

# **US Educational Technology Purchasing Alliance Information Technology Equipment & Services**

## **Request for Proposal For:**

**Security and Detection Products, Professional Services for Evaluation, Design, Planning, Installation, and Configuration and all related Products, Services and Solutions.**

**Issue Date: September 19, 2019**

**Deadline for Questions: September 30, 2019**

**RFP Response Date: October 21, 2019**

**Awards Date: October 28, 2019**

### **RFP Contact**

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## US Educational Technology Purchasing Alliance

### (USETPA)Se

July 19, 2019

#### Request for Proposals

#### Notice to Proposers of Terms and Conditions

This RFP is co-authored by Lake Bluff School District 65 (IL) and the USETPA on behalf of its clients and subscriber institutions. The USETPA is not currently seeking goods or services but are conducting this bid for the purpose of accelerating public funding and obtaining advantageous pricing. Any questions regarding the RFP must be made by email ([info@usetpa.com](mailto:info@usetpa.com)) to the USETPA. Directly contacting the above school district will result in disqualification from the bidding process.

The US Educational Technology Purchasing Alliance (USETPA) is non-profit issuing contracts on behalf of a consortium of Subscribers (schools/school systems/libraries/Head Start Agencies/local government units/community colleges/higher educational institutions and other public entities) to obtain the best available pricing for goods/services to be purchased by the Subscribers. The USETPA has Subscribers in multiple states. The contracts issued by the consortium are used both for securing government funding and for Convenience Contract purposes. The contracts are managed on behalf of the USETPA and its subscribers by Consortia Purchasing Advisors, LLC.

Vendors may have geographical limitations to their response. Appendix G must be completed to indicate in which states the response is to be considered valid. Vendors may further separate pricing into multiple geographic responses if there is a cause for a pricing variance. Please explain, in detail, the reasons in the RFP response.

It is also understood that state and local procurement law(s) as well as subscriber preference(s), can dictate that users of convenience contracts select firms that have distribution/licensing/registration and/or sales and service facilities located within their home state. Appendix G also requires that respondents indicate in which states a physical presence is maintained.

**Co-authored by the US Educational Technology Purchasing Alliance. (Any questions regarding the RFP must be made by email ([info@usetpa.com](mailto:info@usetpa.com)) to the USETPA; directly as contacting this local district, Lake Bluff School District 65 (IL), will result in disqualification from the bidding process).** We are seeking qualified Vendor(s) to supply the following:

## Categories List:

### Category 1 (One): Detection Infrastructure/Services:

**A. Scope of Work:** Vape Detection Sensors, applicable equipment and installation services, at consortium level discounted pricings. Response should clearly define complete functionality of solution, possibly including but not limited to; Vape detection, THC detection, sound detection, air quality monitoring, and chemical detection. Agencies include educational institutions, cities, counties, nonprofits, other governmental agencies, or other entities contracted on behalf of a participating agency. A qualified vendor shall have established a percentage discount from a catalog list, published prices, or price list. Discounts may be submitted for an entire catalog or for specific product categories or manufacturer categories.

**Objective:** USETPA's objective is to achieve cost savings through a single competitive solicitation process. This process eliminates a vendor from responding to multiple quotes and proposals allowing for the reduction in administrative and overhead costs through USETPA's purchasing procedures.

USETPA intends to award this solicitation to one or more vendors based on who can offer an acceptable proposal that can be of benefit to all participating agencies. Manufacturers may respond directly and will be required to identify regional suppliers to execute the contract as long as pricing is consistent in the service area and designated suppliers adhere to the terms outlined in this solicitation.

USETPA encourages providers of all manufacturers/brands to bid, providing the following criteria are met:

1. Pricing discounts offered on a full range of quality products and supplies.
2. Warranty protection.
3. Training and support, when applicable.
4. Installation, when applicable.

**B. Quantity History:** The contract(s) resulting from this solicitation will be Indefinite Delivery, Indefinite Quantity (IDIQ) contract(s). This solicitation category is new for USETPA and is being conducted on behalf of participation agencies.

Numerous factors could cause the actual value of the contract(s) resulting from this solicitation to vary substantially from the historical value. Such factors include, but are not limited to, the following:

1. There is no guarantee of volume to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous purchases; and

2. The individual value of each contract is indeterminate and will depend upon actual participating agency demand, and actual quantities ordered during the contract period.

Vendors may subdivide the Category for pricing discounts. **Vendors may specify different discount level(s) for volume purchase(s) or offer volume purchase discounts to USETPA at any time through this RFP during the contract period. All pricing discounts are made on a 'to not exceed' basis meaning that vendors may elect to offer prices lower than those stated in their bid, but not higher.**

The purpose of this document is to provide general and specific information for use by Vendor(s) in submitting a proposal to supply the USETPA with information technology goods and services as listed above in accordance with N.C.G.S. 143-1 29.8. The USETPA intends to award an indefinite quantity contract for a five-year term, with the option of an extension in and equal term as a result of this RFP. We will select a qualified Vendor(s) with whom we will develop a mutually beneficial contractual relationship. Our decision to award will be based on an evaluation of the proposal that offers the best overall benefit to the USETPA for pricing, maintenance and support, and any value-added services.

You are being asked to submit a proposal in a **sealed** envelope at this time in accordance with the attached specifications and within the terms and conditions herein set forth, as well as an electronic version of the same proposal.



**Address for sealed bid submission:**

**USETPA**  
**Attn: Senior Contract Administrator, (Vendor Name) Request for Proposals**  
**3100 Dick Pond Rd, Ste E.**  
**Myrtle Beach, SC 29588**

Individual manufacturer/distributor certified dealers and/or Original Equipment Manufacturers (OEM) are encouraged to submit bids, even if only a selection of the equipment/services are bid (ex: switches and/or wireless access points) as long as this is specified on the bid page. Do not list items if you are not submitting bids on those items.

For this solicitation the US Educational Technology Purchasing Alliance, will allow schools, libraries and other public agencies to purchase under the terms and conditions of the contract established with the selected vendor under the provisions of N.C.G.S. 143-129(e)(3).

## US Educational Technology Purchasing Alliance Request for Proposals

### I. SCOPE

#### 1.1 REQUIREMENT

The USETPA is soliciting proposals from qualified companies to enter into a Master Agreement for Technology Equipment/Services including but not limited to those specifically mentioned in this RFP. The RFP is subject to USETPA General Conditions and Instructions to Proposers and Special Provisions (Ref. Paragraph 2).

The Vendor(s) must deal directly with any USETPA client/subscriber (herein "Participating USETPA Subscriber") concerning product/service orders, credit applications, purchase and lease documents, collection disputes, invoicing, and payment. USETPA or its Subscribers shall not be held liable for any costs, damages, etc., incurred by any Participating USETPA Subscriber.

This Master Convenience Contract is a result of this Request for Proposal dated September 19, 2019 and shall be construed to be in accordance with and governed by the laws of the State of North Carolina.

Each Participating USETPA Subscriber enters into the Master Convenience Contract that allows the Participating USETPA Subscriber to purchase/finance products and services from the Vendor(s) in accordance with each participating USETPA Subscriber's purchasing policies and procedures.

#### 1.2 SCOPE OF PRODUCTS AND SERVICES

Responder should include all hardware and software provided through OEM agreements with the original manufacturer and included on the bidder's most recent published price list/catalog.

All new items to be furnished must be the manufacturer's current state-of-the-art and must be certified to be in current new production. All items delivered under this contract as new must be new. Refurbished items are not acceptable for new purchases.

#### 1.3 DEFINITIONS

##### **Contracted Manufacturer**

1. The original manufacturer awarded the contract to directly provide the products and services solicited in this document or
2. The holder of a re-labeling agreement authorized by the original manufacturer to provide sales and support of the products, directly or through certified sub-contractors.

### **Distribution/Channel Partner**

1. A third party distributor or channel partner named in the contract held by the original manufacturer as authorized to provide the sales and support of the products solicited in this document or
2. A third party holding the contract and authorized by the original manufacturer to provide sales and support of the products solicited in this document directly or through certified sub-contractors.

**Manufacturer Maintenance-** Manufacturer offered and supported maintenance plans to include access to the manufacturer's technical assistance center, advanced replacement of parts (drop shipped) or advanced replacement of parts with labor, Plans typically will provide the purchaser options related to the level of support and responsiveness/deliver intervals (e.g. 8-5 next business day, 24/7 with 4 hour delivery).

### **RFP- Request For Proposal**

#### **1.4 RESPONDER RESPONSIBILITIES**

For the purposes of this type of contract the responder should identify itself as one of the following:

1. The original manufacturer providing direct sales support of the products/services in full compliance with all terms and conditions of this contract.
2. The original manufacturer choosing to designate authorized distribution/channel partners certified to provide direct sales and support of the products in full compliance with all terms and conditions of this contract.
3. A third party authorized by the original manufacturer to provide sales and support of the products, directly or through certified sub-contractors in full compliance with all terms and conditions of this contract.
4. Holders of re-labeling agreements authorized by the original manufacturer to provide sales and support of the products, directly or through certified sub-contractors in full compliance with all terms and conditions of this contract.
5. A reseller of distributor authorized original manufacturer products.

The responder must quote discount percentages for each category of hardware, software, and manufacturer's maintenance included on the manufacturer's published price list/catalog or a percentage discount for each item or categories included on the notarized typed listing of retail prices. USETPA reserves the right to delete any items offered and deemed, at the sole discretion of USETPA, to be outside of the intended scope of this RFP.

The responder should submit with the proposal, a copy of the most recent manufacturer(s) published price list/catalog and the GSA price list if available. In the event that the published price list/catalog does not exist, a signed and notarized typed listing of retail prices and discounts of all categories (items if necessary) offered in the RFP response should be

submitted. Such price list/catalogs shall be for informational purposes only, terms and conditions contained therein are not applicable to this agreement. This price list and discount shall be updated as prices/discounts are changed or discontinued/added.

The responder should submit with the proposal, a copy of the current warranty offered by the manufacturer for each category of hardware/software bid(s).

- a. If not the original manufacturer, the responder should submit with proposal, documentation from the manufacturer certifying that the responding company is authorized to sell and support the products proposed.
- b. If the responder is not authorized to service the products, the responder shall list the name(s), address(s) and phone number(s) of the manufacturer authorized/certified third party that will be utilized for service in full compliance with the terms and conditions of this contract and provide documentation of the agreement with the said third party.

The responder shall quote an hourly rate schedule for two (2) types of initial support upon request, or provide a fixed price Statement of Work (SOW) for deliverable-based services to the client.

- 1) Equipment Installation
- 2) Initial Software Configuration.

Both types of support shall only be made available by the responder and purchased by the Subscriber in direct support of, and in conjunction with a release order for the purchase of the hardware and software.

All documentation requested in the invitation to RFP should be submitted with the RFP response. Any documentation, verification or clarification requested during the evaluation must be provided by the date required in the request for additional information. Failure to provide the requested information in the time allowed may result in the rejection of the bid response

Responder **MUST** obtain a Letter of Authorization from the manufacturer/distributor and **MUST** include the letter with their bid response.

- 1) The Letter of Authorization **MUST** be on the Manufacturer's Letterhead stationery, dated and be signed by the Manufacturer's account executive responsible for the authorization.
- 2) The Letter of Authorization **MUST** certify that the bidder is an authorized manufacturer's representative/reseller and that an agreement exists between the Responder and manufacturer to supply the manufacturer's line of products to the USETPA Subscriber Purchasing Group.
- 3) Responder must notify USETPA and all current/future clients immediately of any change in the manufacturer authorization.
- 4) Channel Partner Agreements are acceptable provided they include all information and signatures in 1, 2 & 3 above.)

The Responder MUST be able to provide full time sales and repair/warranty staff and should have it be available a minimum of eight (8) hours per business day. The USETPA Subscriber(s) desire that each Responder provide a toll free 1-800 telephone number for this Help Desk Service. Each Responder must provide the Name of Dealer(s) or branch office(s), Location(s) and Function(s) (sales, help desk, installation, inventory, warranty, etc.) of the offices that will provide technical and administrative support in the successful execution of this contract. Each Responder MUST provide a list of certified installation/maintenance/warranty technicians, including their certifications, on staff at the time of the response, upon the client's request.

Responders MUST be actively merchandising the manufacturer's products, which will be evidenced by sales, finished goods inventory in warehouse facilities and installed products in the field, and warranty/repair facilities to service the contract.

Each Responder MUST provide a Letter of Line of Credit or equivalent from a reputable third party financing corporation which clearly states the Responder has a minimum Line of Credit or equivalent of at least Five hundred thousand dollars (\$500,000.00) or equivalent.

Each OEM responder must provide a list of authorized partner/distributors, and the OEM contact(s) responsible for maintaining this list.

## 1.5 CALENDAR OF EVENTS

**Issue Date of RFP: September 19, 2019**

**Deadline to receive Inquiries: September 30, 2019**

**Potential Reseller Q&A Session (not required): October 02, 2019**

(04:00pm, 1340 Environ Way, Chapel Hill, NC 27517, Advance notice of attendance required no later than September 25, 2019)

**Request for Proposal Deadline: 4:00pm, October 21, 2019**

(Any RFP submissions received after 4:00pm will not be considered)

**Public Opening of Responses: 4:30pm, October 21, 2019**

(1340 Environ Way, Chapel Hill, NC 27517)

**Awards Announcement Deadline: October 28, 2019 (posted online at <http://usetpa.org>)**

## 1.6 RESPONDER INQUIRIES

No negotiations, decisions, or actions shall be executed by any responder as a result of any oral discussions with any USETPA/USETPA Subscriber Employee, or USETPA Consultant. Only those transactions, which are in writing, issued and an Addendum and/ or Informational

Notice from USETPA Purchasing may be considered as valid. Likewise, USETPA shall only consider communications from responders which are signed and on company letterhead and/or submitted and an attachment via email. USETPA will accept inquiries via mail, certified mail, email or fax and telephone as indicated in the RFP.

### 1.7 SIGNATURE AUTHORITY

The person signing the response must:

1. Be a current corporate officer, partnership Subscriber or other individuals specifically authorized to submit a bid as reflected in the appropriate records on file with the Secretary of State; or
2. Be an individual authorized to bind the vendor as reflected by a corporate resolution, certificate or affidavit; or
3. Submit other documents indicating authority which are acceptable to the public entity.

### 1.8 SIGNATURE

At least one copy of the RFP shall be signed in original ink by an authorized employee, agent, or representative of the bidder.

### 1.9 NUMBERS OF COPIES OF RESPONSE

One (1) Bidder authorized original signature RFP response is required. One (1) additional electronic copy of the RFP response is also required. The Digital copy may be on CD or flash drive, or uploaded to a cloud site where the USETPA can download the file(s). One (1) proposed contract with USETPA must be included with the response if different from the Appendix C.

### 1.10 DELIVERY OF RESPONSES

Responder is solely responsible for ensuring that its courier service provider makes inside deliveries to the USETPA physical location. USETPA is not responsible for any delays caused by the responder's chosen means of delivery.

Responder is solely responsible for the timely delivery of its RFP. Failure to meet the RFP opening and deadline shall result in the rejection of the RFP.

**ALL RESPONSES TO RFP REQUEST BECOME A MATTER OF PUBLIC RECORD AT THAT TIME. BY SUBMITTING AN RFP, RESPONDER SPECIFICALLY ASSUMES ANY AND ALL RISKS AND LIABILITY ASSOCIATED WITH INFORMATION MARKED CONFIDENTIAL IN THE RFP AND THE RELEASE OF ANY INFORMATION.**

### 1.11 NON-EXCLUSIVE CONTRACT

This contract is non-exclusive and shall not in any way preclude the USETPA/ USETPA Subscriber from entering into any similar contracts and/or arrangements with other vendors or from acquiring similar equal or like goods and/or service from other entities or sources.

## 1.12 CHANGES, ADDENDA, WITHDRAWALS OF RFP RESPONSE

If the responder needs to submit changes or addenda, such shall be submitted in writing, signed in original ink by an official representative of the responder, cross-referenced clearly to the relevant bid section, in a sealed envelope, prior to the RFP opening. Such shall meet all requirements for the RFP, if the responder chooses to withdraw his RFP response; the withdrawal notice shall be in writing and received prior to the RFP opening.

## 1.13 COOPERATIVE PURCHASE

### **US EDUCATIONAL TECHNOLOGY PURCHASING ALLIANCE**

The US Educational Technology Purchasing Alliance (USETPA), in accordance with North Carolina General Statute 143-129 e(3), operates a “competitive bidding group purchasing program, which is a formally organized program that offers competitively obtained purchasing services at discount prices to two or more public agencies”.

Contracts are issued on behalf of USETPA subscribers but are issued with the express intent to allow for cooperative purchasing and/or piggybacking as allowed by individual state law. To ensure compliance with the terms and conditions of USETPA contracts, all procurement based on a USETPA contract is required to be registered on the USETPA website at [www.usetpa.org](http://www.usetpa.org) including copies of all quote(s) and purchase order(s) issued, by the client or reseller, sent to the USETPA.

## 1.14 SUBSCRIBER STATUS IN USETPA PURCHASING GROUP

Participation in the US Educational Technology Purchasing Alliance is open to all State and Local Government Agencies, K-12 schools, LEAs, Libraries, Head Start organizations, Community/Technical Colleges, Higher Education Institutions, and other public agencies.

These objectives do not preempt Participating Subscribers from using other contract vehicles or competitive processes as required by law.

## 1.15 INVOICE

Invoices will be submitted by the Contractor upon presentation of properly executed invoice after goods have been received, inspected and accepted. Invoices will be paid within 30 days or receipt of properly executed invoice, or receipt of goods, whichever is later.

**PAYMENTS WILL BE PAID TO VENDOR(S) AND ADDRESS AS SHOWN ON THE PURCHASE ORDER. ADVANCED PAYMENTS WILL NOT BE ALLOWED IN THIS CONTRACT.**

## 1.16 CONTRACT PERIOD

The USETPA intends to award an indefinite quantity contract for a three (3) year term, with the option of one additional three (3) year extension, as a result of this RFP. We will select a qualified Vendor(s) with whom we will develop a mutually beneficial contractual relationship.

Our decision to award will be based on an evaluation of the proposal that offers the best overall benefit to the USETPA for pricing, maintenance and support, and any value-added services.

### 1.17 RENEWAL

At the option of the USETPA and acceptance of the contractor(s), this contract may be extended for one (1) additional three (3) year period with the same terms, conditions and discount (or greater) structure.

### 1.18 MULTI VENDOR AWARD

USETPA contracts may be awarded to multiple manufacturers and multiple channel partners. Awards will be based upon respondents meeting a minimum score on the USETPA bid-scoring matrix.

### 1.19 AWARD EVALUATION CRITERIA

It is the intention of the USETPA to award this contract all-or-none to the responsive and responsible responder, meeting the requirements of the RFP specifications and offering the overall greatest discount percentages for each category of hardware, software and manufacturer's maintenance included on the manufacturer's most recent published price list/catalog or on the notarized type listing or retail prices in effect at the time of the RFP opening. The discount percentage quoted by the Contractor shall establish the minimum level of reduced pricing offered to the USETPA in each of the categories from the manufacturer's most recent published price list catalog or on the notarized typed listing of retail prices. The discount shall apply to any updated items or new items added throughout the life of the new contract, in accordance with the specification requirements.

Net prices may not exceed the current national advertised and available General Services Administration (GSA) Governmental price list if one exists. If not, the USETPA does not intend to award or to maintain any item in any group that is offered at a price equal to or above the Manufacturer's List Price.

An award may be made to all responsive and responsible submissions to the USETPA's request for competitive fixed price bidding. However, not every vendor / distributor / representative of a manufacturer's line of equipment may be awarded a contract.

### 1.20 IT / TELECOM NETWORKING PRODUCT CATEGORIES

The broad product categories included herein are established to provide bidder(s) the flexibility of offering different discounts by category of products. The descriptions of each category are not intended to limit the products offered by the bidder(s), however, the USETPA reserves the right, at its sole discretion, to exclude /remove any products deemed beyond the intended scope of this contract.



### 1.21 USETPA FEES

In order to maintain and enhance the quality and quantity of USETPA contracts, all vendors agree to pay a 1.0-1.75% fee of all purchases made by the Subscribers to the Consortia Purchasing Advisors, LLC for expenses related to the maintenance and management of the USETPA. This 1.0-1.75% fee is not to be included in the pricing structure submitted for the bid. USETPA Subscribers may not be charged this fee in any manner.

### 1.23 CATEGORIES OF PRODUCTS (Detail)

**Details:**

**If Vendor installation is provided, then the Vendor must provide industry standard test results to maximum concurrent capacity after installation.**

**Category 1 (One): Detection Infrastructure/Services:**

- Vendors should provide pricing on all elements that are being sold.
- Vendors must include list of installation/service geographical locations.

Engineering Title	Description of Support	Hourly Rates <i>(May be a Range)</i>
Project Management	Project Management	
Technician	Installation	
Systems Engineer, Senior Systems Engineer	Configuration & Support	
Senior Systems Architect	Project Planning, Design, Consulting	

- After hours rates will not be charged for any work performed during non-business hours. Rates are determined by the specific resource required and the duration of the project. If travel and lodging are deemed necessary, any charges will be specifically detailed in the Statement of Work and follow a State’s General Terms and Conditions for Goods and Services.

The Responder should offer a complete listing of all Manufacturer Maintenance Plans available, to include but not necessarily be limited to: drop shipped advanced

replacements of parts, software patches and revisions issues to resolved known defects or vulnerabilities, access to online and live body technical assistance, advanced replacement of parts with requires installation/software configuration support to facilitate replacement. The bidder may offer different discounts for manufacturer maintenance plans by product categories offered.

Bidders should list MSRP pricing, discounted unit pricing and percentage discount from list price by group. Bidders may add other network related items (equipment, software, licenses, services) that enhance/augment the primary commodities, but must be distinguished from the primary bid and so noted in the submitted bid, and provide list MSRP pricing, discounted unit pricing and percentage discount from list price.

Vendor may additionally provide volume discounts provided the minimum quantity to qualify is provided along with list pricing, discounted unit pricing and percentage discount from list price by group. Lower volume discount pricing may be offered at any time to USETPA and/or USETPA Subscribers per this RFP and any resulting contract(s).

## II. GENERAL TERMS AND CONDITIONS

**1.1 Award:** Any contract resulting from this Request for Proposals shall be awarded to the Vendor(s) that submits the best overall proposal as determined by the USETPA in accordance with N.C.G.S. 143-129.8. The USETPA may negotiate with any Vendor(s) in order to obtain a final contract that best meets the needs of the USETPA.

**1.2 Questions:** Any questions from prospective Vendor(s) concerning the RFP response must be sent by email to [info@usetpa.com](mailto:info@usetpa.com) and are referred to Mr. Landon Scism, 919.391.9558, [landon@usetpa.org](mailto:landon@usetpa.org) . A Q&A session will be held September 20, 2019 at 4:00pm, 1340 Environ Way, Chapel Hill, NC 27517 All potential resellers may attend in person (not required) upon advance notice of such reseller attendance, no later than September 12, 2019, 5:00pm. All questions and answers will be posted to the USETPA website no later than September 22, 2019.

**1.3 Documentation:** All documentation submitted by Vendor(s) is voluntary and becomes the property of the USETPA who is under no obligation to return or pay for any of the material submitted by a Vendor in response to this RFP.

**1.4 Acceptance:** The USETPA reserves the right to accept or reject any or all of the proposals submitted, and to waive informalities and accept that proposal which appears to be in the USETPA's best interest.

**1.5 Proposal Review:** The USETPA will review and analyze each proposal, and reserves the right to select the Vendor(s) who offers the best value. The USETPA shall select the Vendor(s),

which in the USETPA's opinion, has made a proposal best suited to the needs and goals of the USETPA and deemed to be in compliance with the terms of this RFP.

**1.6 Contract Transfer:** The Vendor(s) shall not assign, transfer, sublet, convey or otherwise dispose of any contract which results from this RFP or its right, title or interest therein or its power to execute the same to any other person, firm, partnership, company or corporation without the previous written consent of the USETPA. The USETPA reserves the right to declare the Vendor(s) in default and terminate the contract for cause.

**1.6.1 Contract Assignment/Transfer:** The Vendor(s) shall not assign or in any way transfer any interest in the contract without the prior written consent of the USETPA, provided, however, that the claims for money due or to become due to the Vendor(s) from the USETPA may be assigned to a bank, trust company or other financial institution without such consent so long as notice of such assignment shall be expressly made subject to all defenses, setoffs, or counterclaims which would have been available to the USETPA against the Vendor(s) in the absence of such assignment.

**1.6.2 Equipment/Services Subcontract/Transfer:** None of the equipment/services to be provided by the Vendor(s) pursuant to the contract shall be subcontracted or delegated to any other organization, association, individual, corporation, partnership, or other such entity without the prior written consent of the USETPA. No subcontract or delegation shall relieve or discharge the Vendor(s) from any obligation or liability under the contract.

**1.7 Insurance Requirements:** The Vendor(s) shall obtain and maintain in force at all times during the term of the contract derived from this RFP, insurance coverage pertaining to Comprehensive General Liability, Comprehensive Automobile Liability, and Workers Compensation in the following amounts and types:

**1.7.1 Comprehensive General Liability** – Vendor(s) must supply the USETPA with original certificates of insurance covering public liability in an amount not less than \$1,000,000 per accident.

**1.7.2 Comprehensive Automobile Liability** – Vendor(s) must supply the USETPA original certificates of insurance in an amount not less than \$1,000,000 and shall cover property damage, and operation on or off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired.

**1.7.3 Workers' Compensation/Employers Liability Insurance** - The Vendor(s) shall furnish the USETPA with original certificates showing that all its employees who are engaged in any work under this Contract are protected under Worker's Compensation insurance policies with a limit no less than the minimum required by North Carolina state statutes.

**1.7.4 Insurance for USETPA:** The Vendor(s) shall carry insurance with an insurance company authorized to do business in NC or the state of residence of the contracting Subscriber and satisfactory to the USETPA so as to hold the USETPA harmless from any and all claims for damages arising out of bodily injury to or death of any person or persons, and for all claims

for damages arising out of injury to or destruction of property caused by accident resulting from the use of implements, equipment or labor used in the performance of the contract or from any neglect, default or omission, or want of proper care, or misconduct on the part of the Vendor(s) or for anyone in his employ during the execution of the contract derived from this RFP.

**1.7.5 Insurance Certificates:** Prior to starting on the contract derived from this RFP, the Vendor(s) shall deposit with the USETPA original certificates from the insurer to the effect that the insurance policies required in the above paragraph have been issued to the Vendor. The certificates must be on a form satisfactory to the USETPA.

**1.8 Sales Taxes:** Please include appropriate Sales tax or other applicable taxes, if any, as a separate line item in your proposal. Sales tax records and certified statements may be required for all materials and supplies that are purchased in the fulfillment of this project.

**1.9 Amendments:** No amendment to the contract shall be effective unless it is in writing and signed by authorized representatives of both parties and is accepted by the USETPA.

**1.10 Causes Beyond Reasonable Control:** Neither party will be liable to the other or be deemed to be in breach of the contract for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather. Dates or times of performance will be extended to the extent of delays excused in this section, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.

**1.11 Outside Contract Fees:** The Vendor(s) represents that no other person other than the bonafide employees working solely for the Vendor(s) have been employed or retained to solicit or secure this agreement upon an arrangement or understanding for a commission, percentage, brokerage fee, gift or any other consideration contingent upon the award for making of this contract. For breach or violation of the representation, the contract price, consideration, or otherwise, the USETPA may recover the full amount of such commission, percentage, brokerage fee or other consideration.

**1.12 Product Delivery:** Unless otherwise stated, all items shall be quoted and delivered F.O.B. destination (i.e. at a specific USETPA Subscriber address), and delivery cost and charges (if any) shall be included in bid price.

**1.13 Contract Duration:** Any contract which results from this Request for Proposal shall be for the duration of the proposal, contingent upon USETPA satisfaction and Vendor(s) adherence to Terms and Conditions. Purchase Orders issued by the USETPA Subscriber shall serve as the USETPA Subscriber's only commitment to purchase. The contract resulting from this RFP may be used as a Convenience Contract (with the exception of E-Rate Pricing) available for use by any current or future USETPA Subscribers at any time during the term of the contract. All purchase orders shall reference this Agreement.

**1.14 Contract Situs:** The place of this contract, its situs and forum, shall be Brunswick County, North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.

**1.15 Value Added Services:** Contract related value-added services may be provided by the Vendors/Dealers. Value added services may be, but are not limited to, training, installation, asset tagging or imaging, planning. These additional services will be negotiated by the Subscriber with the contract holder.

**1.16 Delivery:** Delivery of products/services shall be completed within 30 days from the date of the original Purchase Order, unless agreed to by the USETPA Subscriber. Purchase Orders may be cancelled by the USETPA Subscriber, in writing, with no penalty or expenses to the USETPA Subscriber if the order is not delivered by the Vendor within 30 days from the original order, or additional time limit as agreed to by the USETPA Subscriber.

## Part 2: Submission of Proposals

**One original signed** copy of the proposal must be submitted in a sealed package. One additional electronic copy is requested. The package should be addressed as follows:

**USETPA**

**Attn: Senior Contract Administrator, Vendor Request for Proposals (Vendor Name)**

**3100 Dick Pond RD**

**Myrtle Beach, SC 29588**

## Part 3: RFP Evaluation

**3.1 Award(s) will be based on the lowest and best bid (most advantageous to USETPA Subscribers) as determined by consideration of:**

1. Prices offered: 30%
2. Quality of item(s) offered and suitability for intended use: 20%
3. General Reputation and performance capabilities of vendor: 20%
4. Conformity with specifications herein: 20%
5. M/WBE participation: 10%

**3.2** The USETPA will perform a full and complete evaluation of all submittals. The Senior Contract Administrator will ultimately forward a formal recommendation of award to the USETPA Subscribers Council who have the final award approval.

**3.3** Recommendation for award will be based upon the most advantageous proposal received considering product pricing discounts, maintenance pricing discounts, and any and all other value-added services proposed by the Vendor to the USETPA.

**3.4** Value-added services will be given special consideration by the USETPA.

## INTRODUCTION TO RFP REQUIREMENTS

### A. GENERAL CONSIDERATIONS

Costs for developing responses to this RFP are entirely the obligation of the Vendor(s) and shall not be chargeable in any manner to the USETPA. Submission of a sealed response to the RFP will signify the Vendor's agreement that their response and the contents thereof are valid for 90 days.

The USETPA reserves the right to negotiate with any Vendor(s) in order to obtain a final contract that best meets the need of the USETPA/Subscriber. Additionally, the USETPA reserves the right to reject any and all RFP responses if it is determined to be in the best interests of the USETPA to do so.

Responses received after the due date and time specified in this RFP will not be considered.

Winning Vendor(s) must agree to provide a complete searchable electronic price list with discounts in Excel format to USETPA within five (5) business days, if not included with the original bid.

Proposed Vendor contracts with USETPA must be included with the response to this RFP.

### B. EVALUATION CRITERIA

The USETPA will evaluate all properly submitted responses.

The following general criteria will be used to evaluate the responses:

1. Prices offered: 30%
2. Quality of item(s) offered and suitability for intended use: 20%
3. General Reputation and performance capabilities of vendor: 20%
4. Conformity with specifications herein: 20%
5. M/WBE status: 10%

USETPA Subscribers reserve the right to reject any bid on the basis of function, compatibility with user requirements of utility as well as costs.

### C. FORMAT FOR RESPONSE TO RFP

This section serves as a checklist for the expected format of the Vendors' response to the RFP. Any supporting documentation should be included in an appendix or attachment.

All appropriate Appendices must be completed and attached.

The evaluation process will provide credit only for the capabilities and advantages, which are presented by the Vendor in the written response. One original signed response must be

submitted, and three additional copies are requested. One proposed contract with USETPA must be included with the response, if different from the Appendix C.

#### D. COVER LETTER

A letter of introduction, including the name and address of the Vendor(s) submitting the proposal and the name, address, and phone number of the person(s) to contact who will be authorized to present and bind the Vendor(s) to all commitments made in the response.

#### E. VENDOR PROFILE

Provide a company profile including the organization which will directly support the USETPA. The bidder MUST submit a letter on their letterhead certifying in which states that they are authorized to operate contractually and sell within.

#### F. REFERENCES

Provide a list of the three most recent, comparable contracts, if any, which you have performed, and include references for each. The Bidder should provide/demonstrate a record of past performance indicating its ability to fulfill this contract. Each Bidder will include company name, point of contact/individual's name, individual's title and phone number for each reference provided and year and type of service provided. Include a list of failed projects, suspensions, debarments, and significant litigations, if any. In addition provide additional information as requested.

#### G. PROPOSAL

Provide your proposal in such a way that is clear, concise, and according to the business/technical specifications and pricing requirements.

#### H. APPENDIX OR ATTACHMENT TO PROPOSAL, (optional)

Provide additional supporting literature

#### I. ADDITIONAL REQUIREMENTS

All submitted equipment/services must be identified as E-RATE eligible if the Vendor wishes to bid for E-Rate discounts to USETPA Subscribers. This will be identified by listing an E-Rate discount in the appropriate column(s) of the response.

#### J. DOCUMENTATION

The successful Vendor (s) shall provide complete technical documentation of all products.

#### K. WARRANTY

The successful Vendor(s) shall warrant that all new equipment is **NEW**, in good working order, free from defects and in conformance to specifications. All equipment must conform to the manufacturer's official published specifications. The successful Vendor(s) shall agree to repair, adjust and/or replace any defective equipment within the warranty period at the successful Vendor's sole expense.



Bidders may add an optional provision for certified (refer to section I, subsection 1.2) refurbished equipment to be available for procurement under this contract, providing the Subscriber agrees in writing to accept warranted refurbished equipment. All equipment must conform to the manufacturer's official published specifications. The successful Vendor(s) shall agree to repair, adjust and/or replace (as determined by the USETPA Subscriber to be in its best interest) any defective equipment within the warranty period at the successful Vendor's sole expense.

#### **L. MAINTENANCE AND SUPPORT**

Each Vendor(s) must provide a complete maintenance and support plan including emergency and non-emergency intervals, as well as periodic routine schedules. Routine maintenance and associated costs should be included. Routine maintenance shall include, but is not limited to: Error or defect correction, Updates, and Telephone Assistance.

#### **M. GENERAL REQUIREMENTS**

All equipment and material must be NEW and of the highest quality and reliability. Bidders may add an optional provision for certified (refer to section I, subsection 1.2) refurbished equipment to be available for procurement under this contract, providing the Subscriber(s) agree in writing to accept warranted refurbished equipment.

USETPA objects to and will not evaluate or consider any additional terms and conditions submitted with a bidder response unless written approval is obtained in advance of official submission. This applies to any language appearing in or attached to the document or contract as part of the bidder's response. Do not attach any additional terms and conditions. By execution and delivery of this document, including Appendix C, the bidder agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect.

#### **N. INDEMNIFICATION**

In carrying out these works, the Vendor(s) will act as an independent contractor and must agree to keep the USETPA/USETPA Subscriber indemnified against any and all claims, actions or demands that may be brought, made, or arise in respect of anything done, or omitted to be done by its employees who shall be and remain at all times and for all purposes, the servants or employees of the Vendor(s).

#### **O. CANCELLATION**

The USETPA, reserves the right to cancel the contract resulting from this Request for Proposal if, in the USETPA's opinion, the service provided is not satisfactory or Vendor attempts to circumvent this RFP/Contract. In the event of cancellation, the Vendor(s) will have no right of action against the USETPA/USETPA Subscriber for damages; however, cancellation would not, in any manner, limit the USETPA's right to bring action against the Vendor(s) for damages for breach of contract. Ten days written notice of cancellation will be provided.



## P. INQUIRIES

All inquiries regarding this Request for Proposal must be in written form and directed to Senior Contract Administrator, via email, [info@usetpa.com](mailto:info@usetpa.com).

No verbal representations, promises, statements or advice made by any employee of the USETPA/USETPA Client/Subscriber should be relied upon.

All questions and answers will be posted on the USETPA website at [USETPA.org](http://USETPA.org).

## Q. ERATE REQUIREMENTS

Not applicable.

## R. AVAILABILITY OF FUNDS

Any and all payments to Vendor are expressly contingent upon and subject to the appropriation, allocation and availability of funds to the USETPA Subscriber for the purposes set forth in this Contract. If this Contract or any Purchase Order issued hereunder is funded in whole or in part by federal/state funds, the USETPA Subscriber's performance and payment shall be subject to and contingent upon the continuing availability of said federal/state funds for the purposes of the Contract or Purchase Order. If the term of this Contract extends into fiscal years subsequent to that in which it is approved, such continuation of the Contract is expressly contingent upon the appropriation, allocation and availability of funds by the State Legislature/Local School Board for the purposes set forth in the Contract. If funds to effect payment are not available, the USETPA Subscriber will provide written notification to Vendor. If the Contract is terminated under this paragraph, Vendor agrees to take back any affected deliverables and software not yet delivered under this Contract, terminate any services supplied to the USETPA Subscriber under this Contract, and relieve the USETPA Subscriber of any further obligation thereof. The USETPA Subscriber shall remit payment for deliverables and services accepted prior to the date of the aforesaid notice in conformance with the payment terms.

## S. RECYCLING AND SOURCE REDUCTION

It is the policy of USETPA Subscribers to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable and cost-effective. We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of commodities purchased. However, no sacrifice in quality of packaging will be acceptable. The company remains responsible for providing packaging that will protect the commodity and contain it for its intended use. a. Companies are strongly urged to bring to the attention of USETPA Subscribers which issued the solicitation document, those products or packaging they offer which have recycled content and that are recyclable.

#### **T. ACCEPTANCE CRITERIA**

In the event acceptance of Deliverables is not described in additional Contract documents, the USETPA Subscriber shall have the obligation to notify Vendor, in writing, ten calendar days following installation of any Deliverable described in the Contract if it is not acceptable. The notice shall specify in reasonable detail the reason(s) a deliverable is unacceptable, such as visible damage or damage in performance as benchmarked to performing in accordance with standard OEM product specifications. Acceptance by the USETPA Subscriber shall not be unreasonably withheld; but may be conditioned or delayed as required for installation and/or testing of Deliverables. Final acceptance is expressly conditioned upon completion of all applicable inspection and testing procedures by vendor, final acceptance by Subscriber will be within thirty (30) days of testing/certification completion. Should the Deliverables fail to meet any specifications or acceptance criteria the USETPA Subscriber may exercise any and all rights hereunder, including such rights provided by the Uniform Commercial Code as adopted in North Carolina. Deliverables discovered to be defective or failing to conform to the specifications may be rejected upon initial inspection or at any later time if the defects contained in the Deliverables or non-compliance with the specifications was not reasonably ascertainable upon initial inspection. If the Vendor fails to promptly cure the defect or replace the Deliverables, the USETPA Subscriber reserves the right to cancel the Purchase Order, contract with a different Vendor, and to invoice the original Vendor for any differential in price over the original Contract price. When Deliverables are rejected, the Vendor must remove the rejected Deliverables from the premises of the USETPA Subscriber Agency within thirty (30) calendar days of notification, unless otherwise agreed by the USETPA Subscriber Agency. Rejected items may be regarded as abandoned if not removed by Vendor as provided herein.

#### **U. FIRM PRICE DISCOUNT**

Pricing applies to purchases made under the terms and conditions set forth in this document and are firm for the stated Agreement term. The pricing discounts will be applied against Vendor's then current, General Price List at the time of acceptance of the Purchase Order by Vendor/Dealer to determine the net price to be paid by the USETPA Subscriber for Products and Services under the Agreement. USETPA requires that dealers sell Products or Services at not less than the stated pricing discounts set forth in the Agreement, and dealer may offer additional incremental discounts, in their sole discretion to USETPA Subscribers. To the extent that an USETPA Subscriber proposes additional requirements or a change to the stated terms and conditions set forth in the Agreement, both Vendor/Dealer and the USETPA Subscriber may mutually agree to such change in writing in a separate addendum. All prices offered must be no higher than any offered to any other public contract.

#### **V. LUNSFORD ACT/CRIMINAL BACKGROUND CHECKS**

The Provider shall conduct at its own expense sexual offender registry checks on each of its employees, agents, ownership personnel, or vendor/dealers ("contractual personnel") who will engage in any service on or delivery of goods to USETPA Subscriber property or at a USETPA Subscriber sponsored event. The checks shall include at a minimum checks of the

State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry ("the Registries"). For the Provider's convenience only, all of the required registry checks may be completed at no cost by accessing the North Carolina Sex Offender Registry website at <http://sexoffender.ncdoj.gov/>. The Provider shall provide certification on Sexual Offender Registry Check Certification Form that the registry checks were conducted on each of its contractual personnel providing services or delivering goods under this Agreement prior to the commencement of such services or the delivery of such goods. The Provider shall conduct a current initial check of the registries (a check done more than 30 days prior to the date of this Agreement shall not satisfy this contractual obligation). In addition, Provider agrees to conduct the registry checks and provide a supplemental certification form before any additional contractual personnel are used to deliver goods or provide services pursuant to this Agreement. Provider further agrees to conduct annual registry checks of all contractual personnel and provide annual certifications at each anniversary date of this Agreement. Provider shall not assign any individual to deliver goods or provide services pursuant to this Agreement if said individual appears on any of the listed registries. Provider agrees that it will maintain all records and documents necessary to demonstrate that it has conducted a thorough check of the registries as to each contractual personnel, and agrees to provide such records and documents to the USETPA Subscriber upon request. Provider specifically acknowledges that the USETPA Subscriber retains the right to audit these records to ensure compliance with this section at any time in the USETPA Subscriber's sole discretion. Failure to comply with the terms of this provision shall be grounds for immediate termination of the Agreement. In addition, the USETPA Subscriber may conduct additional criminal records checks at Provider's expense. If the USETPA Subscriber exercises this right to conduct additional criminal records checks, Provider agrees to provide within seven (7) days of request the full name, date of birth, state of residency for the past ten years, and any additional information requested by the USETPA Subscriber for all contractual personnel who may deliver goods or perform services under this Agreement. Provider further agrees that it has an ongoing obligation to provide the USETPA Subscriber with the name of any new contractual personnel who may deliver goods or provide services under the Agreement. USETPA Subscribers reserves the right to prohibit any contractual personnel of Provider from delivering goods or providing services under this Agreement if USETPA Subscribers determines, in its sole discretion, that such contractual personnel may pose a threat to the safety or well-being of students, school personnel or others.

#### **W. DISPUTE RESOLUTION:**

The parties agree that it is in their mutual interest to resolve disputes informally. A claim by the Vendor shall be submitted in writing to the USETPA Member Contract Administrator for decision. A claim by the USETPA shall be submitted in writing to the Vendor's Contract Administrator for decision. The Parties shall negotiate in good faith and use all reasonable efforts to resolve such dispute(s). During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under this Contract. If a dispute cannot be resolved between the Parties within thirty (30) days after delivery of notice, either Party may elect to exercise any other remedies available under

this Contract, or at law. This term shall not constitute an agreement by either party to mediate or arbitrate any dispute.

## Appendices Index:

**Appendix A:** Erate Universal Fund Discount Spin Number Form (**Not-applicable to this RFP**)

**Appendix B:** Cloud Computing (**Required for all contracts involving off-premise Subscriber data; contracts must adhere to all included considerations**)

**Appendix C:** Bidder Cover Form (**Required for all bids**)

**Appendix D:** Sample Bidder Price List, preferably in the form of discounts by product category (required electronic file in Excel format must be included in the response, may additionally include other formats – pdf, etc.)

**Appendix E:** Sample Bidder Hourly Price List (required electronic file in Excel format must be included in the response, may additionally include other formats – pdf, etc.)

**Appendix F:** Piggyback Clause (**Required for all bids**)

**Appendix G:** States where vendor wishes to offer services and where vendor maintains a physical location (**Required for all bids**)

**Appendix H:** M/WBE certification (**Required for all bids**)

**Appendix I:** USETPA Administration Fees

**Appendix J:** USETPA Summary

**Appendix K:** Request to use terms of previous RFP submission

**Appendix L:** Pricing for cabling vendors (**Required for all cabling bids**)

**Appendix M:** Drug-Free Workplace

**Appendix N:** Iran Divestment Act (**Required for all bids**)

**Appendix O:** Edgar Compliance (**Required for Contracts using Fed \$**)

[USETPA Link to Download Individual Appendices](#)

## Appendix A: ERATE

**E-RATE UNIVERSAL SERVICE FUND DISCOUNT SPIN  
NUMBER FORM****(please return this with your response)**

Products being procured under this solicitation may be eligible for Universal Service Fund Discounts. Bidders desiring to participate in the Universal Service Discounts programs must comply with all applicable Federal Communications Commission and State laws/regulations/rules that apply to these programs. Vendors should indicate their willingness to participate in these programs by signing below:

Name of E-Rate Registered Vendor: \_\_\_\_\_

/

/

\_\_\_\_\_  
Authorized Signature\_\_\_\_\_  
Date\_\_\_\_\_  
SPIN Number

## Appendix B: Cloud Computing

### Cloud Computing: Contracting Inclusions

- (Required for all contracts involving off-premise Subscriber data; contracts must adhere to all included considerations)

#### Pricing:

The contract will include specific price caps to eliminate ballooning costs after the initial investment. For example, a fee increase cap of 3% is commonly used in such contracts, along with a provision to ensure that if the service is offered to other customers at a lower cost, the USETPA Subscriber will receive that lowest cost pricing. An effective method of monitoring the pricing must be provided by the cloud provider.

#### Data Assurances:

**1. Ownership:** The contract shall clearly state that the USETPA Subscriber owns all data residing within the cloud environment. Typically, the contract language will include rights to USETPA Subscriber data ownership related to issues such as intellectual property as well as disallow accessing the data for corporate gain by the cloud provider or organizations other than the USETPA Subscriber.

**2. Access to Data:** The contract shall mandate that the USETPA Subscriber be able to access and retrieve its data stored in the cloud at its sole discretion. The USETPA Subscriber shall have the right to access all data, regardless of who created the content and for what purpose, in order to ensure that individual USETPA Subscriber employees cannot prevent access to data that would have traditionally resided on USETPA Subscriber servers, etc. Furthermore, the contract shall specify how the data will be retrieved from the cloud in the event of an emergency or time-sensitive situation, with specific procedures and timelines noted. In all cases involving data access and retrieval requests, the contract shall specify the process by which the USETPA Subscriber will validate the request, including positions within the USETPA Subscriber authorized to make such a request and to whom within the cloud provider.

**3. Disposition of Data Upon Request:** The contract shall provide a mechanism for the USETPA Subscriber to require the cloud provider to destroy specified records as requested. The purpose of this mechanism is to allow the USETPA Subscriber to destroy records when allowed by law (i.e. according to the retention schedule) and not have additional copies of the records residing in other locations, such as the cloud, then making the records subject to disclosure upon public records requests or in the event of litigation.

**4. Disposition of Data Upon Contract Termination:** The contract shall provide clear instructions on how USETPA Subscriber data will be returned or retrieved in the event of contract termination. It is important to include the timeframe for such provision of all data, the process, and the exact format of the data. It is important to note that most cloud services involve proprietary or non-standard formats of data, which upon exporting to the USETPA Subscriber, would render it useless. Therefore, the contract shall specify a common format for data return/retrieval, such as XML. The contract shall also include specifications requiring the vendor to destroy all USETPA Subscriber data after contract termination, along with the USETPA Subscriber's right to conduct an audit to ensure the data has been destroyed.

**5. Data Breaches:** The contract shall specify the cloud vendor's obligations in the event of data breach or unauthorized access. It is important to include reporting/notification requirements related to the breach within a specified timeline, as well as details about the breach such as its nature, the data compromised, the involved parties, mitigation efforts, and corrective actions to be taken by the vendor. The contract shall also specify indemnification in the event of the breach, as the data breach relates to specific legal, regulatory, and operating agreement provisions. In other words, the cloud provider shall be responsible for all damages, fines, etc. including litigation costs related to a breach. Many cloud providers avoid putting this type of language in their contracts, which makes the USETPA Subscriber liable for costs associated with breaches.

**6. Data Storage Location:** The legal system cannot keep pace with technology and, currently, most courts are holding that the legal jurisdiction over a contract dispute involving data takes place in the state where the data physically resides. North Carolina has a law (G.S. 22B-3) which voids contract provisions that require disputes under the contract to be litigated outside of the state, but it is important to consider the inclusion of statements about the physical storage location of USETPA Subscriber data (particularly requiring the data to remain within the United States).

**7. Legal Data Holds/Public Record Requests:** The contract shall include provisions related to litigation holds on data (also called litigation cooperation clause). First, the contract shall specify the communication process for informing either the cloud provider or the USETPA Subscriber of any legal requests (including public records requests), as well as mechanisms to ensure that the data is preserved in its entirety during the duration of the litigation. A legal hold also requires maintaining any media that was used for backup of the data which must be available for searching. Furthermore, the contract shall specify that the cloud provider will not provide data to individuals, groups, or organizations making records requests unless directed to do so by an authorized USETPA Subscriber official. The contract shall also include a provision indicated the process by which the



data requested will be reviewed and potentially redacted or removed from provision by authorized USETPA Subscriber officials, in order to ensure compliance with NC General Statutes minimally, and any other states requirements that are more stringent.

**Right to Audit and Inspect:**

There are multiple audit formats to be specified in the contract.

1. The USETPA Subscriber has the right to request third-party audits and/or certifications related to infrastructure and security, including penetration testing and vulnerability assessments. In addition, any reports produced from these audits and certifications will be provided to the USETPA Subscriber for review.
2. The USETPA Subscriber (or a third-party provider selected by the USETPA Subscriber) has a right to perform an onsite inspection of the cloud vendor's infrastructure and security practices on a specified basis.
3. The USETPA Subscriber has the right to review the infrastructure and security specifications in written format if it so chooses.
4. The USETPA Subscriber shall have a right to audit the performance records of the cloud provider, as well as access to daily and weekly service quality statistics.

**Service Level Agreements (SLA):**

The contract shall specify service level parameters, minimum levels, and specific remedies and penalties for non-compliance with SLAs. Always include 1) Uptime, 2) Performance and response time, 3) Error correction time, and 4) Infrastructure and security.

Ensure that the SLA clearly defines the pertinent terms, such as downtime, scheduled downtime, etc. These definitions eliminate ambiguity in contract enforcement, as well as provide specific mechanisms for calculating compliance with the SLA.

**Remediation/Penalties:**

Remedies for violation of the SLA shall include corrections and/or penalties. Both corrections and penalties shall be specific (such as "Service credit will be rendered when SLA is not met by Vendor. The service credit will be applied as liquidated damages against the following quarter of service costs." It is important to document how the credit will be provided and when it will be provided. Ideally, the financial penalty shall be 10-20 percent of the contract, per Gartner, in order to motivate the vendor to avoid violations.

These penalties shall be related to SLA performance, while fines and costs associated with data breaches shall be covered under the Data Assurances section of the contract.

### **Disaster Recovery/Business Continuity**

The contract shall specify minimum disaster recovery and business continuity requirements and ensure that the cloud provider meets the minimums through inspection of documentation, etc. Furthermore, the contract shall specify penalties for failures in complying with the minimum requirements, as discovered through onsite inspections, audits, or actual disasters.

### **Outsourced Services**

The contract shall require the vendor to inform the USETPA Subscriber of any outsourced functionality and its provider. The contract shall also require the cloud vendor specify with whom the contract is signed to remain directly responsible for all terms of the contract, regardless of outsourced functions. The contract shall also specify that no assignment of the contract or components of the contract can occur without explicit, written agreement from the USETPA Subscriber.

### **Termination**

The contract shall state that the USETPA Subscriber can terminate the contract “at any time without having to show cause and without additional fees or penalties.” The contract shall require the cloud provider to provide advance notice at a set time, e.g., 60 days before service discontinuation. As previously noted, the contract shall specify how data will be retrieved/returned upon termination by either party. Escrow language shall also be included in the event of a cloud vendor going out of business.

**Appendix C: Bidder Cover Form/Contract**

**Bidder Cover Form/Contract**

In compliance with this Invitation for Bids, and subject to all the conditions herein, the undersigned offers and agrees to furnish and deliver any or all items upon which prices are bid, at the prices set opposite each item within the time specified herein. By executing this bid, I certify that this bid is submitted competitively and without collusion (N.C.G.S. 143-54), that none of our officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the NC General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (N.C.G.S. 143-59.2), and that we are not an ineligible vendor as set forth in N.C.G.S. 143-59.1. False certification is a Class I felony. By signing this proposal, upon an award of contract, bidder is bound by the terms and conditions of contracts as submitted to with response or in subsequent negotiations, except Appendix I is a nonnegotiable addendum to any contract that changes the original RFP. By execution and delivery of this document, the bidder agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect on Appendix I.

Bidder:		FEDERAL ID OR SOCIAL SECURITY NO.	
Street Address:		P.O. Box	Zip:
City, State, Zip:		Telephone Number:	Toll Free Tel No.
PRINCIPAL PLACE OF BUSINESS ADDRESS IF DIFFERENT FROM ABOVE			
TYPE OR PRINT NAME & TITLE OF PERSON SIGNING:		Fax Number	
AUTHORIZED SIGNATURE:	Date:	Email:	
Sales Contact:	Sales Contact Title:	Sales Contact Email:	
Accounting Contact:	Accounting Contact Title:	Accounting Contact Email:	





## Appendix F: Piggyback Clause

### Piggyback Clause:

Indicate on document if vendor agrees that other state and local public agencies may purchase under this bid at the same prices, terms and conditions stated in these bid documents, at the discretion of the successful bidder. Sales territories where piggybacking is approved for should be defined in Appendix G.

Agencies participating in this bid shall be responsible for obtaining approval from their approving body of authority when necessary and shall hold USETPA harmless from any disputes, disagreements or action which may arise as a result of using this bid.

\_\_\_\_\_ My firm is agreeable to allowing piggybacking at the same price, terms and conditions

\_\_\_\_\_ Sorry, I am unable to allow piggybacking for other state and local agencies

**Printed Name:** \_\_\_\_\_

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

**Date:** \_\_\_\_\_

**Appendix G**

Please place a check next to the States for which you wish to be approved for the use of USETPA contracts. Also, indicate the States in which you certify that you maintain a physical location.

State/Territory	Approved	Location	State/Territory	Approved	Location
USA			New Hampshire		
Alabama			New Jersey		
Alaska			New Mexico		
Arizona			New York		
California			North Carolina		
Colorado			North Dakota		
Connecticut			Ohio		
Delaware			Oklahoma		
Florida			Oregon		
Georgia			Pennsylvania		
Hawaii			Rhode Island		
Idaho			South Carolina		
Illinois			Tennessee		
Indiana			Texas		
Iowa			Utah		
Kansas			Vermont		
Kentucky			Virginia		
Louisiana			Washington		
Maine			West Virginia		
Maryland			Wisconsin		
Massachusetts			Wyoming		
Michigan			Washington DC		
Minnesota			Puerto Rico		
Mississippi			American Samoa		
Missouri			Guam		
Montana			American V.I.s		
Nebraska					
Nevada					

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

Date: \_\_\_\_\_

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

**Appendix H: Business Category**

**M/WBE**

**Please check all that apply and sign below.**

As defined by EEO, I certify that my company qualifies as the following;

Minority Business Enterprise: \_\_\_\_\_

Women Business Enterprise: \_\_\_\_\_

None of the above: \_\_\_\_\_

As defined by the US Small business Administration, my company qualifies as;

Certified Small Business; \_\_\_\_\_

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_

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



## Appendix I: USETPA Fees

**USETPA FEES:** In order to maintain and enhance the quality and quantity of USETPA contracts, all vendors agree to pay a 1.0-1.75% fee of all purchases made by the Subscribers to the Consortia Purchasing Advisors, LLC (CPA) for expenses related to the maintenance and management of the USETPA. This 1.0-1.75% fee is not to be included in the pricing structure submitted for the bid. USETPA Subscribers may not be charged this fee in any manner.

- Vendor shall pay the USETPA Administrative Fee in the amount of one to one and three fourths percent (1.0-1.75%) in accordance with the conditions of the Agreement. The USETPA Administration Fee is calculated by multiplying the one to one and three fourths percent (1.0-1.75%) times the “Net Purchase Price”. The “Net Purchase Price” is defined as Vendor’s product list price, minus all applicable contract discounts (the 1.0-1.75% Administrative Fee may not be included), rebates or value added incentives, and excluding sales, use or other applicable taxes.
- Manufacturers responding to RFP may elect to pay fee on behalf of Channel Partners or require that approved Channel Partners be responsible for the fee.
- The Administrative Fee percentage shall be calculated as 1.75% for the first \$10,000,000 per calendar year for all categories of services and equipment procured through a USETPA Master Contract. For every \$10,000,000 in additional sales a Vendor sells in a single calendar year, the fee shall be reduced by .25% on those sales until the lowest rate of 1% is achieved. The fee structure shall be as follows;

<b>Sales</b>	<b>Fee</b>
<b>\$0-\$10,000,000</b>	<b>1.75%</b>
<b>\$10,000,001-\$20,000,000</b>	<b>1.50%</b>
<b>\$20,000,001-\$30,000,000</b>	<b>1.25%</b>
<b>\$30,000,001 and above</b>	<b>1.00%</b>

- The USETPA Administration Fee, along with a corresponding sales report, will be remitted quarterly in the form of a check or electronic payment to the following:

- Consortia Purchasing Advisors/USETPA  
Attn: Reports Manager  
5 Revere Drive, Ste 200  
Northbrook, Illinois 60062
- Each remittance will include the time period covered including either a copy of the USEPTA Subscriber's correct invoice(s) or a data file including with all sales, dates, amounts and invoice numbers. The quarterly (calendar based) administrative fee shall be submitted by the last business day of the month for the previous quarter's actual sales (see table below). For example, the administrative fee for sales made in January-March is due by the end of April. A 1.5 percent (1.5%) per month charge will be added after the account is more than 30 days in arrears.

Sales Quarter	Report/Admin Fee Due Date
January-March	April 30
April-June	July 31
July-September	October 31
October-December	January 31

- **CONTRACT REPORTING REQUIREMENTS:** The Vendor/Dealer will be required to process quarterly usage reports via email to the CPA Reports Manager for all contracts. Report must be completed by the end of the month following the "sales" quarter. All "sales" must be reported. If "No Sales" are achieved for a specific quarter, then "Zero" (0) must be reported for that specific quarter. Failure to report the monthly activity by the 30th of the following month is grounds for cancellation of the contract, while not waiving any fees owed at that time or for the duration of any existing agreement between clients/subscribers and vendors. USETPA reserves the right to collect all owed fees at the expense of the vendor. If personal assistance is required, please contact the USETPA.
- Some contracts may require more stringent and timely reporting requirements, which must be met as specified separately
- Submission of Monthly Reports Email Address: **reports@cpadv.info**

## Appendix J: USETPA Summary

### US Educational Technology Purchasing Alliance

#### Summary

**Mission:**

To aggregate the demand for technology goods/services on behalf of K12 public and private schools, Head Start organizations, libraries, local government entities and all other public agencies to bargain for lower prices and better terms than most of these entities can achieve on their own and to lessen the time and expense of conducting local bids for good/services.

**Subscriber status:**

USETPA has issued RFPs and awarded convenience/master contracts to multiple vendors for the same service in order to achieve wide geographical coverage and to allow for vendor preference. Subscriber status is open to all eligible schools, libraries and public agencies at no cost. There is no legal obligation on behalf of any Subscriber to the alliance and there is no mandatory requirement on behalf of any Subscriber to use the contracts offered by the Alliance. Initially, bids were conducted in association with numerous professional organizations on behalf of all North Carolina K-12 public and private schools, Head Start organizations, and public libraries. The contracts have since been expanded to include local government agencies and used in 25 separate states. This RFP is specifically targeted to expanding the number of qualified vendors in additional sales territories as well as provide terms and conditions that comply with additional state purchasing laws.

When using USETPA contracts, Subscribers will not have to conduct their own bids for goods/services and will not have to file their own E-Rate Form 470's. This will save them considerable time and insure local boards that all proper bidding requirements have been met, including the best possible pricing for goods/services. Non-Subscriber entities are eligible to use the contract and be in compliance with the terms and conditions of the convenience contract providing that the sale is registered with the USETPA on the USETPA website and copies of all purchase orders are remitted to the USETPA. Only formal Subscribers may use the USETPA Form 470 for E-Rate purposes.

**Products:**

USETPA issues bids on behalf of its Subscribers for a comprehensive array of technology goods/services that include both E-Rate eligible and non-eligible goods/services.

The items covered include telephone, cellular, internet access, wide area network, hosted email, web hosting, and hosted VoIP telephone recurring services as well as equipment including computers, servers, switches, wireless and wired local area networks, cabling/wiring, tablets, and maintenance.

Individual RFP(s) have been issued to cover a broad category of products. Vendors are encouraged to respond to all or parts of each RFP. USETPA expects demand to be in excess of \$10,000,000 for most categories. Additional goods/services will be added as Subscriber status identifies new products for which they would like to receive bids. Future RFPs are planned for other goods and services including Office Supplies and Furniture.

To be apprised of future opportunities and receive RFP notifications, vendors are encouraged to register at [www.usetpa.org](http://www.usetpa.org).

**Appendix K: Previous Responses**

We wish to submit our previous response to RFP (*state previous RFP number*) as a response to this RFP, accepting all changes to terms and conditions as outlined in this RFP. This signed addendum must be received in a sealed envelope by the response date and time outlined in the RFP so that bid may be opened and scored as part of the sealed bid opening award process. Previous award does not guarantee award under the resulting contract from the new RFP.

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

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

Date: \_\_\_\_\_

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

**Appendix L: Basic Cabling Price Form**

<i>State applicable geographic locations per form. Include as many forms as needed.</i>			
<b>Location(s) List:</b>	<b>Effective October 2019</b>	<b>Effective October 2019</b>	<b>Effective October 2019</b>
<b>USETPA RFP #: 192209001: Cabling Infrastructure Services</b>			
<b>Unit Items</b>	<b>Regular Price</b>	<b>Discount Percent</b>	<b>Customer Price</b>
<b>Labor (Hourly Labor/Time Rates)</b>			
Regular Hours @			
Regular 1/2 Hours @			
Overtime Hours @			
Overtime 1/2 Hours @			
Holiday Hours @			
Holiday 1/2 Hours @			
Emergency Repair Rate - Low Priority (Resolution within 3 business days)			
Emergency Repair Rate - Medium Priority (Resolution within 24 hours)			
Emergency Repair Rate - High Priority (Resolution within 8 hours)			
Emergency Repair Rate - Critical Priority (Resolution within 4 hours)			

**Appendix M: Drug free Workplace**

**Drug Free Work Place Certification**

I hereby swear or affirm that this company has established a drug-free work place program by completing the following requirements;

- Published a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the work place and specifying the actions that will be taken against employees for violation of such prohibition.
- Informed employees about the dangers of drug use in the work place, the business’s policy of maintaining a drug-free work place, any available drug counseling, rehabilitation, & employee

assistance programs, and the penalties that may be imposed for drug abuse violations.

- Given each employee engaged in providing the commodities or contractual services that under bid a copy of the statement specified in subsection one (1).
- In the statement specified in subsection one (1), notified the employees that, as a condition of working on services that are under bid, the employee will abide by the terms of the statement& will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the work place no later than five (5) days after such conviction.
- Imposed a sanction on, or required the satisfactory participation in a drug abuse or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
- Make a good faith effort to maintain drug-free work place through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies with the above requirements.

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

Date: \_\_\_\_\_

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

Company

Name: \_\_\_\_\_

**Appendix N: Iran Divestiture Certification**

Name of Counterparty: \_\_\_\_\_  
\_\_\_\_\_

**IRAN DIVESTMENT ACT CERTIFICATION  
REQUIRED BY N.C.G.S. 147-86.59**

As of the date listed below, the entity listed above is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 147-86.58.

The undersigned hereby certifies that he or she is authorized by the entity listed above to make the foregoing statement.

---

Signature \_\_\_\_\_ Date \_\_\_\_\_

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

*Notes to persons signing this form:*

N.C.G.S. 143C-6A-5(a) requires this certification for bids or contracts with the State of North Carolina, a North Carolina local government, or any other political subdivision of the State of North Carolina. The certification is required at the following times:

- When a bid is submitted
- When a contract is entered into (if the certification was not already made when the vendor made its bid)
- When a contract is renewed or assigned

N.C.G.S. 143C-6A-5(b) requires that contractors with the State, a North Carolina local government, or any other political subdivision of the State of North Carolina must not utilize any subcontractor found on the State Treasurer's Final Divestment List.

The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address [www.nctreasurer.com/iran](http://www.nctreasurer.com/iran) and will be updated every 180 days.



## Appendix O: Edgar Compliance

The following provisions are required and apply when federal funds are expended by USETPA Approved Entity for any contract resulting from this procurement process. The USETPA Approved Entity is the subgrantee or subrecipient by definition.

In addition to other provisions required by the federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, is applicable.

- (A) **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 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide such sanctions and penalties as appropriate.**

Pursuant to Federal Rules (A) above, when federal funds are expended by Approved Entity, Approved Entity reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

*Does Vendor Agree? Yes \_\_\_\_\_ initials of authorized representative*

- (B) **Termination or cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)**

Pursuant to Federal Rules (B) above, when federal funds are expended by Approved Entity, Approved Entity reserves all rights and 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 Vendor, in the event vendors 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. Approved Entity also reserves the right to terminate the contract immediately, with written notice to vendor, for convenience, if Approved Entity believes, in its sole discretion that it is in the best interest of approved Entity to do so. The vendor will be compensated for work performed and accepted and goods accepted by Approved Entity as of the termination date if the contract is terminated for convenience of Approved Entity. Any award under this procurement process is not exclusive and Approved Entity reserves the right to purchase goods and services from other vendors when it is in the best interest of Approved Entity.

*Does Vendor Agree? Yes \_\_\_\_\_ Initials of authorized representative*

- (C) **Rights to Inventions Made Under a Contract Agreement.** If the 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 of 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.

*Does Vendor Agree? Yes \_\_\_\_\_ Initials of authorized representative*

- (D) **Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E. Compliance with the Contract Work Hours and Safety Standards Act require;**

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

*Does Vendor Agree? Yes \_\_\_\_\_ Initials of authorized representative*

- (E) **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 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 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).**

Pursuant to Federal Rule (G) above, when federal funds are expended by Authorized Entity, the vendor certifies that during the term of an award for all contracts by Authorized Entity resulting from this procurement process, the vendor agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

*Does Vendor Agree? Yes \_\_\_\_\_ Initials of authorized representative*

- (F) **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 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p.235), “Debarment and Suspension”. SAM exclusions contain 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.**

Pursuant to Federal Rule (H) above, when federal funds are expended by Authorized Entity, the vendor certifies that during the term of an award for all contracts by Authorized Entity resulting from this procurement process, the vendor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

*Does Vendor Agree? Yes \_\_\_\_\_ Initials of authorized representative*

- (G) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certified 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 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that take place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.**

Pursuant to Federal Rule (I) above, when federal funds are expended by Authorized Entity, the vendor certifies that during the term and after the awarded term of an award for all contracts by Authorized Entity resulting from this procurement process, the vendor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

- No Federal appropriated funds have been paid or will be paid for 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.
- If any funds other than Federal appropriated funds have been paid 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 grant or cooperative agreement, the undersigned shall complete and submit Stand Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- 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 to

all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Does Vendor Agree? Yes \_\_\_\_\_ Initials of authorized representative

(H) **Record Retention- 2 CFR § 200.333**

When federal funds are expended by Approved Entity for any contract resulting from this procurement process, the vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. The vendor further certifies that vendor will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed. Note that record retention requirements may be longer as per state or local law and/or E-Rate regulations and vendor should meet the most restrictive requirements.

Does Vendor Agree? Yes \_\_\_\_\_ Initials of authorized representative

(I) **Davis Bacon Act & Copeland Anti-Kickback Act. The Davis-Bacon Act only applies to the emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. It does not apply to other FEMA grant and cooperative agreement programs, including the Public Assistance Program.**

Compliance with the Copeland “Anti-Kickback” Act requires;

- (1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- (2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- (3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.”

Does Vendor Agree? Yes \_\_\_\_\_ Initials of authorized representative

**(J) Equal Employment Opportunity-Except as otherwise provided under CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in CFR § 60-1.3 will include the EOC provided under CFR § 60-1.3.**

During the performance of this contract, the contractor agrees as follows;

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules,



regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

*Does Vendor Agree? Yes \_\_\_\_\_ Initials of authorized representative*

**(K) Additional FEMA Certifications- Vendor to certify if they wish to be considered eligible for contracts containing federal FEMA assistance.**

**1) Access to records;**

(1) The contractor agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of recipient), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract

**2) DHS Seal Logo and Flags**

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval

**3) Compliance with Federal Law, Regulations, and Executive Orders**

This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor will comply will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives

**4) No Obligation by Federal Government**

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract

**5) Program Fraud & False or Fraudulent Statements or Related Acts**

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract

*Does Vendor Agree? Yes\_\_\_\_\_ Initials of authorized representative*

<b>CERTIFICATION OF NON-COLLUSION STATEMENT</b>
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Vendor certifies under penalty of perjury that its response to this procurement solicitation is in all respects bona fide, fair, and made without collusion or fraud with any person, joint venture, partnership, corporation or other business or legal entity.

*Does Vendor Agree? Yes\_\_\_\_\_ Initials of authorized representative*

**Vendor agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that vendor certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.**

<p>Vendor Name: _____</p>
<p>Printed Name of Authorized Representative: _____</p>
<p>Title of Authorized Representative _____</p>