



STATE OF TENNESSEE
CENTRAL PROCUREMENT OFFICE

**REQUEST FOR QUALIFICATIONS # 33104-00117
AMENDMENT # 5
FOR THE TENNESSEE SCHOOLS AFFORDABLE
LAPTOP PROGRAM**

DATE: January 19, 2017

RFQ # 33104-00117 IS AMENDED AS FOLLOWS:

1. This RFP Schedule of Events updates and confirms scheduled RFP dates. Any event, time, or date containing revised or new text is highlighted.

EVENT		TIME (Central Time Zone)	DATE (all dates are State business days)
1.	RFQ Issued		November 4, 2016
2.	Disability Accommodation Request Deadline	2:00 p.m.	November 9, 2016
3.	Pre-Response Conference	10:00 a.m.	November 10, 2016
4.	Notice of Intent to Respond Deadline	2:00 p.m.	November 14, 2016
5.	Written "Questions & Comments" Deadline	2:00 p.m.	November 28, 2016
6.	State response to written "Questions & Comments"		December 30, 2016 January 11, 2017 January 19, 2017
7.	RFQ Technical Response Deadline	2:00 p.m.	January 27, 2017
8.	State Notice of Qualified Respondents Released		February 3, 2017
9.	RFQ Cost Proposal Deadline (ONLY for Qualified Respondents)	2:00 p.m.	February 14, 2017
10.	RFQ Negotiations		February 17-21, 2017
11.	State Evaluation Notice Released		February 23, 2017
12.	Solicitation Files Opened for Public Inspection		February 24, 2017
13.	Respondent Contract Signature Deadline	2:00 p.m.	March 8, 2017
14.	Anticipated Contract Start Date (anticipated date for contract to be fully executed and vendor to begin work)		April 5, 2017

2. State responses to questions and comments in the table below amend and clarify this RFP.

Any restatement of RFP text in the Question/Comment column shall NOT be construed as a change in the actual wording of the RFP document.

QUESTION / COMMENT	STATE RESPONSE
1. Amendment 4 states that the "most favored customer" provision is removed from the RFP, but it also states that the <i>pro forma</i> contract in Attachment G must be accepted by bidders as-is, without modification or negotiation. As presented, the terms in Attachment G include two provisions that require "most favored customer" pricing: A.2(g) ("Contractor shall not offer to sell or rent/lease any of the	RFQ Attachment G, section A.2.g has been removed via this amendment. RFQ Attachment G, section C.2 was removed via Amendment 4.

QUESTION / COMMENT	STATE RESPONSE
<p>equipment listed in Attachment 3, Price Catalog at a lower price in Tennessee.”) and C.2 (“The Contractor agrees that the prices of equipment, which prices are listed in Attachment 3, Contractor Price Catalog, do not exceed prices Contractor currently offers elsewhere.”) Notwithstanding the State’s response in Amendment 4 to the RFP, acceptance of the terms in Attachment G would include these provisions (about which the concerns we have raised before still apply). <i>Please confirm that consistent with the response provided in Amendment 4 to the RFP, a new version of Attachment G, with these provisions removed, will be issued as the one to which vendors are required to respond to the RFP.</i></p>	
<p>2 The terms in Attachment G are inconsistent in many critical ways with existing contracts between bidders and the State that are proven to be suitable for the types of purchase this RFP contemplates. More specifically, the terms in Attachment G contain many provisions that do not appear in the existing contracts (examples are available on request), and many commercially reasonable provisions that are critical to bidders are not present (example: a limitation of liability). We think that the State is best served by all bidders being able to base the pricing requested in the RFP on fair and reasonable negotiated terms already in place between the State and each bidder. Additionally, these issues provide the same concerns with reseller’s on this contract who will be bound to these same terms and conditions. On this basis we urge reconsideration of the State’s position that no changes to the terms in Attachment G will be permitted, so other bidders with suitable existing contracts with the State can use their applicable existing contract(s) as the basis of their responses to the RFP. In the alternative, we request an explanation of the reason of why on-point existing contracts may not be used in this way in bidders’ responses.</p>	<p>The State will not permit changes/red-lines or negotiation on contract terms. This is a multi-vendor contract. In order for fair, market-based comparisons to be made by EAs, it is essential that each vendor awarded a contract have identical terms and conditions in its contract, otherwise it will be impossible for EAs to evaluate each offering on a price basis.</p> <p>The Limitation of Contractor’s Liability clause can be found in RFQ Attachment G, section D.31.</p> <p>There are no State contracts for the lease of laptop computers that may be used for this procurement.</p>
<p>3 We request clarification of the scope of the RFP. In particular, there are provisions in the RFP that state that EAs will rent or lease the products for which prices are requested, but the rest of the RFP seems clearly focused on direct purchases. This ambiguity affects the process of order placement post-award (direct purchases are fundamentally different transactions from leases), terms (purchase contracts and leases are also fundamentally different, reflecting the difference between the type of transaction each agreement supports), and even bidding entity (We, like most OEMs, has regulatory authority to sell products but not to enter into leasing or similar arrangements). Please clarify the method by which EAs would obtain the products for which the RFP requests pricing.</p>	<p>Pursuant to RFQ Attachment G, section A.2.a, “the EAs shall rent computer equipment through a subscription...”. Purchases by EAs are not contemplated.</p>
<p>4 No payment term (N30 or otherwise).</p>	<p>RFQ Attachment 4 has been revised to include payment term.</p>

3. Delete RFQ Attachment G, section A.2.g in its entirety.

4. Delete RFP Attachment 4, Draft Task Order in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):

TASK ORDER
BETWEEN THE
[INSERT EA NAME]
and
[INSERT CONTRACTOR NAME]

This Task Order (TO), by and between the [INSERT EA NAME], hereinafter referred to as the "EA" and [INSERT CONTRACTOR NAME], hereinafter referred to as the "Contractor" is as follows:

The Contractor understands and agrees that this TO is governed by the provisions of Edison Contract Number [INSERT CONTRACTOR EDISON CONTRACT NUMBER], hereinafter referred to as the "Master Contract". In the provision of services pursuant to this TO, the Contractor will conform to these provisions in their entirety. In the event of a conflict between the TO and the Master Contract, the documents shall govern in the order of preference given in the Master Contract.

This TO shall be effective for the period commencing on [INSERT START DATE], and ending on [INSERT END DATE], unless amended.

In no event shall the maximum liability of the EA under this TO exceed [INSERT DOLLAR AMOUNT]. For the services provided pursuant to this TO, this amount shall constitute the TO Project Price and the entire potential compensation due the Contractor for the goods and/or services and all of the Contractor's obligations hereunder regardless of the difficulty, travel, administrative fees, or materials/equipment required. The Contractor shall be compensated as specified in the associated Statement of Work at the fixed-prices and/or hourly rate(s) quoted in the Contractor's Project Quote and transcribed here:

Service Description	Amount (per compensable increment)
DELIVERABLE	\$Number
JOB TITLE	\$Number per hour
Use & Repeat Rows Above as Necessary	

Payments to the Contractor pursuant to this TO will be made in accordance with the Tennessee Prompt Payment Act. Invoices shall be submitted to:

[INSERT AGENCY NAME AND BILLING ADDRESS FROM THE SOW]

The EA may, at any time and for any reason, terminate this TO in accordance with Contract Section A.4.l.

This TO may be modified only by a written amendment in accordance with Contract Section A.4.k.

INSERT EA AND CONTRACTOR SIGNATURE LINES

- RFP Amendment Effective Date.** The revisions set forth herein shall be effective upon release. All other terms and conditions of this RFP not expressly amended herein shall remain in full force and effect.