

**Madison-Oneida BOCES
Mohawk Regional Information Center
4937 Spring Road, P.O. Box 168
Verona, NY 13478-0168**

INVITATION FOR BIDS

IFB Number 26-12-006	Product/Service Requested Regional Wired Telecommunication Services
Contract Period 3-Year or 5-Year	
Bid Submission Deadline December 15, 2026 3:00 p.m. Two (2) hard copies of entire bid and one (1) electronic copy of the excel file matrix via CD-ROM or USB drive must be delivered. All signatures must be made in ink. No electronic signature will be accepted. Note: Bids are to be mailed or delivered to the above address. E-mail bids will not be accepted.	 Wired data connectivity services for a Wide Area Network (WAN), including provisioning, installation, and maintenance of Wired Ethernet Private Line Services as defined in this Invitation to Bid.
Designated Contact Cherie Spraker Telephone: 315-361-5822 Fax: (315) 361-5595 E-mail: co-op-bidding@moboces.org	Bid Opening Date: December 15, 2026 Time: 3:00 p. m. Place: MADISON-ONEIDA BOCES COOPERATIVE BIDDING OFFICE 4937 SPRING ROAD VERONA, NY 13478

This Invitation for Bids is issued by Madison Oneida BOCES, through its Mohawk Regional Information Center (MORIC), on behalf of certain component school districts of the Jefferson-Lewis BOCES, Herkimer-Fulton-Montgomery BOCES, Madison-Oneida BOCES, and Oneida-Herkimer-Madison BOCES.

Although the MORIC supports 50 school districts and 4 boards of cooperative educational services, not all of those entities will purchase through the contract awarded pursuant to this IFB. The Bid Terms include a Connectivity Matrix listing the potential participating school districts

The Madison-Oneida Board of Cooperative Educational Services is a legal contracting entity that will act on behalf of the MORIC. The Oneida-Herkimer-Madison BOCES is a separate legal contracting entity acting on behalf of districts it serves. The bid will be awarded by individual contracting billed entities, resulting in separate contracts and billing.

Your receipt of these bid documents does not indicate that the Mohawk Regional Information Center has pre-determined your company's qualifications to receive a contract award. Such determination will be made after the bid opening and will be based on the evaluation of your bid submission compared to the specific requirements and qualifications contained in these Bid Documents.

Due to the general consistency of the bid specifications, please take note of the below bid change:

1. Part A. Terms and Conditions of the Bid Process, #15. PRICE TERMS

a. All bid response amounts must be rounded to the nearest dollar.

2. **The Bid Documents consist of the following parts:**

- This Invitation, including Definitions
- Part A: Bid Process and Method of Award
- Part B: Standard Contract Terms and Conditions
- Part C: Additional Specifications, Terms, and Conditions Applicable to This Purchase
- Part D: Bid Sheet

By submitting a Bid, you agree that the evaluation of your Bid, and your performance of any resulting contract, will comply with the terms, conditions, requirements, and limitations set forth in Parts A, B, and C.

IMPORTANT: These provisions will constitute, or be incorporated into, the Contract between the successful bidder and MOBOCES or OHM BOCES and its Participating School Districts, and will **supersede** any conflicting language in **a vendor's preprinted invoice or service agreement.**

If you choose to submit a Bid, keep your copies of this Invitation and Parts A, B, and C for future reference, and submit to us the following:

- Bid Sheet (hard copy and excel file via CD-ROM or USB)
- Bid Proposal Certifications,
- Vendor Responsibility Questionnaire (including For-Profit Non-Construction Bidder)
 - https://www.osc.state.ny.us/vendrep/forms_vendor.htm
 - <http://www.osc.state.ny.us/vendrep/documents/questionnaire/ac3290s.pdf>
- Any documentation required by Part C, and
- Any additional documentation you choose to use to support your Bid.

DEFINITIONS

Terms used in these Bid Documents have the following meanings:

AFFILIATE Any individual or other legal entity, (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) that effectively controls another company in which (a) the Bidder owns more than 50% of the ownership; or (b) any individual or other legal entity which owns more than 50% of the ownership of the Bidder. In addition, if a Bidder owns less than 50% of the ownership of another legal entity, but directs or has the right to direct such entity's daily operations, that entity will be an Affiliate.

BID OR BID PROPOSAL An offer or proposal submitted by a Bidder to furnish a described product or a solution, perform services or means of achieving a practical end, at a stated price for the stated Contract term. As required by the Bid Documents, the Bid or proposal may be subject to modification through the solicitation by the BOCES of best and final offers during the evaluation process prior to recommendation for award of the Contract.

BIDDER Any individual or other legal entity (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) which submits a Bid in response to a Bid Solicitation. The term Bidder shall also include the term "offeror."

BID DOCUMENTS Writings by the BOCES setting forth the scope, terms, conditions and technical specifications for a procurement of Product. Such writings typically include, but are not limited to: Invitation for Bids (IFB), Request for Quotation (RFQ), Request for Proposals (RFP), addenda or amendments thereto, and terms and conditions which are incorporated by reference. "These Bid Documents" refers to this Invitation for Bids and its Parts A, B, and C.

BID SPECIFICATION A written description setting forth the specific terms of the intended procurement, which may include: physical or functional characteristics, the nature of a commodity or construction item, any description of the work to be performed, Products to be provided, the necessary qualifications of the Bidder, the capacity and capability of the Bidder to successfully carry out the proposed Contract, or the process for achieving specific results and/or anticipated outcomes or any other requirement necessary to perform work.

BOCES Madison-Oneida Board of Cooperative Educational Services, including the Mohawk Regional Information Center

CONTRACT The writing(s) which contain the agreement of the BOCES and the Bidder/Contractor setting forth the total legal obligation between the parties as determined by applicable rules of law. At a minimum, the Contract resulting from an Award based on this Invitation for Bids includes the terms of this Invitation, Part A – Bid Process and Method of Award, Part B – Standard Contract Terms and Conditions, and Part C – Additional Terms, Conditions, and Specifications for This Purchase.

CONTRACT AWARD NOTIFICATION An announcement to a Bidder that a Contract has been established.

CONTRACTOR Any successful Bidder(s) to whom a Contract has been awarded, whether a contractor, licensor, licensee, lessor, lessee or any other party.

DISTRICT SUPERINTENDENT District Superintendent of Madison-Oneida BOCES.

DOCUMENTATION The complete set of manuals (e.g., user, installation, instruction or diagnostic manuals) in either hard or electronic copy, which are necessary to enable a Participating School District to properly test, install, operate and enjoy full use of the Product.

EMERGENCY An urgent and unexpected requirement where health and public safety or the conservation of public resources is at risk.

MORIC The Mohawk Regional Information Center, an administrative component of the Madison-Oneida BOCES.

PARTICIPATING SCHOOL DISTRICT(S) A school district or board of cooperative educational services that elects to purchase services through the contract resulting from this Invitation to Bid after entering into the appropriate Cooperative Educational Services Agreement (CoSer) with BOCES.

PROCUREMENT RECORD Documentation by the Participating School District of the decisions made and approach taken during the procurement process and during the contract term.

PRODUCT A deliverable under any Bid or Contract which may include commodities, services and/or technology. The term "Product" includes Licensed Software.

PROPRIETARY Protected by secrecy, patent, copyright or trademark against commercial competition.

PURCHASE ORDER The Participating School District's fiscal form or format that is used when making a purchase (e.g., formal written Purchase Order or other authorized instrument).

RESPONSIBLE BIDDER A Bidder that is determined to have financial and organizational capacity, legal authority, satisfactory previous performance, skill, judgment and integrity, and that is found to be competent, reliable and experienced, as determined by the District Superintendent. For purposes of being deemed responsible, a Bidder must also be determined to be in compliance with Sections 139-j and 139-k of the State Finance Law relative to restrictions on contacts during the procurement process and disclosure of contacts and prior findings of non-responsibility under these statutes.

RESPONSIVE BIDDER A Bidder meeting the specifications or requirements prescribed in the Bid Document or solicitation.

SINGLE SOURCE A procurement where two or more Bidders can supply the required Product, and the BOCES may award the contract to one Bidder over the other.

SITE The location (street address) where Product will be executed or services delivered.

SOLE SOURCE A procurement where only one Bidder is capable of supplying the required Product.

SOURCE CODE The programming statements or instructions written and expressed in any language understandable by a human being skilled in the art which are translated by a language compiler to produce executable machine Object Code.

STATE State of New York.

SUBCONTRACTOR Any individual or other legal entity, (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) who has entered into a contract, express or implied, for the performance of a portion of a Contract with a Contractor.

Part A. Terms and Conditions of the Bid Process

By submitting a Bid in response to this Invitation to Bid, you agree that you have read these Terms and Conditions, are bound by these Terms and Conditions, and have complied with them to the best of your knowledge.

A Bidder who does not comply with these Terms and Conditions may be considered a non-responsive Bidder.

1. ACCESS TO PRODUCT THROUGH COSERS

- a. The Award of this Bid will create a procurement mechanism through cooperative purchasing agreements between Madison-Oneida BOCES and one or more school districts that have entered into a cooperative bidding agreement with Madison Oneida BOCES. When these Bid and Contract documents refer to "Madison Oneida BOCES" or to "BOCES", it shall be understood as a reference to the Madison Oneida BOCES in its role as administrator of the Bid process. When these Bid and Contract documents refer to "Participating School Districts," it shall be understood as a reference to the Madison Oneida BOCES as a potential purchaser, as well as to each school district that has entered into a cooperative purchasing agreement with the Madison Oneida BOCES.
- b. Each Participating School District will make a final determination on its participation after evaluation of Bids and/or issuance of contract(s).
- c. To the extent that any inconsistencies exist between these Bid and Contract documents and any special terms and conditions listed for a Participating School District, the participating School District's terms and conditions shall prevail for that portion of the awarded contract for that Participating School District.
- d. Any contract resulting from this bid solicitation may be extended to additional Participating School Districts upon mutual written agreement between BOCES and the Contractor. BOCES reserves the right to negotiate additional discounts based on any increased volume generated by such extensions.

2. BID PREPARATION

- a. Prepare your bid on the form included as Part D of this Invitation to Bid.
- b. Type or write your responses using indelible ink. No alteration, erasure or addition is to be made to the Bid Documents. Changes may be ignored by the District Superintendent or may be grounds for rejection of the Bid. Changes, corrections and/or use of white-out in the Bid or Bidder's response portion of the Bid Document must be initialed by an authorized representative of the Bidder.
- c. Print the name of your company on each page of the bid in the block provided.
- d. One copy of the bid is required, unless otherwise specified herein.

- e. All bids must be signed by a person authorized to commit the Bidder to all of the terms and conditions set forth in these Bid Documents.
- f. If unit pricing is required by the Bid Documents, the Bidder should insert the price per unit specified and the price extensions in decimals, not to exceed four places for each item unless otherwise specified, in the Bid. In the event of a discrepancy between the unit price and the extension, the unit price shall govern unless, in the sole judgment of the District Superintendent, such unit pricing is obviously erroneous.
- g. All offers, information, and product or service descriptions submitted in response to this Invitation for Bids shall be submitted in English. All prices shall be expressed, and all payments shall be made, in United States Dollars (\$US). Any offers submitted which do not meet these criteria will be rejected.
- h. The Bidder shall indicate in the spaces provided on the Bid form the manufacturer's name, the address where the proposed product or products will be produced, the catalog references or model number of the product or products offered and all other information requested.
- i. Bidders are cautioned to verify their Bids before submission, as amendments to Bids or requests for withdrawal of Bids received by the District Superintendent after the time specified for the Bid opening, may not be considered.

3. INCLUDING ADDITIONAL INFORMATION OR MATERIALS

- a. The bidder shall submit with its bid detailed specifications, circulars and all necessary data on the product to be furnished.
- b. If the product offered differs from the specifications in these Bid Documents, such differences must be explained in detail.
- c. Failure to submit any of the above data may result in rejection of the bid. Also, extraneous terms or material deviations (including additional, inconsistent, conflicting or alternative terms) may render the Bid non-responsive and may result in rejection of the Bid.
- d. Extraneous term(s) submitted on standard, pre-printed forms (including but not limited to: product literature, order forms, license agreements, contracts or other documents) that are attached or referenced with submissions shall not be considered part of the Bid or resulting Contract, but shall be deemed included for informational or promotional purposes only. Furthermore, only those extraneous terms that meet all the following requirements may be considered as having been submitted as part of the Bid:
 - i. Each proposed extraneous term (addition, deletion, counter-offer, deviation, or modification) must be specifically enumerated in a writing which is not part of a pre-printed form; and
 - ii. The writing must identify the particular specification requirement (if any) that Bidder rejects or proposes to modify by inclusion of the extraneous term; and
 - iii. The Bidder shall enumerate the proposed addition, counter offer, modification or deviation from the Bid Document, and the reasons therefore.

No extraneous term(s), whether or not deemed "material," shall be incorporated into a Contract or Purchase Order unless submitted in accordance with the above and the

District Superintendent or Participating school district expressly accepts each such term(s) in writing. Acceptance and/or processing of the Bid shall not constitute such written acceptance of Extraneous Term(s).

- e. Madison-Oneida BOCES reserves the right to request any additional information deemed necessary for the proper evaluation of bids.

4. **CONDITIONAL BID**

Unless the Bid Documents provide otherwise, a Bid is not rendered non-responsive if the Bidder specifies that the award will be accepted only on all or a specified group of items or Product included in the specification. It is understood that nothing herein shall be deemed to change or alter the method of award contained in the Bid Documents.

5. **ALTERNATE BIDS**

- (a) Each Bidder shall make no more than one offering (i.e., a single model and stock number) per item per bid. Bids which have more than one product offering per item may not be considered.
- (b) If a Bidder wishes to make more than one product offering, such offering(s) are to be made on separate sheets and are to be listed as "alternate" bids. "Alternate" bids are to show complete information (pricing, brand, model, stock number, etc.), and will be evaluated as separate bids.

6. **BID DELIVERY**

- a. All Bids are to be packaged, sealed and submitted to:

Madison-Oneida BOCES
Cooperative Bidding Office
4937 Spring Road
P.O. Box 168
Verona, New York 13478-0168

- b. A Bid return envelope, if provided with the Bid Specifications, should be used with the Bid sealed inside. If the Bid response does not fit into the envelope, the Bid envelope should be attached to the outside of the sealed box or package with the Bid inside. If using a commercial delivery company that requires use of their shipping package or envelope, Bidder's sealed Bid, labeled as detailed below, should be placed within the shipper's sealed envelope to ensure that the Bid is not prematurely opened.
- c. All Bids must have a label on the outside of the package or shipping container stating the following information:

"BID ENCLOSED"

- **Bid Name**
- **IFB or RFP Number**
- **Bid Submission date and time"**

In the event that a Bidder fails to provide such information on the return Bid envelope or shipping material, the BOCES reserves the right to open the shipping package or envelope to determine the proper Bid name and number, and the date and time of Bid

opening. Bidder shall have no claim against the BOCES arising from such opening and such opening shall not affect the validity of the Bid or the procurement.

Notwithstanding the BOCES' right to open a Bid to ascertain the foregoing information, Bidder assumes all risk of late delivery associated with the Bid not being identified, packaged or labeled in accordance with the foregoing requirements.

- d. **E-mail bids will not be accepted.**

7. LATE BIDS

- a. For purposes of Bid openings held and conducted by the BOCES, a Bid must be received in such place as may be designated in the Bid Documents, at or before the date and time established in the Bid Specifications for the Bid opening.
- b. **Bidders assume all risks for timely, properly submitted deliveries.** Bidders are strongly encouraged to arrange for delivery of bids prior to the date of the bid opening.
- c. Any Bid received at the specified location after the time specified will be considered a late Bid. A late Bid shall not be considered for award unless: (i) no timely Bids meeting the requirements of the Bid Documents are received; and (ii) acceptance of the late Bid is in the best interests of the Participating School Districts.
- d. Delays in United States mail deliveries or any other means of transmittal, including couriers or agents of the Participating School District shall not excuse late Bid submissions. Similar types of delays, including but not limited to, bad weather, or security procedures for parking and building admittance shall not excuse late Bid submissions.
- e. Determinations relative to Bid timeliness shall be at the sole discretion of the District Superintendent.

8. WITHDRAWAL OF BID

A Bid may be withdrawn after submission but before the time set for the Bid Opening. A Bid will be considered withdrawn if written notice (including e-mail) of the Bidder's desire to withdraw the Bid is received by the Designated Contact before the time set for the Bid Opening. BOCES reserves the right to permit a Bid to be withdrawn after Bid Opening at its sole discretion, and award the Contract to the next lowest responsible Bidder.

9. NON-COLLUSIVE BIDDING CERTIFICATION

As required by General Municipal Law Section 103-d, each Bidder must submit with a Bid a certification, under penalty of perjury, that to the best of its knowledge and belief:

- a. The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- b. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and

- c. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not submit a bid for the purpose of restricting competition.

This Bid packet includes the required certification form. In the event that the bidder is unable to certify as stated above, the bidder shall provide a signed statement which sets forth in detail the reasons why the bidder is unable to furnish the certificate as required in accordance with General Municipal Law Section 103-d.

10. LIMITATION ON CONTACTS WITH GOVERNMENT REPRESENTATIVES

All bidders must comply with the limitations on permissible contact with government representatives set forth in **State Finance Law § 139-j (3) and § 139-j (6)(b)**. By submitting a signed Bid Form, you affirm that you understand and will comply with these limitations.

An Offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit offers/bids through final award and approval of the Procurement Contract by Madison-Oneida BOCES ("restricted period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j (3) (a). Designated staff, as of the date hereof, is identified on the first page of this solicitation. Madison-Oneida BOCES employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the Offerer/bidder is debarred from obtaining governmental Procurement Contracts.

Madison-Oneida BOCES reserves the right to terminate this contract in the event it is found that the certification filed by the Offerer/bidder in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, Madison-Oneida BOCES may exercise its termination right by providing written notification to the Offerer/bidder in accordance with the written notification terms of this contract.

11. CONFLICT OF TERMS AND CONDITIONS

Conflicts between documents shall be resolved in the following order of precedence:

- a. Part C: Additional Specifications, Terms, and Conditions For This Purchase
- b. Part B: Standard Contract Terms and Conditions
- c. Part A: Bid Process Terms and Conditions
- d. Bidder's Bid and additional documents

12. QUALIFICATION AS RESPONSIBLE BIDDER

- a. Bidder may be disqualified from receiving awards if Bidder, or anyone in Bidder's employment, has previously failed to perform satisfactorily in connection with public bidding or contracts or is deemed non-responsible.
- b. Bids will be accepted only from established manufacturers or their authorized dealers. Any dealer submitting a bid hereby guarantees that it is an authorized dealer of the manufacturer, that the manufacturer has agreed to supply the dealer with all quantities

of products required by the dealer in fulfillment of its obligations, and that it will provide a certificate from the manufacturer acknowledging this level of support

- c. Bidder must maintain a business establishment with adequate inventories of the products offered, and must be capable of processing and shipping large numbers of orders to various destinations.
- d. The District Superintendent may require a certificate from the Bidder showing the number of years the Bidder has been active in selling the products offered and the size and location of the inventories regularly maintained.
- e. The District Superintendent reserves the right to investigate or make any inquiry into the capabilities of any Bidder to properly perform under any resultant contract.
- f. Bidder must maintain service facilities and have trained personnel qualified to service the product furnished at the using agency within 48 hours.
- g. Any determination of a violation of any federal or state public works law or regulation, or labor law or regulation, or any OSHA violation deemed "serious or willful" may be grounds for a determination of vendor non-responsibility and rejection of bid.
- h. A Bidder/Contractor must be prepared, if requested by the District Superintendent, to present evidence of legal authority to do business in New York State, integrity, experience, ability, prior performance, organizational and financial capacity as well as where applicable, a statement as to supply, plant, machinery and capacity of the manufacturer or source for the production, distribution and servicing of the Product offered/Bid. If the District Superintendent determines that the conditions and terms of the Bid Documents, Bid Specifications or Contract are not complied with, or that items, services or Product proposed to be furnished do not meet the specified requirements, or that the legal authority, integrity experience, ability, prior performance, organization and financial capacity or facilities are not satisfactory, the District Superintendent may reject such Bid or terminate the Contract.

13. REFERENCES

Upon request, all Bidders must provide a minimum of five references including references from two of the Bidder's largest customers. References shall be commercial or governmental accounts, and should demonstrate the ability of the Bidder to perform jobs similar in scope to the size, nature and complexity of the outlined bid. The references shall include the reference's: Name, address, contact person, telephone number, fax number, number of years Bidder has serviced the referenced account, and volume of business performed within the past three years for each referenced account.

14. FINANCIAL STABILITY

If requested, Bidder must document its ability to service a contract with dollar sales volume similar to scope of this Bid through submission of financial statements documenting past sales history. The Bidder must be financially stable and able to substantiate the financial statements of its company. In addition to sales history, current financial statements may be requested and must be provided within five business days. BOCES reserves the right to request additional documentation from the Bidder and to request reports on financial stability from independent financial rating services. BOCES reserves the right to reject any Bidder who does not demonstrate financial stability sufficient for the scope of this Bid.

If Product acquisitions are financed through any third party financing, Contractor may be required as a condition of Contract Award to agree to the terms and conditions of a "Consent & Acknowledgment Agreement" in a form acceptable to the District Superintendent.

15. PRICE TERMS

- a. Prices quoted are to include all applicable taxes, surcharges, and fees. No add-ons to the price(s) quoted will be allowed, except as specifically stated in these Bid Documents.
- b. Prices quoted are to be rounded to the nearest dollar.
- c. Prices or discounts quoted are to be firm for the entire period of the contract. Price escalation or discount reduction will not be allowed and is specifically excluded from the terms and conditions of these Bid Documents. Price decreases or discount increases are permitted at any time.
- d. Unless otherwise specified in these Bid Documents, prices quoted shall be net, including transportation, customs, tariff, delivery and other charges fully prepaid by the Contractor to the destination(s) indicated in the Bid Documents.
- e. When Bids are requested on a number of Products as a Group or Lot, a Bidder desiring to Bid "no charge" on a Product in the Group or Lot must clearly indicate such. Otherwise, such Bid may be considered incomplete and be rejected, in whole or in part, at the discretion of the District Superintendent.
- f. All Products to be supplied for educational purposes that are subject to educational discounts shall be identified in the Bid and such discounts shall be made available to qualifying institutions.
- g. During the Contract term, if substantially the same or a smaller quantity of a Product is sold by the Contractor outside of this Contract upon the same or similar terms and conditions as this Contract at a lower price, the price under this Contract, at the discretion of the District Superintendent, shall be immediately reduced to the lower price.
- h. Price decreases shall take effect automatically during the Contract term and apply to Purchase Orders submitted on or after:
 - (i) Commercial Price List Reductions: Where Net Prices are based on a discount from Contractor's list prices, the date Contractor lowers its pricing to its customers generally or to similarly situated government customers during the Contract term; or
 - (ii) Special Offers/Promotions Generally: Where Contractor generally offers more advantageous special price promotions or special discount pricing to other customers during the Contract term for a similar quantity, and the maximum price or discount associated with such offer or promotion is better than the discount or Net Price otherwise available under this Contract, such better price or discount shall apply for similar quantity transactions under this Contract for the life of such general offer or promotion; or
 - (iii) Special Offers/Promotions to Participating School Districts: Contractor may offer Participating School Districts, under either this Contract or any other Contracting vehicle; competitive pricing which is lower than the Net Price set forth herein at

any time during the Contract term and such lower pricing shall not be applied as a global price reduction under the foregoing paragraph (ii).

- h. As specified in the Bid Documents and Contract, a Contractor may be solicited at the time of issuance of a Purchase Order for best and final pricing for the Product or service to be delivered to the Participating School District. Contractors are encouraged to reduce their pricing upon receipt of such request.

16. QUANTITY TO BE PURCHASED

- a. All quantities listed are estimates. Best efforts have been made to list quantities that are reasonably expected to be purchased, depending upon finances at the time of Award.
- b. The District Superintendent reserves the right, at any time prior to the Award of a specific quantity Contract, to alter in good faith the quantities listed in the Bid Documents. In the event such right is exercised, the lowest responsible Bidder meeting Bid Specifications will be advised of the revised quantities and afforded an opportunity to extend or reduce its Bid price in relation to the changed quantities. Refusal by the low Bidder to so extend or reduce its Bid price may result in the rejection of its Bid and the award of such Contract to the lowest responsible Bidder who accepts the revised qualifications.
- c. BOCES reserves the right to negotiate lower pricing, or to advertise for bids, any unanticipated excessive purchase. An "unanticipated excessive purchase" is defined as an unexpected order for a contract product(s) exceeding the listed quantity.

17. DELIVERY AND SET-UP TERMS

- a. Delivery shall be expressed in number of calendar days required to make delivery after receipt of a purchase order.
- b. Product is required as soon as possible and guaranteed delivery may be considered in making award.
- c. Delivery shall be made in accordance with instructions on Purchase Order from each Participating School District. If there is a perceived discrepancy between the Purchase Order and the Terms and Conditions of the Contract resulting from this Bid Invitation, it is the Contractor's obligation to seek clarification from the Participating School District and, if applicable, from the BOCES Cooperative Bidding Office.
- d. Price shall include:
 - [] unloading, moving to point of use, uncrating, assembling, adjusting and leaving ready to operate to the full extent of its design capabilities, with final connections, if any, to be made by others, or
 - [] unloading, moving to point of use, uncrating, assembling, complete installation, adjusting, connecting all services and leaving ready to operate to the full extent of its design capabilities.
- e. The Participating School District is responsible for bringing all services to within 6' of an installation site.

- f. Additional fees may be charged when delivery to point of use is not possible via dock, any other door, stairway or elevator. If special rigging is required, the purchaser shall pay the additional costs. Such costs shall be prepaid and added to the invoice.
- g. If a Participating School District requires inside delivery, such as to an upper floor, it must clearly indicate on purchase order that inside delivery is required and the specific location where inside delivery is required to be made (using terminology such as "INSIDE DELIVERY TO ROOM _____ LOCATED ON _____ FLOOR," etc.) A Participating School District may be charged additional inside delivery costs when inside delivery is required; but may not be charged for delivery to building location since price is FOB destination; and, the Participating School District must be informed of the additional cost prior to delivery and agree to the additional charge. NOTE: If it is determined by the District Superintendent that the contractor is charging excessive amounts for inside delivery, BOCES may seek reimbursement for such amounts, may remove the contractor from the list of eligible bidders, and may cancel the contract.
- h. Contractor shall furnish the Participating School District with written acknowledgement of the shipping date at least two weeks prior to shipment. Failure to comply may be cause for the initiation of contract default proceedings.
- i. If shipment will not be made within the guaranteed delivery time, the Contractor is required to notify the Participating School District in writing at least two weeks prior to the latest date of the original delivery obligation. This notification must include the reasons for the delay and the latest date the material will be shipped. Should the delay be not acceptable to the Participating School District, appropriate contract default proceedings may be initiated. Failure to supply timely written notification of delay may be cause for default proceedings.

18. TAXES

Purchases made by the BOCES and Participating school districts are exempt from New York State and local sales taxes and, with certain exceptions, federal excise taxes. To satisfy the requirements of the New York State Sales tax exemption, either the Purchase Order issued by the Participating School District or the invoice forwarded to authorize payment for such purchases will be sufficient evidence that the sale by the Contractor was made to an exempt organization under Section 1116 (a) (1) of the Tax Law. Participating School Districts must offer their own proof of exemption upon request. No person, firm or corporation is, however, exempt from paying the State Truck Mileage and Unemployment Insurance or Federal Social Security taxes, which remain the sole responsibility of the Bidder/Contractor.

19. PROTECTION OF BIDDER'S CONFIDENTIAL/TRADE SECRET INFORMATION

- a. Records of BOCES are subject to public inspection pursuant to the New York State Freedom of Information Law (FOIL). During the evaluation process, the content of each Bid will be held in confidence and details of any Bid will not be revealed except as may be required under the Freedom of Information Law or other State law.
- b. The Freedom of Information Law provides for an exemption from disclosure for trade secrets or information the disclosure of which would cause injury to the competitive position of commercial enterprises. This exception is effective both during and after the evaluation process.

- i. If the Bid contains any such trade secret or other confidential or proprietary information, it must be accompanied in the Bid with a written request to the District Superintendent to not disclose such information.
 - ii. Such request must state with particularity the reasons why the information should not be available for disclosure and must be provided at the time of submission of the Bid. Notations in the header, footer or watermark of the Bid Document will not be considered sufficient to constitute a request for non-disclosure of trade secret or other confidential or proprietary information.
 - iii. Where a Freedom of Information request is made for trademark or other confidential or proprietary information, the District Superintendent reserves the right to determine upon written notice to the Bidder whether such information qualifies for the exemption for disclosure under the law. Acceptance of the claimed materials does not constitute a determination on the exemption request, which determination will be made in accordance with statutory procedures.
- c. Notwithstanding the above, where a Bid tabulation is prepared and Bids publicly opened, such Bid tabulation shall be available upon request.

20. PRODUCT REFERENCES

- a. "Or Equal": In all Bid Specifications the words "or equal" are understood to apply where a copyrighted, brand name, trade name, catalog reference, or patented Product is referenced. References to such specific Product are intended as descriptive, not restrictive, unless otherwise stated. Comparable Product will be considered if proof of compatibility is provided, including appropriate catalog excerpts, descriptive literature, specifications and test data, etc. The District Superintendent's decision as to acceptance of the Product as equal shall be final.
- b. Discrepancies in References: In the event of a discrepancy between the model number referenced in the Bid Specifications and the written description of the Products which cannot be reconciled, with respect to such discrepancy, then the written description shall prevail.

21. SITE INSPECTION

- a. It is recommended that each Bidder prior to the bid opening familiarize itself with facilities at Participating School Districts, and in particular with the area where the product is to be installed, as the Bidder is fully responsible for the product meeting the solicitation and installation requirements. Bidders may make an appointment to visit the site.
- b. Where a site inspection is required by the Bid Documents, Bidder shall be required to inspect the site, including environmental or other conditions for pre-existing deficiencies that may affect the installed Product, equipment, or environment or services to be provided and, which may affect Bidder's ability to properly deliver, install or otherwise provide the required Product. Particular attention should be given to structural and electrical changes required for proper installation. All inquiries regarding such conditions shall be made in writing.
- c. Bidder shall be deemed to have knowledge of any deficiencies or conditions which such inspection or inquiry might have disclosed.

- d. Bidder must provide a detailed explanation with its Bid if additional work is required under this clause in order to properly complete the delivery and installation of the required Product or provide the requested service.

22. DRAWINGS

- a. Drawings Submitted With Bid: When the Bid Documents require the Bidder to furnish drawings and/or plans, such drawings and/or plans shall conform to the mandates of the Bid Documents and shall, when approved by the District Superintendent, be considered a part of the Bid and of any resulting Contract. All symbols and other representations appearing on the drawings shall be considered a part of the drawing.
- b. Drawings Submitted During the Contract Term: Where required to develop, maintain and deliver diagrams or other technical schematics regarding the scope of work, Contractor shall do so on an ongoing basis at no additional charge, and must, as a condition of payment, update drawings and plans during the Contract term to reflect additions, alterations, and deletions. Such drawings and diagrams shall be delivered to the Participating School District's representative.
- c. Accuracy of Drawings Submitted: All drawings shall be neat and professional in manner and shall be clearly labeled as to locations and type of product, connections and components. Drawings and diagrams are to be in compliance with accepted drafting standards. Acceptance or approval of such plans shall not relieve the Contractor from responsibility for design or other errors of any sort in the drawings or plans, or from its responsibility for performing as required, furnishing product, services or installation, or carrying out any other requirements of the intended scope of work.

23. PRODUCTS MANUFACTURED IN PUBLIC INSTITUTIONS

Bids offering Products that are manufactured or produced in public institutions will be rejected.

24. REMANUFACTURED, RECYCLED, RECYCLABLE OR RECOVERED MATERIALS

- a. Consistent with product specifications included in these Bid Documents and in accordance with the laws of the State of New York, Contractors are encouraged to use recycled, recyclable or recovered materials in the manufacture of Products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the Product or packaging unless such use is precluded due to health, welfare, safety requirements or in the Bid Specifications.
- b. Refurbished or remanufactured components or products are required to be restored to original performance and regulatory standards and functions and are required to meet all other requirements of this bid solicitation.
- c. Items with recycled, recyclable, recovered, refurbished or remanufactured content must be identified in the Bid or Bidder will be deemed to be offering new Product.

25. USER ACCESSIBILITY AND ACCOMMODATION

All Participating School Districts are required to provide necessary and reasonable accommodations to qualified workers with disabilities. Bidders are therefore required to identify and offer any software or hardware products they manufacture or adapt which may be used or adapted for use by visually, hearing, or any other physically impaired individuals. It is not mandatory for bidders to have this equipment in order to receive an award, unless

otherwise required by the specifications in these Bid Documents, but it is necessary to identify any such equipment they have which falls into the above category.

26. EPA ENERGY STAR PROGRAM

The Federal EPA, in cooperation with manufacturers, continues a program to foster the manufacture of energy efficient equipment. BOCES fully supports this effort and requires all products offered to comply with EPA Energy Star guidelines for energy efficiency. BOCES may discontinue use of and/or delete from contract selected products as mandated by any energy legislation that is enacted during the term of this contract. The contractor shall have no recourse with any Participating School District for such discontinuance/deletion.

27. WARRANTIES

- a. Each Bid must conform to Paragraph 40 of Part B – General Contract Terms and Conditions, regarding Warranties.
- b. Normal wear and tear items shall be warranted in accordance with manufacturer's standard warranty.
- c. At time of Bid opening, product offered must meet all requirements of this solicitation including full commercial/retail availability. Product literature and specifications must also be available.
- d. On products with condensing units, the guarantee on such units shall be extended for an additional four (4) years.
- e. Where accessories are to be supplied, they must be compatible with the rest of the product.

28. INTERNET WEBSITES

BOCES prefers and recommends that successful bidders maintain a website for Participating School Districts to access directly to view offered products. This website will be listed under the Contractor information. The website will be the responsibility of the Contractor to maintain and keep updated. Changes in product line or pricing must be approved by BOCES in accordance with any terms included in the Contract resulting from this Bid prior to addition to the website. Hard copy catalog and price lists, either in paper format or electronic format, must be available to all end users who either do not have web access or prefer the optional format.

29. TOLL-FREE NUMBER

Contractors must provide a toll-free telephone number for BOCES procurement usage. If Bidder does not currently maintain a toll-free number, it must be willing to establish one prior to award of contract.

30. OPTION TO PROCURE FROM CENTRALIZED CONTRACTING

BOCES reserves, for itself and each Participating School District, the right to purchase from available State or County Contracts, provided that the same or similar item(s) can be purchased at the same or similar terms, and at a lower price. Participating School Districts will be advised to select the most cost effective procurement alternative that meets their program requirements, and to maintain a procurement record documenting the basis for this selection.

31. EMERGENCY PURCHASING

- a. BOCES reserves for itself and each Participating School District the right to obtain the products or services subject to this Invitation to Bid from any source, including but not limited to this contract, as the District Superintendent or Participating School District determines will meet the needs of an emergency situation requiring the prompt and immediate delivery of products or services, as declared by the District Superintendent or Participating School District.
- b. Contractor shall not be entitled to any claim or lost profits for products or services procured from other sources pursuant to this paragraph.

32. PREFERRED SOURCE PROCUREMENT

- a. Section 162 of the State Finance Law requires that BOCES and all Participating School Districts afford first priority to the products/services of preferred source suppliers such as Correctional Industries (Corcraft), Industries for the Blind of NYS, and NYS Industries for the Disabled, when such products/services meet the form, function and utility required by these Bid Documents. Therefore, one or more of these suppliers may be designated as a "Preferred Source" and as a result, we may issue no award for the products/services affected. In the Contract Award Notification, Participating School Districts will be reminded to comply with the statutory requirements and resulting guidelines with respect to affording first priority to the preferred sources.
- b. The Contractor awarded this Bid will be required to prominently display the following language on all price lists and contract updates supplied to Participating School Districts pursuant to this Contract:

"Note: Some products/services in this contract may be available from one or more preferred sources. Participating School Districts are reminded to comply with the statutory requirements under Section 162 of the State Finance Law and the guidelines issued by the State Procurement Council to afford first priority to products/services available from preferred sources that satisfy the required form, function, and utility."

33. BID OPENING

Bids may, as applicable, be opened publicly. The District Superintendent reserves the right at any time to postpone or cancel a scheduled Bid opening.

34. METHOD OF AWARD

- a. Award shall be made based on best value, with lowest prices being weighted the heaviest.
- b. The Award shall be made on a line-by-line, category or entire bid basis, whichever is in the best interest of BOCES and Participating School Districts.
- c. Bids with minor incompletions will be given consideration subject to subsequent and final determination by BOCES as to acceptability. A bid which is 5% or less incomplete, will be considered as having "minor" incompletions.
- d. BOCES reserves the right to reject an obviously unbalanced bid or to make "NO AWARD" on individual listings or sub-items if individual bid prices are deemed to be unbalanced or excessive or if an error in the solicitation becomes evident. In such

case, ranking and evaluation of bids, and award(s) may be made on remaining items. The exercise of all options reserved in this paragraph shall be at BOCES's sole discretion.

35. BID EVALUATION

- a. The District Superintendent reserves the right to accept or reject any and all Bids, or separable portions of offers, and waive technicalities, irregularities, and omissions if the District Superintendent determines the best interests of the BOCES will be served.
- b. The District Superintendent, in his/her sole discretion, may accept or reject illegible, incomplete or vague Bids and his/her decision shall be final.

36. CLARIFICATIONS / REVISIONS

The District Superintendent reserves the right to seek clarifications, request Bid revisions, or to request any information deemed necessary for proper evaluation of Bids from all Bidders deemed to be eligible for Contract award, before making an Award. Failure to provide requested information may result in rejection of the Bid.

37. PROMPT PAYMENT DISCOUNTS

While prompt payment discounts will not be considered in determining the low Bid, the District Superintendent may consider any prompt payment discount in resolving Bids which are otherwise tied. However, any notation indicating that the price is net, (e.g., net 30 days), shall be understood to mean only that no prompt payment discount is offered by the Bidder. The imposition of service, interest, or other charges may render the Bid non-responsive and may be cause for its rejection.

38. EQUIVALENT OR IDENTICAL BIDS

In the event two offers are found to be substantially equivalent, price shall be the basis for determining the award recipient. If two or more Bidders submit substantially equivalent Bids as to pricing or other factors, the decision of the District Superintendent to award a Contract to one or more of such Bidders shall be final.

39. OFFERS FIRM FOR DESIGNATED PERIOD

- a. The District Superintendent reserves the right to make awards within sixty (60) days after the date of the Bid opening or such other period of time as set forth in the Bid Documents, during which period, Bids must remain firm and cannot be withdrawn.
- b. Where an award is not made within the sixty (60) day period or other time specified in the Bid Documents, and subject to Section 2-205 of the Uniform Commercial Code where applicable, the Bids shall remain firm until such later time as either a Contract is awarded or the Bidder delivers to the District Superintendent written notice of the withdrawal of its Bid. Any Bid which expressly states therein that acceptance must be made within a shorter specified time, may at the sole discretion of the District Superintendent, be accepted or rejected.

40. RELEASE OF BID EVALUATION MATERIALS

Requests concerning the evaluation of Bids may be submitted under the Freedom of Information Law. Information, other than statistical or factual tabulations or data such as the Bid Tabulation, shall only be released as required by law after Contract award. Bid

Tabulations are not maintained for all procurements. Names of Bidders may be disclosed after Bid opening upon request. Written requests should be directed to the District Superintendent.

41. ADVERTISING RESULTS

The prior written approval of the District Superintendent is required in order for results of the Bid to be used by the Contractor as part of any commercial advertising. The Contractor shall also obtain the prior written approval of the District Superintendent relative to the Bid or Contract for press or other media releases.

42. EXPENSES PRIOR TO CONTRACT EXECUTION

The District Superintendent and any Participating School District(s) are not liable for any costs incurred by a Vendor, Bidder or Contractor in the preparation and production of a Bid or for any work performed prior to Contract execution.

43. SURETY BOND

- a. Upon the request of the District Superintendent, a Bidder/Contractor shall, within 15 days of the request and at its own cost and expense, obtain and maintain in full force sixty (60) days after contract expiration:
 - i. an irrevocable documentary LETTER OF CREDIT with a sound and reputable bank authorized to do business in the State of New York, or
 - ii. a PERFORMANCE BOND signed by a surety company authorized to do business in the State of New York, or
 - iii. a PAYMENT BOND signed by a surety company authorized to do business in the State of New York,

in the amount of 5% of the contract award for the faithful performance of the contract.
- b. The LETTER OF CREDIT, PERFORMANCE BOND, PAYMENT BOND, etc., shall name as beneficiary Madison-Oneida BOCES and other Participating School Districts, and may be invoked to the benefit of Madison-Oneida BOCES or a Participating School District, upon delivery of a certified statement to the issuing bank or surety company that the Contractor has failed to perform pursuant to the terms and conditions of this contract.
- c. If required by Part C – Additional Specifications, Terms, and Conditions for This Purchase, or requested by the District Superintendent, the Bidder shall submit with its Bid a letter from its bank or surety company stating that the letter of credit or bond will be provided if being considered for a contract or in the event of a contract. The Letter of Credit or Bond shall be provided on a yearly basis for each year, or portion, of the contract.

44. RECIPROCITY AND SANCTIONS PROVISIONS

Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

45. DISPUTE RESOLUTION

It is the policy of the Madison-Oneida BOCES to provide vendors with an opportunity to administratively resolve disputes, complaints or inquiries related to Madison-Oneida BOCES bid solicitations or contract awards. Madison-Oneida BOCES encourages vendors to seek resolution of disputes through consultation with Madison-Oneida BOCES staff. All such matters will be accorded impartial and timely consideration. Interested parties may also file formal written disputes.

46. INQUIRIES ABOUT THE BID PROCESS OR SPECIFICATIONS

- a. All inquiries concerning this specification will be addressed to the following BOCES designated contact:

Madison-Oneida BOCES
Cooperative Bidding
4937 Spring Road
P.O. Box 168
Verona, New York 13478-0168
Phone No.: (315) 361-5822
FAX No.: (315) 361-5595
E-Mail: co-op-bidding@moboces.org

- b. All questions should be submitted in writing no later than 10 days prior to the Bid opening date on the Invitation for Bids, citing the particular Bid Document section and paragraph number.
- c. The prospective bidder should notify the DESIGNATED CONTACT of any term, condition, etc., that precludes the vendor from submitting a compliant, responsive bid.
- d. Prospective Bidders should note that all clarifications and exceptions including those relating to the terms and conditions of the contract are to be resolved prior to the submission of a bid.
- e. Answers to all questions of a substantive nature will be given to all Prospective Bidders in the form of a formal addendum which will become part of the ensuing contract.

Part B. Standard Contract Terms and Conditions

GENERAL

1. APPLICABILITY These terms and conditions are expressly incorporated in and applicable to the resulting procurement contracts let by the Madison-Oneida BOCES Mohawk Regional Information Center. Captions are intended as descriptive and are not intended to limit or otherwise restrict the terms and conditions set forth herein.

2. GOVERNING LAW This procurement, the resulting contract and any purchase orders issued hereunder shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise, and actions or proceedings arising from the contract shall be heard in a court of competent jurisdiction in the State of New York.

4. EXECUTORY CLAUSE This Contract shall be deemed executory only to the extent of monies appropriated and available to a Participating School District for the purpose of this Contract, and no liability shall be incurred by BOCES or any Participating School District beyond the amount of such monies. The Contract is not a general obligation of BOCES or any Participating School District. Neither the full faith and credit nor the taxing power of BOCES or any Participating School District are pledged to the payment of any amount due or to become due under this Contract. It is understood that neither this Contract nor any representation by any public employee or officer creates any legal or moral obligation to appropriate or to make monies available for the purpose of this Contract. In the event that any previously participating school district fails to appropriate and make monies available for the purpose of this Contract, the terms of this Contract shall continue in full force and effect with respect to BOCES and each other Participating School District.

5. NON-ASSIGNMENT CLAUSE. This Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the MORIC and any attempts to assign the contract without the District's written consent are null and void. The Contractor may, however, assign its right to receive payment without the District's prior written consent unless this contract concerns Certificates of Participation issued pursuant to Section 109-b of the General Municipal Law.

6. WORKERS' COMPENSATION BENEFITS. The Contractor warrants that for the duration of the Contract it shall maintain coverage for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law, and failure to do so shall render this Contract void and of no force and effect.

7. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the District. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the District.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the District; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the District.

8. SET-OFF RIGHTS. BOCES shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to BOCES with regard to this contract or any other contract with BOCES, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to BOCES for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The BOCES shall exercise its set-off rights in accordance with its normal practices including, in cases of set-off pursuant to an audit, the finalization of such audit by BOCES, its representatives, or the District Superintendent.

9. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The District Superintendent, each Participating School District, and any other person or entity authorized to conduct an examination (collectively, "authorized examiner"), shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the Participating School District, for the term specified above for the purposes of inspection, auditing and copying. An authorized examiner shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform the authorized examiner, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, a Participating School District's right to discovery in any pending or future litigation.

10. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. All invoices or purchase orders submitted for payment for the sale of goods or services or the lease of real or personal property to BOCES must include the payee's tax identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on the invoice or purchase order, must give the reason or reasons why the payee does not have such number or numbers.

(b) PRIVACY NOTIFICATION. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to BOCES is mandatory. The principal purpose for which the information is collected is to enable BOCES to issue appropriate year-end tax forms.

11. CONTRACTOR'S PRESERVATION OF CONFIDENTIAL INFORMATION (a) Contractor further warrants, covenants and represents that any confidential information obtained by Contractor, its agents, subcontractors, officers, distributors, resellers or employees in the course of performing its obligations, including without limitation, security procedures, business operations information, student educational information, or commercial proprietary information in the possession of the BOCES or any Participating School District hereunder or received from another third party, will not be divulged to any third parties. Contractor further agrees to take appropriate steps as to its agents, Subcontractors, officers, distributors, resellers or employees regarding the obligations arising under this clause to insure such confidentiality.

(b) Contractor shall not be required to keep confidential any such material that is publicly available through no fault of Contractor, independently developed by Contractor without

reliance on confidential information of the Participating School District, or otherwise obtained under the Freedom of Information Act or other applicable New York State laws and regulations.

(c) This warranty shall survive termination of this Contract.

12. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Section 3-a of the General Municipal Law.

13. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

14. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the District's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the District, in writing, of each and every change of address to which service of process can be made. Service by the District to the last known address shall be sufficient.

15. MERCURY CONTENT. Any product supplied to BOCES or a Participating School District that contains mercury shall be labelled in compliance with Article 27, Title 21 of the State Environmental Conservation Law.

16. CONTRACT CREATION / EXECUTION Subject to and upon receipt of all required approvals as set forth in the Bid Specifications a Contract shall be deemed executed and created with the successful Bidder(s), upon the District Superintendent's mailing or electronic communication to the address on the Bid/Contract of: (i) the final Contract Award Notice; and either (ii) a fully executed Contract; or (iii) a properly-authorized Purchase Order.

17. PARTICIPATION IN CENTRALIZED CONTRACTS BOCES and Participating School Districts retain the right to purchase items from New York State contracts or County contracts, provided the same or similar items can be purchased for better terms or conditions.

18. MODIFICATION OF CONTRACT TERMS The terms and conditions set forth in the Contract shall govern all transactions by BOCES under this Contract. The Contract may only be modified or amended upon mutual written agreement of the District Superintendent and Contractor. The Contractor may, however, offer BOCES more advantageous pricing, payment, or other terms and conditions than those set forth in the Contract. In such event, a copy of such terms shall be furnished to the Participating School District(s) and District Superintendent by the Contractor at the time of such offer.

Other than where such terms are more advantageous for BOCES than those set forth in the Contract, no alteration or modification of the terms of the Contract, including substitution of Product, shall be valid or binding against Participating School District(s) unless authorized by the District Superintendent or specified in the Contract Award Notification. No such alteration or modification shall be made by unilaterally affixing such terms to Product upon delivery (including, but not limited to, attachment or inclusion of standard pre-printed order forms, product literature, "shrink wrap" terms accompanying software upon delivery, or other documents) or by incorporating such terms onto order forms, purchase orders or other documents forwarded by the Contractor for payment, notwithstanding BOCES subsequent acceptance of Product, or that Participating School District has subsequently processed such document for approval or payment.

19. SCOPE CHANGES The District Superintendent reserves the right, unilaterally, to require changes, by written order altering, adding to or deducting from the Bid Specifications, such

changes to be within the general scope of the Contract. The District Superintendent may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the consent of the Contractor, which consent shall not be unreasonably withheld.

20. ESTIMATED / SPECIFIC QUANTITY CONTRACTS Estimated quantity contracts are expressly agreed and understood to be made for only the quantities, if any, actually ordered during the Contract term. No guarantee of any quantity(s) is implied or given. Purchases by Participating School Districts from Contracts for services and technology are voluntary.

21. PURCHASE ORDERS Unless otherwise authorized in writing by the District Superintendent, no Product is to be delivered or furnished by Contractor until transmittal of an official Purchase Order from the Participating School District. Unless terminated or cancelled by the issuing Participating School District, Purchase Orders shall be effective and binding upon the Contractor when placed in the mail or electronically transmitted prior to the termination of the contract period, addressed to the Contractor at the address for receipt of orders set forth in the Contract or in the Contract Award Notification.

All Purchase Orders issued pursuant this Contract must bear the appropriate Contract number. As deemed necessary, the Participating School District may confirm pricing and other Product information with the Contractor prior to placement of the Purchase Order. The BOCES reserves the right, for itself and all Participating School Districts, to require any other information from the Contractor which the BOCES or a Participating School District deems necessary in order to complete any Purchase Order placed under the Contract. Unless otherwise specified, all Purchase Orders will be placed by Participating School Districts directly with the Contractor and any discrepancy between the terms stated on the vendor's order form, confirmation or acknowledgment, and the Contract terms shall be resolved in favor of the terms most favorable to the Participating School District. Should a Participating School District add written terms and conditions to the Purchase Order that conflict with the terms and conditions of the Contract, the Contractor has the option of rejecting the Purchase Order within five business days of its receipt but shall first attempt to negotiate the additional written terms and conditions in good faith with the Participating School District, or fulfill the Purchase Order. Notwithstanding the above, the Participating School Districts reserve the right to dispute any discrepancies arising from the presentation of additional terms and conditions with the Contractor.

22. INSTALLATION Where installation is required, Contractor shall be responsible for placing and installing the Product in the required locations. All materials used in the installation shall be of good quality and shall be free from any and all defects that would mar the appearance of the Product or render it structurally unsound. Installation includes the furnishing of any equipment, rigging and materials required to install or place the Product in the proper location. The Contractor shall protect the site from damage for all its work and shall repair damages or injury of any kind caused by the Contractor, its employees, officers or agents. If any alteration, dismantling or excavation, etc. is required to effect installation, the Contractor shall thereafter promptly restore the structure or site. Work shall be performed to cause the least inconvenience to the Participating School District(s) and with proper consideration for the rights of other Contractors or workers. The Contractor shall promptly perform its work and shall coordinate its activities with those of other Contractors. The Contractor shall clean up and remove all debris and rubbish from its work as required or directed. Upon completion of the work, the building and surrounding area of work shall be left clean and in a neat, unobstructed condition, and everything in satisfactory repair and order.

23. REPAIRED OR REPLACED PARTS / COMPONENTS Where the Contractor is required to repair, replace or substitute Product or parts or components of the Product under the Contract, the repaired, replaced or substituted Products shall be subject to all terms and conditions for new parts and components set forth in the Contract including Warranties, as set forth in the Additional Warranties Clause herein. Replaced or repaired Product or parts and components of such Product

shall be new and shall, if available, be replaced by the original manufacturer's component or part. Remanufactured parts or components meeting new Product standards may be permitted by the District Superintendent or Participating School District. Before installation, all proposed substitutes for the original manufacturer's installed parts or components must be approved by the Participating School District. The part or component shall be equal to or of better quality than the original part or component being replaced.

24. ON-SITE STORAGE With the written approval of the Participating School District, materials, equipment or supplies may be stored at the Participating School District's site at the Contractor's sole risk.

25. EMPLOYEES, SUBCONTRACTORS & AGENTS All employees, Subcontractors or agents performing work under the Contract must be trained staff or technicians who meet or exceed the professional, technical and training qualifications set forth in the Bid Documents, whichever is more restrictive, and must comply with all security and administrative requirements of the Participating School District. the right to conduct a security background check or otherwise approve any employee, Subcontractor or agent furnished by Contractor and to refuse access to or require replacement of any personnel for cause based on, including but not limited to, professional, technical or training qualifications, quality of work or change in security status or non-compliance with Participating School District's security or other requirements. Such approval shall not relieve the Contractor of the obligation to perform all work in compliance with the Contract terms. BOCES reserves for itself and each Participating School District the right to reject and/or bar from the facility for cause any employee, Subcontractor, or agents of the Contractor.

26. ASSIGNMENT The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of the contract or its right, title or interest therein, or its power to execute such contract to any other person, company, firm or corporation in performance of the contract without the prior written consent of the District Superintendent. Failure to obtain consent to assignment from BOCES shall revoke and annul such Contract. Notwithstanding the foregoing, BOCES shall not hinder, prevent or affect assignment of money by a Contractor for the benefit of its creditors. Prior to a consent to assignment of monies becoming effective, the Contractor shall file a written notice of such monies assignment(s) with BOCES. The District Superintendent reserves the right to reject any proposed assignee in his/her discretion.

Upon notice to the Contractor, the Contract may be assigned without the consent of the Contractor to another Participating School District pursuant to a reorganization or assignment of functions under which the functions are transferred to a successor Participating School District or to another Participating School District that assumes responsibilities for the Contract.

27. SUBCONTRACTORS AND SUPPLIERS BOCES reserves for itself and each Participating School District the right to reject any proposed Subcontractor or supplier for bona fide business reasons, which may include, but are not limited to: they are on the Department of Labor's list of companies with which New York State cannot do business; the District Superintendent determines that the company is not qualified; the District Superintendent determines that the company is not responsible; or, the company has previously provided unsatisfactory work or services.

28. PERFORMANCE / BID BOND The District Superintendent reserves the right to require a Bidder or Contractor to furnish without additional cost, a performance, payment or Bid bond or negotiable irrevocable letter of credit or other form of security for the faithful performance of the Contract. Where required, such bond or other security shall be in the form prescribed by the District Superintendent.

29. SUSPENSION OF WORK The District Superintendent, in his/her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, in the best interests of a Participating School District. In the event of such suspension, the Contractor will be given a formal

written notice outlining the particulars of such suspension. Examples of the reason for such suspension include, but are not limited to, a budget freeze or reduction on spending, declaration of emergency, contract compliance issues or other such circumstances. Upon issuance of such notice, the Contractor is not to accept any Purchase Orders, and shall comply with the suspension order. Activity may resume at such time as the District Superintendent issues a formal written notice authorizing a resumption of performance under the Contract.

30. TERMINATION OF CONTRACT

(a) For Cause: If a material breach by the Contractor remains uncured for more than thirty (30) days or other specified period after written notice to the Contractor, or if the Contractor becomes unable or incapable of performing, or meeting any requirements or qualifications set forth in the Contract, or if there is a determination that Contractor is non-responsible, then the Contract or Purchase Order may be terminated by the District Superintendent or Participating School District at the Contractor's expense. Such termination shall be upon written notice to the Contractor. In such event, the District Superintendent or Participating School District may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach.

(b) For Convenience: This Contract, or a portion of it, may be terminated at any time by BOCES for convenience upon sixty (60) days written notice or other specified period without penalty or other early termination charges due. Such termination of the Contract shall not affect any project or Purchase Order that has been issued under the Contract prior to the date of such termination. If the Contract is terminated pursuant to this subdivision, BOCES shall remain liable for all accrued but unpaid charges incurred through the date of the termination. Contractor shall use due diligence and provide any outstanding deliverables.

(c) For Violation of the Sections 139-j and 139-k of the State Finance Law: The District Superintendent reserves the right to terminate the Contract in the event it is found that the certification filed by the Bidder in accordance with Section 139-k of the State Finance Law was intentionally false or intentionally incomplete. Upon such finding, the District Superintendent may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of the Contract.

31. SAVINGS/FORCE MAJEURE A force majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled. Force majeure includes, but is not limited to, acts of God, acts of war, acts of public enemies, strikes, fires, explosions, actions of the elements, floods, or other similar causes beyond the control of the Contractor or the District Superintendent. This paragraph shall govern when contract non-performance is attributable to a force majeure occurrence and the exercise of reasonable diligence could not have prevented the non-performance. Contractor shall provide the District Superintendent with written notice of any force majeure occurrence as soon as the delay is known.

Neither the Contractor nor a Participating School District shall be liable to the other for any delay in or failure of performance under the Contract due to a force majeure occurrence. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages. The existence of such causes of such delay or failure shall extend the period for performance to such extent as determined by the Contractor and a Participating School District to be necessary to enable complete performance by the Contractor if reasonable diligence is exercised after the cause of delay or failure has been removed.

Notwithstanding the above, at the discretion of the District Superintendent where the delay or failure will significantly impair the value of the Contract to the BOCES or to Participating School Districts, the District Superintendent may:

- (a) Accept allocated performance or deliveries from the Contractor. The Contractor, however, hereby agrees to grant preferential treatment to Participating School Districts with respect to Product subjected to allocation; and/or
- (b) Purchase from other sources (without recourse to and by the Contractor for the costs and expenses thereof) to replace all or part of the Products which are the subject of the delay, which purchases may be deducted from the Contract quantities without penalty or liability to the BOCES; or
- (c) Terminate the Contract or the portion thereof which is subject to delays, and thereby discharge any unexecuted portion of the Contract or the relative part thereof.

In addition, the District Superintendent reserves the right, in his/her sole discretion, to make an equitable adjustment in the Contract terms and/or pricing should extreme and unforeseen volatility in the marketplace affect pricing or the availability of supply. "Extreme and unforeseen volatility in the marketplace" is defined as market circumstances which meet the following criteria: (i) the volatility is due to causes outside the control of Contractor; (ii) the volatility affects the marketplace or industry, not just the particular Contract source of supply; (iii) the effect on pricing or availability of supply is substantial; and (iv) the volatility so affects Contractor's performance that continued performance of the Contract would result in a substantial loss.

32. CONTRACT BILLINGS Contractor and the distributors/resellers designated by the Contractor, if any, shall provide complete and accurate billing invoices to BOCES, together with complete and accurate supporting documentation as required by BOCES in order to receive payment. Billings for Participating School Districts must contain all information required by the Contract.

Submission of an invoice and payment thereof shall not preclude the District Superintendent from demanding reimbursement or a price adjustment in any case where the Product delivered is found to deviate from the terms and conditions of the Contract or where the billing was inaccurate.

Contractor shall provide, upon request of the District Superintendent or any Participating School District, any and all information necessary to verify the accuracy of the billings. Such information shall be provided in the format requested by the District Superintendent or Participating School District and in a format commercially available from the Contractor. The District Superintendent may direct the Contractor to provide the information to the State Comptroller or to any Participating School District.

33. REMEDIES FOR BREACH It is understood and agreed that all rights and remedies afforded below shall be in addition to all remedies or actions otherwise authorized or permitted by law:

- (a) **Cover/Substitute Performance:** In the event of Contractor's material breach, the Participating School District may, with or without formally Bidding: (i) Purchase from other sources; or (ii) If the Participating School District is unsuccessful after making reasonable attempts, under the circumstances then existing, to timely obtain acceptable service or acquire replacement Product of equal or comparable quality, the Participating School District may acquire acceptable replacement Product of lesser or greater quality. Such purchases may, in the discretion of the Participating School District, be deducted from the Contract quantity and payments due Contractor.
- (b) **Withhold Payment:** In any case where a question of non-performance by Contractor arises, payment may be withheld in whole or in part at the discretion of the Participating School District. Should the amount withheld be finally paid, a cash discount originally offered may be taken as if no delay in payment had occurred.

- (c) **Bankruptcy:** In the event that the Contractor files a petition under the U.S. Bankruptcy Code during the term of this Contract, Participating School Districts may, at their discretion, make application to exercise its right to set-off against monies due the Debtor or, under the Doctrine of Recoupment, credit the Participating School District the amounts owed by the Contractor arising out of the same transactions.
- (d) **Reimbursement of Costs Incurred:** The Contractor agrees to reimburse the Participating School District promptly for any and all additional costs and expenses incurred for acquiring acceptable services, and/or replacement Product. Should the cost of cover be less than the Contract price, the Contractor shall have no claim to the difference. The Contractor covenants and agrees that in the event suit is successfully prosecuted for any default on the part of the Contractor, all costs and expenses expended or incurred by the Participating School District in connection therewith, including reasonable attorney's fees, shall be paid by the Contractor.

Where the Contractor fails to timely deliver pursuant to the guaranteed delivery terms of the Contract, the ordering Participating School District may rent substitute equipment temporarily. Any sums expended for such rental shall, upon demand, be reimbursed to the Participating School District promptly by the Contractor or deducted by the Participating School District from payments due or to become due the Contractor on the same or another transaction.

- (e) **Deduction/Credit:** Sums due as a result of these remedies may be deducted or offset by the Participating School District from payments due, or to become due, the Contractor on the same or another transaction. If no deduction or only a partial deduction is made in such fashion the Contractor shall pay to the Participating School District the amount of such claim or portion of the claim still outstanding, on demand. The District Superintendent reserves the right to determine the disposition of any rebates, settlements, restitution, liquidated damages, etc., which arise from the administration of the Contract.

34. ASSIGNMENT OF CLAIM Contractor hereby assigns to the BOCES any and all its claims for overcharges associated with this Contract which may arise under the antitrust laws of the United States, 15 USC Section 1, et. seq. and the antitrust laws of the State of New York, General Business Law Section 340, et. seq.

35. TOXIC SUBSTANCES Each Contractor furnishing a toxic substance as defined by Section 875 of the Labor Law, shall provide such Participating School District with not less than two copies of a Material Safety Data Sheet, which sheet shall include for each such substance the information outlined in Section 876 of the Labor Law. Before any chemical product is used or applied on or in any building, a copy of the product label and Material Safety Data Sheet must be provided to and approved by the Participating School District representative.

36. INDEPENDENT CONTRACTOR It is understood and agreed that the legal status of the Contractor, its agents, officers and employees under this Contract is that of an independent contractor, and in no manner shall they be deemed employees of the Participating School District, and therefore are not entitled to any of the benefits associated with such employment. The Contractor agrees, during the term of this Contract, to maintain at Contractor's expense those benefits to which its employees would otherwise be entitled by law, including health benefits, and all necessary insurance for its employees, including worker's compensation, disability and unemployment insurance, and to provide the Participating School District with certification of such insurance upon request. The Contractor remains responsible for all applicable federal, state and local taxes, and all FICA contributions.

37. SECURITY Contractor warrants, covenants and represents that it will comply fully with all security procedures of the Participating School District(s) in performance of the Contract including

but not limited to physical, facility, documentary and cyber security rules, procedures and protocols.

38. COOPERATION WITH THIRD PARTIES The Contractor shall be responsible for fully cooperating with any third party, including but not limited to other Contractors or Subcontractors of the Participating School District, as necessary to ensure delivery of Product or coordination of performance of services.

39. CONTRACT TERM - RENEWAL At the expiration of the Initial Term, this Agreement shall automatically renew on a monthly basis unless either party notifies the other party at least thirty (30) days prior to the expiration of the current term that the parties do not intend to renew. (The Initial Term and/or any Renewal Term sometimes referred to herein as the "Term.")

40. ADDITIONAL WARRANTIES Where Contractor, product manufacturer or service provider generally offers additional or more advantageous warranties than set forth below, Contractor shall offer or pass through any such warranties to Participating school districts. Contractor hereby warrants and represents:

- (a) **Product Performance:** Contractor warrants and represents that Products delivered pursuant to this Contract conform to the manufacturer's specifications, performance standards and documentation, and the documentation fully describes the proper procedure for using the Products.
- (b) **Title and Ownership Warranty:** Contractor warrants, represents and conveys (i) full ownership, clear title free of all liens, or (ii) the right to transfer or deliver perpetual license rights to any Products transferred to Participating School District under this Contract. Contractor shall be solely liable for any costs of acquisition associated therewith. Contractor fully indemnifies the Participating School District for any loss, damages or actions arising from a breach of said warranty without limitation.
- (c) **Contractor Compliance:** Contractor represents and warrants to pay, at its sole expense, for all applicable permits, licenses, tariffs, tolls and fees to give all notices and comply with all laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Contract. Prior to award and during the Contract term and any renewals thereof, Contractor must establish to the satisfaction of the District Superintendent that it meets or exceeds all requirements of the Bid/Contract and any applicable laws, including but not limited to, permits, insurance coverage, licensing, proof of coverage for worker's compensation, and shall provide such proof as required by the District Superintendent. Failure to do so may constitute grounds for the District Superintendent to cancel or suspend this Contract, in whole or in part, or to take any other action deemed necessary by the District Superintendent.
- (d) **Product Warranty:** Unless recycled or recovered materials are available in accordance with the "Recycled or Recovered Materials" clause, Product offered shall be standard new equipment, current model or most recent release of regular stock product with all parts regularly used with the type of equipment offered; and no attachment or part has been substituted or applied contrary to the manufacturer's recommendations and standard practice.
- (e) **Project Warranty Period:** Contractor further warrants and represents that components or deliverables specified and furnished by or through Contractor shall individually, and where specified and furnished as a system, be substantially uninterrupted or error-free in operation and guaranteed against faulty material and workmanship for the warranty period, or for a minimum of one (1) year from the date of acceptance, whichever is longer ("Project

warranty period"). During the Project warranty period, defects in the materials or workmanship of components or deliverables specified and furnished by or through Contractor shall be repaired or replaced by Contractor at no cost or expense to the Participating School District. Contractor shall extend the Project warranty period for individual component(s), or for the System as a whole, as applicable, by the cumulative period(s) of time, after notification, during which an individual component or the System requires servicing or replacement (down time) or is in the possession of the Contractor, its agents, officers, Subcontractors, distributors, resellers or employees ("extended warranty").

- (f) Standard Commercial Warranties: Where Contractor, the Independent Software Vendor "ISV," or other third party manufacturer markets any Project Deliverable delivered by or through Contractor with a standard commercial warranty, such standard warranty shall be in addition to, and not relieve the Contractor from, Contractor's warranty obligations during the project warranty and extended warranty period(s). Where such standard commercial warranty covers all or some of the Project warranty or extended warranty period(s), Contractor shall be responsible for the coordination during the Project warranty or extended warranty period(s) with ISV or other third party manufacturer(s) for warranty repair or replacement of ISV or other third party manufacturer's Product.

Where Contractor, ISV or other third party manufacturer markets any Project Deliverable with a standard commercial warranty which goes beyond the Project warranty or extended warranty period(s), Contractor shall notify the Participating School District and pass through the manufacturer's standard commercial warranty to Participating School District at no additional charge; provided, however, that Contractor shall not be responsible for coordinating services under the third party extended warranty after expiration of the Project warranty and extended warranty period(s).

- (g) Replacement Parts Warranty: If during the regular or extended warranty period product defects are discovered, the Contractor shall promptly repair or, upon demand, replace the defective unit or component part affected. All costs for labor and material and transportation incurred to repair or replace defective Product during the warranty period shall be borne solely by the Contractor, and the Participating School District shall in no event be liable or responsible therefor.

Any part or component replaced by the Contractor under the Contract warranty shall be replaced at no cost to the Participating School District and guaranteed for the greater of: a) the warranty period under paragraph (e) above; or b) if a separate warranty for that part or component is generally offered by the manufacturer, the standard commercial warranty period offered by the manufacturer for the individual part or component.

- (h) Virus Warranty: The Contractor represents and warrants that Licensed Software contains no known viruses. Contractor is not responsible for viruses introduced at Licensee's site.
- (i) Date/Time Warranty: Contractor warrants that Product(s) furnished pursuant to this Contract shall, when used in accordance with the Product documentation, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) transitions, including leap year calculations. Where a Contractor proposes or an acquisition requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

Where Contractor is providing ongoing services, including but not limited to: i) consulting, integration, code or data conversion, ii) maintenance or support services, iii) data entry or processing, or iv) contract administration services (e.g., billing, invoicing, claim processing), Contractor warrants that services shall be provided in an accurate and timely manner without interruption, failure or error due to the inaccuracy of Contractor's business operations in

processing date/time data (including, but not limited to, calculating, comparing, and sequencing) various date/time transitions, including leap year calculations. Contractor shall be responsible for damages resulting from any delays, errors or untimely performance resulting therefrom, including but not limited to the failure or untimely performance of such services.

This Date/Time Warranty shall survive beyond termination or expiration of this contract through: a) ninety (90) days or b) the Contractor's or Product manufacturer/developer's stated date/time warranty term, whichever is longer. Nothing in this warranty statement shall be construed to limit any rights or remedies otherwise available under this Contract for breach of warranty.

- (j) Workmanship Warranty: Contractor warrants that all components or deliverables specified and furnished by or through Contractor under this Contract meet the completion criteria set forth in these Bid Documents and any subsequent statement(s) of work, and that services will be provided in a workmanlike manner in accordance with industry standards.
- (k) Survival of Warranties: All warranties contained in this Contract shall survive the termination of this Contract.
- (l) Remanufactured Components: Warranties on refurbished or remanufactured components or products must be identical to the manufacturer's new equipment warranty or industry's normal warranty when remanufacturer does not offer new equipment.

41. LEGAL COMPLIANCE Contractor represents and warrants that it shall secure all notices and comply with all laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Contract. Prior to Award and during the Contract term and any renewals thereof, Contractor must establish to the satisfaction of the District Superintendent that it meets or exceeds all requirements of the Bid and Contract and any applicable laws, including but not limited to, permits and licensing, and shall provide such proof as may be required by the District Superintendent. Failure to comply or failure to provide proof may constitute grounds for the District Superintendent to cancel or suspend the Contract, in whole or in part, or to take any other action deemed necessary by the District Superintendent. **Contractor also agrees to disclose information and provide affirmations and certifications to comply with Sections 139-j and 139-k of the State Finance Law.**

42. INDEMNIFICATION Contractor shall be fully liable for the actions of its agents, employees, partners or Subcontractors and shall fully indemnify and save harmless the Participating School Districts from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by any intentional act or negligence of Contractor, its agents, employees, partners or Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of a Participating School District.

43. INDEMNIFICATION RELATING TO THIRD PARTY RIGHTS The Contractor will also indemnify and hold the Participating School Districts harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities and costs that may be finally assessed against the Participating School Districts in any action for infringement of a United States Letter Patent, or of any copyright, trademark, trade secret or other third party proprietary right except to the extent such claims arise from the Participating School Districts' gross negligence or willful misconduct, provided that the BOCES shall give Contractor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of Contractor.

If usage shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion to take action in the following order of precedence: (i) to procure for the Participating School District the right to continue Usage (ii) to modify the service or Product so that Usage becomes non-infringing, and is of at least equal quality and performance; or (iii) to replace said service or Product or part(s) thereof, as applicable, with non-infringing service or Product of at least equal quality and performance. If the above remedies are not available, the parties shall terminate the Contract, in whole or in part as necessary and applicable, provided the Participating School District is given a refund for any amounts paid for the period during which Usage was not feasible.

The foregoing provisions as to protection from third party rights shall not apply to any infringement occasioned by modification by the Participating School District of any Product without Contractor's approval.

In the event that an action at law or in equity is commenced against the Participating school district arising out of a claim that the Participating school district's use of the service or Product under the Contract infringes any patent, copyright or proprietary right, and Contractor is of the opinion that the allegations in such action in whole or in part are not covered by the indemnification and defense provisions set forth in the Contract, Contractor shall immediately notify the Participating school district and the Office of the Attorney General in writing and shall specify to what extent Contractor believes it is obligated to defend and indemnify under the terms and conditions of the Contract. Contractor shall in such event protect the interests of the Participating school district and secure a continuance to permit the Participating school district to appear and defend its interests in cooperation with Contractor, as is appropriate, including any jurisdictional defenses the Participating school district may have. This constitutes the Participating school district's sole and exclusive remedy for patent infringement, or for infringement of any other third party proprietary right.

44. LIMITATION OF LIABILITY Except as otherwise set forth in the Indemnification Paragraphs above, the limit of liability shall be as follows:

- (a) Contractor's liability for any claim, loss or liability arising out of, or connected with the Products and services provided, and whether based upon default, or other liability such as breach of contract, warranty, negligence, misrepresentation or otherwise, shall in no case exceed direct damages in: (i) an amount equal to two (2) times the charges specified in the Purchase Order for the Products and services, or parts thereof forming the basis of the Participating School District's claim, (said amount not to exceed a total of twelve (12) months charges payable under the applicable Purchase Order) or (ii) one million dollars (\$1,000,000), whichever is greater.
- (b) A Participating School District may retain such monies from any amount due Contractor as may be necessary to satisfy any claim for damages, costs and the like asserted against the Participating School District unless Contractor at the time of the presentation of claim shall demonstrate to the Participating School District's satisfaction that sufficient monies are set aside by the Contractor in the form of a bond or through insurance coverage to cover associated damages and other costs.
- (c) Notwithstanding the above, neither the Contractor nor the Participating School District shall be liable for any consequential, indirect or special damages of any kind which may result directly or indirectly from such performance, including, without limitation, damages resulting from loss of use or loss of profit by the Participating School District, the Contractor, or by others.

45. INSURANCE

- A. The Successful Bidder shall procure and maintain insurance satisfactory to MOBOCES in the following coverages and amounts indicated by a checkmark (✓):
- ☒ (1). Comprehensive General Liability, including personal injury coverage of \$1,000,000 per occurrence - \$2,000,000 in the aggregate; property damage in the amount of \$1,000,000 per occurrence.
 - ☒ (2). Automobile coverage, with a combined single limit of \$1,000,000.
 - ☒ (3). Statutory Workers' Compensation and Disability coverages in statutory amounts of coverage.
 - ☒ (4). Contractor may provide a liability umbrella policy to meet minimum coverage limits as set forth above.
- B. If not checked above insurances are not required for this Bid.
- C. The Successful Bidder shall arrange with its insurance carrier to have the policy endorsed to include Madison-Oneida BOCES, and its officers, employees, and agents listed as additional named insureds on all insurance policies required for performance of this Contract and shall provide proof acceptable to MOBOCES that those amendments to the insurance contract(s) have been accomplished. Forms C-105.2, U-20.3, GSI-105.2 or SI-12 are the only forms that will be accepted as proof of Workers' Compensation Insurance. Certificates of Insurance must be furnished to MOBOCES with this Bid. In addition, proof of continuing coverage in the amounts set forth shall be produced upon renewal and/or upon demand by MOBOCES prior to expiration date of existing certificate.
- D. Notice of policy modifications, terminations, cancellations or non-renewal must be provided to Madison-Oneida BOCES, Cooperative Bidding Office, 4937 Spring Road, PO Box 168, Verona, NY 13478-0168, at least thirty (30) days prior to modification, termination, cancellation or non-renewal. Policies shall not be cancelled, including, without limitation, for non-payment of premium, or materially amended, without thirty (30) days prior written notice to MOBOCES, directed to the MOBOCES Labor Relations Office and the Department of Cooperative Bidding, and MOBOCES shall have the option to pay any necessary premiums to keep such insurance in effect and charge the cost back to Contractor.
- E. Each policy of insurance shall contain clauses to the effect that such insurance shall be primary without right of contribution of any other insurance carried by or on behalf of MOBOCES with respect to its interests.
- F. To the extent it is commercially available, each policy of insurance shall be provided on a "per occurrence" basis. If any insurance is not so commercially available on a "per occurrence" basis it shall be provided on a "claims made" basis, and all such "claims made" policies shall provide that:

- (1) Policy retroactive dates coincide with or precede Contractor's start of the performance of the Services (including subsequent policies purchased as renewals or replacements;
- (2) Contractor will maintain similar insurance for at least six (6) years following final acceptance of the services;
- (3) If the insurance is terminated for any reason, Contractor agrees to purchase an unlimited extended reporting provision to report claims arising from the services performed for MOBOCES; and
- (4) Immediate notice shall be given to MOBOCES through the Labor Relations Office and the Cooperative Bidding Office, of circumstances or incidents that might give rise to future claims with respect to the services performed under this Agreement.

Contractor shall secure and maintain insurance coverage as specified in the Bid Documents and shall promptly provide documentation of specified coverages to a Participating School District. If specified, the Contractor may be required to add a Participating School District as an additional insured.

Part C. Terms and Conditions Specific to This Purchase

1. General Overview

The MORIC represents the common interests of 50 central and northern New York school districts and 4 BOCES in achieving robust, high capacity, next generation telecommunications services. One of the major goals of the MORIC is to facilitate and coordinate the development, deployment and operation of a set of seamless and robust inter-district communications services capable of supporting advanced administrative and instructional applications.

The Madison-Oneida Board of Cooperative Educational Services is a legal contracting entity that will act on behalf of the MORIC. The Oneida-Herkimer-Madison BOCES is a separate legal contracting entity acting on behalf of districts it serves. **Contracts and billing will be based on Billed Entities outlined in Attachment A, the Connectivity Matrix.**

The MORIC on behalf of all component districts within the Jefferson-Lewis, Herkimer-Fulton-Montgomery, Madison-Oneida, and Oneida-Herkimer-Madison BOCES has established a common vision to guide its approach to planning and developing inter-district communications services. The vision includes the following principle elements:

- Implement a regional network that will provide:
 - A cohesive, unified regional telecommunications system
 - Economies of scale realized through central purchasing of network connectivity
 - Common Standards
 - Common network management and control
- Provide a network infrastructure that complements the robust computer environment at the MORIC Data Center, the Oneida-Herkimer-Madison BOCES Data center, and the infrastructure of the 50 school districts and 4 BOCES that service is provided to;
- Provide a network infrastructure that is secure, available, reliable, and maintainable;
- Provide a network infrastructure that is scalable and cost effective.

Regionalization and scalability are two key components of the MORIC Vision. The network must extend common features, services, pricing, and benefits across the entire MORIC region. The network must provide incremental bandwidth levels and associated pricing so that school districts can provide common network services to their component school buildings regardless of size or geographical location.

The regional network must support a wide range of applications (on a common network infrastructure) including voice, data, and video. The network must support all current data applications and offer the ability to support future real-time applications including but not limited to, IP Telephony, broadcast-quality distance learning, and multi-cast video and/or audio. Additionally, the network must be secure in order to protect the confidentiality of information transmitted across it.

2. New York State K-12 Broadband Vision

In addition to the MORIC's vision, the service must also be compatible and consistent with the standard established by the Regional Information Centers (RICs) operating in New York State. The following section describes the standard developed by the RICs for K-12 schools in the state.

The twelve BOCES Regional Information Centers (RICs) have developed a vision for ensuring high speed/broadband network access to every K-12 school in New York State. The primary goal of the vision is to offer equitable access across the state at a consistent and affordable price taking into account urban or rural status, economic health, or geographic location of the school district.

The Vision states:

New York State K-12 Broadband Vision

A comprehensive broadband digital network for every K-12 School in New York State.

The Vision is articulated in a technical standard that specifies connection speeds and essential service parameters. Specifically, the standard calls for:

- An Internet Protocol (IP) supporting full duplex, switched private network with end to end quality of service (QoS) guarantees, capable of delivering 100 Mbps Ethernet or better to each school building.
- Quality of Service (QoS) provisions must ensure delivery of delay sensitive traffic ahead of other applications. The QoS mechanism shall be Differentiated Services (DiffServ), with a minimum of four queues.
- Every K-12 school district in New York State will have said standard access to their BOCES and Regional Information Center's (RIC) regional network. Optimal network design will be determined by the district, RIC, and service providers.
- Each BOCES RIC will have a minimum 100 Mbps broadband, full duplex, switched IP access to other RICs and SED (State Education Department). These links will need to be provisioned to allow for multiple sites to share the link without degradation of service, and to ensure secure transmission of data between sites with QoS.
- Broadband Access will be ubiquitous across the State. Pricing will be both affordable and consistent across the state, taking into account of urban or rural location or provider.
- It is recognized that many school districts in NYS have built their own or lease fiber links between their school buildings. In these cases the districts and their RIC will be responsible for ensuring the standards stated in this Vision.

3. Connectivity Matrix

The specific site connections required are listed in the attached Connectivity Matrix (Attachment A). The matrix identifies all sites, hub locations, and the desired Billed Entity for each site.

Technical Requirements

4. Network Services Criteria

Following are the major criteria driving the requirements for the service:

- **Scaleable:** Above all other requirements, the service needs to be scaleable. It needs to support a wide range of bandwidth speeds—from 100 Mbps on the low end, to 10 Gbps on the high end, particularly for Instructional Facility. The scalability should apply to price as well as bandwidth. Price points should be directly proportional to bandwidth speeds.
- **Universal:** The service needs to be accessible across the entire MORIC region. Service attributes and prices need to be consistent. The service should be compliant with common telecommunications TCP/IP standards and protocols.
- **Flexible:** The service needs to be application agnostic. It needs to support the entire suite of BOCES/school district network services including voice, data, Internet, streaming video, broadcast-quality distance learning, etc. The new service needs to support Quality-of-Service standards so that real-time applications (e.g. voice and video) take priority over best-effort data and Internet services.
- **Affordable:** The service needs to fit within the current telecommunications budgets of the MORIC, the local BOCES', and the school districts. There should be price incentives (offered by the service providers) based on the level of participation of the school districts within the MORIC region.
- **Available, Reliable, Maintainable (ARM):** The service must provide operational efficiencies beyond what exists in the MORIC network today. The service must be available and reliable (meeting the level of service standards specified in the MORIC's Service Level Agreement outlined on page 38). The service must be capable of being monitored with the MORIC or local BOCES current set of network monitoring tools and procedures (i.e. AutoNoc, SolarWinds, InterMapper, NetScout, etc.)

4.1 Mandatory Technical Requirements Alternate 1: Ethernet WAN Service

The Bidder shall propose Ethernet-based services capable of providing wired point-to-point or point-to-multipoint connectivity between locations. The service shall be Wired Ethernet Private Line (EPL) service: EPL service interconnects two sites using dedicated bandwidth. EPL service will be utilized to provide point-to-point connectivity between the site locations as identified in the Connectivity Matrix (Attachment A). All bidders must provide pricing for sites as defined in the Connectivity Matrix (Attachment A) and then may suggest alternatives to each individual contract entity on behalf of the districts they serve, in order to offer the best combination of price/performance for the service.

Following are the mandatory technical requirements for the Ethernet WAN Service.

4.2 Bandwidth

4.2.1 Bandwidth Speeds

The service shall provide multiple bandwidth speeds ranging from 100 Mbps to 10 Gbps. The bandwidth speeds must be offered in increments as specified in Attachment A, Pricing Form. The service pricing must correspond with the different bandwidth speeds offered (i.e. a different price for each desired bandwidth speed).

4.2.2 Bandwidth Aggregation

The service shall not include aggregated single vendor circuits (returning to any identified hub, as defined in the Connectivity Matrix) that aggregate more than eight (8), 100 Mbs circuits. The method of bandwidth aggregation must be thoroughly described and illustrated in the Mandatory Bid Submissions (Service Description and Network Diagrams).

4.3 Customer Interface

The customer interface at each school/BOCES site shall be industry standard Ethernet (802.x) and offer a minimal of two types of connection options:

1. Standard 10/100Base TX
2. Standard 1000Base LX, SX, or TX (Copper)
3. Standard 10GBase SR, LR, LRM, ER or ZR

The optical connectors (for the 1000Base LX/SX interface or 10GBase ZX, LX, SX, ER or ZR) shall be Single-Mode and/or Multi-Mode, SC type connectors at a specified demarcation point in the school building.

4.4 Data Throughput

The service shall offer both Native and Shaped throughput options.

4.5 Native Throughput

The Native throughput option must allow continuous data transmission between sites at full "Native" rate LAN speeds (based on the type of customer interface—10/100Base TX, or 1000Base LX/SX/TX, or 10GBase ZX, LX, SX, ER or ZR). The service must deliver 99.9% of all frames as measured over a calendar month.

4.6 Shaped Throughput

The Shaped throughput option must provide a sustained throughput rate guarantee based on the bandwidth speed purchased (in increments from 100 Mbps to 10 Gbps). The service must deliver 99.9% of all frames as measured over a calendar month, within contracted traffic parameters (as defined by the Service Level Agreement outlined on page 38).

4.7 Privacy of Data Transmission

Data transmitted via this network is of a sensitive nature and should not be exposed or should not integrate with general public traffic. This information must be ensured to be private and not become vulnerable to intrusion or viewing via sniffers or packet monitoring. Bidders must therefore ensure the integrity and privacy of data transmissions. Bidders must describe its security methods and security mechanisms utilized to ensure the security of data transmissions.

4.8 VLAN Tagging (802.1Q)

The service must support Virtual LAN (VLAN) tagging via standard 802.1Q virtual LAN tagging mechanisms.

4.9 Transparent Support of Layer 3 Protocols and QoS Mechanisms

The service must support quality of device/class of service (QoS/CoS) capabilities necessary to support delay-sensitive and drop sensitive traffic such as voice and video. The QoS configuration will be managed by the customer. The service must be completely transparent to the customer, allowing all layer 2 and layer 3 - 7 traffic between customer sites.

4.10 Service Level Agreement (SLA)

The service shall include a Service Level Agreement (SLA) specifying basic service levels and trouble management response times. The Bidder must submit a representative SLA (with their Bid). The submitted SLA shall reference the following minimal elements and corresponding requirements:

SLA Element	MORIC Requirements
Service Availability Objective (per month)	99.9%
Mean Time To Respond	30 Minutes
Mean Time to Respond Updates	2 Hours
Mean Time to Repair	4 hours
Provisioning: New Service Additions	14 Days
Provisioning: Existing Service Moves	7 Days
Provisioning: Existing Service Changes	2 Days
Latency Within MORIC Network	<10 milliseconds port-to-port
Management Reports	Upon request

4.11 Configuration Management

The service shall include Configuration Management (adds, moves, changes). Configuration Management shall be available via telephone or through a Web interface. Configuration of local district networks, their VLANs, addressing, and static routing will be the sole responsibility of the MORIC Technical staff, unless otherwise designated for State University of New York and Community College participants.

4.12 Installation, Acceptance and Training

Transportation and installation of the equipment is to be arranged and paid for by the Bidder. The contracting entity reserves the right to approve or disapprove the installing contractor.

Service Providers are required to coordinate all installation activities with the contracting entity to meet project implementation schedules mutually established between the parties.

All site evaluation work and preparation as well as all coordination, materials and labor related to network installation will be the responsibility of the Service Provider.

The Service Provider must test all connections, equipment and configurations prior to the network being made available to the customer.

For any new site locations, upon completion of each site installation, the systems and associated equipment furnished by the successful Contractor will be subject to an operational test (30-day non-billing, testing period - unless a variation is mutually agreed upon) to determine the reliability of the Network Service and compliance with the specifications of the contract.

For any upgrade of existing site locations, new billing should start when the circuit is handed off to the MORIC/OHM BOCES for acceptance.

During the 30-day test, a punch list will be prepared outlining each of the requirements specified in this document with adjustments/alterations for exceptions accepted by the contracting entity that may have bearing on the system requirements. The Service Provider will then be evaluated on each item to ensure that all work is in compliance with the contract.

When it is determined that each item on the punch list is completed to the satisfaction of contracting entity, the billing cycle will begin.

The network must be at 100% during the operational 30-day test period. This includes all connections, equipment and software components to make the network fully operational at the capacities and functional levels described in this document and approved in the contract. The successful Service Provider will indicate in writing to the contracting entity that the network is installed and ready for testing. The network will not be accepted for operational use, and payment will not be authorized until the requirements are met.

4.13 Implementation Timetable

Services may be installed at any time (after contract signing), at the request of a specific school district that is listed in the Connectivity Matrix, Attachment A. This request will come in the form of a work order.

<u>Description</u>	<u>Dates</u>
Deadline for questions	December 5, 2026
Bid Due date	December 15, 2026
Contract finalization	March 4, 2027

4.14 Service Pricing

Bidder must provide standard pricing for the service and corresponding customer interface options. The pricing shall include Monthly Recurring Charges (MRCs) for each type of service. The service pricing for EPL service must reflect MRCs for each incremental bandwidth speed offered. Distance sensitive (mileage) pricing will not be considered. Additionally, all costs, including installation, taxes, fees, and surcharges, regardless of when service is provided, must be included in the MRCs. **Bid prices that do not meet these criteria may be considered non-responsive.**

The Bidder may provide Option discounts based on the number of total sites connected (as a result of this Bid).

- Option 1: Ethernet WAN Service including any number of sites listed in the Connectivity Matrix in Attachment A.
- Option 2: Ethernet WAN Service including at least 10 of the total possible sites listed in the Connectivity Matrix in Attachment A.
- Option 3: Ethernet WAN Service including at least 30 of the total possible sites listed in the Connectivity Matrix in Attachment A.
- Option 4: Ethernet WAN Service including at least 60 of the total possible sites listed in the Connectivity Matrix in Attachment A.

In addition, it is possible that component school districts will not all commit to participating in the Broadband Service in the same year. It is extremely important that bidders understand this. Bidders must address this issue and provide a mechanism to mitigate this dilemma. Current telecomm providers and contract expiration dates are noted on the connectivity matrix to assist bidders.

Some examples may include, but are not limited to, the following:

- Flat rate pricing that provides a 2 or 3 year “window” in which a district can opt to purchase the Broadband Service. A 3-year or 5-year contract would extend beyond the end of the “window.”
- Individual location (not flat) that is guaranteed for a period of time.
- Pricing that includes buy out of current service contracts to provide cost effective options.

The Bidder must provide pricing on Attachment A and submit Attachment A with its Bid.

No other pricing forms will be considered. The Bidder must also place an “N/A” for each location and bandwidth option not being bid on in Attachment A, the Connectivity Matrix, for each site included and for each Option included in its Bid. The Bidder must submit a completed Attachment A with its Bid.

5. Mandatory Bid Submissions

5.1 Service Description

Bidder must submit a service description of the proposed Wired Ethernet service including product data sheets, Web site material, etc. (not to exceed five pages).

5.2 Network Diagram

Bidder must submit a network diagram(s) illustrating service connectivity, switching nodes, etc.

5.3 Pricing Bid

Bidder must submit a completed Attachment A form indicating unit pricing and bandwidth speed for each location. No other pricing forms will be considered. The Bidder must also indicate which school sites are included in the Bid response by submitting a completed Attachment A form. All costs, including installation, taxes, fees, and surcharges, regardless of when service is provided, must be included in the Bid prices. **Bid prices that do not meet these criteria may be considered non-responsive.**

5.3.1 Billing Requirements

- *The bidder shall provide billing for individual, identifiable lines to the Billed Entity listed on the Connectivity Matrix (Attachment A.)*
- It is not necessary that all locations appear on the same bill or maintain a common billing account number – although this is preferred. Billing must be able to be subtotaled by Network Site with clear indication of which School District or BOCES location each cost should be attributed to. The billing information must be presented in a manner that will allow BOCES to easily identify the specific costs for each School District (and for all school building locations associated with that District), as well as its own costs.
- It is also preferred that billing be flexible for BOCES to interface with their existing accounting procedures. It is preferred that other types of media aside from paper are available to BOCES for receiving billing information (i.e. web accessible or via a management system).

5.4 Experiences and References

Bidders must submit documentation which provides satisfactory description and evidence of previous experience in offering telecommunications services and possesses the necessary facilities, financial resources, and organization to provide the type of services specified. Bidders must provide a minimum of three references of projects/services provided of a similar scope and magnitude as defined by this Bid.

5.5 E-rate SPIN and Service Provider Classification

Each bidder must submit written verification of bidder's E-Rate Service Provider Identification Number (SPIN) as well as certificate of eligibility as an "Eligible Telecommunications Carrier". By submitting the bid, each bidder represents and warrants that the service is eligible for E-rate funding as of the commencement of this service.

If the successful bidder loses eligibility to provide E-rate funding, the service agreement may be terminated at the discretion of the billed entity.

5.6 Service Level Agreement

Bidder must submit sample SLA forms applicable to its service offering and including all SLA requirements as defined by this document.

5.7 Proposed Service Agreement/Contract

Bidders must submit a sample service agreement/contract. The contract shall be a multi-year contract with voluntary contract extensions or month-to-month offerings. There may be multiple signers of the contract to underscore BOCES respective payment obligations for specific circuits. The service agreement/contract will be subject to approval of the contracting billed entity. Bidders must be prepared to sign an approved service agreement/contract immediately following the Board of Education meeting scheduled on **March 4, 2027**.

PART D: BID FORM AND CERTIFICATIONS

The bid must be fully and properly executed by an authorized person. **By signing you certify your express authority to sign on behalf of yourself, your company, or other entity and full knowledge and acceptance of this INVITATION FOR BIDS, Appendix A (Standard Clauses), Appendix B (General Specifications), and State Finance Law §139-j and §139-k (Procurement Lobbying), and that all information provided is complete, true and accurate. By signing, bidder affirms that it understands and agrees to comply with the procedures relative to permissible contacts as required by State Finance Law §139-j (3) and §139-j (6) (b).**

Legal Business Name of Company Bidding:				Bidder's Federal Tax Identification No.:	
D/B/A - Doing Business As (if applicable):					
Street		City		State Zip County	
Bidder's Signature:				Printed or Typed Name:	
Title:				Date:	
Phone : () - ext ()		Toll Free Phone : () - ext ()			
Fax : () - ext ()		Toll Free Fax : () - ext ()			
E-mail Address:				Company Web Site:	

NON-COLLUSIVE BIDDING CERTIFICATION

By submission of this Bid, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint Bid, each party thereto certifies also its own organization, under penalty of perjury, that to the best of their knowledge and belief:

1. The prices in this Bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor.
2. Unless otherwise required by law, the prices which have been quoted in this Bid have not been knowingly disclosed by the Bidder and will not be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor.
3. No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a Bid for the purpose of restricting competition.

Authorized Signature: _____

Print Name:

Title:

Date:

Company Name:

Address:

City, State, Zip Code:

Federal Identification No:

CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT

The Iran Divestment Act of 2012, effective as of April 12, 2012, is codified at State Finance Law ("SFL") §165-a and General Municipal Law ("GML") §103-g. The Iran Divestment Act, with certain exceptions, prohibits municipalities from entering into contracts with persons engaged in investment activities in the energy sector of Iran. Under the Act, the Commissioner of the Office of General Services (OGS) has developed and maintains a list of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law) (the "Prohibited Entities List").

By submitting a Bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each Bidder/Contractor, any person signing on behalf of any Bidder/Contractor and any assignee or subcontractor and, in the case of a joint Bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the OGS website, that to the best of its knowledge and belief, that each Bidder/Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to SFL § 165-a(3)(b).

Additionally, Bidder/Contractor is advised that once the Prohibited Entities List is posted on the OGS Website, any Bidder/Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should MOBOCES or PSDs receive information that a Bidder/Contractor is in violation of the above-referenced certification, MOBOCES and PSDs will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Act within ninety (90) days after the determination of such violation, then MOBOCES and PSDs shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

MOBOCES and PSDs reserve the right to reject any Bid or request for assignment for a Bidder/Contractor that appears on the Prohibited Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any Bidder/Contractor that is awarded a Contract and subsequently appears on the Prohibited Entities List.

I, _____, hereby certifies under the penalty of perjury, that I am the _____ of the _____ Corporation and that neither the Bidder/Contractor nor any proposed subcontractor is identified on the Prohibited Entities List.

SIGNED

CERTIFICATION OF COMPLIANCE WITH THE UYGHUR FORCED LABOR PREVENTION ACT (UFLPA)

As a result of the Uyghur Forced Labor Prevention Act (UFLPA), the Forced Labor Enforcement Task Force (FLETF) was created, in consultation with the Secretary of Commerce and the Director of National Intelligence to develop a strategy for supporting enforcement of section 307 of the Tariff Act of 1930, to prevent the importation into the United States of goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part with forced labor in the People's Republic of China.

Beginning on June 21, 2022, the UFLPA requires the Commissioner of U.S. Customs and Border Protection to apply a rebuttable presumption that goods mined, produced, or manufactured by entities on the UFLPA Entity List are made with forced labor, and therefore, prohibited from importation into the United States under 19 U.S.C. 1307.

By submitting a Bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, each Bidder/Contractor, any person signing on behalf of any Bidder/Contractor and any assignee or subcontractor and, in the case of a joint Bid, each party thereto, certifies, under penalty of perjury, that once the UFLPA Entities List is posted and/or updated on the Department of Homeland Security (DHS) UFLPA website, that to the best of its knowledge and belief, that each Bidder/Contractor and any subcontractor or assignee is not identified on the UFLPA Entities List created pursuant to section 2(d)(2)(B) of the UFLPA.

Additionally, Bidder/Contractor is advised that once the UFLPA Entities List is posted on the DHS UFLPA website, any Bidder/Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the UFLPA Entities List.

During the term of the Contract, should MOBOCES or PSDs receive information that a Bidder/Contractor is in violation of the above-referenced certification, MOBOCES and PSDs will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the importation which is in violation of the Act within ninety (90) days after the determination of such violation, then MOBOCES and PSDs shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

MOBOCES and PSDs reserve the right to reject any Bid or request for assignment for a Bidder/Contractor that appears on the UFLPA Entities List prior to the award of a Contract and to pursue a responsibility review with respect to any Bidder/Contractor that is awarded a Contract and subsequently appears on the UFLPA Entities List.

I, _____, hereby certifies under the penalty of perjury, that I am the
_____ of the _____

Corporation and that neither the Bidder/Contractor nor any proposed subcontractor is identified on the UFLPA Entities List.

SIGNED

Certification of Sexual Harassment Prevention In the Workplace Policy and Annual Sexual Harassment Prevention Training of All Employees Pursuant to NYS Finance Law §139-1

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of Section Two Hundred One-g of the Labor Law (NY Labor Law §201-g).

A bid shall not be considered for award nor shall any award be made to a bidder who has not complied with the certification requirement of NYS Finance Law

§139-1(1); provided, however, that if the bidder cannot make the foregoing certification, such bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor.

Any bid hereafter made by a corporate bidder for work or services performed or to be performed or goods sold or to be sold, where such bid contains the statement required by NYS Finance Law §139-1(1), shall be deemed to have been authorized by the board of directors of such bidder, and such authorization shall be deemed to include the signing and submission of such bid and the inclusion therein of such statement as the act and deed of the corporation

Certified under penalty of perjury:

Signature: _____
Print Name: _____
Title: _____