

# REQUEST FOR PROPOSAL FOR INSTRUCTION MATERIALS AND SERVICES SOFTWARE

## EDUCATION SERVICE CENTER, REGION 10

400 E Spring Valley Rd  
Richardson, TX 75081  
Telephone: (972) 348-1184



Publication date	10/24/2022
Product or service	Instruction Materials and Services Software
RFP #	2022-18
Proposal due date	11/21/2022
Proposal submittal location	<a href="https://region10.bonfirehub.com/portal/?tab=login">https://region10.bonfirehub.com/portal/?tab=login</a>
Principle contract officer	Clint Pechacek Purchasing Consultant
Public opening location	Region 10 ESC 400 East Spring Valley Rd Richardson, TX 75081

Education Service Center, Region 10 ("Region 10 ESC") is seeking proposals for the procurement of Instruction Materials and Services Software to be made available to other public agencies through Region 10 ESC's **EdTech Exchange** purchasing cooperative. Responses will be accepted until 3 pm on November 21, 2022. All times are Central Standard Time.

The public bid opening will be held via Zoom meeting. Interested parties who wish to attend the bid opening should email Clint Pechacek at [clint.pechacek@region10.org](mailto:clint.pechacek@region10.org) by 4:00 pm on November 20, 2022 to receive an invitation. Requests for an invitation after that time will not be accepted. The bid opening will begin at 2 pm Central Time on November 21, 2022 after all submissions have been received.

In general, EdTech Exchange purchasing cooperative members will reference this RFP when purchasing from the vendor. Region 10 ESC will not charge a fee to public agencies for participation in the purchasing coop.

Faxed, emailed, mailed, or hand-delivered responses will not be considered. All proposals must be submitted electronically as directed in the Bonfire procurement application. Scanned submissions are acceptable where PDF files are requested. By submitting a response, responder certifies to the best of his/her knowledge that all information is true and correct.

Responses should be submitted on the forms provided. Only responses received by the date and time specified will be considered. **PRICE, QUALITY, AND SUITABILITY:** It is not the policy of Region 10 ESC to purchase services solely on the basis of low price alone; quality and suitability to purpose are taken into consideration. Term discount, if any, must be indicated on Deviation Statement & Signature Page and will be considered.

The Region 10 ESC Board of Directors may approve awarding of this proposal to one or more vendors. Region 10 ESC reserves the right to reject all proposals if it determines in its sole discretion that a reasonable basis exists for doing so.

## OPEN RECORDS POLICY ACKNOWLEDGMENT AND ACCEPTANCE

Be advised that all information and documents submitted will be subject to the Public Information Act requirements governed by Chapter 552 of the Texas Government Code.

Because contracts are awarded by a Texas governmental entity, all responses submitted are subject to release as public information after contracts are executed. If a Respondent believes that its response, or parts of its response, may be exempted from disclosure to the public, the Respondent must specify page-by-page and line-by-line the parts of the response, which it believes, are exempted from disclosure. In addition, the Respondent must specify which exception(s) are applicable and provide detailed reasons to substantiate the exception(s). Respondent must provide this information on the "Acknowledgement and Acceptance to Region 10 ESC's Public Information Act Policy" form found on the next page of this solicitation. Any information that is unmarked will be considered public information and released, if requested under the Public Information Act.

The determination of whether information is confidential and not subject to disclosure is the duty of the Office of Attorney General (OAG). Region 10 ESC must provide the OAG with the information requested in order for the OAG to render an opinion. In such circumstances, Respondent will be notified in writing that the material has been requested and delivered to the OAG. Respondent will have an opportunity to make arguments to the OAG in writing regarding the exception(s) to the TPIA that permit the information to be withheld from public disclosure. Respondents are advised that such arguments to the OAG must be specific and well-reasoned--vague and general claims to confidentiality by the Respondent are generally not acceptable to the OAG. Once the OAG opinion is received by Region 10 ESC, Region 10 ESC must comply with the opinions of the OAG. Region 10 ESC assumes no responsibility for asserting legal arguments on behalf of any Respondent. Respondents are advised to consult with their legal counsel concerning disclosure issues resulting from this procurement process and to take precautions to safeguard trade secrets and other proprietary information.

After completion of award, these documents will be available for public inspection.

**Signature below certifies complete acceptance of Region 10 ESC's Open Records Policy, except as noted below (additional pages may be attached, if necessary). Check one of the following responses to the Acknowledgment and Acceptance of Region 10 ESC's Open Records Policy below:**

- ☐ We acknowledge Region 10 ESC's Public Information Act policy and declare that no information submitted with this proposal, or any part of our proposal, is exempt from disclosure under the Public Information Act.

*(Note: All information believed to be a trade secret or proprietary must be listed below. It is further understood that failure to identify such information, in strict accordance with the instructions below, will result in that information being considered public information and released, if requested under the Public Information Act.)*

- ☐ We declare the following information to be a trade secret or proprietary and exempt from disclosure under the Public Information Act.

*(Note: Respondent must specify page-by-page and line-by-line the parts of the response, which it believes, are exempt. In addition, Respondent must specify which exception(s) are applicable and provide detailed reasons to substantiate the exception(s).)*

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Date

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Authorized Signature & Title

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## **A. INTRODUCTION**

### **I. Background on Region 10 Education Service Center**

Region 10 Education Service Center (“Region 10 ESC” herein “Lead Agency”) on behalf of itself and, potentially, all state, local governments, school districts, and higher education institutions in the United States of America, and other government agencies and non-profit organizations (herein “Public Agencies”) solicits proposals from qualified Respondents to enter into a Vendor Contract (“contract”) for the goods or services solicited in this invitation.

Contracts are approved and awarded by a single governmental entity, Region 10 ESC, and are only available for use and benefit of all entities complying with their respective state procurement laws and regulations (public and private schools, colleges and universities, cities, counties, non-profits, and all governmental entities).

### **II. What is the EdTech Exchange Purchasing Cooperative?**

EdTech Exchange is the Educational Software-focused cooperative set up and administered by Region 10 ESC in order to give local education agencies in Texas and the United States access to educational software that is effective, competitively priced, and which has been procured in a compliant, transparent manner. There is no cost for membership in EdTech Exchange for public agencies or to use the contracts; EdTech Exchange charges a 1% administrative fee to the vendor on any sales through the contract, which has already been factored into the pricing submitted. EdTech Exchange leverages the purchasing power of Texas school districts, charter, and private schools to get them best-in-class educational software at the most competitive pricing through a compliant solicitation process.

### **III. Purpose of Region 10 ESC**

The mission of Region 10 is to be a trusted, student-focused partner that serves the learning community through responsive, innovative educational solutions. It is Region 10’s intent to:

- Provide governmental and public entities opportunities for greater efficiency and economy in procuring goods and services.
- Take advantage of state-of-the-art purchasing procedures to ensure the most competitive contracts.
- Provide competitive price and bulk purchasing for multiple government or public agencies that yields economic benefits unobtainable by the individual entity.
- Provide quick and efficient delivery of goods and services.
- Equalize purchasing power for smaller agencies that are unable to command the best contracts for themselves.
- Help in assisting customers with use of best business practices.

### **IV. Customer Service**

1. Region 10 ESC is dedicated to making its contracts successful for both its members and its awarded vendors.
2. Region 10 ESC is committed to providing its members and awarded vendors with high quality service.
3. Region 10 ESC has dedicated staff available to answer questions, offer guidance and help in any way possible.

## B. SCOPE

Region 10 ESC is seeking on behalf of itself and the EdTech Cooperative membership software that delivers instructional materials and services to students and teachers. This category includes, but is not limited to:

- Full curriculum software
- Supplemental curriculum
- Tutoring Software and Services
- Other software solutions related to delivering instruction in the classroom

The scope of the EdTech Exchange Purchasing Cooperative is limited to online or computer-based products/solutions that enhance school operations, design and delivery of instruction, assessment/feedback, and/or data utilization. Additional services may be offered

Proposed solutions will be judged based upon the Evaluation criteria is listed in Section XXIII of these instructions, and questions pertaining to these criteria are presented in Appendix A: Questionnaire.

A description of the proposed products and services being proposed, as well as further details concerning integrations, security, Service Level Agreements, etc. are requested starting with Question 13 in the Questionnaire below.

## C. KEY DEFINITIONS

**Days:** means calendar days.

**Procurement:** means buying, purchasing, renting, leasing or otherwise acquiring any materials, services or construction. Procurement also includes all functions that pertain to the obtaining of any material, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration.

**Responsive Respondent:** means a person, company, firm, corporation, partnership or other organization who submits a proposal which conforms in all material respects to the invitation for bids or request for proposals.

**Solicitation:** means an invitation for bids, a request for technical offers, a request for proposals, a request for quotations or any other solicitation or request by which we invite a person to participate in a procurement.

**Specifications:** means any description of physical or functional characteristics, or of the nature of a material, service or construction of item. Specifications may include a description or any requirement for inspecting, testing or preparing a material, service or construction item for delivery.

**Vendor:** means any provider or seller of goods and/or services that has a contractual relationship with Region 10 ESC.

## D. GENERAL TERMS AND INSTRUCTIONS TO RESPONDENTS

### SUBMISSION FORMAT AND COMMUNICATION

It is the responsibility of the vendor to make certain that the company submitting a proposal, along with appropriate contact information, is on file with Region 10 ESC for the purpose of receiving addenda.

- I. **Response Submission:** All responses must be submitted electronically as directed in the Bonfire procurement application. Scanned submissions are acceptable where PDF files are requested. Responses received outside the Bonfire procurement application will not be accepted.

Responses may be rejected for failure to comply with the requirements set forth in this invitation. Region 10 ESC reserves the right to accept or reject in part or in whole any proposals submitted, and to waive any technicalities, and to make recommendations for awards in the best interest of the ESC and EdTech Exchange members. Respondents are responsible for making certain proposals are submitted in the Bonfire portal completed by the deadline. Region 10 ESC is not responsible for technical difficulties encountered when uploading the response and will not accept proposals or additions to received proposals after the specified deadline. All information submitted must be readable in the Bonfire application or Microsoft Excel in order to be considered.

Deviations from any terms, conditions and/or specifications must be conspicuously noted in writing by the Respondent and shall be included with the response. (See Appendix F, Doc #17).

- II. **Proposal Format:** The electronic narrative portion and the materials presented in response to this Request for Proposal should be submitted in the same order as requested. Responses should be consolidated into one PDF file for the RFP response and one Excel file for the Pricing Attachment response. No links, embedded files, or alternative formats (such as Adobe Portfolio attachments) are allowed. Any information that is not readable in the Bonfire PDF viewer or in the Excel pricing file will not be considered by the evaluation committee.
- III. **Time for receiving proposals:** Proposals received prior to the submittal deadline will be kept secure and unopened. No proposals received after the submittal time and deadline will be considered. Late proposals will be returned to sender unopened. Region 10 ESC reserves the right to postpone the date and time for the deadline of receipt of proposals through an addendum.
- IV. **Inquiries and/or discrepancies:** Questions regarding this solicitation must be submitted in the Bonfire procurement application. All questions and answers will be posted to the Bonfire procurement application. Respondents are responsible for viewing the Bonfire procurement application to review all questions and answers prior to submitting proposals. Please note that oral communications concerning this RFP shall not be binding and shall in no way excuse the responsive Respondent of the obligations set forth in this invitation.
- V. **Restricted and Prohibited Communications with Region 10 ESC:** During the period between the date Region 10 ESC issues this RFP and the selection of the vendor who is awarded a contract by Region 10 ESC, if any, Respondents shall restrict all contact with Region 10 ESC, and direct all questions regarding this RFP, including questions regarding terms and conditions, only to the Bonfire procurement application in the specified manner. **Do not contact members of the Board of Directors, other employees of Region 10 ESC, or any of Region 10 ESC's agents or administrators. Contact with any of these prohibited individuals after issuance of this RFP and before selection is made, may result in disqualification of the Respondent.**

The communications prohibition shall terminate when the contract is recommended by the administration, considered by the Board of Directors at a noticed public meeting, and a contract has been awarded. In the event the Board of Directors refers the recommendation back to staff for reconsideration, the communications prohibition shall be re-imposed. Additionally, during the time period between the award by the Board of Directors and the execution of the contract, Respondents shall not engage in any prohibited communications as described in this section.

Prohibited communications include direct contact, discussion, or promotion of any Respondent's response with any member of Region 10 ESC's Board of Directors or employees except for communications with Region 10 ESC's designated representative as set forth in this RFP and only in the course of inquiries, briefings, interviews, or presentations. This prohibition is intended to create a level playing field for all potential Respondents, to assure that decisions are made in public, and to protect the integrity of the RFP process. Except as provided in the above stated exceptions, the following communications regarding a particular invitation for bids, requests for proposal, requests for qualifications, or other solicitation are prohibited:

Communications between a potential vendor, service provider, Respondent, offeror, lobbyist or consultant and any member of Region 10 ESC's Board of Directors;

Communications between any director and any member of a selection or evaluation committee; and

Communications between any director and administrator or employee.

The communications prohibition shall not apply to the following:

1. Communications with Region 10 ESC's purchasing agent specifically named and authorized to conduct and receive such communications under this RFP or upon the request of Region 10 ESC, with Region 10 ESC's legal counsel; and
2. Presentations made to the Board of Directors during any duly noticed public meeting at which the solicitation is under consideration and the Vendor has been invited to present to the Board.

Nothing contained herein shall prohibit any person or entity from publicly addressing Region 10 ESC's Board of Directors during any duly noticed public meeting, in accordance with applicable Board policies, on a matter other than this RFP, or in connection with a presentation requested by Region 10 ESC's representatives.

VI. **Addenda:** if required, will be issued by Region 10 ESC to all those known to have received a complete set of Proposal documents. The vendor shall acknowledge on the Signature Form the number of addenda received.

**VII. Calendar of events (subject to change):**

<b><u>Event</u></b>	<b><u>Date:</u></b>
Issue RFP	10/21/2022
Deadline for questions	11/11/2022
Issue Addendum/a (if required)	11/14/2022
Proposal Due Date	11/21/2022
Approval from Region 10 ESC	12/16/2022
Contract Effective Date	1/1/2023

**CONDITIONS OF SUBMITTING PROPOSALS**

VIII. **Amendment of Proposal:** A proposal may be amended up to the time of opening by amending the proposal submitted in the Bonfire procurement application.

**IX. Withdrawal of proposals:** Withdrawal of proposals prior to the opening date will be permitted. Withdrawal of proposal will not be allowed for a period of 120 days following the opening. Pricing will remain firm for 120 days from submittal. However, consideration may be given in cases where Respondent advises that it made a clerical error that is substantially lower than it intended. In such case, Respondent must provide written notice of their desire to withdraw, along with supporting documents, within three (3) business days of receiving the acceptance letter. Any contracts entered into prior to Region 10 ESC receiving notice must be honored.

No Respondent should assume that their withdrawal request has been accepted unless, and until, they receive written acknowledgment and acceptance of their proposal withdrawal.

**X. Clarifications:** Region 10 ESC may, by written request, ask a Respondent for additional information or clarification after review of the proposals received for the sole purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal. Clarification does not give Respondent an opportunity to revise or modify its proposal, except to the extent that correction of apparent clerical mistakes results in a revision. Region 10 ESC will not assist Respondent in bringing its proposal up to the level of other proposals through discussions. Region 10 ESC will not indicate to Respondent a cost or price that it must meet to either obtain further consideration nor will it provide any information about other Respondents' proposals or prices.

**XI. Best and Final Offer:** Region 10 ESC, in its sole discretion, may request all Offerors in the competitive range to submit a Best and Final Offer. Offerors must submit their Best and Final Offers in writing. If an Offeror does not respond to the request for a Best and Final Offer, that Offeror's most recent prior offer will be considered to be its Best and Final Offer.

**XII. Specifications:** When a solicitation contains a specification that states no substitutions, no deviation from this requirement will be permitted. Respondent must comply with the true intent of the specifications and drawings and not take advantage of any unintentional error or omission. In cases where no type and kind of product is specified, Region 10 ESC specifications have been developed to indicate minimal standards as to the usage, materials, and contents based on the needs of the members.

References to manufacturer's specifications (Design Guides), when used by Region 10 ESC, are to be considered informative to give the Respondent information as to the general style, type and kind requested. Responses proposing goods, materials or equipment regularly produced by a reputable manufacturer shall be evaluated by Region 10 ESC which will, in its sole discretion, determine whether such proposed goods, materials or equipment are substantially equivalent to the Design Guides, considering quality, workmanship, economy of operation, and suitability for the purpose intended. Respondents should include all documentation required to evaluate whether or not their proposed goods, materials or equipment are substantially equivalent to the Design Guides.

**XIII. Quality of Materials or Services:** Respondent shall state the brand name and number of the materials being provided. If none is indicated, then it is understood that the Respondent is quoting on the exact brand name and number specified or mentioned in the solicitation.

However, unless specifically stated otherwise and in accordance with purchasing laws and regulations, comparable substitutions will be permitted in cases where the material is equal to that specified, considering quality, workmanship, economy of operation and suitability for the purpose intended.



- XIV. **Deviations and Exceptions:** Deviations or exceptions stipulated in response may result in disqualification. It is the intent of Region 10 ESC to award a manufacturer's complete line of products, when possible.
- XV. **Change Orders:** The awarded vendor shall follow the requirements of all specifications and drawings as closely as construction will permit. Should existing conditions or limitations require a major change or rearrangement, the change shall be allowed only upon issuance by Region 10 ESC of a written change order. Participating agency and awarded vendor shall establish a procedure for identifying and approving changes to the work. Procedure shall include provisions for field change orders. Change orders shall be properly documented in writing.
- XVI. **Manufacturer's Representative:** Respondents submitting proposals as a manufacturer's representative shall be able to supplement offer with a letter from the manufacturer certifying that Respondent is an actual dealer for that manufacturer and that the Respondent is authorized to submit a proposal for that product, and which guarantees that if the Respondent should fail to satisfactorily fulfill any obligations established as a result of the award of contract, the manufacturer will either assume the Respondent's obligations or arrange for fulfillment through another competent dealer to complete the balance of the project.
- XVII. **Formation of Contract:** A response to this solicitation is an offer to contract with Region 10 ESC based upon the terms, conditions, scope of work, and specifications contained in this request. A solicitation does not become a contract until it is awarded by Region 10 ESC. A contract is formed when Region 10 ESC's board or designee signs the Vendor Contract Signature Form. The prospective vendor must submit a signed Vendor Signature Form with the response, thus eliminating the need for a formal signing process.
- XVIII. **Estimated Quantities:** Region 10 ESC anticipates that a substantial number of participating members will enter into contracts resulting from this solicitation; however, Region 10 ESC makes no guarantee or commitment of any kind concerning quantities or usage of contracts resulting from this solicitation. The total annual volume for this contract category is estimated to be over \$1 million annually by year three (3) of the contract. This information is provided solely as an aid to contract vendors in preparing proposals only, and performance will be determined by other factors such as awarded supplier's competitiveness, and overall performance and support of the contract. The successful Vendor(s) discount and pricing schedule shall apply regardless of the volume of business under the contract.
- XIX. **Multiple Awards:** Membership includes a large number of potential entities which may utilize this contract throughout the nation. In order to assure that any ensuing contract(s) will allow Region 10 ESC to fulfill current and future needs, Region 10 ESC reserves the right to award contract(s) to multiple vendors. The decision to award multiple contracts, award only one contract, or to make no awards rests solely with Region 10 ESC.
- XX. **Non-Exclusive:** Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience and benefit of participating members. Region 10 ESC and participating entities reserve the right to obtain like goods and services from other sources.

## **AWARD PROCESS**

- XXI. **Award or rejection of proposals:** In accordance with applicable laws, rules, and regulations for public purchasing, award(s) will be made to the most responsive and responsible Respondent(s) whose proposal(s) is/are determined to be the best value and most advantageous to participating agencies, price and other factors considered. Region 10 ESC reserves the right to use a "Market Basket Survey" method, based on randomly selected criteria to determine the most responsive response. To qualify for evaluation, response must have been submitted on time, and satisfy all mandatory requirements identified in this document. Proposals that are materially non-responsive will be rejected and Region 10 ESC will provide notice of rejection to the Respondent.

XXII. **Evaluation Process:** In evaluating the responses the following predetermined criteria is considered:

Pricing (30 Points)  
Alignment to Region 10 Mission (20 Points)  
Software Reliability (10 Points)  
Customer Training and Support (20 Points)  
Qualification and Experience (10 Points)  
Ease of Use (10 Points)

**100 Total Possible Points**

XXIII. **Competitive Range:** It may be necessary to establish a competitive range. Factors from the predetermined criteria will be used to make this determination. Responses not in the competitive range are unacceptable and do not receive further award consideration.

XXIV. **Evaluation:** A committee will review and evaluate all responses and make a recommendation for award of contract(s). The recommendation for contract awards will be based on the predetermined criteria factors outlined in this solicitation, where each factor is assigned a point value based on its importance. Recommendation for award of a contract will be presented to the Region 10 ESC board of directors for final approval.

XXV. **Past Performance:** A vendor's performance and actions under previously awarded contracts regarding a vendor's actions under previously awarded contracts to schools, local, state, or federal agencies are relevant in determining whether or not the vendor is likely to provide quality goods and services to our members; including the administrative aspects of performance; the vendor's history of reasonable and cooperative behavior and commitment to customer satisfaction; and generally, the Respondent's businesslike concern for the interests of the customer.

**PROTEST OF NON-AWARD**

XXVI. **Protest Procedure:** Any protest of an award or proposed award must be filed in writing within ten (10) days from the date of the official award notification and must be received by 5:00 pm Central Time. No protest shall lie for a claim that the selected Vendor is not a responsible Respondent. Protests shall be filed with *Ms. Sue Hayes at Region 10 ESC, 400 E Spring Valley Rd, Richardson, TX 75081*. Protests shall follow Region 10 ESC complaint policy EF(LOCAL), a copy of which is available at <https://pol.tasb.org/Policy/Code/374?filter=EF>, and it must be on a form provided by Region 10 ESC, which will include the following:

1. Name, address and telephone number of protester
2. Original signature of protester or its representative
3. Identification of the solicitation by RFP number
4. Detailed statement of legal and factual grounds including copies of relevant documents; and the form of relief requested
5. Any protest review and action shall be considered final with no further formalities being considered.

**NON-COLLUSION, EMPLOYMENT AND SERVICES**

XXVII. **By signing the Offer and Acceptance form or other official contract form, the Respondent certifies that:**

1. It did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its offer; and
2. It does not discriminate against any employee, applicant for employment, or person to whom it provides services because of race, color, religion, sex, national origin, or disability and that it complies with all applicable federal, state, and local laws and executive orders regarding employment.

#### **LIMITATION OF LIABILITY**

XXVIII. **Waiver:** BY SUBMITTING A PROPOSAL, OFFER EXPRESSLY AGREES TO WAIVE ANY CLAIM IT HAS OR MAY HAVE AGAINST REGION 10 EDUCATION SERVICE CENTER, ITS DIRECTORS, OFFICERS, OR AGENTS AND THE MEMBERS ARISING OUT OF OR IN CONNECTION WITH (1) THE ADMINISTRATION, EVALUATION, RECOMMENDATION OF ANY PROPOSAL; (2) ANY REQUIREMENTS UNDER THE SOLICITATION, PROPOSAL PACKAGE, OR RELATED DOCUMENTS; (3) THE REJECTION OF ANY PROPOSAL OR ANY PART OF ANY PROPOSAL; AND/OR (4) THE AWARD OF A CONTRACT, IF ANY.

XXIX. REGION 10 ESC SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY COSTS INCURRED BY RESPONDENTS OR THE SELECTED VENDOR IN CONNECTION WITH RESPONDING TO THE RFP, PREPARING FOR ORAL PRESENTATIONS, PREPARING AND SUBMITTING A PROPOSAL, ENTERING OR NEGOTIATING THE TERMS OF A CONTRACT, OR ANY OTHER EXPENSES INCURRED BY A RESPONDENT. THE RESPONDENT OR SELECTED VENDOR IS WHOLLY RESPONSIBLE FOR ANY SUCH COSTS AND EXPENSES AND SHALL NOT BE REIMBURSED IN ANY MANNER BY REGION 10 ESC.

## Appendix A: QUESTIONNAIRE

### COMPANY PROFILE

1. What is your company's official registered name?
2. Please provide the main contact for questions and notifications regarding this RFP, including name, title, direct phone line, and email.
3. What is/are your corporate office location(s)?
4. Please provide a brief history of your company, including the year it was established.
5. What are your total annual sales for last three (3) years?
6. Diversity program - Do you currently have a diversity program or any diversity partners that you do business with?

☐ Yes

☐ No

- a. If the answer is yes, do you plan to offer your program or partnership through EdTech Exchange?

☐ Yes

☐ No

*(If the answer is yes, attach a statement detailing the structure of your program, along with a list of your diversity alliances and a copy of their certifications.)*

- b. Will the products accessible through your diversity program or partnership be offered to EdTech Exchange members at the same pricing offered by your company?

*(If answer is no, attach a statement detailing how pricing for participants would be calculated.)*

7. Diversity Vendor Certification Participation - It is the policy of some entities participating in EdTech Exchange to involve minority and women business enterprises (M/WBE), small and/or disadvantaged business enterprises, disabled veterans business enterprises, historically utilized businesses (HUB) and other diversity recognized businesses in the purchase of goods and services. Respondents shall indicate below whether or not they hold certification in any of the classified areas and include proof of such certification with their response.

- a. Minority Women Business Enterprise

Respondent certifies that this firm is an MWBE

☐ Yes ☐ No

List certifying agency: \_\_\_\_\_

- b. Small Business Enterprise (SBE) or Disadvantaged Business Enterprise (DBE)

Respondent certifies that this firm is a SBE or DBE

☐ Yes ☐ No

List certifying agency: \_\_\_\_\_

- c. Disabled Veterans Business Enterprise (DVBE)

Respondent certifies that this firm is an DVBE

☐ Yes ☐ No

List certifying agency: \_\_\_\_\_

d. Historically Underutilized Businesses (HUB)

Respondent certifies that this firm is an HUB

☐ Yes ☐ No

List certifying agency: \_\_\_\_\_

e. Historically Underutilized Business Zone Enterprise (HUBZone)

Respondent certifies that this firm is an HUBZone

☐ Yes ☐ No

List certifying agency: \_\_\_\_\_

f. Other

Respondent certifies that this firm is a recognized diversity certificate holder

☐ Yes ☐ No

List certifying agency: \_\_\_\_\_

### Pricing

8. Does the respondent agree to offer all future product introductions at prices that are proportionate to contract pricing offered herein?

☐ Yes

☐ No

(If answer is no, attach a statement detailing how pricing for participants would be calculated.)

9. Does pricing submitted include the required administrative fee?

☐ Yes

☐ No

10. Define your standard terms of payment.

### Alignment to Region 10 Mission

11. What instruction material and/or services does your software offer? In particular, identify the subject matter and grade levels your software covers.
12. How is your software aligned to Texas and other state standards?
13. What security protocols are in place to ensure the safe transmission of information being shared through your products and services?
14. Please provide any studies or proven test cases that demonstrate how well your software achieves the goal of improving student comprehension and success, or assisting teachers.

### Software Reliability

15. What is the guaranteed uptime for your software solution?
16. What compensation is available to customers in your SLA if uptimes are not met?
17. Provide the time windows and levels of service for both normal and emergency support provided in your SLA.

18. Describe any integrations your software can provide with other platforms.

### **Customer Training and Support**

19. Describe your company's Customer Service Department (hours of operation, number of service centers, etc.).
20. Describe your company's implementation process for training customers on your solution.
21. Describe how your company provides ongoing support and training to customers for your solution.

### **Qualifications and Experience**

22. Please provide contact information and resumes for the person(s) who will be responsible for the following areas.

#### Executive Contact

Contact Person: \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

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

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

#### Account Manager / Sales Lead

Contact Person: \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

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

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

#### Contract Management (if different than the Sales Lead)

Contact Person: \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

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

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

*Billing & Reporting/Accounts Payable*

Contact Person: \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

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

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

*Marketing*

Contact Person: \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

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

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

23. Provide a minimum of three (3) K-12 education customer references for product and/or services of similar scope dating within the past 3 years. Higher Education references are also acceptable. Provide the following information for each reference:

Entity Name

Contact Name and Title

City and State

Phone Number

Years Serviced

Description of Services

Annual Volume

24. List all cooperative and/or government group purchasing organizations of which your company is currently a member below.

Cooperative/GPO Name

Contract Number

Expiration Date

\_\_\_\_\_

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25. Describe your company's implementation and success with existing cooperative purchasing programs, if any, and provide the cooperative's name(s), contact person(s) and contact information as reference(s).
26. Provide information regarding whether your firm, either presently or in the past, has been involved in any litigation, bankruptcy, or reorganization.
27. Felony Conviction Notice – Please check applicable box:
- ☐ A publicly held corporation; therefore, this reporting requirement is not applicable
  - ☐ Is not owned or operated by anyone who has been convicted of a felony.
  - ☐ Is owned or operated by the following individual(s) who has/have been convicted of a felony.
- \*If the 3<sup>rd</sup> box is checked a detailed explanation of the names and convictions must be attached.

#### **Ease of Use**

28. Please provide log-in information for a sample account for the evaluation team to use to evaluate the ease of use of your proposed solution and/or a video submitted as a separate file in the Bonfire portal. Mp4 files are preferred for video submissions and should contain a simple demonstration of how customers would use your solution. Video submission may not be longer than 10 minutes long.

#### **Value Add**

Please include any additional products and/or services not included in the scope of the solicitation that you think will enhance and/or add value to this contract participating agencies. Please note, only products and services that are priced or listed as free in the Pricing Attachment will be considered to be offered through any resulting contract.



## **Appendix B: PRICING**

### **Pricing Attachment**

All pricing must be entered into the Excel template provided in the Bonfire portal for this RFP. Products/lines completed will be used to establish the extent of the Respondents product lines, services, warranties, etc. that are available. All services offered under this contract must be priced or listed as free in order to be made available under the contract.

### **Not to Exceed Pricing**

Region 10 ESC requests pricing be submitted as not to exceed for any participating entity.

- Unlike fixed pricing the awarded vendor can adjust submitted pricing lower if needed but cannot exceed original pricing submitted for solicitation.
- Vendor must allow for lower pricing to be available for similar product and service purchases.

### **Other Discounts or Enhanced Pricing**

Respondents should list any additional rebates, discounts off list, delivery size incentives or other price discounts not already provided. Respondents are encouraged to offer additional discounts for one-time delivery of large single orders to participating public agencies. Participating public agencies should seek to negotiate additional price concessions based on quantity purchases of any products offered under the Contract.

### **Other Restrictions and Fees**

Please provide any other relevant information, fees or restrictions for Purchasing Group Members to receive pricing or value under this contract, such as minimum order sizes, restocking fees, and/or any other relevant fee or restriction associated with this contract. Fees or restrictions not listed will not be allowed under this contract.

## Appendix C: VENDOR CONTRACT AND SIGNATURE FORM

*This Vendor Contract and Signature Form ("Contract") is made as of \_\_\_\_\_, by and between \_\_\_\_\_ ("Vendor") and Region 10 Education Service Center ("Region 10 ESC") for the purchase of Instruction Materials and Services Software ("the products and services").*

### RECITALS

WHEREAS, both parties agree and understand that the following pages will constitute the contract between the successful vendor(s) and Region 10 ESC, having its principal place of business at 400 E. Spring Valley Rd., Richardson, TX 75081.

WHEREAS, Vendor agrees to include, in writing, any required exceptions or deviations from these terms, conditions, and specifications; and it is further understood that, if agreed to by Region 10 ESC, said exceptions or deviations will be incorporated into the final contract "Vendor Contract."

WHEREAS, this contract consists of the provisions set forth below, including provisions of all attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any attachment, the provisions set forth below shall control.

WHEREAS, the Vendor Contract will provide that any state, county, special district, local government, school district, private K-12 school, technical or vocational school, higher education institution (including community colleges, colleges and universities, both public and private), other government agencies or non-profit organization may purchase products and services at prices indicated in the Vendor Contract upon registering and becoming a member with EdTech Exchange Coop.

#### 1. ARTICLE 1- GENERAL TERMS AND CONDITIONS

- 1.1. Awarded vendor shall perform all duties, responsibilities and obligations as set forth in this agreement, and required under the Vendor Contract.
- 1.2. Region 10 ESC shall perform its duties, responsibilities and obligations as set forth in this agreement, and required under the Vendor Contract.
- 1.3. Purchasing Procedure:
  - Purchase orders are issued by participating governmental agencies to the awarded vendor indicating on the PO "Per EdTech Exchange Coop Contract # XXXXXXXX."
  - Vendor delivers goods/services directly to the participating agency.
  - Awarded vendor invoices the participating agency directly.
  - Awarded vendor receives payment directly from the participating agency.
  - Awarded vendor reports sales quarterly to EdTech Exchange Coop.
- 1.4. Customer Support: The vendor shall provide timely and accurate technical advice and sales support to Region 10 ESC staff and participating agencies. The vendor shall respond to such requests within one (1) working day after receipt of the request.

2. ARTICLE 2- ANTICIPATED TERM OF AGREEMENT

- 2.1. The term of the Contract shall commence upon award and shall remain in effect for a period of one (1) year, unless terminated, canceled or extended as otherwise provided herein. The Contractor agrees that Region 10 ESC shall have the right, at its sole option, to renew the Contract for four (4) additional one-year periods or portions thereof. In the event that Region 10 ESC exercises such rights, all terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period with the possible exception of price and minor scope additions and/or deletions.
- 2.2. Renewal will take place automatically each year unless Region 10 ESC gives written notice to the awarded supplier at least ninety (90) days prior to the expiration.

3. ARTICLE 3- REPRESENTATIONS AND COVENANTS

- 3.1. Scope: This contract is based on the need to provide the economic benefits of volume purchasing and reduction in administrative costs through cooperative purchasing to schools and other members. Although contractors may restrict sales to certain public units (for example, state agencies or local government units), any contract that prohibits sales from being made to public school districts may not be considered. Sales without restriction to any Members are preferred. These types of contracts are commonly referred to as being "piggybackable".
- 3.2. Compliance: Master Interlocal Agreements between Region 10 ESC and its Members have been established under state procurement law.
- 3.3. Offeror's Promise: Offeror agrees all prices, terms, warranties, and benefits granted by Offeror to Members through this contract are comparable to or better than the equivalent terms offered by Offeror to any present customer meeting the same qualifications or requirements.

4. ARTICLE 4- FORMATION OF CONTRACT

- 4.1. Offeror Contract Documents: Region 10 ESC will review proposed offeror contract documents. Vendor's contract document shall not become part of Region 10 ESC's contract with vendor unless and until an authorized representative of Region 10 ESC reviews and approves it.
- 4.2. Form of Contract: The form of contract for this solicitation shall be the Request for Proposal, the awarded proposal(s) and best and final offer(s), this Partnership Agreement, and properly issued and reviewed purchase orders referencing the requirements of the Request for Proposals. If a firm submitting an offer requires Region 10 ESC and/or Member to sign an additional agreement, a copy of the proposed agreement must be included with the proposal.
- 4.3. Entire Agreement (Parol evidence): The contract, as specified above, represents the final written expression of agreement. All agreements are contained herein and no other agreements or representations that materially alter it are acceptable.
- 4.4. Assignment of Contract: No assignment of contract may be made without the prior written approval of Region 10 ESC. Purchase orders and payment can only be made to awarded vendor unless otherwise approved by Region 10 ESC. Awarded vendor is required to notify Region 10 ESC when any material change in operations is made that may adversely affect members (i.e. bankruptcy, change of ownership, merger, etc.).
- 4.5. Novation: If contractor sells or transfers all assets or the entire portion of the assets used to perform this contract, a successor in interest must guarantee to perform all obligations under

this contract. Region 10 ESC reserves the right to accept or reject any new party. A simple change of name agreement will not change the contractual obligations of contractor.

- 4.6. Contract Alterations: No alterations to the terms of this contract shall be valid or binding unless authorized and signed by a Region 10 ESC staff member.
- 4.7. Order of Precedence: In the event of a conflict in the provisions of the contract as accepted by Region 10 ESC, the following order of precedence shall prevail:
  - Special terms and conditions
  - General terms and conditions
  - Specifications and scope of work
  - Attachments and exhibits
  - Documents referenced or included in the solicitation
- 4.8. Supplemental Agreements: The entity participating in the Region 10 ESC contract and awarded vendor may enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in this contract i.e. invoice requirements, ordering requirements, specialized delivery, etc. Any supplemental agreement developed as a result of this contract is exclusively between the participating entity and awarded vendor. Neither Region 10 ESC, its agents, members and employees shall be made party to any claim for breach of such agreement.
- 4.9. Adding authorized distributors/dealers: Awarded vendors are prohibited from authorizing additional distributors or dealers, other than those identified at the time of submitting their proposal, to sell under their contract award without notification and prior written approval from Region 10 ESC. Awarded vendors must notify Region 10 ESC each time it wishes to add an authorized distributor or dealer. Purchase orders and payment can only be made to awarded vendor unless otherwise approved by Region 10 ESC. Pricing provided to members by added distributors or dealers must also be less than or equal to the pricing offered by the awarded contract holder, unless otherwise approved by Region 10 ESC.

5. ARTICLE 5- TERMINATION OF CONTRACT

- 5.1. Cancellation for Non-Performance or Contractor Deficiency: Region 10 ESC may terminate any contract if Members have not used the contract, or if purchase volume is determined to be low volume in any 12-month period. Region 10 ESC reserves the right to cancel the whole or any part of this contract due to failure by contractor to carry out any obligation, term or condition of the contract. Region 10 ESC may issue a written deficiency notice to contractor for acting or failing to act in any of the following:
  - Providing material that does not meet the specifications of the contract;
  - Providing work and/or material that was not awarded under the contract;
  - Failing to adequately perform the services set forth in the scope of work and specifications;
  - Failing to complete required work or furnish required materials within a reasonable amount of time;
  - Failing to make progress in performance of the contract and/or giving Region 10 ESC reason to believe that contractor will not or cannot perform the requirements of the contract; and/or
  - Performing work or providing services under the contract prior to receiving an authorized purchase order from Region 10 ESC or participating member prior to such work
- 5.2. Upon receipt of a written deficiency notice, contractor shall have ten (10) days to provide a satisfactory response to Region 10 ESC. Failure to adequately address all issues of concern may

result in contract cancellation. Upon cancellation under this paragraph, all goods, materials, work, documents, data and reports prepared by contractor under the contract shall become the property of the Member on demand.

- 5.3. Delivery/Service Failures: Failure to deliver goods or services within the time specified, or within a reasonable time period as interpreted by the purchasing agent or failure to make replacements or corrections of rejected articles/services when so requested shall constitute grounds for the contract to be terminated. In the event that the participating agency or entity must purchase in an open market, contractor agrees to reimburse the participating agency or entity, within a reasonable time period, for all expenses incurred.
- 5.4. Force Majeure: If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority; insurrections; riots; epidemics; landslides; lighting; earthquake; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.

- 5.5. Standard Cancellation: Region 10 ESC may cancel this contract in whole or in part by providing written notice. The cancellation will take effect 30 business days after the other party receives the notice of cancellation. After the 30th business day all work will cease following completion of final purchase order. Vendor may be requested to provide additional items not already on contract at any time.

## 6. ARTICLE 6- LICENSES

- 6.1. Duty to keep current license: Vendor shall maintain in current status all federal, state and local licenses, bonds and permits required for the operation of the business conducted by vendor. Vendor shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of services under the contract. Region 10 ESC reserves the right to stop work and/or cancel the contract of any vendor whose license(s) expire, lapse, are suspended or terminated.
- 6.2. Survival Clause: All applicable software license agreements, warranties or service agreements that were entered into between Vendor and Customer under the terms and conditions of the Contract shall survive the expiration or termination of the Contract. All Purchase Orders issued and accepted by Order Fulfiler shall survive expiration or termination of the Contract.

7. ARTICLE 7- DELIVERY PROVISIONS

- 7.1. Delivery: Vendor shall deliver said materials and/or services purchased on this contract to the Member issuing a Purchase Order. Conforming product shall be delivered within 7 days of receipt of Purchase Order. If delivery is not or cannot be made within this time period the vendor must receive authorization from the purchasing agency for the delayed delivery. At this point the participating entity may cancel the order if estimated shipping time is not acceptable.
- 7.2. Inspection & Acceptance: If defective or incorrect material is delivered, purchasing agency may make the determination to return the material to the vendor at no cost to the purchasing agency. The vendor agrees to pay any costs for the return shipment. Vendor shall be responsible for arranging the return of the defective or incorrect material.

8. ARTICLE 8- BILLING AND REPORTING

- 8.1. Payments: The entity using the contract will make payments directly to the awarded vendor. Payment shall be made after satisfactory performance, in accordance with all provisions thereof, and upon receipt of a properly completed invoice.
- 8.2. Invoices: The awarded vendor shall submit invoices to the participating entity clearly stating "Per EdTech Exchange Coop Contract # ETXXXXXXX". The shipment tracking number or pertinent information for verification shall be made available upon request.
- 8.3. Tax Exempt Status: Knowing and complying with the tax laws in each state is the sole responsibility of the vendor.
- 8.4. Reporting: The awarded vendor shall provide Region 10 ESC with an electronic accounting report, in a format prescribed by Region 10 ESC in Attachment A, on a quarterly basis summarizing all contract Sales for the applicable three month period. Reports of Contract Sales for Region 10 ESC and member agencies in each quarter shall be provided by awarded vendor to Region 10 ESC by the 10<sup>th</sup> business day of the following the close of the quarter. If there are no sales to report, Vendor is still required to communicate that information via email. Failure to provide a quarterly report of the administrative fees within the time and manner specified herein shall constitute a material breach of this contract and if not cured within thirty (30) days of written notice to Supplier shall be deemed a cause for termination of the contract at Region 10 ESC's sole discretion.

9. ARTICLE 9- PRICING

- 9.1. Best price guarantee: The awarded vendor agrees to provide pricing to Region 10 ESC and its participating entities that are the lowest pricing available and the pricing shall remain so throughout the duration of the contract. Pricing offered to Federal government buying consortiums for goods and services is exempt from this requirement. The awarded vendor, however, agrees to lower the cost of any product purchased through Region 10 ESC following a reduction in the manufacturer or publisher's direct cost.
- 9.2. Price increase: Should it become necessary or proper during the term of this contract to make any change in design or any alterations that will increase expense Region 10 ESC must be notified immediately. Price increases must be approved by Region 10 ESC and no payment for additional materials or services, beyond the amount stipulated in the contract, shall be paid without prior approval. All price increases must be supported by manufacturer documentation, or a formal cost justification letter. Awarded vendor must honor previous prices for thirty (30) days after approval and written notification from Region 10 ESC if requested. It is the awarded vendor's responsibility to keep all pricing up to date and on file with Region 10 ESC. All price changes must be provided to Region 10 ESC, using the same format as was accepted in the

original contract.

- 9.3. Additional Charges: All deliveries shall be freight prepaid, F.O.B. destination and shall be included in all pricing offered unless otherwise clearly stated in writing.
- 9.4. Price reduction and adjustment: Price reduction may be offered at any time during the contract and shall become effective upon notice of acceptance from Region 10 ESC. Special, time-limited reductions are permissible under the following conditions: 1) reduction is available to all Members equally; 2) reduction is for a specific time period, normally not less than thirty (30) days; 3) original price is not exceeded after the time-limit; and 4) Region 10 ESC has approved the new prices prior to any offer of the prices to a Member. Vendor shall offer Region 10 ESC any published price reduction during the contract period.
- 9.5. Administrative Fees: All pricing submitted to Region 10 ESC shall include the administrative fee to be remitted to Region 10 ESC by the awarded vendor. The awarded vendor agrees to pay a 1% administrative fee quarterly to Region 10 ESC of the total purchase amount paid to awarded vendor, less refunds, credits on returns, rebates and discounts, for the sale of products and/or services to Region 10 ESC and member agencies pursuant to the contract (as amended from time to time and including any renewal thereof) ("Contract Sales"). Region 10 ESC will invoice vendor after verifying quarterly reports. Administrative fee payments are to be paid by the awarded vendor to Region 10 ESC within thirty (30) days of receipt of invoice.

Additional administrative fees may be negotiated if awarded vendor and Region 10 ESC mutually agree to additional partnership elements. Any additional partnership elements and additional fees will be outlined in a contract amendment mutually agreed and signed by both parties.

- 9.6. The awarded vendor will receive early access to register for EdTech Exchange events and will receive EdTech Exchange signs for their conference booths as well as an EdTech Exchange partnership logo for use online.
- 9.7. The awarded vendor will also receive a 10% discount on registration for EdTech Exchange-related events. When revenue shared with Region 10 exceeds \$5,000, vendor will be able to reserve rooms in the Region 10 Spring Valley or Abrams Conference Center twice a year for vendor events to educate/train/demonstrate the awarded vendor's product, subject to availability. Region 10 ESC will also offer a 50% discount on registration and booking fees at this contract volume for EdTech Exchange-related events.

## 10. ARTICLE 10- PRICING AUDIT

- 10.1. Audit rights: Vendor shall, at Vendor's sole expense, maintain appropriate due diligence of all purchases made by Region 10 ESC and any entity that utilizes this Agreement. Region 10 ESC reserves the right to audit the accounting for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. Region 10 ESC shall have the authority to conduct random audits of Vendor's pricing that is offered to eligible entities at Region 10 ESC's sole cost and expense. Notwithstanding the foregoing, in the event that Region 10 ESC is made aware of any pricing being offered to eligible agencies that is materially inconsistent with the pricing under this agreement, Region 10 ESC shall have the ability to conduct an extensive audit of Vendor's pricing at Vendor's sole cost and expense. Region 10 ESC may conduct the audit internally or may engage a third-party auditing firm. In the event of an audit, the requested materials shall be provided in the format and at the location designated by Region 10 ESC or Region 10 ESC.

11. ARTICLE 11- OFFEROR PRODUCT LINE REQUIREMENTS

- 11.1. Current products: Proposals shall be for materials and equipment in current production and marketed to the general public and education/government agencies at the time the proposal is submitted.
- 11.2. Discontinued products: If a product or model is discontinued by the manufacturer, vendor may substitute a new product or model if the replacement product meets or exceeds the specifications and performance of the discontinued model and if the discount is the same or greater than the discontinued model.
- 11.3. New products/Services: New products and/or services that meet the scope of work may be added to the contract. Pricing shall be equivalent to the percentage discount for other products. Vendor may replace or add product lines to an existing contract if the line is replacing or supplementing products on contract, is equal or 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 solicitation. No products and/or services may be added to avoid competitive procurement requirements. Region 10 ESC may require additions to be submitted with documentation from Members demonstrating an interest in, or a potential requirement for, the new product or service. Region 10 ESC may reject any additions without cause.
- 11.4. Options: Optional equipment for products under contract may be added to the contract at the time they become available under the following conditions: 1) the option is priced at a discount similar to other options; 2) the option is an enhancement to the unit that improves performance or reliability.
- 11.5. Product line: Offerors with a published catalog may submit the entire catalog. Region 10 ESC reserves the right to select products within the catalog for award without having to award all contents. Region 10 ESC may reject any addition of equipment options without cause.
- 11.6. Warranty conditions: All supplies, equipment and services shall include manufacturer's minimum standard warranty and one (1) year labor warranty unless otherwise agreed to in writing.

12. ARTICLE 12- MISCELLANEOUS

- 12.1. Funding Out Clause: Any/all contracts exceeding one (1) year shall include a standard "funding out" clause. A contract for the acquisition, including lease, of real or personal property is a commitment of the entity's current revenue only, provided the contract contains either or both of the following provisions:  
"Retains to the entity the continuing right to terminate the contract at the expiration of each budget period during the term of the contract and is conditioned on a best efforts attempt by the entity to obtain appropriate funds for payment of the contract."
- 12.2. Disclosures: Offeror affirms that he/she has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with this contract.

Include a complete description of any and all relationships that might be considered a conflict of interest in doing business with participants in Region 10 ESC.

The Offeror affirms that, to the best of his/her knowledge, the offer has been arrived at



independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this contract.

- 12.3. Indemnity: The awarded vendor shall protect, indemnify, and hold harmless Region 10 ESC and its participants, administrators, employees and agents against all claims, damages, losses and expenses arising out of or resulting from the actions of the vendor, vendor employees or vendor subcontractors in the preparation of the solicitation and the later execution of the contract, including any supplemental agreements with members. Any litigation involving Region 10 ESC, its administrators and employees and agents will be in Dallas County, Texas. Any litigation involving Region 10 ESC members shall be in the jurisdiction of the participating agency.
- 12.4. Franchise Tax: The Offeror hereby certifies that he/she is not currently delinquent in the payment of any franchise taxes.
- 12.5. Marketing: Awarded vendor agrees to allow Region 10 ESC to use their name and logo within website, marketing materials and advertisement. Any use of Region 10 ESC name and logo or any form of publicity, inclusive of press releases, regarding this contract by awarded vendor must have prior approval from Region 10 ESC.
- 12.6. Certificates of Insurance: Certificates of insurance shall be delivered to the Region 10 ESC participant prior to commencement of work. The insurance company shall be licensed in the applicable state in which work is being conducted. The awarded vendor shall give the participating entity a minimum of ten (10) days' notice prior to any modifications or cancellation of policies. The awarded vendor shall require all subcontractors performing any work to maintain coverage as specified.
- 12.7. Legal Obligations: It is the Offeror's responsibility to be aware of and comply with all local, state, and federal laws governing the sale of products/services identified in this RFP and any awarded contract and shall comply with all while fulfilling the RFP. Applicable laws and regulation must be followed even if not specifically identified herein.
- 12.8. Boycott Certification: Respondents hereby certify that during the term of any Agreement, it does not boycott Israel and will not boycott Israel. "Boycott" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.
- 12.9. Open Records Policy: Because Region 10 ESC contracts are awarded by a governmental entity, responses submitted are subject to release as public information after contracts are executed. If a vendor believes that its response, or parts of its response, may be exempted from disclosure, the vendor must specify page-by-page and line-by-line the parts of the response, which it believes, are exempt. In addition, the Offeror must specify which exception(s) are applicable and provide detailed reasons to substantiate the exception(s). Offeror must provide this information on the "Acknowledgement and Acceptance to Region 10 ESC's Open Record Policy" form found at the beginning of this solicitation. Any information that is unmarked will be considered public information and released, if requested under the Public Information Act.

The determination of whether information is confidential and not subject to disclosure is the duty of the Office of Attorney General (OAG). Region 10 ESC must provide the OAG sufficient information to render an opinion and therefore, vague and general claims to confidentiality by the Offeror are not acceptable. Region 10 ESC must comply with the opinions of the OAG.

Region 10 ESC assumes no responsibility for asserting legal arguments on behalf of any vendor. Offeror are advised to consult with their legal counsel concerning disclosure issues resulting from this procurement process and to take precautions to safeguard trade secrets and other proprietary information.

After completion of award, these documents will be available for public inspection.

- 12.10. All parties agree that venue for any litigation arising from this contract shall lie in Richardson, Dallas County, Texas, and that the laws of the State of Texas shall govern the rights of the parties and the validity and interpretation of any purchase order, contract, or service agreement that shall arise from and include this proposal request.

[Remainder of Page Intentionally Left Blank- Signatures follow on Signature Form]

## CONTRACT SIGNATURE FORM

The undersigned hereby proposes and agrees to furnish goods and/or services in strict compliance with the terms, specifications and conditions at the prices proposed within response unless noted in writing. The undersigned further certifies that he/she is an officer of the company and has authority to negotiate and bind the company named below and has not prepared this proposal in collusion with any other Respondent and that the contents of this proposal as to prices, terms or conditions of said proposal have not been communicated by the undersigned nor by any employee or agent to any person engaged in this type of business prior to the official opening of this proposal.

### VENDORS MUST SUBMIT THIS FORM COMPLETED AND SIGNED WITH THEIR RESPONSE TO BE CONSIDERED

Prices are guaranteed: **120 days**

Company name

Address

City/State/Zip

Telephone No.

Fax No.

Email address

Printed name

Position with company

Authorized signature

**Term of contract** \_\_\_\_\_ **to** \_\_\_\_\_

Unless otherwise stated, all contracts are for a period of one (1) year with an option to renew annually for an additional four (4) years if agreed to by Region 10 ESC. Vendor shall honor all administrative fees for any sales made based on the contract whether renewed or not.

\_\_\_\_\_  
Region 10 ESC Authorized Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

**EdTech Exchange Contract Number** \_\_\_\_\_

#### **Appendix D: ADDITIONAL REQUIRED DOCUMENTS**

- DOC #1 Clean Air and Water Act
- DOC #2 Debarment Notice
- DOC #3 Lobbying Certification
- DOC #4 Contractors Requirements
- DOC #5 Antitrust Certification Statement
- DOC #6 Implementation of House Bill 1295
- DOC #7 Boycott Certification
- DOC #8 Terrorist State Certification
- DOC #9 Resident Certification
- DOC #10 Federal Funds Certification Form

#### **GENERAL TERMS & CONDITIONS ACCEPTANCE FORM**

- DOC #11 General Terms & Conditions and Acceptance Form

## **DOC #1 CLEAN AIR AND WATER ACT**

I, the Vendor, am in compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970, as Amended (42 U.S. C. 1857 (h), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15 as required under OMB Circular A-102, Attachment O, Paragraph 14 (1) regarding reporting violations to the grantor agency and to the United States Environment Protection Agency Assistant Administrator for the Enforcement.

Potential Vendor: \_\_\_\_\_

Title of Authorized Representative: \_\_\_\_\_

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

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

## DOC #2 DEBARMENT NOTICE

I, the Vendor, certify that my company has not been debarred, suspended or otherwise ineligible for participation in Federal Assistance programs under Executive Order 12549, "Debarment and Suspension", as described in the Federal Register and Rules and Regulations.

Potential Vendor: \_\_\_\_\_

Title of Authorized Representative: \_\_\_\_\_

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

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

### DOC #3 LOBBYING CERTIFICATION

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by Section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies, to the best of his/her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all sub-recipients shall certify and disclose accordingly.

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Signature of Respondent

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Date

## **DOC #4 CONTRACTOR CERTIFICATION REQUIREMENTS**

### **Contractor's Employment Eligibility**

By entering the contract, Contractor warrants compliance with the Federal Immigration and Nationality Act (FINA), and all other federal and state immigration laws and regulations. The Contractor further warrants that it is in compliance with the various state statutes of the states it will operate this contract in.

Participating Government Entities including School Districts may request verification of compliance from any Contractor or subcontractor performing work under this Contract. These Entities reserve the right to confirm compliance in accordance with applicable laws.

Should the Participating Entities suspect or find that the Contractor or any of its subcontractors are not in compliance, they may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

The Respondent complies and maintains compliance with the appropriate statutes which requires compliance with federal immigration laws by State employers, State contractors and State subcontractors in accordance with the E-Verify Employee Eligibility Verification Program.

Contractor shall comply with governing board policy of the Region 10 ESC Participating entities in which work is being performed.

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### **Fingerprint & Criminal Background Checks**

If required to provide services on school district property at least five (5) times during a month, contractor shall submit a full set of fingerprints to the school district if requested of each person or employee who may provide such service. Alternately, the school district may fingerprint those persons or employees. An exception to this requirement may be made as authorized in Governing Board policy. The district shall conduct a fingerprint check in accordance with the appropriate state and federal laws of all contractors, subcontractors or vendors and their employees for which fingerprints are submitted to the district. Contractor, subcontractors, vendors and their employees shall not provide services on school district properties until authorized by the District.

The Respondent shall comply with fingerprinting requirements in accordance with appropriate statutes in the state in which the work is being performed unless otherwise exempted.

Contractor shall comply with governing board policy in the school district or Participating Entity in which work is being performed.

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### **Business Operations in Sudan, Iran**

In accordance with A.R.S. 35-391 and A.R.S. 35-393, the Contractor hereby certifies that the contractor does not have scrutinized business operations in Sudan and/or Iran.

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Signature of Respondent

---

Date



**DOC #5 ANTITRUST CERTIFICATION STATEMENTS**  
**(Tex. Government Code § 2155.005)**

I affirm under penalty of perjury of the laws of the State of Texas that:

- (1) I am duly authorized to execute this contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below;
- (2) In connection with this proposal, neither I nor any representative of the Company has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;
- (3) In connection with this proposal, neither I nor any representative of the Company has violated any federal antitrust law; and
- (4) Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this proposal to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

**VENDOR** \_\_\_\_\_

**ADDRESS** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**PHONE** \_\_\_\_\_

**FAX** \_\_\_\_\_

**RESPONDANT**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Position with Company

**AUTHORIZING OFFICIAL**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Position with Company

## **DOC #6 IMPLEMENTATION OF HOUSE BILL 1295**

### **Certificate of Interested Parties (Form 1295):**

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The law applies only to a contract of a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million. The disclosure requirement applies to a contract entered into on or after January 1, 2016.

The Texas Ethics Commission was required to adopt rules necessary to implement that law, prescribe the disclosure of interested parties form, and post a copy of the form on the commission's website. The commission adopted the Certificate of Interested Parties form (Form 1295) on October 5, 2015. The commission also adopted new rules (Chapter 46) on November 30, 2015, to implement the law. The commission does not have any additional authority to enforce or interpret House Bill 1295.

### **Filing Process:**

Starting on January 1, 2016, the commission will make available on its website a new filing application that must be used to file Form 1295. A business entity must use the application to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certification number. An authorized agent of the business entity must sign the printed copy of the form and have the form notarized. The completed Form 1295 with the certification of filing must be filed with the governmental body or state agency with which the business entity is entering into the contract.

The governmental entity or state agency must notify the commission, using the commission's filing application, of the receipt of the filed Form 1295 with the certification of filing not later than the 30th day after the date the contract binds all parties to the contract. The commission will post the completed Form 1295 to its website within seven business days after receiving notice from the governmental entity or state agency.

Information regarding how to use the filing application will be available on this site starting on January 1, 2016.  
[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

**DOC #7 BOYCOTT CERTIFICATION**

Respondent certifies that during the term of any Agreement, it does not boycott Israel and will not boycott Israel. "Boycott" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Respondent certifies that respondent does not boycott energy companies, and it will not boycott energy companies during the term of any subsequent contract. Pursuant to Texas Government Code Chapter 2274, as enacted in Senate Bill 13 of the 87th Texas Legislature, if respondent is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit which has ten (10) or more full-time employees and the value of the contract with the ESC is \$100,000 or more, the respondent must represent and warrant to the ESC that the respondent does not boycott energy companies and will not boycott energy companies during the term of any subsequent contract.

**DOC #8 TERRORIST STATE CERTIFICATION**

In accordance with Texas Government Code, Chapter 2252, Subchapter F, REGION 10 ESC is prohibited from entering into a contract with a company that is identified on a list prepared and maintained by the Texas Comptroller or the State Pension Review Board under Texas Government Code Sections 806.051, 807.051, or 2252.153. By execution of any agreement, the respondent certifies to REGION 10 ESC that it is not a listed company under any of those Texas Government Code provisions. Responders must voluntarily and knowingly acknowledge and agree that any agreement shall be null and void should facts arise leading the REGION 10 ESC to believe that the respondent was a listed company at the time of this procurement.

**DOC #9 NONDISCRIMINATION AGAINST FIREARM INDUSTRY CERTIFICATION**

Respondent certifies that respondent does not discriminate against firearm entities or firearm trade associations, and it will not discriminate against firearm entities or firearm trade associations during the term any subsequent contract. Pursuant to Texas Government Code Chapter 2274, as enacted in Senate Bill 19 of the 87th Texas Legislature, if respondent is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit which has ten (10) or more full-time employees and the value of the contract with the ESC is \$100,000 or more, the respondent must represent and warrant to the ESC that the vendor does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of any subsequent contract.

**DOC #10 RESIDENT CERTIFICATION:**

This Certification Section must be completed and submitted before a proposal can be awarded to your company. This information may be placed in an envelope labeled "Proprietary" and is not subject to public view. In order for a proposal to be considered, the following information must be provided. Failure to complete may result in rejection of the proposal:

As defined by Texas House Bill 602, a "nonresident Bidder" means a Bidder whose principal place of business is not in Texas, but excludes a contractor whose ultimate parent company or majority owner has its principal place of business in Texas.

Texas or Non-Texas Resident

- ☐ I certify that my company is a "**resident Bidder**"
- ☐ I certify that my company qualifies as a "**nonresident Bidder**"

If you qualify as a "nonresident Bidder," you must furnish the following information:

What is your resident state? (The state your principal place of business is located.)

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Company Name

Address

---

City

State

Zip

## DOC #11      FEDERAL FUNDS CERTIFICATION FORM

When a participating agency seeks to procure goods and services using funds under a federal grant or contract, specific federal laws, regulations, and requirements may apply in addition to those under state law. This includes, but is not limited to, the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR 200 (sometimes referred to as the “Uniform Guidance” or “EDGAR” requirements). All Vendors submitting proposals must complete this Federal Funds Certification Form regarding Vendor’s willingness and ability to comply with certain requirements which may be applicable to specific participating agency purchases using federal grant funds. This completed form will be made available to participating agencies for their use while considering their purchasing options when using federal grant funds. Participating agencies may also require Vendors to enter into ancillary agreements, in addition to the contract’s general terms and conditions, to address the member’s specific contractual needs, including contract requirements for a procurement using federal grants or contracts.

**For each of the items below, Vendor should certify Vendor’s agreement and ability to comply, where applicable, by having Vendor’s authorized representative complete and initial the applicable lines after each section and sign the acknowledgment at the end of this form.** If a vendor fails to complete any item in this form, Region 10 ESC will consider the Vendor’s response to be that they are unable or unwilling to comply. A negative response to any of the items may, if applicable, impact the ability of a participating agency to purchase from the Vendor using federal funds.

### 1. Vendor Violation or Breach of Contract Terms:

Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 USC 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Any Contract award will be subject to Region 10 ESC General Terms and Conditions, as well as any additional terms and conditions in any Purchase Order, participating agency ancillary contract, or Member Construction Contract agreed upon by Vendor and the participating agency which must be consistent with and protect the participating agency at least to the same extent as the Region 10 ESC Terms and Conditions.

The remedies under the Contract are in addition to any other remedies that may be available under law or in equity. By submitting a Proposal, you agree to these Vendor violation and breach of contract terms.

Does vendor agree? \_\_\_\_\_

(Initials of Authorized Representative)

### 2. Termination for Cause or Convenience:

When a participating agency expends federal funds, the participating agency reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Offeror in the event Offeror fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order; (2) make any payments owed; or (3) otherwise perform in accordance with the contract and/or the procurement solicitation. participating agency also reserves the right to terminate the contract immediately, with written notice to offeror, for convenience, if participating agency believes, in its sole discretion that it is in the best interest of participating agency to do so. Offeror will be compensated for work performed and accepted and goods accepted by participating agency as of the termination date if the contract is terminated for convenience of participating agency. Any award under this procurement process is not exclusive and participating agency reserves the right to purchase goods and services from other offerors when it is in participating agency’s best interest.

Does vendor agree? \_\_\_\_\_

(Initials of Authorized Representative)

### 3. Equal Employment Opportunity:

Except as otherwise provided under 41 CFR Part 60, all participating agency purchases or contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 shall be deemed to include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

The equal opportunity clause provided under 41 CFR 60-1.4(b) is hereby incorporated by reference. Vendor agrees that such provision applies to any participating agency purchase or contract that meets the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 and Vendor agrees that it shall comply with such provision.

Does vendor agree? \_\_\_\_\_

(Initials of Authorized Representative)

### 4. Davis-Bacon Act:

When required by Federal program legislation, Vendor agrees that, for all participating agency prime construction contracts/purchases in excess of \$2,000, Vendor shall comply with the Davis-Bacon Act (40 USC 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, Vendor is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determinate made by the Secretary of Labor. In addition, Vendor shall pay wages not less than once a week.

Current prevailing wage determinations issued by the Department of Labor are available at [www.wdol.gov](http://www.wdol.gov). Vendor agrees that, for any purchase to which this requirement applies, the award of the purchase to the Vendor is conditioned upon Vendor's acceptance of the wage determination.

Vendor further agrees that it shall also comply with the Copeland "Anti-Kickback" Act (40 USC 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

Does vendor agree? \_\_\_\_\_

(Initials of Authorized Representative)

### 5. Contract Work Hours and Safety Standards Act:

Where applicable, for all participating agency contracts or purchases in excess of \$100,000 that involve the employment of mechanics or laborers, Vendor agrees to comply with 40 USC 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 USC 3702 of the Act, Vendor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 USC 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Does vendor agree? \_\_\_\_\_

(Initials of Authorized Representative)

## **6. Right to Inventions Made Under a Contract or Agreement:**

If the participating agency's Federal award meets the definition of "funding agreement" under 37 CFR 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance or experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Vendor agrees to comply with the above requirements when applicable.

Does vendor agree? \_\_\_\_\_

(Initials of Authorized Representative)

## **7. Clean Air Act and Federal Water Pollution Control Act:**

Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act (33 USC 1251-1387), as amended – Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act, as amended (33 USC 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

When required, Vendor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act.

Does vendor agree? \_\_\_\_\_

(Initials of Authorized Representative)

## **8. Debarment and Suspension:**

Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1966 Comp. p. 189) and 12689 (3CFR Part 1989 Comp. p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Vendor certifies that Vendor is not currently listed on the government-wide exclusions in SAM, is not debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549. Vendor further agrees to immediately notify the Cooperative and all participating agencies with pending purchases or seeking to purchase from Vendor if Vendor is later listed on the government-wide exclusions in SAM, or is debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Does vendor agree? \_\_\_\_\_

(Initials of Authorized Representative)

## **9. Byrd Anti-Lobbying Amendment:**

Byrd Anti-Lobbying Amendment (31 USC 1352) -- Vendors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Each tier must also disclose any lobbying with non-

Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. As applicable, Vendor agrees to file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 USC 1352).

Does vendor agree? \_\_\_\_\_

(Initials of Authorized Representative)

#### **10. Procurement of Recovered Materials:**

For participating agency purchases utilizing Federal funds, Vendor agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act where applicable and provide such information and certifications as a participating agency may require to confirm estimates and otherwise comply. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery, and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Does vendor agree? \_\_\_\_\_

(Initials of Authorized Representative)

#### **11. Profit as a Separate Element of Price:**

For purchases using federal funds in excess of \$150,000, a participating agency may be required to negotiate profit as a separate element of the price. See, 2 CFR 200.323(b). When required by a participating agency, Vendor agrees to provide information and negotiate with the participating agency regarding profit as a separate element of the price for a particular purchase. However, Vendor agrees that the total price, including profit, charged by Vendor to the participating agency shall not exceed the awarded pricing, including any applicable discount, under Vendor's Cooperative Contract.

Does vendor agree? \_\_\_\_\_

(Initials of Authorized Representative)

#### **12. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment**

Vendor agrees that recipients and subrecipients are prohibited from obligating or expending loan or grant funds to procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system from companies described in Public Law 115-232, section 889. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country are also prohibited.

Does vendor agree? \_\_\_\_\_

(Initials of Authorized Representative)

#### **13. General Compliance and Cooperation with Participating Agencies:**

In addition to the foregoing specific requirements, Vendor agrees, in accepting any Purchase Order from a participating agency, it shall make a good faith effort to work with participating agencies to provide such information and to satisfy such requirements as may apply to a particular participating agency purchase or purchases including, but not limited to, applicable recordkeeping and record retention requirements.



Does vendor agree? \_\_\_\_\_

(Initials of Authorized Representative)

#### **14. Applicability to Subcontractors**

Offeror agrees that all contracts it awards pursuant to the Contract shall be bound by the foregoing terms and conditions.

Does vendor agree? \_\_\_\_\_

(Initials of Authorized Representative)

By signature below, I certify that the information in this form is true, complete, and accurate and that I am authorized by my company to make this certification and all consents and agreements contained herein.

\_\_\_\_\_

Company Name

\_\_\_\_\_

Signature of Authorized Company Official

\_\_\_\_\_

Printed Name

\_\_\_\_\_

Title

\_\_\_\_\_

Date

## DOC #12 GENERAL TERMS & CONDITIONS ACCEPTANCE FORM

*Signature on the Vendor Contract Signature form certifies complete acceptance of the General Terms and Conditions in this solicitation, except as noted below (additional pages may be attached, if necessary).*

### Check one of the following responses to the General Terms and Conditions:

☐ We take no exceptions/deviations to the general terms and conditions

*(Note: If none are listed below, it is understood that no exceptions/deviations are taken.)*

☐ We take the following exceptions/deviations to the general terms and conditions. All exceptions/deviations must be clearly explained and listed below. **Redlining the terms and conditions in the document above is unacceptable and may result in your proposal being removed from consideration.** Reference the corresponding general terms and conditions that you are taking exceptions/deviations to. Clearly state if you are adding additions terms and conditions to the general terms and conditions. Provide details on your exceptions/deviations below:

*(Note: Unacceptable exceptions shall remove your proposal from consideration for award. Region 10 ESC shall be the sole judge on the acceptance of exceptions/deviations and the decision shall be final.)*