



## CENTRAL SUSQUEHANNA INTERMEDIATE UNIT

### Request for Bids (RFB)

#### PEPPM 2026 Catalog Bid, Pennsylvania Electronic Bid #549622

Bid Due: Thursday, February 12, 2026, 3:00 p.m. Eastern Time

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PEPPM, a national cooperative purchasing program administered by the Central Susquehanna Intermediate Unit, seeks sealed, competitive bids for technology products sold through online Catalogs.

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## I Introduction and Overview

### I.1 Bid Title

PEPPM 2026 Catalog Bid – Pennsylvania

### I.2 Electronic Bid Number

The applicable electronic bid form is numbered 549622.

### I.3 Organization of Terms and Conditions

- I [Introduction and Overview](#)
- II [Bid Document Definitions and Interpretations](#)
- III [Legal Authority and Eligible Buying Agencies](#)
- IV [PEPPM Fees](#)
- V [Bidder Qualifications](#)
- VI [Catalog Specifications](#)
- VII [Ordering Procedures and Requirements](#)
- VIII [Pricing Specifications](#)
- IX [Bid Procedures and Directions](#)
- X [Bid Evaluation and Award Process](#)
- XI [Uniform Guidance Requirements](#)
- XII [Post-Award Requirements](#)
- XIII [Other Terms and Conditions](#)

## **I.4 Bid Scope**

Agency is seeking competitive bids for a collection of technology- and instruction-related products sold through online catalogs, for example, a) audio-visual equipment, b) educational and administrative software, hardware, such as computer equipment, network equipment, printers, accessories, etc., c) performing arts equipment and supplies, d) refurbished computers and, e) remanufactured laser toner and ink cartridges ink and toner. A full set of specifications and formal titles can be found [here](#).

## **I.5 Bidding Agency**

Central Susquehanna Intermediate Unit (CSIU), #16 90 Lawton Lane  
Milton, Pennsylvania 17847  
Phone: (570) 523-1155  
Fax: (570) 522-0577

## **I.6 The Cooperative**

PEPPM has a proven record of serving school districts and other public agencies across the United States with cooperative purchasing Contracts competitively bid under the high standards expected for public-sector procurement. The PEPPM cooperative purchasing program helps schools and other public agencies drive down the cost of acquisition and derive the best value for their technology investments.

## **I.7 Bid Due Date**

All bids must be received electronically by 3:00 p.m. Eastern Time, Thursday, February 12, 2026 (the “Bid Due Date”).

The Agency may extend the Bid Due Date and time at any time in advance of the Bid Due Date by issuing an addendum to this RFB.

## **I.8 Bid Opening**

Bids will be opened and publicly read at 3:00 p.m. Eastern Time, Thursday, February 12, 2026 (the “Bid Opening Date”), at CSIU offices, 90 Lawton Lane, Milton, Pennsylvania, 17847. However, in the event of an emergency, or, in the Agency’s discretion, in the interest of public health and safety, and as permitted by applicable law, the Agency may instead broadcast the opening of bids via public teleconference or video conference.

## **I.9 Prebid Meetings**

No prebid meeting will be held for this RFB.

## **I.10 Other Important Dates**

• Exceptions/Questions Due Date	January 23, 2026
• Response to Exceptions/Questions	February 2, 2026
• Tentative Board Award Date	March 18, 2026
• Tentative Agency Contract Signing	March 19, 2026
• Contract Start Date	April 1, 2026

## **I.11 Advertising and Legal Notice of the Request for Bids**

The Agency’s minimum legal advertising requirements are met with legal notices in two newspapers of general circulation in the area where the Agency is located, such as the Sunbury *Daily Item* and the Williamsport *Suz-Gazette*. To encourage wider Bidder participation, the Agency also advertises this RFB in other national and regional newspapers across the United States.

**I.12 E-rate Filing**

No E-rate Federal Communications Commission (FCC) Form 470 filing is associated with this particular RFB.

**I.13 Contract Term**

The initial term of the awarded Contracts shall commence on April 1, 2026, and continue until March 31, 2029, unless terminated, cancelled, or extended.

## **II Bid Document Definitions and Interpretations** [\(Return to Top\)](#)

**II.1 Captions**

The captions appearing at the beginning of each Section or subsection of the Contract Documents are for reference and convenience only and shall be disregarded whenever an interpretation of the Contract Documents is required.

**II.2 Capitalized Terms**

Unless the context otherwise requires, capitalized terms used but not otherwise defined in the Contract Documents shall have the respective meanings specified in these Terms and Conditions.

**II.3 Use of Pronouns**

For the Contract Documents, one gender shall include any other gender, and the singular shall include the plural, and all rights granted and received shall be joint and several, as the case may be.

**II.4 Provisions Required by Law**

Each provision of law and any clause required by any federal, state, or local law to be in the Contract or Purchase Order (PO) will be read and enforced as though it were included herein. If, through mistake or otherwise, any such provision is not inserted or is not correctly inserted, then upon application of either party, the Contract or Purchase Order will immediately be physically amended to make such insertion or correction.

**II.5 Christian Doctrine**

Any clause required by rule or regulation not included in this RFB, the Contract, or Purchase Order will be read as if in this RFB, the Contract, or Purchase Order, as applicable, whether or not physically included.

**II.6 Non-Exclusive Contract**

Any Contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the Agency and Eligible Entities. Agency and Eligible Entities reserve the right to obtain equal or similar Products from another source.

**II.7 Definition of “Agency”**

“Agency” shall mean the CSIU.

**II.8 Definition of “Agreement”**

“Agreement” shall mean the Awarded Vendor Agreement between Agency and the Awarded Vendor.

**II.9 Definition of “Ancillary Services”**

Bidders may offer pricing for “Ancillary Services” advantageous or necessary for the planning, use, deployment, or maintenance of the Products they sell. Ancillary Services are often performed in conjunction with the delivery or installation of Products. Such Ancillary Services may include, but are not

limited to, analysis and design, asset tagging, consulting, equipment configuration, heat mapping, cloud-based configuration, engineering, hard drive removal and retention, help desk support, image loading, installation, maintenance, training, and travel.

## **II.10 Definition of “Authorized Reseller”**

The term "Authorized Reseller" shall mean a firm, company, individual, business, partnership, subcontractor, or joint venture, such as dealers, distributors, value-added resellers, etc., that has been designated by the Awarded Vendor to help fulfill the Contract for one or more specific PEPPM awards held by the Awarded Vendor. Authorized Reseller responsibilities may include, but are not limited to, marketing activities, providing ancillary services, sales, receipt of orders, fulfillment of orders, invoicing, receipt of payment, and paying PEPPM Transaction Fees as determined by the Awarded Vendor. By way of clarification, an Authorized Reseller as used in this RFB is intended to mean such entity, as described above, who is identified in writing as an Authorized Reseller by an Awarded Vendor for purposes of assisting the Awarded Vendor with sales under the Contract between the Agency and the Awarded Vendor, and is not intended to mean an Awarded Vendor's authorized reseller that was awarded a catalog and accepts orders for itself as an Awarded Vendor.

## **II.11 Definition of “Awarded Vendor”**

"Awarded Vendor" is the Bidder declared by the Agency to be the lowest, responsive, responsible Bidder to whom the Agency's Board of Directors has awarded a Contract.

## **II.12 Definition of “Bidder”**

"Bidder" is any firm, company, individual, business, partnership, joint venture, or other entity that has completed and submitted a response to this RFB.

## **II.13 Definition of “Catalog” or “Catalogs”**

A “Catalog” is a grouping of Products and services representing merchandise and services from multiple manufacturers aggregated by a company for a one-stop shopping experience in the form of a commercially available, published paper book, booklet, single website, or mobile application.

## **II.14 Definition of “Clarification”**

“Clarification” means communication with a Bidder for the sole purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the Bidder’s bid. It is achieved by explanation or substantiation, either in response to an inquiry by the Agency or as initiated by the Bidder. Clarification does not allow the Bidder an opportunity to revise or modify its bid, except to the extent that correction of the minor irregularity, informality, or apparent clerical mistakes results in a revision.

## **II.15 Definition of “Commercially Available Catalog”**

A “Commercially Available Catalog” is a print or digital publication of Products and services uniformly visible to a wide population or set of businesses across the United States. This is as opposed to being a one-off catalog created for the purpose of responding to this solicitation. The purpose of requiring a Commercially Available Catalog is to prevent a Bidder from creating an artificial base price to affect an unfair or corrupt offer in response to this RFB.

## **II.16 Definitions of “Contract Documents”, “Contract”, and “Purchase Order”**

Contract Documents Between Agency and Awarded Vendor. As between the Agency and Awarded Vendor, the "Contract Documents" consist of this RFB, its Terms and Conditions, any applicable state-specific terms and conditions, all information incorporated into the electronic bid form by Agency or Bidder, the Bidder's responses to Questions, the Bidder's PEPPM Bid Quote Sheet(s), the Bidder's pricing

spreadsheets, the Bidder's PEPPM State Selection Form, the Bidder's Ancillary Services Form, the Agreement, all other attachments and exhibits to the RFB, all addenda to the RFB issued before the Bid Opening Date, and all subsequent written amendments to the Agreement (e.g., adding state-specific terms and conditions). The Contract Documents form the "Contract" between the Agency and the Awarded Vendor during the Contract term and any authorized extensions.

Contract Documents Between Awarded Vendor and Eligible Entity. As between an Eligible Entity and an Awarded Vendor, the "Contract Documents" shall include, in addition to the Contract Documents listed above between Agency and Awarded Vendor, the Purchase Order or any PEPPM Mini-Bid Contract if issued by the Eligible Entity (including any order-level terms that are specific to options selected by the Eligible Entity, but excluding any pre-printed terms and conditions on such Purchase Order that are in conflict with the Contract Documents), the Awarded Vendor's performance, payment and maintenance bonds (if applicable), lease financing documents (if applicable), maintenance service agreement (if applicable), end-user license agreements (if applicable), third party service order forms (if applicable), service level agreements (if applicable), Cloud computing and services order form and service level agreement with the Cloud Services provider (if applicable), the Prevailing Wage rate determination (if applicable), and any state-specific terms and conditions that are part of the Contract Documents, and all subsequent written amendments to the Purchase Order or PEPPM Mini-Bid Contract, and shall form the "Contract" between the Eligible Entity and Awarded Vendor, which Contract is referred to in these Terms and Conditions as the "Purchase Order." "Purchase Order" may also include a mutually agreeable Statement of Work executed between the Eligible Entity and an Awarded Vendor.

## **II.17 Definition of "Cooperative Procurement Code"**

The term "Cooperative Procurement Code" shall have the meaning outlined in [Section III.2](#) of these Terms and Conditions.

## **II.18 Definition of "Effective Date"**

The "Effective Date" of a Purchase Order is the date on which the Awarded Vendor receives a Purchase Order that has been executed by the Eligible Entity and has all approvals required by the Eligible Entity. For the avoidance of doubt, the Effective Date of a Purchase Order for purchases under the E-rate Program is the date on which the Awarded Vendor receives a PEPPM Mini-Bid Contract executed by the Eligible Entity and has all approvals required by the Eligible Entity.

## **II.19 Definition of "Eligible Entity"**

"Eligible Entity" means an LEA or other Eligible Organization that qualifies to be a buyer. Several Sections provide a detailed description of "Eligible Entities" [starting here](#). Notwithstanding the foregoing, "Eligible Entity" means any "public procurement unit" or "external procurement activity" as those terms are defined in the Cooperative Procurement Code.

## **II.20 Definition of "eCommerce Consultant."**

The "eCommerce Consultant" is a private purchasing services company engaged by the Agency to help facilitate the bid process and provide a multitude of services, including bid document development, consulting, eCommerce, marketing, order management, and accounting services. The eCommerce Consultant may change during the course of the Contract.

## **II.21 Definition of "eCommerce Merchant Agreement."**

The term "eCommerce Merchant Agreement" is the document attached to the electronic bid form governing the eCommerce Consultant's services and software integral to the PEPPM program.

## **II.22 Definition of “Epylon”**

“Epylon” shall mean Epylon Corporation, the current eCommerce Consultant with an address of 630 San Ramon Valley Boulevard, Suite 210, Danville, California, 94526.

## **II.23 Definition of “LEA”**

The term “Local Educational Agency” or “LEA” is defined [elsewhere](#) in the Terms and Conditions.

## **II.24 Definition of “Non-Responsive”**

Any bid that does not reasonably and substantially conform to the mandatory or essential terms, conditions, or specified requirements for this solicitation shall be considered non-responsive. Bids determined to be non-responsive will not be considered for an award.

## **II.25 Definition of “PEPPM”**

PEPPM (pronounced *PEP-um*) is a national cooperative purchasing program administered by the Agency, specializing in technology-related Products.

## **II.26 Definition of “Product” or “Products”**

The terms “Product” and “Products” mean any items, goods, supplies, equipment, or Ancillary Services thereto.

## **II.27 Definition of “Responsible Bidder”**

A Responsible Bidder is a vendor that has submitted a responsive bid and one that possesses the capability and qualifications to perform the Contract requirements in all respects fully, plus the financial strength, integrity, and reliability to assure good-faith performance. The Agency must determine a Bidder to be responsible before awarding a Contract to the Bidder.

## **II.28 Definition of “Responsive Bid”**

A Responsive bid is a bid that reasonably and substantially conforms to the mandatory or essential terms, conditions, and specified requirements for this solicitation. Bids must be responsive to receive award consideration.

## **II.29 Definition of “Punchout”**

The term “Punchout” is a website technology term for the functionality that allows one website to pass credentials to another site, enabling a user to access uniquely scoped or protected content and interactive functions.

## **II.30 Definition of “Transaction Fee”**

“Transaction Fee” is the fee paid by an Awarded Vendor to the Agency on the net dollar amount of invoiced Products and Ancillary Services sold under a PEPPM Contract. “Transaction Fee” is more fully defined [elsewhere](#) in the Terms and Conditions.

## **II.31 Definition of “Sales Reconciliation Report”**

“Sales Reconciliation Report” is the report submitted twice yearly by Awarded Vendors and/or Authorized Resellers to the Agency on the official PEPPM template provided. The template will report on any sales not captured through the PEPPM Purchase Order Clearinghouse or any sales not submitted on monthly self-reports.

### **III Legal Authority and Eligible Buying Agencies** [/Return to Top/](#)

#### **III.1 Agency History**

The Agency is a political subdivision of the Commonwealth of Pennsylvania created as an educational services agency. The Agency is an intermediate unit established by and existing under Article IX-A of the Pennsylvania Public School Code of 1949, as amended, 24 P.S. §§9-901-A et. seq. Its principal place of business is in the Borough of Milton, Northumberland County, Pennsylvania, and has a mailing address of 90 Lawton Lane, Milton, PA 17847. The Pennsylvania Legislature created intermediate units under Act 102 of 1970, Section 901-A of the Pennsylvania Public School Code of 1949, to provide services to public school districts. There are 29 intermediate units, each serving an assigned number of local school districts. Intermediate units began operation on July 1, 1971.

Intermediate units are governed by boards of directors whose membership comes from representatives from their local school districts' boards of directors. Act 102 provides that intermediate unit services include curriculum development and instructional improvement, research and planning, instructional materials, continuing professional education, pupil personnel, management services, and state and federal agency liaison, as well as contracting for specialized services, and consolidating and letting combined bids for bulk purchases. However, intermediate units are not restricted from providing additional services requested by their local school districts.

Intermediate Units provide quality education services and save taxpayers money by delivering cooperative services that cost each local school district less than they would have produced independently. Intermediate units, unlike public school districts, are not empowered to levy taxes. Revenue comes from a variety of sources: state general operating and capital subsidies, state and federal grants, and fees for services provided to other local education agencies, local governments, and individuals.

#### **III.2 Authority for Bidding and Contracting**

The PEPPM cooperative purchasing program was originally established in 1982. It is a national cooperative purchasing program administered by the Agency.

The Agency primarily solicits bids for Pennsylvania LEAs under Pennsylvania statutes and the authority of the Agency's agreement with the Pennsylvania Department of Education and electronic Letters of Agency provided by each Eligible Entity before release of this RFB.

The PEPPM cooperative purchasing program is operated by the Agency under Chapter 19, Intergovernmental Relations, of the Pennsylvania Commonwealth Procurement Code, 62 Pa.C.S. §§ 1901 et. seq., as the same may be amended from time to time (the "Cooperative Procurement Code") and other laws of the Commonwealth of Pennsylvania. The program is operated for those local school districts assigned to the Agency, and other organizations eligible to participate under applicable law, whether such organizations reside inside or outside of the Commonwealth of Pennsylvania.

Organizations eligible to participate under the Cooperative Procurement Code include state purchasing agencies, agencies of the United States, political subdivisions, public authorities, tax-exempt nonprofit educational institutions or organizations, tax-exempt nonprofit public health institutions or organizations, tax-exempt nonprofit fire companies, tax-exempt nonprofit rescue companies, tax-exempt nonprofit ambulance companies, and to the extent provided by law, any other entity, including a council of governments or an area government, that expends public funds for the procurement of supplies, services, and construction.

The Agency intends that the Contracts awarded under this RFB be made available for use by LEAs and other Eligible Organizations in all 50 U.S. states, Washington, D.C., and other territories of the United States, to the fullest extent permitted by law, as the same may be amended from time to time.

### **III.3 Local Educational Agencies (LEAs)**

“Local Educational Agencies “(LEAs)” means the following tax-exempt, nonprofit institutions and organizations (each an “LEA” and collectively “LEAs”):

- Public school districts
- Area Vocational Technical Schools (AVTS units)
- Intermediate units
- BOCES
- State-approved private schools
- Public libraries
- Nonpublic schools
- State-approved charter schools
- Community colleges
- Other organizations defined as “LEAs” under applicable law.

At a minimum, an Awarded Vendor must agree to serve LEAs in Pennsylvania. At its option, as designated on its State Selection Form, an Awarded Vendor may elect to serve LEAs in other states.

### **III.4 Other Eligible Organizations**

“Eligible Organizations” means the following institutions and organizations, whether residing inside or outside of the Commonwealth of Pennsylvania, *subject to the Awarded Vendor’s approval*:

- Tax-exempt, nonprofit colleges and universities, other than community colleges, which fall within the definition of LEAs
- Other tax-exempt, nonprofit educational institutions or organizations that do not fall within the definition of LEAs
- County governments, local municipalities, county/municipal/public authorities, and special districts
- State agencies
- Other political subdivisions
- Other tax-exempt, nonprofit public health institutions or organizations
- Other tax-exempt, nonprofit fire companies, rescue companies, or ambulance companies
- Other entities, including a council of governments or an area government, which expends public funds for the procurement of supplies, services, or construction
- Federally Recognized Indian Tribe
- Other organizations, institutions, or entities permitted under applicable law to avail themselves of Agency Contracts

### **III.5 Eligible Entities**

The LEAs and other Eligible Organizations are sometimes collectively referred to in this RFB as each an “Eligible Entity” and collectively the “Eligible Entities.” Unless approved by the Awarded Vendor, Eligible Entities do not include U.S. federal governmental entities.

### **III.6 Extending Contract Awards to Other States**

Although this RFB is tailored for LEAs in Pennsylvania, the Agency intends to allow for “piggybacking” on Agency Contracts by Eligible Entities residing inside or outside of the Commonwealth of Pennsylvania that wish to participate.

In addition to Pennsylvania LEAs, the Agency will make its Contracts available to other Eligible Entities residing inside or outside of the Commonwealth of Pennsylvania if they meet the following conditions:

- The Agency Contract meets the Eligible Entity's bidding requirements and is judged to be a good value
- The Awarded Vendor will extend its PEPPM bid prices and Contract terms to the Eligible Entity
- The order is processed according to PEPPM ordering procedures

### **III.7 Extending Contract Awards to States and Territories Other Than Pennsylvania**

Bidders must define their intention whether to sell to LEAs in states in addition to Pennsylvania, and whether to sell to other Eligible Organizations in Pennsylvania and other states and territories by following PEPPM's [bid submission instructions](#) and submission of a State Selection Form. Awarded Vendors may amend their intentions from time to time during the term of their Contract by mutual agreement with the Agency.

### **III.8 Intergovernmental Agreement**

By purchasing Products under a PEPPM Contract or entering into a Purchase Order with an Awarded Vendor under a PEPPM Contract, the Eligible Entity attests, affirms, acknowledges, and agrees that:

- It is an organization eligible to participate in the PEPPM Contract under the Cooperative Procurement Code
- It is bound by all of the Terms and Conditions of the PEPPM Contract applicable to the Eligible Entity, including, without limitation, these Terms and Conditions, state-specific terms and conditions, and applicable law
- Under no circumstances shall any other Eligible Entity or the Agency be responsible for payments because of an Eligible Entity's purchases, it being the intent that any such purchases shall constitute the separate agreement of the Eligible Entity with the particular Awarded Vendor
- Agency may disclose non-specific aggregate Eligible Entity information (such as the geographic spread of participants and number and types of participants) to third parties

The Agency and Eligible Entity intend that Eligible Entity's purchase of Products under a PEPPM Contract or entry into a Purchase Order with an Awarded Vendor, hereby bound by these Terms and Conditions, constitutes the necessary intergovernmental agreement between the Eligible Entity and Agency to satisfy the Cooperative Procurement Code requirements and any requirements for an interlocal agreement under the applicable procurement code of the Eligible Entity's state. No additional agreement is required. If, however, the Eligible Entity requests that the Agency execute a separate interlocal agreement, the Agency will do so, provided such interlocal agreement is in form and substance acceptable to the Agency.

### **III.9 Compliance with Laws and Specific Terms and Conditions**

Awarded Vendor shall comply with any laws, whether local, state, federal, or otherwise, applicable to it in its provision of any of the Products or Ancillary Services to be provided under the Contract. It shall be the Awarded Vendor's responsibility to determine the applicability and requirements of any such laws and abide by them.

Eligible Entities in states and territories outside of Pennsylvania may have further requirements or conditions listed with this bid that clarify the ability of LEAs or other Eligible Entities to piggyback other state or cooperative procurement contracts like PEPPM's. State-specific terms and conditions may be listed in an addendum to this RFB and pertain only to the individual states listed. The inclusion or absence of any state-specific terms and conditions should not be construed as tacit approval by the state for purchases through the PEPPM cooperative purchasing program. Adherence to the state-specific terms and conditions listed only applies if a Bidder has agreed to extend its PEPPM Contract to LEAs (and other Eligible Entities, if applicable) in that specific state. Only Contracts held by Awarded Vendors willing to adhere to these additional state-specific terms and conditions will be listed as available in that state.

Other state-specific terms and conditions may be determined after the bid is awarded and added to the Contract via an amendment to the Awarded Vendor Agreement agreed upon by the Awarded.

Vendor and Agency, or added to an LEA's or other Eligible Entity's Purchase Order via an amendment agreed upon by the Awarded Vendor and LEA. The Awarded Vendor's agreement to either of the foregoing amendments shall not be unreasonably withheld, conditioned, or delayed.

### **III.10 eCommerce Merchant Agreement**

Awarded Vendors and Authorized Resellers will be bound to the eCommerce Merchant Agreement, which is attached to the electronic bid form. If the eCommerce Consultant is changed during the course of the Contract, Awarded Vendors and Authorized Resellers must execute a new eCommerce Merchant Agreement with the new eCommerce Consultant in accordance with the process set forth [elsewhere](#) in these Terms and Conditions.

### **III.11 Agency's Interest in a Contract Resulting from This RFB**

AGENCY'S INTERESTS AND LIABILITY FOR USE OF THE CONTRACTS BY ELIGIBLE ENTITIES SHALL BE LIMITED TO THE COMPETITIVE BIDDING PROCESS ENTERED INTO AND PERFORMED RELATING TO THAT CONTRACT AND SHALL NOT EXTEND TO THE PRODUCTS, ANCILLARY SERVICES, OR WARRANTIES OF THE AWARDED VENDOR OR THE INTENDED OR UNINTENDED EFFECTS OF THE PRODUCTS AND ANCILLARY SERVICES PROCURED FROM IT.

IN NO EVENT SHALL AGENCY BE LIABLE TO ANY AWARDED VENDOR OR ELIGIBLE ENTITY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, RELIANCE, CONSEQUENTIAL, OR PUNITIVE DAMAGES, LOST PROFITS, OR OTHER BUSINESS INTERRUPTION DAMAGES, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE. ANY LIABILITY OF AGENCY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY, AND IN NO EVENT SHALL THE AGENCY BE LIABLE FOR DAMAGES IN EXCESS OF THE TRANSACTION FEE IT RECEIVES ON THE APPLICABLE TRANSACTION. ELIGIBLE ENTITIES AND AWARDED VENDORS ACKNOWLEDGE THAT THE LIMITATIONS SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE PEPPM PROGRAM AND RESULTING AGREEMENTS AND THE AGENCY WOULD NOT PROVIDE THE PEPPM PROGRAM OR ENTER INTO THE AGREEMENTS ABSENT SUCH LIMITATIONS.

### **III.12 New Laws; Change to Existing Laws**

If a new law, rule or regulation comes into effect; or there is a change in any existing law, rule or regulation; or there is a change in the interpretation of any applicable law, rule or regulation by any court of law or regulatory body; and such event makes performance by Agency or an Eligible Entity under the Contract or a Purchase Order illegal, impracticable or impossible, the Agency or such Eligible Entity may at its option suspend performance under, or terminate, the Contract or such Purchase Order without further obligation

to the Awarded Vendor or Authorized Reseller other than to pay any amounts owed through the date of suspension or termination for Products ordered and received, if any.

## **IV PEPPM Fees** [\[Return to Top\]](#)

### **IV.1 PEPPM Bid Evaluation Fee**

The Agency requires a non-refundable payment in the amount of \$200 from each Bidder for each Catalog Category it bids to partially cover the cost of receiving and evaluating bids.

### **IV.2 PEPPM Bid Award Fee**

Following the award of bids by the Agency's Board of Directors, the Agency will charge a successful Bidder who becomes an Awarded Vendor \$400 as a bid award fee for each Catalog Category awarded.

### **IV.3 Payment of Bid Evaluation and Bid Award Fees**

Bid evaluation and bid award fees will be collected by the eCommerce Consultant online by credit card or by electronic debiting of a checking account. A Bidder may use a credit card, corporate debit card, or checking account information for an Automated Clearinghouse (ACH) transfer of funds, with payment being made in United States Dollars (USD). No paper checks or cryptocurrency will be accepted. Bid evaluation fees will be collected at the time of bid opening. The Agency will collect bid award fees after board approval of Contract awards. The Bidders must provide payment information at the time of bid submission, or else their bids may be deemed non-responsive.

### **IV.4 Transaction Fees**

Awarded Vendors are required to pay a Transaction Fee in USD to the Agency for all purchases by Eligible Entities made through the awarded Contracts. The Transaction Fee shall be 1.75 percent of "Net Sales," which means gross sales of Products, including bundled third-party products (Section VIII.11) and Ancillary Services, less returns and cancelled orders within thirty (30) days, shipping, and other taxes (excluding taxes based on net income). This applies to all orders, regardless of the method used to submit the order, the quantity of Products or Ancillary Services, or the dollar amount of the order.

The eCommerce Consultant will collect the Transaction Fee on behalf of the Agency.

The Transaction Fee described here is the same as the agreed-upon eCommerce Consultant Marketing Fee contemplated by Section 7 of the Eylon eCommerce Merchant Agreement. The Agency Transaction Fee replaces and supersedes any requirement for higher fees in the eCommerce Merchant Agreement.

Authorized Resellers will be responsible for paying the Transaction Fee for Authorized Resellers' transactions unless the Awarded Vendor notifies the eCommerce Consultant of its intent to pay the Transaction Fee on behalf of their Authorized Resellers. Awarded Vendors shall remain responsible for paying the Transaction Fee on behalf of their Authorized Resellers if the Authorized Reseller fails to remit the Transaction Fee. If an Authorized Reseller is itself an Awarded Vendor for a different Product Line or Catalog Category and is selling to the Eligible Entity in its capacity as an Awarded Vendor for such different Product Line or Catalog Category, then it shall be responsible for the payment of the Transaction Fee.

Transaction Fees publicly disclosed here shall not be charged to or paid by the Eligible Entities themselves, but are the Awarded Vendor's cost of doing business under this Contract. Awarded Vendor or its Authorized Resellers shall not include any additional itemized amount corresponding to the Transaction Fee in the bid responses, awarded Contract prices, or any other quote, including E-Rate Mini-Bids to Eligible Entities.

Failure to pay Transaction Fees within thirty (30) days of an order may result in suspension or termination of the Awarded Vendor's Contract, whether sales were processed directly by the Awarded Vendor or its Authorized Resellers. The Awarded Vendor shall reimburse the Agency for any costs and expenses (including, without limitation, attorney's fees) arising out of any claims or actions taken on behalf of the Agency to collect any unpaid Transaction Fees.

#### **IV.5 Fees Related to CMAS Conversions**

Any vendor desiring to use this Contract to obtain a separate CMAS contract must complete and submit the PEPPM CMAS Conversion Agreement, which is available from PEPPM, and provide a quarterly report to PEPPM detailing the dollar amount of its sales under the CMAS contract. Any vendor using this Contract to obtain a separate California Multiple Awards Schedule (CMAS) contract from the State of California is responsible for paying both the CMAS fee and the 1.75 percent Transaction Fee described in this section for all orders submitted through the CMAS program. Based on the report, the CMAS contractor will be billed the PEPPM Transaction Fee. Public records from CMAS may be used to verify amounts listed in the contractor's report.

#### **IV.6 Cost of Bid Preparation**

The Agency will not reimburse Bidders for the cost of developing, presenting, or responding to this RFB.

#### **IV.7 Minimum Transaction Fee Policy**

In accordance with [Section XII.2](#), Awarded Vendors are expected to achieve a minimum of \$5,000 in sales per quarter per Catalog awarded. If an Awarded Vendor has not achieved the minimum sales of \$20,000 per Catalog award during the contract year, the Awarded Vendor will be subject to the 1.75 percent Transaction Fee on the required minimum sales. A total of \$350, or the balance thereof, will be invoiced for each Catalog awarded that has not reached minimum sales. For each subsequent quarter when minimum sales are not achieved, a corresponding fee may be invoiced annually. If the minimum quarterly sales target is not achieved, the Agency reserves the right not to extend the Contract or to terminate the Contract.

### **V Bidder Qualifications [/Return to Top](#)**

#### **V.1 Declaration of Non-Collusion**

Assuring that prices are arrived at independently and without collusion is so crucial that this RFB requires the Bidder to affirmatively and truthfully answer "Yes" to the non-collusion question in the Question Section. Otherwise, the bid may not be submitted to the Agency.

By submitting a bid, the person named on the electronic bid form declares that he or she has authority to offer the prices bid and acknowledges and agrees that:

- The price(s) and amount of the bid have been arrived at independently and without consultation, communication, or agreement with any other contractor, Bidder, or potential Bidder.
- Neither the prices nor the amount of the bid, nor the approximate prices nor the approximate amount of the bid have been disclosed to any other firm or person who is a Bidder or potential Bidder, and they will not be disclosed before bid opening.
- No attempt has been made or will be made to induce any firm or person to refrain from bidding on this Contract, or to submit a bid higher than this bid, or to submit any intentionally high or noncompetitive bid or another form of a complementary bid.
- The bid of Bidder is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive bid.

- Neither Bidder nor its affiliates, subsidiaries, officers, directors, or employees are currently under investigation by any governmental agency and have not in the last three years been convicted or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion regarding bidding on any public contract except as outlined in a separate attachment to your bid; and
- The representations above are material and important. They will be relied on by the Agency in awarding the Contract(s) for which this bid is submitted. Any misstatement constitutes fraudulent concealment from the Agency of the facts relating to the submission of bids for this Contract.

## **V.2 Suspension or Debarment**

By submitting a bid, the Bidder certifies for itself and all its Authorized Resellers that, within the past five years, they have not been under suspension, debarment, or otherwise lawfully precluded from participating in any public-sector procurement activity.

At any time after Bidder's submission and during the term of any Contracts or Purchase Orders, Agency and Eligible Entities may inquire whether any Bidder, Awarded Vendor or Authorized Reseller has been suspended or debarred or is otherwise lawfully precluded from participating in any public-sector procurement activity.

## **V.3 Overdue Tax Liabilities and Other Delinquent Obligations**

The Bidder certifies by submission of its bid that it does not know of any overdue tax liabilities of Bidder or its intended Authorized Resellers or other delinquent obligations owed to Agency, including, but not limited to, unpaid Transaction Fees or other fees from previous Contracts.

## **V.4 Notice of Any Changes**

An Awarded Vendor must inform the Agency if it changes its address or becomes delinquent in taxes. Also, the Awarded Vendor must tell the Agency if another government agency suspends one of its Contracts or if another government agency debars it. All notices must be in writing and received by the Agency within fifteen (15) days of the change, delinquency, suspension, or debarment.

## **V.5 Americans with Disabilities Act**

Pursuant to federal regulations promulgated under the authority of the Americans with Disabilities Act, 28 C.F.R. § 35.101 et seq., the Awarded Vendor agrees that it shall not cause any individual with a disability to be excluded from participation in the Contract or Purchase Order or from activities provided for under the Contract or Purchase Order based on the disability. As a condition of accepting any Contract or Purchase Order, the Awarded Vendor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of The Americans with Disabilities Act, which apply to all benefits, services, programs, and activities relevant to the Contract or Purchase Order.

## **V.6 Covenant Against Contingent Fees**

The Awarded Vendor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract or Purchase Order upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide Authorized Resellers maintained by the Awarded Vendor for the purpose of securing business. For breach or violation of this warranty, the Agency or Eligible Entity, as applicable, shall have the right to terminate the Contract or Purchase Order, as applicable, without liability or in its discretion to deduct from the Contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

## **V.7 Sole Source of Responsibility**

Agency desires a “Sole Source of Responsibility” vendor, meaning the Awarded Vendor will take sole responsibility for the sale and delivery of the broadest scope of Products across the largest possible geographic area, and to the largest possible cross-section of Eligible Entities.

Having status as the “Sole Source of Responsibility,” an Awarded Vendor may establish relationships with Authorized Resellers to execute its contractual duties. The Awarded Vendor assumes all responsibility for the Products and Ancillary Services provided by its Authorized Reseller, the actions of its Authorized Reseller, and Transaction Fees of any Authorized Reseller. By way of clarification, the immediately preceding sentence does not apply to an Awarded Vendor’s Authorized Reseller where such Authorized Reseller is itself an Awarded Vendor for a different product line or Catalog Category and is selling to the Eligible Entity in its capacity as an Awarded Vendor for such different product line or Catalog Category.

## **V.8 Authorization for Resellers**

Vendors who are awarded a Contract for a specific Catalog Category included within this RFB may establish Authorized Resellers to offer and sell Products to Eligible Entities. Awarded Vendors must ensure that their Authorized Resellers sell any contracted Product and any Ancillary Services at or below bid pricing. They must also ensure that their resellers obey all Terms and Conditions of the Contract and corresponding Purchase Order and pay all Transaction Fees unless the Awarded Vendor has agreed to pay the Transaction Fee on the Authorized Reseller’s behalf. These resellers must be named on an official PEPPM Authorized Reseller Form and named in Ordering Instructions.

If an Authorized Reseller does not pay its Transaction Fee, the Awarded Vendor becomes responsible for the payment of the Transaction Fee. The Awarded Vendor is responsible for maintaining the Ordering Instructions, which include the list of Authorized Resellers. Additional Authorized Resellers may be added after bid award, subject to prior approval of the Agency.

Neither the Awarded Vendor nor any of its Authorized Resellers may use this Contract to sell at a higher price compared to other PEPPM Contracts for which they are authorized to sell. Therefore, an Authorized Reseller or Awarded Vendor who participates in a PEPPM Catalog must sell their PEPPM contracted products at the lower of their Product Line contract price or their Catalog contract price.

Agency reserves the right to reject an Awarded Vendor’s proposed Authorized Reseller based on such Authorized Reseller’s unsatisfactory performance or behavior under past PEPPM Contracts, including, without limitation, unsatisfactory performance or behavior of an Authorized Reseller in connection with any PEPPM Mini-Bid process under past PEPPM Contracts. Agency further reserves the right to require an Awarded Vendor to remove an Authorized Reseller from the Contract in its entirety, or from participating in the PEPPM Mini-Bid process, due to such Authorized Reseller’s unsatisfactory performance or behavior under the PEPPM Contract, including, without limitation, unsatisfactory performance or behavior of an Authorized Reseller in connection with any applicable PEPPM Mini-Bid process.

## **V.9 Bidder Profiling**

By answering the questions in the Question Section, Bidders must give satisfactory evidence that they:

- Maintain permanent places of business
- Have a legal source of supply to furnish the Products offered
- Will provide customer sales support and service to all LEAs and applicable Eligible Organizations
- Have current relationships with LEAs for verification of customer satisfaction
- Can demonstrate an active sales network

- Will serve all selected LEAs and applicable Eligible Organizations

#### **V.10 Historically Underutilized Businesses (HUBs)**

The Agency requests that any small business, minority business, women's business enterprise, disabled-veteran-owned business, or labor surplus firm identify their status as such, so it can be made known to interested Eligible Entities. A HUB may identify itself in its answer to a HUB question in the Question Section.

#### **V.11 Insurance**

The Awarded Vendor must purchase and maintain insurance for the protection of claims for damages because of bodily injury, including personal injury, sickness, disease or death of any of the Awarded Vendor's employees for claims of damages due to injury or destruction of tangible property, including loss of use resulting therefrom, and from claims arising out of the performance of the Contract or Purchase Order or caused by negligent acts for which the Awarded Vendor is legally liable. The Awarded Vendor must maintain throughout the term of the Contract and throughout the term of any outstanding Purchase Orders with an Eligible Entity at least \$1,000,000 per occurrence commercial general liability insurance (basic and umbrella coverage) covering the services and work contemplated by the Contract and Purchase Order.

The Awarded Vendor must purchase and maintain throughout the term of the Contract and throughout the term of any outstanding Purchase Orders with an Eligible Entity automobile and truck liability coverage with a minimum combined single limit liability of \$300,000.

If requested by the Agency or an Eligible Entity, the Awarded Vendor must provide a certificate of insurance evidencing all required coverage with a provision that notice of cancellation shall be provided in accordance with policy provisions. All required insurance must be written on an occurrence basis and maintained with a carrier authorized to conduct business in the Commonwealth of Pennsylvania or the state in which the Eligible Entity resides, having a minimum "excellent" rating of

A.M. Best A-. The Agency and Eligible Entity shall be included as additional insureds as respects insurable liabilities assumed by Awarded Vendor under this Agreement on the Commercial General Liability policy of insurance required to be carried by Awarded Vendor under the Contract or Purchase Order.

The Awarded Vendor is required throughout the term of the Contract and through the term of any outstanding Purchase Orders to comply with the Pennsylvania Workers' Compensation Act, and any such workers' compensation acts from other states in which the Eligible Entity resides, and any supplements or amendments thereto, which may have been or may hereafter be passed.

#### **V.12 Definitions Related to Vendor Integrity**

For purposes of the Sections numbered Sections V.12 through V.23 only, the following definitions shall apply:

- "Confidential information" means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the Agency or Eligible Entity
- "Consent" means written permission signed by a duly authorized officer or employee of the Agency or Eligible Entity, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Agency or Eligible Entity shall be deemed to have consented by virtue of execution of the Contract or Purchase Order, as applicable

- “Vendor” means Awarded Vendor or Authorized Reseller who may be an individual or entity that has entered into the Contract or a Purchase Order with an Eligible Entity, including directors, officers, partners, managers, key employees, and owners of more than a five percent interest
- “Financial interest” means a) ownership of more than a five percent interest in any business; or b) holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management
- “Gratuity” means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind

#### **V.13 Highest Standards of Integrity**

The Vendor shall maintain the highest standards of integrity in the performance of the Contract and Purchase Order and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the Agency or any Eligible Entity.

#### **V.14 Confidential Information**

The Vendor shall not disclose to others any confidential information gained by virtue of the Contract or Purchase Order.

#### **V.15 Pecuniary Benefit**

The Vendor shall not, in connection with the Contract or any other agreement with the Agency or the Purchase Order or any other agreement with any Eligible Entity, directly, or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the Agency or any Eligible Entity.

#### **V.16 Giving Gratuities**

The Vendor shall not, in connection with the Contract, Purchase Order, or any other agreement with the Agency or Eligible Entity, directly or indirectly, offer, give, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the Agency or Eligible Entity.

#### **V.17 Accepting Gratuities**

Except with the consent of the Agency or Eligible Entity, neither the Vendor nor anyone in privity with the Vendor shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under the Contract or a Purchase Order except as provided therein.

#### **V.18 Supplemental Financial Interests**

Except with the consent of the Agency or Eligible Entity, the Vendor shall not have a financial interest in any other Vendor, designated partner, or supplier providing services, labor, or material on a project under a Contract or Purchase Order.

#### **V.19 Notification of Violations**

The Vendor, upon being informed that any violation of these provisions (i.e., Sections V.12 through V.23) has occurred or may occur, shall immediately notify the Agency or Eligible Entity in writing.

**V.20 Certification of Non-Violation**

The Vendor, by execution of the Agreement and Purchase Order and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that it has not violated any of these provisions (i.e., Sections V.12 through V.23).

**V.21 Cooperation with Authorities**

The Vendor, upon the inquiry or request of the appropriate state official of any participating state or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form relevant to the Vendor's integrity or responsibility, as those terms are defined by relevant statutes, or regulations. Such information may include, but shall not be limited to, the vendor's business or financial records, documents or files of any type or form which must be disclosed pursuant to applicable law and refers to or concerns the Contract or Purchase Order. Such information shall be retained by the Vendor for a period of three years beyond the termination of the Contract or Purchase Order unless a longer period is otherwise provided by law. For example, E-rate rules require E-rate applicants and service providers to maintain all E-rate-related documents, including but not limited to procurement, billing, and communications, for a period of ten years from the last date to receive service in a particular funding year.

**V.22 Rights and Remedies in the Event of Violation**

For violation of any of the above provisions (i.e., Sections V.12 through V.23), the Agency or Eligible Entity may terminate the Contract, Purchase Order and any other agreement with the Vendor, claim damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another Vendor to complete performance hereunder, and debar and suspend the Vendor from doing business with the Agency or Eligible Entity; provided that before any termination action under this Section, Vendor shall be provided with written notice of the violation and thirty (30) days to cure the violation. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Agency or Eligible Entity may have under law, statute, regulation, or otherwise.

**V.23 Right of Vendor Employee Rejection**

LEAs that are school districts, nonpublic schools, charter schools, or public technology schools reserve the right to reject any person they deem unfit to be permitted on school grounds and in proximity to students. Upon written notice from the Eligible Entity or Agency, the Awarded Vendor shall have such persons who are performing services pursuant to the Purchase Order removed from the site immediately. The Eligible Entity's right to declare such a person unfit shall not be limited to the required exclusion of such persons from the provisions of federal and state laws legislated as child protective services.

**V.24 Separation of Employer Responsibilities**

It is understood that the Awarded Vendor, in performing services and providing Products pursuant to the Contract or any Purchase Order, is acting as an independent contractor and is not an agent, servant, partner, or employee of Agency or Eligible Entity. The Awarded Vendor has control over the services and Products it delivers under the Contract and any Purchase Order and shall be solely responsible for its own federal, state and local income taxes, salary, social security payments, and any and all other payments incurred by the Awarded Vendor in the performance of the Contract and any Purchase Order, as well as adhere to all necessary legal requirements governing employment. None of the benefits provided by the Agency or Eligible Entities to their own employees, including but not limited to retirement benefits, workers' compensation insurance, disability insurance, medical insurance, and unemployment insurance, is available from them to the Awarded Vendor and/or any and all of the Awarded Vendor's agents, servants,

and employees. The Awarded Vendor has no authority under the Contract or any Purchase Order to assume or create any such obligation or responsibility, expressed or implied, on behalf or in the name of Agency or Eligible Entities, or to bind Agency or Eligible Entities in any way whatsoever.

## **V.25 Nondiscrimination and Sexual Harassment**

During the term of the Contract and any Purchase Order, the Awarded Vendor agrees as follows:

In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under the Contract or any Purchase Order or any subcontract, the Awarded Vendor, designated partner or any person acting on behalf of the Awarded Vendor or designated partner shall not by reason of gender, race, creed, or color discriminate against any citizen of the state within which the award is made who is qualified and available to perform the work to which the employment relates.

- Neither the Awarded Vendor nor any designated partner nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the Contract or any Purchase Order on account of gender, race, creed, or color.
- The Awarded Vendor and any designated partners shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
- The Awarded Vendor shall not discriminate by reason of gender, race, creed, or color against any designated partner or supplier who is qualified to perform the work to which the Contract relates.
- If the Agency or Eligible Entity has reason to suspect that the Awarded Vendor violated the Nondiscrimination/Sexual Harassment Clause, the Agency or Eligible Entity may request, and the Awarded Vendor shall promptly provide, applicable information to prove compliance. If the Awarded Vendor or any designated partner does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the Agency, Eligible Entity, or appropriate departments of state government.
- The Awarded Vendor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract that is specifically undertaken to support the Contract or any Purchase Order so that such provisions will be binding upon each designated partner.
- The Agency or Eligible Entity may cancel or terminate the Contract or Purchase Order, as applicable, and all money due or to become due under the Purchase Order may be forfeited for a violation of the Terms and Conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the Agency may proceed with debarment or suspension of that Awarded Vendor from the PEPPM program.

## **V.26 Fair Labor Standards Act**

By submitting a bid, the Bidder certifies for itself, that to the best of its knowledge and belief, Bidder and all its Authorized Resellers, properly classify employees in a manner consistent with the Fair Labor Standards Act, 29 U.S.C. §201, chapter 8 (FLSA), and that if awarded a contract, Awarded Vendor shall, and shall require its Authorized Resellers, to continue to classify employees in a manner consistent with the FLSA. An Awarded Vendor must inform the Agency if it or any of its Authorized Resellers is found or determined to be classifying employees in a manner inconsistent with the FLSA. All notices must be in writing and received by the Agency within 15 days of said finding/determination.

## **V.27 References and Past Performance**

A Bidder must be responsible and capable of executing all duties to be covered under the Contract.

To evaluate a Bidder's qualifications to perform under the Contract, the Agency requires the submission of three signed Vendor Reference Forms dated within the bidding period. The Vendor Reference Forms can be found in the bid form. If a Bidder has no direct relationships with buying agencies, such as a bidder or distributor, then the Bidder must provide references from its resellers. The Agency will also consider the Bidder's performance on previously awarded PEPPM Contracts and the Bidder's past conformance to bid terms and conditions, including submission of pricing updates, submission of Ordering Instructions, customer service, and payment of fees.

If a Bidder has no direct relationships with buying agencies—such as a wholesaler or distributor—then the Bidder must provide references from organizations that can speak to the Bidder's qualifications and past performance, such as its resellers, distributors, OEMs, etc.

## VI Catalog Specifications [/Return to Top](#)

### VI.1 Catalog Categories Sought

This RFB seeks bids on technology, software, furniture, audio-visual, and instructional Products sold through online-catalogs in specific categories. Each requested Catalog Category is listed in a table within the electronic bid form. For convenience, the specified Catalog Categories are also listed within a bid announcement on the website at [www.PEPPM.org/bids](http://www.PEPPM.org/bids).

Agency is seeking bids on the following Catalog Categories (each a "Catalog Category" and collectively the "Catalog Categories"):

Specifications for Each Catalog Category are as follows:

- A. **Audio Visual Products:** A Catalog containing a minimum of 100 different brands with a minimum of 100,000 Products that must include: projectors; electronic white boards; sound boards; public address systems; mixers; headsets; microphones; speakers; displays; monitors; control systems; screens; video, still, and document cameras; televisions and TV production equipment; studio equipment; audio and video recording equipment; carts, mounts and cases; and related accessories.
- B. **General Hardware and Software:** A Catalog containing a minimum of 100 different brands with a minimum of 100,000 Products that must include: laptops, desktops, tablets, Chromebooks, and servers; multiple lines of enterprise hardware and software; networking equipment and related software; furniture, cabinets, racks, charging stations, and charging carts; operating system software; printers; calculators, interactive white boards; peripherals and accessories; Original Equipment Manufacturer (OEM) ink and toner and OEM-equivalent ink and toner; extended warranty and maintenance plans; administrative, office, instructional, and software with license options; security and surveillance Products; drones; projectors; and phones, voice-over-IP, and video-conferencing equipment and software.
- C. **Performing Arts: Staging, Furniture, and Technology:** A Performing Arts Catalog or Catalogs containing a minimum of 25 different brands with a minimum of 3,000 Products, designed to support instructional, rehearsal, performance, and event production needs for K-12 schools, higher education institutions, and public agencies.
  - The Catalog should include, but is not limited to, Products in the following categories: Stage and Platform Systems, including portable and modular staging, adjustable-height platforms, and risers; Stage Drapery and Soft Goods, including stage curtains, backdrops, travelers, borders, scrims, and related hardware; Ropes, Rigging, and Suspension Systems, including manual and motorized rigging, battens, counterweight systems, pulleys, blocks, cables, safety hardware, and accessories; Seating Solutions, including permanent auditorium seating, lecture hall seating,

theater seating, and removable or portable seating for multipurpose spaces; Stage Lighting Systems, including theatrical lighting fixtures, LED and conventional stage lighting, dimmers, power distribution, accessories, and stage lighting control boards; Audio Systems, including microphones, speakers, amplifiers, mixers, processors, cabling, accessories, and sound systems and control boards for performance and instructional use; Outdoor Event Audio Systems, including portable PA systems, weather-resistant speakers, power solutions, and mobile sound reinforcement systems; Structural and Overhead Systems, including overhead trusses, support structures, mounting hardware, and related accessories; Control, Production, and Integration Technology, including lighting, audio, and show control interfaces, networking components, and system accessories; Related Furniture and Accessories, including conductor podiums, music stands, orchestra chairs, storage carts, cases, and transport solutions.

- Products may be offered through one or more integrated catalogs, provided the combined offering meets the scope and minimum Product requirements of this Catalog Category.
- In order to meet the scope of products and minimum number of products, a bidder may use subcontractors, which shall have the same meaning as "Authorized Reseller" in these Terms and Conditions. All Products intended to be provided by a subcontractor must be included in the PEPPM Pricing Template and Quote Sheet with a formula discount and effective bid price.

**D. Refurbished Computer Systems and Parts:** A Catalog containing one or more major brands of refurbished computers, each unit being described with its unique attributes and meeting original manufacturer specifications; and any inventory of refurbished computer parts described with their unique attributes. The Catalog must contain a current inventory of at least 1,000 saleable Products.

**E. Remanufactured Laser Toner and Ink Cartridges:** A Catalog containing remanufactured ink and toner for machines of five or more major printer brands. The Catalog must contain a minimum of 500 Products. "Remanufactured Products" is defined to include ink and toner cartridges that are compatible with OEM brands or are refilled and rechipped, reconditioned, refurbished, repackaged, or recertified.

**F. Instructional Science, Technology, Engineering, Art, and Mathematics (STEAM):** A STEAM Catalog or Catalogs containing a minimum of 10 different brands with a minimum of 500 Products that must include: robots, robot supplies, and robot kits; coding devices and coding software; 3-D printers; video production equipment and software; books; furniture and carts; drones; makerspace Products; simple machine parts; art supplies including media, canvas, papers, and brushes; kits and supplies related to science, engineering, technology, mathematics, and art.

**G. Instructional Esports and Competitive Gaming:** An Esports Catalog or Catalogs containing a minimum of 10 different brands with a minimum of 500 Products that must include: esports competition and league management platforms; instructional esports curriculum, coaching tools, and training software; gaming computers and consoles designed for instructional or competitive use; esports' peripherals and accessories including headsets, controllers, keyboards, mice, and webcams; broadcasting, streaming, and video production equipment and software used for esports programs; esports lab or arena design, integration, and implementation services; and related instructional, program management, maintenance, and support services for educational esports programs.

Catalog Category awards allow for some overlapping Product lines to be listed in more than one Catalog. Agency reserves the right to restrict certain Products or product lines for sale from a Catalog due to excessive price differences, conflict with other PEPPM Product-Line awards, limited-service capabilities, or any other conditions that are not in the Agency's interest.

The Contracts resulting from this Request for Bids are not exclusive, and the Agency reserves the right to conduct future competitive bids for the same or similar Products or Catalogs that are specified within this RFB.

#### **Catalog Subcategories**

Following evaluation of Bids, the Agency may, at its sole discretion, make awards by Catalog Sub-Category within a Catalog Category, in accordance with Section X.9 Sub-Category Awards.

Agency reserves the right, at its sole discretion, to make a single award within any of the broad Catalog Categories.

## **VI.2 Catalog Storefronts and PEPPM Integration Specifications**

Awarded Vendors must host an Internet Catalog on their own website, listing and describing all PEPPM-approved brands, Products, descriptions, and prices under Contract. This will be the vendor's PEPPM-approved "Storefront."

Minimum Specifications for the Awarded Vendor's PEPPM Catalog Storefront include the following:

- Clear identification or branding as to PEPPM, including the PEPPM name or logo, and the relationship to the PEPPM Contract must be visible
- A back link to [www.PEPPM.org](http://www.PEPPM.org) must be present
- PEPPM contract pricing must be published for each item
- Effective pricing must conform to the bid offer and be kept up to date
- Any special shipping charges must be itemized, see section VIII.14 for free minimum shipping requirements
- Published Catalog items minimally must include a Product name, description, manufacturer Stocking Keeping Unit (SKU) or part number, vendor SKU, and any applicable units of measure
- Items must be searchable by keyword and SKU
- Functionality must include a shopping cart for the placement of desired items by Eligible Entities
- Product data for cart must include Product description, manufacturer, vendor order number, unit of measure, contract price, quantity, and preferably manufacturer SKU or part number
- Creation of quotation or document from cart should say "As per PEPPM" contract number #####-###"
- Cart must have a printing option so that the buyer may print the quote and attach it to a PO for submission to PEPPM
- Direct orders are not allowed unless the Awarded Vendor has obtained permission as described below in Section VI.3.B
- The Storefront must be able to recognize or accept credentials of users, either as:
  - A generic PEPPM Customer
  - An eligible buying organization
  - A specific, named, *bona fide* buyer from an Eligible Entity

To be eligible for an award, a bidder must be able to use punchout technology or display its catalog items by one of the following three methods:

1. A link and a direct URL to an online catalog having capability for an Eligible Entity to search and order directly with the awarded vendor
  - The website must show PEPPM pricing, calculated under its approved discount bid formula

- Pricing must always be kept current
- Pricing must be calculated on awarded formula discounts against Bidder's identified Commercially Available Catalog base price
- The link to the catalog must navigate directly to PEPPM pricing, and no other co-op contracts will appear to the user
- The website must have the capability to search by keyword, SKU, description, and category
- User must be able to add products to a cart and execute a purchase using a purchase order or a procurement card
- The vendor must be able to provide monthly sales reports in a format defined by PEPPM

2. A link and a direct URL to an online catalog having capability for an Eligible Entity to search and create a list of desired items in the form of a printable quotation; this quotation will accompany a buyer's purchase order sent to the PEPPM Purchase Order Clearing House (no direct ordering)

- Awarded vendor must accept all purchases orders based on the quote, sent from the PEPPM Clearinghouse to Vendor's Epylon in-box on behalf of PEPPM
- The website must show PEPPM pricing, calculated under its approved discount bid formula
- Pricing must always be kept current
- Pricing must be calculated on awarded formula discounts against Bidder's identified Commercially Available Catalog base price
- The link to the catalog must navigate directly to PEPPM pricing, and no other co-op contracts will appear to the user
- The website must have the capability to search by keyword, SKU, description, and category
- User must be able to add products to a list which must be printable by the buyer
- Creation of quotation or document from cart should say "As per PEPPM" contract number #####-####" and include directions for submitting quote, such as "email the PO and quote to orders@peppm.org for processing.
- The vendor may be requested to submit a Sales Reconciliation Report to PEPPM twice per year, in accordance with Section XII.16 (Semi-Annual Reconciliation Reports), in a PEPPM-defined format.

3. Use of PEPPM's hosted, online publication of awarded products at [www.PEPPM.org](http://www.PEPPM.org) and tied to the name and type of the catalog

- Vendor must fill out an official PEPPM pricing template for uploading to the PEPPM website
- The number of catalog items is limited to one million products and SKU'd services
- Pricing must be updated no less than once every five weeks
- Updated pricing must be provided on the approved PEPPM pricing template
- Product descriptions must be of sufficient quality to enable search results, for example, full words, no abbreviations, inclusive of brand names, product types, and product attributes
- Pricing must be calculated on awarded formula discounts against Bidder's identified Commercially Available Catalog base price
- Creation of quotation or document from cart should say "As per PEPPM" contract number #####-####" and include directions for submitting quote, such as "email the PO and quote to orders@peppm.org for processing.
- The vendor may be requested to submit a Sales Reconciliation Report to PEPPM twice per year, in accordance with Section XII.16 (Semi-Annual Reconciliation Reports), in a PEPPM-defined format.

### VI.3 Option for Storefront Integration

Punchout from PEPPM: Agency offers a website integration option that allows an Awarded Catalog Vendor to use punchout technology to connect their Storefront to PEPPM's website at

[www.PEPPM.org](http://www.PEPPM.org). Under this option, PEPPM can pass the credentials of registered PEPPM users to the vendor's website – either as specific individuals or as members of a qualified organization. Users punch out to the vendor's Catalog and shop. The shopping cart is returned to PEPPM by way of cXML messaging, and then it is turned into a PEPPM list with a unique identification number. Buyers can attach their list to their Purchase Order and return their PO to the PEPPM Clearinghouse to complete their order. Processed orders end up in the Awarded Vendor's inbox using the eCommerce software. Or, vendors have the additional option of receiving orders by way of eOrder integration, bypassing the use of the inbox and automating delivery of orders to a vendor's backend enterprise system.

#### **VI.4 Line Card of Manufacturers or Product Lines in Catalog**

Each Bidder must provide an Excel spreadsheet containing a list of manufacturer product lines being bid within their Catalog, a "Line Card" for the Bidder's Catalog. This file must be attached to the Catalog Category being bid and must match any manufacturer product lines listed in the Bid Quote Sheet and the Bid Response Tab. This document will be used to substantiate that the Bidder has the minimum number of product lines in its Catalog required to meet [the Catalog specifications listed above](#).

If using Discount-from-List bid pricing, the Awarded Vendor must provide a snapshot file of the published Catalog price list used as the basis for their bid discount to PEPPM for bid-price verification on the first of each month. If using Markup-over-Cost bid pricing, the Awarded Vendor must submit all cost information on the first of each month to PEPPM for bid-price verification.

#### **VI.5 New Products Provisions**

Products offered by a Bidder and those sold by an Awarded Vendor or Authorized Reseller must be new and may not be used or refurbished, unless:

- Selling under a Refurbished Computer Systems and Parts Contract
- The Catalog includes clearly identified remanufactured or reconditioned ink and toner cartridges
- The Product is published in the Awarded Vendor's Commercially Available Catalog as a refurbished, open-box, return, demonstration model, or display model item and only in situations where a corresponding warranty is specifically described for the Product

Agency accepts that some manufacturers may use some recycled, incidental components meeting like-new standards. All components inside a Product must be manufacturer-approved, unless otherwise noted, and subject to the full manufacturer's warranty. Awarded Vendors must ensure that all Products sold contain the components, parts, and features meeting commercial standards for the corresponding named manufacturer.

Any serialized Products and licenses must feature new and unique serial numbers, unaltered from the manufacturing source.

Also, an Awarded Vendor must make sure that any Products offered or sold in response to this RFB are the same models indicated by their external label and source of manufacture.

In a case where a Bidder has been awarded a Contract for a Catalog Category that included high-quality Refurbished Computer Systems and Parts, the Products offered must be refurbished with components meeting all original manufacturer specifications, and such units must have a minimum three (3) year warranty.

## **VI.6 Necessary Supplies**

Bidders are encouraged to include Catalog pricing for all related supplies that are necessary to use the Products offered and sold from the awarded Catalog (for example, power supplies for computers sold, or cable connections for a printer). A Bidder may use variable discounts or markups to address pricing variances among supplies, equipment, and services.

## **VI.7 Sale of Demonstration Products**

Products that have never been sold or leased, but have been used for demonstration purposes, may be sold under the Contract under three conditions:

- The price of the Product is further discounted below the PEPPM bid price
- The Eligible Entity has full knowledge of the length of time the Product was in service
- A warranty policy is described

## **VI.8 Installation and Service**

Any Products needing to be installed or any ancillary services rendered shall be provided in accordance with the manufacturer's instructions and in accordance with the schedule mutually agreed upon between the Awarded Vendor and the Agency or Eligible Entity.

## **VI.9 New Technology and Product Additions**

An Awarded Vendor may request to add newly invented Products, newly marketed Products, and other new Products for sale under its contracted Catalog Category under the following conditions:

- The new Products fit within the Catalog's specifications
- A clear pricing formula was originally bid and applies to the new Products
- Substitute or replacement Products are equal to or superior to the original offerings
- No request is made to subvert competitive procurement procedures

The Agency may reject any requests for additions or replacements in its sole discretion, with or without cause.

## **VI.10 Replacement Parts**

Through their supply sources, Awarded Vendors must be able to provide or sell replacement parts for Products during any warranty period and for two years thereafter. Replacement parts may be the same or a functional equivalent. They may be provided by the manufacturer, a manufacturer's designated representative, or a maintenance service provider designated by an Eligible Entity, so long as such maintenance service provider is authorized by the Awarded Vendor.

An Awarded Vendor and Eligible Entity may enter into a maintenance service agreement with respect to the provision of repair parts.

## **VI.11 Proof of Supply**

A Bidder must attest they have access to a legal and legitimate supply of goods for all the products they include in their catalogs.

To be responsive, a Bidder must provide a narrative in PDF format, describing the legal source of goods for the items in their catalogs. Absence of this narrative within the electronic bid form may cause the bid to be non-responsive and ineligible for comparison of bid prices.

## **VI.12 Consequences of Using Ineligible Product Sources**

The Agency reserves the right to withdraw an award if a third party or government agency shows contractual or legal proof that an Awarded Vendor is prohibited from selling certain Products to Eligible Entities.

## **VI.13 Liens**

All Products offered and sold shall be free of all liens.

## **VI.14 Licenses**

Awarded Vendor (and its Authorized Resellers) shall maintain all federal, state, and local licenses, certifications, bonds, and permits applicable and required for operations in Pennsylvania and in all other states in which Awarded Vendor chooses to do business under the Contract.

## **VI.15 Standard Warranty**

The manufacturer's warranty shall apply during the applicable warranty period, whether the Product is obtained directly from the manufacturer or through an Authorized Reseller. An Awarded Vendor who is not the manufacturer of a Product must pass through the manufacturer's warranty to the eligible entity for each Product sold.

The Awarded Vendor warrants that, to its knowledge, all Products furnished under the authority of the Contract shall at the time of delivery be free and clear of any defects in material and workmanship and shall conform to the published specifications of the manufacturer of the Products.

Awarded Vendors selling laptops, personal computers, desktops, and servers must provide a standard manufacturer's warranty of at least one year. If the standard manufacturer's warranty is longer than one year, the longer warranty period will apply.

Awarded Vendors selling computers must maintain manufacturer certifications about compatibility and compliance with up-to-date operating systems, as well as federal safety and communications guidelines.

Awarded Vendor and Eligible Entity may enter into a maintenance service agreement, which governs or extends the Product warranty. For Products under a PEPPM Contract that the Eligible Entity has elected to lease or rent from the Awarded Vendor, the warranty may be governed by a mandatory maintenance service agreement between the Awarded Vendor and the Eligible Entity. Whether voluntary or mandatory, the maintenance service agreement shall commence upon installation of the equipment in accordance with the maintenance service agreement.

## **VI.16 Onsite Warranty Service**

Bidders offering personal computers and servers must have the capability, either directly or through the manufacturer or a manufacturer's representative, to perform onsite warranty service (warranty is defined as the standard provided by the manufacturer for the period of time indicated in the Contract). Awarded Vendors must perform warranty services at the Eligible Entity's site of the equipment needing such service when requested by the Eligible Entity. Eligible Entities are responsible for payment of on-site warranty services that do not fall within the scope of the manufacturer's standard warranty. Manufacturer's "depot service only" Products or "customer replaceable parts" are excluded from this requirement.

## **VI.17 Direct Relationships with Providers for Services Other Than Onsite Warranty Services**

For Bidders offering personal computers, off-site warranty service locations may be a branch or satellite office of the Bidder or manufacturer service and support facilities, or facilities of some other third party whose relationship the Bidder will maintain to provide the services required within the scope of the

Contract. The Contract may be terminated for default if, at any point during the term of the Contract, the Awarded Vendor fails to maintain these relationships. These relationships may, but are not required to, infer ownership and/or franchise relationships. They only require that an ongoing affirmative business relationship exists. Agency reserves the right to inquire into the extent of these business relationships maintained, and listed herein, by the Bidder, up to the extent that confidentiality is not compromised. The Awarded Vendor is ultimately responsible for the satisfactory and timely completion of all service requirements and activities and is under a duty to monitor all service performances of the service providers.

## **VI.18 Ancillary Services Related to Products**

As part of their bids, Bidders may offer pricing for Ancillary Services advantageous or necessary for the planning, use, deployment, and maintenance of the Products they sell.

The provision of Ancillary Services is not a requirement for a bid to be responsive, except where a Bidder is required to provide such services at no additional cost under a contractual arrangement with its supplier or manufacturer.

However, the Agency will evaluate bids for the presence of either a) an ancillary service spreadsheet form alongside each Catalog Category being bid or b) a statement that the Bidder is not offering Ancillary Services. If awarded, any Ancillary Services offered will be part of the Contract and presumed bid-protected as allowed by law.

Such ancillary services may include, but are not limited to, analysis and design, asset tagging, consulting, equipment configuration, heat mapping, cloud-based configuration, engineering, hard drive removal and retention, help desk support, image loading, installation, maintenance, training, and travel.

If offering Ancillary Services, a Bidder must submit a PEPPM Ancillary Services Form, quoting a discounted bid price compared to the vendor's standard rate-card fees. The agency will use this form to evaluate and determine the bid price of any Ancillary Services offered. Stating prices "will be negotiated" is not acceptable; such offers will not be considered for inclusion in an award.

Bidders must submit a separate spreadsheet form for each respective Catalog Category being bid with an offer of Ancillary Services.

Bidders are cautioned not to lower per-unit Product purchase prices and offer above-market Ancillary Service prices. Agency staff will review the availability and reasonableness of Ancillary Services and prices in the process of evaluating bids.

For Awarded Vendors that offer Ancillary Services provided indirectly through an Authorized Reseller or designated service provider, the pricing for the services provided by the designated service provider must be at or below the prices provided by the Awarded Vendor as part of their bid.

Pricing that is based on "per-hour" rates or similar units does not determine the final cost to the Eligible Entity—just the rate. If an Awarded Vendor has offered Ancillary Services in conjunction with the bid-awarded Contract Products it provides to the Eligible Entity, the Awarded Vendor and the Eligible Entity shall mutually agree upon the scope of the Ancillary Services to be provided at the PEPPM-discounted price.

In several jurisdictions, Eligible Entities are required to pay Prevailing Wage for certain ancillary services. Adjustments to the Ancillary Services standard prices for any offered Ancillary Services that are

necessitated by the application of Prevailing Wages are permitted, subject to the applicable Prevailing Wage rate determination being submitted to the Agency along with the Purchase Order.

Adjustments to the Ancillary Service standard prices may be submitted to the Agency on an annual basis and are subject to the Agency's sole approval. The Awarded Vendor may only request adjustments to the Ancillary Service prices once a year, during January, and must submit a written request to the Agency for any changes. The request must document why the Ancillary Service standard price changes are warranted, such as changes in labor rates, etc. Only prices for services included in the Ancillary Services Form of the bid submission can be adjusted; additional services cannot be added during the adjustment period. The original PEPPM discount included in the Ancillary Services Form of the bid submission must be maintained.

For Ancillary Services to remain bid-protected, the Awarded Vendor must offer the prices and rates included on the Ancillary Services Form of the bid submission or a previously approved adjustment if a requested adjustment is not approved.

Requests for adjustment must be submitted to [PEPPMDocuments@peppm.org](mailto:PEPPMDocuments@peppm.org), asking for the Ancillary Services Adjustment Form.

#### **VI.19 Returned Goods Policy**

Bidders must have a policy regarding how they handle the return of goods from Eligible Entities. A document describing the policy must be attached alongside the name of each Catalog Category being bid. If the goods are software, and the return of non-tangible intellectual property is not realistically achievable, the Bidder must make it clear in a statement or a license agreement the steps an Eligible Entity needs to take to terminate a license or deactivate its software and any applicable timelines thereto.

#### **VI.20 Hazardous Materials**

Awarded Vendors and their Authorized Resellers are required to comply with Act 159 of October 4, 1984, the law known as the Worker and Community Right-to-Know Act, as well as any regulations pursuant to 4 Pa. Code § 301.1 et. Seq. and any similar act in other states where they sell Products under the PEPPM program. The Act focuses on labeling of hazardous materials and chemicals, labeling, and material safety data sheets.

#### **VI.21 Export Restrictions and Statement of Assurance**

PEPPM Contracts may involve Products, software, and technical data that are governed by the provisions of the U.S. Export Administration Regulations ("EAR") and all other applicable U.S. export control laws and regulations.

Each Awarded Vendor and Eligible Entity shall comply with all U.S. export laws and all other applicable U.S. export control laws and regulations, as amended from time to time, including, but not limited to, §736 (General Prohibitions), §742 (Control Policy), §744 (End-user and End-use Based), §746 (Embargoes and Other Special Controls), and §774 (Commerce Control List) of the EAR, as they pertain to export or re-export. Each Eligible Entity certifies that, unless authorized by U.S. laws and regulations (either by specific regulation or written authorization from the U.S. Government), it shall not export or re-export any of the Products, software, technical data purchased under an Agency Contract from the Awarded Vendor, or the direct Product thereof in violation of applicable U.S. export control laws and regulations.

Each Eligible Entity acknowledges that:

- It is unlawful to export or re-export (without written U.S. Government authorization) Awarded Vendor's Products, technology, or software if they know that they will be used:
  - In the design, development, production, or use of missiles in or by a country listed in Country Group D:4
  - In the design, development, production, stockpiling, or use of chemical or biological weapons in or by a country listed in Country Group D:3
  - In the design, development, production, stockpiling, or use of nuclear weapons in or by a country listed in Country Group D:2 (Supplement No. 1 to EAR §740); and
  - Export or re-export of Awarded Vendor's technology, software, source codes, or direct Products thereof to a country or national thereof listed in Country Group D:1 or E:2 may be prohibited, unless authorized by U.S. regulations (§740 of the EAR) or written authorization from the U.S. Government.

The provisions of this Section shall survive the term and termination of the Contract and Purchase Order.

## **VI.22 Products Not Intended for Critical Application**

The Products sold under PEPPM Contracts are not designed for any "Critical Applications." "Critical Applications" means life support systems, medical applications, human implantation, commercial aviation, nuclear facilities, or systems, or any other applications where Product failure could lead to injury to persons or loss of life or catastrophic property damage.

Awarded Vendors disclaim any liability arising out of the use of the Products in any Critical Applications. If the Eligible Entity uses the Products in a Critical Application, such Eligible Entity, and not the Awarded Vendor, assumes full responsibility for such use.

# **VII Ordering Procedures and Requirements [\[Return to Top\]](#)**

## **VII.1 An Overview of the Ordering Process**

To put the following Contract provisions into context, Agency provides this simplified overview of the normal PEPPM ordering process (unless Agency has granted exceptions [noted elsewhere](#)).

- Awarded Vendors create PEPPM-approved online storefronts
- PEPPM.com links to the Awarded Vendor's Storefront
- Eligible Entities may shop within Storefronts and create shopping lists, talk with Awarded Vendors apart from the Storefront, or get personalized quotations from Awarded Vendors directly
- When a user uses a Punchout Storefront to shop, the website's Shopping Cart functionality will consummate the purchase directly into the Awarded Vendor's enterprise ordering system, under the authority of an Eligible Entity's purchase order number.
- Whether getting a quotation from an Awarded Vendor personally or retrieving a PEPPM list that originated from a vendor's Storefront, the Eligible Entity will identify their pricing "As per PEPPM" contract number #####-### and attach it to a Purchase Order
- If a vendor has NOT established a direct-order website configuration, Eligible Entities email their Purchase Orders to the PEPPM Clearinghouse at [orders@peppm.org](mailto:orders@peppm.org) for review, archiving, and electronic transmission to appropriate vendors.

- Awarded Vendors fulfill orders as directed on the Purchase Order
- Awarded Vendors invoice Eligible Entities at Contract pricing or below
- Eligible Entities pay Awarded Vendors directly

## **VII.2 Display of Catalog Contract Pricing**

The agency will provide a link to the Awarded Vendor's Storefront from [www.PEPPM.org](http://www.PEPPM.org). Awarded Vendors must display Contract pricing, along with descriptions, keywords, and other relevant data on their approved Storefront. Items must be searchable by keyword, SKU, Product Line, or category.

## **VII.3 Instruments for Orders**

The standard method for ordering is for Eligible Entities to issue a Purchase Order to the Awarded Vendor or Authorized Reseller. Eligible Entities shall precisely address their Purchase Orders to the proper vendors, following posted Ordering Instructions. Some Eligible Entities may choose to use alternative purchase instruments, such as formal contracts or procurement cards, as may be allowed by these Terms and Conditions.

## **VII.4 Submission of Purchase Orders**

Unless instructed differently, Eligible Entities must send their Purchase Orders to the PEPPM Clearinghouse, which will review and archive orders, and then transmit Purchase Orders to the company designated on the Purchase Order. An Eligible Entity may scan all relevant documents and transmit the Purchase Order by email.

Posted Ordering Instructions will inform Eligible Entities of any alternative order process in cases where Awarded Vendors have been given written permission from the Agency to receive orders directly.

## **VII.5 Electronic Transmissions**

Except where companies are authorized to receive orders directly, all Purchase Orders shall be transmitted electronically to Awarded Vendors through the eCommerce software maintained by the eCommerce Consultant. Eligible Entities will either enter their orders directly into this system or the PEPPM Clearinghouse will enter orders on behalf of the Eligible Entities.

Awarded Vendors, upon receipt of a Purchase Order in their eCommerce inbox, shall promptly and properly transmit an acknowledgment and order status by using the tools provided on the site.

To the maximum extent permitted by law, the parties agree to accept an electronic Purchase Order submission and acceptance, executed by an authorized user of the eCommerce system, as representing any necessary "[electronic signature](#)" required by law.

## **VII.6 Authority of the Purchase Order**

Receipt of a Purchase Order constitutes authority to the Awarded Vendor or Authorized Reseller to sell and make delivery of the ordered Products, according to these Terms and Conditions and directions listed on the Purchase Order.

## **VII.7 Awarded Vendor Is an Independent Contractor**

In performing its obligations under the Contract or a Purchase Order, the Awarded Vendor is acting as an independent contractor and not as an employee or agent of the Agency or any Eligible Entity.

## **VII.8 Term of the Purchase Order**

The term of the Purchase Order shall start on the date that the Awarded Vendor receives a Purchase Order that has been executed by the Eligible Entity. This is the “Effective Date.”

Subject to any other provisions stipulated in the document, the Purchase Order shall end on the later of:

- Complete delivery and acceptance of the awarded Products
- The expiration of any specified warranty and maintenance period
- Payment by the Eligible Entity for the Product(s) received
- The expiration date identified on the Purchase Order

The Awarded Vendor shall not start the performance under the Purchase Order before the Effective Date, and the Eligible Entity shall not be liable to pay the Awarded Vendor for any service or work performed or expenses incurred before the Effective Date. No Eligible Entity employee has the authority to orally direct the shipment of any Product(s) or the commencement of any work under the Purchase Order before the Effective Date.

## **VII.9 Orders Near a Contract Expiration Date**

The fulfillment of a Purchase Order may extend beyond the PEPPM Contract’s expiration date if the Eligible Entity issues a Purchase Order before the Contract’s expiration.

The expiration date of the Contract term is to be considered the final date to enter into a valid Purchase Order under the Contract.

As such, all Purchase Orders received by the Awarded Vendor up to and including the expiration date of the Contract term are acceptable and must be shipped in accordance with the delivery time specified in the Contract. If the normal delivery time cannot be met, the Awarded Vendor must notify the Eligible Entity, which has the option to accept or reject the extended delivery time.

## **VII.10 Invoice Requirements**

Unless otherwise agreed between Eligible Entity and Awarded Vendor:

- The Awarded Vendor shall send (which may include via email) an itemized invoice to the “Bill To” address on the Purchase Order promptly after the Product(s) are delivered. For hardware, “delivery” shall be the date the hardware arrives on the Eligible Entity’s premises. For software, “delivery” shall be the date the software features are enabled and ready for the Eligible Entity to use.
- In the case where Products are being installed or implemented by the Awarded Vendor, the installation or implementation services invoice shall be presented after the Products are installed, have completed diagnostic routines, and are available for the Eligible Entity’s use. The foregoing does not preclude the Eligible Entity and the Awarded Vendor from agreeing to a different invoicing schedule depending on the scope and length of such installation or implementation services (for example, implementing a project in phases, with each phase having distinct milestones and payment obligations).
- Time and material services will be invoiced monthly in arrears.
- Maintenance, management-type services, and cloud services will be invoiced monthly in advance unless otherwise agreed.

Invoices should include only amounts due under the Purchase Order. The Purchase Order number shall be prominently noted on all invoices, and the amounts invoiced must be at or below the bid Contract prices.

## **VII.11 Payments**

Eligible Entities will directly pay Awarded Vendors upon receipt of invoice and confirmation that Products have been delivered.

All invoices are to be sent directly to the Eligible Entity, which will normally pay invoices within thirty days. (30) days of receipt or in compliance with their board policy on bill payment. The Agency will encourage Eligible Entities to arrange for prompt payment where possible and for payments of partial shipments.

Payment shall not be deemed as acceptance of the Products furnished by the Awarded Vendor. Where the Awarded Vendor is responsible for the installation of the Products, acceptance of delivered Products is deemed to occur when the equipment is installed, has completed diagnostic routines, and is available for the Eligible Entity's use.

The Awarded Vendor agrees that the Eligible Entity may deduct the amount of any state tax liability not required by law or other unauthorized obligation of the Awarded Vendor or its subsidiaries to the Eligible Entity from any payments due the Awarded Vendor under any Purchase Order with the Eligible Entity, subject to the Eligible Entity promptly providing any tax exemption certificate or other documentation to support the deduction.

At the discretion of the Awarded Vendor, the Eligible Entity may use a valid purchasing card to pay for the Products at the time of purchase. Any fees related to this type of payment are the responsibility of the Awarded Vendor. In no case shall the Awarded Vendor increase Contract or invoiced prices to offset purchasing card fees incurred by the Awarded Vendor.

## **VII.12 Tax Exemptions**

No charge will be allowed for federal, state, or local taxes from which the Eligible Entity is exempt. Prices shall be net and shall not include the amount of any such tax. Exemption certificates, if required, will be furnished on forms provided by the Eligible Entity. LEAs are exempt from all sales and excise taxes imposed by the Internal Revenue Service and have accordingly registered with or been recognized by the Internal Revenue Service to make tax-exempt purchases.

## **VII.13 Delivery**

All Products ordered shall be delivered Free on Board (FOB) Destination, with the Awarded Vendor selecting the shipping company. All Products should be delivered within the time period specified on the Purchase Order.

In situations where delivery cannot be made within the time period specified on the Purchase Order, the Eligible Entity should be notified in writing or by telephone of the delay and of an estimated delivery date.

Delivery must be made to the place designated on each respective Purchase Order. Direct delivery to buildings must be placed at a point in the building as directed at the place of delivery. The Awarded Vendor will be required to furnish proof of delivery upon request from any Eligible Entity. All materials and supplies must be securely packed in uniform containers, adequately marked as to contents, Purchase Order number, and delivered without damage or breakage to such units as are specified.

Any system configurations ordered shall be delivered as a complete system, unless otherwise agreed by the ordering Eligible Entity. When required by the ordering Entity, it will be the responsibility of the Awarded Vendor to stage the equipment delivery so that all components are delivered as a single unit simultaneously.

Awarded Vendors receiving Purchase Orders with delivery requirements that cannot be met have the right to refuse the order. The Awarded Vendor must return the Purchase Order with an explanation of why it was refused within five (5) business days of receiving the Purchase Order from the Eligible Entity.

Awarded Vendor's PEPPM prices include the cost of normal delivery. If non-standard rigging charges apply to equipment purchases (or leases), a quote will be provided to the Eligible Entity within five (5) business days of receiving the Purchase Order from the Eligible Entity, or as soon as possible thereafter upon Awarded Vendor learning that the order involves a non-standard delivery.

The Eligible Entity has five (5) business days after receipt of the quote for non-standard rigging charges to cancel the Purchase Order. The Eligible Entity shall not be responsible for non-standard rigging charges not made known to the Eligible Entity before delivery of the equipment and Awarded Vendor shall bear the cost of same.

#### **VII.14 Inspection and Rejection**

No Products received by the Eligible Entity shall be deemed accepted until the Eligible Entity has had a reasonable opportunity to inspect the Products. The Awarded Vendor and the Eligible Entity agree that a reasonable timeframe to inspect the Products shall not exceed thirty (30) calendar days from date of delivery. Products that have not been rejected during such 30-day period shall be deemed accepted. If a defect or nonconforming item is discovered during the foregoing inspection period, the Eligible Entity will promptly notify the Awarded Vendor of the defect or nonconformance. It shall then become the duty of the Awarded Vendor to arrange for the rejected Products to be removed from the premises or returned without expense to the Eligible Entity within fifteen (15) days after notification, or such longer time period mutually agreed upon by Awarded Vendor and Eligible Entity. Rejected Products left longer than fifteen (15) days or such mutually agreed upon time period will be regarded as abandoned, and the Eligible Entity shall have the right to dispose of them as its own property and shall retain that portion of the proceeds of any sale, which represents the Eligible Entity's costs and expenses in regard to the storage and sale of the Products. Upon notice of rejection, the Awarded Vendor shall promptly replace all such rejected Products with others conforming to the specifications and which are not defective. If the Awarded Vendor fails, or refuses to do so, the Eligible Entity shall then have the right, without limitation, to a refund or credit (if not yet paid) of the purchase price of the rejected Products.

Where the Awarded Vendor is responsible for installation of the Products, acceptance of delivered Products is deemed to occur when the Products are installed, have successfully completed diagnostic routines and are available for Eligible Entity's use, provided that the deemed acceptance in the foregoing paragraph will control if Eligible Entity requests that such installation not take place during the 30 day period following delivery of the applicable Products. Notwithstanding acceptance, for Products covered by a maintenance service agreement, the Awarded Vendor shall either keep the Products in good working order or Awarded Vendor will replace the Products with a like-new or refurbished equivalent or better model conforming to the specifications and which is not defective.

#### **VII.15 Shipping Errors**

Awarded Vendor agrees that its shipping errors will be covered at its own expense. Eligible Entities are financially responsible for shipping errors originating from their Purchase Orders or written instructions. No oral shipping instructions should be accepted by either party.

#### **VII.16 Title and Risk of Loss**

Title to ordered merchandise that is leased shall remain with Awarded Vendors or lessor. Title to ordered merchandise that is purchased transfers to an Eligible Entity at the time of shipment or delivery.

Notwithstanding such transfer of title, Awarded Vendors agree to bear the risk of loss, injury, or destruction of the Products ordered before receipt of the Products by the Eligible Entity if Awarded Vendor or its Authorized Reseller selected the carrier. Such loss, injury, or destruction shall not release the Awarded Vendor from any contractual obligations.

## **VIII Pricing Specifications** *[Return to Top]*

### **VIII.1 Pricing Methodology**

This RFB requires responsive bid pricing to be offered by way of pricing formulas. These formulas form the foundation of a bid. The pricing formulas must be calculated against a price basis to show final effective prices. The final effective prices, correctly calculated, will form the data for evaluation and comparison to competing bids. In compliance with federal Uniform Guidance regulations, the Agency has a working estimate and expectation of potential bid prices and discount formulas based on historical bids, sales, and market research.

### **VIII.2 Pricing Formulas**

A Bidder may opt to use one of two discount formulas:

- Percent discounts off a published and identifiable price list or a Commercially Available Catalog
- Markup percentages over the documentable wholesale cost of Products (this option is not available to Bidders who are manufacturers).

### **VIII.3 Identification of the Price Basis**

The price basis is the foundation for discount formulas. Bidders must identify their price basis on the Quote Sheet Tab of the official PEPPM Pricing Template.

If bidding by the Discount-from-List method, the Bidder must describe the published list or Commercially Available Catalog—along with its last published date—from which discounts will be calculated. Some examples of an acceptable price basis include Manufacturer's Suggested Retail Price (MSRP), retail web catalogs, paper catalogs, and the manufacturer's national education pricing.

Likewise, if bidding by the Markup-over-Cost method, a non-manufacturer Bidder must describe the type of documentation that will substantiate the basis for markups. Some examples include wholesaler catalogs or websites, gold-level pricing schedules from manufacturers, paid invoices, pricing contracts, and manufacturer pricing formulas.

### **VIII.4 Variable Percentage Formula**

Bidders may offer varying formula percentages within a single Catalog Category. Using the Quote Sheet, the Bidder must correlate a specific formula percentage alongside a well-described category of Products within the Catalog Category. "Other" is an acceptable category.

As a theoretical example, a single Bidder may bid 10 percent off list for inkjet printers, 15 percent off list for laser printers, 30 percent off list for ink and toner cartridges, and 22 percent off list for extended maintenance agreements.

The Quote Sheet Tab of the PEPPM Pricing Template has space for 30 different subcategories of percentage formulas. If that space is insufficient, a Bidder may add an additional spreadsheet to the bid form or combine descriptions on one line where percentages are equal.

## **VIII.5 Effective Bid Pricing for Evaluation**

Bidders must apply their pricing formula to actual Products within a respective Catalog Category, creating final effective bid prices for evaluators to use to determine the lowest bid.

For Products within a Catalog Category, a Bidder must either enter or cut and paste information for each Product into an approved PEPPM template to include:

- True Manufacturer SKU
- Manufacturer Name
- Product Name
- Product Description
- Unit of Measure
- Basis Price for the Product
- Percentage Discount or Markup

The spreadsheet will automatically calculate the final effective bid price from cells containing the price basis and the percentage formula.

Therefore, if bidding by Discount-from-List, a Bidder would enter a negative percentage (e.g., -10.5%) because the formula is subtracting from a list price.

Alternatively, if bidding Markup-over-Cost, a Bidder would enter a positive percentage figure (e.g., 10.5%) because the formula is adding to a cost basis.

If the Bidder's discount or Markup is zero, the value "0.0%" would be entered in the appropriate discount or Markup column.

## **VIII.6 PEPPM Pricing Template**

The official PEPPM Pricing Template is the Microsoft Excel workbook that Bidders must use to submit their pricing formulas and calculate effective bid pricing. The template contains two working spreadsheets, the Quote Sheet Tab and the Bid Response Tab.

The template can be downloaded from the electronic bid form. It is located under the instructions in the Section titled "Specifications." Bidders may download this form as many times as necessary, using one workbook for every Catalog Category to be bid. The spreadsheets must not be modified, copied, or unlocked. Otherwise, Bidders run the risk that their spreadsheets will not load correctly when they submit their bids.

For each Catalog Category bid submission (for example, a) General Hardware and Software, and b) Audio-Visual) being bid upon, a Bidder must attach a corresponding pricing spreadsheet.

Only the PEPPM Pricing Template in Microsoft Excel format may be used.

Bidders must provide pricing for the minimum number of SKUs required for each Catalog Category. The SKUs offered in the template must be representative of Products for all manufacturers and brands

offered in the Catalog, and also those manufacturers and brands named within the [spreadsheet containing the Bidder's line card](#).

Bidding specifications require that the Bid Response Tab within the spreadsheet contain a minimum number of Products, but a non-to-exceed number, as detailed below:

- Audio Visual Products Catalog ..... 100,000 up to one million
- General Hardware and Software Catalog ..... 100,000 up to one million
- Performing Arts: Staging, Furniture, and Technology ..... 3,000 up to one million
- Refurbished Computer Systems and Parts Catalog ..... 1,000 up to one million
- Remanufactured Laser Toner and Ink Cartridges ..... 500 up to one million
- Instructional STEAM ..... 500 up to one million
- Instructional Esports and Competitive Gaming ..... 500 up to one million

### **VIII.7 Importance of Final Effective Price**

It is the Bidder's responsibility to look at the final, calculated, effective prices on the Bid Response Tab spreadsheet to confirm that they are calculated correctly. These are the official bid prices. If they are not correct, then either the price basis or the percent entered is incorrect because the spreadsheet automatically calculates the accurate effective prices based on the Bidder's entries.

Here is a list of common errors that could make your bid non-responsive:

- A category of discounts is listed on the Quote Sheet, but there are no Products on the Bid Response Tab that match that category (or *vice versa*)
- A category's discount percentage listed on the Quote Sheet is listed as X-percent off, but the discount for Products within that category on the Bid Response Tab is listed a Y-percent off (Quote Sheet and Bid Response discounts must match)
- The Bidder's Line-Card Spreadsheet lists manufacturer XYZ as being part of its Catalog, but no Products from company XYZ are found within the Bid Response Tab

### **VIII.8 Extent of Product Offered**

Products and prices listed will be used to establish both the extent of a manufacturer's line available from a particular Bidder and the effective bid price per item. Bidders should enter a full range of products to best represent the scope of Products available under any Catalog Category.

Bid pricing formulas and base pricing cannot be changed after bids are opened. However, the Agency reserves the right to request more sample SKUs so evaluators can apply a Bidder's bid formulas and base prices across a broader range of Products.

### **VIII.9 Importance of Correct Manufacturer SKUs**

When adding Product information to the Bid Response Tab on the PEPPM Pricing Template, Bidders must enter the correct and accurate manufacturer SKU for each Product.

Using software, the first phase of the evaluation process identifies a manufacturer's SKU number, after stripping away hyphens, spaces, and leading zeros, to compare pricing between competing companies.

Any Bidder-created identifiers that change a manufacturer's SKU must be removed before submission. Bidders must make their best efforts to match their "Manufacturer SKUs" to the manufacturer's published

SKUs, including or excluding identifier characters for such things as government or education pricing, country of use, color, or other manufacturer Product identifiers. Bidder should note that these requirements are for their PEPPM Pricing Templates submitted at the time of the bid.

Irregularities in listing the manufacturer's SKU numbers in a Bidder's bid proposal may result in a bid being deemed Non-Responsive.

### **VIII.10 New Product Pricing**

The Bidder's quoted pricing formulas will also apply in the future to any new Products created, invented, introduced, published in the Catalog, and made available through PEPPM during the Contract period. New Products and associated supplies to be added must be priced according to the original bid discount or Markup pricing structure.

If a new Product or Product group does not fit into one of its formula categories, an Awarded Vendor may appeal to the Agency in writing for consideration to include the new Products on Contract. The written request must include an explanation of the circumstances that prevent the new Products from logically falling into an existing category of formula pricing.

The Agency reserves the right to reject any and all requests for additional Products to be added to an Awarded Vendor's Contract Product list and corresponding price structure. No consideration will be given for requests that circumvent competitive bidding requirements.

### **VIII.11 Pricing for Bundles**

Awarded Vendors may provide bundles that include third-party Products related to the branded Products under Contract. Examples are cases or monitors purchased to accompany a laptop computer. However, all Products in the bundle must be ordered from and invoiced by the Bidder under a single Purchase Order in which the third-party Products are ordered on a one-for-one basis with the bid-awarded Products.

Third-party Products not included in the Commercially Available Catalog cannot be offered individually and purchased separately with PEPPM bid protection. The price for the third-party Product must be consistent with the same formula pricing structure corresponding to the contracted Product. For example, if a computer is sold at a 5 percent discount from a vendor's catalog, then the third-party case must be sold at least 5 percent off the catalog price.

Bid-awarded Products bundled with third-party Products must represent a greater value than the third-party Products themselves. For example, a bid-awarded network interface card cannot be bundled with a third-party computer to create a complete computer bundle. Software Bidders may not bundle hardware with a software offering without permission from the Agency.

### **VIII.12 Errors on the Bid Response Tab**

If a Bidder makes a material error by expressing percentage formulas on the Bid Response Tab that are not described on the Quote Sheet, its bid may be Non-Responsive. Likewise, a bid may be Non-Responsive if a Bidder neglects to list Products on the Bid Response Tab for which a percentage formula is described on the Quote Sheet.

### **VIII.13 Allowances for Freight**

Awarded Vendors should never identify standard freight charges separately when submitting Contract prices to PEPPM for publication. If bidding Markup-over-Cost, Bidders must ensure the allowance for freight is built into either the cost of the Product or the markup percent. Likewise, Bidders offering a

Discount-from-List must ensure the allowance for delivery is to be built into the list price of the Product or the discount percent.

#### **VIII.14 Minimum Order for Free Shipping**

The minimum order qualifying for FOB Destination delivered price via the Awarded Vendor's standard shipping method shall be \$500 to the same shipping address. Orders for less than \$500 to the same address may be accepted by the Awarded Vendor to ship prepaid, with actual shipping charges added to the invoice as a separate item.

Shipping prices added must be the actual documented costs of shipping. Awarded Vendor may charge for expedited, other special shipping circumstances or methods, if requested by the Eligible Entity. Shipping from or to the continental United States to or from Hawaii, Alaska, or overseas U.S. territories, or other countries may also be considered as special shipping. Eligible Entity must be notified on quotes if a shipping charge will be applied to their cost of purchase.

An Awarded Vendor may appeal in writing to the Agency for relief from the free-shipping threshold when the requirement disadvantages a buyer or forces an Awarded Vendor to sell at a loss. Any exceptions shall be at the Agency's sole discretion. If granted, notice shall be provided in the Awarded Vendor's Ordering Instructions to Buyers.

#### **VIII.15 Large-Volume Purchase and Voluntary Price Reductions**

An Awarded Vendor, upon request from an Eligible Entity, may offer a voluntary price reduction or a quotation for a large-volume discount from the listed PEPPM bid price. Such price decreases are discretionary by the Awarded Vendor, who is under no obligation to give the same or similar discount to another Eligible Entity unless required under federal E-rate Lowest Corresponding Price (LCP) rules.

When offering any such additional discounts, the Awarded Vendor will provide a written quotation to the requesting agency, indicating that the discounted price is an "As per PEPPM" contract number #####-##. The Eligible Entity shall include the quotation as an attachment to its Purchase Order.

Agency reserves the right to research, conduct, and execute electronic reverse auctions or requests for quotes or proposals for aggregated numbers of specific Products under the Contract with interested or selected Agency Awarded Vendors in conformance with applicable laws.

Bidders are urged to identify any additional, predetermined discounts according to Bidder-designated criteria on their Pricing Templates so that Eligible Entities can quickly see if any additional discounts are available as a standard practice.

#### **VIII.16 Request to Cancel or Rebid a Range of Products or Adjust MSRP**

Should an Awarded Vendor's bid percentage-off-MSRP be subsequently lowered by the manufacturer, resulting in the Awarded Vendor's financial loss, an Awarded Vendor may request that the Agency cancel or rebid the Product Line or adjust the percentage-off-MSRP. This decision to cancel, rebid, or adjust shall be made at the Agency's sole discretion. Should the Agency decide to adjust the percentage-off-MSRP, then the Agency will work with the Awarded Vendor to equitably adjust the percentage-off-MSRP by balancing the competing interests of the Awarded Vendors and the Eligible Entities.

The following procedure shall apply when an Awarded Vendor requests that the Agency cancel, rebid, or make an adjustment pursuant to this paragraph:

- Along with the Awarded Vendor's written request to cancel, rebid, or adjust, the Awarded Vendor shall provide all documentation needed for the Agency to make a decision
- Within seven (7) days of receipt of the written request and supporting documentation, the Agency shall provide a written determination indicating whether the Awarded Vendor's request was accepted or rejected, or whether additional information is needed to make a determination

Awarded

### **VIII.17 Prevailing Wage Rates**

To the extent applicable to a Pennsylvania Eligible Entity, for Purchase Orders which include Ancillary Services constituting construction, reconstruction, demolition, alteration and/or repair work other than maintenance work, exceeding \$25,000, in accordance with the Pennsylvania Prevailing Wage Act, approved August 15, 1961, Act No. 442, P.L. 987, as amended by Act 342 of 1963, P.L. 653, 43 P.S. 165-1 et seq., and the regulations issued pursuant thereto, the Prevailing Wage Rates as determined by the Secretary of the Department of Labor and Industry, Prevailing Wage Division of the State of Pennsylvania, for the locality of the work and for each classification of workers needed to perform the Contract shall apply, and workers shall be paid not less than these Prevailing Wage Rates. The provisions of the Act, regulations, and the Pennsylvania Prevailing Minimum Wage Rates, as determined by the Secretary of Labor and Industry, are made part of all said Purchase Orders. Further information on implementation of the Act, definition of maintenance work, and Prevailing Wage Rates may be requested from the Pennsylvania Department of Labor and Industry – (800) 932-0665 or [ra-li-slmr-llc@pa.gov](mailto:ra-li-slmr-llc@pa.gov) or online at <https://www.dli.pa.gov/Individuals/Labor-ManagementRelations/llc/prevailing-wage/>. To the extent applicable to an Eligible Entity from another state, such state's Prevailing Wage rate act, regulations, and minimum wage rates are made a part of the Purchase Order. When applicable, use Davis-Bacon wage rates for federally assisted projects.

### **VIII.18 List of Manufacturer Product Lines Required in a Separate Line-Card Spreadsheet**

PEPPM needs to know which brands and product lines the Bidder is offering in its Catalog. A Bidder must attach an Excel spreadsheet containing a list of the manufacturers or product-line names being offered inside the Catalog (this is known as the "Catalog Line Card"). Specifications enumerate the minimum number of manufacturers or product lines that must be offered. The Catalog Line Card in Excel format must be attached alongside the corresponding Catalog Category being bid within the electronic bid form.

## **IX Bid Procedures and Directions [\[Return to Top\]](#)**

### **IX.1 Help on Submitting a Responsive Bid**

To assist Bidders in submitting responsive bids, PEPPM provides directions, access to help files, a bid checklist, and contacts for technical support in filling out the electronic bid form.

Bidders must examine the entire bid package, then seek clarification of any item or requirement that may not be clear. They must check all their responses for accuracy before submitting a bid. Negligence in preparing a bid confers no right of withdrawal after the due date and time.

The following Sections provide an overview of bid procedures, requirements, and directions leading to a responsive bid.

## **IX.2 Registration**

Vendors interested in bidding must obtain a supplier account at [www.Epylon.com](http://www.Epylon.com) if they do not already have one. The entire bidding process will be conducted electronically using Epylon's eBid software. Epylon imposes no fee to register or use its eBid software.

## **IX.3 Delivery of the PEPPM Bid Form**

Bid forms will be sent automatically to all those vendors who have accounts and have indicated an interest in receiving technology bids on the Epylon system. Newly registered vendors will find the bid form shortly after their account application has been approved. If vendors reviewing their inbox do not see the PEPPM bid form, there are three possible reasons:

- Another employee under the company's account has accepted the bid form on behalf of the company. Only one bid form may be active for any given company, but any employee can forward the bid form to another company representative. Contact Epylon Customer Service to see if another company employee has opened the bid form
- The company has not categorized itself as a technology-related supplier. Contact Epylon Customer Service to be added as a "technology supplier." Then the bid form will be promptly forwarded to the company's inbox
- The company has divided its employees into geographic territories, and the bid has been directed to employees designated for Pennsylvania

For assistance in finding the bid form, Bidders should contact Customer Service at (888) 211-7438 or [Service@Epylon.com](mailto:Service@Epylon.com).

## **IX.4 Prebid Meetings**

[Prebid meetings](#), if any, will be held at times and locations described [here](#). Bidders interested in participating must register at [www.PEPPM.org/bids](http://www.PEPPM.org/bids) to reserve a spot. The session will provide a high-level view of contracting policies for Bidders and an overview of procedures for filling out the bid forms.

## **IX.5 Bidders' Questions**

Bidders who have bid questions about the bid or its Terms and Conditions may submit them to PEPPM through the bid form under the tab titled Bidders Questions no later than 4:00 p.m. Eastern Time on the [Questions Due Date](#). Bidders are advised to look on [www.PEPPM.org/bids](http://www.PEPPM.org/bids) for frequently asked questions.

Bidders who have questions or trouble using the bidding software may contact Epylon Customer Service any time at (888) 211-7438 or [Service@Epylon.com](mailto:Service@Epylon.com). Be advised that customer service operators work on Pacific time, and wait times grow longer as the bid deadline approaches. Customer service will not answer policy questions about the bid or its Terms and Conditions.

It is the Bidder's responsibility to check the FAQs list [on www.PEPPM.org/bids](#), the Agency's responses to questions on the Bidders Questions tab, and the Agency's Notes located on the Notes tab on the electronic bid form before submitting their bid to learn of any clarifications or interpretations related to the bid requirements or procedures that may be addressed.

Bidders are cautioned against submitting AI-generated questions that have not been vetted by human review. Questions that appear to be copy-pasted prompts or misinterpretations by AI will be disregarded. The intent of the questions process is to ensure mutual understanding—not to test or challenge the RFB language without cause.

## **IX.6 Exceptions to Terms and Conditions**

Any proposed exception from the requirements indicated in this RFB or from the Terms and Conditions must be stated in writing and submitted by email by the [Exceptions Due Date](#) to [BidQuestions@PEPPM.org](mailto:BidQuestions@PEPPM.org).

Any exceptions accepted by the Agency will be incorporated into a bid addendum to be published in the electronic bid documents within ten (10) days of the Exceptions Due Date. To ensure a fair and equal bidding process, any addendum will apply to all Bidders and all bids or a specified Catalog Category and Bidders bidding on the specified Catalog Category.

No material exceptions will be accepted with final electronic bid submissions received on [the Bid Due Date](#). Any exceptions submitted by the Bidder with the final electronic bid submission may disqualify the bid from consideration at the sole discretion of the Agency.

Following the award of a Contract to an Awarded Vendor, the Agency reserves the right to amend the Terms and Conditions of this RFB with the mutual consent of the Awarded Vendor solely to make non-material changes, correct errors, or craft minor adjustments that would not have had any material effect on any potential bid prior to awards or the results of the bid evaluation process.

## **IX.7 An Overview of the Bid Form**

Completing a bid requires opening an electronic bid form starting from an inbox on the Epylon eCommerce system. Users may work on their bids at any time and save their work as they progress. There are four major components to the bid:

- *Answers to Questions:* If a question is tagged as required, a response must be provided, or the user will get an error message when trying to submit their bid. Some questions accept answers with file attachments.
- *Choosing Catalog Categories to Be Bid:* Bidders may bid upon one, several, or all Catalog Categories specified by checking a box alongside a Catalog Category name and description. For every Catalog Category checked, the Bidder must attach several files alongside that particular Catalog Category description.
- *Payment Information:* Bidders may choose to pay Bid Evaluation Fees and prospective Bid Award Fees by credit card or by checking account information.
- *Completion of the Pricing Template:* The template is a spreadsheet with three tabs. Bid discount formulas must be entered on the Quote Sheet Tab. Data for calculating bid formulas into effective prices are entered on the Bid Response Tab. More information on filling out the form is located in the Pricing Specifications Section.

## **IX.8 Required Attachments**

Some questions prompt Bidders to upload file attachments to the bid form. Attachments must be attached to one of three places on the electronic bid form.

1. Attachments that go alongside the name of each Catalog Category being bid are:

- Returned Goods Policy
- PEPPM Proof of Supply Narrative
- Ancillary Services Form
- State Selection Form
- Signed Awarded Vendor Agreement
- PEPPM Pricing Template
- Line Card of Manufacturers

2. Attachments that go under the Required Documents Tab
  - Reference 1
  - Reference 2
  - Reference 3
3. Attachments that go alongside a question in the Buyer Question Form
  - Detailed marketing plan
4. Attachments that can be uploaded to the Additional Response Information section are:
  - Any optional files to provide the Agency with more information
  - Leasing information (optional)

## **IX.9 Marketing Plan**

Agency requests that all Awarded Vendors develop a marketing program to promote knowledge of their awarded Contracts by way of activities and media such as printed materials, web-based information, e-mails, advertising, social media, telemarketing, webinars, trade shows, and other commercial avenues of communication. This plan must be described or attached to the bid form in response to a question in the Question Section.

## **IX.10 Danger of Procrastination**

It is in the best interests of Bidders to submit their bids far enough before the [Bid Due Date](#) to avoid any hindrances out of the control of the Bidder, eCommerce Consultant, or Agency. Such impediments could include extremely heavy Internet traffic, phone line disruption, busy circuits, unexpected computer outages, or weather-related obstacles. The agency assumes no responsibility for impediments out of its control and encourages Bidders to submit early to avoid any possibility that their bids may be late.

## **IX.11 Submission**

When Bidders complete their bids, clicking on the Review and Submit tab enables the Bidders to make one last review of their work before submission. When satisfied, Bidders must click the Submit button to send the bid electronically to the Agency. Once successfully transmitted, the bid will display as "Sent" in the user's inbox.

## **IX.12 Electronic Signature**

In submitting a bid, the person named as the Bidder's representative on the electronic bid form declares that using his/her Username and Password constitutes his/her Electronic Signature and that he/she is solely liable for full control and access to the password. Neither the Agency nor the eCommerce Consultant has access to the user's password. By submitting the electronic bid form, he/she declares that he/she has the authority to submit the bid to the Agency and to bind his/her company to the Contract, including, without limitation to all Terms and Conditions, final pricing, statements, and all other commitments submitted to the Agency.

## **IX.13 Status of Submitted Bids**

After the Bidder clicks the Submit button, all answers and submissions are locked, encrypted, sealed, and sent to the Agency inbox. The Agency cannot open them until the *Bid Opening Date*. However, Bidders can access their own submissions to print out a complete and accurate record of their responses precisely as seen by the Agency when the bids can legally be opened.

## **IX.14 Withdrawal**

A bid must be complete and final before a Bidder clicks the Submit button can send it to the Agency. If a Bidder wishes to withdraw a bid, the Bidder can open their submitted electronic form, scroll to the bottom of the page, and click the Retract Response Button before the Bid Opening Date.

After the bid has been opened, it may not be withdrawn, and the Bidder must supply the awarded Products and Ancillary Services, if applicable, at the bid price and in accordance with the Terms and Conditions.

## **IX.15 Receipt and Opening of Bids**

Electronically sealed bids must be received by the [Bid Due Date](#). Bids will be electronically unsealed and publicly read at the Bid Opening Date and time. Opening and public reading will consist of PEPPM staff clicking to open the submitted bids in front of any interested members of the public and staff in a public setting.

The Agency reserves the right to reject any or all bids not prepared in accordance with these or the following instructions or to waive any such informalities.

## **IX.16 Late Bids**

The Agency will not consider late bids.

## **IX.17 Firm Offer Time Period**

After the public opening, bids will be evaluated. The Agency will conduct this process as quickly as possible so that award recommendations can be formulated. Bidder's bid, including responses to the RFB, bid formulas, discount formulas, and pricing, shall be valid and irrevocable for ninety (90) days after the [Bid Due Date](#).

## **IX.18 Protests**

Protests shall be filed with the Agency and shall be resolved following applicable law. A protest must be in writing and must be filed with the Agency. A protest of solicitation must be received at the Agency before the [Bid Opening Date](#). A protest of a proposed award or of an actual award must be filed within ten (10) days after the protester knows or should have known the basis of the objection, and in any event within fifteen (15) days after the board awards the Contract at a public meeting.

A protest must include:

- The name, address, and telephone number of the protester
- The original signature of the protester or their representative
- Identification of the solicitation
- A detailed statement of the legal and factual grounds of protest, including copies of any relevant documents, and the form of relief requested

## **IX.19 Use of Submitted Documents**

Everything submitted by a Bidder as part of a bid may be part of a public record. Bidders should not attach files or information to their bids that contain trade secrets or non-disclosable information. If documents, files, or information submitted are copyrighted, Bidders, by submitting, give the Agency and Eligible Entities a license to reproduce the material as part of bid documentation with the copyright notice as initially provided. Agency shall have the right to reproduce and publish any and all bid submission information, documents, and files. To the extent allowed by law, it is the Agency's policy not to release

Bidder's financial information, customer names, or references that, if public, would give an advantage to a competitor or be disadvantageous to a Bidder's business.

#### **IX.20 State Selection Form**

Awarded Vendors are obliged to serve all LEAs in Pennsylvania. Although the Agency is bidding primarily on behalf of LEAs, it is the Agency's intent to extend, where feasible, the bid protections and price discounts to LEAs in states other than Pennsylvania, and to Eligible Organizations in Pennsylvania and other states to the extent permitted by law, and with the Awarded Vendor's approval.

Alongside each Catalog Category listed on the electronic bid form, a Bidder must attach a State Selection Form, indicating – in addition to Pennsylvania LEAs – which, if any, of the following Eligible Entities, by state, that it will sell to:

- LEAs
- Universities and other higher education agencies
- Local government, municipalities, and other non-education Eligible Entities

### **X Bid Evaluation and Award Process [\[Return to Top\]](#)**

#### **X.1 Qualification for Evaluation**

Following Pennsylvania state law and accepted standards for competitive, sealed bidding, the Agency will make awards, in each Catalog Category, to the lowest, responsive, responsible Bidder.

#### **X.2 Creation of Contracts**

Evaluated bids that are recommended for award do not become formal Contracts until the Agency's Board of Directors makes the awards and an authorized representative signs the Contracts.

#### **X.3 Bid Evaluation Process**

Bids received on time will be evaluated. A high-level overview of the evaluation process is as follows:

- Bids will be evaluated to determine if the Bidder is responsive and that all required attachments and documents are present
- Bidder's responses to questions will be examined to ensure the Bidder is responsible and capable of providing Products to LEAs and other Eligible Organizations under the Agency's Terms and Conditions
- Pricing will be compared to competing bids for the same Catalog Category to rank pricing from lowest to highest
- Common SKUs will be compared to identify the low-price Bidder.
- Where no common SKUs exist, Agency will create a market basket of products with common functionality to determine the low-price Bidder
- Lowest, responsive bids from responsible Bidders will be recommended for an award
- Any low-cost Bidder meeting the criteria for an award for a Catalog sub-category may be recommended for an award

#### **X.4 Rejection of Bids**

The Agency reserves the right to accept or reject any or all bids, or any part thereof, or items therein, and to waive informalities and/or technicalities, as it deems best to protect its interests. Without limiting the foregoing, the Agency may reject:

- Late bids

- Bids that are Non-Responsive
- Bids from Bidders deemed not responsible
- Bids in which quoted prices are higher than street prices or are unreasonable compared to other contracts

## X.5 Ambiguities

If a bid is responsive but contains ambiguities, the Agency may engage in Clarification. Bidders should submit any requested supplementary information promptly. Failure to respond is grounds for rejection of the bid as Non-Responsive.

## X.6 Evaluation of Responsiveness

Submissions by Bidders must pass a test for responsiveness before the Bidders will be evaluated for responsibility, and before the bids will move on to be evaluated for price. The following factors will be evaluated for responsiveness:

Factors related to a vendor's bid as a whole:

- The bid was received on time
- Banking information for the processing of bids and award fees was present, and funds were properly processed
- Bid Terms and Conditions were accepted
- Separate reference forms for the Bidder were attached from at least three different agencies

Factors related to any Catalog Category bid:

- The catalog offered was for the specified catalog
- Can comply with the Catalog Storefront and PEPPM integration requirements, including support for at least one of the three approved storefront or catalog integration methods
- A signed Awarded Vendor Agreement was attached for each Catalog Category being bid
- A returned goods policy for each Catalog Category was attached for each Catalog Category being bid
- A dated PEPPM Proof of Supply Narrative was attached for each Catalog Category being bid
- A State Selection Form was attached alongside any Catalog Category being bid
- Quote Sheets for each Catalog Category indicated the offered pricing formulas and a price basis
- All pricing formulas were represented and correctly applied on the Bid Response Tab of the PEPPM Pricing template
- The minimum number of products required for the respective catalog category was priced within the PEPPM Pricing Template
- A Line Card of manufacturers included within the Catalog was attached
- Manufacturer SKU numbers were present, accurate, and representative of the Products being bid so that effective prices could be compared to those of competing Bidders
- The Bidder attached an Ancillary Services Form spreadsheet to each Catalog Category being bid or stated in an answer to questions that it was not providing any ancillary services

## X.7 Evaluation of Responsibility

Bidders must pass a test for responsibility before their bids will move on to be evaluated for price. The following factors will be evaluated for Bidder responsibility:

- Provided evidence of a permanent place of business

- Is not insolvent or currently involved in bankruptcy
- Has no known overdue tax liabilities
- Owes no overdue PEPPM Transaction Fees
- Certifies it has not colluded in submitting its bid or developing pricing
- Is not under suspension or debarment or is otherwise lawfully precluded from participating in any public-sector procurement activity
- Maintains sales representatives or a sales network of resellers, as described on the bid form
- Has provided positive references from buying agencies or has past PEPPM experience
- Has given evidence of previous sales in the public sector
- Deploys a system of customer support and service to all chosen Eligible Entities as described on the bid form
- Public policy compliance, Bidder Certifies it classifies employees in a manner consistent with the Fair Labor Standards Act, 29 U.S.C. §201, chapter 8
- Compliance with any previous or existing PEPPM Contracts

## **X.8 Evaluation of Pricing**

Effective pricing of common SKUs within each Catalog Category from competing, responsive, and responsible Bidders will be compared to identify the low-cost Bidder. Awards will be made to the lowest, responsive, responsible Bidder. In the event of tied bids, the winning Bidder will be decided by the flip of a coin or another method of chance selected by the Agency.

## **X.9 Sub-Category Awards**

Agency reserves the right to make awards for a sub-category to Bidders under the following circumstances:

- The quantity of supply from a single vendor is insufficient to meet national demand, particularly because of the current shortage of Chromebooks, the under-production of computer chips, and complications related to tariffs.
- The manufacturer product lines and related services within a Catalog Category are substantially different (50 percent different) from one catalog to another
- Bids pertain solely to non-comparable technology-related services and items
- The first, lowest-price vendor cannot serve the entire United States, where agencies are buying from PEPPM Contracts
- The first, low-price Bidder did not offer a HUB program
- The first low-priced Bidder did not commit to serving higher ed clients or other Eligible Organizations, such as cities, counties, or special districts
- The first low-priced Bidder did not offer to sell Products to non-K-12 Eligible Entities
- The first low-price Bidder did not offer Cloud-related solutions
- The first low-price bidder does not have a network of retail stores that would support the contract

## **X.10 Non-Material Deviations**

In evaluating bids, the Agency may waive Bidders' minor errors or non-material deviations where no competitive advantage is obtained, and the information submitted by a Bidder can lead to a fair award decision among competing bids.

## **XI Uniform Guidance Requirements** [/Return to Top](#)

### **XI.1 Federal Rules May Apply to Purchases with Grant Funds**

When an Eligible Entity seeks to procure goods and services through an Agency Contract using funds under a federal grant or contract, specific federal laws, regulations, and requirements may apply in addition to those under state law. This includes, but is not limited to, the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR 200 (sometimes referred to as the “Uniform Guidance,” “UG” or new “EDGAR”) and Elementary and Secondary School Emergency Relief Fund (sometimes referred to as “ESSER I” or “ESSER II” funds). All Awarded Vendors must agree to comply with certain requirements that may apply to specific purchases using federal grant funds. Eligible Entity has the responsibility to advise Awarded Vendor if an order will utilize funds under a federal grant or contract, in which case Sections XI.1 through XI.18 shall apply.

### **XI.2 Awarded Vendor Violation or Breach of Contract Terms**

Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils), as authorized by 41 USC § 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. Provisions regarding Awarded Vendor default are included in the Contract Documents. Any Contract award will be subject to such Contract Documents. The remedies under the Contract are in addition to any other remedies that may be available under law or in equity.

### **XI.3 Termination for Cause or Convenience**

For any purchase or contract in excess of \$10,000 made using federal funds, the Awarded Vendor agrees that the following terms and conditions shall apply:

The Eligible Entity may terminate or cancel any Purchase Order under the Contract at any time, without cause, by providing seven (7) business days' advance written notice to the Awarded Vendor. If this

Agreement is terminated for convenience in accordance with this paragraph, the Eligible Entity shall only be required to pay the Awarded Vendor for goods or services delivered to the Eligible Entity before the termination and not otherwise returned in accordance with the Awarded Vendor's return policy. If the Eligible Entity has paid the Awarded Vendor for goods or services not yet provided as of the date of termination, the Awarded Vendor shall immediately refund such payment(s).

The Eligible Entity may terminate or cancel any Purchase Order under the Contract with cause pursuant to Section XIII.6.

### **XI.4 Equal Employment Opportunity**

Except as otherwise provided under 41 CFR Part 60, all Eligible Entity purchases or Contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 shall be deemed to 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.” The equal opportunity clause provided under 41 CFR 60-1.4(b) is hereby incorporated by reference. The Awarded Vendor agrees that such provision applies to any Eligible Entity purchase or Contract that meets the definition of “federally assisted

construction contract" in 41 CFR Part 60-1.3 and the Awarded Vendor agrees that it shall comply with such provision.

#### **XI.5 Davis-Bacon Act**

When required by federal program legislation, the Awarded Vendor agrees that, for all Eligible Entity prime construction Contracts/purchases more than of \$2,000, the Awarded Vendor shall comply 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, the Awarded Vendor must 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, the Awarded Vendor shall pay wages not less than once a week.

Current Prevailing Wage determinations issued by the Department of Labor are available at <http://www.wdol.gov>.

The Awarded Vendor agrees that, for any purchase to which this requirement applies, the award of the purchase to the Awarded Vendor is conditioned upon the Awarded Vendor's acceptance of the wage determination. The Awarded Vendor further agrees that it shall also comply 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 sub-recipient 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.

#### **XI.6 Contract Work Hours and Safety Standards Act**

Where applicable, for all Eligible Entity Contracts or purchases of more than \$100,000 that involve the employment of mechanics or laborers, the Awarded Vendor agrees to comply 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, the Awarded Vendor must compute the wages of every mechanic and laborer based on 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 apply to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions that 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.

#### **XI.7 Rights to Inventions Made Under a Contract or Agreement**

If the Eligible Entity's federal award meets the definition of "funding agreement" under 37 CFR § 401.2(a) and the recipient or sub-recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance or experimental, developmental, or research work under that "funding agreement," the recipient or sub-recipient 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. The Awarded Vendor agrees to comply with the above requirements when applicable, but expressly retains as much of the entire right, title, and interest throughout the world to each subject invention as allowed by applicable law.

## **XI.8 Clean Air Act and Federal Water Pollution Control Act**

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 sub-grants 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). When required, the Awarded Vendor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act.

## **XI.9 Debarment and Suspension**

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 Office of Management and Budget (OMB) guidelines at 2 CFR § 180 that implement Executive Orders 12549 (3 CFR Part 1966 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, and parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Awarded Vendor certifies that the Awarded Vendor is not currently listed on the government-wide exclusions in SAM, is not debarred, suspended, or otherwise excluded by agencies, or declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Awarded Vendor further agrees to immediately notify the Eligible Entity of pending purchases or seeking to purchase from the Awarded Vendor if the Awarded Vendor is later listed on the government-wide exclusions in SAM, or is debarred, suspended, or otherwise excluded by agencies, or declared ineligible under statutory or regulatory authority other than Executive Order 12549.

## **XI.10 Byrd Anti-Lobbying Amendment**

Byrd Anti-Lobbying Amendment (31 U.S.C § 1352)—Bidders who 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 federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C § 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. As applicable, Bidders agree to file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C § 1352).

## **XI.11 Procurement of Recovered Materials**

For Eligible Entity’s purchases utilizing federal funds, the Awarded Vendor agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, where applicable, and provide such information and certifications as the district may require to confirm estimates and otherwise comply. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery, and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

## **XI.12 Profit as a Separate Element of Price**

For purchases using federal funds in excess of \$250,000, the Eligible Entity may be required to negotiate profit as a separate element of the price. See, 2 CFR § 200.324(b). When the Eligible Entity makes a reasonable determination that such information is required by applicable law, the Awarded Vendor agrees to provide information and negotiate with the Eligible Entity regarding profit as a separate element of the price for a particular purchase. However, the Awarded Vendor agrees that the total price, including profit, charged by the Awarded Vendor to the Eligible Entity shall not exceed the awarded pricing.

## **XI.13 Bonding Requirements**

Pursuant to 2 CFR § 326, the Agency requires applicable bid security, performance, and payment bonds on construction projects. As such, for construction or facility improvement Contracts or subcontracts exceeding the simplified acquisition threshold currently set at \$250,000, the federal awarding agency or pass-through entity may accept the bonding policy and requirements of the Eligible Entity, provided that the federal awarding agency or pass-through entity has decided that the federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

- A bid guarantee from each Bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the Bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

## **XI.14 Not-To-Exceed Price**

If requested by the Eligible Entity, on any Contract based on time and materials, the Awarded Vendor shall set a ceiling price that the Awarded Vendor exceeds at its own risk pursuant to 2 C.F.R. § 200.318(j).

## **XI.15 Contracting with Historically Under-Utilized Businesses**

When possible, the Awarded Vendor should ensure that small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms (See U.S.

Department of Labor's list) are considered as set forth below. Such consideration means:

1. These business types are included on solicitation lists.
2. These business types are solicited whenever they are deemed eligible as potential sources.
3. Dividing procurement transactions into separate procurements to permit maximum participation by these business types;
4. Establishing delivery schedules (for example, the percentage of an order to be delivered by a given date of each month) that encourage participation by these business types;
5. Utilizing organizations such as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring any subcontractor to take the affirmative steps listed in subparagraphs (1) through (5) of this Section if subcontracts are to be let.

## **XI.16 Equivalent Products**

*Comparable (Alternate) Products:* Where the specification states a named Product followed by “or equal,” an alternate or comparable Product may be bid; however, the burden is on the Bidder to provide evidence that a proposed alternate meets or exceeds the Agency-specified named Product and its attributes and that it provides an equal or better warranty. If comparable Product(s) are proposed in the bid, the Bidder must provide a detailed comparison for each to include a list of all the significant qualities of the Product named in the Specification and those of the proposed alternate Product(s). Significant qualities include attributes such as performance, weight, size, durability, visual effect, and specific features and requirements indicated. The Agency reserves the right to reject proposed alternate Products if it does not consider them equal to or better than the named Product in the specification.

*Substitutions for Cause:* An Awarded Vendor may only propose substitutions pursuant to a Purchase Order submitted by a purchasing Eligible Entity in the event of unavailability of Product, regulatory changes, or unavailability of required warranty terms. The Awarded Vendor must notify both the Agency and the purchasing Eligible Entity of all substitutions for cause with full documentation at least thirty (30) working days before the commencement of work. All documentation must demonstrate that the proposed substitution is equal to or better than the specified Product on all physical and in-service attributes and warranty provisions and can be implemented by subcontractors as necessary without disruption to the project. The purchasing Eligible Entity must approve all substitutions. The Eligible Entity reserves the right to reject proposed alternate Products if it does not consider them equal to or better than the named Product in the specification.

*Substitutions for Convenience:* Bidders may not propose substitutions for convenience.

## **XI.17 Preference for American-made materials**

Awarded Vendor should, to the greatest extent practicable and consistent with the law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). For purposes of this section:

1. “Produced in the United States” means that all manufacturing processes, from the initial melting stage through the application of coatings, occur in the United States for iron and steel products.
2. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
3. Federal agencies providing federal financial assistance for infrastructure projects must implement the Buy America preferences outlined in 2 CFR part 184.

## **XI.18 General Compliance and Cooperation with Eligible Entity**

In addition to the foregoing specific requirements, the Awarded Vendor agrees, in accepting any Purchase Order or Contract from the Eligible Entity, it shall make a good-faith effort to work with the Eligible Entity to provide such information and to satisfy such requirements as may apply to the Eligible Entity’s purchase or Contract including, but not limited to, applicable recordkeeping and record retention requirements and contract cost and price analyses required under the Uniform Guidance.

For example, the Eligible Entity must perform a cost or price analysis in connection with every procurement action in excess of \$250,000, including contract modifications. Such a cost analysis generally means evaluating the separate cost elements that make up the total price, while a price analysis means evaluating the total price without looking at the individual cost elements. Thus, the Awarded Vendor agrees

to make a good-faith effort to work with the Eligible Entity to complete such a cost or price analysis to comply with the law.

## **XII Post-Award Requirements** [\(Return to Top\)](#)

### **XII.1 Audit Requirements**

Agency reserves the right to ask Awarded Vendors or Authorized Resellers for proof of correct bid-price posting, quoting, and invoicing. From time to time, the Agency will conduct spot checks or hire a third-party accounting firm to statistically sample records to verify the integrity of PEPPM posted pricing and invoiced sales. Therefore, Awarded Vendors are required to:

- Maintain standard business records for at least three years following any sale or payment
- Store underlying cost data for pricing if they have bid under a Markup-over-Cost method
- Keep a record of the underlying price-list basis if they have bid under a Discount-from-List method
- Cooperate with PEPPM staff or auditors for any request for records to sample or verify any of their posted pricing or invoiced sales

### **XII.2 Minimum Sales**

Although the Agency does not guarantee any minimum sales, Awarded Vendors are expected to achieve a minimum of \$5,000 in sales per quarter for each awarded Catalog Category. When an Awarded Vendor fails to meet a quarterly threshold, the Agency may contact the company to obtain a progress report of sales in its pipeline, identify obstacles to sales, or suggest enhanced marketing to PEPPM customers. If an Awarded Vendor has not achieved minimum sales under the contract, the Awarded Vendor will be subject to the Minimum Transaction Fee policy in accordance with Section IV.8.

### **XII.3 Contact and Ordering Instructions**

PEPPM will send newly Awarded Vendors an email with instructions on how to complete a standard template for Buyer Ordering Instructions. Awarded Vendors must fill out and return the document in Microsoft Word format for every Catalog Category awarded. The instructions will give Eligible Entities advice on how to fill out their Purchase Orders, whom to contact, and what resellers, if any, are authorized to sell under the Contract.

Ordering Instructions must be updated whenever an Awarded Vendor's information changes, especially when contact information changes or when resellers are added or removed.

### **XII.4 Online Catalog Website - Up, Ready, and Functional**

Following the award of bids, all Awarded Vendors will be required to submit to PEPPM a URL link to a functioning, online Catalog or punchout (PEPPM Storefront) to be posted on the PEPPM pages, along with the Vendor Contacts and Ordering Instructions Template for publication. PEPPM will post the URL link and Ordering Instructions for LEA access via the PEPPM website and the eCommerce system.

### **XII.5 Online Catalog Updates**

Awarded Vendors must maintain current PEPPM-discounted pricing for their online Catalog. Failure to maintain current information and pricing may result in the suspension of the processing of orders until the conditions of the bid are met. Continued negligence in maintaining current Product information and pricing may result in termination of the Contract. Pricing can change throughout the term of the Contract, so long as the prices are within the bid structure that was originally submitted on the Quote Sheet.

In addition:

- Online Catalog pricing needs to be updated within PEPPM's timeline
- If using Discount-from-List, Vendor must provide a snapshot file of the published Catalog price list used as the basis for their bid discount to PEPPM for bid-price verification, the first of each month
- If using Markup-over-Cost, Vendor must provide a snapshot file of the costs used as the basis for their bid pricing to PEPPM for bid-price verification on the first of each month during the Contract Term

## **XII.6 Pricing Updates**

PEPPM pricing is dynamic, in that formulas accepted from Awarded Vendors are based on discounts from a commercially available price list or a Markup-over-Cost. Therefore, prices may change frequently. Awarded Vendors are required to send PEPPM updated prices whenever their price basis changes. PEPPM will accept updated price lists as often as once per week. Awarded Vendors must either provide PEPPM a "valid-through" date for posting or certify every five weeks by email that their prices are current.

## **XII.7 Monthly Sales Reports**

Awarded Vendors and their Authorized Resellers accepting direct orders must submit a Sales Report to PEPPM each month, no later than 30 days or on the following business day when the due date falls on a weekend or designated holiday. Reports based on an official PEPPM template must detail any PEPPM-related sales.

## **XII.8 Specials and Promotions**

During the term of its Contract, an Awarded Vendor may offer specials and promotions that may be posted on PEPPM.org.

## **XII.9 Leasing Information**

Awarded Vendors may allow Eligible Entities to enter into rental, lease, or lease purchase agreements, provided that such agreements comply with the Agency's state statutes and State Department of Education policies, rules, and regulations, and any state-specific laws and regulations applicable to Eligible Entities in other states. Awarded Vendor agrees that leases will comply with the Uniform Commercial Code for the state in which the Eligible Entity is from.

The agency will not collect lease payments or be involved in the terms and conditions of the lease.

Awarded Vendor must indicate in its terms and conditions if the shipping costs for the return of leased or rented equipment are the responsibility of the Eligible Entity, and what that cost will be. No sale or assignment of a lease contract to a third party will be made without first informing the Agency and the Eligible Entity of the sale or assignment. If an Awarded Vendor sells or assigns a lease contract to a third party, the cost of return must not be greater than the cost of return to the original Awarded Vendor.

Awarded Vendors providing lease or rental opportunities must submit a file detailing lease arrangements available to Eligible Entities. PEPPM will post the information on the PEPPM website. (Awarded Vendor shall be required to provide such information electronically, such as a Microsoft Word or Adobe PDF document.) If the Awarded Vendor makes changes to their terms and conditions during the term of the Agency Contract, the new document must be filed with PEPPM for archiving and posting.

Lease or rental proposals to Eligible Entities under the Agency Contract must clearly demonstrate that the base price of the equipment and services in the lease or rental proposal was derived using the PEPPM bid-discounted-pricing or better. The Eligible Entity shall submit a copy of all leasing documents, any

associated PEPPM quotes, and any other Awarded Vendor required document(s) with a Purchase Order or letter of intent to lease provided on school or agency letterhead and signed.

Awarded Vendor may use a state procurement agency-approved lease agreement terms and conditions or may substitute its own leasing terms and conditions with the approval of the Eligible Entity.

Any financing arrangements (including lease purchasing arrangements) will be made directly between the Eligible Entity and the Awarded Vendor or applicable lender. Financing arrangements may be subject to additional laws, rules, and regulations, terms and conditions not described in this document, and are subject to separate negotiation with each Eligible Entity that is interested in such an arrangement. Each Eligible Entity should seek its own legal advice before entering into a financing arrangement. All financing arrangements are between the Eligible Entity and the Awarded Vendor or the applicable lender only, and the Agency will not be involved in any way.

## **XII.10 Contract Promotion, Advertising, and Marketing**

An Awarded Vendor shall not advertise or publish information concerning an award or Contract before an announcement is made by the Agency. However, after the Agency signs and announces new Contracts, an Awarded Vendor may make truthful and accurate marketing statements regarding its Agency awards.

Before an Awarded Vendor issues a press release about its Contracts, the Agency must give prior approval.

To Awarded Vendors for the term of its Contract, the Agency extends a license to use the PEPPM logo on the vendor's website and in marketing collateral. Advance permission and review are required. The Agency may cause the Awarded Vendor to recall any collateral or any use of the PEPPM logo that is not in conformance with guidelines, untruthful, or inaccurate.

For each awarded Catalog Category, Awarded Vendors are required to carry out marketing plans as specified in their bid submissions. At any time, PEPPM may telephone or email an Awarded Vendor for a progress report and evidence of activities conducted under their marketing plans.

## **XII.11 Request for Voluntary Discounts and Promotions**

Awarded Vendors are required to provide an answer, even if "no," to requests from LEAs for voluntary, additional discounts or volume discounts—in particular, from any requests deriving from the Agency or eCommerce Consultant's websites. When extending an optional discount, the Awarded Vendor is not obligated to provide a similar or equal discount to another LEA, unless required by federal E-rate Lowest Corresponding Prices rules.

## **XII.12 Punchout Functionality**

By default, the Products to be sold by Awarded Vendors will be listed in a hosted marketplace at [www.PEPPM.org](http://www.PEPPM.org) and other affiliated websites. However, an Awarded Vendor may petition the Agency, by email, for a Punchout technology solution. Under this arrangement, an Awarded Vendor would host its Products on its own website and provide necessary data back to PEPPM to ensure compliance with its Contract with the Agency. Before approval, an Awarded Vendor must demonstrate its ability to meet standards set by the Agency and its eCommerce Consultant, which are available upon request. Permissions are granted at the Agency's sole discretion.

## **XII.13 Training of the Sales Force and Authorized Resellers**

Awarded Vendor is responsible for informing and training its sales force and Authorized Resellers on the use of its Agency Contracts for sales under the Agency's bid-protection provisions.

## **XII.14 Contract Extension**

Agency reserves the right to extend any bid award beyond the [Contract Term](#) for a period of up to one year. The extension of any awarded bid will be optional upon the agreement of the Agency and the Awarded Vendor.

The Agency reserves the right to offer month-by-month extensions until a new Contract is awarded. These month-by-month extensions of the awarded Contract will be optional upon the agreement of the Agency and the Awarded Vendor.

Agency requires a Contract extension fee of \$200 for a one-year extension per Catalog Category. The Contract extension fee may be prorated by the Agency for any extensions less than one year.

## **XII.15 Semi-Annual Reconciliation Reports**

Awarded Vendors and their Authorized Resellers may be requested to submit a Sales Reconciliation Report to PEPPM twice a year, once for the period January through June, and the second for the period July through December. Reports are due August 31 and February 28, respectively, or on the following business day when the due date falls on a weekend or designated holiday.

Sales Reconciliation Reports based on an official PEPPM template must detail any PEPPM-related sales not covered on monthly invoices. Awarded Vendors who have been granted permission for self-reporting are not subject to this requirement.

# **XIII Other Terms and Conditions [\[Return to Top\]](#)**

## **XIII.1 Entire Agreement**

The Contract represents the complete Agreement between the Agency and the Awarded Vendor, superseding any other prior or contemporaneous written or oral agreements. Any changes, corrections, or additions to the Contract shall be in writing in the form of an amendment signed by the Agency and the Awarded Vendor (and the eCommerce Consultant if the eCommerce Consultant is a necessary party).

The Purchase Order represents the complete Agreement between the Eligible Entity and the Awarded Vendor, superseding any other prior or contemporaneous written or oral agreements. Any changes, corrections, or additions to the Purchase Order shall be in writing in the form of an amendment signed by the Eligible Entity and the Awarded Vendor.

## **XIII.2 Default Related to the Contract**

The Agency or Eligible Entity may, subject to the provisions of Force Majeure, and in addition to its other rights under the Contract or Purchase Order, at law or in equity, declare the Awarded Vendor in default by written notice thereof to the Awarded Vendor, and terminate the whole or any part of the Contract (including, without limitation, for one or more states) or Purchase Order for any of the following reasons:

- Failure to deliver the awarded item(s) within the time period specified under a Purchase Order or as otherwise specified
- Improper delivery
- Failure to provide an item that is in conformance with the specifications referenced in the RFB
- Delivery of a defective item, where such defect is not cured, subject to VII.15
- Failure or refusal to remove and replace any item(s) rejected as defective or nonconforming within fifteen (15) days after notification
- Insolvency

- Assignment made for the benefit of creditors
- Failure to protect, to repair, or to make good any damage or injury to property as required by the Contract
- Breach of any provision, term, or condition of the Contract or Purchase Order, or failure to perform any obligation, requirement, covenant, or condition of the Contract or Purchase Order if such breach, violation, non-compliance, or failure of performance is not cured within thirty (30) days of receipt of written notice thereof
- Failure to make progress in the performance of the Contract or Purchase Order and/or giving the Agency or Eligible Entity reason to believe that the Awarded Vendor will not or cannot perform to the requirements of the Contract or Purchase Order, if such failure is not cured within thirty (30) days of receipt of written notice thereof
- Failure to pay Transaction Fees when due
- Failure to follow the established procedure for Purchase Orders, invoices, and receipt of funds as stipulated by the Agency and/or Eligible Entity
- Failure to maintain its baseline Catalog online
- Failure to update prices
- Nonperformance in sales
- Failure to meet E-rate Program Compliance requirements, including suspension or debarment
- Suspension or Debarment occurring during the term of the Contract
- The Awarded Vendor or Authorized reseller is debarred or suspended, or otherwise lawfully precluded from participating in any public-sector procurement activity
- The Awarded Vendor, Authorized Reseller, or awarded Catalog Category has been identified by the U.S. Government as posing a national security threat to the integrity of communications networks or the communications supply chain.

### **XIII.3 Default Related to the Purchase Order**

The Eligible Entity may, subject to the provisions of Force Majeure, and in addition to its other rights under the Purchase Order, at law or in equity, declare the Awarded Vendor in default by written notice of it to the Awarded Vendor, and terminate the whole or any part of a Purchase Order for any of the following reasons:

- Failure to deliver the awarded item(s) within the time period specified on the Purchase Order or as otherwise specified
- Improper delivery
- Failure to provide an item that is in conformance with the specifications referenced in the Request for Bids
- Delivery of a defective item, where such defect is not cured, subject to VII.15
- Failure or refusal to remove and replace any item(s) rejected as defective or nonconforming within fifteen (15) days after notification
- Insolvency
- Assignment made for the benefit of creditors
- Failure to protect, to repair, or to make good any damage or injury to property as required by the Contract
- Breach of any provision of the Purchase Order
- Failure to adequately perform the services outlined in the Purchase Order
- Failure to make progress in the performance of the Purchase Order and/or giving LEA reason to believe that the Awarded Vendor will not or cannot perform to the requirements of the Purchase Order

- Failure to observe any of the Terms and Conditions of the Contract or Purchase Order
- Failure to follow the established procedure for Purchase Orders, invoices, and receipt of funds as stipulated by the Eligible Entity
- Suspension or Debarment occurring during the term of the Purchase Order
- The Awarded Vendor, Authorized Reseller, or awarded Catalog Category has been identified by the U.S. Government as posing a national security threat to the integrity of communications networks or the communications supply chain

If the Eligible Entity terminates the Purchase Order in whole or in part as provided above, the Eligible Entity may procure, upon such terms and in such manner as it determines, any Products similar or identical to the Products so terminated.

If the Purchase Order is terminated as provided in above, the Eligible Entity, in addition to any other rights provided in this paragraph, may require the Awarded Vendor to transfer title and deliver immediately to the Eligible Entity in the manner and to the extent directed by the Eligible Entity, any partially manufactured or delivered Products as the Awarded Vendor has specifically produced or specifically acquired for the performance of the Purchase Order as has been terminated. Except as provided below, payment for any partially manufactured or delivered Products accepted by the Eligible Entity shall be in an amount agreed upon by the Awarded Vendor and Eligible Entity. The Eligible Entity may withhold from amounts otherwise due the Awarded Vendor for any partially manufactured or delivered Products, such sum as the Eligible Entity reasonably determines to be necessary to protect the Eligible Entity against loss due to the Awarded Vendor's default.

#### **XIII.4 Remedies**

The rights and remedies of the Agency or Eligible Entity provided in these Terms and Conditions shall not be exclusive and are in addition to any other rights and remedies provided by law, in equity, or under the Contract or Purchase Order.

The Agency's or Eligible Entity's failure to exercise any rights or remedies provided in these Terms and Conditions, at law, in equity, or under the Contract or Purchase Order shall not be construed to be a waiver by the Agency or Eligible Entity of its rights and remedies in regard to the event of default or any succeeding event of default.

If an Eligible Entity has an administrative dispute resolution process that is mandated by law, the Awarded Vendor agrees to adhere to such process.

#### **XIII.5 Force Majeure**

Neither party to the Contract nor a Purchase Order will incur any liability to the other if its performance of any obligation pursuant to the Contract or Purchase Order, as applicable, is prevented or delayed by causes beyond its reasonable control and without the fault or negligence of such party. Causes beyond a party's reasonable control may include, but are not limited to, acts of God or war, changes in controlling law, regulations, orders, or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes.

The Awarded Vendor shall notify the Agency regarding obligations pursuant to the Contract or the Eligible Entity regarding obligations pursuant to the Purchase Order orally within five (5) business days and in writing within ten (10) business days of the date on which the Awarded Vendor becomes aware, or should

have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall:

- Describe fully such cause(s) and its effect on performance
- State whether performance under the Contract or Purchase Order, as applicable, is prevented or delayed, and
- If performance is delayed, state a reasonable estimate of the duration of the delay if the nature of the Force Majeure event does not prevent the Awarded Vendor from reasonably making such estimation.

The Awarded Vendor shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce within ten (10) business days of the Agency's or Eligible Entity's written request such supporting documentation as the Agency or Eligible Entity may reasonably request. After receipt of such notification, the Agency or Eligible Entity may elect either to cancel the Contract or Purchase Order, as applicable, or to extend the time for performance as reasonably necessary to compensate for the Awarded Vendor's delay.

In the event of a declared emergency by competent governmental authorities, the Eligible Entity, by notice to the Awarded Vendor, may suspend all or a portion of the Purchase Order, and resume activities when the suspension ends, including making any delayed payments resulting from the suspension.

### **XIII.6 Intervening Governmental Action**

The prices for the Products offered by the Awarded Vendor shall remain fixed as may be required by the terms and conditions of this RFB, except in the event that the Awarded Vendor incurs significant cost increases due to tariffs or other trade restrictions on its Products or their component parts. In such a case, the Awarded Vendor may request an emergency price increase by providing written notice to the Agency within 30 days of the impact on the Awarded Vendor of the actual implementation of the applicable tariff or trade restriction. The notice must include documentation supporting the request and the relationship and impact that the implementation had upon the cost of the Products for which an increase is sought. Such written notice shall include the affected Product or Products, the amount of the tariff or other trade restrictions, the country imposing the tariff or other trade restrictions, the date the tariff or other trade restrictions was enacted and became effective, whether the bid price included any tariff or other trade restrictions which has since been eliminated, the portion of the tariff or other trade restrictions the awarded vendor seeks to pass on to the Eligible Entities, a detailed and transparent cost breakdown of the product price (e.g. manufacturer's base price, any tariffs, Awarded Vendor's discount or mark-up, etc.), and such other information reasonably requested by the Agency such that the Agency can evaluate if the Awarded Vendor's request is fair and reasonable. Any price increase shall not exceed 25 percent of the original contract price for the affected products, unless the tariffs or trade restrictions would cause the Awarded Vendor to sell below its cost, in which case the Agency will entertain approving a contract price that preserves the vendor's previous bid-price profit margin. Any increase in the product price due to the imposition of a new tariff or other trade restrictions shall only apply to products ordered by Eligible Entities on or after the date the new tariff or other trade restriction was enacted and only to the extent the manufacturer or importer is seeking to pass on the tariff or other trade restrictions to the Awarded Vendor and by extension to the Eligible Entities.

The Agency will review the request and justification. The Agency or its agents shall notify the Awarded Vendor, in writing, that the request has been granted either in full, in part, or denied. In no event may the Awarded Vendor increase its prices until it is notified by the Agency in writing that its emergency request for price increases has been approved. If tariffs or trade restrictions are removed, the Agency may cause contract prices to revert to the original bid price. The Agency does not consider the imposition of tariffs or

other trade restrictions to be a force majeure event that would excuse the Awarded Vendor's performance under the contract. The awarded vendor is expected to timely deliver ordered products.

### **XIII.7 Termination of Purchase Order**

In addition to the other rights of termination set forth in this RFB, the Eligible Entity has the right to terminate a Purchase Order for the following reasons. Termination shall be effective upon written notice to the Awarded Vendor. If the Awarded Vendor has Authorized Resellers, notice of termination to the Authorized Reseller constitutes notice to the Awarded Vendor.

- **Termination for Cause:** The Eligible Entity shall have the right to terminate a Purchase Order for Awarded Vendor default upon written notice to the Awarded Vendor unless the Awarded Vendor promptly commences a cure of its default and diligently and completely cures its default within thirty (30) days after receipt of the Eligible Entity's notice of default. Notwithstanding any termination for cause, the Awarded Vendor shall be paid for work satisfactorily completed before the Effective Date of the termination, less the Eligible Entity's damages due to the Awarded Vendor's default.
- **Non-Appropriation:** If the Eligible Entity purchasing from the Awarded Vendor or an Authorized Reseller is a state or local agency under laws of the state applicable to such Eligible Entity (e.g., Pennsylvania State System of Higher Education (PASSHE) members under Pennsylvania law), the Eligible Entity's obligation to make payments during any agency fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Eligible Entity shall have the right to terminate the Purchase Order (including any applicable lease). In such event, Eligible Entity must: (1) certify that its governing body did not appropriate funds for the applicable fiscal year; (2) certify that the cancelled equipment is not being replaced by similar equipment or equipment performing similar functions during the ensuing fiscal year; and (3) return the equipment to Awarded Vendor, free from all liens and encumbrances, in good condition to a location designated by the Awarded Vendor (which location must be within the Eligible Entity's state, if so requested by Eligible Entity), whereupon Eligible Entity will be released from its obligations to make any further payments to Awarded Vendor, with Awarded Vendor retaining sums paid to date.

### **XIII.8 Termination of Contract**

In addition to the other rights of termination expressly set forth in this RFB, the Agency shall have the right to terminate the Contract, in whole or in part, without penalty, for Agency's convenience upon thirty (30) days written notice to the Awarded Vendor, and upon receipt of said notice, the parties shall have no further obligations to each other (except for those obligations that expressly survive the termination of this Contract).

At any time, the Agency reserves the right to conduct a review of the Awarded Vendor's performance of Contract responsibilities with the possibility of cancellation of the whole or any part of this Contract due to failure by the Awarded Vendor to carry out any obligation, term, or condition of the Contract. The Agency may, but is not obligated to, follow the following procedure:

- Step 1: Issue a warning Letter of Concern outlining the violations and the length of time to correct the problems
- Step 2: Issue a Letter of Intent to Cancel the Contract if the problems are not resolved by a given date
- Step 3: Issue a letter to cancel the Contract

Upon receipt of the written Letter of Concern, the Awarded Vendor shall have ten (10) business days to provide a satisfactory response to the Agency detailing how the Awarded Vendor intends to address the Agency's concerns. Failure on the part of the Awarded Vendor to address all issues of concern may result in Contract cancellation.

If termination of the Awarded Vendor Contract by the Agency occurs, each Purchase Order then in effect shall remain in full force and effect until the end of its scheduled term and shall be governed by the Terms and Conditions of the Contract and Purchase Order as if the Contract were still in effect. No new Purchase Orders shall be entered into after the Effective Date of the termination of the Contract.

### **XIII.9 Assignability and Subcontracting**

The Contract and Purchase Order shall be binding upon the parties and their respective successors and assigns.

The Awarded Vendor shall not subcontract with any person or entity to perform all or substantially all of the work to be performed under the Contract or a Purchase Order, without notifying the Agency and Eligible Entity, as applicable. Using delivery/removal carriers does not constitute subcontracting. Awarded Vendor may use subcontractors regularly retained by Awarded Vendor in the ordinary course of business to perform cost, freight, and insurance, custom factory integration (CFI), warranty, break/fix, administrative and back office services, provided such subcontractors shall not have access to Eligible Entity's confidential information other than billing and contact information, and Awarded Vendor shall indemnify and hold harmless Agency and Eligible Entity from any claims, penalties, damages, and expenses of any nature (including attorneys' fees and costs) arising out of or relating to such subcontractors.

The Awarded Vendor may not assign, in whole or in part, the Contract or any Purchase Order or its rights, duties, obligations, or responsibilities thereunder without the prior written consent of the Agency and Eligible Entity, as applicable, which consent shall not be unreasonably withheld, conditioned, or delayed.

For the purposes of the Contract and Purchase Order, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of a majority ownership interest in the

Awarded Vendor provided that the term shall not apply to the sale or other transfer of stock of a publicly traded company.

Any assignment consented to by Agency or Eligible Entity shall be evidenced by a written assignment agreement executed by the Awarded Vendor and its assignee in which the assignee agrees to be legally bound by all of the Terms and Conditions of the Contract or Purchase Order, as applicable, and to assume the duties, obligations, and responsibilities being assigned. Unless the Agency or Eligible Entity has consented to an assignment and agreed in writing to release the assignor from liability under the Contract or Purchase Order, no assignment shall release the Awarded Vendor from liability under the Contract or Purchase Order.

A change of name by the Awarded Vendor, following which the Awarded Vendor's federal identification number remains unchanged, shall not be considered to be an assignment hereunder. The Awarded Vendor shall give the Agency and any Eligible Entities holding outstanding Purchase Orders written notice of any such change of name.

Notwithstanding the foregoing, the Awarded Vendor may, without the consent of the Eligible Entity, assign the Agreement to a successor entity in connection with a merger, consolidation or dissolution of all or substantially all of Awarded Vendor's assets or business, provided that Awarded Vendor's successor entity

assumes in writing all of Awarded Vendor's obligations under this Agreement and agrees in writing to be bound by this Agreement, assign its rights to payment to be received pursuant to the Purchase Order, provided that the Awarded Vendor provides written notice of such assignment to the Eligible Entity together with a written acknowledgment from the assignee that any such payments are subject to all of the Terms and Conditions of the Purchase Order.

Further, notwithstanding the foregoing, the Awarded Vendor may, without the consent of Agency or Eligible Entity, assign leases to a third party for the purposes of securitization or factoring.

### **XIII.10 Intellectual Property Indemnity**

Awarded Vendor shall defend, indemnify and hold harmless the Agency and Eligible Entity (collectively, "Indemnities") from and against all claims, damages, losses and expenses, including without limitation reasonable attorney's fees and legal costs, that Indemnities incur as a result of any third-party claims, demands, or actions arising out of or resulting from a claim or allegation that any Products provided by Awarded Vendor in connection with the Contract or a Purchase Order ("Covered Product") infringe upon or misappropriate any patent, copyright, trademark, trade secret or other intellectual property right of any third party enforceable in the United States (each a "Covered Claim"). Awarded Vendor shall have no obligation for Covered Claims to the extent they are caused by: (i) the combination of a Covered Product with third-party Products with which such Covered Product was not intended to be used; (ii) the unauthorized modification of a Covered Product; (iii) the use of a Covered Product for a purpose or in a manner for which such Covered Product was not designed; or (vi) the use of a Covered Product after Awarded Vendor has informed Eligible Entity of modifications or changes to the Covered Product that do not result in a material loss of functionality and that are required to avoid such Covered Claim, and has offered to promptly implement such modifications or changes free of charge, if such Covered Claim would have been avoided by implementation of such modifications or changes. To obtain the benefit of the foregoing indemnification, Indemnitees must (a) promptly notify Awarded Vendor of a Covered Claim; (b) provide Awarded Vendor with such reasonable assistance as Awarded Vendor reasonably requires from time to time, provided Awarded Vendor shall pay for all Indemnitees' out of pocket costs; and (c) give Awarded Vendor full control of the defense and settlement of the Covered Claim, provided that no settlement shall require an admission of guilt from Indemnitees or the payment of any amount not indemnified for hereunder. If a Covered Claim is made, or in Awarded Vendor's opinion is likely to occur, Awarded Vendor, at its sole discretion and expense, may perform one of the following: (a) use its reasonable endeavors to procure for Indemnitees the right to continue using the Covered Products; (b) use its reasonable endeavors to replace or modify the Covered Products so that they become non-infringing, without material loss of functionality; or (c) if neither (a) or (b) are practicably available to Awarded Vendor acting reasonably, reimburse to Indemnitees all prepaid amounts, and reimburse Indemnitees for the total cost of such Covered Products depreciated on a straight-line basis over a period of five years. This Section states the exclusive and entire liability of Awarded Vendor to Indemnitees for Covered Claims, and the obligations of Awarded Vendor hereunder shall survive termination of the Contract or Purchase Order.

### **XIII.11 Indemnification**

To the fullest extent allowed by law, the Awarded Vendor shall indemnify and hold harmless the Agency and Eligible Entity from and against all claims, damages, losses and expenses, including without limitation reasonable attorney's fees and legal costs that Agency or Eligible Entity incur as a result of any third-party claims, demands, or actions arising out of or resulting from the Awarded Vendor's actual or alleged negligence, willful misconduct, or breach of the Contract or a Purchase Order.

This includes, without limitation, claims, damages, losses or expenses attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting therefrom, caused in whole or in part by acts or omissions or negligence of the Awarded Vendor, its Authorized Resellers, anyone directly employed by them, or anyone for whose actions they are held to be legally liable.

The indemnification obligations under the Contract and Purchase Order shall not be limited by amount or type of damages, compensation, or benefits payable by or for the Awarded Vendor or Authorized Reseller under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts.

Further, nothing in these indemnification provisions is intended to waive or extinguish the immunity protections of the Agency or Eligible Entity, its agents, or employees, as set forth in Pennsylvania's Political Subdivision Torts Claims Act or other similar state or federal laws or constitutional provisions. Awarded Vendor's indemnity obligations shall be in addition to any insurance requirements under the Contract or Purchase Order. The obligations shall survive the expiration or earlier termination of the Contract or Purchase Order.

### **XIII.12 Limits of Awarded Vendor Liability**

The Awarded Vendor's liability to the Agency under the Contract shall be limited to the greater of \$3,000,000 or two times the total amount ordered by all Eligible Entities from the Awarded Vendor during the 12-month period preceding the date that the dispute first arose. The Awarded Vendor's liability to any Eligible Entity under all Purchase Orders shall be limited to the greater of \$500,000 or two times the total amount ordered by such Eligible Entity from the Awarded Vendor during the 12-month period preceding the date that the dispute first arose.

Unless stated otherwise in this Section, this limitation will apply regardless of the form of action, whether in contract or in tort, including negligence. This limitation does not apply, however, to damages for bodily injury (including death) or damage to real property or tangible personal property for which the Awarded Vendor is legally liable. Nor will the limitation apply to the Awarded Vendor's intellectual property indemnity – subject, however, to the disclaimer of any consequential damages and other

related categories of damages as set forth elsewhere in this Section. In no event shall Awarded Vendor, Agency, or any Eligible Entity be liable for any special, indirect, incidental, exemplary, reliance, consequential, or punitive damages, or loss of profits or revenue, whether based on breach of Contract, tort (including negligence), Product liability, or otherwise.

### **XIII.13 Governing Law; Jurisdiction and Venue, and Severability**

The Agreement and the Contract between the Agency and the Awarded Vendor and its Authorized Resellers will be governed and construed in the courts with the laws of the Commonwealth of Pennsylvania without giving effect to its conflict-of-laws provisions. Claimants submit to the exclusive jurisdiction of the courts of the state of Pennsylvania and any United States courts located within the Agency's jurisdiction for purposes of any litigation arising out of or relating to this Agreement or the use of the PEPPM website, more particularly, the Court of Common Pleas of Union County or the United States District Court for the Middle District of Pennsylvania. Claimants waive any objections to the forum of Pennsylvania for lack of venue, *forum non-conveniens*, or any other jurisdictional ground.

When claims, disputes, or other matters arise between an Eligible Entity and an Awarded Vendor, the Agreement or Purchase Order shall be governed, construed, and enforced in the courts and under the laws of the state, district, or territory in which the Eligible Entity is located. Again, claimants waive any

objections to the forum of the respective Eligible Entity for lack of venue, *forum non-conveniens*, or any other jurisdictional ground.

Should any term of the Contract or Purchase Order be rendered unlawful by a court of competent jurisdiction or any legislative act, then the parties shall give effect to the balance of the Contract or Purchase Order to the extent possible. If such invalidity shall be caused by the length of any period of time set forth in any part of the Contract or Purchase Order, such period of time shall be considered to be reduced or increased, as necessary, to a period which would cure such invalidity.

#### **XIII.14 Rights of Eligible Entities**

The rights and remedies of the Agency and Eligible Entities provided in these Terms and Conditions shall not be exclusive and are in addition to any other rights and remedies provided by law, at equity, under the Contract, and any Purchase Order.

#### **XIII.15 Legal Notices**

All notices explicitly or implicitly required by the Contract or Purchase Order shall be delivered by certified mail or other commercial carrier offering proof of delivery to the parties at the address referred to in the Awarded Vendor Agreement or Purchase Order. Unless proven to the contrary by the recipient, notice shall be considered received no more than two (2) business days after its postmark by the postal service or proof of delivery by a commercial carrier.

#### **XIII.16 Binding Nature and Survival**

The Contract and each Purchase Order shall be binding on and inure to the benefit of the respective parties thereto and their respective successors and assigns. It is understood and agreed, whether or not specifically provided herein, that any provision of the Contract or Purchase Order, which by its nature and effect is required to be observed, kept, or performed after the expiration or termination of the Contract or Purchase Order shall survive the expiration or termination of the Contract or Purchase Order.

#### **XIII.17 eCommerce Consultant Contract Termination**

If the Contract between the Agency and the eCommerce Consultant is terminated by either the Agency or the eCommerce Consultant, the Agency may either engage a new eCommerce Consultant to provide an eCommerce system or the Agency may provide its own eCommerce system. The Agency will notify the Awarded Vendors and Eligible Entities of any change in the eCommerce Consultant and eCommerce system, including, without limitation, any new fax numbers, website addresses, email addresses, changes in the eCommerce system software, and changes in any eCommerce processes and procedures.

The Agency will endeavor to provide Awarded Vendors and Eligible Entities with adequate notice of any change in the eCommerce Consultant and the eCommerce system to ensure a smooth transition. Awarded Vendors and Eligible Entities will need to use the new eCommerce Consultant and eCommerce system in order to have continued access to Agency Contracts and PEPPM bid protection.

Awarded Vendors (and their Authorized Resellers) will need to execute new eCommerce Merchant Agreements and Nondisclosure Agreements (if applicable) with the new eCommerce Consultant (whether a third party or Agency), provided such agreements are reasonably acceptable to Awarded Vendor. The Awarded Vendor shall have twenty (20) workdays after receipt of the new agreements to sign and return the agreements in order to continue their Agency Contracts and shall cause their Authorized Resellers to do the same. If the Awarded Vendor does not sign and return the agreements within the 20-day time period, the Agency may terminate the Awarded Vendor's Agency Contract upon at least ten (10) days' prior

written notice. If an Authorized Reseller does not sign and return the agreements within the 20-day time period, such Authorized Reseller will no longer be an Authorized Reseller under the Agency Contract.

There will be no increase in the Transaction Fee as a result of the change in the eCommerce Consultant (whether a third party or Agency). If the Agency establishes a contract with another eCommerce Consultant or develops its own ecommerce system for publishing Contract information, receiving and processing orders, and collecting Transaction Fees, the Agency reserves the right to collect the original Transaction Fee.

### **XIII.18 Copyright**

This RFB, its Terms and Conditions, the electronic bid form, and all attachments are copyrighted by the Agency and the Epylon Corporation, 2026 (©2026, CSIU & Epylon).

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