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# Request for Proposal # 683428 For Enterprise Resource Planning Software, Systems & Services

## **Mission Statement**

To exceed Member expectations by providing high quality, cost-effective and timely solutions through a diverse portfolio of competitive agreements and value-added services.

This will be accomplished by Members, employees, suppliers and business associates working together in an ethical, efficient, professional and respectful manner.

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## **Part 1: GENERAL OVERVIEW**

*Part 1 of this document is intended as an explanatory overview only and does not include comprehensive specifications. Additional details and specifications are provided in the sections that follow.*

### **1.1 Description of Cooperative**

Educational & Institutional Cooperative Services, Inc. (E&I) is a member-owned New York not-for-profit corporation established in 1934 and is governed by a Board of Directors. The Board of Directors is a group of professionals who are elected by the E&I Membership. The Board provides oversight to ensure the Members' needs are addressed and met. Our membership is comprised of over 4,300 public and private universities and colleges, community colleges, other affiliated members, K-12, and teaching healthcare facilities throughout the United States.

The power of cooperative purchasing enables E&I to issue competitive solicitations and negotiate contracts for its Members on a wide variety of products and services. E&I currently maintains a large and robust portfolio in the areas of computer equipment and software, electronics, multimedia, scientific equipment and supplies, furniture, interior furnishings, maintenance, food service, office equipment and supplies, transportation and delivery services.

### **1.2 Purpose and Intent of the Request for Proposal (RFP)**

The purpose of this RFP is to establish a cost-effective Master Agreement (Agreement) which complies with our Member procurement requirements and will provide E&I Members a procurement vehicle to acquire the products and/or services outlined in the Scope of Services in Part 2.

E&I is committed to utilizing purchasing and business practices in accordance with the National Association of Educational Procurement Code of Ethics. The primary goals and objectives of E&I are to: (1) assist our Members to obtain the absolute lowest cost and best value that exceeds other public-sector consortia agreements, (2) establish a strategic sourcing partnership with any selected manufacturer(s) and authorized dealers, and (3) enhance our position as the premier Cooperative Purchasing Service for Education.

### **1.3 RFP Collaboration**

E&I is collaborating with the Higher Education Systems and Services (HESS) Consortium on this RFP and will work to drive the process on its behalf and the E&I Membership. The HESS Consortium has partnered with E&I to aid their college and university membership in their solicitation process, negotiations, contract development and management. Representatives of the HESS Consortium have worked with E&I to develop the scope of services in this RFP and will participate in all phases of the evaluation process through which Suppliers will advance. The resulting agreement(s) will be drawn between E&I and awarded Supplier(s) and made available to the HESS Consortium and all E&I Members.

This contract will be available to all E&I Members that have 8,500 or fewer student FTE and will be marketed to Members who fit this criterion of scope.

#### **The HESS Consortium**

The HESS Consortium is an association of private colleges and universities focused on finding synergies in administrative systems (electronic ERP software and 3rd party software) and services (administrative processes and staffing).

The mission for the HESS Consortium is to serve the member institutions by providing them 1) top vendor choices in administrative ERP software and associated 3rd party software, 2) competitive consortia pricing for related software and services, and 3) options in administrative system access methods (on premise, cloud / SaaS, hybrid systems). Likewise, for its selected vendor partners, the Consortium provides 1) a program through which to offer specific consortia licensing models for their software and services and 2) a simpler and efficient structure for administering a core set of standardized offerings to multiple participating institutions.

### **1.4 Market Opportunity**

By satisfying the above Member needs, E&I anticipates significant Member purchases to be recorded against the resulting Agreement(s). E&I currently has over 4,300 Members, comprised of roughly 50% public and 50% private. As a result of E&I's current relationship with the HESS Consortium, private Higher Education institutions are utilizing E&I agreements at a much more substantial level than in the past. K-12 school districts, academic healthcare and research institutions are also eligible for membership. E&I's expectations are a substantial opportunity for growth

## **Part 1: GENERAL OVERVIEW**

(in terms of Member purchases) with competitively awarded Agreement(s) in these markets. There is also interest in utilizing the potential contract by the Participating Oregon Community Colleges (POCC).

### **1.5 Member Participation**

Once the awarded Supplier has been established and the Agreement finalized, individual E&I Members (in some situations Member departments) will review the awarded Supplier's program and determine their individual participation. The awarded Supplier's program includes the Agreement along with additional supporting materials (if any) developed by the awarded Supplier.

Some Members may have existing agreements now in place. Those Members that do, will consider this program as their existing agreements expire or, if available, may choose to opt out of existing agreements. For large dollar orders, Members retain the right to do individual Member competitive solicitations.

The awarded Supplier shall be provided an electronic file listing of E&I Members. Updated versions will be sent as needed. E&I will post the awarded Supplier's program, in the form of an E&I Agreement, on the E&I internal web site. The E&I web site is password protected and only available to the Members.

### **1.6 Definitions**

The following are the definitions of general terms used in this RFP. Additional definitions specific to the scope of service may be found in Part 2, Scope of Services.

- **MAY:** Indicates something that is not mandatory but permissible/desirable.
- **SHALL, MUST, WILL:** Indicates a mandatory requirement(s) that must be addressed. Failure to address these mandatory requirements will result in rejection of your proposal as non-responsive. E&I may, but is not required to, reserve the right to request additional information.
- **SHOULD:** Indicates something that is recommended but not mandatory. If the Supplier fails to provide recommended information, E&I may, at its sole option, ask the Supplier to provide the information or evaluate the proposal without the information.
- **MANUFACTURER:** Indicates an entity that makes the products from raw materials outlined in this RFP, all its agents, and employees.
- **SUPPLIER:** Indicates an entity that distributes/furnishes the products and or services of a company, all its agents, and employees.
- **MEMBERS:** Includes Institutions, Universities, Colleges (private and public) and K-12 schools that are listed in the E&I record.
- **HIGHER EDUCATION:** All Universities, Colleges, Healthcare Facilities (private and public) in the United States that provide for advanced learning and/or grant degrees i.e. - Associate, Bachelor, Master, and/or PhD. These Universities, Colleges and Healthcare Facilities may or may not be members of E&I.
- **K-12:** All School Systems and Districts (private and public) in the United States that provide education for students in Kindergarten through 12<sup>th</sup> Grade. These School Systems and Districts may or may not be members of E&I.
- **EDUCATION:** Higher Education Institutions and K-12.
- **DAYS:** All days specified are based on calendar days unless otherwise noted.
- **HUBS:** Historically Underutilized Businesses e.g. minority, women-owned businesses (for the State of Texas, Certified HUBS within the State of Texas).
- **MWBE:** Minority, Woman-owned Business Enterprises.
- **NATIONAL AGREEMENT:** E&I awards an Agreement which is available throughout the United States (including Alaska and Hawaii).

## **Part 1: GENERAL OVERVIEW**

- **REGIONAL AGREEMENT:** E&I may elect to award an Agreement by Geographical Areas of the United States. See table below for geographic breakdown:

<b><u>Contract Region Key</u></b>	<b><u>States</u></b>
Northeast	CT, MA, ME, NH, NY, RI, VT
Mid-Atlantic	DC, DE, MD, NJ, PA, VA, WV
Southeast	AL, FL, GA, KY, MS, NC, SC, TN
Central	AR, IA, KS, LA, MN, MO, ND, NE, OK, SD, TX
Great Lakes	IL, IN, MI, OH, WI
Western	AK, AZ, CA, CO, HI, ID, MT, NM, NV, OR, UT, WA, WY

## **Part 2: SCOPE OF SERVICES**

*Supplier's proposal shall outline how its proposed solution can meet the following minimum requirements. Part 2 must be included in the response in its entirety with complete and detailed responses immediately following each sub-section. Be as descriptive as possible while maintaining clarity. If supplemental materials will be provided, clearly mark all supplements with the corresponding section number. Links to web sites may not be an appropriate response to the requirements.*

### **2.1 Statement of Work**

E&I intends to establish a contract for Enterprise Resource Planning Software (ERP), Systems & Services. The awarded Supplier(s) is expected to offer a full featured ERP system and related services as required by Members. All E&I Members will be eligible to participate in the resulting agreement.

Direct involvement by the awarded Supplier may be necessary to assist Members in understanding the different solutions available and in selecting the best system to fit their needs. Supplier(s) must be the direct or fully authorized provider for any of the systems it proposes.

### **2.2 Supplier Experience and Qualifications**

Only proposals from qualified organizations with a demonstrated ability to perform as specified shall be considered in the evaluation process. Individual participating E&I Member institutions reserve the right to inspect facilities and operations currently under the Supplier's management and to consult other institutions which are currently being or have in the past been served by the Supplier.

- 2.2.1 Provide a 1-2-page summary of general company information, executive leadership bios (including statements of longevity with the company). Include a brief history demonstrating experience in providing ERP solutions to Higher Education.
- 2.2.2 Provide a listing of colleges and universities using the proposed solution. Include reference contacts for at least five (5) institutions. Information must include name, title, telephone number and email address of key contact(s) at the institution, implemented solutions and results obtained.
- 2.2.3 Include recent press and reviews on proposed solution (optional).
- 2.2.4 If public, provide a URL to a link of the three (3) most recent annual reports. If private, provide copies of the most recent three (3) year audited financial statements or other documented evidence of financial stability to assure required performance.

### **2.3 Product Specifications / Requirements**

#### **2.3.1 General Product Information**

- A. What is the product name and release version of the proposed solution?
- B. Provide documentation on product path and/or redesign projects underway or planned.
- C. What is total number of support staff available to Members for this specific product and release version?
- D. Are there any third-party software products that are recommended or required? If so, explain their functionality.
- E. What makes your solution(s) better or different than other competing solutions? Specifically give an overview of what is different or superior with your solution than others.
- F. This solicitation is focused on contracts for institutions with 8,500 student FTE or fewer. Please include full information on limitations and/or capabilities on size of institution your software solution can support.

#### **2.3.2 Technical Product Information**

- A. Deployment Environments – Are vendor-hosted and on-premise deployment operations available? Describe and list any partnerships involved in these solutions.
- B. For off-site hosting implementation, provide specifications of data backup provisions, business continuity, disaster recovery mechanisms, services and time-to-recovery, location(s) of data center(s) and privacy standards and policies.

## **Part 2: SCOPE OF SERVICES**

- C. It would be preferable not to deal with multiple vendors during implementation or operation of proposed system. E&I understands some companies may rely on business partners to implement their systems. If applicable, submit a complete partner list with contact information as well as a description of their services.
- D. Database Platforms – Which database platforms are currently supported (e.g. Oracle, Informix, MS SQL, MySQL, etc.)? Are there any that are recommended over others? Outline additional products that may be required or recommended for database management.
- E. User Interface – Describe options for functional and administrative user interface(s) to the software (e.g. client-based, web-based, support for mobile devices, etc.) and provide related technical requirements.
- F. Virtual Environment – Describe virtual environment compatibility of solution, modules and third-party software.
- G. Scope and Nature of Options – Describe the scope and nature of available options for integrating with existing software systems, both commercial and customized, in-house solutions (e.g. web services, APIs, database integration, middleware, etc.).
- H. Storage Requirements – Outline the disk space requirements for:
  - server operating system and database software
  - recommended estimated storage for database record structure
  - recommended requirements for data storage and growth per module
- I. System Performance – Describe performance tuning requirements and recommendations.
- J. Customization/Configuration Options – Outline your company’s available services for system and reporting customization including software used, expertise available and cost(s) per hour.

### **2.3.3 Solution Functionalities / Modules**

Explain in detail how the proposed solution supports the processes, reporting and analysis of the following functionalities. For each module, specify (i) if it’s proprietary or third-party; (ii) any additional costs; (iii) whether it can be a stand-alone solution or must be an integrated package; (iv) any “optional” software that may incur additional charges above the base module including document management features and module functionality.

- A. Base Module –functionalities / modules included in the base product
- B. Financial Systems – financial operations including, but not limited to, fund accounting, general ledger, accounts receivable, accounts payable, accrual vs. cash basis, payroll, endowment and grant tracking, subsidiaries options, cashier functions, budgeting, financial planning tools, fixed asset management, and reporting (integrated vs. third-party software)
- C. Business Analysis and Business Intelligence – information and analysis that informs the CFO and institutional leadership of it overall financial position such as business analysis, cash flow management, and investments analysis
- D. Admissions / CRM – student prospecting, recruitment, admissions operations, events management, and communications/marketing
- E. Financial Aid – financial aid management including, but not limit to, application tracking, loan processing, process federal data, manage funds and package aid awards, calculate student budgets, maintain student records, student work-study management, interface with institutional accounting, and reporting/analysis
- F. Student System / Registrar – student information and essential course administration including, but not limited to, course registration portal, course/classroom planning, course and teaching schedules, manage grades, monitor graduation progress, advising, degree audit and official transcripts, and advising
- G. Human Resources – Human Resources-related processes such as payroll, employee benefits administration, and human capital management
- H. Student Life / Housing –housing-related processes including, but not limited to, housing assignments, check-in/check-out, room features/inventory, facilities work orders, student property storage, and conference/summer housing

## **Part 2: SCOPE OF SERVICES**

- I. Alumni and Development – donation activity, donor communications, event participation, and personal relationship management
- J. Campus Portal / Self-Service Portal – secure, online, and customizable access to and interaction with all institutional ERP records
- K. Other Add-On Functionalities (Optional): Other product functionality NOT included in base product. This can include but is not limited to document management, retention/student success, Title IV management solutions.

### **2.3.4 Reporting / Data Analytics**

Propose an analytics/reporting strategy for the ERP system, including:

- A. Reporting software requirements and recommendations for the software and middleware products as well as compatibility of other major reporting software.
- B. Data analytics and reporting capabilities inherent in the system, and any additional tools that may help Members further their analytics/reporting strategy.
- C. Methods to incorporate and merge data from the ERP system with data in any existing Member data warehouses or other data sources, including what tools would be used or required.
- D. Any limitations or governors in place to limit web services calls, if applicable.

### **2.3.5 Encryption and Security**

The system shall provide application controls to prevent unauthorized use of the system, maintain Members' process controls, and log all transactions. In addition, the system shall provide security to limit availability to application functionality, software screens, data records, data elements, and data element values where appropriate. Explain in detail the proposed solution's security approach to the following:

- A. Database Access – Single sign-on and ability to integrate with identity management solutions (identify identity management solutions previously integrated, and provide recommendation, if any); built-in multi-factor identification capability and/or support for third-party multi-factor authentication
- B. Configurability of Security – Role-based authorizations, including any workflow to automate security provisioning
  - Describe how the system security will limit users to view and update information for only their assigned unit(s) or department(s).
  - Describe how security roles are added/removed when changes occur (e.g., user changes department).
  - Describe any automation capabilities to streamline the addition or removal of security role when personnel changes occur.
  - How do security definitions apply to report writers, particularly proposed third-party reporting/business intelligence software?
- C. Data Privacy – Handling classified or confidential data
  - Does the solution provide any delivered capability to redact or mask sensitive information in the training environment (e.g., social security number) that was copied from production?
- D. Audit – Preservation and auditability of data and changes
  - Describe how the proposed system will provide a detailed audit trail to allow the authorized user to trace the history of all changes in user data or in system configuration.
  - How do Members facilitate the audit of security accounts, roles and access?
- E. Remote Access
  - Are there any system functions that are available within the network that are not available to users outside the network?
  - Can the University support higher-security access from outside the network, such as VPN?
  - Describe capabilities to alert administrators of unusual or suspicious changes to data.
- F. Data Archiving/Retention
  - Describe the tools, processes or capabilities in the system for archiving data.
  - What features or capabilities are delivered with the system to support the storage and retrieval of archived data? Is archived data discoverable during search?



## **Part 2: SCOPE OF SERVICES**

- What do you recommend for an archiving policy for your system?
  - Describe any capabilities for records retention in the event of a legal hold or litigation?
- G. Data Encryption – In transit and at rest
- Indicate if there is additional cost for encryption of data at rest.
  - Describe any support for third-party data encryption.
  - How is data security (at rest and in transit) validated and integrity assured?
- 2.3.6 Cloud Hosted or Software-As-A-Service Information (if applicable)
- Suppliers must include the following information of their cloud datacenter(s) that will be used with Members. Indicate compliance with (and provide supporting information) for the following as it relates to the cloud datacenter(s) that will be used for Members:
- A. Provide for hosting through data center(s) that comply with, at a minimum, Tier Three (3) data center standards.
  - B. Reside at data center(s) within the Continental US.
  - C. Ensure data center personnel (including any third-party personnel with access) can pass Member-approved background checks.
  - D. Include the installation, technical support, and secure access to the system, third-party software, and all other required development tools and software.
  - E. Provide availability of and access to the required instances within the timelines identified in the approved system implementation work plan.
  - F. Provide high availability and access to the required instances with scheduled maintenance times approved by Members.
  - G. Support the scheduling of down-time in coordination with Members to minimize the impact of down-time windows.
  - H. Meet a response time standard of less than three (3) seconds for screen-to-screen for 95% of all transactions and less than one (1) second for field-to-field activity (tabbing between fields on a screen) for 95% of all transactions.
  - I. Provide capacity management, which refers to the planning and control of all Members and support components (e.g., CPU, memory, disk space, tape, network bandwidth, electrical, HVAC) to ensure sufficient infrastructure resources to satisfy Members and application requirements.
  - J. Provide security for the software environments consistent with Members' security requirements (see Attachment C – Data Security and Privacy).
  - K. Provide security for confidential or sensitive data contained in the software environments by encrypting or scrubbing (i.e., change to a constant value, assign a sequential value, or blank) reasonable Member-identified sensitive data.
  - L. Provide for fail-over of the system infrastructure for a failed component or server.
  - M. Provide for fail-over of the system infrastructure in the case of disaster, with no more than the loss of one day of data.
  - N. Provide Member availability monitoring tools, employed by the Supplier, and with results provided to the Member on a weekly basis.
  - O. Provide source code access to any customized modules, extensions, components, and features that are not part of the base ERP software.
- 2.3.7 Cloud Backup / Disaster Recovery Services
- Detail what types of cloud services your company offers in addition to cloud/SaaS ERP services (e.g. backup/recovery, replication, multi-location hosting, etc.).
- 2.3.8 Hosting Services Providers
- Include a detailed narrative description of the Hosting Services Provider's organization. (NOTE: If the Hosting Services Provider is the same company as the responding Supplier, any identical information does not need to be repeated.) The narrative must include the following:
- A. Company legal name, form of ownership, location in which the HSP is incorporated, date established.

## **Part 2: SCOPE OF SERVICES**

- B. Office location(s) responsible for performance of proposed hosting activities.
- C. Brief overview of business operations, with an emphasis on ERP-related hosting services in higher education.
- D. HSP's ERP experience in higher education institutions.
- E. Full disclosure of any proposed off-site activity and the locations involved.
- F. Full disclosure of any potential conflict of interest.
- G. A statement of whether, in the last 10 years, the HSP has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors, and if so, an explanation providing relevant details.
- H. A statement of whether there are any pending Securities Exchange Commission investigations involving the HSP, and if such are pending or in progress, an explanation providing relevant details and an attached opinion of counsel as to whether the pending investigation(s) may impair the HSP's performance in a contract under this RFP.
- I. A listing of all contracts or purchase orders that HSP executed or accepted within the last five (5) years and which were canceled or terminated prior to completion by any university, state agency or other entity with which HSP contracted. For each such contract or purchase order, HSP must include a detailed explanation for the cancellation or termination and final resolution of the matter. Include the names and telephone numbers of each such agency's or firm's contact person. If none, specify none.
- J. A statement documenting all open or pending litigation initiated by HSP or where HSP is a defendant in a customer matter.
- K. Full disclosure of any criminal or civil offense.
- L. Three (3) references for a production higher education institution who can attest to HSP's experience.

### **2.3.9 Third-Party Software Providers (TPSP)**

All Third-Party Software Providers (TPSP) included in the proposal must provide the same information listed for the Supplier. In addition, the TPSP must provide the name, title, address, e-mail address, and telephone number of the individual that will function as the primary contact for the TPSP. Where possible, please provide at least two (2) references for small and large institutions.

### **2.3.10 Legacy System Integration Services**

Explain in detail how your hosted or SaaS service supports legacy integration methods (e.g., SFTP/ SSL database dump/load procedures, etc. including secure encryption methods used).

### **2.3.11 API/Middleware Solutions and Services**

Explain how your cloud/SaaS solution integrates via API/middleware standards. Describe your expertise in integration with other systems/vendors and list any special costs and consulting services that are involved. If no purely API/middleware solution is available (e.g. only legacy methods in 2.3.10 above), clearly state that there is currently no support for a purely API/middleware solution.

### **2.3.12 Integration**

- A. Describe the integration of the module with other modules in related business processes. An exhaustive listing of all integration points is not required. The intent is to provide a general understanding of relationships and dependencies between software modules.
- B. Provide additional information on integration services and associated costs for integrating with other supported products and/or solutions both on premise and in the cloud.
- C. Explain in detail how your hosted or SaaS service option(s) integrate with other on premise and hosted applications and services (e.g., Does your product feature a flexible API interface that can easily connect with other systems and database services?).

### **2.3.13 Business Process Analysis**

- A. Members may undertake a Business Process Analysis as part of the system implementation process. Describe the services available to conduct such an analysis to align Member's processes with efficient and effective functioning of the ERP system.

## **Part 2: SCOPE OF SERVICES**

- B. As a result of a Business Process Analysis, the Member will avoid modification to source code software to meet its business needs and follow best business practices inherent in the software. However, Members may have unique business requirements. With this understanding, describe your capabilities and approach to addressing client specific needs through configuration or other means without modifying the software source code. These could include the ability to:
- add and/or activate additional data elements;
  - configure lists of valid values for existing and custom data elements;
  - use standard application programming interfaces (APIs) or standard entry and exit points so that external systems/code can interact with Member(s) processes;
  - create and enforce Member-specific business rules; and
  - create, configure, define, and modify business process models and workflows for business transactions based on business rules, including supporting alerts and notifications.
- C. Describe any out-of-the-box workflow capabilities and explain ease of use in configuring additional workflows.
- D. Describe the high-level approach to responding to changes in Federal or State regulations that would affect business processes or Member's functionality.
- How often are these types of updates released?
  - How often are tax updates released for the application(s)?
  - Who is responsible for applying and testing them?
  - What is the Respondent's policy regarding the timeliness of updates in relation to Federal and State implementation deadlines?
- E. Describe the document management/imaging capabilities that are built in or delivered as part of the solution.
- List the document types that may be stored, and describe the process for entry, access, management and archiving.
  - How can the integrated imaging fulfill an admissions applicant's requirements for submitting materials that are not entered online?
  - Describe the technology used to manage the documents.
  - Describe which third-party document management systems are supported and how they are integrated to provide a seamless experience to the user.
  - Describe any technology that is required (hardware, software, middleware, utilities, etc.) for proper operation and maintenance of the system.
- 2.3.14 Support and Availability for On-Premises and Cloud Services (if applicable)
- A. Support Personnel – Outline the number and locations of support personnel dedicated for each product offered in the proposal response, including their designations (e.g. first level support technician to senior level system/software engineer).
- B. Support Coverage – Outline the hours of support operations in your support locations and whether senior-level support personnel are available 24/7/365. Include this information for all product platforms offered in the proposal response.
- C. Include a copy of your standard Service Level Agreement (SLA) for new and existing customers.
- 2.3.15 Training
- Describe planning, timing, and pedagogical approach to training Members' technical and functional users of the system.
- 2.3.16 Credit Card Clearing Services
- A. List the credit clearing companies you recommend and support.
- B. Describe your product(s)' security standards (refer to Attachment C) and how your solution is DSS/PCI standards compliant (as applicable).

## **Part 2: SCOPE OF SERVICES**

### **2.4 Emergency purchases**

Members reserve the right to make purchases of software and/or services included under this contract when emergency conditions exist. All emergency purchases shall be reported as regular sales to E&I as per the reporting requirement as indicated in Part 6, Section 6.4.1.

### **2.5 Value Added Services**

All proposals must clearly state the details of any value-added services and what is included with the service to be provided. Suppliers are encouraged to display creativity in their response by including value added options to enhance the offer to Member institutions.

### **2.6 Proposal Innovation & Improvements**

Supplier is encouraged to offer innovative ideas, new concepts, and alternative partnership arrangements falling outside the specifications of this RFP. These might include unique business features, special services, discounts or terms and conditions unique to each Supplier. E&I may accept an offer under this RFP demonstrating a significant change or improvement that it considers being breakthrough advancement to the services being sought.

No systems, products, or services have been excluded from this RFP. All product, supplies and accessories carried in a Supplier's catalog(s), price book(s) or otherwise available by special order may be offered are part of this solicitation for consideration.

In addition, the Supplier may offer improvements to the contract administrative fee requirements, assignment of existing sales volume, additional marketing support fees, usage rebates to our Members, or other forms of incentive programs. E&I reserves the right to explore/negotiate for such additional improvements as we move through the process of RFP response, evaluation, clarifications, negotiations, "best and final", to final award.

### **Part 3: EVALUATION CRITERIA PROCESS**

*Any contract(s) resulting from this Request for Proposal will be awarded in writing to responsive and responsible bidders whose proposal, in the opinion of the evaluation team, offers the greatest benefit to our Members when considering the total value including the quality, service levels, customer service and total cost (including any trade, prompt payment discounts, and other miscellaneous charges).*

#### **3.1 Evaluation Information**

- 3.1.1 All proposals should be complete to be considered responsive. If the proposal fails to conform to the requirements of the RFP, E&I and/or the RFP Team will determine whether the variance is significant enough to consider the proposal.
- 3.1.2 As part of the evaluation process, E&I may require a demonstration/presentation before the award is made and the demonstration/presentation may be considered as an additional factor in award. Selected Supplier(s) shall be given a script and/or instructions for the presentation in order to provide the evaluation team further insight regarding their proposal and to clarify any issues. Failure of a Supplier to conduct a presentation on the date scheduled may result in rejection of the Supplier's proposal. In addition, E&I may decide to make site visits, as needed, during the evaluation process which shall be coordinated with the respective Suppliers.
- 3.1.3 The evaluation of proposals also takes into consideration the State of California requirements for a contract award.

#### **3.2 Evaluation Criteria**

E&I Members have identified the following factors as important in evaluating the merits of an Agreement:

- Supplier's Qualifications, References, Experience and Past Performance (stability in the marketplace, reputation as an innovator and strong supporter for higher education and its changing marketplace)
- Breadth and Quality of Solution Products/Services (Supplier's vision for future solutions, products and/or services)
- On-Line Capabilities (web-based interface functionality, web-native solution, cloud-native solution, SaaS, PaaS, IaaS)
- Adherence to RFP Technical Requirements
- Adherence to RFP Terms and Conditions (alignment with Members' institutional policies, federal, state, and local legal and regulatory requirements and policies)
- Pricing and Terms that provide for increased discounts and lower overall cost
- Environmentally sustainable products and solutions
- Supplier Diversity, including Historically Underutilized Businesses (HUBs), Woman and Minority Business Enterprises (WMBEs) and Small Business Enterprises as defined by the Small Business Administration (SBA)
- Added Value/Incentives and Services
- Other information as deemed relevant by E&I and its Members.

Proposals *may* be evaluated using a quality points system. The average of all quality points awarded by individual evaluators per category will be added together to compile a quality points value. The following formula will be used to compute the supplier's cost-per-quality point score:

$$\frac{\text{Cost}}{\text{Quality Point Value}} = \text{Cost-per-quality point score}$$

## **Part 4: PROPOSAL REQUIREMENTS**

*This portion of the RFP includes a schedule of events and requirements Suppliers must follow in submitting their proposals. It further identifies how questions can be raised and will be addressed. Finally, this portion of the RFP identifies the specific rights reserved by E&I and other restrictions imposed on the RFP Process.*

### **4.1 Tentative Schedule of Events**

The timeline associated with this RFP is provided below:

Activity	Due Date
Request for Proposal issued	December 18, 2017
Pre-Proposal Conference to be held via Conference Call at 1pm ET RSVP to <a href="mailto:cgoglia@eandi.org">cgoglia@eandi.org</a> by January 2, 2018	January 3, 2018
Deadline for submission of RFP-related written questions	January 4, 2018
E&I Response to RFP-related questions	January 5, 2018
1 P.M. ET Deadline for Receipt of Proposals (“Receipt”) (See Section 4.2 for detailed submission requirements)	February 6, 2018
Evaluation, Clarifications, Presentations, Best And Final Offer (BAFO) and Letter of Intent (LOI)	April 1, 2018
Negotiations, Anticipated Award(s), Acceptance and Execution of Agreement	May 1, 2018
Implementation	June 1, 2018

### **4.2 Requirements for Return of Proposal Responses**

4.2.1 Supplier must submit the proposal in two separate envelopes as follows:

A. First Envelope – Signed proposal response ONLY.

- Two (2) ‘originals’ of the proposal response (duly marked), each submitted in a three (3) ring binder and signed by a representative authorized to sign the proposal on behalf of Supplier, excluding “Tab 5 – Pricing (Part 7 and Attachment A).”
- One (1) electronic copy of the RFP response, submitted in MS Word (read-only) and the Questionnaire in MS Excel (protected view) formats, either on a USB flash drive or formatted CD, excluding “Tab 5 – Pricing (Part 7 and Attachment A).”

B. Second Envelope – Pricing ONLY, in separate sealed envelope within proposal package marked “RFP 683428 – Pricing.”

- Two (2) ‘originals’ (duly marked) of “Tab 5 – Pricing (Part 7 and Attachment A).”
- One (1) electronic copy of pricing files submitted in MS Excel (protected view) format, either on a separate USB flash drive or formatted CD.

4.2.2 Each of the required copies, ‘Originals’ and electronic, must comply with the format specified herein. In the event of discrepancy between the Suppliers’ submissions, the ‘original’ copy of the submission shall prevail. Fax or email submissions will not be accepted. Failure of the Supplier to submit the files in the proper format will result in rejection of your entire proposal.

4.2.3 Proposals must be received by the Receipt of Proposals date specified in the Schedule of Events above at E&I’s office listed on the RFP cover page. Each Supplier is solely responsible for the timely delivery of its proposal. Failure to meet the proposed date and time shall be grounds for rejection.

4.2.4 The Request for Proposal (RFP) number should be clearly marked on the outside of the sealed package.

4.2.5 Office hours for receipt of proposals are: Monday through Thursday, 8:30 A.M. through 4:00 P.M ET. Proposals shall be submitted by mail, courier or delivered in person at the address indicated on the RFP cover page prior to the closing time set for receipt of offers, as determined by the reported time in E&I’s main office.

## **Part 4: PROPOSAL REQUIREMENTS**

- 4.2.6 A Supplier may withdraw or modify its proposal prior to the Receipt of Proposals Deadline. Proposals submitted prior to the Receipt of Proposals Deadline may be modified or withdrawn only by written notice to E&I; no oral modifications will be permitted.

Any modifications to a previously submitted proposal:

- shall be in writing and in the same manner and form as required by this RFP
- shall be contained in a sealed envelope, clearly marked with the RFP number and “Modification of Proposal” notation
- will be corrected in accordance with such written request at the opening of the proposal

- 4.2.7 All submitted proposals constitute an offer by each respective Supplier and shall remain irrevocable for a period of 180 days following the Submission Deadline.

### **4.3 Pre-Proposal Conference**

- 4.3.1 A Pre-Proposal conference will be held via teleconference call. Supplier participation in the conference is optional, but is strongly encouraged. Suppliers wishing to participate should RSVP to [cgoglia@eandi.org](mailto:cgoglia@eandi.org) as per the Schedule of Events (Section 4.1).
- 4.3.2 E&I reserves the right to schedule additional conference calls as needed at a later date prior to the due date of the proposal.

### **4.4 Rights Reserved by E&I and Restrictions on RFP Process**

- 4.4.1 E&I reserves the right to issue Addenda to this RFP at any time prior to the “Receipt” date; acknowledgement of such Addenda must accompany the RFP response as a part of the proposal as instructed in Part 5, Section 5.1.
- 4.4.2 E&I reserves the right to reject any or all proposals or any part thereof.
- 4.4.3 E&I reserves the right to make an award and/or multiple awards by section, in whole, or to make no award.
- 4.4.4 E&I recommends that a Supplier’s initial proposal reflect its most favorable terms. E&I reserves the right to negotiate with any Supplier(s) and to arrive at its final decision and/or to request additional information or clarification on any matter included in the proposal.
- 4.4.5 If this RFP is regional in scope, E&I, upon mutual agreement of the Supplier, may expand the Agreement to additional regions\* or nationally\* (\*see Definitions - Part 1, Section 1.5).
- 4.4.6 E&I, in its sole discretion, reserves the right to waive any irregularity or minor variance in any proposal received, including but not limited to obvious mathematical errors in extension of pricing, failure to date the proposal, or failing to execute any certification not considered salient to price, delivery or acceptance of an agreement award.
- 4.4.7 E&I reserves the right to select the most responsive Supplier(s) without further discussion, negotiation, or prior notice.
- 4.4.8 E&I may presume that any proposal is a best-and-final offer.
- 4.4.9 E&I reserves the right to delete specific line items in order to provide a basis for an evaluation of the prices quoted by all Suppliers.
- 4.4.10 E&I will not pay for any information requested nor is it liable for costs incurred by the Supplier in responding to this request. Elaborate proposals (e.g. expensive artwork) beyond that sufficient to present a complete and effective proposal are not necessary or desired.

## **Part 4: PROPOSAL REQUIREMENTS**

- 4.4.11 Any discussion with E&I personnel, other than the Contract Lead or Contract Specialist, regarding this RFP while the RFP is in progress (from the time Supplier receives this RFP until final award is made) is strictly prohibited. Such contact and discussion may result in disqualification of Supplier's proposal.
- 4.4.12 E&I is the sole owner of all data and information contained within the RFP document and accompanying attachments. Supplier shall use this information exclusively to prepare a proposal. Supplier should not disclose this information to any other firm or use it for any other purpose unless required by law or legal process.
- 4.4.13 Supplier proposals will be opened and reviewed at the convenience of E&I; there is no public opening.
- 4.4.14 All proposals and related information submitted become the property of E&I; they will not be returned and may be subject to disclosure under the Freedom of Information Act, Open Records laws or other laws existing in E&I Members' states. As such, proposal(s) may be released to third parties, without prior notice to Supplier(s), as required to comply with legal requirements.
- 4.4.15 Suppliers must clearly mark "Confidential" on any portion of their respective responses which are considered to contain confidential or proprietary information.

### **4.5 Questions and Clarification**

- 4.5.1 Any questions regarding this RFP must be directed via email to the Contract Department Lead as noted on the cover page of this document or the Contract Manager, Cathy Goglia at [cgoglia@eandi.org](mailto:cgoglia@eandi.org).
- 4.5.2 All questions must be received no later than the deadline for submission of RFP-related written questions, as noted in the Schedule of Events.
- 4.5.3 A Supplier is expected to raise any questions, exceptions or concerns they have regarding the RFP. If Supplier discovers any significant ambiguity, error, conflict, discrepancy, omission or other deficiency in this RFP, Supplier should immediately notify the Contracts Department Lead via email of the deficiency and request modification or clarification of the RFP document.
- 4.5.4 Any questions and responses specific to the terms and conditions, process, procedures, language, specifications and other parts of the RFP may be made public and may be shared with other Suppliers in the form of an addendum to the RFP. Questions and responses that contain proprietary information will be answered confidentially.
- 4.5.5 Questions and answers will be provided via e-mail or if needed, posted on the E&I web site.



## **Part 5: PROPOSAL FORMAT AND CONTENT**

*This portion of the RFP includes instructions on the format Suppliers must follow in preparing their proposals.*

### **5.1 Required Proposal Format**

While there is no intent to limit the contents of any proposal, proposals should conform to the tab format outlined below to ensure that all pertinent information necessary for evaluation is included and to facilitate review.

- Tab 1 Table of Contents/Page Identification – Include a Table of Contents and number the pages in the proposal consecutively.
- Tab 2 Executive Summary – Executive Summary should consist of a concise non-technical summary providing a management overview of the proposal that outlines the Supplier's commitment and approach to meeting E&I's requirements.
- Tab 3 Response to Scope of Services and Questionnaire – Suppliers must include Part 2, Scope of Services in its entirety with a response to all sub-sections and the Supplier Questionnaire found under Attachment D.
- Tab 4 Agreement/Exceptions – Suppliers must include Part 6, Attachment B and Attachment C, and indicate agreement with or exceptions to any terms or conditions.
- Tab 5 Pricing – Include Part 7 (initialed), Attachment A and, if applicable, additional pricing. Supplier shall provide information for this tab in a sealed envelope separate from the proposal as instructed in Part 4, Section 4.2.1.
- Tab 6 Execution of Offer, Mutual Non-Disclosure Agreement and Addenda – Supplier should complete the Execution of Offer and Mutual Non-Disclosure Agreement documents in Part 8, signed by a representative authorized to sign the proposal on behalf of Supplier.

Addenda, if any, must be signed and dated by a representative authorized to sign the proposal on behalf of his/her company and included in proposal response.

- Tab 7 Attachments E-G – Supplier must complete all Attachments as indicated on each form.

Attachment E – Hub Forms – State of TX

Attachment F – Compliance Language – State of Connecticut

Attachment G – EDGAR Certifications

- Tab 8 Additional Attachments – Alternate proposal, additional software, services and/or processes (excluding pricing) that Supplier would like E&I to consider in lieu of or in addition to proposal response to this RFP. Pricing for alternate proposal must be labeled “Alternate Proposal” and included in “Tab 5 – Pricing” as described above.

## **Part 6: SPECIAL CONDITIONS**

*This portion of the RFP contains special terms and conditions which will govern the resulting agreement. Please indicate your acceptance for each special term by checking the "Agreed" box and initialing. Should you take exception to any of these special terms and conditions you are required to note your exception directly below each of the respective terms in question. It should be noted that any exceptions may result in the disqualification of your proposal.*

### **6.1 Terms and Conditions of Agreement**

As a result of this RFP process, it is our expectation that an Agreement will be established between E&I and one or more of the Suppliers to sell products and/or services. The Agreement will incorporate all the terms and conditions, pricing, specifications, and requirements of the RFP and Supplier's proposal.

In addition to the terms, conditions and responsibilities below, the Terms and Conditions listed in Attachment B shall be considered a part of this request for proposal. They shall be reviewed by competent legal or other personnel and any exceptions duly noted and included in the RFP response. In the event of an offer of Award, E&I, at its sole discretion, may reject any further requests for exceptions to the Terms and Conditions not previously submitted with the proposal.

**Membership in E&I should not be construed as any form of commitment to the Agreement by a Member. No representation is made that any quantities will be purchased or that services will be utilized.**

☐ Agreed \_\_\_\_\_  
Initial

### **6.2 Term**

The Agreement term will be for five (5) years with the option of two (2) two- (2) year renewals. Exercise of any renewal option will require formal written notification to the Supplier(s) at least one (1) year prior to Agreement expiration. The Supplier(s) must then return formal written acknowledgement of the renewal option within 30 days.

☐ Agreed \_\_\_\_\_  
Initial

### **6.3 Financial Responsibilities**

#### **6.3.1 Report of Sales**

The Supplier shall be provided an electronic file listing of E&I Members and shall be required to file a monthly electronically formatted report of total U.S. dollar sales to Education by institution (the "Report of Sales"). The Report of Sales shall include, but not be limited to, Member name, city, state, and date of sale. The requirements and format of the Report of Sales are detailed in the questionnaire included with this Request for Proposal. The Report of Sales is due no later than ten (10) days following the end of the month. The initial Report of Sales is due no later than thirty (30) days after the month of the effective date of this Agreement. The Report of Sales shall be electronically delivered to the following email address [vrf@eandi.org](mailto:vrf@eandi.org) as per the scheduled due date of the report.

Before an award is made, a test report may be requested to assure that the Supplier is able to provide the reporting as required. The Supplier will provide the name of the responsible contact that will be charged with submitting the report.

At the time of award, a schedule of due dates for the monthly report will be provided. It will be the responsibility of the Supplier to notify E&I personnel of any change in the designated contact responsible for submitting the report.

☐ Agreed \_\_\_\_\_  
Initial

#### **6.3.2 Contract Administrative and Marketing Fee**

Each Supplier will provide E&I a Contract Administrative and Marketing Fee (CAF) of up to 3.00% of the net total invoice amounts on all orders shipped pursuant to this Agreement in each month during the term of the Agreement.

## **Part 6: SPECIAL CONDITIONS**

E&I recognizes the difference between new implementations and renewals of licensing, maintenance and support contracts. With this recognition, E&I may consider varying CAF rates, as suggested below. E&I reserves the right to negotiate these rates with each RFP finalist.

- New implementations – 1.00 - 3.00%
- Cloud migrations from on-premise systems – 1.00 - 3.00%
- Addition of new special services – 0.50 - 1.50% (based on type of service)
- Annual recurring maintenance and support for new implementations, product modules or migrations to the cloud – 0.25 - 0.75%

The CAF shall be calculated on a monthly basis and include all orders invoiced during the preceding month. The CAF rate shall remain constant regardless of any and all pricing methods utilized by the Member, special pricing quotes, all services including value added services and/or use of Supplier Diversity programs.

The CAF shall be transmitted via EFT or by check to E&I on or no later than ten (10) days following the end of each month. Failure to submit the CAF and supporting Report of Sales as specified in Supplier Questionnaire shall result in an interest charge of 1½% per month levied upon Supplier until the CAF is paid in full.

Supplier's failure to submit the CAF and Report of Sales when due shall constitute grounds for E&I's termination of this Agreement. Supplier shall remain liable for all CAF owing up to and including the time the Agreement has been terminated by E&I or expires.

☐ Agreed \_\_\_\_\_  
Initial

### **6.4 Agreement Audit**

E&I may, at any time during the Term of the Agreement and for a period of three (3) years after the receipt of the last Report of Sales and payment of CAF covering the period through the date of termination, audit the Supplier's records pertaining to its compliance with the terms of this Agreement. An audit may be scheduled or announced by providing the Supplier a minimum of five (5) business days advance written notice. Every effort will be made to arrange a mutually convenient time for the audit but in no event, shall an audit be delayed more than twenty (20) business days from the date of notice, unless agreed to by E&I in its sole discretion. The audit will be conducted by E&I and/or its designee. Supplier will provide E&I with access to records, sufficient workspace and staff support to facilitate an audit. Our audit may include, but is not limited to, product compliance, Member pricing, order processing, order fulfillment, delivery terms and conditions, invoicing, rebate calculations where applicable, accuracy and timeliness of submitted Reports of Sales and the related CAF and any other reports or payments required under the terms of this Agreement. Any deficiencies or errors shall be corrected within ten (10) business days of E&I notification to the Supplier. If the discrepancy is greater than 5% from amounts reported, the cost of the audit shall be paid by the Supplier.

☐ Agreed \_\_\_\_\_  
Initial

### **6.5 Marketing and Sales Responsibilities – Suppliers**

#### **6.5.1 Education Sales Activities**

Supplier is responsible for Education sales activities which may include:

- Understanding Education buying procedures and practices
- Providing manufacturer specific marketing materials as necessary
- Guiding and assisting the Member in the purchasing, receipt and use of the manufacturer's product and/or services

#### **6.5.2 Internet/E-Commerce Site**

To encourage and facilitate high usage of the Agreement, the Supplier should make available an e-commerce website dedicated to the E&I Agreement. The website should include, but not be limited to, contract specific

## **Part 6: SPECIAL CONDITIONS**

products and prices, technical specifications, implementation of a hosted or punchout e-catalog on a variety of platforms, quoting capability, online ordering, shipment, tracking and payment.

### **6.5.3 Additional Business Services**

Within 30 days of Award, each Supplier shall, at its own expense, provide to E&I:

- A comprehensive “go-to-market” plan, detailing the role of the E&I Agreement in Supplier’s Education market strategy and how Supplier intends to leverage the E&I Agreement to build and expand Education business.
- A dedicated Education Agreement Administrator able to act with full authority. The Education Agreement Administrator shall meet with appropriate E&I representatives no less than on a quarterly basis to discuss and measure marketing strategies, performance, Report of Sales, CAF and other Agreement related issues.
- The Education Agreement Administrator or designee(s) shall coordinate with appropriate E&I representatives as necessary to strategize and discuss market opportunities and join as a strategic partner in E&I presentations to the appropriate university/hospital business administrators to leverage the best available pricing, delivery, and services for our Members.
- A contact list of dealers, agents, account representatives and service assistants with experience and knowledge of the Agreement. Supplier will provide initial and ongoing training and awareness of the E&I Agreement to all inside and outside sales representatives as well as to its distribution chain, including quarterly meetings at corporate headquarters, call centers, regional offices, etc.
- Dealers, agents and account representative(s) shall meet with Members as requested by the individual Member or by E&I.
- Initial and continuing Member based customer service and order problem resolution.
- Descriptive product marketing literature, catalogs, and product price schedules, links to Supplier’s website, content for “micro-site” on E&I website, e-mail communications, articles for inclusion in the electronic monthly newsletters, “The Purchasing Link” and “The CPU - Contract Portfolio Update”, and E&I website Headline News.
- E&I staff contract rollout training and follow-up training sessions as required, to include training webinars, conference calls and on-site training as appropriate to educate E&I employees of Supplier’s Member offerings.

### **6.5.4 Marketing Opportunities**

- E&I encourages participation, annually and throughout the term of the Agreement, as an exhibitor and business affiliate member at the annual NAEP/E&I Meeting and Product Exhibition. For additional information on the conference and business affiliate program, please visit the NAEP website at [www.naepnet.org](http://www.naepnet.org).
- E&I encourages participation, annually and throughout the term of the Agreement, upon notification, at NAEP regional meetings, Member Town Meetings, Member regional meetings, Member on-campus supplier fairs and Member presentations.
- E&I encourages participation, annually and throughout the term of the Agreement, at applicable product exhibitions and conferences.

☐ **Agreed** \_\_\_\_\_  
**Initial**

## **6.6 Supplier Commitment**

Supplier’s proposal shall reflect their commitment in achieving E&I’s primary goals and objectives as outlined in Part 1, Section 1.2. To meet E&I’s goals and objectives, Suppliers are required to make the following commitments to ensure the overall success of the resulting Agreement(s):

### **6.6.1 Supplier Corporate Commitment**

The Supplier will commit that its awarded Agreement with E&I:

- Shall be the Supplier’s primary (go to market) offering for Education
- Has the support of the Supplier’s senior management

## **Part 6: SPECIAL CONDITIONS**

- Shall be promoted to existing Higher Education clients

☐ **Agreed** \_\_\_\_\_  
**Initial**

### **6.6.2 Supplier Pricing and Product Commitment**

The Supplier will commit that the awarded Agreement:

- Shall be the lowest available pricing (net to buyer) to Education
- Shall provide products and services that meet or exceed the Member requirements

☐ **Agreed** \_\_\_\_\_  
**Initial**

### **6.6.3 Supplier Sales Commitment**

The Supplier will commit that the E&I Agreement:

- Shall be aggressively marketed by Supplier
- Shall be enhanced by Supplier's sales force which is trained, engaged, and committed to the success of the Program
- Shall report Sales accurately and timely to E&I as required

☐ **Agreed** \_\_\_\_\_  
**Initial**

## **6.7 Marketing and Sales Responsibilities – Suppliers and E&I**

Joint Responsibilities - Supplier in collaboration with E&I shall jointly:

- Develop, approve and implement an annual marketing plan to be reviewed on a quarterly basis
- Establish and maintain Member relations
- Collaborate to identify leads and opportunities, develop key target lists and leverage existing relationships to build membership and business
- Make sales calls to Members, as appropriate

☐ **Agreed** \_\_\_\_\_  
**Initial**

## **6.8 Marketing and Sales Responsibilities – E&I**

- E&I will create ongoing Member awareness of the E&I Portfolio of Products and Services via online and direct marketing, marketing communications, face-to-face interactions with Members and other venues as appropriate.
- Upon commencement of a new agreement, E&I will notify all Members and make specific contract information available online.
- E&I's field team of Member Service Representatives will identify and share sales leads as appropriate and assist with Supplier sales activities when possible and in a variety of ways.
- E&I will make representatives available to Supplier to facilitate sales training about E&I.
- E&I will share relevant market intelligence it gathers through surveys, etc.

☐ **Agreed** \_\_\_\_\_  
**Initial**

## **6.9 New and Discontinued Products**

The Supplier shall, at least thirty (30) days prior to their introduction or discontinuance, notify E&I and the E&I Membership of any new or discontinued products. Unless noted otherwise the discount and pricing established for new products will be equal to the pricing structure proposed. If the Supplier offers a different discount structure for new products then a separate category of "New Products" pricing should be added to the proposed discount structure

## **Part 6: SPECIAL CONDITIONS**

on appropriate attachment. In such a case, the Supplier should clearly indicate the number of months products are considered as “new products.”

☐ **Agreed** \_\_\_\_\_  
**Initial**

### **6.10 Replacement Parts**

Unless noted otherwise the discount and pricing established for replacement parts will be equal to the pricing structure herein proposed. If the Supplier offers a different discount structure for replacement parts then a separate category of “Replacement Parts” pricing should be added to the proposed discount structure and included in “Tab 5 – Pricing.”

☐ **Agreed** \_\_\_\_\_  
**Initial**

### **6.11 Design Cost, Reconfiguration Cost, Charges and Extras**

Supplier shall address cost (if any) related to design services, reconfiguration cost, and other value-added services.

Supplier shall be required to state all supplemental charges that may be assessed in addition to the pricing for the goods and/or services provided including additional shipping charges, cost of goods, delivery, freight fuel surcharges, installation or any other charges incurred by the Member. If Supplier offers multiple pricing options (i.e.: drop ship, inside delivery, delivered and installed) they must be specified herein.

☐ **Agreed** \_\_\_\_\_  
**Initial**

### **6.12 Education Pricing/Pricing Parity**

The Education pricing, terms and conditions established under this Agreement are to be equal to or better than those offered to other comparable institutions, government sector and/or consortiums serving public and private Higher Education and healthcare. If, during the term of this Agreement, Supplier offers more favorable terms, conditions or prices to Members, other comparable institutions, and/or consortiums, Supplier agrees to notify E&I in writing. Supplier agrees to immediately amend the agreement to reflect the more favorable terms, conditions or prices. E&I must be notified of any proposed changes thirty (30) days prior to their implementation.

☐ **Agreed** \_\_\_\_\_  
**Initial**

### **6.13 Method of Ordering and Electronic Commerce**

Members may use various methods to order products or services from Supplier in which case the Supplier is expected to accommodate any such requirements including, hard copy purchase orders, telephone orders, procurement cards, and electronic commerce. Any and all orders, regardless of method shall be included in the total report of total U.S. dollar sales to Education by institution.

☐ **Agreed** \_\_\_\_\_  
**Initial**

### **6.14 Orders**

Supplier must specify any minimum order charge or conditions under which the established price will be adjusted. It is preferred there not be a minimum order quantity or charge. Supplier shall provide adequate toll free telephone access for Members to order products and promptly reach customer service. All terms and conditions of an individual Member’s standard procurement terms for ordering may apply.

With each ordering occurrence, it is mutually agreed that the Member’s notice of acceptance shall create an agreement between the parties thereto containing all specifications, terms and conditions of the RFP and resulting Agreement, except as amended by the Member’s own acceptance notification.

## **Part 6: SPECIAL CONDITIONS**

☐ Agreed \_\_\_\_\_  
Initial

### **6.15 Hazardous Materials and OSHA Communication Standards**

The Supplier shall be responsible for providing Material Safety Data Sheets (MSDS) to the appropriate user(s).

The Supplier shall retain title and/or ownership and responsibility for hazardous materials delivered in error. Within three working days of notification, the Supplier must retrieve hazardous materials that are delivered in error.

The Supplier is responsible for the safe and legal disposal of all hazardous materials generated in the performance of the Agreement. In addition, the Supplier shall be responsible for providing its employees chemical safety training mandated by OSHA Hazard Communication Standard.

The Supplier shall provide E&I and its Members with safety/recall updates for any equipment/products provided.

☐ Agreed \_\_\_\_\_  
Initial

### **6.16 Invoices and Payment**

Invoices shall be directed to the appropriate location(s) specified by the Member. Invoices and payment terms must comply with the requirements of each Member. The Member placing the order with the Supplier shall alone be liable or responsible for payment for products and/or services ordered and will be invoiced direct by the Supplier. Neither E&I nor its other Members shall be liable for the indebtedness of any one Member.

If a Member does not specify payment terms, the default payment term for Members shall include invoicing at time of billing or delivery completion, whichever is later. Payments would then be made within thirty (30) days after receipt of a valid invoice or delivery, whichever is later.

Cash discounts for prompt payment may be offered to any Member from the date of receipt and acceptance of goods or the invoices, whichever is later. Supplier is encouraged to offer/propose cash discounts for expedited payment of invoices rendered under this Agreement. Negotiated cash discounts with Member institutions for aggregated billing (monthly/bi-weekly, etc.) may be negotiated on an individual basis. Cash discounts are not to be netted against sales in calculating the CAF.

☐ Agreed \_\_\_\_\_  
Initial

### **6.17 Receipt of Product and/or Service**

Deliveries to Members range from, but are not limited to: (1) one central receiving location, (2) multi-campus locations, (3) campus building(s), or (4) department(s). Frequency of delivery may range from: (1) daily, (2) weekly, (3) monthly, or (4) as needed to assure that institutions' needs are met. Delivery may be based on storeroom delivery, Just-in-Time agreements, drop shipments, and delivered and installed.

It is preferred that product deliveries are provided with a 99% fill rate by line item. Normal delivery of orders must be accomplished at established times as set by the Member. The Supplier(s) shall have the capability of expediting the delivery of orders to assure no shortage of product during installation.

Title and risk of loss shall pass to the Member at the F.O.B. destination point or after installation by authorized dealer/representative. The title and risk of loss of the goods shall not pass to a given Member until receipt and acceptance of the goods at the point of delivery and or installation. The products furnished shall be delivered:

**F.O.B. Destination, Full Freight Allowed (Supplier pays freight).**

Selection of a carrier for shipment will be the Supplier's option unless otherwise specified by the Member.

The Supplier shall maintain records evidencing the delivery of goods and upon request by the Member provide such proof of delivery.

## **Part 6: SPECIAL CONDITIONS**

☐ Agreed \_\_\_\_\_  
Initial

### **6.18 Compliance with Immigration Reform and Control Act of 1986**

Supplier is aware of, is fully informed, and in full compliance with its obligations under the Immigration Reform and Control Act of 1986. Supplier shall be responsible for assuring that all persons engaged in the performance of work hereunder are authorized to work as required by the Act in both its present form and any future requirements passed under said Act.

☐ Agreed \_\_\_\_\_  
Initial

### **6.19 Employee Documentation**

At any time during the term of the Agreement, a Member may require Supplier to provide a complete dossier of each employee who has been given an assignment at the Member institution. This may include employment history, education, job references, certificates and licenses, conviction records and documentation of random drug testing.

☐ Agreed \_\_\_\_\_  
Initial

### **6.20 Federal Debarment**

Supplier certifies that it is presently not debarred, suspended, proposed for debarment, declared ineligible, is not in the process of being debarred, nor is voluntarily excluded from covered transactions by any federal department or agency.

☐ Agreed \_\_\_\_\_  
Initial

### **6.21 Expropriation**

Suppliers should indicate if, by any existing agreement with any party, its operations, delivery vehicles and or personnel can be in any way expropriated or annexed. If such an agreement exists, supplier should indicate when this agreement or those terms will expire.

☐ Agreed \_\_\_\_\_  
Initial

### **6.22 Responsibility for Damage Claims**

The Supplier shall hold harmless E&I and the Member from all suits, actions or claims brought on account of any injuries or damages sustained by any person or property as a consequence of any neglect in safeguarding the work by the Supplier; or from claims or amounts arising or recovered under the "Workman's Compensation Law" or any other laws. Supplier shall be responsible for all damage or injury to property occurring during the prosecution of the work resulting from any act, omission, neglect, or misconduct on their part or on the part of any of their employees, in the manner or method of executing the work; or from their failure to execute the work properly; until all claims have been settled and suitable evidence to that effect furnished to E&I and the Member.

☐ Agreed \_\_\_\_\_  
Initial

### **6.23 Protection of Property and Liability**

The Supplier shall take care not to damage the premises or the property of others, and in case such damage occurs as the result of operations under this contract, they shall make appropriate restitution. If the Supplier fails to pay for damage, the damages may be deducted from any remaining balance due to the Supplier or may be processed as a breach of contract to the full extent the law allows.

☐ Agreed \_\_\_\_\_  
Initial



## **Part 6: SPECIAL CONDITIONS**

### **6.24 Storage**

If applicable, Supplier or Dealer shall be responsible for all warehousing and storage expenses, which may be incurred, until goods are delivered and/or installed as per the terms of the Member's order.

☐ Agreed \_\_\_\_\_  
Initial

### **6.25 Third Party Distributors/Subcontractors**

In the event that the Supplier chooses to subcontract any service or delivery of the products under the terms herein, the Supplier shall fully warrant prompt performance of the subcontractor in a fully complete, workmanlike manner customary to the trade.

Failure by the subcontractor to perform in a timely manner as specified above shall not relieve the Supplier of its obligations to make complete timely delivery of products, supplies or service at no additional cost to the Member.

☐ Agreed \_\_\_\_\_  
Initial

### **6.26 Order Fulfillment, Distribution and Installation Agreements**

Members may have their own order fulfillment/distribution/installation agreements with a third party agent or distributor. The terms and pricing of this Agreement are passed through to the Member and separate from any additional distributor terms and conditions, fees or markups resulting from Members' separate fulfillment/distribution/installation agreements.

☐ Agreed \_\_\_\_\_  
Initial

### **6.27 Supplemental Agreements**

Member and Supplier may enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in this Agreement i.e. invoice requirements, ordering requirements, on campus service, specialized delivery, etc. Any supplemental agreement developed is exclusively between the Member and Supplier. E&I, its agents, Members and employees shall not be made party to any claim for breach of such agreement.

☐ Agreed \_\_\_\_\_  
Initial

### **6.28 No Substitutions**

No substitutions of alternate items for products ordered are permitted without the express prior written approval of the Member.

☐ Agreed \_\_\_\_\_  
Initial

### **6.29 Warranty and Product Condition of Sale**

At a minimum, there shall be a one (1) year warranty to include software, parts, labor and travel. For third party providers, the manufacturer's standard warranty shall apply. Length and coverage of warranty will be an evaluation factor. The Supplier may offer a warranty that clearly illustrates an improvement to the manufacturer's standard warranty and benefit to the Member.

Supplier certifies and warrants that all products sold to Members shall be:

- New and genuine
- Free from defects in code, content, materials and functionality
- Legally owned and/or licensed for use by the Supplier
- Supplier has legal right to extend software and/or services to Member

## **Part 6: SPECIAL CONDITIONS**

- Provided as per manufacturer's requirements
- Sold or manufactured via legal and reputable channels
- Not misbranded

☐ **Agreed** \_\_\_\_\_  
**Initial**

### **6.30 Tracking Lost and Damaged Shipments**

If Supplier fails to deliver, or erroneously delivers products, Supplier is required to take immediate corrective action to make the correct delivery at no cost to Member.

Should any action on the part of the Supplier or a subcontractor cause visible damage to the facilities during transport, the Supplier is required to immediately contact Member and forward a confirming damage report detailing the damages. Supplier shall be able to track all shipments and provide order status to Members.

☐ **Agreed** \_\_\_\_\_  
**Initial**

### **6.31 Returns - Defective and Non-Conforming Goods or Services**

If any goods or services furnished under the Agreement are defective or non-conforming, or fail to meet warranties, specifications or any other provisions of the Agreement or Member purchase orders, any of the following remedies shall be available to the Member:

- **Repair and Replacement:** Supplier shall promptly repair, replace, or correct non-conforming or defective goods and services at the Supplier's own expense.
- **Cancellation:** Member may cancel an order or any part thereof or any undelivered portion thereof without incurring any liability to Supplier and any payments made by Member for products or services purchased shall be refunded by the Supplier and/or its agents.
- **Like-for-Like:** Like-for-like equipment throughout the entire term of the contract maintenance or warranty shall be provided at no cost to the Member in the event that the equipment experiences excessive down-time or fails to maintain acceptable quality standards.
- **Removal:** Supplier shall remove such goods at its own expense and if the Supplier fails to remove such goods, Member may return all or any portion of such goods at the expense of Supplier.
- **Risk of Loss and Storage:** All goods shall be held at Supplier's risk and the Supplier shall pay all expenses incurred including storage costs.
- **Supplier Liability:** The Supplier shall be liable for any and all losses, claims, expenses, (including reasonable attorney's fees and court costs) and other incidental and consequential damages resulting from such failure to meet all the requirements of this Agreement and/or a Member order.
- **Products under warranty.** The decision to replace such products or accept warranty repair shall be at the sole discretion of the Member except in the event the Member fails to provide timely notice of product failure to the Supplier.
- **After the Warranty Period:** After the warranty period, the Supplier is responsible to make sure that service agreements are available to the Member. The Supplier, the manufacturer or an authorized third party may provide the maintenance.

☐ **Agreed** \_\_\_\_\_  
**Initial**

### **6.32 Reasons for Return or Credit**

The Supplier shall accept the following as reasons for return or credit:

- The product is defective or nonconforming.
- The product is incorrectly ordered or shipped. The product is received as an overage or the order is duplicated and shipped in error and the overage is noted on the shipping document(s).
- The product receipt is late or delayed and because of the late or delayed delivery is deemed in good faith by the Member to be unusable or no longer needed.

Supplier and/or its agents will issue credit with waiver of any claims against Member.

## **Part 6: SPECIAL CONDITIONS**

☐ Agreed \_\_\_\_\_  
Initial

### **6.33 Certification of Independent Pricing**

Supplier certifies, and in the case of a joint offer, each Supplier hereto will certify as to its own organization, that: (1) it has not either directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive pricing in connection with the proposal; (2) the prices in the proposal have been arrived at independently without consultation or communication, or agreement, as to any matter relating to such prices with any other Supplier or with any competitor; (3) unless otherwise required by law, the prices quoted in the offer have not been knowingly disclosed by the Supplier and will not be knowingly disclosed by it directly or indirectly to any other Supplier or to any competitor; and (4) no attempt has been made or will be made by Supplier to restrict competition unfavorably.

☐ Agreed \_\_\_\_\_  
Initial

### **6.34 Samples**

If requested, Supplier is to provide samples of the products. Samples for evaluation must be provided free of charge. The quantity of any sample requested will be reasonable but sufficient to undertake an appropriate evaluation. Please indicate any limit on how many samples may be provided to E&I.

☐ Agreed \_\_\_\_\_  
Initial

## **Part 7: FINANCIAL OFFER SUMMARY**

*Supplier must identify all costs, fees or charges for which the Members and/or E&I may be billed. Costs not indicated in your proposal will not be paid. Suppliers are to clearly state agreement with or exceptions to any terms or conditions in their response. For any exceptions, written documentation is required.*

### **7.1 Pricing**

Pricing is to be based on a percentage discount from Supplier's published list price and increases are limited to once every 12 months. The discount shall remain firm for the life of the Agreement unless improved to the benefit of E&I and the E&I Membership. Prices for any items ordered are to be based on the manufacturer's published list price in effect at the time of order placement. E&I must be notified in writing of any "proposed" changes a minimum of ninety (90) days prior to the planned implementation.

☐ **Agreed** \_\_\_\_\_  
**Initial**

### **7.2 Pricing Discounts**

Proposed pricing discounts and additional information are to be recorded in Attachment A and included in "Tab 5 – Pricing" of Supplier's proposal response.

### **7.3 Additional Pricing of Products or Services**

Suppliers electing to propose pricing on additional products or services must submit additional items on a separate list. The list must be labeled as "Additional Items" and included in "Tab 5 – Pricing" of proposal response. E&I retains the right to accept or reject additional items in part or in whole.

### **7.4 Member Direct Rebates**

Suppliers are encouraged to propose direct rebates as means of generating revenue and increasing operating funds for Members. Any and all rebates shall have no effect on the reporting and payment of the CAF. All rebate activity will be reported to E&I.

CORPORATE NAME:	
AUTHORIZED SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
PHONE:	
EMAIL ADDRESS:	

## **Part 8: EXECUTION OF OFFER AND MUTUAL NON-DISCLOSURE AGREEMENT**

*The undersigned Supplier has carefully examined all instructions, requirements, specifications, terms and conditions of this RFP and certifies:*

1. It is a reputable company regularly engaged in providing products and/or services necessary to meet requirements, specifications, terms and conditions of the RFP.
2. It has the necessary experience, knowledge, abilities, skills, and resources to satisfactorily perform the requirements, specifications, terms and conditions of the RFP. Further, if awarded the Supplier agrees to perform the requirements, specifications, terms and conditions of the RFP.
3. All statements, information and representations prepared and submitted in response to this RFP are current, complete, true, and accurate. Supplier acknowledges that E&I will rely on such statements, information and representations in selecting the successful Supplier(s).
4. It is not currently barred or suspended from doing business with the Federal government, any of the Members represented, or any of their respective agencies.
5. It shall be bound by all statements, representations, warranties, and guarantees made in its proposal.
6. Submission of a proposal indicates the Supplier's acceptance of the evaluation technique and the Supplier's recognition that some subjective judgments may be made by E&I and its Membership as part of the evaluation.
7. That all of the requirements of this RFP have been read and understood. In addition, compliance with all requirements, terms and conditions will be assumed by E&I if not otherwise noted in the proposal.
8. The individual signing below has authority to enter into this on behalf of Supplier.
9. Supplier acknowledges that the Agreement may be canceled if any conflict of interest or appearance of a conflict of interest is discovered by E&I.

<b>CORPORATE NAME:</b>			
<b>AUTHORIZED SIGNATURE:</b>			
<b>PRINT NAME:</b>			
<b>TITLE:</b>			
<b>DATE:</b>			
<b>ADDRESS:</b>			
<b>CITY, STATE, ZIP CODE:</b>			
<b>PHONE:</b>		<b>FAX:</b>	
<b>EMAIL ADDRESS:</b>			

## **Part 8: EXECUTION OF OFFER AND MUTUAL NON-DISCLOSURE AGREEMENT**



### **Mutual Non-Disclosure Agreement**

I, \_\_\_\_\_ authorized representative of \_\_\_\_\_ (hereinafter "Supplier"),  
having an office at \_\_\_\_\_

#### **WHEREAS:**

The Supplier and E&I (together, the "Parties") acknowledge that the information mutually exchanged on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and subsequently is considered to be proprietary, and such disclosure(s) are made in confidence and for the limited purpose of evaluating the information and assisting in business development.

#### **NOW THEREFORE:**

1. I agree as an individual and as a representative of one of the Parties to treat such disclosure of proprietary information as confidential. The Parties further agree not to manufacture, sell, use or disclose to others such confidential proprietary information without the express written consent of the other.
2. I understand that all information considered to be proprietary by the Parties and subject to this Agreement shall be in writing and marked with an appropriate legend designating such material as confidential at the time of disclosure to the receiving Party. In the event confidential proprietary information is disclosed in another tangible form, the sending Party shall inform the receiving Party that the information is confidential and proprietary.
3. I understand that any information disclosed which is already within either Party's knowledge as indicated by their respective records, or which is presently within the public domain, or at a later time becomes available from another source or otherwise enters the public domain is not to be considered the confidential proprietary information of either Party.
4. I agree that all tangible materials disclosed hereunder shall be returned to the respective Party within ten (10) business days of such written request.
5. I agree that a disclaimer will be included in 'all' written or verbal contact with the E&I constituency giving each Member the option to be removed/deleted from future contact by Supplier.

Educational & Institutional Cooperative Services, Inc.  
Company Name

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

\_\_\_\_\_  
By (Signature)

\_\_\_\_\_  
By (Signature)

Gary D. Link  
By (Print Name)

\_\_\_\_\_  
By (Print Name)

Sr. Vice President Consulting Group & Contracts  
Title

\_\_\_\_\_  
Title

E-Mail: [glink@eandi.org](mailto:glink@eandi.org)

E-Mail: \_\_\_\_\_

Tel: (631) 630-8252

Fax: (631) 273-3370

Tel: \_\_\_\_\_

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

#### **For E&I Office Use Only**

**Date Member List sent to Supplier Contact** \_\_\_\_\_

**Sent by:** \_\_\_\_\_

## **ATTACHMENT A – Pricing Worksheet**

*Upon award, in considering the use of a contract, the RFP team will evaluate the pricing utilizing several methods. Attachment A and all other pricing must be included in Tab 5 of proposal response. Pricing is to be based off discounts from a specified price list (e.g. MSRP, Education Price List).*

All solutions and modules shall be priced individually, based on an annual cost. Suppliers are to submit pricing in Attachment C of this RFP.

Supplier must notify E&I of any changes in pricing, discount, product availability and provider/reseller consolidation prior to commencement of any award. Any amendment to the proposal price list at the time of the award shall be deemed the official price list.

The Supplier is required to make available under a resulting agreement any special product offerings made available by the solution provider.

### **Pricing Objectives**

Change and clarification is needed in the available features and pricing structure of ERP software and services for higher education. Members have cited confusion in software maintenance and support costs as well as the difficult process of evaluating competing ERP software solutions. Members need to understand how and why they are getting the pricing they receive for their solution of choice.

Additionally, Members are interested in moving operations to cloud-based systems but lack a strong path to production. Members are very interested in having ERP providers incentivizing services for cloud-based operations. Through this RFP, we are seeking a new model for collaborative systems and services “in-the-cloud.” We strongly encourage Suppliers to present affordable incentives for both new and existing customers to move to either cloud-hosted and/or software-as-a-service environments. Incentives that give existing customers a path to the cloud that includes a “reset” of support and maintenance costs for long-term existing customers.

One example for moving existing customers to the cloud that has been proposed includes:

- A one-time, up-front cost for existing customers to move to the cloud is created with a calculated cost based on a customer’s current maintenance and support renewal cost. This cost would include a.) moving a customer’s existing environment to cloud hosting, b.) an upgrade of current software to the latest revision and c.) some limited cloud integration services.
- Year 2 and beyond for support and maintenance costs would be reduced with an adjustment to a lower % annual escalation over the life of the new E&I contract agreement of 5 years with 2-year renewals.
- A clear and transparent 5-year ROI for the campus would be included showing a savings to the institution from the company’s standard model of product cloud migration.

It is paramount that Suppliers understand the need for pricing transparency and avoid an “ability-to-pay” pricing approach for software and services. It is E&I’s desire to work with Suppliers to find a new, simplified approach to pricing.

### **Required Format for Price Submission**

Suppliers are to use Attachment A – Pricing Worksheet for in-cloud and on-premise operations to layout pricing for “a la carte” modules and flat discounted rates for all services. Pricing will remain confidential throughout the RFP evaluation process. Upon award, the price lists will be posted on E&I’s website, secured behind a firewall and password protected, accessible only by Members.

Outline your pricing tiers by size of institutions based on FTE students, employee seats or any other means in which you price your current customers. We ask that you limit the number of tiers for all pricing. Pricing layouts should be standard across all tiers and the discount by tier is to be clearly illustrated on the Pricing Worksheet.

The Pricing Worksheet shall include:

- Estimated software, maintenance and support costs for the solution and all optional modules based on institutional IPEDS figures (student FTE, faculty FTE and/or staff FTE, etc.). This can be on a per seat licensing model or a standard tiered licensing pricing model.

## **ATTACHMENT A – Pricing Worksheet**

- We understand that implementation hours are a major variable but Suppliers shall list standard discounted per hour costs for all implementation and support services. This will include costs related to both on premise and in the cloud services and licensing.
- Suppliers may submit their own spreadsheet based on their solution offerings, but the format must help our Members (both new and existing customers) easily evaluate solutions, module selections, services and estimated costs in a clear way with a well-defined outline of the discounts being extended. This spreadsheet should give an example of pricing, options and scale that can be used by Members to roughly estimate what their own costs would be under an E&I contract vehicle.
- Member Pricing Estimate Tab

Section	Function	Requested Spreadsheet Functionality
	Supplier, solution title and solution type	State your company name, solution title, whether the submitted price estimate sheet is for an on premise or in-the-cloud solution. If you offer both, please submit a spreadsheet for each.
1	FTE entry and broad estimated hours to implement solution for new implementation based on FTE	Member institution enters their nationally reported IPEDS student, faculty and staff FTE numbers (as needed by Supplier). These entries should be used in the calculations of costs. Broad cost estimate would be used for a broad cost estimate of new implementation costs (see Section 1 of example spreadsheet). If your model is a tiered model, please include this calculation in the spreadsheet. If this information is proprietary, you may lock this sheet/calculation from view.
2	Listing for standard Member rates for services (consulting, training, project management, etc.)	All Suppliers shall have a standard per hour rate for services required for standard ongoing operations as well as implementation and conversion services.
3	Listing of all available modules and products with pricing; all entries should note whether the module is part of the base solution/price and whether it can be purchased as a stand-alone solution.	<p>We request that each Supplier list their solution modules including the areas: financials, financial aid, admissions/CRM, Student System/Registration, Human Resources, web portal/self-service, Alumni/Development/CRM and other ancillary software.</p> <p>Based on the entered FTE numbers (Section 1 above), please calculate the estimated cost for that institution for each module. This will be used as a broad pricing estimate for new implementations and maintenance and support costs will be used as the pricing for existing customers.</p>
4	Estimated costs for required third-party software	We request that each Supplier outline 3 <sup>rd</sup> party software that is required for module functionally or recommended for best use functionality to be listed in Section 4.
5	Additional information and incentives	Please include any additional information about what is being offered to our Member Institutions. Please also include any incentives that are being offered as Membership new conversion customers grow.



## **ATTACHMENT B – General Terms and Conditions**

*The terms and conditions shall govern any agreement issued as a result of this solicitation. Additional or attached terms and conditions which are determined to be unacceptable to E&I may result in the disqualification of your proposal. Examples include, but are not limited to: liability for payment of taxes, subjugation to the laws of another State, and limitations on remedies.*

### **1. Interpretation, Enforcement and Forum of Laws**

For disputes between the Member and Supplier, this Agreement shall be governed by, construed, interpreted, and enforced solely in accordance with the laws of the state in which the Member resides and the venue of any action shall lie in such state.

For disputes between E&I and Supplier, this Agreement shall be governed by, construed, interpreted, and enforced solely in accordance with the laws and within the Courts of the State of New York.

### **2. Compliance with Law**

Supplier warrants and certifies that in the performance of this Agreement, it has complied with or will comply with all applicable statutes, rules, regulations and orders of the United States, and any state or political subdivision thereof, including but not limited to, laws and regulations pertaining to labor, wages, hours and other conditions of employment.

### **3. Funding Provided by Federal Contracts or Grants**

Where Federal Contracts or Grants provide funding to Members, it is the responsibility of the Supplier and the Member to comply with all FAR (Federal Acquisition Regulations) applicable laws and regulations by completing any certifications and disclosures and any other requirements. When Federal Contract or Grant funds are used on participating Member purchases under this Agreement, which exceed \$25,000, certification must be provided in writing that the Supplier is not debarred, suspended, or proposed for debarment by the Federal Government.

### **4. Insolvency**

In the event of any proceedings in bankruptcy or insolvency by or against Supplier, or in the event of the appointment (with or without its consent) of an assignee for the benefit of creditors, or a receiver, E&I may cancel this Agreement without prior notice and without incurring any liability whatsoever to Supplier.

### **5. Assignments**

Supplier shall not assign this agreement or any of Supplier's rights or obligations hereunder, without E&I's prior written consent. Any purported assignment made without E&I's prior written consent shall be void and of no effect.

### **6. Resale**

If E&I and/or Member purchase any goods for resale, the customer shall have the benefit of every right, warranty, and interest enjoyed by E&I and/or Member.

### **7. Patent Trademark and Copyright Infringement**

The Supplier warrants that the products/services hereby sold, either alone or in combination with other materials, do not infringe upon or violate any patent, copyright, trademark, trade secret, application or any other proprietary right of any third party existing under laws of the United States or any foreign country. The Supplier agrees, at its own expense, to defend any and all actions or suits alleging such infringements and will hold E&I, its officers, agents, servants, employees and Members harmless from any and all losses, expenses, claims, (including reasonable attorney's fees), or judgments arising out of cases of such infringement.

### **8. Use of Name, Logos, etc. in Advertising**

Supplier agrees not to make reference to this Agreement or use the logo of E&I or any of its Members in any advertising material of any kind without the expressed written permission of the party involved. E&I agrees not to make reference to this Agreement or use the logo of Supplier in any advertising and marketing materials of any kind without the expressed written permission of the Supplier.

### **9. Transactions between Supplier and E&I Member**

The purchase of products and/or services by a Member from Supplier is a transaction solely between Member and Supplier. It is understood and agreed that if any litigation arises between Supplier and any E&I Member, Supplier shall not make E&I a party to that litigation. A violation of this provision shall be deemed a material breach of this Agreement warranting termination by E&I, and Supplier agrees to indemnify E&I against and hold it harmless from all costs associated with such litigation, including reasonable attorney's fees.

## **ATTACHMENT B – General Terms and Conditions**

### **10. Indemnification of E&I and Member**

Supplier agrees to indemnify and hold harmless E&I and its Members from and against all liability, to the extent of and in proportion to, losses, damages, claims, liens, and expenses (including reasonable legal fees) arising out of or connected with the products purchased, work or services performed, or resulting from property damage or injuries incurred by or to the Member or its officers, agents, servants and employees by reason of any defect in manufacture, construction, inspection, delivery, material, workmanship, and/or design of any goods and services furnished hereunder, excepting only such liability as may result solely from the acts of negligence of the Member, E&I or its employees. Supplier, at the request of the Member and E&I, shall undertake to defend any and all suits and to investigate and defend any and all claims whether justified or not, if such claim or suit is commenced against Member or E&I, or their respective officers, agents, servants, and employees.

### **11. Insurance**

If fabrication, construction, installation, service or other work is specified to be conducted on Member's premises, Supplier shall maintain in force during the period of such work the following coverages: (a) worker's compensation, as required by the laws of the State of Member; (b) commercial general liability for bodily injury and/or property damage in an amount of not less than \$1,000,000 single limit, per occurrence; (c) automobile liability for bodily injury and/or property damage in an amount of not less than \$1,000,000 single limit, per occurrence. Supplier shall provide a certificate of insurance naming E&I and Member as additional insured. Supplier shall furnish to E&I satisfactory proof of such insurance coverage included with Supplier's proposal.

Individual Members may require coverage in addition to the above limits. If the need for additional coverage develops, it will be the responsibility of the Member to arrange for such coverage with the Supplier. Supplier shall furnish to Member satisfactory proof of such insurance coverage prior to commencement of the work.

### **12. Licenses/Permits/Taxes and Tax Exempt Status**

Supplier shall be responsible for obtaining all permits, licenses and bonding, to comply with the rules and regulations of any state, federal, municipal or county laws or any city government, bureau or department applicable and assume all liability for all applicable taxes.

E&I is a not-for-profit corporation. Members are 501(c)(3) corporations but have varying requirements to either pay or are exempt from state sales tax.

All prices listed and discounts offered are exclusive of all taxes. Supplier has the duty to collect all taxes in connection with the sale, delivery or use of any items, products or services included herein from Member or from E&I (if for the purpose of resale), at the taxable rate in effect at the time of invoicing. Supplier shall comply with the state sales tax requirements of each Member. If sales to Member are exempt from such taxes, Member shall furnish to Supplier a certificate of exemption in form and timeliness acceptable to the applicable taxing authority.

### **13. Americans With Disabilities Act**

Supplier shall comply with all applicable provisions of the Americans with Disabilities Act and applicable federal regulations under the Act.

### **14. Alcohol, Tobacco & Drug Rules and Regulations**

Employees of the Supplier and its subcontractors shall comply with all instructions, pertaining to conduct and building regulations of the Members. The Member reserves the right to request the removal or replacement of any undesirable employee at any time.

All buildings on the Member's grounds are tobacco-free. Use of tobacco products is not permitted in any area inside Member's buildings. The Supplier is expected to respect this tobacco-free policy and fully comply with it. The Supplier agrees that in the performance of this Agreement, neither the Supplier nor any of its employees shall engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance, including alcohol, in conducting any activity covered by this Agreement. E&I and the Member reserve the right to request a copy of the Drug Free Workplace Policy. The Supplier further agrees to insert a provision similar to this statement in all subcontracts for services required.

## **ATTACHMENT B – General Terms and Conditions**

### **15. Equal Opportunity**

The provisions of Section 202 of Executive Order 11246, 41 C.F.R. Sec. 60-1.1, C.F.R. Sec. 60-250.4 and 41 C.F.R. Sec. 60-741.4 are incorporated herein by reference and shall be applicable to this Agreement unless this Agreement is exempted under the rules, regulations, or orders of the U.S. Secretary of Labor.

### **16. Non-Discrimination**

The parties agree to comply with applicable state and federal rules governing Equal Employment Opportunity and Non-Discrimination.

### **17. Sexual Harassment**

Federal law and the policies of E&I prohibit sexual harassment. Supplier is required to exercise control over its employees so as to prohibit acts of sexual harassment. If a Member in its reasonable judgment determines that any employee of Supplier has committed an act of sexual harassment, Supplier agrees as a term and condition of this Agreement to cause such person to be removed from Member's facility and to take such other action as may be reasonably necessary to cause the sexual harassment to cease.

### **18. Compliance with Specifications**

Supplier represents and warrants that: (i) all of the Services will be performed in a professional and workmanlike manner and in conformity with industry standards by Supplier and personnel employed by Supplier reasonably suited by skill, training and experience for the type of services they are assigned to perform; (ii) Supplier will comply, and will be responsible for ensuring its employees, Suppliers, subcontractors and agents comply, with all applicable federal, state and local laws in the performance of its obligations hereunder; (iii) Supplier's performance under the contract will not result in a breach of any other agreement to which Supplier is a party; (iv) all contract intellectual property will be original creations, and will not infringe upon or violate any intellectual property of any third parties; (v); any software developed under the contract will not contain any viruses, worms, Trojan Horses, or other disabling devices or code; and (vi) in addition to all implied warranties at law or in equity, any deliverables furnished will conform to the specifications, drawings, and descriptions created therefor, and to any samples furnished by Supplier; if there is a conflict among the specifications, drawings, and descriptions, the specifications will govern.

### **19. Gratuities**

E&I may, by written notice to Supplier, cancel the Agreement if it discovers that gratuities, in the form of entertainment, gifts or the like, were offered or given by Supplier to any officer or employee of E&I or any Member with a view toward securing an agreement or securing favorable treatment with respect to the awarding of this Agreement.

### **20. Covenant Against Contingency Fees**

Supplier certifies that it has neither offered nor paid a contingency fee to any individual, agent, employee of E&I, or employee of any Member to secure or influence the decision to award this Agreement to Supplier.

### **21. Suspension or Debarment**

E&I may, by written notice to the Supplier, immediately terminate the Agreement if it is determined that the Supplier has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor by any public procurement unit or other governmental body.

### **22. Conflict of Interest**

In order to avoid even the appearance of any conflict of interest, neither E&I nor Supplier shall employ any officer or employee of the other party for a period of one year from the date hereof.

### **23. Strikes or Lockouts**

In the event Supplier should become involved in a labor dispute, strike or lockout, Supplier will be required to make whatever arrangements that may be necessary to insure that the conditions of this Agreement are met in their entirety. Should the Supplier be unable to fulfill its obligations under this Agreement, E&I and/or Member shall have the right to make alternative arrangements to insure the satisfactory performance of the Agreement during the time Supplier is unable to perform the required duties. Any costs incurred by E&I and/or any Member, as a result of such job action, shall be reimbursed by the Supplier.

## **ATTACHMENT B – General Terms and Conditions**

### **24. Force Majeure**

Neither party shall be held responsible for any losses resulting if the fulfillment of any terms or provisions of this Agreement are delayed or prevented by any cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence, said party is unable to prevent.

### **25. Modification of Terms**

No waiver or modification of any of the provisions hereof shall be binding unless mutually agreed upon by E&I and the Supplier, in writing, with signatures of authorized representatives of all parties authorizing said modification.

### **26. Termination for Convenience**

E&I may terminate this Agreement for any reason (convenience) by delivering not less than one hundred eighty (180) calendar days prior written notice thereof to the Supplier.

### **27. Termination and Termination for Default**

E&I will notify the Supplier upon discovery of a breach of this Agreement. E&I may terminate this Agreement immediately upon the breach of this Agreement by Supplier by delivering written notice to Supplier, or if such breach is capable of being cured, E&I shall notify the Supplier in writing of such breach and demand that the same be cured within fourteen (14) calendar days. Should the Supplier fail to cure the same within said period, E&I shall then have the right to terminate this Agreement at the end of the fourteenth (14<sup>th</sup>) day. A notice will be sent to the Supplier to confirm the termination.

The failure of E&I on behalf of its Members to exercise its rights of termination for cause due to Supplier's failure to perform as required in any instance shall not constitute a waiver of termination rights in any other instance.

An order by a Member may be cancelled due to non-appropriation of funds. This funding out clause is required by several states and can be for non-appropriation of State and Federal funds.

### **28. Continuation of Performance Through Termination**

Supplier shall continue to perform, in accordance with the requirements of this Agreement, up to the date of termination, as directed in the termination notice.

### **29. Holdover Clause**

This holdover clause authorizes Supplier to continue to provide products and services pursuant to any quotation, purchase order or MSA executed prior to the expiration or termination of this Agreement. The term of this Agreement shall then automatically extend through the final invoice date or expiration of the MSA. The terms and conditions specified herein shall remain in effect for the duration of the holdover period.

### **30. Independent Audit**

Members may, for a period of three years after expiration of the Agreement, audit the Supplier's records pertaining to its compliance with the terms of this Agreement. An audit may be scheduled or announced providing the Supplier a minimum of seventy-two (72) hours advance notice. The audit will be conducted by Member and/or its designee. Supplier will provide Member with access to records, sufficient workspace and staff support to facilitate an audit. The audit may address any or all of the following conditions and may not be limited to the stated conditions: product compliance, pricing, order processing, order fulfillment, delivery records, invoicing, and receipt of payment.

### **31. Open Records**

E&I considers all information, documentation and other materials requested to be submitted in response to this solicitation to be of a non-confidential and/or non-proprietary nature and therefore may be subject to public disclosure after an agreement is awarded. Suppliers are hereby notified that E&I adheres to all statutes, court decisions and the opinions of the Members' states regarding the disclosure of proposal information.

### **32. Proprietary/Confidential Information**

Supplier must clearly mark "Confidential" on any portion of your response, which you consider to contain confidential or proprietary information. All information, documentation, and other materials submitted by Supplier in response to this solicitation or under any resulting contract may be subject to public disclosure under the Freedom of Information Act and/or Open Records laws of the Members.

## **ATTACHMENT B – General Terms and Conditions**

### **33. Strict Compliance**

The parties may at any time insist upon strict compliance with these terms and conditions, notwithstanding any previous custom, practice or course of dealing to the contrary.

### **34. Entire Agreement**

This Agreement together with the Exhibits annexed hereto constitutes the entire agreement between the parties and supersedes all prior agreements whether written or oral between the parties. Documents subject to Freedom of Information Act will only be released after award.

### **35. Notices**

Any notice to be given by any party hereunder shall be in writing, mailed by certified mail, return receipt requested, or by delivery to a reputable overnight courier and shall be effective the earlier of (a) actual receipt or (b) five days after mailing or one day after delivery to overnight courier and shall be addressed as follows:

If to E&I: Gary D. Link C.P.M.  
Sr. Vice President, Contracts and Consulting Services  
E&I Cooperative Services, Inc.  
2 Jericho Plaza, Suite 309  
Jericho, NY 11753

If to Supplier: <contact name>  
<supplier>  
<street address>  
<city, state, zip>  
<phone number>  
<e-mail address>

## **ATTACHMENT C – Data Security and Privacy**

*The following terms are designed to protect Members' Protected Information and networks. Supplier agrees to be bound by the obligations set forth in this Attachment. To the extent applicable, Supplier also agrees to impose, by written contract, the terms and conditions contained herein on any third party retained by Supplier to provide services for or on behalf of Member.*

### **1. Protected Information**

- A. Supplier acknowledges that its performance of Services under this Agreement may involve access to confidential Member information that identifies or is capable of identifying a specific individual, including, but not limited to, personally-identifiable information, student records, protected health information, or individual financial information (collectively, "Protected Information") that is subject to state or federal laws restricting the use and disclosure of such information, including, but not limited to, the federal Gramm- Leach-Bliley Act (15 U.S.C. §§ 6801(b) and 6805(b)(2)); the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g); and federal Health Insurance Portability and Accountability Act (45 CFR Part 160 and Subparts A, C, and E of Part 164); the federal Fair and Accurate Credit Transactions Act (15 USC § 1601 et seq.) and the Fair Credit Reporting Act (15 USC § 1681 et seq.); the European Union Data Protection Directive and other state, federal and international laws.
- B. All Work Product, works-in-progress, notes, data, reference materials, memoranda, documentation and records in any way incorporating or reflecting any of Protected Information and all proprietary rights therein, including copyrights, will belong exclusively to Member and unless expressly provided, this Agreement will not be construed as conferring on Supplier a license or option for a license any patent, copyright, trademark, license right or trade secret owned or obtained by Member.

### **2. Access to Member's Networks**

"Member networks" means the set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information that is implemented with a collection of interconnected components. Such components may include routers, hubs, cabling, telecommunications controllers, key distribution centers, and technical control devices. Examples of networks include local area networks (LAN), wide area networks (WAN), Storage area networks (SAN), Enterprise private networks (EPN), Virtual private networks (VPN), Wireless local area networks (WLAN), or Campus area networks (CAN). Member networks include resources that are purchased, leased and/or otherwise obtained for use by Member, and may include personally owned devices. In any circumstance when Supplier has access to Member networks, it is the sole responsibility of Supplier to ensure that its access to the networks does not result in any access by unauthorized individuals to Member networks or Protected Information. This includes access to all types of Member network logins or credentials, as well as access to information contained on or transmitted through those networks. It is Supplier's sole responsibility to protect the login and credential information, including through proper use, handling and destruction of such information.

### **3. Compliance with Applicable Laws, Fair Information Practice Principles**

Supplier agrees to comply with all applicable state, federal and international laws, as well as best practices, governing the collection, access, use, disclosure, safeguarding and destruction of Protected Information. Additionally, Supplier will comply as applicable with the Fair Information Practice Principles, as defined by the U.S. Federal Trade Commission. Such principles would typically require Supplier to have a privacy policy, and, if collecting Protected Information electronically from individuals on behalf of Member, a prominently-posted privacy statement or notice in conformance with such principles.

### **4. Prohibition on Unauthorized Use or Disclosure of Protected Information**

Supplier agrees to hold Member's Protected Information, and any information derived from such information, in strictest confidence. Supplier will not access, use or disclose Protected Information other than to carry out the purposes for which Member disclosed the Protected Information to Supplier, except as permitted or required by applicable law, or as otherwise authorized in writing by Member. If required by a court of competent jurisdiction or an administrative body to disclose Protected Information, Supplier will notify Member in writing immediately upon receiving notice of such requirement and prior to any such disclosure, to give Member an opportunity to oppose or otherwise respond to such disclosure (unless prohibited by law from doing so). Any transmission, transportation or storage of Protected Information outside the United States is prohibited except on prior written authorization by Member.

## **ATTACHMENT C – Data Security and Privacy**

### **5. Safeguard Standard**

Supplier agrees to protect the privacy and security of Protected Information according to all applicable laws and regulations, by commercially-acceptable standards, and no less rigorously than it protects its own confidential information, but in no case less than reasonable care. Supplier will implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of the Protected Information. All Protected Information stored on portable devices or media must be encrypted in accordance with the Federal Information Processing Standards (FIPS) Publication 140-2. Supplier will ensure that such security measures are regularly reviewed and revised to address evolving threats and vulnerabilities while Supplier has responsibility for the Protected Information under the terms of this Agreement. At Member's request, Supplier will provide assurance, in the form of a third-party audit report or other documentation acceptable to Member (the Shared Assessments® tools <http://www.sharedassessments.org/>, or similar, are acceptable), demonstrating that appropriate information security safeguards and controls are in place.

### **6. Safeguard Standard for Payment Card Data (If Applicable)**

- A. Supplier agrees that it is responsible for the security of payment cardholder data that it possesses (if any), including the functions relating to storing, processing and transmitting cardholder data. In this regard, Supplier represents and warrants that it will implement and maintain certification of Payment Card Industry ("PCI") compliance standards regarding data security, and that it will undergo independent third party quarterly system scans that audit for all known methods hackers use to access private information and vulnerabilities that would allow malicious software (e.g., viruses and worms) to gain access to or disrupt Member networks. These requirements, which are incorporated herein, can be found at <https://www.pcisecuritystandards.org>. Supplier agrees to provide upon written request of Member, current evidence (in form and substance reasonably satisfactory to Member) of compliance with these data security standards, which has been properly certified by an authority recognized by the payment card industry for that purpose.
- B. In connection with credit card transactions processed for Member, Supplier will provide reasonable care and efforts to detect fraudulent payment card activity. In performing the Services, Supplier will comply with all applicable rules and requirements, including security rules and requirements, of Member's financial institutions, including its acquiring bank, the major payment card associations and payment card companies. If during the term of an agreement with Member, Supplier undergoes, or has reason to believe that it will undergo, an adverse change in its certification or compliance status with the PCI standards and/or other material payment card industry standards, it will promptly notify Member of such circumstances.
- C. Supplier further represents and warrants that software applications it provides for the purpose of performing Services related to processing payments, particularly credit card payments, are developed in accordance with all applicable PCI standards, and are in compliance with all applicable PCI standards, including but not limited to Payment Application Data Security Standards (PA-DSS), Point to Point Encryption Solution Requirements (P2PE) including approved card readers or Point of Interaction (POI), and Payment Applications Best Practices (PABP). As verification of this, Supplier agrees to provide upon written request of Member, current evidence (in form and substance reasonably satisfactory to Member) that any such application it provides is certified as complying with these standards and agrees to continue to maintain that certification as may be required.
- D. Supplier will immediately notify Member if it learns that it is no longer PCI compliant under one of the standards identified above, or if any software applications or encryption solutions are no longer PCI compliant.

### **7. Return or Destruction of Protected Information**

Within 30 days of the termination, cancellation, expiration or other conclusion of Member's agreement, Supplier will return the Protected Information to Member unless Member requests in writing that such data be destroyed. This provision will also apply to all Protected Information that is in the possession of subcontractors or agents of Supplier. Such destruction will be accomplished by "purging" or "physical destruction," in accordance with National Institute of Standards and Technology (NIST) Special Publication 800-88. Supplier will certify in writing to Member that such return or destruction has been completed.

If Supplier is unable to return or destroy Member's Protected Information because it is technically impossible or impractical to do so, Supplier will continue to protect such data in accordance with the terms of this Agreement. Supplier further agrees to provide verification, upon request by Member, that returning or destroying Protected Information is technically impossible or impractical.

## **ATTACHMENT C – Data Security and Privacy**

### **8. Security Breaches of Protected Information**

- A. **Definition.** For purposes of this Agreement, a “Security Breach” means any information security event that violates Member’s Information Security policies and procedures, Supplier’s policies and procedures, and/or impacts or has the potential to impact the confidentiality, integrity, or availability of Member’s or Supplier’s information systems or Protected Information.
- B. **Reporting of Security Breach:** Supplier will report any confirmed or suspected Security Breach to Member immediately upon discovery, both orally and in writing, but in no event more than two (2) business days after Supplier reasonably believes a Security Breach has or may have occurred. Supplier’s report will identify: (i) the nature of the unauthorized access, use or disclosure, (ii) the Protected Information accessed, used or disclosed, (iii) the person(s) who accessed, used, disclosed and/or received Protected Information (if known), (iv) what Supplier has done or will do to mitigate any deleterious effect of the unauthorized access, use or disclosure, and (v) what corrective action Supplier has taken or will take to prevent future unauthorized access, use or disclosure. Supplier will provide such other information, including a written report, as reasonably requested by Member. In the event of a suspected Security Breach, Supplier will keep Member informed regularly of the progress of its investigation until the uncertainty is resolved.
- C. **Coordination of Security Breach Response Activities:** In the event of a Security Breach, Supplier will:
- i. Immediately preserve any potential forensic evidence relating to the Security Breach, and remedy the Security Breach as quickly as circumstances permit;
  - ii. Promptly (within 2 business days) designate a contact person to whom Member will direct inquiries, and who will communicate Supplier responses to Member inquiries;
  - iii. As rapidly as circumstances permit, apply appropriate resources to remedy the Security Breach condition, investigate, document, restore Member service(s) as directed by Member, and undertake appropriate response activities;
  - iv. Provide status reports to Member on Security Breach response activities, either on a daily basis or a frequency approved by Member;
  - v. Coordinate all media, law enforcement, or other Security Breach notifications with Member in advance of such notification(s), unless expressly prohibited by law;
  - vi. Make all reasonable efforts to assist and cooperate with Member in its Security Breach response efforts; and
  - vii. Ensure that knowledgeable Supplier staff is available on short notice, if needed, to participate in Member -initiated meetings and/or conference calls regarding the Security Breach.
- D. **Grounds for Termination.** Any Security Breach may be grounds for immediate termination of Member’s agreement by Member or this Agreement by E&I.
- E. **Assistance in Litigation or Administrative Proceedings.** Supplier will make itself and any employees, subcontractors, or agents assisting Supplier in the performance of its obligations available to Member at no cost to Member to testify as witnesses, or otherwise, in the event of a Security Breach or other unauthorized disclosure of Protected Information caused by Supplier that results in litigation or administrative proceedings against Member, its directors, officers, agents or employees based upon a claimed violation of laws relating to security and privacy.

### **9. Examination of Records**

Member and, if an applicable law, contract or grant so provides, the other contracting party or grantor (and if that be the United States, or an agency or instrumentality thereof, then the Controller General of the United States) will have access to and the right to examine any pertinent books, documents, papers, and records of Supplier involving transactions and work related to this Agreement until the expiration of five years after final payment hereunder. Supplier will retain project records for a period of five years from the date of final payment.

### **10. Cyber Insurance**

Supplier at its sole cost and expense will obtain, keep in force, and maintain a cyber-insurance policy to insure its reasonable costs in investigating and responding to a cyber-incident or Breach with the following minimum limits unless Member specifies otherwise: \$1,000,000 Each Occurrence and \$3,000,000 Aggregate.



## **ATTACHMENT D – Supplier Questionnaire**

*All sections of the questionnaire MUST be completed to be considered for evaluation. Include completed Questionnaire in electronic format as described in Part 4, Section 4.2.1. Responses to these questions will be utilized to evaluate your proposal as outlined above.*

## **ATTACHMENT E – HUB Forms – State of TX**

*Supplier should make a good faith effort to provide subcontracting opportunities to Minority and/or Women Owned companies for consideration for Members in the State of Texas.*

The forms for this Attachment and other information are available to print/download at:

<http://www.window.state.tx.us/procurement/prog/hub/hub-forms/>

**Suppliers shall indicate their willingness and commitment to submit a Historically Underutilized Business (HUB) Plan for the State of Texas, if the purchase(s) will exceed \$100,000.00 for an agency. The agency shall make the determination for the need for the HUB Plan and as requested by each agency the Supplier shall immediately comply.**

**Supplier shall sign below and return with proposal** to indicate the commitment to make a good faith effort as stated above, as requested.

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Authorized Signature

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Company and address

## **ATTACHMENT F – Compliance Language – State of CT**

*Connecticut State Institutions of Public Higher Education may be interested in purchasing the product(s) and/or service(s) included in this solicitation. Therefore, pursuant with State of Connecticut requirements, Suppliers must complete the following forms/affidavits to satisfy State requirements.*

### **Ethics Forms**

Suppliers complete the following ethics forms from the State of Connecticut Office of Policy and Management website.  
([http://www.ct.gov/opm/cwp/view.asp?a=2982&q=386038&opmNav\\_GID=1806](http://www.ct.gov/opm/cwp/view.asp?a=2982&q=386038&opmNav_GID=1806))

- Gift and Campaign Contribution Certification (OPM Ethics Form 1)
- Consulting Agreement Affidavit (OPM Ethics Form 5)
- Affirmation of Receipt of State Ethics Laws Summary (OPM Ethics Form 6)
- Iran Certification (OPM Ethics Form 7)

### **Nondiscrimination Certification Forms**

Suppliers must select and complete the appropriate nondiscrimination certification form from the State of Connecticut Office of Policy and Management website.

([http://www.ct.gov/opm/cwp/view.asp?a=2982&q=390928&opmNav\\_GID=1806](http://www.ct.gov/opm/cwp/view.asp?a=2982&q=390928&opmNav_GID=1806))

### **Definitions**

- Individual: a person who is not an entity
- Entity: corporation, limited liability company, or partnership

### **Explanation of Forms:**

- Form A. Representation: For use by an individual when entering into any contract, regardless of contract value.
- Form B. Representation: For use by an entity when entering into any contract valued at less than \$50,000 for any year of the contract.
- Form C. Affidavit: (Recommended) For use by an entity when entering into any contract valued at \$50,000 or more for any year of the contract and the entity certifies through an affidavit that a complying nondiscrimination policy is currently in place.
- Form D. New Resolution: For use by a entity when entering into any contract valued at \$50,000 or more for any year of the contract and the entity has a complying nondiscrimination policy adopted by a new resolution of the board of directors, shareholders, managers, Members, or other governing body.
- Form E. Prior Resolution: For use by a entity when entering into any contract valued at \$50,000 or more for any year of the contract and the entity has a complying nondiscrimination policy adopted by a prior resolution of the board of directors, shareholders, managers, Members, or other governing body.

This form must be completed with Supplier's Proposal:

- ☐ Yes ☐ No      Supplier agrees to accurately complete and submit the appropriate aforementioned documentation with its proposal.
- ☐ Yes ☐ No      Supplier agrees to sell items and/or services included in this Request for Proposal to Connecticut State Institutions of Public Higher Education.

## **ATTACHMENT G – EDGAR Certifications**

The following certifications and provisions are required and apply when Members expend federal funds for any contract resulting from this procurement process. **Accordingly, the parties agree that the following terms and conditions apply to the Contract between E&I/Member and (“Supplier”) in all situations where Supplier has been paid or will be paid with federal funds:**

### **Overview:**

#### **Article 7- Federal Terms and Conditions**

This Contract will include the following provisions per the Code of Federal Regulations, Title II, Part 200, Appendix II, which are hereby incorporated into and form part of the terms and conditions of the Contract:

#### **7.01 Equal Employment Opportunity Act (Executive Order 11246 as amended by E.O. 11375 and supplemented by regulations at 41 CFR Part 60).**

Vendor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

#### **7.02 Davis-Bacon Act (40 U.S.C. 3141-3148).**

For prime construction projects in excess of \$2,000 under which Vendors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor, and will be required to pay wages not less than once a week. A copy of the current prevailing wage determination can be found at <http://www.wdol.gov>. This includes the Copeland “Anti-Kickback Act (40 U.S.C. 3145) providing that each Vendor will be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled.

#### **7.03 Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).**

Under Contracts awarded in excess of \$100,000, Vendors are required to base pay on a 40 hour work week and to pay 1.5 times the base pay rate for hours worked in excess of forty. Nor construction laborer or mechanic shall be required to work in surroundings or under working conditions that are unsanitary, hazardous or dangerous.

#### **7.04 Rights to Inventions Made Under a Contract or Agreement 37 CFR Part 401.**

#### **7.05 Clean Air Act (42 U.S.C. 7401-7674q.) and the Federal Water Pollution Act (33 U.S.C. 1251-1387).**

Violations are to be reported to the regional office of the Environmental Protection Agency (EPA).

#### **7.06 Debarment and Suspension (Executive Orders 12549 and 12689).**

A contract award must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM) list of parties excluded from federal procurement or non-procurement programs.

#### **7.07 Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).**

Vendors that compete for an award exceeding \$100,000 must file certification that it will not use federal funds to pay any person or organization for influencing an officer or employee of any agency, a Member, officer or employee of Congress in connection with obtaining any federal contract, grant, or other award.

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### **REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS APPENDIX II TO 2 CFR PART 200**

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

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

## **ATTACHMENT G – EDGAR Certifications**

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier

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

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

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier

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

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

Does Supplier agree to abide by the above? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier

**(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.**

Pursuant to Federal Rule (D) above, when Member expends federal funds during the term of an award for all contracts and subgrants for construction or repair, Supplier will be in compliance with all applicable Davis-Bacon Act provisions.

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier

**(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic**

## **ATTACHMENT G – EDGAR Certifications**

and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

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

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier

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

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

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier

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

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

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier

**(H) Debarment and Suspension (Executive Orders 12549 and 12689)—**A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

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

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier

**(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—**Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee

## **ATTACHMENT G – EDGAR Certifications**

of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

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

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

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier

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### **RECORD RETENTION REQUIREMENTS FOR CONTRACTS INVOLVING FEDERAL FUNDS**

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When federal funds are expended by Member for any contract resulting from this procurement process, Supplier certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. Supplier further certifies that it will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier

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### **CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT**

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

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier

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### **CERTIFICATION OF EQUAL EMPLOYMENT STATEMENT**

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

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier

## **ATTACHMENT G – EDGAR Certifications**

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### **CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS**

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E&I and its Members have a preference for domestic end products for supplies acquired for use in the United States when spending federal funds (purchases that are made with non-federal funds or grants are excluded from the Buy America Act). Supplier certifies that it is in compliance with all applicable provisions of the Buy America Act.

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier

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### **CERTIFICATION OF ACCESS TO RECORDS – 2 C.F.R. § 200.336**

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Supplier agrees that the Member's Inspector General or any of their duly authorized representatives shall have access to any books, documents, papers and records of Supplier that are directly pertinent to Supplier's discharge of its obligations under the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Supplier's personnel for the purpose of interview and discussion relating to such documents.

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier

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### **CERTIFICATION OF APPLICABILITY TO SUBCONTRACTORS**

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

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier

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

Supplier's Name: \_\_\_\_\_

Address, City, State, and Zip Code: \_\_\_\_\_

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

Printed Name and Title of Authorized Representative: \_\_\_\_\_

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

Signature of Authorized Representative: \_\_\_\_\_

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