Jerry Williams. Mr. Williams returned my call and left a message stating quote, “the Public Education Department only has the responsibility for backgrounds checks with persons who apply for, or hold educators licenses. Contractors are the responsibility of the employing school district or charter school, (and that) we should contact that school district for their instructions.” If the NMPED does not provide a statewide mandate for contractors – then how should we answer the question on Form J, paragraph H as listed below hi-lighted in yellow? Should we be contacting individual school districts?</p> <p><i>‘H. Describe your company’s policies and procedures in regards to complying with the New Mexico Public Education Department (NMPED) mandate regarding security and background checks for individuals working and/or providing services within public school buildings. Please describe or provide a sample of the type of background check that you are willing and able to perform on your providers in order to comply with this requirement.</i></p> <p>I can describe our company policy on backgrounds checks and show what we can and are willing to do in order to comply – I would like to know what it is we need to be in compliance.</p> <p>(CES edit for printability: Author highlighted the first sentence of Paragraph H, first sentence. CES removed highlight, replaced with bold font.)</p>
<p><u>Background:</u></p>	<p>Location of statutory references to PED required background checks required for contractors.</p> <p>State of New Mexico New Mexico Statutes and Court Rules <u>Statutory Chapters in New Mexico Statutes Annotated 1978</u> <u>CHAPTER 32A Children's Code</u> <u>ARTICLE 15 Children's and Juvenile Facility Criminal Records Screening</u></p> <p><u>32A-15-1. Short title. (2005)</u></p> <ul style="list-style-type: none"> • <u>32A-15-2. Purpose. (2005)</u> • <u>32A-15-3. Criminal history records check: background checks. (2005)</u> • <u>32A-15-4. Procedures. (1993)</u> <p><u>32A-15-3. Criminal history records check; background checks.</u></p> <p>A. Nationwide criminal history record checks shall be conducted on all operators, staff and employees and prospective operators, staff and employees of child care facilities, including every facility or program that has primary custody of children for twenty hours or more per week, and juvenile detention, correction or treatment facilities.</p>

Nationwide criminal history record checks shall also be conducted on all prospective foster or adoptive parents and other adult relatives and non-relatives residing in the prospective foster or adoptive parent's household. The objective of conducting the record checks is to protect the children involved and promote the children's safety and welfare while receiving service from the facilities and programs.

- B. The department shall fingerprint all operators, staff and employees and prospective operators, staff and employees of child care facilities and all prospective foster or adoptive parents and other adult relatives and non-relatives residing in the prospective foster or adoptive parent's household. The department shall conduct a background check of all operators, staff and employees and prospective operators, staff and employees of child care facilities and all prospective foster or adoptive parents and other adult relatives and non-relatives residing in the prospective foster or adoptive parent's household and shall submit a fingerprint card for those individuals to the department of public safety and the federal bureau of investigation for this purpose.
- C. Criminal history records obtained by the department pursuant to the provisions of this section are confidential. The department is authorized to use criminal history records obtained from the federal bureau of investigation to conduct background checks on prospective operators, staff and employees of child care facilities and foster parents.
- D. Criminal history records obtained pursuant to the provisions of this section shall not be used for any purpose other than conducting background checks. Criminal history records obtained pursuant to the provisions of this section and the information contained in those records shall not be released or disclosed to any other person or agency, except pursuant to a court order or with the written consent of the person who is the subject of the records.
- E. A person who releases or discloses criminal history records or information contained in those records in violation of the provisions of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

22-10A-5. Background checks; known convictions; reporting required; limited immunity; penalty for failure to report.

- A. An applicant for initial licensure shall be fingerprinted and shall provide two fingerprint cards or the equivalent electronic fingerprints to the department to obtain the applicant's federal bureau of investigation record. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment Act [28-2-1 NMSA 1978]. Other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for the denial, suspension or revocation of a license for good and just cause. Records and related information shall be privileged and shall not be disclosed to a person not directly involved in the licensure or employment decisions affecting the specific applicant. The applicant for initial

	<p>licensure shall pay for the cost of obtaining the federal bureau of investigation record</p> <p>B. Local school boards and regional education cooperatives shall develop policies and procedures to require background checks on an applicant who has been offered employment, a contractor or a contractor's employee with unsupervised access to students at a public school.</p> <p>C. An applicant for employment who has been initially licensed within twenty-four months of applying for employment with a local school board, regional education cooperative or a charter school shall not be required to submit to another background check if the department has copies of his federal bureau of investigation records on file. An applicant who has been offered employment, a contractor or a contractor's employee with unsupervised access to students at a public school shall provide two fingerprint cards or the equivalent electronic fingerprints to the local school board, regional education cooperative or charter school to obtain his federal bureau of investigation record. The applicant, contractor or contractor's employee who has been offered employment by a regional education cooperative or at a public school may be required to pay for the cost of obtaining a background check. At the request of a local school board, regional education cooperative or charter school, the department is authorized to release copies of federal bureau of investigation records that are on file with the department and that are not more than twenty-four months old. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment Act; provided that other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for the employment decisions for good and just cause. Records and related information shall be privileged and shall not be disclosed to a person not directly involved in the employment decision affecting the specific applicant who has been offered employment, contractor or contractor's employee with unsupervised access to students at a public school.</p> <p>D. A local superintendent shall report to the department any known conviction of a felony or misdemeanor involving moral turpitude of a licensed school employee that results in any type of action against the licensed school employee.</p> <p>E. The state board [department] may suspend or revoke the license of a local superintendent who fails to report a criminal conviction involving moral turpitude of a licensed school employee.</p> <p>F. A person who in good faith reports any known conviction of a felony or misdemeanor involving moral turpitude of a licensed school employee shall not be held liable for civil damages as a result of the report; provided that the person being_ accused shall have the right to sue for any damages sustained as a result of negligent or intentional reporting of inaccurate information or the disclosure of any information to an unauthorized person.</p>
CES Response:	In response to the question, CES is requesting the respondents, to first

	<p>acknowledge they are aware of the background check requirement. Secondly to describe and acknowledge they have in place company policies and procedures acquire and maintain such background records. And lastly they agree to adhere to, comply with and make available these records if requested by a K-12 educational institutions if requested.</p>
<p><u>Item 3:</u></p>	<p>In regards to Form J, Paragraph D, number 3 – see below – If I am unable to provide all the requested information (letter a through letter g) for each project, will we be considered non-responsive? Most of the time we are a subcontractor and may not have some of the information you are requesting.</p> <p><i>D. Experience and Past Performance</i> <i>Within the last five (5) years, has your company performed work on New Mexico public works projects? If the answer is “yes,” describe each project and your company’s role. In your description, include the following information on each project described.</i></p> <p><i>(a). Project name.</i> <i>(b). Owner of the project.</i> <i>(c). Owner representative or contact.</i> <i>(d). Original bid amount and final project cost (include all change orders).</i> <i>(e). Architect/Engineer (A/E).</i> <i>(f). Original scheduled completion date, the final completion and acceptance date.</i> <i>(g). Percentage of the cost of the work performed with your own forces.</i></p> <p>(CES edit for printability: Author highlighted Form J, Paragraph D, items a-g. CES removed highlight, replaced with bold font.)</p>
<p><u>Background:</u></p>	<p>RFP 2009-021 or 2009-024, Section I: Instruction to Offerors, E: Proposal Submission,</p> <p>4. Offeror’s Qualifications Statement All proposals must contain answers or responses to the requested information listed below. The Offeror is to provide responses to questions on Form J Contractor Qualifications (page 119). Any Offeror failing to respond completely may be considered non-responsive. Please complete Form J and place it behind Tab 4. One essential part of the evaluation process is for the evaluator(s) to have current and accurate information about the company being evaluated. For the evaluator(s) to know if the response being read is within the capacity and capability of the Offeror, factual information about the Offeror is vital. After the evaluation process is finished and a contract is awarded, the information may be provided to the CES Member and Participating Entity considering utilizing the Offeror’s CES contract. This is your opportunity to present your company to the evaluator(s) and, if awarded, Members’ and Participating Entities’ staff.</p> <p>RFP 2009-021 or 2009-024, Section III: Conditions Leading to and Including Contract Award, D: Evaluation Factors.</p> <p>CES has utilized a Request for Proposal (RFP) to solicit and acquire various</p>

	<p>construction products and services because this type of public solicitation allows CES and its Members/Participating Entities greater flexibility to achieve the best overall value while permitting CES to take into consideration certain contractor qualification and performance factors that add value to its contracts made available to its Members/Participating Entities, such as contractor past performance, technical expertise and experience, management capabilities, available resources, and subcontractor's offerings in various types of facilities.</p> <p>To qualify for evaluation, a proposal must be responsive, must have been submitted on time, and materially satisfy all mandatory requirements identified throughout the RFP. To be considered responsive, a proposal must reasonably and substantially conform to all of the specified requirements in the RFP in the judgment of CES and the evaluation committee. Any deviation from requirements indicated herein must be stated, identified and presented as requested, attached behind Tabs 3 and 5. Otherwise, it will be considered that proposals are in strict compliance with all requirements, and any successful Offeror will be held responsible therefore. Deviations or exceptions stipulated in an Offeror's responses, while possibly necessary in the view of a particular Offeror, can result in a penalty assessment being assigned during the evaluation process. Language to the effect that the Offeror does not consider this proposal to be part of a contractual obligation will result in that Offeror's proposal being disqualified. Due to the unpredictable nature of what any particular Offeror may wish to stipulate with regard to exceptions, exclusions or limitations of liabilities, Offerors are forewarned that CES reserves the right to assign any penalties it considers warranted. Terms of the RFP that any Offeror considers particularly unwarranted, and to which that Offeror would have to take significant exception in its response, should be stated in the proposal clearly and concisely as exceptions and/or deviations.</p>
<u>CES Response:</u>	In response to the question will the respondent be considered non-responsive, NO. However, please note since this is an Request For Proposal and the respondent's qualifications, background, experience, past performance, capacity and available resources is sixty (60%) percent of the respondent's final score. It is important the respondent provide enough information allow the evaluators to make an informed decision in these areas.
<u>Item 4:</u>	In regards to changes we have received in Addendum 1 and Addendum 2 for RFP 2009-024 and 2009-021, when the addendum states to change verbiage " from " the original wording " to " corrected or clarified wording – should we be physically making those changes or by signing the acceptances to the addendums acknowledge the changes stated?
<u>Background:</u>	None Provided
<u>CES Response</u>	The addendums are used to notify the respondents of the changes and are the record of the changes and become a part the offeror's response and contract documents. No respondents do not need to physically make the changes in the original documents.

If you have any questions regarding this Addendum, please contact my office.

By dating, signing and returning this page, the offeror acknowledges receipt of this Addendum.
(Please place behind Tab 1 of your response)

Date: _____

Company Name (Print): _____

Printed Name: _____

Signature: _____