

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

**REQUEST FOR PROPOSALS  
(RFP)**

**RFP Issue Date** **Monday, April 11, 2005**

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RFP Number: RFP 2005-022

RFP Issue Date: Monday, April 11, 2005

RFP Commodity Titles:

911 Construction Management Services

**RFP Due Date** **Friday, May 6, 2005**

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Day / Date: Friday, May 6, 2005

Time: 1:30 p.m. local time

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

Directions: In Albuquerque, take I-25 North. Take Exit 229, Jefferson, and proceed 4/10<sup>ths</sup> of a mile west. Turn left on Balloon Park Road NE. The CES offices will be the third building on the left. The office manager will receive proposals.

## **RFP Contents Overview**

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

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

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

**Legal Advertisement**

**ADVERTISEMENT FOR PROPOSAL**

Cooperative Educational Services, 4216 Balloon Park Road NE, Albuquerque, NM 87109, will receive sealed proposals until 1:30 p.m. local time, Friday, May 6, 2005, for Construction Management Services.

All proposals must be submitted in a sealed envelope marked "SEALED PROPOSAL – RFP 2005-022" 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, April 10, 2005, or Monday, April 11, 2005  
Sunday, April 17, 2005

The Albuquerque Journal  
Farmington Daily News  
Las Cruces Sun  
Roswell Daily Record  
The Santa Fe New Mexican

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## **SECTION I      INSTRUCTIONS TO OFFERORS**

### **A. INTRODUCTION**

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

### **B. EXAMINATION OF DOCUMENTS**

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

### **C. QUESTIONS**

Submit all questions about the Request for Proposals (RFP) in writing to Cooperative Educational Services, Max Luft, Executive Director. Replies will be made via the website ([www.nmedu.org/ces/jobrfp/rfprfb\\_lst.asp](http://www.nmedu.org/ces/jobrfp/rfprfb_lst.asp)) as addenda and will become part of the proposal documents. Those not having access to the Internet can call CES, either to determine if addenda have been issued, or to request of CES by phone or fax that copies of the addenda be mailed. Questions received less than seven (7) days prior to proposal due date will not be answered.

### **D. PROPOSAL SUBMISSION**

#### **1. Preparation of the Proposal**

- a. Proposals will be submitted on either unaltered proposal forms furnished by CES or a reasonable facsimile thereof. Telegraphic offers, electronic mailgrams or facsimile machine offers will not be considered.
- b. The Offer, Acceptance of Offer and Contract Award document must be submitted with original ink signature by the person authorized to sign the same. If a company or corporation submits the proposal, an official or duly authorized agent will sign the proposal. Powers of Attorney, which authorize agents or others to sign proposal, must be properly certified by resolution of the board of directors, attested to by the secretary of the corporation, and attached to the proposal. Mistakes can be corrected prior to opening but must be initialed by the person signing the proposal. Corrections and modifications received after the opening time will not be accepted.
- 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 all offerors to examine the entire RFP package and seek clarification of any item or requirement that may not be clear, and to check all responses for accuracy before submitting an offer. Negligence in preparing an offer confers no right of withdrawal after due time and date.
- f. The offeror's ability to follow the proposal preparation instructions set forth in this solicitation will also be considered to be an indicator of the offeror's ability to follow instructions, should they receive an award as a result of this solicitation. Any contract

between CES and a vendor requires the delivery of information and data. The quality of organization and writing reflected in the proposal will be considered to be an indication of the quality of organization and writing which would be prevalent if a contract is awarded. As a result, the proposal will be evaluated as a sample of data submission. Subjective judgment on the part of CES evaluators is implicit in this process.

2. Format of the Proposal

- a. One (1) original of the proposal will be submitted on the forms and in the format contained in the RFP. If you choose to extend your offer to schools in Colorado and/or Texas (see Section III H. and I.), include an additional original proposal, with original signatures for each state selected. The proposal will contain all descriptive literature, specifications, samples, etc. All proposals will be submitted in three-ring binders.
- b. The forms as contained in and format as requested in the RFP will be used. Offerors can reproduce the forms and retype the information, but all of the required information must be presented in the order requested. All proposals must be completed in ink, on a computer or typewritten. Forms can be filled in by hand, but must be printed.
- c. In preparing a proposal, a vendor must present a point-by-point response to each relevant term, special consideration or specification. A response that says “See Appendix,” “Acknowledged,” or “Understood” is not acceptable and may be sufficient to render the proposal as non-responsive. Usually, on a term or condition, either the word “Accept” is appropriate or the word “Exception” with a clarification. Should the offeror take any “exceptions” to this RFP, 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 Proposal

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

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

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

- Tab 1: The Offer
- Signed Acceptance of Offer (page 46) **Form B**
  - The RFP Affidavit, notarized signature required (page 47) **Form C**
  - Offerors Declaration Form (page 45) **Form A**
- Tab 2: Introduction
- Executive Summary (a one-page description of what you are proposing on this contract)
- Tab 3: General Terms and Conditions
- Terms and Conditions (copy of each page in order)
  - Acceptance of Terms and Conditions (first line must be signed RFP page 52) **Form E**
- Tab 4: Vendor Qualifications
- Answers to Questions A-J (pages 8 - 10)

- Tab 5: Category
  - Acceptance of Categorical Terms and Conditions (third line must be signed RFP page 52) **Form E**
  - Listing of any exceptions to the Categorical Terms and Conditions (page 52) **Form E**
  - Required Categorical Responses (written response to every part)
- Tab 6: Cost Quotation
  - Prices for Construction Management Services (pages 48-51) **Forms D and D-1**
  - Additional price information, price sheets from RFP
- Tab 7: Required Forms
  - Offeror's Support for CES Prices (page 54) **Form G**
  - Questionnaire for Offeror (pages 55-56) **Form H**
  - Support and Maintenance Plans (page 53) **Form F**
  - Manufacturer's Representative Form (page 57) **Form I**
- Tab 8: Additional Information
  - Additional information that you wish to include
  - Additional support pages requested in each specific category
- Tab 9: Submission Check-Off Form
  - Make certain everything is included, and then sign form (page 60) **Form L**
- Tab 10: Literature, slicks, samples and supporting printed material

Step Three: Go to the last page of this RFP and prepare the Submission Check-off Form. Sign it and place it after Tab 9. Send your proposal to CES so that it arrives on or before Friday, May 6, 2005, at 1:30 p.m. local time.

**Proposals must be submitted in a sealed envelope/package with the proposal number, date and time of proposal opening clearly marked on the outside.**

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

#### 4. Vendor Qualifications

All proposals must contain answers or responses to the 10 items listed below. Any offeror failing to answer these questions completely may be considered non-responsive. Please arrange your responses by placing them after Tab 4. One essential part of the evaluation process is for the evaluators to have information about the company being evaluated. For the evaluators to know if the proposal being read is within the 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 members considering the purchase. This is your opportunity to present your company to those interested evaluators and, if awarded, member staff of our members.

- a. Write a brief history of your company that includes its philosophy of doing business. Generally, CES will not accept an offer from a business less than three (3) years old or which has failed to establish a proven record of business. If the offeror has recently purchased an established business or has proof of prior success in this business or a closely related business, please provide written verification. CES reserves the right to accept or reject newly formed companies solely based on information provided in this response and from its own investigation of the company. Since any contract awarded by CES is a recommendation to members to do business with the vendor, organizations with little or no demonstrated ability to perform may be placing members at risk.
- b. Indicate where the headquarters of the company are located. Provide address, city, and state, and if there are branch offices in New Mexico, please also supply those. Note how long your company has provided these services/products in New Mexico. If you are offering after-sales services to CES members, state the qualifications of your service staff. Provide the name, title, qualifications and experience of the key people who will support this contract. Describe your service facilities in terms of square feet, service equipment, number of technicians, inventory in stock, and service response time.
- c. Almost every business has professional organizations and associations that provide standards and/or product evaluations/comparisons for sales use and for other competitive purposes. If any of the products/services you are offering have received an evaluation by any of these groups, and they have issued a report of their findings or any awards or nominations for excellence, provide or cite that documentation. If the products you offer in this contract meet or exceed industry standards if submitted for evaluation, please submit copies of the reports and a written narrative describing the standards and/or awards your products/services or company has received. Also, place copies of articles, sales slicks, catalogs, news clippings, or news bulletins that describe these awards and standards after Tab 10.
- d. Vendors for products and services offered on this contract must be factory authorized dealers, distributors or agents with the ability to offer products and services in New Mexico. Include written evidence of factory authorization, either by letter from the manufacturer stating the terms, conditions and authority to speak for it, or by a copy of your franchise/contractual agreement. If you are a manufacturer, describe who, from where, if or how, you will provide and support your dealer network with this contract, or if you will sell directly to CES.
- e. A major problem often facing companies awarded a CES contract is rapid growth followed by cash flow difficulties. For purposes of evaluation, attach a letter from your financial institution that indicates the line of credit available to you. This letter does not need to identify a dollar amount. Instead, a credit range should be indicated. (For example, "credit in the low six figures" or "a credit line exceeding five figures.") Indicate if you will assign payments to financial institutions. Please name any financial institutions that you may use for assignments or for factoring. If you enter into any assignment agreements, will you sign a notarized power of attorney that grants the company receiving the assignment the right to endorse payments from CES? Please attach a sample assignment or factoring agreement with your proposal if you intend to use these financial services. The fact that a company uses these services will not reflect on the credit status of the CES vendor. Since CES requires a 45-day term rather than the more traditional 30 days, such payment arrangements may be necessary.
- f. Describe your company's policies and procedures in regards to complying with the New Mexico state mandated security and background checks for individuals working and

- providing services within public school buildings. Please provide a sample of the type of background check that you are willing to perform for these purposes.
- g. Unfortunately, the United States of America is now a very litigious society. Provide with this RFP a certificate of verification of insurance listing minimum and maximum coverage for liability, vehicle and property damage. CES is not asking you to acquire additional or special insurance for this contract, but we need proof that you are insured. Before any work can commence, you must provide a certificate that names CES as a certificate holder. Normally, this is a free service provided by an insurance company.
  - h. CES is the administrative agency of the Joint Powers Agreement to Establish an Educational Cooperative. Its members are the public educational institutions in New Mexico. Our sole purpose is to support these institutions in their day-to-day procurement. Describe in writing your ability, willingness and means to sell, deliver and provide support to the educational agencies in New Mexico. No offeror will be denied a contract simply because sales are limited to New Mexico. However, CES will not enter into a contract with a vendor who has an existing contract that would be more advantageous than a CES contract to sell/provide goods/services to New Mexico agencies. Do you currently have or plan to have such state contracts, such as one with the State Procurement Division? If so, why do you wish to secure a CES contract, and how would the CES contract be more advantageous in pricing or other services over other cooperative contracts?
  - i. It has been CES' experience that a gap exists between the management (those who respond to RFPs) and sales staff (those who contact the schools and political subdivisions), which results in problems. Will your sales staff sell a product or service to a CES member that it knows will not meet the member's needs? What training does your sales staff have that gives you confidence in their ability to serve the needs identified in RFP 2005-022? Name your key sales people who will be assigned this contract; and provide a brief description of each person's qualifications that includes title, work experience, educational background and related skills.
  - j. Although CES is not required to base an award strictly on the lowest price, any time one vendor charges more than another for a product or service, justification is needed. Every CES contract must be for the public good, not for the benefit of a vendor. However, CES is totally committed to two basics in the American way of business: profit and competition. Please provide, in writing, reasons why your products and goods are worth the prices or fees you are charging. List any "added value" received by the customer when purchasing through you rather than a competitor, and report whether your major benefit is price alone.

E. LISTING OF GENERAL TERMS AND CONDITIONS:

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

1. Vendor provides quote to member and the quote includes the CES one percent (1%) administration fee.
2. If acceptable, the member issues CES a purchase order for the quoted amount.
3. CES verifies the quote with the solicitation response and issues a purchase order to the vendor for one percent (1%) less than the vendor's quote to the member.
4. The vendor provides the items or services and invoices CES for the amount of CES' purchase order to the vendor.

5. CES invoices the member.
6. The member pays CES.
7. After receipt of the member payment, CES pays the vendor for items and services delivered and accepted by the member, not to exceed the purchase order amount.

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

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

**Acceptance of Delivered Services:** CES will be the sole determining judge of whether materials and services delivered under the contract satisfy the requirements as identified in the contract order.

**Accounts Payable:** Vendor agrees not to contact the accounts payable department, business manager or superintendent of a school or agency which owes CES payment for a product or service delivered to the school or agency by the contractor as a result of a contract through this RFP, unless CES has specifically requested assistance in collecting a past due payment.

**Administration Fee:** CES' one percent (1%) administration fee shall be included in offeror's net price. Vendor will not add the administration fee to approved contract prices. CES' minimum administration fee on any individual purchase is ten dollars (\$10).

**Advertising:** Vendor will not advertise or publish information concerning this contract prior to the award being announced by CES. Once the award is made, CES encourages the vendor to advertise to CES members that products/services are available.

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

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

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

**Audit Rights:** In accordance with applicable New Mexico law, the vendor's books and records related to this contract may be audited at a reasonable time and place.

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

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

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

**Billing:** All invoices will be from the vendor to CES and will list the purchase order number(s) issued by CES and CES member on the invoice. The vendor will not invoice a member directly. CES will invoice the member with payment to be made to CES. The vendor will not accept a purchase order from a member or other procurement unit based on this contract.

**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 proposals 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 proposal.

**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 can, by written notice stating the extent and effective date, cancel the contract issued as a result of this RFP for convenience in whole or in part, at any time. CES shall pay offeror as full compensation for performance until such termination as follows:

1. The unit or pro-rata order price for the delivered and accepted portion; and
2. A reasonable amount, not otherwise recoverable from other sources by offeror as approved by CES with respect to the undelivered or unaccepted portion of the service; provided compensation shall in no event exceed the total contract price.

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 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 services set forth in the specifications of the contract.
3. The vendor fails to complete the work required or to furnish the materials required 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 will not or cannot perform the requirements of the contract.
5. The vendor fails to observe any or all the terms and conditions of the contract.
6. The vendor accepts purchase orders, based on this contract, directly from a CES member and then invoices them directly.
7. Any other conditions that, in the opinion of CES, warrants such action.

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

**Cancellation of Contract by CES:** CES can cancel any contract secured by solicitation without any further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of CES is, or becomes, at any time, while the contract or any extensions of the contract are in effect, an employee of or a consultant to any other party to this contract with respect to the subject matter of the contract. Such cancellation shall be effective when written notice from CES is received by the parties to this contract, unless the notice specifies a later time.

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

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

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

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

1. The submission of the offer did not involve collusion or other anti-competitive practices.
2. The vendor will not discriminate against any employee or applicant for employment in violation of Federal and State Laws (see Federal Executive Order 11246).

3. 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.
4. The vendor agrees to promote and offer to members of CES only those materials, and/or services allowed under resultant contract(s) as CES contract items.

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

**Clarification:** As used in the RFP, clarification means communication with a vendor for the sole purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal. It is achieved by explanation or substantiation, either in response to an inquiry by CES, or as initiated by the vendor. Unlike “Discussion” (see below), clarification does not give the offeror an opportunity to revise or modify its proposal, except to the extent that correction of apparent clerical mistakes results in a revision.

**Competitive Range:** Since CES often receives many proposals for one solicitation, it may be necessary to establish, as part of the evaluation process, a competitive range of acceptable proposals for the purpose of further discussions. Proposals not in the competitive range are unacceptable and not considered further.

**Competitive Sealed Proposals:** As required in the General Services Division State Purchasing Directive 1 NMAC 5.8, solicitations shall be through a competitive, sealed, qualification-based Request for Proposals method of procurement.

**Confidential Information:** If an offeror believes that any part of its proposal should be withheld from public inspection, a statement advising CES of this fact will accompany the submission. The CES Executive Director will review the statement and will determine in writing whether the information will be withheld. If the Executive Director determines that the information should be disclosed, the offeror will be informed in writing of such determination, and should the offeror object in writing within five (5) days after notification thereof, no disclosure will be made and the proposal may be rejected.

**Construction:** Offerors can sell and install finished products, materials or articles of merchandise which are fabricated into and become a permanent fixed part of a structure. If the removal of the finished products, materials or articles of merchandise would cause damage to the structure or render the structure unfit for its intended use, the offeror must indicate this on its response. No construction activities will be permitted under this RFP.

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

**Contract Changes:** CES can make changes within the general scope of this contract by giving notice to the vendor and subsequently confirming such changes in writing. If such changes affect the cost and/or the time required for performance of this service, an equitable adjustment in the price or delivery or both will be made. No change by the vendor will be recognized without written approval of CES. Any claim of vendor for any adjustment must be made in writing within 30 days from date of receipt by vendor of notification of such change, unless

CES waives this condition. Nothing in this section will excuse vendor from proceeding with performance of the service as changed hereunder.

**Contract Type:** Indefinite quantity with:

1. Fixed discount off retail or off published education/catalog price list; or
2. Fixed price with economic adjustment (offeror must identify in writing in this RFP any contingencies prior to approval).

Note: A cost-plus-a-percentage-of-cost contract is prohibited. Request for a price adjustment must be submitted 30 days prior to the yearly anniversary date of the contract (first two years) and prior to the annual renewal date (remaining years). Justification for any adjustment shall be in writing, and be accompanied by appropriate documentation. Any escalation that exceeds the Consumer Price Index (CPI) per contract year may be rejected unless insuperable market forces can be fully documented.

**Cooperative Purchasing:** This contract is based on the need for CES to provide the economic benefits of volume purchasing and reduction in administrative costs through cooperative purchasing for public educational institutions and other procurement units. Although vendors can restrict sales to certain public units (for example, to state agencies or local government units), any contract that restricts sales from being made to public educational institutions will not be considered.

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

**Credit Hold:** 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 will be for equipment, supplies, commodities and software 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 or lot of this contract and may not substitute nonconforming materials. CES reserves the right to declare a breach of contract if the vendor delivers nonconforming materials to any member of CES under this contract.

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

**Descriptive Literature and Brand Names:** All offers must include a complete set of the manufacturer’s descriptive literature regarding the equipment and software offered. Brand

names, trade names, and/or catalog numbers used in the RFP will be intended to describe and identify equipment and software.

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

**Discontinued Products:** In the event that a product or model is discontinued by the manufacturer, CES will allow the vendor to substitute a new product or model if the pricing discount is equivalent to the discontinued product or model.

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

**Eligible Agencies:** Any CES member can use the services of Cooperative Educational Services. CES reserves the right to reject any purchase authorizations it receives from New Mexico schools and agencies without cause.

**Estimated Quantities:** CES anticipates considerable activity resulting from this solicitation; however, no commitment of any kind is made concerning quantities actually to be acquired. CES does not guarantee usage. Usage depends on the actual needs of the CES members and on the marketing expertise of the vendor.

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

**Federal Requirements:** Vendor agrees, when working on any federally assisted projects with more than \$20,000 in labor costs, to comply with the Contract Work Hours and Safety Standards Act, the Davis-Bacon Act (Section 29, CFR Part 5), the Copeland "Anti-Kickback" Act, and the Equal Opportunity Employment requirements of Executive Order 11375. In such projects, the vendor agrees to post wage rates at the work site and submit a copy of their payroll to the CES member for their files. In addition, to comply with the Copeland Act, the vendor must keep records for three (3) years and allow the federal grantor agency access to these records upon demand. All federally-assisted contracts to CES members that exceed \$10,000 may be terminated by the federal grantee for noncompliance by the vendor. In projects that are not federally funded, vendor must agree to meet any federal, state or local requirements, as necessary. In addition, if compliance with the federal regulations increases the contract costs beyond the agreed on costs in this solicitation, the additional costs may only apply to the portion of the work paid by the federal grantee. On all other projects, the prices must agree with this contract.

**Force Majeure:** Except for payments of sums due, neither party 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 its fault or negligence, including, but not limited to, the following: acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; 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.

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

**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 purchasing agency may:

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

**Indemnification:** Vendor shall indemnify, defend and save harmless CES for 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 subcontractor, their 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.

**Information Systems:** All vendors of information systems must include information on the total life cycle cost and application benefit to the educational institution. An information system

is a system of hardware, software or contractor support that processes information or data by electronic data processing methods and devices.

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

**Installation:** Equipment that requires professional installation will be installed within two (2) weeks of product delivery, unless CES or the CES member asks that installation be delayed, or an extended installation time is noted in this proposal.

**Insurance:** On contract, the vendor will, at its own expense, purchase and maintain insurance that will protect it from claims that may arise out of, or as a result from, activities under this contract, where those activities are performed by it, by any subcontractor, by anyone directly or indirectly employed by any of the contractors or by anyone for whose acts may be liable during the entire performance period of this contract. The successful offeror must furnish 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. Offerors will 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 personal injury, occupational disease, sickness or death and property damage. Insurance will include "occurrence" claim provisions. Minimum acceptable coverage is \$1,000,000 combined single limit for bodily injury and property damage or \$500,000 bodily injury and \$250,000 property damage (each occurrence). The offeror will name CES and the member as co-insured up to the limits of the Tort Claims Act. Additional punitive damage liability to \$500,000 will be provided naming CES as co-insured.

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

**Lease and Rentals:** Offeror can allow CES members to enter into rent, lease or lease purchase agreements, providing such agreements are in compliance with New Mexico statutes and Public Education Department policies, rules and regulations. CES must receive a copy of the executed leasing documents prior to processing a purchase order. CES will not collect lease payments. Offeror agrees that leases will be in compliance with the Uniform Commercial Code. All terms of leasing must be included in the proposal with interest rates described as related to a government standard. Offeror must indicate in its response to this solicitation if the shipping costs for the return of leased or rented equipment are the responsibility of the CES member and what that cost will be. No sale of a contract to a third party will be made without informing CES and the CES member of the transfer. If offeror sells a lease contract to a third party, the cost of return must not be greater than the cost of return to the original vendor.

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

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

**Licenses:** The vendor will maintain in current status all federal, state and local licenses, bonds and permits required for the performance of the contract. Any offeror using subcontractors must hold a current general contractor's license, as required by law. Copies of licenses will be submitted by the vendor with the response to the RFP. The vendor agrees to keep any required license or bond current and in compliance with the New Mexico rules and regulations.

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

**Local Education Agency:** The public school districts within the state of New Mexico

**Local Public Body:** Every political subdivision of the state and the agencies and institutions thereof

**Member:** Any public educational institution within the state of New Mexico that has, by their board resolution, resolved to become a party of the Joint Powers Agreement and has been approved for membership by CES' Board of Directors and the New Mexico Department of Finance and Administration

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

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

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

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

**Negotiations:** Where there is not competition that would result in a better contract, negotiation may be conducted until a detail agreement is reached.

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

**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 local procurement units in New Mexico. CES reserves the right to obtain like goods and services from another source when necessary.

**Non-Responsive Offer:** Any offer that does not conform to the mandatory or essential terms, conditions and/or specified 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 opportunity to evaluate the proposals offered, CES requires that an offer in response to this solicitation be valid and irrevocable for 90 days after opening time and date.

**Offeror Qualifications:** The offeror must have extensive knowledge and experience with the installation and maintenance of the equipment, service or software offered with at least three (3) years experience.

**Options:** Optional equipment or products can be added to the contract at the time it becomes available under the following conditions:

1. The option is priced at a discount similar to other options, or
2. The option is an enhancement to the unit that improves performance or reliability.

**Overcharges by Antitrust Violations:** CES maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted

by law, the 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 it are acceptable.

**Past Performance Information (PPI):** PPI is relevant information regarding a vendor's actions under previously awarded contracts to schools, local, state or federal agencies. It includes the vendor's record of conforming to specifications 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.

**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 are modified by CES or its members, subject to the last paragraph of this section) infringe a patent or copyright in the United States or a U.S. territory and will pay all costs, damages and attorney's fees that a court finally awards as a result of such a claim. To qualify for such a defense and payment, CES must:

1. Give vendor prompt written notice of any such claim after becoming aware of such claim.
2. Allow vendor to control and fully cooperate with vendor in the defense and all related settlement negotiations.

CES will be reimbursed 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, which are not reimbursable, by the vendor. If any CES member is involved by any party in any way, 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, which are reasonable in vendor's judgment and satisfactory to CES, CES will request its members to return the equipment or software on written request by vendor at vendor's expense.

Vendor agrees to refund CES and/or its members a refund for returned equipment as depreciated unless otherwise mutually agreeable in writing. The depreciation will be an equal amount per year over six (6) years. In the event that 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 members' action will not preclude vendor's obligation to others not having modified their equipment or software.

**Payment:** 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 shall not be considered.* CES must first receive payment from the schools 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 always pay, but many are slow in processing payments.

**Payment Discounts:** Any payment discount offered must be made directly to CES, and not to the member receiving the materials or services. Quick-payment discounts of 10 days are normally impossible; 20, 30 and 45 days are more reasonable. Payment discounts of 45 calendar days or more shall be deducted from the proposal price to determine low price.

**Peripheral Items:** Offerors may include various peripheral equipment and software that function with the primary offering.

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

1. The price reduction is available to all 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 CES member.

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

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

CES members pay an administration fee equal to one percent (1%) of the purchase price of goods and services purchased from CES contracts. Offerors will include the administration fee in all prices in the Discount and Price Schedule. CES will deduct the one percent (1%) administration fee prior to issuing its purchase order to the vendor.

**Prime Contractor:** For the purpose of this solicitation, a vendor will be considered a prime contractor and not a subcontractor. Any vendor paid directly by the buyer is a prime contractor; a subcontractor is paid by another contractor. Prime contractors using subcontractors are responsible for all actions of their subcontractors.

**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 Line:** Contracts will be awarded to offerors able to provide its complete product line of equipment, software and services described in the specifications. Offerors with a published catalog can submit the entire catalog; however, CES reserves the right to select products within the catalog for award without having to award all the contents.

**Progress Payments:** CES will permit its members to make progress payments on a purchased good or service under the following conditions:

1. The member and the vendor agree to the terms of the progress payments prior to issuing a purchase order to CES.
2. The purchase order describes the amounts to be paid and the date of payment.
3. The member has a satisfactory method of verifying progress described in writing a letter to CES or on the purchase order.
4. Payments will be made only after actual goods and/or services are verified/received.
5. Payments will be made in full compliance with members' local board rules and any and all other applicable state rules and regulations.

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

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

**Protests:** Protests will be filed and resolved in accordance with the state of New Mexico Procurement Code. Venue for any and all legal actions regarding or arising out of the

transactions covered herein shall be solely in the District Court in and for the county of Bernalillo, state of New Mexico. The laws of the state of New Mexico will govern this RFP 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 proposals submitted in response to this invitation will become the property of CES and be a matter of public record available for review, subsequent to the award notification, under the supervision of the Executive Director of CES from 9:00 a.m. to 4:00 p.m., Monday through Friday, at 4216 Balloon Park Road NE, Albuquerque, New Mexico.

**Qualifications:** In order to qualify, an offeror must be licensed as required by the New Mexico Regulation and Licensing Department. All work under this contract will be done in strict accordance with the most recent edition of any relevant regulation, standard, document or code in effect. Where conflict among the requirements or with these specifications exists, the most stringent requirements will be used.

**Request for Proposals or RFP:** All documents, including those attached or incorporated by reference, which are used for soliciting proposals

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

**Responsive Proposal:** An offer which conforms in all material respects to the requirements set forth in the Request for Proposals. Material respects of a request for a proposal include, but are not limited to, price, quality, quantity or delivery requirements.

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

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

**Safety Standards:** All items supplied on this contract will comply with all current applicable Occupational Safety and Health Standards, National Electric Code, American Refrigeration Institute (ARI), National Electrical Manufacturers Association (NEMA), American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE), American National Standards Institute (ANSI) and National Fire Protection Association Standards (NFPA).

**Serial Numbers:** Offers must be for 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.

**Shipping Terms:** Prices that include shipping to any location in the state of New Mexico must be delivered to the specific receiving point as identified in the purchase order issued by CES to the vendor, as preferred. Vendor will retain title and control of all goods until they are delivered and received. All risk of transportation and all related charges will be the responsibility of the vendor. All claims for the vendor will file visible or concealed damage. CES, or the receiving agency, will notify the vendor and/or freight company promptly of any damaged goods, and will assist the freight company/vendor in arranging for inspection. No F.O.B. vessel, car or other vehicle terms will be accepted.

**Site Cleanup:** Any successful vendor will clean up and remove all debris and rubbish resulting from its work from time to time as required or if directed by the member securing the materials or service. Upon completion of the work, the premises will be left in a neat, unobstructed condition with everything in good repair and order.

**Site Preparation:** No vendor will begin a project for which the site is not prepared by the member, unless vendor decides to do the preparation work at no cost, or until the member has included the cost of site preparation in a purchase order to CES. Site preparation includes things like moving furniture, installing wiring for networks or power and similar pre-installation requirements.

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

**Specifications:** All Scope of Work specifications in this RFP are designed to enable a vendor to satisfy a requirement for a product, material, process, or service. A specification may be expressed as a standard, a part of a standard, or independent of a standard. No specifications are intended to unnecessarily limit competition by eliminating items capable of satisfactorily

meeting the actual needs of the procurement. Any vendor believing a specification is unnecessarily restrictive who submits a proposal must indicate such in its initial response.

**Suspension or Debarment Status:** If any firm, business, person or vendor submitting an offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity with any federal, state or bcal government, the offeror must include a letter with its response or offer setting forth the name and address of the public procurement unit, the effective date of the suspension or debarment, the duration of the suspension or debarment and the relevant circumstances relating to the suspension or debarment. Any failure to supply such a letter, or to not disclose in the letter all the pertinent information, shall result in the cancellation of any contract. By signing the offer section, the offeror certifies that no suspension or debarment exists.

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

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

**Term of Contract and Extension:** The term of the agreement will commence on award and continue until July 7, 2006, unless terminated, canceled or extended. By mutual written agreement, the contract may be extended for three additional 12-month periods, ending on July 7, 2007, July 7, 2008, and July 7, 2009. CES may require a vendor to respond to a new RFP rather than extend a contract secured under this RFP.

**Termination of RFP:** The Request for Proposals (RFP) in no manner obligates CES to the eventual purchase of any product or services described or which may be proposed, until confirmed by a written Acceptance of Offer and Contract Award. Progress toward 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 RFP at any time and for any reason and to reject any or all proposals.

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

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

**Trade-In Equipment:** Equipment for trade-in shall be dismantled by the vendor and removed at the vendor's expense. The conditions of the trade-in equipment at the time it is turned over to the vendor will be the same as when the original agreement was made, except as affected by

normal wear and tear from use between the time of the offer and the trade-in. Values placed on trade-in products are between the member purchasing the new unit and the vendor.

**Vendor:** Offeror who has been awarded contract for delivery of material goods or completion of services in response to this document

**Vendor Invoice:** Vendor will invoice CES after delivery of goods and/or services. Goods and services will be invoiced at applicable contract prices, less the CES one percent (1%) administration fee and not to exceed the amount of the CES purchase order. CES will invoice member after receiving and reviewing vendor's invoice.

**Vendor Payment:** CES will issue payment to vendor after receipt of member's payment. Vendor will be paid its invoice amount for goods and services, less CES' one percent (1%) administration fee. Vendor will credit CES an amount equal to the deducted administration fee, if required to provide a zero balance on CES' account.

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

**Warranty:** Vendor warrants that all equipment, software and services delivered under this contract will conform to the specifications of this contract. All equipment must carry a minimum twelve (12) month manufacturer's warranty that includes parts and labor unless otherwise stated in Categorical Terms and Conditions. The manufacturer has the primary responsibility to honor a manufacturer's warranty. A distributor or dealer must agree to assist the purchaser in reaching a solution regarding a dispute with the manufacturer over a warranty's terms.

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

**Year End Procurement:** For purchase orders (PO) issued to a vendor, goods must be delivered and services must be completed five (5) days prior to the end of the school's fiscal year (June 30). CES must receive all invoices dated for the prior school year by the 10<sup>th</sup> of July. The member can cancel purchase orders not completed by June 25<sup>th</sup>. The member can issue revised purchase orders dated after July 1<sup>st</sup> for any goods not delivered or services not completed by June 25<sup>th</sup>.

## **SECTION II     SCOPE OF WORK AND SPECIFICATIONS**

### **A. SCOPE OF WORK**

1. Cooperative Educational Services (CES), which is based in Albuquerque, New Mexico, is comprised of all of the 89 New Mexico public school districts and other public educational institutions that are parties to the Joint Powers Agreement to Establish an Educational Cooperative. CES was organized in 1979 as a direct response to the needs of small and rural Local Education Agencies (LEAs). CES offers numerous programs and services. Currently, 152 public educational institutions are members and most use one or more of the CES-provided programs or services each year.
2. It is important that all vendors realize that CES is not a sales agency or marketing firm. If you are awarded a contract, you must work your contract. Some vendors with powerful mail campaigns have been able to market to schools through CES, but normally mail alone is not sufficient. Member buyers like to meet and talk with a sales agent when making decisions on large orders.
3. When you respond, CES is asking you to become a partner in providing quality goods and services to members at competitive prices. Partnership with a contract awarded through competitive bidding saves school districts both time and money. Time is saved by being able to purchase what is needed without having to wait through the solicitation process (write solicitation, advertise proposal, open each response, evaluate and have the board make a selection). Money is saved because each CES partner has already agreed that our members have the lowest prices it will offer to procurement units in the state.
4. Read through the section that concerns you as an offeror. Next, prepare a rough draft of your offer, fill out the forms necessary and gather all the advertising slicks you want to send along with your proposal. Finally, print a final offer, write the executive summary and organize everything into a three-ring binder.

### **B. DUTIES OF THE VENDOR**

Once the award is made to the offeror, the offeror, as vendor, will assign a Project Director to coordinate operational activities with the designated representative of CES and will make monthly reports to this representative. It is the responsibility of the vendor to market the products or services to the member.

### **C. DUTIES OF CES**

The general duties of CES include:

1. Inform CES members of vendors and obtain participation of members
2. Inform vendor of participating members
3. Process pay requests for payment
4. Follow up as needed on problem
5. Periodic review with vendors as to projects and problems

D. SPECIFICATIONS

CES has provided General Terms and Conditions. In the following part of this section, CES is providing additional Categorical Terms and Conditions that apply. In case of conflict between the General Terms and Conditions and Categorical Terms and Conditions, the latter will apply. Additional items may be requested in the specific Categorical Terms and Conditions.

Each category contains three areas that will be weighed in accordance with Evaluation Factors. Not providing required items could classify the proposal as non-responsive.

E. LISTING OF CATEGORY

CES has prepared this RFP document for Construction Management Services. This category is divided into sections, including:

1. Categorical Scope of Work
2. Categorical Definitions
3. Categorical Terms and Conditions
4. Required Categorical Responses
5. Categorical Price and Cost Submittal
6. Cost Evaluation Information

## **CATEGORY: Construction Managers**

### **Construction Management Services**

New Mexico public educational institutions have a number of methods of funding and receiving capital outlay funds. Whether it be property tax, general obligation bonds, Senate Bill 9, direct legislative appropriation, NMPSFA critical capital outlay funds or a combination, these funds are limited and must be used to cover both remodeling/updating of existing facilities and/or new construction. For members to meet the current and future demands in this area, they must have reasonable and economical construction services. They must economically and efficiently utilize these funds and get the most for every dollar possible.

It has become necessary for members to have a process to collect, evaluate, summarize and report all of the variables relating to facility maintenance, repair, remodeling and replacement in order to ensure and provide the best educational environment for New Mexico students.

Secondly, once an ongoing capital outlay plan is established and implemented, assistance must be provided in all phases of the implementation; that is, facility design; preparing, issuing, evaluating and awarding bids; construction oversight; quality assurance; problem resolution and cost control.

Due to the increasing amount of time, effort, paperwork and resources required to provide facility heavy maintenance, repair, remodeling and new construction, CES has been asked by its members to seek and secure contracts with specialists in construction to provide as little or as much assistance as needed to maintain existing facilities and provide new facilities on an ongoing basis or as funds become available.

### **Categorical Scope of Work**

CES is seeking a New Mexico-based firm to work with members specifically in the construction management area. The awarded vendor will provide comprehensive management and consulting services for all phases of a capital outlay and facility maintenance project's design and construction process from conception to a finished product and/or completed program. This RFP is not seeking the procurement of specified professional services, such as architect, engineer, land surveyor, assayer, geologist or landscape architect as described in the New Mexico Procurement Code. This RFP is seeking construction management and other construction related services as defined and permitted under 13-1-40.1 and 13.1.100.1 (Chapter 13, NMSA, 1978) to ensure control of project time, cost and quality construction. This may include but is not limited to:

1. Provide services to assist CES' member in developing and implementing a comprehensive facility management program that includes: obtaining a sound understanding of existing facilities and their conditions; oversight and coordination of project programming; facility evaluation and planning; pre-construction design and development; obtaining and utilizing construction and heavy maintenance products and services; the evaluation and analysis of facility and construction rules, regulations, codes and requirements; and provide assistance in the development, disbursement and communication of facility and construction data and information relating to all phases of the member's facilities management program.

2. Assist the member in selecting a construction team which may consist of the member's architect and design staff, instruction and administrative staff, governing board, community members and other individuals who are involved in the evaluating and monitoring capital outlay projects and to assist in building renewal, eliminating existing deficiencies and overseeing all construction projects. In addition, the construction manager will assist the member in adopting operating policies and procedures to establish facility guidelines and standards.
3. Provide sample facility construction methods and building materials to assist in the development of project specifications that will ensure that facilities are of a high quality and will control ongoing maintenance and operational costs.
4. Provide data collection, evaluation services, cost estimates and analyses of bid/construction data. Make recommendations to ensure that existing facilities that are remodeled or upgraded will be brought up to and maintained at an adequate level to meet current building standards. A good complete maintenance plan establishes a building renewal schedule to provide for major renovations and repairs of building systems; that is, heating, cooling, plumbing, electrical, fixtures, floor coverings, etc., and infrastructure. Monies designated in this area are limited and must be used wisely.
5. Provide the quality assurance function during the development, design, construction and implementation of remodeled and new facilities by providing services in the areas of design review for constructability, inspection and review of construction products and services for suitability and cost effectiveness.
6. Assist the member in the bidding process by procuring comprehensive bids in all phases of the capital outlay project. These bids will include building supplies and materials, labor, construction and other related services and/or a combination of all of the above. Upon receipt of the bids, the construction manager will evaluate all bids and consider alternatives. The construction manager will prepare and present a summary report detailing the data and its effect on the project related costs to the member. Once a decision has been made on what to award, the construction manager will prepare all contract documents/purchase orders and present them for approval and implementation by the member.
7. The construction manager will serve as the member's representative and project manager. These services will include preparing, organizing, maintaining, submitting, and tracking, summarizing and reporting all project documents on behalf of the member. Samples of this document are the bid, purchase information, contracts, time schedules, change orders, shipping, freight and vendor invoices, and daily, weekly and/or monthly project progress reports as required. The construction manager will act as liaison and coordinator between the member, architect, contractors, local and state agencies, community groups and others as required. The member and construction manager will establish parameters, operating guidelines and procedures for this function prior to signing of a construction management contract.
  - a. The construction manager will be responsible for the day-to-day operation of the capital outlay project, conducting project/progress meetings and overseeing the construction activities and project site to ensure that the member's interest is protected, and dealing with, handling and communicating any concerns or problems that might occur during the construction process.
  - b. The construction manager will review and verify all vendor invoices for accuracy, and will coordinate all conferences or all required inspections and provide the member with reports and documentation as required.

- c. The construction manager will assist in the closing of all contracts, obtain all warranties and collect and file all documents for the permanent record, including all releases of liens and partial and final occupancy permits.
  - d. The construction manager will oversee and coordinate all post-construction activities; that is, identify, develop, report and ensure that punch list items noted during substantial completion walk through are resolved before the final inspection. The construction manager will negotiate, mediate and resolve to the member's satisfaction any unresolved issues and ensure all warranties are in place with appropriate documentation and that all final billing and cost data is submitted and finalized.
  - e. The construction manager will prepare and present a final project report indicating:
    - 1) The original scope of the project;
    - 2) Any and all additions, modifications and deletions with their justification; and
    - 3) The original estimated project cost in relationship to the final project cost indicating differences and overall outcome as it affects the member's master plan.
8. Upon request of the member, the construction manager will participate as a member/consultant of the member's facility management board to assist them in developing, maintaining and implementing a master facility plan.
- a. The construction manager will assist the facility management board and architect to establish goals, collect facts, identify concepts, and determine the functional needs necessary for facility remodeling or construction.
  - b. The construction manager will work with the facility management board and architect in the design phase of a project.
  - c. The construction manager will work with the facility management board and architect in the preparation of construction documents prior to the bidding of the work.
  - d. The construction manager will assist in the bidding phase of the project. The construction manager will encourage the facility management board to use cooperative contracts from the state of New Mexico or from other cooperatives, including CES, when such use will result in savings to the member.

### **Categorical Definitions**

**Architect** – A person, who by reason of his knowledge of the mathematical and physical science and the principles of architecture and architectural engineering acquired by professional education and practical experience, is qualified to engage in the practice of architecture as attested by his registration as an architect.

**Construction Manager** – A person properly licensed under the Construction Industries Licensing Act, or any successor agency, who acts as an agent of the state agency or local public body for a construction project; who, with the owner and architect, coordinates or manages construction processes; who is a member of the construction team and may work with the owner and assist in obtaining the architect, engineers, and other consultants that may be required for the project; who has skill and knowledge of general contracting to assist in developing schedules, preparing project estimates, studying labor conditions, addressing concerns of construction safety and other issues that may surface which are related to the project, which may include but are not limited to monitoring progress, payment changes and other factors affecting cost or as may otherwise be specified in the RFP solicitation.

**Construction Services** – Building, altering, repairing, installing or demolishing in the ordinary course of business any driveway, sidewalk, parking area or related project; building, stadium or other structure; parks, landscaping, playgrounds, golf course or similar facility; drainage, canal, ditch or similar facility, sewage or water treatment facility, pump station or similar facility; sewage, water, gas or other pipeline; electrical wiring, plumbing or plumbing fixture, gas piping, gas appliances or water conditioners; air conditioning conduit, heating or other similar mechanical work; leveling or clearing land; excavating earth; drilling water wells and other related services covered under GB98, EE98, MM98, and GS98 licenses.

**Engineer** – A person who by reason of special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design acquired by professional education and practical experience is qualified to practice engineering as attested by his registration as a professional engineer.

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

**NMCID** – New Mexico Construction Industries Division

**Project Manager** – A person who by reason of special knowledge in the capital outlay area, facility utilization, evaluation, and management acquired by professional education and practical experience is qualified to assist the member in contract and information management, quality control, cost control, schedule control and will represent the member in all matters relating to the management and upkeep of facilities capital outlay projects.

### **Categorical Terms and Conditions**

1. New Mexico educational institutions are continually modifying, renovating, remodeling and updating existing facilities to meet their current and future educational program needs. In today’s world, master facility plans are a must and require an ongoing effort on the part of educational leaders to maintain existing and provide new facilities with the limited financial resources available. Members continue to look for options and alternatives to meet their needs and are seeking assistance in managing construction services that may range from restroom remodeling and Americans with Disabilities Act (ADA) compliance to major renovation and new construction.
2. Upon request of the member, the construction manager will visit with the member to obtain, evaluate, analyze, and review the type of and scope of construction management services to be provided. The project’s location, conditions and timelines, along with the member’s expectations and desired outcome, will be clearly identified and conveyed to the contractor.
3. Based on the information obtained from the member and after review of the construction project’s documentation and scope of work, the construction manager will prepare a clear and detailed proposal covering the services to be provided, the supplies, materials, equipment and other related items needed to perform and complete the member’s facility management program, together with the estimated timelines, terms, conditions and costs associated with the implementation of the proposal.

4. The member, upon receipt of the contractor's cost proposal, will determine if any changes or modifications need to be made. The member reserves the right to accept or reject any proposal submitted. If the member determines through the evaluation process that the construction manager can perform, provide and administer the proposed facility management program as defined, a construction management contract will be prepared and executed by the member. The member will then issue a purchase order to CES and CES will issue a purchase order to the contractor.
5. The construction manager, upon receipt of the CES purchase order, will, if required, provide the member with a performance bond.
6. The construction manager will provide the proposed goods and services in accordance with the project documents. Any change orders and/or modifications to the project will be allowed only with written approval of CES, the member and the construction manager.
7. When the established scope of work is completed and accepted by the member, the construction manager will terminate the project with CES and final payment will be issued.
8. Offeror must be an experienced firm with construction managers, financial and construction specialists with eight (8) or more years experience as a GB98 and three (3) of the eight (8) years must be documented work with public facilities.
9. Any consultant terminated from a professional position within the past eight (8) years must provide information about the termination. CES reserves the right to approve or reject any consultant suggested by the offeror to work the contract based on the information obtained.
10. Contractor agrees to update the qualifications brief and background checks of consultants on an annual basis. For new consultants to be placed on contract, the contractor will provide all the above information prior to appointment to the contract.
11. Contractor will accept NTE (not to exceed) purchase orders for as-needed services, if requested. The process for invoicing and receiving payments must be clearly stated and agreed to by all parties. The contractor will not invoice for services that exceed the NTE purchase order.
12. Offeror will identify its regular costs, CES discount and the CES prices. All costs, including hourly fees, administrative fees, per diem, travel, reimbursable expenses, daily, weekly and other charges, will be clearly described and stated in the offeror's response.
13. Contractor will establish mutually agreed upon outcomes with the member prior to executing any project covered by this RFP.
14. Contractor will have and maintain for the term of contract the appropriate professional, errors and omissions liabilities insurance and must provide proof of insurance certificate.
15. If required, the contractor must provide and maintain a performance and payment bond in an amount to equal one hundred percent (100%) for each member's contract.
16. In any contract between the contractor and a member based on this RFP, the terms and conditions of the RFP will prevail. A contract between the member and the contractor shall not include any type or kind of construction services.
17. In any construction management contract between a member and the contractor, a scope of work (description of the work to be performed by the contractor) will include all specifications, responsibilities, limitations and other stipulations as agreed upon by all parties. All applicable codes around which the contract is made will be included, as will any technical specifications and general conditions as set forth in the contract between the member and the contractor.
18. Work to be performed and/or activity to be conducted by the member must be clearly described and agreed to by the contractor and the member prior to project start up. Any agreements on liquidated damages and early project completion incentives will be between

the member and the contractor and must be agreed upon in writing prior to start up. If the member declines a liquidated damages agreement, the contractor will obtain a written and signed statement to this effect. A copy will be provided to CES.

19. The method and manner of performance must be stated: employees of the contractor are not employees of the member; the level of competency of the personnel will be subject to approval by the member; and the contractor must agree to comply with all local, state and federal laws.
20. All work will be in compliance with OSHA safety requirements and any federal, state and local construction and safety requirements. When specifications or scope of work will result in a violation of a code or result in an unsafe condition, the contractor must inform the member of the situation. The contractor will not perform and/or produce any product or service that intentionally violates federal, state, local or industry best practices or standard for construction management services.
21. The contractor must advise member's representative whenever work is expected to be hazardous to students, district employees and/or operators.
22. The construction manager will ensure and verify that all materials, products and services delivered and installed as part of any construction project covered by this RFP meet or exceed the project's specifications and requirements. Damaged or substandard materials and/or improperly installed products will not be allowed or accepted.
23. Change orders are to be avoided if possible since they often indicate poor planning. A mutually agreed upon system for establishing changes must be identified, including changes in scope and changes in compensation for the contractor. Because of unforeseen events and conditions that may arise during a project covered by this RFP, the ability to make change orders needs to be permitted and mutually agreed upon and paperwork to document these changes must be allowed. A change order that increases the contract amount in excess of \$5,000 or five percent of the contract amount, whichever is greater, must be approved in writing by the member's governing board. A copy of the approval must accompany a revised purchase order to CES. No change order that increases the cost of the project will be permitted without a purchase order to CES from the member ordering the change. CES will then issue a revised purchase order to the contractor. Changes mutually agreed upon by the member and the contractor that do not involve compensation or do not significantly modify the scope of work can be made without communication to CES.
24. Compensation for received services, terms of progress payments and a schedule of payments must be described in the contract. The agreement must state that CES will not be responsible for any late fees due the contractor by the member.
25. The member retains the right to extend the schedule of work or to suspend the work and to direct the contractor to resume work when appropriate. The agreement must describe an equitable adjustment for added costs caused by any suspension. Any increases will be invoiced through CES as allowed in the agreement.
26. The contractor must agree that the member reserves the right to release information about the project and that any advertising of the project by the contractor must be approved by member's representative.
27. Terms for acceptance by the member and title to work must be clearly agreed upon and described in the contract. If any part of the performance requires the member to assume control before the completion, this must be defined. Both parties must agree on the definition of what constitutes total acceptance before payment of any compensation is made.

28. For audit purposes, a copy of any contracts/agreement(s) between the member and the contractor must be submitted to and kept on file with CES. It is the responsibility of the contractor to supply a signed copy of all contracts and agreements to CES.
29. Upon completion of any project covered by this RFP, the contractor will ensure that the member has received all documents necessary to close out the project and ensure that all maintenance manuals, as built drawings, and warranties paperwork on installed equipment is received and activated.
30. The contractor must have a valid New Mexico contractor's license. The contractor must agree to keep all required licenses current and in compliance with the rules and regulations of NMCID.
31. The contractor will ensure that any individuals, firms or subcontractors being used to perform or supervise work under this contract have all licenses required by NMCID and/or by law. All subcontractors must be clearly identified with the name, address, trade or type of work, New Mexico license number and New Mexico State Tax ID.
32. If the member requests, the construction manager will assist in the selection of an architect, contractor and any other consultants needed to implement the facilities master plan process as defined within the scope of work agreed to and approved by the member.
33. The contractor must demonstrate its ability to provide as much or as little of the following construction program management services as needed to meet the individual CES member's needs:
  - a. Project Programming Phase
  - b. Design Document Phase
  - c. Construction Document Phase
  - d. Building Construction/Administration Phase
  - e. Post Construction Phase
  - f. Ongoing Maintenance and Facility Review Phase
34. The offeror must be financially able and have the human resources, experience and expertise to provide the scope of work as defined herein.
35. During the term of this contract, the contractor must be willing and able to keep abreast of all federal, state, local and industry standards, and NMPED and NMPSFA rules, regulations, standards and requirements for New Mexico educational facilities.
36. The contractor must have in place company policies, procedures and a code of conduct for their employees and subcontractors performing and providing services under this RFP.
37. The offeror must demonstrate its past performance in providing the wide scope and level of services covered by this RFP.

### **Required Categorical Responses**

The offeror must respond to each of the items listed below by providing written narratives, documentation and other information necessary to answer the questions and demonstrate its ability to provide or perform construction products or services solicited herein. Failure to respond and comply with the items below may result in the offeror's response being considered non-responsive.

1. Identify by name and title all managers, foremen, supervisors and professional personnel to be assigned to work under this contract and furnish their resumes indicating their qualifications, current New Mexico licenses and work experience. Also, include manager, CEO or partners as part of this list. (Place information after Tab 5.)

2. Offeror will detail prior experiences with New Mexico public educational institutions where services were similar to what is requested in this proposal. If offeror does not have any experience with New Mexico educational institutions, then it must provide information and details of past experiences and projects that shows it is qualified to perform under this RFP. (Place information after Tab 5.)
3. The offeror will provide an agenda and handouts that will be used in a 45 minute presentation to a CES committee to demonstrate its ability to conduct meetings and respond to questions relating to performing construction management services. Topics to be covered will be:
  - a. Construction management benefits and disadvantages
  - b. Company's philosophy and understanding for the need of construction managers
  - c. Educational facility construction current trends, concerns, issues and overall objectives
  - d. Construction management and its role in cutting construction costs - why, how and where

### **Categorical Price and Cost Submittal**

1. Hourly rates are to be categorized by: construction management, consulting, clerical and related fees, technical, inspection, analysis and testing services.
2. Costs associated with travel, per diem, permits, state gross receipts taxes, performance bond costs and other applicable reimbursable cost will appear as separate line items within the offeror's response. In preparing a quote/proposal for a member, travel and per diem may be added if the location of the project is more than 70 map miles from the home location of the contractor or subcontractor.
3. If travel time is required due to the location, or overtime is required to meet the CES member's timelines, the additional cost must be clearly identified and approved prior to its occurrence.
4. Factors affecting cost including qualification, experience and productivity of consultants offered, size of project, location where services are being provided from, bond costs if required and scope of services. Therefore each individual member's project performed under this RFP will be considered as an individual construction management project.
5. A labor cost table must be provided showing contractor's normal rates, CES discount and CES rates. These rates will be used to determine driving time, overtime and chargeable production time.
6. If there are goods and services provided under this contract that are not covered by cost submittal provided, then the cost of these items will be calculated by taking the list/contractor's price plus the contractor's stated overhead and profit, less the CES discount.
7. Cost evaluation will be based on a point system with points being awarded for being low to high bidder for each cost evaluation item: price and labor rates offered, item cost plus overhead and profit percentage markup less CES discount, mileage charge, per diem rate, travel time, etc. If a bidder leaves out an item or does not indicate NC (for no charge) for a required item, CES, for evaluation purposes, will insert a zero (0) for the number of points awarded for that item. The low bidder will receive the total evaluation points and each other bidder will receive points calculated as follows:

(Lowest Bid / Other bid) x points designated for the item.

8. Normal unit retail costs must be a stated amount from supplier's/subcontractors' price list or contractor's cost sheet. Contractors, when providing cost proposals to members, must clearly identify and indicate all costs and how the proposed costs relate to each phase of the construction management project as described within the scope of work being proposed.

## **Cost Evaluation Information**

1. General Cost Items
  - a. Travel Time – This represents any cost associated with employees and/or subcontractors traveling to and from the project site from their home location. Offeror is to indicate the percent of the individual's regular hourly rate that is to be charged for travel time. Example: If an individual is paid One Hundred Dollars (\$100) per hour and you charge the customer Fifty Dollars (\$50) an hour, the percent of regular time would equal fifty percent (50%).
  - b. Per Diem – This represents the costs associated with housing and meals for individuals who have to stay overnight while working on a project. Offeror is to indicate the daily rate to be charged per person. Note: this does not cover transportation costs.
  - c. Mileage Rate – This represents the per mile cost to the member when a vendor-owned vehicle is used for transportation. Offeror is to indicate per mile charge (for example: Forty-Five Cents (\$.45) per mile.
  - d. Performance Bond Costs – This represents the cost the vendor incurs to provide a performance bond to the member for an individual project when it is required. The offeror is to indicate the percentage rate charged on the total cost of an individual project to obtain a bond, as well as the documentation to substantiate the rate.
  - e. Bonding Capacity – This represents the offeror's maximum level of bonds it can obtain at any one time. Offeror is to indicate its bonding capacity and provide documentation from security company to substantiate the amount.
  - f. Alternative Methods of Costing – These methods include the custom manufactured items, items not covered by other methods and sole source. Offeror is to indicate the percent of overhead and/or markup to be added to these costs to obtain the retail cost on which the CES discount can be taken to achieve CES price. Note that this does not include R.S. Means method.
  - g. CES Discount Off Alternative Method of Costing to Obtain CES Prices – This represents the percent of discount that is taken off the standard price (item cost plus percent of profit or overhead equals standard price) to obtain the CES price. (Example: item costs \$1,000; percent of profit or overhead is 20%, which equals a standard price of \$1,200. Less the CES discount of 10%, or \$100, equals the CES price of \$1,080.)
  - h. Discounts Provided on Price List and Catalogs – This represents the average discount provided by the offeror on stated prices.
  - i. Offeror's Support for CES Pricing – This is the percent of difference between what the offeror's price to CES and the price that the offeror would offer the same products directly to any public educational institution in New Mexico. The offeror's CES price is \$100, the offeror's direct price to CES members is \$103. The difference is 3% percent.
2. Labor Rates – Hourly rates for individual(s) who perform services on an as-needed basis specializing in the following areas. Rates provided must be loaded (include benefits, payroll taxes, overhead and profit).

- a. Construction Manager/Consultant – A qualified professional with experience and background in providing comprehensive services in construction management.
- b. Labor rate certified draftsman to develop and provide project documentation.
- c. Labor (clerical) – An individual who is not licensed and provides secretarial/clerical support services either on- or off-site of a project.
- d. Labor (general) – An individual who is not licensed and/or certified to perform specialized work, but assists the construction manager and/or performs various tasks related to a project.

### **SECTION III: CONDITIONS LEADING TO AND INCLUDING CONTRACT AWARD**

#### **A. CONTRACT FORM**

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

#### **B. PROPOSAL SUBMISSION**

Sealed proposals will be received until 1:30 p.m. local time, on Friday, May 6, 2005, whether hand delivered or mailed to the agency offices, 4216 Balloon Park Road NE. Documentation will be included and submitted in a binder, unless the Colorado/Texas option is accepted and then one (1) additional original proposal must be included for each state selected.

#### **C. PROPOSAL REVIEW**

Commencing on Monday, May 9, 2005, proposals will be reviewed by the Executive Director and a committee designated by the CES Board of Directors. Notification to all respondents will be made by Friday, July 7, 2005.

#### **D. EVALUATION FACTORS**

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 the evaluation committee. Any deviation from requirements indicated herein must be stated on an attached sheet(s). 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 offeror responses, while possibly necessary in the view of a particular offeror, can result in a penalty assessment being assigned during the evaluation process. Language to the effect that the offeror does not consider this proposal to be part of a contractual obligation will result in that offeror's proposal being disqualified. Due to the unpredictable nature of what any particular offeror may wish to stipulate with regard to exceptions, exclusions or limitations of liabilities, offerors are forewarned that CES reserves the right to assign any penalties it considers warranted. Terms of the RFP that any offeror considers particularly unwarranted, and to which that offeror would have to take significant exception in its response, should be stated in the proposal clearly and concisely as exceptions and/or deviations.

#### **Part 1: Offeror Qualifications – 300 Total Points**

- |           |  |
|-----------|--|
| 45 points | A brief history of your company that includes its philosophy of doing business                   |
| 40 points | Company location, key people, facilities, ability to perform                                     |
| 40 points | Documentation, narrative describing the standards, testing and/or awards of products or services |
| 20 points | Documentation, written evidence of factory/distributor authorization                             |
| 15 points | Process for determining background checks  |

- 30 points Letter from your financial institution that indicates the line of credit
- 15 points Verification of insurance
- 30 points Your ability, willingness, and proposed strategies to sell to CES member agencies and current status with other cooperative contracts in New Mexico
- 35 points Key sales people who will be assigned this contract and resources available to the operation of the contract
- 30 points Reasons/justification of why your products and services are worth the prices or fees you are proposing and added value available to CES members

Part 2: Responses to specific requests in each category (placed after Tab 5) - 450 Total Points

- 175 points Responses as to how well total proposed solution meets our request as evidenced in time lines, product information and performance specifications, and requested presentations provided in Tabs 5 and 10
- 150 points Response to categorical required written responses and/or comments requested placed behind Tab 5
- 125 points Responses to items related to customer service, support, warranty and after the sale items proposed as stated in requested forms in the vendor's RFP response and presentation of cost data

Part 3: Cost

- 250 points Cost with responses prorated on total cost evaluation factors

1,000 points TOTAL POINTS POSSIBLE

E. NEGOTIATIONS

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

F. COST CONSIDERATIONS

The negotiated contract between CES and the vendor will be for a firm, fixed discount off current price with indefinite quantity. CES will not be liable for any cost in proposal application or for the interview session.

G. IMPORTANT NOTICE TO OFFERORS

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

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

#### H. COLORADO EXTENSION

Through an agreement with the Colorado Board of Cooperative Educational Services Association (CBOCES) in Colorado, the products and services in this RFP can be extended to the school districts in Colorado. CBOCES in Colorado will use the “CBOCES” conduit to enable any school district in Colorado to use this award.

If you are willing to sign a contract based on this RFP with CBOCES, it will be agreed and assumed that Colorado will be understood where the words New Mexico are used. Where New Mexico laws are quoted, similar Colorado laws will be interpreted. In any event, CES suggests any vendor who chooses to use this RFP to include Colorado offer an even larger discount, considering the potential increase in sales by combining the states. If CES awards a contract to you and you have marked the CBOCES box on the cover page, CES will forward a copy of your bid and the CES award to CBOCES. Note that you must provide an additional original of the bid for Colorado in your response.

Neither CBOCES nor CES will hold the other responsible for any irregularities in the contract. CES neither encourages nor discourages vendors from contacting CBOCES. If you would like to discuss the use of any contract awarded by CES in Colorado, contact can be made as follows:

Colorado BOCES Association  
John Tillman, President  
c/o San Luis Valley BOCS  
P. O. Box 1198  
Alamosa, CO 81101-1198

Phone: (719) 589-5851  
Fax: (719) 589-8012

E-mail: [jtillman@slvbocs.org](mailto:jtillman@slvbocs.org)

#### I. TEXAS EXTENSION

Through an agreement with The Cooperative Purchasing Network (TCPN) in Texas, the products and services in this RFP can be extended to the educational and other governmental institutions in Texas. TCPN in Texas will use the “TCPN” conduit to enable any educational or other governmental institution in Texas to use this award.

If you are willing to sign a contract based on this RFP with TCPN, it will be agreed and assumed that Texas will be understood where the words “New Mexico” are used. Where New Mexico laws are quoted, similar Texas laws will be interpreted. Additional terms and conditions will be required by TCPN. CES suggests that any vendor including Texas in its response should offer an even larger discount, considering the potential increase in sales by combining the states. If CES awards a contract to you and you have marked the TCPN box

on the cover page, CES will forward your bid and the CES award to TCPN. Please note that you must provide an additional original of your bid to be sent to TCPN.

Neither TCPN nor CES will hold the other responsible for any irregularities in the contract. CES neither encourages nor discourages vendors from contacting TCPN. If you would like to discuss the use of any contract awarded by CES in Texas, please contact:

The Cooperative Purchasing Network (TCPN)  
Doug Rupe  
7145 West Tidwell  
Houston, Texas 77092-2096

Phone: 713-744-6356  
Toll free: 888-884-7695  
Fax: 713-744-0648  
Toll free: 800-458-0099

E-mail: [drupe@esc4.net](mailto:drupe@esc4.net)

## SECTION IV: PROPOSAL FORMS

### Form A OFFERORS DECLARATION FORM

**Offerors must indicate the regions in New Mexico they will provide services to by placing an “X” beside the area. Failure to indicate the areas will be cause to consider your bid non-responsive.**

New Mexico is a large state geographically. For this solicitation CES is dividing the state into seven (7) service regions. Offeror will be required to indicate in its response which of these service regions of the state it wishes to provide services to and prioritize those areas in the order in which it intends to concentrate its efforts if given an award. The seven service regions are described below. If the member is not a public school district, it shall be included in the region containing the public school district where the member administrative office resides.

- Region One (1)** – Aztec, Bloomfield, Central, Dulce, Farmington and Jemez Mountain school districts.
  
- Region Two (2)** – Chama Valley, Española, Mesa Vista, Peñasco, Pojoaque Valley, Questa, Santa Fe and Taos school districts.
  
- Region Three (3)** – Cimarron, Clayton, Des Moines, Las Vegas City, Maxwell, Mora, Mosquero, Pecos, Raton, Roy, Springer, Wagon Mound and West Las Vegas school districts.
  
- Region Four (4)** – Albuquerque, Belen, Bernalillo, Cuba, Estancia, Gallup-McKinley, Grants-Cibola, Jemez Valley, Los Alamos, Los Lunas, Magdalena, Moriarty, Mountainair, Quemado, Rio Rancho, Socorro and Zuni school districts.
  
- Region Five (5)** – Clovis, Corona, Dora, Elida, Floyd, Fort Sumner, Grady, House, Logan, Melrose, Portales, San Jon, Santa Rosa, Texico, Tucumcari and Vaughn school districts.
  
- Region Six (6)** – Alamogordo, Animas, Capitan, Carrizozo, Cloudcroft, Cobre, Deming, Gadsden, Hatch Valley, Hondo Valley, Las Cruces, Lordsburg, Reserve, Ruidoso, Silver, Truth or Consequences and Tularosa school districts.
  
- Region Seven (7)** – Artesia, Carlsbad, Dexter, Eunice, Hagerman, Hobbs, Jal, Lake Arthur, Loving, Lovington, Roswell and Tatum school districts.

**OFFER AND ACCEPTANCE OF OFFER AND CONTRACT AWARD**

**PROJECT:** As Defined in RFP 2005-022

OFFER ACCEPTANCE OF OFFER and CONTRACT AWARD
---

**OFFER TO BE COMPLETED BY VENDOR**

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

Company Name \_\_\_\_\_ Contact Person \_\_\_\_\_  
 Address \_\_\_\_\_ Authorized Signature \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_ Zip \_\_\_\_\_ Printed Name \_\_\_\_\_

**OFFER EXTENDED TO COLORADO AND TEXAS SERVICE AGENCIES**



If you are willing to honor purchase orders through the Colorado BOCES Association in Colorado under the same terms and conditions as in this RFP, place initials in the box.



If you are willing to honor purchase orders through the The Cooperative Purchasing Network (TCPN) in Houston, Texas, under the same terms and conditions as in this RFP, place initials in the box.

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

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

The parties intend this contract to constitute the final and complete agreement between agency and vendor, and no other agreements, oral or otherwise, regarding the subject matter of this contract, will bind any of the parties hereto. No change or modification of this contract will be valid unless it is in writing and signed by both parties to this contract. If any provision of this contract is deemed invalid or illegal by any appropriate court of law, the remainder of this contract will not be affected thereby. The term of the agreement will commence on award and continue until July 7, 2006, unless terminated, canceled or extended. By mutual written agreement, the contract may be extended for three (3) additional 12-month periods, ending July 7, 2009.

\_\_\_\_\_  
 Authorized Signature Contract Number

Awarded this \_\_\_\_ day of \_\_\_\_\_, 2005.

AGENCY  
 SEAL  
 or  
 STAMP

**AFFIDAVIT**

1. The undersigned, duly authorized to represent the persons, firms and corporations joining and participating in the submission of the foregoing proposal (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/her belief and knowledge, no person, firm or corporation, nor any person duly representing the same joining and participating in the submission of the foregoing proposal, has directly or indirectly entered into any agreement or arrangement with any other vendors, or with any official of CES, or any employee thereof, or any person, firm or corporation under contract with CES, whereby the vendor, in order to induce the acceptance of the foregoing proposal by CES, has paid or is to pay to any other vendor or to any of the aforementioned persons anything of value whatever, and that the vendor has not, directly or indirectly entered into any arrangement or agreement with any other vendor or vendors which tends to or does lessen or destroy free competition in the letting of the contract sought for by the foregoing proposal.
2. This is to certify that the vendor, or any person on its behalf, has not agreed, connived or colluded to produce a deceptive show of competition in the manner of the responding or award of the referenced contract.
3. This is to certify that neither I, nor to the best of my knowledge, information and belief, the vendor, nor any officer, director, partner, member or associate of the vendor, nor any of its employees directly involved in obtaining contracts with the State of New Mexico, Cooperative Educational Services, 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.
4. This is to certify that the vendor or any person on its behalf has examined and understands the terms, conditions, scope of work and specifications and other documents of this solicitation.
5. This is to certify that if awarded a contract, the vendor will provide the equipment, commodities, and/or services to members and affiliate members of Cooperative Educational Services in accordance with the terms, conditions, scope of work and specifications and other documents of this solicitation in the following pages of this proposal.

\_\_\_\_\_  
Authorized Representative (Please print or type)

\_\_\_\_\_  
Position (Please print or type)

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Fax

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
By: Signature of Authorized Representative      Date

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

Notary Public in and for County of \_\_\_\_\_, State of \_\_\_\_\_

My commission expires: \_\_\_\_\_

Signature: \_\_\_\_\_

**INDEFINITE QUANTITY UNIT PRICE SCHEDULE**

**Proposal Submission Form**

Use this form, or duplicate it, to price all equipment, services, supplies, and other commodities you wish to place on contract. If you have a printed price list or catalog, you can attach it in an appendix.

<b>Description</b>	<b>Retail</b>	<b>%Discount</b>	<b>CES Price</b>

**Proposal Submission Form: Construction Management Services**

**Instructions to Offerors**

The Scope of Work and Specifications refers to the type and quality of products and services being proposed. In the form below, enter your prices for those items indicated, the prices and/or discounts offered for providing all equipment, goods, services, supplies and related items. The prices you offer on these pages affirm that you have accepted the specifications to obtain, deliver and provide those goods and services requested. Each offeror is encouraged to offer its lowest and best prices for the complete product line(s) offered. When providing price lists and/or catalogs, state a list/retail/regular price, CES discount and the CES price.

Duplicate the individual forms to submit your proposal. If additional clarification, price sheet(s) and/or catalog(s) pertaining to the proposal being submitted are needed, include them behind Tab 6. Clearly indicate and identify the items involved and what you wish to communicate in your response.

<b>Description of Cost Factors</b>	<b>Cost Evaluation Points</b>	<b>Unit of Measure</b>	<b>Base Cost</b>
Travel time round trip from home location to worksite within the region - percent of regular time	90	%/Regular Rate	_____%
Per diem rate - meals and lodging per 24 hour period	35	Per Day	\$_____
Mileage rate for company-owned vehicles (car/medium duty truck)	85	Per Mile	\$_____
Performance Bond - bonding rate (percent of project)	15	Percent	_____%
Bonding Capacity - total amount of capacity available	10	Dollar Amount	\$_____
Alternative Methods of Costing - percent of overhead/markup and profit added to cost	75	Percent	_____%
Discounts Offered Off Alternative Costing Methods (cost plus profit and overhead) Less Rate of Discount	75	Percent	_____%
Discount of Printed/Published Price Sheets	100	Percent	_____%
Offeror's Support for CES Pricing, Percent off the Offeror's Support for CES Pricing page	75	Percent	_____%

<b>Regular and Customary Non-State Loaded (Includes Benefits and Overhead) Labor Rates</b>			
<b>Service Rates For</b>	<b>Cost Evaluation Points</b>	<b>Unit of Measure</b>	<b>CES Rate</b>
Construction Management/Consultant	200	Per Hour	\$_____
Project Foreman/Supervisor	100	Per Hour	\$_____
Draftsman	20	Per Hour	\$_____
Clerical	60	Per Hour	\$_____
General Labor/Runner	60	Per Hour	\$_____

# Acceptance of Terms and Conditions

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

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

---

Printed Name and Title

---

Signature (should match cover signature)

*I accept the additional Categorical Terms and Conditions for Construction Management Services except as listed below.*

---

Signature (should match cover signature)

Form F **SUPPORT AND MAINTENANCE PLANS**

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

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

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

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

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

**OFFEROR'S SUPPORT FOR CES PRICES**

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

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

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

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

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

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

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

- Prices will be **no different** from what we ordinarily offer to schools.
- Prices are (check)  two percent (2%) lower than our best price to individual members.  
 three percent (3%)  
 four percent (4%)  
 five percent (5%)  
 ten percent (10%)  
 other

---

Signature (must match signature on cover sheet)

---

Title

Form H **QUESTIONNAIRE FOR OFFEROR**

**Company Name:** \_\_\_\_\_

*Circle Answers Where Appropriate*

1. For products on your price list, is shipping/handling included in the price? YES NO

If pre-paid authorization, estimate shipping/handling on purchases \_\_\_\_\_

2. Is your product marketed by anyone else in New Mexico? YES NO

3. *Do you guarantee that prices in the RFP are the lowest you will offer to schools and other procurement units in New Mexico during the time of any contract between CES and your company?\** Do you also agree to immediately reduce any price to CES equal to or lower than a price quoted to any other New Mexico procurement unit? YES NO

4. If applicable, list any New Mexico contractor's licenses held by your company.

Name of Licensee	Classification	Number

5. Describe your return policy? What is your restock fee, if any? \_\_\_\_\_

6. Where should CES mail purchase orders?

Vendor Name \_\_\_\_\_

Attention Line \_\_\_\_\_

UPS Address \_\_\_\_\_

Mailing Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email Address \_\_\_\_\_

Telephone (to verify prices) \_\_\_\_\_ Fax \_\_\_\_\_

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

*\*not including manufacturer's GSA contracts.*

7. Where do you want payments sent?

Vendor Name \_\_\_\_\_

Attention Line \_\_\_\_\_

UPS Address \_\_\_\_\_

Mailing Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone (invoice questions) \_\_\_\_\_ Fax \_\_\_\_\_

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

8. Additional contacts for CES

New Mexico Representative \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_

Email Address \_\_\_\_\_

Contact for RFP/Contract \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_

Email Address \_\_\_\_\_

9. Sales Support by Region

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

10. If your normal area of service is regional, will you honor and fill purchase orders in any part of the state at the prices quoted in this RFP? YES NO

11. Will you offer CES a quick pay discount? If YES, what is the discount? \_\_\_\_\_ days? \_\_\_\_\_

**MANUFACTURER'S REPRESENTATIVE FORM**

**Offeror has attached a letter (or agreements) from the manufacturer that certifies the following: (check each)**

\_\_\_\_\_ Offeror is a bona fide dealer for the equipment in the proposal.

\_\_\_\_\_ Offeror is authorized to submit a proposal for the equipment.

\_\_\_\_\_ The manufacturer will either assume or assign to another dealer the obligations in this proposal should the offeror fail to complete the contract.

\_\_\_\_\_  
Signature (must match cover signature)

\_\_\_\_\_  
Date

*If the offeror is the manufacturer, please sign below.*

\_\_\_\_\_  
Signature (must match cover signature)

\_\_\_\_\_  
Date

**REFERENCES:** List five (5) public educational institution's references, including contact person(s) and phone numbers. (Please print or type)

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

**INSTRUCTIONS FOR COMPLETION OF PRICE PAGES**

1. Before you begin, make duplicate copies of the price page.
2. All pricing must use the price form, normally using one sheet per brand of product. If you have an exceptionally large price list, or a price catalog, you may attach the data to the form, but it must be categorized and indexed in a way that the following information is clearly identified:
  - A. Product Brand
  - B. Product Description
  - C. Retail Price or Standard Education/Government Price
  - D. Percent Discount
  - E. CES Price
  - F. Volume Discounts Available
  - G. Any Special Pricing (bundles, time-limit sales, etc.)
  - H. Installation/Labor Costs, if any
  - I. Mileage/Travel Costs, if any
  - J. Freight/Shipping, if any
  - K. Special Warranty Information
3. Once your offer is accepted, any future price adjustments must be made in the same manner.
4. It is your responsibility to keep your contract current in every way. Auditors review our contracts, and we want to keep everything legal.

**IF, FOR ANY REASON, YOU NEED TO LOWER A PRICE TO REMAIN COMPETITIVE, OR TO PASS ON A SPECIAL PRICE OFFERED BY YOUR SUPPLIER, YOU MUST FIRST SEND A FAX OR LETTER TO CES THAT OFFICIALLY LOWERS THE PRICE. ONCE CES HAS RECEIVED THE INFORMATION, THEN YOU MAY OFFER THE NEW PRICES TO YOUR CUSTOMERS. IT IS AGAINST THE TERMS AND CONDITIONS OF THIS RFP TO AGREE TO A LOWER PRICE WITH A CUSTOMER, AND THEN LATER NOTIFY CES. CES ENCOURAGES ALL OFFERORS TO OFFER THE LOWEST PRICES POSSIBLE, BUT AT NO TIME MAY THE OFFEROR GIVE A PRICE TO ONE CES MEMBER THAT IS NOT AVAILABLE TO OTHERS.**

**COMMENTS ON MULTIPLE AWARDS AND  
"MOST-FAVORED-CUSTOMER" CONTRACTS**

Professional procurement associations such as the Council of State Governments, and the National Association of Purchasing Management, have taken strong stands on multiple awards and the GSA pricing policy of the federal government.

“Competition is diminished when preference is sought by one sector of government or a class or classes of vendors. The National Institute of Governmental Purchasing (NIGP) and the National Association of State Purchasing Officials (NASPO) have joined in strongly worded resolutions opposing the use of most-favored-customer pricing clauses and multiple award contracts. Both practices, employed by the federal government and others, have negative effects on competition throughout all public contracting. The first sets a floor on prices and is favored by firms that enjoy commanding positions in the market place. The second transfers the buying decision from central purchasing to using agencies by offering a virtually unmonitored free choice from a smorgasbord of multiple awards...”

*State and Local Government Purchasing*, Third Edition, page 13

“A multiple award is the award of a contract to two or more suppliers for furnishing an indefinite quantity of a like item or category of items, where more than one supplier is needed to meet the contract requirements for quantity, delivery, service, or product compatibility... It is important to understand that making multiple awards can evade central purchasing responsibilities for making buying decisions between and among products and vendors. Multiple awards transfer these decisions in large part or in whole to the program agencies, where they are likely to be made with less impartiality and purchasing proficiency. Written policy and rules are necessary to guard against laxness and abuses in connection with multiple awards.”

*Ibid.*, page 76

The stand of the NIGP and the NASPO on multiple contract awards is clear. Most of their membership represents a central purchasing authority, whose very job is purchasing goods and services for their fellow departments. Typically, a state purchasing office is established to serve the needs of state agencies. A similar situation in the schools would be if the business office of Lizard Flats Unified School District multiple awarded ten vendors of classroom furniture, and allowed each teacher to requisition the desks he desired for his classroom.

In contrast, CES is not a central purchasing office. Rather, we are a school service agency. Each district that joins CES is not yielding its own purchasing authority. Unlike state agencies that must use state awarded contracts, each school district has an elected board and is a sovereign unit of government. It is CES' position that rather than “offering a virtually unmonitored free choice from a smorgasbord of multiple awards,” CES provides the district with choices among vendors whose products and services have met a rigid standard and scope of work, and that have guaranteed a level of performance and service not always offered to the single district. In the past few years, CES has rejected more offers than have been awarded; when we multiple award, it is a limited award.

CES agrees with NIGP's and NASPO's stand on GSA pricing. One way around the limitations the federal government places on manufacturers in pricing is to contract with the dealers of these very same manufacturers; because dealers are independent contractors, they are able to sell at any price they elect, often below GSA prices. If a manufacturer only sells direct, and has a GSA contract, it behooves the buyer to insist on matching prices.

CES is one of the agencies that insist on a “most favored customer” clause in its contracts. CES does not believe such a clause has “negative effects on competition throughout all public contracting...(by setting) a floor on prices and is favored by firms which enjoy commanding positions in the market place.” First, many of CES' contracts are with very small companies without any “commanding position” in the New Mexico market. Secondly, CES knows that a contract with them will save vendors considerable money, since it frees them from individual proposals from the 89 school districts, and other political subdivisions that use CES contracts. CES firmly believes that the organization would cease to exist as a valuable service to New Mexico schools if they allowed their contracted vendors to “bid against themselves” when a member elects to issue its own RFP.

When a vendor says “this is the lowest price I will offer in New Mexico to public agencies,” then the member knows that the only way to get a lower price is from other vendors. Competition is enhanced in this fashion. If a member awards a contract to a vendor not on a CES contract, for a product or service similar to that on a CES contract, the result will be an even bigger savings to the member and, hopefully, the eventual lowering of prices by the CES vendor, or an eventual rebidding by CES to secure better contracts for its members.

**SUBMISSION CHECK-OFF FORM**

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

**It is suggested that the vendor preparing a response check off each required item as it is completed.**

- \_\_\_\_\_ 1. **Form A** – Offerors Declaration Form (pages -) (**PLACE BEHIND TAB 1**)
- \_\_\_\_\_ 2. **Form B** – The signed Offer and Contract Award (page ) (**PLACE BEHIND TAB 1**)
- \_\_\_\_\_ 3. **Form C** – The signed Affidavit (page ) (**PLACE BEHIND TAB 1**)
- \_\_\_\_\_ 4. **Form D** – Price List of the equipment/services offered (page ) (**PLACE BEHIND TAB 6**)
- \_\_\_\_\_ 5a. **Form E**– A list of any exemptions or modifications of General Terms and Conditions (page ) (**PLACE BEHIND TAB 3**)
- \_\_\_\_\_ 5b. **Form E** – A list of any exemptions or modifications of Categorical Terms and Conditions (page depends on category) (**PLACE BEHIND TAB 5**)
- \_\_\_\_\_ 6. **Form F** – Support and Maintenance Plans (page ) (**PLACE BEHIND TAB 7**)
- \_\_\_\_\_ 7. **Form G** – Offeror’s Support for CES Prices (page ) (**PLACE BEHIND TAB 7**)
- \_\_\_\_\_ 8. **Form H** – Questionnaire for Offeror (pages ) (**PLACE BEHIND TAB 7**)
- \_\_\_\_\_ 9. **Form I** – Manufacturer’s Representative Form (page ) (**PLACE BEHIND TAB 7**)
- \_\_\_\_\_ 10. A point-by-point response for the 10 items (a–j) under Vendor Qualifications (pages 8-10) (**PLACE BEHIND TAB 4**)
- \_\_\_\_\_ 11. A point-by-point response to each requested item to which the vendor is responding under Section II-Scope of Work, D. Specifications (page number depends on category) (categorical responses) (**PLACE BEHIND TAB 5**)
- \_\_\_\_\_ 12. Letters of financial stability and credit limit (**PLACE BEHIND TAB 4**) (requested in No. 10 above)
- \_\_\_\_\_ 13. All miscellaneous forms that apply (**PLACE BEHIND TAB 8**) (requested in No. 10 above)
- \_\_\_\_\_ 14. Copies of all licenses (**PLACE BEHIND TAB 4**) (requested in No. 10 above)
- \_\_\_\_\_ 15. Appendix with catalogs, slicks, model information, etc. (**PLACE BEHIND TAB 10**)
- \_\_\_\_\_ 16. **Form L** – Submission Check-Off Form (page ) (**PLACE BEHIND TAB 9**)

\_\_\_\_\_  
Signature