



Kerry Wright
CFO
November 17, 2024

Proposal Receipt Deadline: February 2, 2024 at 12 Noon
Proposal Opening: February 2, 2024 at 2:00 p.m.

REQUEST FOR PROPOSAL # 2324-1
NOTICE

1. PROPOSAL DELIVERY, TIME & DATE

- 1.1. Notice is hereby given that the Region 17 Education Service Center, hereinafter referred to as "ESC", will receive **up to but not later than February 2, 2024, at 12 Noon**, proposals for the purchase of:

FIBER WIDE AREA NETWORK (WAN)

Proposals received after that date and time will not be accepted and shall be returned to the bidder unopened. Proposals shall be received in the ESC Business Office located at:

Region 17 Education Service Center
Kerry Wright, CFO
1111 W. Loop 289
Lubbock, TX 79416

The enclosed forms listed in Section 3 of the General Terms and Conditions **MUST** be used in submitting your proposal. **Please mark your proposal envelope plainly in the lower left corner: "RFP #2324-1"**.

- 1.2. Bidders are responsible for making certain that proposals are delivered to the Business Office by the deadline. Mailing of a proposal does not ensure that the proposal will be delivered on time or delivered at all. If bidder does not hand deliver the proposal, we suggest that he/she use a delivery service that provides a receipt.
- 1.3. Proposals will be accepted in person, by United States Mail, by United Parcel Service or by private courier service. No proposals will be accepted by oral communication, telephone, electronic mail, telegraphic transmission, or telefacsimile transmission. Proposals may be withdrawn prior to the above scheduled time set for receiving the proposals. Any proposal received after the date and hour specified will be rejected and returned unopened to the bidder.
- 1.4. Proposals will be opened February 2, 2024, at 2:00 p.m. in Conference Room 134 at the ESC. Bidders are welcome to attend the opening but are not required to attend. Company names will be announced from the proposals submitted and the proposals will be opened. No further discussion will be held at this meeting.
- 1.5. The ESC reserves the right to accept or reject, in part or in whole, any proposals submitted, and to waive any technicalities, and to make recommendations for awards in the best interest of the ESC.

- 1.6. The ESC reserves the right to postpone the date and time for the deadline of receipt of proposals through an RFP addendum posted to the E-Rate Productivity Center (EPC).
- 1.7. Office hours are 8:00 a.m. – 5:00 p.m., Monday through Thursday, and 8:00 a.m. – 4:00 p.m. on Friday. Offices will be closed for the Christmas holiday beginning Friday, December 22 at 2:00 p.m. and will reopen Monday, January 8 at 8:00 a.m.
- 1.8. The RFP timeline is as follows:
- December 1, 2023 – FCC Form 470 and RFP submitted to the EPC
 - November 20 and 27, 2023 - RFP Legal Notice in Lubbock Avalanche-Journal
 - December 14, 2023, January 11, and January 18, 2024 – Written question deadline at 5:00 p.m.
 - December 18, 2023, January 15, and January 22, 2024 – Answers to questions submitted by above deadlines will be posted by 5:00 p.m. as an RFP addendum to the EPC and posted on the Region 17 website
 - February 2, 2024 – All proposals due before 12 Noon; Proposals opened at 2:00 p.m.
 - February 21, 2024 – Selected proposal(s) will be presented to ESC board for approval

Kerry Wright
CFO

Region 17 Education Service Center

GENERAL TERMS AND CONDITIONS

1. APPLICABILITY

- 1.1. All items listed under the General Terms and Conditions apply unless otherwise stated in the Specifications.
- 1.2. These conditions are applicable and form a part of the contract documents in each equipment and/or service contract and a part of the terms of each purchase order for items of equipment and/or service included in the specifications and proposal forms issued herewith.

2. USE OF ESC DOCUMENTS

- 2.1. Proposals must be submitted on forms provided by the ESC. No alteration to the ESC forms will be permitted, including substitutions, additions, deletions or interlineations, without written consent of the ESC.
- 2.2. Reproduction of ESC documents is permitted, so long as reproduced copies are exactly the same in size, format and content as forms prepared by the ESC. Any proposal submitted in altered form may result in rejection of such proposal at the option of the ESC.

3. PROPOSAL COPIES

- 3.1. A complete proposal will consist of one original of the proposal submittal documents in a sealed envelope or container.
- 3.2. All Proposal Submittal documents include the following:
 - a) Options 1 and/or 2 Pricing Tables
 - b) Questionnaire
 - c) Additional information requested in Specifications section
 - d) Deviation/Compliance Form
 - e) Debarment or Suspension & Proposal Certification
 - f) Felony Conviction Notification
 - g) Resident Bidder Certification
 - h) Historically Underutilized Business (“HUB”) Certification
 - i) Attachments 1 & 2
 - j) EDGAR Certifications
 - k) Any addenda issued under Section 5 of these General Terms and Conditions
- 3.3. The bidder shall sign and date their proposal.

4. REQUEST FOR ADDITIONAL INFORMATION

- 4.1. All requests for additional information or clarification concerning this Request for Proposal must be submitted in writing and addressed to the CFO **on or before posted deadlines** in section 1.8 of the Notice:

Kerry Wright, CFO
Region 17 Education Service Center
kwright@esc17.net

- 4.2. Prior to the final selection, bidders may be required to submit additional information that the ESC may deem necessary to further evaluate the bidder's qualifications.

5. CLARIFICATION AND ADDENDA

- 5.1. Any bidder in doubt as to the true meaning of any part of the General Terms and Conditions and Specifications may request, **in writing**, an interpretation thereof from the CFO prior to the deadlines specified in Section 1.8 of the Notice. Please direct all requests to kwright@esc17.net. The interpretation will be made by written addendum issued by the CFO posted to the EPC.
- 5.2. Addenda will be posted to the EPC. All addenda will be posted on answer dates listed in Section 1.8. All bidders are expected to review the EPC for any applicable addenda so that said addenda will become part of the proposal package having the same binding effect as provisions of the original proposal. **No verbal explanations or interpretations will be binding.**
- 5.3. The ESC does not assume responsibility for the receipt of any addenda sent to bidders.
- 5.4. A copy of all addenda issued must be signed and returned with your proposal.

6. WITHDRAWAL OR MODIFICATION OF SUBMITTED PROPOSAL

- 6.1. Any proposal that has been submitted may be withdrawn prior to the scheduled time for opening the proposals. A request to withdraw a proposal must be in writing and be received by the ESC prior to the scheduled time for opening the proposals.
- 6.2. No amendment, addendum or modification shall be accepted after the deadline for submitting the proposal to the ESC. If a change to a proposal that has been submitted is desired, the submitted proposal must be withdrawn and the replacement proposal submitted prior to the time scheduled for receipt of proposals.
- 6.3. No bidder may have more than one proposal on file with the ESC.
- 6.4. After the scheduled time for receipt of proposals, proposals may not be withdrawn for 20 days.
- 6.5. Any contract entered into can be modified or rescinded only by a written document signed by both of the parties or their duly authorized agents.

7. DEVELOPMENT OF SPECIFICATIONS

- 7.1. Brands of equal quality or type are acceptable. The ESC reserves the right to make final decisions as comparable items. Be very certain that items upon which you propose, and deliver, are equal to items listed. Materials that are not equal shall be returned to the bidder transportation charges collect.
- 7.2. Whenever an article or material is defined by describing a proprietary product or by using the name of a manufacturer or brand name, the term "or equal" if not inserted shall be implied. The specified article or material shall be understood as indicating the type, function, minimum standard of design, efficiency and quality desired and shall not be construed as to exclude other manufactured products of comparable quality, design and efficiency.
- 7.3. The ESC reserves the right to modify conditions and specifications by mutual agreement with the selected supplier, both at the time of acceptance of this proposal offer as so modified, and subsequent thereto.

8. DELIVERY

- 8.1. Delivery required in this proposal shall be freight prepaid; F.O.B. destination and proposal prices shall include all freight and delivery charges.
- 8.2. The title and risk of loss of the goods shall not pass to the ESC until the ESC actually receives and takes possession of the goods at the point or points of delivery.

- 8.3. All deliveries will be made to: Region 17 Education Service Center
 ATTN: Michael Richardson
 1111 W. Loop 289
 Lubbock, TX 79416
- 8.4. A packing list or other suitable shipping documents shall accompany each shipment and show a) name and address of vendor, b) name and address of receiving department, c) ESC purchase order number and d) description of material shipped including item numbers, quantity, number of containers, and package number.
- 8.5. The ESC shall have the right to inspect the goods at delivery before accepting them.
- 8.6. The ESC shall not be responsible for any “hidden damage” for a period dating from the date of delivery until statute of limitations as provided by the Uniform Commercial Code.

9. **SPECIAL TOOLS AND TEST EQUIPMENT**

- 9.1. If the proposal price stated on the proposal submittal section of the proposal includes the cost of any special tooling or special test equipment fabricated or required by the bidder for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the ESC, and to the extent feasible shall be identified by the bidder as such.

10. **ERASURES OR CORRECTIONS TO PROPOSALS**

- 10.1. Any erasures and/or corrections to proposals, whether executed prior to or subsequent to the original proposal submittal shall be authenticated by affixing in the margin immediately opposite the correction the signature of the person or persons signing the proposal.

11. **INSPECTION OF DOCUMENTS**

- 11.1. Before submitting a proposal, each bidder shall thoroughly examine the proposal documents and project sites (if applicable) to ensure that the services proposed meet the intent of these specifications.
- 11.2. Each bidder receiving forms prepared by the ESC is responsible for inspection of ESC documents for missing or illegible pages, or other indication of incomplete information provided to the bidder. The failure or neglect of bidder to receive or examine any contract document, form, instrument, addendum or document shall in no way relieve bidder from obligations with respect to his or her proposal. The submission of a proposal shall be taken as prima facie evidence of compliance with this section. Receipt of addenda to the proposal documents by a bidder must be acknowledged on the proposal.
- 11.3. The ESC is not responsible for incomplete proposal packets.

12. **WARRANTIES**

- 12.1. Warranty conditions for all supplies and/or equipment shall be considered manufacturer’s minimum standard warranty or a minimum of ninety (90) days guarantee, whichever is greater, unless otherwise agreed to in writing. Bidder shall be, or partner with, an authorized dealer, distributor or manufacturer for the product. All equipment proposals shall be new unless clearly stated in writing.
- 12.2. If a bidder’s proposal is accepted by the ESC the price to be paid by the ESC shall be that contained in bidder’s proposal which bidder warrants to be no higher than bidder’s current prices on orders by others for products of the kind and specification covered by this agreement for similar quantities under similar or like conditions and methods of purchase. In the event bidder breaches this warranty, the prices of the items shall be reduced to the bidder’s current prices on orders by others, or in the alternative, the ESC may cancel this contract without liability to bidder for breach or bidder’s actual expense.
- 12.3. If a bidder’s proposal is accepted by the ESC, the bidder warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the bidder for the purpose of securing business. For breach or violation of this warranty the ESC shall have the right in addition to any other right or rights to cancel the contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission percentage, brokerage or contingent fee.

- 12.4. If a bidder's proposal is accepted by the ESC, the bidder shall not limit or exclude any implied warranties and attempt to do so shall render the contract void at the option of the ESC. Bidder warrants that the goods furnished will conform to the specifications, drawings, and descriptions listed in this proposal invitation, and to the sample(s) furnished by the bidder, if any. In the event of a conflict between the specifications, drawing, and descriptions, the specification shall govern.
- 12.5. If a bidder's proposal is accepted by the ESC, then the bidder warrants that the product sold to the ESC shall conform to the standards promulgated by the U.S. Department of Labor under Occupational Safety and Health Act. In the event the product does not conform to OSHA standards, the ESC may return the product for correction or replacement at the bidder's expense. In the event the bidder fails to make the appropriate correction within a reasonable time (15 working days) correction made by the ESC will be at the bidder's expense.

13. **SOLE SOURCE, PATENTED OR COPYRIGHT PROTECTED ITEMS**

- 13.1. The fact that a particular item is covered by a patent or copyright does not automatically mean that the purchase falls under the provisions pertaining to exemptions from the proposal requirements for items available from only one source. In fact, patents cover nearly all consumer goods. To be a bona fide exemption to the proposal requirement, there must be no other like items available for purchase that would serve the same purpose or function, and only one price for the product because of exclusive distribution or marketing rights. In the event any article to be sold or delivered hereunder is covered by any patent, copyright, trademark, or application thereof, the bidder shall indemnify and hold harmless the ESC from any and all loss, cost, expenses and legal fees on account of manufacture, sale, or use of such article in violation of infringement or the like of rights under such patent, copyright, trademark or application.

14. **PROPOSAL COST**

- 14.1. The ESC shall not be liable for any cost incurred by a bidder in the preparation or delivery of its response to this proposal or for any other cost incurred because of this proposal.
- 14.2. The issuance of this proposal does not obligate the ESC to enter into a contract for any services or equipment.

15. **PROPOSAL DISCLOSURE**

- 15.1. In the event that a bidder desires to claim that portions of its proposal are exempt from disclosure, it is incumbent upon the bidder to identify those portions in a transmittal letter. The transmittal letter must identify the page, the particular exemption(s) from disclosure and the contended justification for exemption upon which it is making its claim. The ESC will consider a bidder's request(s) for exemption from disclosure; however, the ESC will not be bound by the assertion that a page contains exempt material. An assertion by a bidder that an entire volume of its proposal is exempt from disclosure will not be honored.
- 15.2. Until a contract resulting from this proposal is executed, no employee, agent or representative of any bidder shall make available or discuss its proposal with the press, any elected or appointed official or officer of the ESC, or any employee, agent or other representative of the ESC unless specifically allowed to do so in writing by the ESC, except as specified in Section 18.9 of the General Terms and Conditions, for the purposes of clarification, evaluation and/or awarding the proposal

Bidders shall not issue any news release(s) or make any statement to the news media pertaining to this proposal or any proposal and/or contract or work resulting there from without the prior written approval of the ESC and then only in cooperation with the ESC.
- 15.3. By signing this proposal, a bidder affirms that he/she has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the proposal submitted.
- 15.4. Bidder shall note any and all relationships that might be a conflict of interest and include such information with the proposal.
- 15.5. By signing this proposal, a bidder affirms that, to the best of his/her knowledge, the proposal has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give them an unfair advantage over other bidders in the award of this proposal.

- 15.6. If a bidder's proposal has been accepted by the ESC, the bidder shall not advertise or publish, without the ESC's prior consent, the fact that the ESC has entered into the contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state or local government.

16. **ASSIGNMENTS AND SUBCONTRACTING**

- 16.1. No part of this order may be assigned or subcontracted without the prior written approval of the ESC. Any attempted assignment or delegation by the bidder shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

17. **LICENSES, PERMITS, TAXES**

- 17.1. The price or prices for the services shall include full compensation for all taxes, permits, etc. that the bidder is or may be required to pay.
- 17.2. The ESC is exempt from all state sales taxes. Tax exemption certificates will be supplied upon request.

18. **AWARD OF CONTRACT**

- 18.1. The ESC reserves the right to accept or reject any and all proposals and to waive any irregularities or informalities in any proposal or in the proposal process. The contract will be awarded to the responsible bidder whose proposal is most advantageous to the ESC, considering the relative importance of price and the other evaluation criteria that may be included in the proposal.
- 18.2. ESC may adjust timeline and/or ask additional questions of bidders based on initial responses.
- 18.3. The ESC retains the right not to purchase solely on the basis of low proposal; quality and suitability to purpose will be the controlling factors and the ESC reserves the right to arrive at such by means deemed appropriate. The proposal award shall be based on:
 - 18.3.1. 23% - price of the E-Rate eligible products and services
 - 18.3.2. 22% - network design and the extent to which the goods and services meet the ESC's needs
 - 18.3.3. 22% - reputation of vendor and of the vendor's goods or services; vendor's past relationship with the ESC
 - 18.3.4. 11% - ongoing technical support of network
 - 18.3.5. 10% - prior experience with projects of this size or larger
 - 18.3.6. 5% - Service Level Agreement (SLA) financial remedies
 - 18.3.7. 5% - Total long-term cost to the ESC to acquire the vendor's goods and services
 - 18.3.8. 2% - the impact on the ability of the ESC to comply with laws and rules relating to historically underutilized businesses
- 18.4. Proposal Submittal Options 1, 2, and 3 will all be scored utilizing the criteria above and contract awarded to highest scoring point value. If it is determined by ESC that the highest scoring point value bidder is not able to meet all obligations of this RFP, and a contract cannot be negotiated, then ESC reserves the right to award contract to the bidder with the second highest point value in the original bid evaluation.
- 18.5. ESC may conduct contract negotiations on details beyond what is specified in this RFP.
- 18.6. ESC may negotiate best and final pricing with winning bidder.
- 18.7. The ESC may, by written notice to vendor, cancel the contract if it is found by the ESC that funding is being withheld beyond normal expected timelines in this or other E-Rate applications due to any E-Rate investigations of vendor (outside of normal PIA review).
- 18.8. The ESC may, by written notice to vendor, cancel the contract if it is found by the ESC that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by vendor or any agent or representative of vendor, to any employee or members of the Board of Directors with a view toward securing an order or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such order.
- 18.9. It is expected that all contacts by bidders with any ESC personnel and members of the Board of Directors begin with Kerry Wright, CFO. When appropriate, Kerry Wright may refer bidders to communicate with Kyle Plumlee, Coordinator of Technology. Failure to follow this procedure is grounds for eliminating the bidder from any further consideration of awarding the contract.

- 18.10. In connection with the performance of work under the contract, the vendor agrees to comply with the Fair Labor Standard Act, Equal Opportunity Employment Act, and all other applicable Federal, State, and Local laws, regulations, and executive orders to the extent that the same may be applicable.
- 18.11. The implementation of any associated contracts resulting from this competitive bid process will be dependent on ESC issuing a written Notice to Proceed. E-rate funding notification alone will not signify Notice to Proceed. ESC will have the right to allow the contract to expire without implementation if appropriate funding does not become available.

19. **NON-APPROPRIATION CLAUSE**

- 19.1. Any/all contracts exceeding one (1) year will require a standard non-appropriation clause. Renewal of contracts will be in accordance with Local Government Code 271.903 concerning non-appropriation of funds for multi-year contracts. The Board of Directors of the ESC reserves the right to rescind the contract at the end of each fiscal year if it is determined that there are insufficient funds to extend the contract.

20. **UNIFORM COMMERCIAL CODE**

- 20.1. All contracts and agreements between bidders and ESC shall strictly adhere to the statutes as set forth in the Uniform Commercial Code as most recently revised.

21. **FORFEITURE FOR FAILURE TO EXECUTE CONTRACT**

- 21.1. In the event that a bidder is awarded the Contract but fails or refuses to execute the contract within ten (10) business days from the date of notification of award, the ESC may award the contract to the bidder whose proposal was rated as the next best value to the ESC. The ESC, alternatively at its discretion, may call for new proposals or may decline to award the contract.

22. **CONTRACTS FOR PURCHASE**

- 22.1. Contracts for purchase will be put into effect by means of a purchase order(s) executed by the Business Office after proposals have been awarded, or by means of a written contract and a purchase order(s) in such instances where applicable.
- 22.2. Any additional agreements/contracts to be signed by the ESC shall be included with the proposal.
- 22.3. Prices for all goods and/or services shall be negotiated to a firm amount for the duration of this contract or as agreed to in terms of time frame.

23. **NON-PERFORMANCE**

- 23.1. Continuing non-performance of the bidder in terms of specifications shall be a basis for the termination of the contract proposal. Cancellation by the ESC may be made upon thirty (30) calendar days written notice to the successful bidder. The ESC shall not pay for work, equipment, or supplies that are unsatisfactory. Bidders will be given a reasonable opportunity (30 calendar days) before termination, to correct the deficiencies. This, however, shall in no way be construed as negating the basis for termination for non-performance.
- 23.2. If, at any time, the bidder fails to fulfill or abide by the terms, conditions, or specifications of the contract, the ESC reserves the right to: a) Purchase on the open market and charge the bidder the difference between contract and actual price, or b) deduct charges from existing invoice totals due at the time, or c) cancel the contract within thirty (30) days written notification.
- 23.3. The ESC shall have the right to cancel for default all or any part of the undelivered portion of this order if bidder breaches any of the terms hereof including warranties of bidder or if the bidder becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any other remedies that the ESC may have in law or equity.
- 23.4. The Business Office of the ESC is charged with the responsibility of creating a healthy and competitive atmosphere among a large number of bidders: however, bidders may be removed from the various proposal list due to:
- Lack of response to proposal invitations
 - Non-competitive proposals (proposing on or receiving a very small part of proposals)

- Failure to adhere to terms and conditions of proposals
- Substituting (without approval) items other than those actually proposed
- Failure to render service normally associated with the sale of goods; i.e. delivery dates, shipment problems, return and replacement of damaged goods, provide (within reason) availability of contact person associated with proposal

24. INDEMNIFICATION

24.1. The vendor will defend, indemnify, hold harmless and exempt the ESC, its officers, agents, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorneys' fees incident to any work done in the performance of this Contract arising out of a willful or negligent act or omission of the vendor, its officers, agents, or employees.

25. VENUE

25.1. All parties agree that venue for any litigation arising from this contract shall lie in Lubbock County, Texas.

26. UNENFORCEABILITY OF PROVISIONS

26.1. If any provision of this contract is invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the remaining language of this contract.

27. NO ISRAEL BOYCOTT

27.1. In accordance with Texas Government Code 2270.002, ESC is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Bidder hereby verifies that it does not boycott Israel and agrees that, during the term of this proposal, shall not boycott Israel. Bidder further agrees and acknowledges that the subsequent Agreement shall be null and void should facts arise leading the ESC to believe that bidder's verification herein is inaccurate or should bidder engage in activity reasonably reflecting that it is boycotting Israel during the term of the Agreement.

28. COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR A FOREIGN TERRORIST ORGANIZATION

28.1. In accordance with Texas Government Code, Chapter 2252, Subchapter F, ESC is prohibited from entering in a contract with a company that is identified on a list prepared and maintained by the Texas Comptroller or the State Pension Review Board under Texas Government Code Sections 806.051, 807.051, or 2252.153. By execution of this Agreement, bidder certifies to ESC that it is not a listed company under any of those Texas Government Code provisions. Bidder hereby voluntarily and knowingly acknowledges and agrees that the subsequent Agreement shall be null and void should facts arise leading the ESC to believe that the bidder was a listed company at the time of this procurement.

29. CERTIFICATION REGARDING EMPLOYMENT ASSISTANCE PROHIBITED (CJ(LEGAL)/20 U.S.C. 7926)

29.1. In the event federal funds are used to compensate bidder herein, bidder hereby certifies and agrees that it shall not assist an employee, contractor, or agent of the ESC in obtaining a new job if the bidder knows, or has probable cause to believe, that the individual engaged in sexual misconduct regarding a minor or student in violation of the law. Routine transmission of an administrative or personnel file does not violate this prohibition.

Region 17 Education Service Center

SPECIFICATIONS

Purpose

The ESC wishes to compare Lit Fiber services including Internet as well as without Internet services for the construction of the ESC Wide Area Network. Each proposed site in the network must have the capability of both a 1Gb and 10Gb handoff. The purpose of this Request for Proposal (“RFP”) is to provide sufficient information for vendors to prepare and submit bids for evaluation. The words “bidder” and “vendor” are used as synonyms in this RFP.

Scope

Throttling bandwidth and operating on a congested network for member districts has been determined to be unacceptable based on member districts use of latency sensitive applications, upload reporting requirements and significant peaks in bandwidth demand. With this in mind, the ESC is seeking options for a dedicated broadband network solution for the provision of fiber connectivity to member districts. Based upon the continued increase in Internet Access bandwidth utilization and State Educational Technology Directors Association (“SETDA”) recommendations, ESC is requesting broadband network solutions where all fiber and routing equipment is 100% dedicated to the ESC network. The solution options should provide high availability, high bandwidth services that support data, voice, and video simultaneously. This RFP is the official request for responsible parties to submit their offerings and qualifications to the ESC for the purpose of contracting for Fiber Wide Area Network (“WAN”) Services. Prospective bidders are requested to offer connectivity between the ESC Data Center and member districts listed in this RFP. ESC has a preference for providers who can offer a “bundled” holistic, all-in-one solution and effort required by ESC before, during, and after installation is minimal. Therefore preference will be given to bidders who either offer all services independently or via 3rd party subcontractors as a complete package including fiber construction, terminating equipment, fiber installation and operations, and scheduled and unscheduled maintenance.

Options for bidding

ESC is seeking three options for bids. Respondents may bid one, two or all three options.

- **Option 1 – Transport Only** - The first option is a fully managed, lit fiber service with 1Gb and 10Gb options from the ESC Data Center to each member district as specified in Option 1 Pricing Sheet. Appendix 1 specifies the address for each member district. Appendix 2 specifies the address for each potential future member district.
- **Option 2 – Internet Access & Transport Bundled** - This option is a fully managed, lit fiber service with 1Gb and 10Gb options from the ESC Data Center to each member district as specified in Option 2 Pricing Sheet. Appendix 1 specifies the address for each member district. Appendix 2 specifies the address for each potential future member district. This option requires a minimum of two 10Gb Internet connections on diverse paths to the ESC Data Center.
- **Option 3 - Vendor Recommended Solution and Pricing** - Vendors are encouraged to provide alternative solutions that meet and/or exceed the scope of this RFP. Option 3 broadband network solutions are open-ended. Vendors may provide a network design/pricing model that meets the bandwidth requirements of member districts that provide a cost-effective broadband network solution. Vendors must provide pricing in a format similar to Option 1 and Option 2 Pricing Tables to allow for a financial comparative analysis. Vendors who elect to respond to Option 3 must title the response “Option 3 - Vendor Recommended Solution Pricing”.

Terms and Conditions

- The purpose of this RFP is to determine the actual long-term cost for each ESC district to participate in the consortium. Based upon the results, each district will then have the opportunity to formally participate or withdraw from the consortium.
- Price quotes are requested for a seven (7) and ten (10) year commitment with the option of ten (10) one (1) year renewal terms thereafter. The renewal rate should include at least a 10% reduction in price or market rate, whichever is better at the time of renewal.
- In the event of price decreases to the general trade/industry during the contract, such decreases must be passed on to ESC for all services included in this contract. Vendor is required by E-Rate to offer Lowest Corresponding Price (“LCP”).
- ESC requests vendor cooperation with ESC for future Internet bandwidth requirements.
- Symmetrical upstream and downstream bandwidth to the required levels
- **Network designs must be point-to-point. No district shall rely on another district’s infrastructure for connectivity.**
- The option to upgrade individual sites to up to 10 Gb if the ESC chooses to start with the 1Gb option.
- Network should be resilient and fault tolerant utilizing industry standard best practice design.

- Due to the size and scope of this project, and the timely receipt of a Funding Commitment Decision Letter, provide a project implementation plan based upon the receipt of a Funding Commitment Decision Letter as “Day 1” of your proposed project implementation plan.
- Prices should be all-inclusive. All-inclusive in this case means including all non-recurring costs (“NRC”) required by the vendor to commence service and all monthly recurring costs (“MRC”) in the requisite columns of the pricing sheets. Price increases will not be allowed during the term of the quoted NRC and MRC rate.
- ESC requests that the respondents consider allowing ESC to pay the non-discount share (share of special construction costs that are the responsibility of the applicant to be paid in equal annual installments over the first four years of the contract.
- All circuits must support Quality of Service (QoS) and have the ability to apply rate limiting guarantees to specific packet types to ensure Quality of Service at each WAN link. The network must have the ability to support multiple QoS policies and prioritization queues across each link in the WAN to reduce latency and packet loss and guarantee throughput for data, voice, and video.
- There is no right to rate limit or throttle the capacity of the circuit at any time.
- Web portal or local monitoring of all circuits is required.
- Must provide a minimum 99.99% guaranteed uptime.
- Network Latency Commitment <15 milliseconds roundtrip
- Network Jitter Commitment <5 milliseconds
- Bit-Error Rate commitment <0.25% between circuit endpoints
- Creation and communication of service tickets to Region 17 ESC escalation list
- Mean Time-To-Repair for outages <4 hours
- Restoration of service after catastrophic events such as fires, storms, earthquakes, or accidental damage shall be on an around-the-clock basis (24/7).
- The ESC must have guaranteed lit fiber transport bandwidth throughput (upload and download) of 1 Gb and 10Gb with Service Level Agreement (“SLA”) guarantees and provision of financial or service credit penalty if this service level agreement is violated.
- Vendor shall provide a network diagram, physical and logical, of the proposed network.
- **Service implementation is planned to begin as soon as possible within the E-Rate guidelines, but monthly recurring charges cannot start prior to July 1, 2025, when the contract ends with current Wide Area Network vendor unless approved by all parties.**
- An exact (required) scope of work listing all pertinent details, including but not limited to installation schedules, exact standards to be adhered to, identification of aerial vs. buried fiber segments, as well as detailed drawings showing fiber and equipment locations will be provided to the ESC by the successful vendor.
- In each district, vendor must run infrastructure or service to location designated by ESC. Solutions bringing service to the property line but not inside of the Demarc address are not acceptable.
- Defacement of the premises resulting from any installation by the vendor, or his agent, will be the responsibility of the vendor for replacement or repair unless otherwise agreed to in writing by the ESC.
- All responding vendors must be a registered vendor with Universal Service Administrative Co. (“USAC”) and have a USAC issued Service Provider Identification Number (“SPIN”).
- The selected vendor(s) will be required to assume responsibility for all services obtained under contracts resulting from this RFP. ESC will consider the selected vendor to be the sole point of contact regarding payment of any and all charges resulting from contract obligations. It will be the responsibility of the vendor(s) to verify the completeness of each order, and its suitability to meet the needs of the ESC.
- At the end of the contract term, if ESC chooses to transition to a new Wide Area Network provider, then ESC may move to a month-to-month service and ESC will only pay for sites that remain on existing network during the phase in of the new network. ESC will communicate with current vendor when sites will be removed.
- Each vendor, by signing and returning this bid, stipulates that he/she has read, understands, and will comply with all provisions of this RFP.
- All applicable E-Rate rules must be followed.
- Vendor should bill the ESC for the non-discount amount (the ESC’s share of the cost) with vendor filing FCC Form 474, Service Provider Invoice (“SPI”) Form to be reimbursed for the discount amount.
- If E-Rate funding for this project is not maintained by SLD, or E-Rate discount rate is reduced by 10%, after the first year of this agreement, vendor will make all reasonable efforts to maintain services for ESC. The parties will negotiate in good faith regarding the monthly service fee applicable to the remaining years left in the term. ESC reserves the right to terminate this agreement if new payment arrangements cannot be made and will face no financial penalties.
- All E-rate applications including special construction are subject to review and detailed questioning by USAC. Respondents should provide or be prepared to promptly provide the following information:
 - A map file of the proposed fiber route in kmz format,
 - The cost per foot of fiber,
 - The cost per foot of fiber installation (splicing, pulling through conduit, hanging on poles),

- The cost per foot of outside plant materials (conduit, handholes, markers, aerial make ready materials),
- The cost per foot of outside plant installation (trenching, handhole and marker installation, installation of aerial make-ready materials),
- The amount of special construction capital requested will be reviewed based on the cost of historical fiber builds in the region. Respondents should consider other business that may be generated by building fiber into the region and request only the special construction capital allocatable to the ESC's service.

Option 1 Pricing Table – Lit Fiber Service
34 Current Member Sites listed with addresses in Attachment 1

Non-recurring special construction total for all 34 member districts - \$ _____

Other non-recurring charges - \$ _____

Other non-recurring charges explanation

7 Year Term (with 1-year renewals up to 10 additional years)
Recurring total for all 34 member districts

| Bandwidth | Monthly Cost (Years 1 -7) | Monthly Cost (After Year 7) |
|------------------|----------------------------------|------------------------------------|
| 1 Gbps | \$ _____ | \$ _____ |
| 5 Gbps | \$ _____ | \$ _____ |
| 10 Gbps | \$ _____ | \$ _____ |

10 Year Term (with 1-year renewals up to 10 additional years)
Recurring total for all 34 member districts

| Bandwidth | Monthly Cost (Years 1 -10) | Monthly Cost (After Year 10) |
|------------------|-----------------------------------|-------------------------------------|
| 1 Gbps | \$ _____ | \$ _____ |
| 5 Gbps | \$ _____ | \$ _____ |
| 10 Gbps | \$ _____ | \$ _____ |

Option 2 Pricing Table – Lit Fiber Service with Internet
34 Current Member Sites with addresses listed in Attachment 1

Non-recurring special construction total for all 34 member districts - \$ _____

Other non-recurring charges - \$ _____

Other non-recurring charges explanation

7 Year Term (with 1-year renewals up to 10 additional years)

Recurring total for all 34 member districts

| Site Connection Bandwidth | Monthly Cost (Years 1 -7) | Monthly Cost (After Year 7) |
|---------------------------|---------------------------|-----------------------------|
| 1 Gbps | \$ | \$ |
| 5 Gbps | \$ | \$ |
| 10 Gbps | \$ | \$ |

Total Internet Bandwidth to ESC 17 Datacenter (minimum of 2 10Gb connections): _____

10 Year Term (with 1-year renewals up to 10 additional years)

Recurring total for all 34 member districts

| Site Connection Bandwidth | Monthly Cost (Years 1 -10) | Monthly Cost (After Year 10) |
|---------------------------|----------------------------|------------------------------|
| 1 Gbps | \$ | \$ |
| 5 Gbps | \$ | \$ |
| 10 Gbps | \$ | \$ |

Total Internet Bandwidth to ESC 17 Datacenter (minimum of 2 10Gb connections): _____

Possible Future Sites listed below – Addresses listed in Attachment 2

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Price Individually - Vendors should estimate to the best of their ability

Assume 7-year term and 10 Gbps connection speeds for price comparison – ESC will discuss appropriate speed with vendor when adding a site

| District Name | Monthly Recurring | Special Construction Costs | Other Non-Recurring Costs |
|-------------------------|--------------------------|-----------------------------------|----------------------------------|
| Denver City ISD | \$ | \$ | \$ |
| Frenship ISD | \$ | \$ | \$ |
| Guthrie CSD | \$ | \$ | \$ |
| Harmony Science Academy | \$ | \$ | \$ |
| Jayton-Girard ISD | \$ | \$ | \$ |
| Lamesa ISD | \$ | \$ | \$ |
| Littlefield ISD | \$ | \$ | \$ |
| Lubbock ISD | \$ | \$ | \$ |
| Lubbock-Cooper ISD | \$ | \$ | \$ |
| Motley County ISD | \$ | \$ | \$ |
| Muleshoe ISD | \$ | \$ | \$ |
| New Home ISD | \$ | \$ | \$ |
| Olton ISD | \$ | \$ | \$ |
| Paducah ISD | \$ | \$ | \$ |
| Patton Springs ISD | \$ | \$ | \$ |
| Plainview ISD | \$ | \$ | \$ |
| Premier High School | \$ | \$ | \$ |
| Richard Milburn Academy | \$ | \$ | \$ |
| Rise Academy | \$ | \$ | \$ |
| Ropes ISD | \$ | \$ | \$ |
| Seminole ISD | \$ | \$ | \$ |
| Southland ISD | \$ | \$ | \$ |
| South Plains Academy | \$ | \$ | \$ |
| Springlake-Earth ISD | \$ | \$ | \$ |
| Spur ISD | \$ | \$ | \$ |
| Sudan ISD | \$ | \$ | \$ |
| Sundown ISD | \$ | \$ | \$ |
| Whiteface CISD | \$ | \$ | \$ |

Statement: Having carefully examined this RFP, the undersigned hereby proposes and agrees to furnish information and pricing in compliance with the General Terms and Conditions and Specifications of this RFP to provide Internet Access Services and/or Transport.

Company Name _____

Date _____

Authorized Signature _____

Printed Name _____

Position With Company _____

Mailing Address _____

Telephone _____

Email _____

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Region 17 Education Service Center
QUESTIONNAIRE

Please provide the following information in the sequence and format contained herein. This form can be retyped at the proposer's option. Supplemental materials providing additional information may be attached, but the information requested below is to be provided in this format.

Please provide reference contact information for two or more projects of equal or greater scope.

Please explain any segments that do not provide fault tolerance/resiliency.

Please describe emergency power (i.e. generator, UPS) available on your backbone network and estimated up time during power outages.

Please describe the procedure for requesting SLA reimbursements.

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Region 17 Education Service Center
DEVIATION/COMPLIANCE FORM

If the undersigned bidder intends to deviate from the General Terms and Conditions or Specifications listed this proposal invitation, all such deviations must be listed on this page, with complete and detailed conditions and information included or attached. The Business Office will consider any deviations in its bid award decisions, and the Business Office reserves the right to accept or reject any bid based upon any deviations indicated below or in any attachment or inclusions.

In the absence of any deviation entry on this form, the bidder assures the ESC of their full compliance with the General Terms and Conditions, Specifications and all other information contained in this Request for Proposal Invitation.

No Deviations

Yes Deviations

List any deviations your company is submitting below:

COMPANY NAME

ADDRESS

CITY

STATE

Signature of Authorized Representative

Date

Printed Name and Title

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Region 17 Education Service Center
DEBARMENT OR SUSPENSION & PROPOSAL CERTIFICATION

DEBARMENT OR SUSPENSION. Federal Law (A-102) Common Rule and OMB Circular (A-110) prohibits non-federal entities from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement contracts for goods or services equal to or in excess of \$100,000 and all non-procurement transactions (e.g., sub-awards to sub-recipients). Contractors (Vendors) receiving individual awards for \$100,000 or more and all sub-recipients must certify that the organization and its principals are not suspended or debarred. By signature of this solicitation, the Proposer affirms that neither they nor their principals are suspended or debarred by a federal agency.

PROPOSAL CERTIFICATION. It is understood and agreed that the Region 17 Education Service Center reserves the right to increase or decrease quantities or modify conditions and specifications by mutual agreement with the selected supplier, both at the time of acceptance of this proposal as so modified, and subsequent thereto.

In compliance with this solicitation I, the undersigned Proposer for the firm named below, of lawful age, do certify that I am the agent authorized by the bidder/proposer to submit the attached proposal. I further state that neither I nor my company have been a party to any collusion among bidders in restraint of freedom of competition by agreement to proposal/propose at a fixed price or to refrain from bidding/proposing; or with any official or employee of the Region 17 Education Service Center as to quantity, quality, or price of the item or prospective contract proposal/proposal, or any other terms concerning exchange of money or other thing of value for special consideration in the awarding of bid/proposal or letting of contract; that the bidder/proposer has not been paid, given or donated, or agreed to pay, give up or donate to any officer or employee of the Region 17 Education Service Center either directly or indirectly in the procuring of the award of a purchase or contract pursuant to this proposal/proposal.

THIS PROPOSAL MUST BE SIGNED; FAILURE TO SIGN THIS PROPOSAL WILL BE SUFFICIENT REASON FOR REJECTION OF PROPOSAL.

PROPOSAL SUBMITTED BY:

COMPANY _____

BY _____
(Please type or print)

SIGNATURE _____

POSITION WITH COMPANY _____

ADDRESS _____
(St. or Box No.) City State Zip

PHONE NUMBER _____

FAX NUMBER _____

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Region 17 Education Service Center
FELONY CONVICTION NOTIFICATION

State of Texas Legislative Senate Bill No. 1, Section 44.034, Notification of Criminal History, Subsection (1) states “a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony.”

Subsection (b) states “a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract.”

This Notice Is Not Required of a Publicly-Held Corporation.

I, the undersigned agent for the firm named below, certify that the information concerning notification of felony convictions has been reviewed by me and the following information furnished is true to the best of my knowledge.

Vendor’s Name

Signature of Authorized Company Official

Authorized Company Official’s Name (Please print)

Please complete and sign the appropriate statement below.

- A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable.

Signature of Company Official: _____ Date: _____

- B. My firm is not owned nor operated by anyone who has been convicted of a felony.

Signature of Company Official: _____ Date: _____

- C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony:

Name of Felon (If more than one, list on back of this sheet):

Felony Conviction (brief explanations) (If more than one, list on back of this sheet):

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Region 17 Education Service Center
RESIDENT BIDDER CERTIFICATION

In order for proposal to be considered, the following information must be provided. **Failure to complete may result in rejection of the proposal:**

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

I certify that my company is a “resident bidder”:

Signature _____ Date: _____

If you qualify as a “nonresident bidder,” you must furnish the following information:

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

_____ City _____ State _____ Zip _____

_____ Company Name _____ Address _____

(A) Does your “residence state” require bidders whose principal place of business is in Texas to underbid bidders whose residence state is the same as yours by a prescribed amount or percentage to receive a comparable contract?
“Residence state” means the state in which the principal place of business is located. YES _____ NO _____

(B) What is the amount or percentage? _____%

I certify that the above information is correct.

_____ Name _____ Position _____

_____ Company Name _____

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Region 17 Education Service Center
HISTORICALLY UNDERUTILIZED BUSINESS (HUB) CERTIFICATION

Businesses that have been certified by the Texas Building and Procurement Commission (TBPC) or other qualified agency as Historically Underutilized Business (HUB) entities are encouraged to indicate their HUB status when responding to this proposal invitation. The electronic catalogs will indicate HUB certifications for vendors that properly indicate and document their HUB certification on this form.

___ I certify that my business has been certified as a Historically Underutilized Business (HUB), and I have attached a copy of our HUB Certification to this form. (Required documentation for recognition as a HUB must be sent with response)

___ My business has NOT been certified as HUB.

I certify that the above information is correct.

| | |
|------|----------|
| Name | Position |
|------|----------|

Company Name

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34 Current Member Site List

| District Name | Address | City | Zip |
|----------------------|---------------------------|---------------|------------|
| Abernathy ISD | 505 W 7th St | Abernathy | 79311 |
| Amherst ISD | 100 N Main St | Amherst | 79312 |
| Anton ISD | 100 Ellwood Blvd | Anton | 79313 |
| Borden County ISD | 240 W Kincaid Ave | Gail | 79738 |
| Brownfield ISD | 601 Tahoka Road | Brownfield | 79316 |
| Cotton Center ISD | 2345 FM 179 | Cotton Center | 79021 |
| Crosbyton CISD | 204 S Harrison St | Crosbyton | 79322 |
| Dawson ISD | 600 Brownfield Hwy | Welch | 79377 |
| Floydada ISD | 226 W California St | Floydada | 79235 |
| Hale Center ISD | 103 W Cleveland | Hale Center | 79041 |
| Idalou ISD | 601 S Walnut St | Idalou | 79329 |
| Klondike ISD | 2911 Co Rd H | Lamesa | 79331 |
| Levelland ISD | 500 Cactus Dr. | Levelland | 79336 |
| Lockney ISD | 416 W Willow St | Lockney | 79241 |
| Loop ISD | 1433 FM 303 | Loop | 79342 |
| Lorenzo ISD | 303 Polk Avenue | Lorenzo | 79343 |
| Meadow ISD | 604 4th Street | Meadow | 79345 |
| Morton ISD | 500 Champion Dr | Morton | 79346 |
| New Deal ISD | 209 S Auburn | New Deal | 79350 |
| O'Donnell ISD | 400 Small St | O'Donnell | 79351 |
| Petersburg ISD | 1411 W 4 th St | Petersburg | 79250 |
| Plains ISD | 1000 Tenth St | Plains | 79355 |
| Post ISD | 200 W 6th St | Post | 79356 |
| Ralls ISD | 810 Ave I | Ralls | 79357 |
| Roosevelt ISD | 1406 County Road 3300 | Lubbock | 79403 |
| Sands CISD | 101 Mustang Dr | Ackerly | 79713 |
| Seagraves ISD | 1801 Ave K | Seagraves | 79359 |
| Shallowater ISD | 1009 Ave L | Shallowater | 79363 |
| Slaton ISD | 105 N 20th St | Slaton | 79364 |
| Smyer ISD | 902 W 4th | Smyer | 79367 |
| Tahoka ISD | 1925 Avenue P | Tahoka | 79373 |
| Wellman-Union CISD | 505 Terry Ave | Wellman | 79378 |
| Whitharral ISD | 201 2nd St | Whitharral | 79380 |
| Wilson ISD | 1411 Green Ave | Wilson | 79381 |

Possible Future Member Site List

| District Name | Address | City | Zip |
|-------------------------|------------------------------|-------------|------------|
| Denver City ISD | 501 Mustang Avenue | Denver City | 79323 |
| Frenship ISD | 501 7th Street | Wolfforth | 79382 |
| Guthrie CSD | 301 Jaguar Lane | Guthrie | 79236 |
| Harmony Science Academy | 1516 53rd Street | Lubbock | 79332 |
| Jayton-Girard ISD | 700 Madison | Jayton | 79528 |
| Lamesa ISD | 212 N. Houston | Lamesa | 79331 |
| Littlefield ISD | 1100 Waylon Jennings | Littlefield | 79339 |
| Lubbock ISD | 1628 19th Street | Lubbock | 79401 |
| Lubbock-Cooper ISD | 6302 Loop 493 | Lubbock | 79423 |
| Motley County ISD | 1600 Bundy Street | Matador | 79244 |
| Muleshoe ISD | 800 W 3rd Street | Muleshoe | 79347 |
| Olton ISD | 700 Avenue G | Olton | 79064 |
| New Home ISD | 225 N Main | New Home | 79381 |
| Paducah ISD | 810 Goodwin Street | Paducah | 79248 |
| Parkview Mullin ISD | 1515 5th Street | Levelland | 79336 |
| Patton Springs ISD | 1261 East FM 193 | Afton | 79220 |
| Plainview ISD | 2407 Yonkers St | Plainview | 79072 |
| Premier High School | 2002 W Loop 289, Suite 121 | Lubbock | 79407 |
| Richard Milburn Academy | 2333 50 th Street | Lubbock | 79332 |
| Rise Academy | 207 N MLK Boulevard | Lubbock | 79403 |
| Ropes ISD | 304 Ranch | Ropesville | 79358 |
| Seminole ISD | 604 SW Ave B | Seminole | 79360 |
| Southland ISD | 190 Eighth St | Southland | 79364 |
| Spur ISD | 800 Calvert Avenue | Spur | 79370 |
| Sudan ISD | FM 303 and McCarty Street | Sudan | 79371 |
| Sundown ISD | 801 North School Avenue | Sundown | 79372 |
| Whiteface CISD | 401 Antelope Blvd | Whiteface | 79379 |

EDGAR CERTIFICATIONS
2 CFR SECTION 200 REQUIRED PROVISIONS
ADDENDUM FOR CONTRACT FUNDED BY U.S. FEDERAL GRANT

The following certifications and provisions are required and apply only when the ESC expends federal funds for any contract resulting from this procurement process. **In the event of a conflict or inconsistency between the following terms and conditions and any provision of any contract, agreement, or Purchase Order, the following terms and conditions shall control. Accordingly, the parties agree that the following terms and conditions apply to the Contract/PO between ESC and Vendor in all situations where Vendor has been paid or will be paid with federal funds:**

**REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER
FEDERAL AWARDS**

APPENDIX II TO 2 CFR PART 200

(A) *[Applicable ONLY to contracts in excess of \$250,000.]* **Contracts for more than the simplified acquisition threshold currently set at \$250,000 (2 CFR 200.320), 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 for such sanctions and penalties as appropriate.**

Pursuant to Federal Rule (A) above, when the ESC expends federal funds, the ESC 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.

(B) *[Applicable ONLY to contracts in excess of \$10,000.]* **Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be affected and the basis for settlement.**

Pursuant to Federal Rule (B) above, when the ESC expends federal funds, the ESC reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Vendor in the event Vendor 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. The ESC also reserves the right to terminate the contract immediately, with written notice to vendor, for convenience, if the ESC believes, in its sole discretion that it is in the best interest of the ESC to do so. Vendor will be compensated for work performed and accepted and goods accepted by the ESC as of the termination date if the contract is terminated for convenience of the ESC. Any award under this procurement process is not exclusive and the ESC reserves the right to purchase goods and services from other vendors when it is in the ESC's best interest.

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

Pursuant to Federal Rule (C) above, when the ESC expends federal funds on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

(D) *[Applicable ONLY to prime construction contracts in excess of \$2,000 where federal funds are being used for the project]* **Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include**

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a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) [*Applicable ONLY to contracts in excess of \$100,000 involving mechanics or laborers.*] **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** Where applicable, 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 (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Rule (E) above, when the ESC expends federal funds, Vendor certifies that Vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act during the term of an award for all contracts by the ESC resulting from this procurement process.

(F) **Rights to Inventions Made Under a Contract or 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.

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

(G) [*Applicable ONLY to contracts in excess of \$250,000.*] **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 \$250,000 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 the ESC, Vendor certifies that during the term of an award for all contracts by the ESC resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

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(H) 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 contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to Federal Rule (H) above, when federal funds are expended by the ESC, Vendor certifies that during the term of an award for all contracts by the ESC resulting from this procurement process, 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.

(I) [Applicable ONLY to contracts in excess of \$100,000] 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 certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

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

- (1) 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.
- (2) 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 Standard Form-LLL, “Disclosure Form to Report Lobbying”, in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

(J) Procurement of Recovered Materials – When federal funds are expended, the ESC and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include: (1) procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; (2) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (3) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Pursuant to Federal Rule (J) above, when federal funds are expended by the ESC, as required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6962(c)(3)(A)(i)), the vendor certifies,

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by signing this document, that the percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the contract will be at least the amount required by the applicable contract specifications or other contractual requirements.

(K) Domestic Preferences for Procurements – As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of 2 CFR Part 200.322, “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Moreover, for purposes of 2 CFR Part 200.322, “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum, plastics and polymer-based products such as polyvinyl chloride pipe, aggregates such as concrete, glass, including optical fiber, and lumber.

Pursuant to Federal Rule (K) above, when federal funds are expended by the ESC, vendor certifies, by signing this document, that to the greatest extent practicable vendor will provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

(L) Ban on Foreign Telecommunications – Federal grant funds may not be used to purchase equipment, services, or systems that use “covered telecommunications” equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. “Covered telecommunications” means purchases from Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), and video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

Pursuant to Federal Rule (L) above, when federal funds are expended by the ESC, vendor certifies, by signing this document, vendor will not purchase equipment, services, or systems that use “covered telecommunications”, as defined by 2 CFR §200.216, equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(M) Required Affirmative Steps for Small, Minority, And Women-Owned Firms for Contracts Paid for with Federal Funds – 2 CFR § 200.321 –

When federal funds are expended by ESC, Vendor is required to take all affirmative steps set forth in 2 CFR 200.321 to solicit and reach out to small, minority and women owned firms for any subcontracting opportunities on the project, including: 1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; 2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; 3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; 4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; 5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

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RECORD RETENTION REQUIREMENTS FOR CONTRACTS INVOLVING FEDERAL FUNDS

When federal funds are expended by the ESC for any contract resulting from this procurement process, Vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. Vendor further certifies that it 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.

CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT

When the ESC expends federal funds for any contract resulting from this procurement process, Vendor certifies that it will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.; 49 C.F.R. Part 18).

CERTIFICATION OF EQUAL EMPLOYMENT STATEMENT

It is the policy of the ESC not to discriminate on the basis of race, color, national origin, gender, limited English proficiency or handicapping conditions in its programs. Vendor agrees not to discriminate against any employee or applicant for employment to be employed in the performance of this Contract, with respect to hire, tenure, terms, conditions and privileges of employment, or a matter directly or indirectly related to employment, because of age (except where based on a bona fide occupational qualification), sex (except where based on a bona fide occupational qualification) or race, color, religion, national origin, or ancestry. Vendor further agrees that every subcontract entered into for the performance of this Contract shall contain a provision requiring non-discrimination in employment herein specified, binding upon each subcontractor. Breach of this covenant may be regarded as a material breach of the Contract.

CERTIFICATION OF DOMESTIC PREFERENCES FOR PROCUREMENTS AND COMPLIANCE WITH BUY AMERICA PROVISIONS – 2 C.F.R. 200.322

ESC has a preference for domestic end products for supplies acquired for use in the United States when spending federal funds (purchases that are made with non-federal funds or grants are excluded from the Buy America Act). Vendor certifies that it is in compliance with all applicable provisions of the Buy America Act.

As appropriate and to the extent consistent with law, ESC has a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products) when spending federal funds. Vendor agrees that the requirements of this section will be included in all subawards including all contracts and purchase orders for work or products under this award, to the greatest extent practicable under a Federal award. (Purchases that are made with non-federal funds or grants are excluded from the Buy America Act.) Vendor certifies that it is in compliance with all applicable provisions of the Buy America Act. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

“Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

CERTIFICATION OF ACCESS TO RECORDS – 2 C.F.R. § 200.337

Vendor agrees that the ESC’s Inspector General or any of their duly authorized representatives shall have access to any books, documents, papers and records of Vendor that are directly pertinent to Vendor’s discharge of its obligations under the Contract for the purpose of making audits, examinations, excerpts, and

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transcriptions. The right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents.

I. CERTIFICATION OF COMPLIANCE WITH EPA REGULATIONS APPLICABLE TO GRANTS, SUBGRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS IN EXCESS OF \$100,000 OF FEDERAL FUNDS

When federal funds are expended by ESC for any contract resulting from this procurement process in excess of \$100,000, the vendor certifies that the vendor is in compliance with all applicable standards, orders, regulations, and/or requirements issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15.

II. CERTIFICATION OF COMPLIANCE WITH NEVER CONTRACT WITH THE ENEMY – 2 C.F.R. § 200.215

When federal funds are expended by ESC for grant and cooperative agreements, or any contract resulting from this procurement process, that are expected to exceed \$50,000 within the period of performance, and are performed outside of the United States, including U.S. territories, to a person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, ESC will terminate any grant or cooperative agreement or contract resulting from this procurement process as a violation of Never Contract with the Enemy detailed in 2 CFR Part 183. The vendor certifies that it is neither an excluded entity under the System for Award Management (SAM) nor Federal Awardee Performance and Integrity Information System (FAPIIS) for any grant or cooperative agreement terminated due to Never Contract with the Enemy as a Termination for Material Failure to Comply. ESC has a responsibility to ensure no Federal award funds are provided directly or indirectly to the enemy, to terminate subawards in violation of Never Contract with the Enemy, and to allow the Federal Government access to records to ensure that no Federal award funds are provided to the enemy.

III. CERTIFICATION OF COMPLIANCE WITH PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT – 2 C.F.R. § 200.216

ESC, as a non-federal entity, is prohibited from obligating or expending Federal financial assistance, to include loan or grant funds, to: (1) procure or obtain, (2) extend or renew a contract to procure or obtain, or (3) enter into a contract (or extend or renew a contract) to procure or obtain, equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as a critical technology as part of any system. Covered telecommunications equipment is telecommunications equipment produced Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities) and physical security surveillance of critical infrastructure and other national security purposes, and video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes detailed in 2 CFR § 200.216. The vendor certifies that vendor will not purchase equipment, services, or systems that use covered telecommunications, as defined herein, as a substantial or essential component of any system, or as critical technology as part of any system.

IV. RECORD RETENTION REQUIREMENTS FOR CONTRACTS PAID FOR WITH FEDERAL FUNDS – 2 C.F.R. § 200.334

When federal funds are expended by ESC for any contract resulting from this procurement process, the vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.334. The vendor

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further certifies that vendor will retain all records as required by 2 CFR § 200.334 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.

V. CERTIFICATION OF APPLICABILITY TO SUBCONTRACTORS

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

CERTIFICATION OF APPLICABILITY TO SUBCONTRACTRS

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

VENDOR AGREES TO COMPLY WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, RULES, REGULATIONS, AND ORDINANCES. IT IS FURTHER ACKNOWLEDGED THAT VENDOR CERTIFIES COMPLIANCE WITH ALL PROVISIONS, LAWS, ACTS, REGULATIONS, ETC. AS SPECIFICALLY NOTED ABOVE.

Vendor's Name: _____

Address, City, State and Zip: _____

Phone Number: _____

Printed Name and Title of Authorized Representative: _____

Email Address: _____

Signature of Authorized Representative: _____

Date: _____

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