



Request for Proposal # **683435**  
For  
**COMMERCIAL KITCHEN EQUIPMENT,  
SMALL WARES, PARTS, DESIGN &  
RELATED SERVICES**

**Mission Statement**

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

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

Issued by:

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## **Part 1: GENERAL OVERVIEW**

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

### **1. Description of Cooperative**

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

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

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

The purpose of this RFP is to establish a cost-effective Master Agreement ("Agreement") for **Commercial Kitchen Equipment, Small Wares, Parts, Design & Related Services** which complies with our Member procurement requirements and will provide E&I Members a procurement vehicle to acquire the products and/or services outlined in the Scope of Services in Part 2.

Products and/or services considered for award shall equal or exceed the quality level of industry standards as defined within this RFP, including **Part 2 Scope of Services**, and shall comply with all applicable federal, state, and local technical, environmental, and performance standards and specifications. See attachments A-L, including Attachment H for Edgar requirements.

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

### **3. Market Opportunity**

By satisfying the above Member needs, the Cooperative anticipates significant Member purchases to be recorded against the resulting Agreement(s). The Cooperative currently has more than 4,700 Members, comprised of roughly 55% public and 40% private and 5% other. K-12 school districts, academic healthcare and research institutions have become eligible for membership in E&I. The Cooperative's expectations are a substantial opportunity for growth (in terms of Member purchases) with competitively awarded Agreement(s) in these markets. There is also interest in utilizing the potential contract by the Participating Oregon Community Colleges (POCC).

**Utilizing an existing E&I Agreement for Commercial Kitchen Equipment, E&I Member purchases for 2017 were in excess of \$6.4 Million.**

### **4. Member Participation**

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

Some members may have existing agreements in place. Those members that do, will consider this program as the existing agreements expire or, if available, may choose to opt out of existing agreements and move to the

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## **Part 1: GENERAL OVERVIEW**

new E&I contract. For large dollar orders, Members retain the right to do individual Member competitive solicitations in which we strongly encourage the awarded supplier to quote the E&I contract or the member may wish to negotiate better pricing which is allowed within our contract and is considered part of the contract.

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

### **5. Definitions**

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

- **MAY:** Indicates something that is not mandatory but permissible/desirable.
- **SHALL, MUST, WILL:** Indicates a mandatory requirement(s) that must be addressed. Failure to address these mandatory requirements will result in rejection of your proposal as non-responsive. E&I may, but is not required to, reserve the right to request additional information.
- **SHOULD:** Indicates something that is recommended but not mandatory. If the Supplier fails to provide recommended information, E&I may, at its sole option, ask the Supplier to provide the information or evaluate the proposal without the information.
- **MANUFACTURER:** Indicates an entity that makes the products from raw materials outlined in this RFP, all of its agents, and employees.
- **SUPPLIER:** Indicates an entity that distributes/furnishes the products and or services of a company, all of its agents, and employees.
- **MEMBERS:** Includes Institutions, Universities, Colleges (private and public) and K-12 schools that are listed in the E&I record.
- **HIGHER EDUCATION:** All Universities, Colleges, Healthcare Facilities (private and public) in the United States that provide for advanced learning and/or grant degrees i.e. - Associate, Bachelor, Master, and/or PhD. These Universities, Colleges and Healthcare Facilities may or may not be members of E&I.
- **K-12:** All School Systems and Districts (private and public) in the United States that provide education for students in Kindergarten through 12<sup>th</sup> Grade. These School Systems and Districts may or may not be members of E&I.
- **EDUCATION:** The combination of Higher Education and K-12.
- **DAYS:** All days specified are based on calendar days unless otherwise noted.
- **HUBS:** Historically Underutilized Businesses e.g. minority, women-owned businesses (for the State of Texas, Certified HUBS within the State of Texas).
- **MWBE:** Minority, Woman-owned Business Enterprises.
- **NATIONAL AGREEMENT:** E&I awards an Agreement which is available throughout the United States (including Alaska and Hawaii).
- **REGIONAL AGREEMENT:** E&I may elect to award an Agreement by Geographical Areas of the United States. See table below for geographic breakdown:
- **RESPONSIVE:** A proposal is responsive if it meets all of the requirements of the RFP documents or solicitation.
- **RESPONSIBLE:** A supplier is responsible if they are capable or qualified to perform the work.
- **MOST RESPONSIBLE:** A supplier whose reputation, past performance, and business and financial capabilities are such that the supplier would be deemed most capable of satisfying Member needs for a specific contract.

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## **Part 1: GENERAL OVERVIEW**

- ***GREATEST BENEFIT***: The decision for award will be based on an overall combination of variables such as quality, price and various elements of required service that in total are optimal relative to the needs of the E&I Membership.
- ***GO TO MARKET***: Strategy or action plan specifying how the Supplier will utilize its inside and outside resources (e.g. sales force and distributors, marketing initiatives, etc.) to deliver its products and/or services to the Education market through an E&I contract.

### **Contract Region Key**

Northeast

Mid-Atlantic

Southeast

Central

Great Lakes

Western

### **States**

CT, MA, ME, NH, NY, RI, VT

DC, DE, MD, NJ, PA, VA, WV

AL, FL, GA, KY, MS, NC, SC, TN

AR, IA, KS, LA, MN, MO, ND, NE, OK, SD, TX

IL, IN, MI, OH, WI

AK, AZ, CA, CO, HI, ID, MT, NM, NV, OR, UT, WA, WY

**Part 2: SCOPE OF SERVICES**

**2.1 Statement of Work**

E&I intends to establish a contract for **Commercial Kitchen Equipment, Small Wares, Parts, Design & Related Services**. All E&I Members will be eligible to participate in the resulting agreement.

The awarded Supplier(s) is/are expected to be the manufacturer or a fully authorized dealer/distributor for any of the manufacturers it proposes.

The Supplier is expected to furnish **Commercial Kitchen Equipment, Small Wares, Parts, Design & Related Services** as required by Members. The Supplier and its distributors must be able to provide service and timely deliveries to all Members and campuses. Direct involvement by the awarded Supplier may be necessary to assist Members in understanding the different types of Commercial Kitchen Equipment Small Wares, Parts, Design & Related Services available and in selecting the best solution to fit their needs. Qualifying Suppliers who can anticipate the current and future needs and requirements of E&I Members; demonstrate the knowledge of any and all applicable industry standards, laws and regulations; and possess the willingness and ability to distribute, market to and service E&I Members in all 50 states are preferred. E&I requests Suppliers to submit their entire product line as it applies and relates to the scope of this RFP. All proposals deemed responsive will be evaluated based on their ability to provide the overall highest value to E&I Members. One of the measures of overall highest value will be the proposed breadth and depth of products and services.

**2.2 Term**

The Agreement term will be for five (5) years with the option of one five (5)-year renewal. Exercise of any renewal will require formal written notification and mutual agreement between E&I and Supplier at least one (1) year prior to Agreement expiration.

If this RFP results in an Agreement, a hold-over clause may be invoked by the E&I member on a month by month or year by year basis as per the agreement between the member and Supplier utilizing the same terms and conditions as listed in Agreement between the awarded Supplier and E&I.

**2.3 Scope of Products and Services**

The Supplier is expected to provide **Commercial Kitchen Equipment, Small Wares, Parts, Design & Related Services** as required by members. All products offered under a resulting agreement shall be new, unused and currently available. Remanufactured or refurbished products are not acceptable, in lieu of new product, unless authorized by the member.

The following is a list of specifications designated for this proposal.

**Foodservice Equipment** - Foodservice Equipment is defined as commercial-only equipment that is National Sanitation Foundation (NSF) approved and is suitable to be installed in a commercial kitchen environment to include, but not limited to: walk-in coolers and freezers, refrigeration appliances, cooking appliances, tables, sinks, shelving, food processing and preparation equipment, hoods and associated components, material handling and food transporting equipment, furniture, warmers, temperature-holding equipment and cafeteria-style serving lines.

**Foodservice Small Wares** - Foodservice Small Wares are defined as commercial-only small wares that are National Sanitation Foundation (NSF) approved to include, but not limited to: pots, pans, serving implements, trays, china, glassware, flatware, scales, food safety implements, cutting boards, cutlery, food storage boxes, light appliances, utensils, food preparation tools, janitorial supplies, cleaning supplies, carts, baskets, coffee brewers, liquid dispensers, racks and temperature-monitoring devices.

**Foodservice Parts** - Foodservice Parts are defined as parts used to repair and/or maintain commercial kitchen cooking and refrigeration equipment to include, but not limited to: gaskets, cooking equipment components, commercial refrigeration components, timers, thermodiscs, pressure controls, pressure regulators, gas valves, thermocouples, probes, latches, filters, baskets, faucets, drains, washroom

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**Part 2: SCOPE OF SERVICES**

components, dish room components, hinges, hardware, plumbing components, gas and electric appliance parts and casters.

**Foodservice Design**

- A. Conceptually develop and design foodservice facility schematics which meet the owner’s requirements and serve a specified number of people.
  - Provide full utility floor plans with dimensions. This should include all electrical, plumbing, structural, facility and mechanical details.
  - Provide and explain special conditions requirements and detailed elevations.
- B. Develop and refine preliminary budgets based on schematic designs.
  - Provide itemized equipment lists detailing all manufacturer makes and models to be used. This should also include a detailing of all utility requirements.
  - Provide installation rate, labor rates and any other applicable charges proposed under this heading.
  - The Foodservice Designer must include, in its quote to the member, all required architectural and engineering design requirements as well as electrical, plumbing, structural and facility modifications needed.
- C. The Foodservice Designer must have full and current Computer Aided Design (CAD) capabilities.
- D. The Foodservice Designer must have full and current REVIT capabilities.
- E. The Foodservice Designer must have remote meeting capabilities (e.g. GoToMeeting) to hold regular discussions with members to aid in the design process.

**Foodservice Installation**

- A. The Foodservice Installer must be able to perform, at least, the following tasks:
  - Receive and store equipment until the facility is ready for installation.
  - Hang and trim hoods and provide full fire system installation. This includes permits and final tests for all systems.
  - Assemble walk-in coolers and freezers. This includes piping refrigeration lines for coolers, freezers and ice Machines. Set condensing units in place, providing proper pressure testing of lines and equipment start-up.
  - Connect all utilities (e.g. plumbing, electrical, gas) within five feet of installed unit(s). This includes start-up and testing of all units for proper operation.
  - Perform field welding as well as install stainless steel, stone or millwork fabricated items.
  - Pre-assemble items ready for setting in place once they are received at the jobsite.
- B. The Foodservice Installer must be willing and able to perform the function/role as the prime contractor and coordinate, supervise and administer all activities with the member, all general and sub-contractors, architects, engineers and site coordinators, as needed, to assure that the project is completed in a timely manner and as proposed in the Purchase Order.

**Part 2: SCOPE OF SERVICES**

- C. The Foodservice Installer must be knowledgeable of, and able to, secure all bonds, permits, licenses and approvals needed for installation of the foodservice facility as proposed in the Purchase Order.
- D. The Foodservice Equipment Supplier will provide comprehensive training on the operation, use and testing of purchased equipment to all personnel selected by the member. This must be a standard part of the installation and be included with the purchased equipment at no additional cost.
- E. All warranties will begin on the date of final acceptance of the project by the E&I member or participant. All warranties must contain the following:
  - All products offered under this RFP shall be guaranteed free from defects and any faulty workmanship for a minimum period of at least one (1) year after final acceptance. Any extended warranty offered by the manufacturer will be described and offered.
  - Refrigeration systems to include: walk-ins, self-contained units and remote appliances, shall have (1) one-year warranty on parts and labor. An additional (5) year warranty (replacement only) on the compressor shall be provided.
- F. If the Foodservice Equipment Supplier is not going to be the warranty provider, or is going to utilize other manufacturer's service providers, the Supplier must provide a list of service providers authorized by the manufacturer and acceptable to the member. Include each warranty provider's contact information (name, email address, phone number, mailing address and/or facsimile number).
- G. The Foodservice Equipment Supplier can offer depot warranty service for small and portable equipment and/or products. Unless otherwise specified for equipment and/or products covered by depot service, the normal warranty will apply. The E&I member or participant will not be responsible for shipping/insurance or delivering the equipment to the Supplier's designated location. The Supplier will be responsible for all return shipping and insurance. For items too large to ship, the Supplier must offer on-site warranty as noted above.
- H. All deliveries must be coordinated with the member before delivery. Delivery must be "on the ground" unless otherwise specified.
- I. Proposers may submit a proposal on all or part of this specification.

**Sole Responsibility-** E&I desires a "Sole Responsibility" Supplier meaning the Supplier will take sole responsibility for the performance of delivered products/services. E&I also desires sole responsibility with regard to:

- **Scope of Products/Services:** E&I desires a Supplier for the broadest possible scope of products/equipment and services being proposed over the largest possible geographic area and to the largest possible cross-section of E&I current and potential Members
- **Supplier use of sub-contractors in sourcing or delivering product/equipment and services:** E&I desires a single source of responsibility for equipment/products and services proposed. Proposers are assumed to have sub-contractor relationships with all organizations and individuals whom are external to the Proposer and are involved in providing or delivering the product/equipment and services being proposed. Supplier assumes all responsibility for the equipment/products and services and actions of any such Sub-Contractor.

In addition to **Commercial Kitchen Equipment, Small Wares, Parts, Design & Related Services**, this solicitation should be read to include, but not limited to:



**Part 2: SCOPE OF SERVICES**

- All commercial kitchen equipment related Repair and Maintenance services as it may be needed or requested by E&I Members.
- All commercial kitchen equipment financing and leasing options if available.

E&I reserves the right to limit the scope of this solicitation for E&I and current and potential E&I member agencies.

**Suggested Solutions Options**

- A. All potential Proposers are assumed to be professionals in their respective fields. As professionals you are deemed to be intimately familiar with the spectrum of E&I and E&I Members’ needs and requirements with respect to the scope of this RFP.
- B. With this intimate knowledge of E&I and E&I Members’ needs, Proposers are instructed to provide their proposal response in a format describing their solutions to those current and future needs and requirements. Proposers should take care to be economical in their response to this RFP.
- C. Multiple solutions to the needs of E&I and E&I Members are possible. Examples could include:
  - **Equipment/Products Only Solution:** Equipment/products Only Solution may be appropriate for situations where E&I or E&I Members possess the ability, either inhouse or through local third-party contractors, to properly install and bring to operation those equipment/products being proposed.
  - **Turn-Key Solutions:** A Turn-Key Solution is a combination of equipment/products and services which provides a single price for equipment/products, delivery, and installation to a properly operating status. Generally, this is the most desirable solution as E&I and E&I Members may not possess, or desire to engage, personnel with the necessary expertise to complete these tasks internally or through other independent contractors
  - **Good, Better, Best:** Where appropriate and properly identified, Proposers are invited to offer the CHOICE of good – better – best multiple grade solutions to E&I and E&I Members’ needs.
  - **Proven – Accepted – Leading Edge Technology:** Where appropriate and properly identified, Proposers are invited to provide an appropriate identified spectrum of technology solutions to compliment or enhance the functionality of the proposed solutions to E&I and E&I Members’ needs both now and into the future.

**Overlap of Scope:**

Respondents are requested to submit their total line of available products and services. While this solicitation specifically covers Foodservice Equipment, Small Wares, Parts, Design and/or Installation, respondents are encouraged to submit an offering on any or and all products and services available that they currently perform in their normal course of business.

Supplier shall clearly state its ability to provide services related to supporting the above products. Proposals must include a full description of each service offering. Services may include: technical support, maintenance and repairs

E&I recognizes that any one Supplier may not provide all product lines. No systems, products, or services have been excluded from this RFP. All product, supplies and accessories carried in a Supplier’s catalog(s), price book(s) or otherwise available by special order are part of this solicitation.

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

### **2.4 Pricing**

Pricing is to be based upon **Attachment A1 Pricing Sheet**. The following pricing structure(s) are to be submitted using the price sheet templates in Attachment A-1.

#### **A. Attachment A1 Pricing Sheet**

#### **B. Percentage Discounts for Entire Catalog**

Suppliers are to provide percentage discounts for the entire catalog or manufacturer or category.

#### **C. Additional Volume Discounts**

Suppliers are to provide additional volume-based pricing for consideration. Examples include, but are not limited to, deeper discounts based on dollar thresholds for single orders, cumulative purchases by member, and aggregate volume by the membership. Suppliers shall propose how additional discounts are to be earned.

#### **D. Services**

Supplier shall describe all available pricing options for services (discount off list, hourly fees, per unit fees, etc).

### **2.5 Terms and Conditions of Agreement**

As a result of this RFP process, it is our expectation that an Agreement will be established between E&I and one or more of the Suppliers. The Agreement will incorporate the relevant terms and conditions of this RFP and Supplier's proposal.

Upon award each successful Supplier will sign an Agreement with E&I to sell products and/or services. The Agreement will incorporate all the terms and conditions as indicated in Attachment B, pricing, specifications, and requirements of the RFP.

### **2.6 Supplier Questionnaire**

Suppliers should fully complete the Supplier Questionnaire in Attachment C of this RFP. In order for your proposal to be considered, all questions must include a full response and clear statement of capabilities. Your responses to these questions will assist us in evaluating your proposal as it relates to the following:

- Response to Scope of Services
- Corporate Information
- Supplier Capabilities
- Administration and Marketing
- Supplier Report File

### **2.7 Proposal Innovation & Improvements**

Supplier may offer innovative ideas, new concepts, and alternative partnership arrangements falling outside the specifications of this RFP. Added value services, incentives, and economic solutions beyond the scope of this RFP may be considered. Examples may include:

- Value-added attributes, products and services are items offered in addition the products and services being proposed which adds value to those items being proposed
- A value-add would include a program or service that further serves the members needs above and possibly beyond standard expectation and complements the product offering
- Creative programs to ensure quick and deep ongoing "traction" with the membership
- Programs to elevate sales made on campus (departmental "road shows," leveraging web site messages, etc.)
- Willingness to work with members' on-site retail facilities (campus stores), if such program exists
- Willingness to work with members on a sponsorship program, if requested
- Extending the Agreement to faculty, staff, and students through employee purchase programs
- Creative pricing (signing bonuses, rebates, e-commerce rebates to promote online ordering, etc.)
- Incentives for early payment

E&I may accept an offer under this RFP demonstrating such a significant change or improvement that it considers being breakthrough advancement to the services being sought.

### **Part 3: SUPPLIER PERFORMANCE EXPECTATIONS**

*The following obligations shall govern the relationship between Supplier & E&I. They are to be reviewed by legal or other qualified personnel and any exceptions noted directly below each of the respective items in question. It should be noted that any exceptions which are determined to be unacceptable to E&I may result in the disqualification of your proposal. Part 3 in its entirety must be included in Tab 6 of proposal response.*

#### **3.1 Report of Sales**

The Supplier shall be provided an electronic file listing of E&I members and shall be required to file a monthly electronically formatted report of total U.S. dollar sales to Education by institution (the “Report of Sales”). The Report of Sales shall include all of the required fields in the Supplier Reporting File (“VRF”) detailed in the Questionnaire included with this Request for Proposal. The Report from the Supplier shall include all sales invoiced during the prior month. The Report of Sales is due no later than ten (10) days following the end of the month. The initial Report of Sales is due no later than thirty (30) days after the month of the effective date of the Agreement. The Report of Sales shall be sent via e-mail to [vrf@eandi.org](mailto:vrf@eandi.org) as per the scheduled due date of the report.

All sales, regardless of method, shall be included in the total report of total U.S. dollar sales to Education by institution. Any and all rebates shall have no effect on the reporting and payment of the CAF. All rebate activity will be reported to E&I. If Supplier proposes that E&I distribute rebate payments directly to its Members, Supplier shall provide E&I with a rebate activity report that separates member rebate payments from CAF payments.

Suppliers must provide a sample report in the Supplier Questionnaire, Attachment C of this RFP, to assure that the Supplier is able to provide the reporting as required. The Supplier must also provide in Attachment C the name of the person responsible for submitting the report. The Supplier shall notify E&I when a change in personnel is made and provide updated contact information.

#### **3.2 Contract Administrative and Marketing Fee**

Supplier shall provide E&I a minimum 3% Contract Administrative and Marketing Fee (CAF) based on the net total invoice amounts on all orders invoiced pursuant to the resulting Agreement in each month during the term of the Agreement. The CAF shall be calculated monthly and, include all sales invoiced during the prior month, as per the corresponding Report of Sales. The CAF rate shall remain constant regardless of any and all pricing methods utilized by the member, special quotes pricing, all services including value added services and/or use of Supplier Diversity programs.

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

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

Should a holdover clause be invoked as described in Section 37 of Attachment B, the Supplier shall continue to submit the CAF and supporting Report of Sales for the duration of the holdover period.

#### **3.3 Agreement Audit**

E&I may, at any time during the term of the Agreement and for a period of three (3) years after the receipt of the last Report of Sales and payment of CAF covering the period through the date of termination, audit the Supplier’s records pertaining to its compliance with the terms of the Agreement. An audit may be scheduled or announced by providing the Supplier a minimum of five (5) business days advance written notice. Every effort will be made to arrange a mutually convenient time for the audit but in no event shall an audit be delayed more than twenty (20) business days from the date of notice, unless agreed to by E&I in its sole discretion. The audit will be conducted by E&I and/or its designee. Supplier will provide E&I with access to records, sufficient workspace and staff support to facilitate an audit. Our audit may include, but is not limited

**Part 3: SUPPLIER PERFORMANCE EXPECTATIONS**

to, product compliance, member pricing, order processing, order fulfillment, delivery terms and conditions, invoicing, rebate calculations where applicable, accuracy and timeliness of submitted Reports of Sales and the related CAF and any other reports or payments required under the terms of the Agreement. Any deficiencies or errors shall be corrected within ten (10) business days of E&I notification to the Supplier. If the discrepancy is greater than 5% from amounts reported, the cost of the audit shall be paid by the Supplier.

**3.4 Supplier Commitment**

Supplier’s proposal shall reflect their commitment in achieving E&I’s primary goals and objectives as outlined in Part 1, Section 2. To meet E&I’s goals and objectives, Suppliers are required to make the following commitments to ensure the overall success of the resulting Agreement(s):

A. Corporate Commitment

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

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

B. Pricing and Product Commitment

The Supplier will commit that the awarded Agreement:

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

C. Sales Commitment

The Supplier will commit that the E&I Agreement:

- Shall be marketed by Supplier as their go to market offering
- Shall be enhanced by Supplier’s sales force which is trained, engaged, and committed to the success of the program
- Shall report sales accurately and timely to E&I as required

D. Legal Commitment

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

- Shall comply with all federal laws and regulations
- Shall comply with all state and local laws and regulations

**3.5 Marketing and Sales Responsibilities – Supplier**

A. Education Sales Activities

Supplier is responsible for Education sales activities which may include:

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

B. Additional Business Services

Supplier shall, at its own expense, provide to E&I:

- A comprehensive “go-to-market” plan, detailing the role of the E&I Agreement in Supplier’s Education market strategy and how Supplier intends to leverage the E&I Agreement to build and expand Education business.
- A dedicated Education Agreement Administrator able to act with full authority. The Education Agreement Administrator shall meet with appropriate E&I representatives on a scheduled basis to discuss and measure marketing strategies, performance, Report of Sales, CAF and other Agreement related issues.

**Part 3: SUPPLIER PERFORMANCE EXPECTATIONS**

- A contact list of dealers, agents, account representatives and service assistants with experience and knowledge of the Agreement. Supplier will provide initial and ongoing training and awareness of the E&I Agreement to all inside and outside sales representatives as well as to its distribution chain, including quarterly meetings at corporate headquarters, call centers, regional offices, etc.
- Initial and continuing member-based customer service and order problem resolution.
- Descriptive product marketing literature, catalogs, and product price schedules, links to Supplier’s website, content for “micro-site” on E&I website, e-mail communications, articles for inclusion in the electronic monthly newsletters, and on the E&I website.
- E&I staff contract rollout training and follow-up training sessions as required, to include training webinars, conference calls and on-site training as appropriate to educate E&I employees of Supplier’s member offerings.

C. Marketing Opportunities

- E&I encourages participation, annually and throughout the term of the Agreement, as an exhibitor at the annual NAEP Meeting and Product Exhibition. For additional information on the conference, please visit the NAEP website at [www.naepnet.org](http://www.naepnet.org).
- E&I encourages participation, annually and throughout the term of the Agreement, upon notification, at NAEP regional meetings, member town meetings, member regional meetings, member on-campus supplier fairs and member presentations.
- E&I encourages participation, annually and throughout the term of the Agreement, at applicable product exhibitions and conferences to include but not limited to the National Association of College Auxiliary Services (NACAS), the National Association of College & University Food Services (NACUFS), and Affiliate Conventions.

**3.6 Marketing and Sales Responsibilities – Supplier and E&I**

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

- Develop, approve and implement a business development plan to include Contract Performance, Marketing & Communications, Sales, Accounting Reporting and Contract Management related initiatives to be reviewed on a scheduled basis
- Establish and maintain member relations
- Collaborate to identify leads and opportunities, develop key target lists and leverage existing relationships to build membership and business
- Make sales calls to members, as appropriate

**3.7 Marketing and Sales Responsibilities – E&I**

- E&I will create ongoing member awareness of the E&I Portfolio of Products and Services via online and direct marketing, marketing communications, face-to-face interactions with members, social media and other venues as appropriate.
- Upon commencement of a new agreement, E&I will notify all members and make specific contract information available online.
- E&I’s field team of Member Relations Executives will identify and share sales leads as appropriate and assist with Supplier sales activities when possible and in a variety of ways.
- E&I will make a Portfolio Support Executive (PSE) available to Supplier to facilitate the execution of the business development plan, including sales training about E&I.
- E&I will share relevant market intelligence it gathers through surveys, etc.

## **Part 4 : EVALUATION PROCESS AND CRITERIA**

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

### **4.1 Evaluation Process**

All proposals should be complete to be considered responsive. If the proposal fails to conform to the requirements of the RFP, E&I and/or the RFP Team will determine whether the variance is significant enough to consider the proposal.

As part of the evaluation process, E&I may require a demonstration/presentation before the award is made and the demonstration/presentation may be considered as an additional factor in award. Selected Supplier(s) shall be given a script and/or instructions for the presentation in order to provide the evaluation team further insight regarding their proposal and to clarify any issues. Failure of a Supplier to conduct a presentation on the date scheduled may result in rejection of the Supplier's proposal. In addition, E&I may decide to make site visits, as needed, during the evaluation process which shall be coordinated with the respective Suppliers.

### **4.2 Evaluation Criteria**

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

1. Pricing
  - Pricing and Terms that provide for increased discounts and lower overall cost
2. Adherence to Terms & Conditions/RFP Specifications
  - RFP closely aligns with Members' institutional policies, federal, state, and local legal and regulatory requirements and policies
3. Supplier's Capabilities
  - Order Placement/Delivery/Installation
  - Service, Support, Product Warranty and Maintenance
  - Administration, i.e. Reporting Capabilities
  - Environmentally sustainable products and solutions
  - On-Line Capabilities, including electronic ordering, E-commerce, procurement cards, billing and access to Supplier's electronic catalogs
  - Supplier Diversity, including Historically Underutilized Businesses (HUBs), Woman and Minority Business Enterprises (WMBEs) and Small Business Enterprises as defined by the Small Business Administration (SBA)
4. Breadth and Quality of Products/Services
5. Supplier's Qualifications
  - Financial Stability
  - References
  - Experience and Past Performance
6. Added Value Solutions/Incentives and other information as deemed relevant by E&I

### **4.3 Tentative Schedule of Events**

The timeline associated with this RFP is provided below:

<b>Activity</b>	<b>Due Date</b>
Request for Proposal issued	July 16, 2018
Pre-Proposal Conference to be held via Teleconference Call 11:30 AM ET 1-855-244-8681 Meeting number (access code): 647 085 181 <a href="#">Join WebEx meeting</a>	July 24, 2018

**Part 4 : EVALUATION PROCESS AND CRITERIA**

Deadline for submission of RFP–related written questions	July 31, 2018
E&I Response to RFP-related questions	August 13, 2018
1 PM ET Deadline for Receipt of Proposals (“Receipt”)	August 30, 2018
Evaluation, Clarifications	Sept. 11, 2018
Best and Final Offers on or about	Sept. 24, 2018
Negotiations Begin on or about	Oct. 15, 2018
Anticipated Award(s)/Letter of Intent (LOI)	Nov. 1, 2018
Acceptance and Execution of Agreement	Nov. 15, 2018
Implementation	Dec. 1, 2018

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

**Part 5: PROPOSAL FORMAT AND CONTENTS**

**5.1 Proposal Requirements**

All proposals are subject to the conditions specified herein. E&I, in its sole discretion, may reject a Proposal as non-responsive if Supplier fails to follow these instructions and requirements.

- A. Supplier must submit the response in two separate envelopes as follows:
  - First envelope shall contain the proposal response ONLY, excluding pricing, and marked “RFP#683435 Commercial Kitchen Equipment Small Wares, Parts, Design & Related Services – Proposal Response”
    - two ‘originals’ (duly marked), each in three ring binders, and signed by a representative authorized to sign the proposal on behalf of Supplier
    - one electronic copy in Microsoft Word and Excel formats on a USB flash drive
  - Second envelope shall contain pricing ONLY, and marked “RFP#683435 Commercial Kitchen Equipment Small Wares, Parts, Design & Related Services – Pricing”
    - two ‘originals’ (duly marked), each in three ring binders, and signed by a representative authorized to sign the proposal on behalf of Supplier
    - one electronic copy in Microsoft Excel format on a USB flash drive

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

- B. Proposals must be received by the Receipt of Proposals date specified in the Schedule of Events above at E&I’s office listed on the RFP cover page.
- C. Each Supplier is solely responsible for the timely delivery of its proposal. Failure to meet the proposed date and time shall be grounds for rejection.
- D. The Request for Proposal (RFP) number should be clearly marked on the outside of the sealed package.
- E. Office hours for receipt of proposals are: Monday through Thursday, 8:30 A.M. through 4:00 P.M ET. Proposals shall be submitted by mail, courier or delivered in person at the address indicated on the RFP cover page prior to the closing time set for receipt of offers, as determined by the reported time in E&I’s main office.
- F. DO NOT ALTER THIS RFP document IN ANY WAY. The only acceptable changes or alterations to this RFP will be made in the form of addenda and issued only by E&I.
- G. A Supplier may withdraw or modify its proposal prior to the Receipt of Proposals Deadline. Proposals submitted prior to the Receipt of Proposals Deadline may be modified or withdrawn only by written notice to E&I; no oral modifications will be permitted.

Any modifications to a previously submitted proposal:

- shall be in writing and in the same manner and form as required by this RFP
  - shall be contained in a sealed envelope, clearly marked with the RFP number and “Modification of Proposal” notation
  - will be corrected in accordance with such written request at the opening of the proposal
- H. Elaborate proposals (e.g. expensive artwork) beyond that sufficient to present a complete and effective proposal are not necessary or desired. E&I will not pay for any information requested nor is it liable for costs incurred by the Supplier in responding to this RFP.
  - I. All submitted proposals constitute an offer by each respective Supplier and shall remain irrevocable for a period of 180 days following the Submission Deadline.



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

### **5.2 Required Proposal Format**

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

#### Table of Contents/Page Identification

Include a Table of Contents and number the pages in the proposal consecutively.

#### Tab 1 Executive Summary

Executive Summary should consist of a concise non-technical summary providing a management overview of the proposal that outlines the Supplier's commitment and approach to meeting E&I's requirements.

If public, provide a URL to a link of the three (3) most recent annual reports. If private, provide copies of the most recent three (3) year audited financial statements or other documented evidence of financial stability to assure required performance upon request.

#### Tab 2 Pricing

This tab shall include Attachments A, A-1 and, if applicable, additional pricing. Supplier shall provide information for this tab in a sealed envelope separate from the proposal as instructed in Section 4.1.

#### Tab 3 Agreement/Exceptions

Suppliers must include Attachment I and indicate agreement with or exception to all specifications, terms and conditions, requirements and obligations of the RFP.

#### Tab 4 Supplier Questionnaire

Supplier must complete and include all sections of Attachment C as described in Section 2.6.

#### Tab 5 Execution of Offer, Mutual Non-Disclosure Agreement, and Acknowledgement of Addenda

Supplier must complete the Execution of Offer and Mutual Non-Disclosure Agreement documents in Part 5, signed by a representative authorized to sign the proposal on behalf of Supplier.

Addenda, if any, shall also be included and signed.

#### Tab 6 Attachments D-L

Supplier must complete all Attachments as indicated on each form.

Attachment D – Hub Forms – State of TX

Attachment E – Compliance Language – State of Connecticut

Attachment F – Debriefing, Protests and Appeals Process

Attachment G – General Certification Forms

Attachment H – EDGAR Certifications

Attachment I – Exception Form

Attachment J – Conflict of Interest Certification

Attachment K – MWBE Certification Form

Attachment L – Tax Information Form

#### Tab 7 Additional Attachments

Alternate proposal, additional items, services and/or processes (excluding pricing) that Supplier would like E&I to consider in lieu of or in addition to proposal response to this RFP. Pricing for alternate proposal must be labeled “Alternate Proposal Pricing” and included in “Tab 2 – Pricing” as described above.

### **5.3 Pre-Proposal Conference**

A Pre-Proposal conference may be held in person or via teleconference call. Supplier participation in the conference is optional but is strongly encouraged. Suppliers wishing to participate should RSVP by going to the URL listed in the Schedule of Events (Section 4.3).

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**Part 5: PROPOSAL FORMAT AND CONTENTS**

E&I reserves the right to schedule additional conference calls as needed at a later date prior to the due date of the proposal.

**5.4 Questions and Clarification**

- A. Any questions regarding this RFP must be directed via email to the Contract Manager as noted on the cover page of this document.
- B. All questions must be received no later than the deadline for submission of RFP –related written questions, as noted in the Schedule of Events.
- C. A Supplier is expected to raise any questions, exceptions or concerns they have regarding the RFP. If Supplier discovers any significant ambiguity, error, conflict, discrepancy, omission or other deficiency in this RFP, Supplier should immediately notify the Contracts Department Lead via email of the deficiency and request modification or clarification of the RFP document.
- D. Any questions and responses specific to the terms and conditions, process, procedures, language, specifications and other parts of the RFP may be made public and may be shared with other Suppliers in the form of an addendum to the RFP. Questions and responses that contain proprietary information will be answered confidentially.
- E. Questions and answers will be provided via an addendum and posted on the E&I web site.

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

- A. E&I reserves the right to issue Addenda to this RFP at any time prior to the “Receipt” date; acknowledgement of such Addenda must accompany the RFP response as a part of the proposal as instructed in Part 5, Section 5.2.
- B. E&I reserves the right to reject any or all proposals or any part thereof.
- C. E&I reserves the right to make an award and/or multiple awards by section, in whole, or to make no award as determined to best meet the needs of the membership. E&I recognizes that any one Supplier may not provide all product lines. As such, E&I may necessitate a multiple award to meet the members needs as outlined in Part 2 of this RFP.
- D. E&I recommends that a Supplier’s initial proposal reflect its most favorable terms. E&I reserves the right to negotiate with any Supplier(s) and to arrive at its final decision and/or to request additional information or clarification on any matter included in the proposal.
- E. If this RFP is regional in scope, E&I, upon mutual agreement of the Supplier, may expand the Agreement to additional regions\* or nationally\* (\*see Definitions - Part 1, Section 1.5).
- F. E&I, in its sole discretion, reserves the right to waive any irregularity or minor variance in any proposal received, including but not limited to obvious mathematical errors in extension of pricing, failure to date the proposal, or failing to execute any certification not considered salient to price, delivery or acceptance of an agreement award.
- G. E&I reserves the right to select the most responsible Supplier(s) without further discussion, negotiation, or prior notice.
- H. E&I may presume that any proposal is a final proposal revision (formerly referred to as “Best-and-Final Offer”).
- I. E&I reserves the right to delete specific line items in order to provide a basis for an evaluation of the prices quoted by all Suppliers.
- J. Any discussion with E&I personnel, other than the Category Vice President or Contract Manager, regarding this RFP while the RFP is in progress (from the time Supplier receives this RFP until final

**Part 5: PROPOSAL FORMAT AND CONTENTS**

award is made) is strictly prohibited. Such contact and discussion may result in disqualification of Supplier's proposal.

- K. E&I is the sole owner of all data and information contained within the RFP document and accompanying attachments. Supplier shall use this information exclusively to prepare a proposal. Supplier should not disclose this information to any other firm or use it for any other purpose unless required by law or legal process.
- L. Supplier proposals will be opened and reviewed at the convenience of E&I.
- M. All proposals and related information submitted become the property of E&I; they will not be returned and may be subject to disclosure under the Freedom of Information Act, Open Records laws or other laws existing in E&I Members' states. As such, proposal(s) may be released to third parties, without prior notice to Supplier(s), as required to comply with legal requirements.
- N. Suppliers must clearly mark "Confidential" on any portion of their respective responses which are considered to contain confidential or proprietary information.

**Part 6: EXECUTION OF OFFER & MUTUAL NON-DISCLOSURE AGREEMENT**

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

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

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

**Part 6: EXECUTION OF OFFER & MUTUAL NON-DISCLOSURE AGREEMENT**



**Mutual Non-Disclosure Agreement**

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

**WHEREAS:**

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

**NOW THEREFORE:**

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

**Educational & Institutional Cooperative Services, Inc.**

Company Name

\_\_\_\_\_

By (Signature)

**Gary D. Link**

By (Print Name)

**Sr. Vice President, Consulting Group & Contracts**

Title

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

Tel: **(631) 630-8252** Fax: **(631) 273-3370**

\_\_\_\_\_

Company Name

\_\_\_\_\_

By (Signature)

\_\_\_\_\_

By (Print Name)

\_\_\_\_\_

Title

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

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

**For E&I Office Use Only**

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

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

**ATTACHMENT A – Financial Offer Summary & Price Sheet**

*Supplier must identify all costs, fees or charges for which the members and/or E&I may be billed. Costs not indicated in your proposal will not be paid. Attachment A in its entirety (this summary and pricing worksheets) must be included in Tab 2 of proposal response.*

**1. Pricing**

Pricing shall include discount from list for the products and services requested in this RFP. Suppliers electing to propose pricing on additional products or services must submit additional items on a separate list. The list must be labeled as “Additional Items.” E&I retains the right to accept or reject additional items in part or in whole.

Supplier shall provide pricing based on a discount from a manufacturer’s price list or catalog, or fixed price, or a combination of both with indefinite quantities. Additional pricing and/or discounts may be included. If Supplier has existing cooperative contracts in place, Supplier is requested to submit pricing equal or better than those that are in place. Multiple percentage discount structure is also acceptable. Please specify where different percentage discounts apply.

The percentage discounts and rates for the proposed products and services shall be applicable to all orders made under a resulting Agreement with Supplier. Percentage discounts off Supplier’s list price shall remain firm for the life of the Agreement unless improved for the benefit of the membership.

Supplier is authorized to offer members enhanced pricing and/or member-specific agreements on a case-by-case basis and both shall be considered part of the resulting Agreement. The Supplier is required to make available any special product offerings or promotions made available by the manufacturer or distributor.

**2. Price Adjustments**

Price changes will normally only be considered at the end of one contract period and the beginning of another. Price change requests shall be supported by evidence of increased costs to the Supplier. E&I will not approve price increases that will merely increase the gross profitability of the Supplier at the expense of E&I and its members. Price change requests shall be a factor in the contract extension review process. E&I shall determine whether the requested price increase or an alternate option is in the best interest of E&I and its members. Any price increase requires a minimum 90-day advance written notice by Supplier and approval from E&I prior to implementation. List price decreases are allowed at any time during the term of the Agreement. Supplier shall provide E&I written notice immediately of all list price decreases.

**3. Member Direct Rebates**

Suppliers are encouraged to propose direct rebates as means of generating revenue and increasing operating funds for members. Describe any financial considerations or creative offerings such as signing bonuses, rebates, multi-year discounts, growth incentives, programs resulting in the member being charged a reduced amount, early payment discounts, scholarship sponsorships, etc.

In addition, Supplier may offer improvements to the contract administrative fee requirements, upfront supplier-funded marketing support dollars, assignment of existing sales volume, or other forms of incentive programs. Such proposals may be considered as providing added value/incentive. E&I reserves the right to explore/negotiate for such additional improvements as we move through the RFP process of evaluation, clarifications, negotiations, “final proposal revision” (formerly referred to as “Best and Final Offer”) to final award.

**4. Certification of Independent Pricing**

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

**ATTACHMENT A – Financial Offer Summary & Price Sheet**

CORPORATE NAME:			
<b>AUTHORIZED SIGNATURE:</b>			
PRINT NAME:			
TITLE:			
EMAIL ADDRESS:			
PHONE:		DATE:	

**ATTACHMENT A1 – Price Sheet Template**

**ATTACHMENT A1 – Price Sheets for RFP#683435 Comm. Kitchen Equipment**



Attachment A1 -  
Net Price for RFP#68



## **ATTACHMENT B Relevant Terms and General Terms & Conditions**

*The following terms and conditions shall govern any agreement issued as a result of this solicitation. They are to be reviewed by competent legal or other personnel and any exceptions noted on Attachment I. It should be noted that any exceptions, as well as additional or attached terms and condition which are determined to be unacceptable to E&I, may result in the disqualification of your proposal.*

### **A. Relevant Terms** (Suggested terms – varies depending upon scope and commodity)

#### **A1 Customer Support**

Supplier shall provide a single point of contact plus a backup for each member. This individual may support multiple members. Members shall have access to their corresponding customer service representative during normal business hours of every business day (8am to 5pm ET).

#### **A2 Orders**

All terms and conditions of an individual member's standard procurement terms for ordering may apply. With each ordering occurrence, it is mutually agreed that the Supplier's notice of acceptance shall create an agreement between the parties thereto containing all specifications, terms and conditions of the Agreement.

#### **A3 Invoices and Payment**

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

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

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

#### **A4 Order Fulfillment, Distribution and Installation Agreements**

Order Accuracy rate shall be maintained at 90% or greater. Order Accuracy rate is defined as "the number of items delivered as ordered divided by the total number of items ordered."

Order Fill rate shall be maintained at 90% or greater. Order Fill rate is defined as "the number of items on an order filled completely as ordered divided by to the total number of lines on an order."

Supplier, within twenty-four (24) hours after receiving a purchase order, shall notify the member of any potential delivery delays. The following information regarding backorder(s) shall be provided to the member:

- PO Number, if applicable
- Item ID
- Item Name & Description
- Reason for shortage
- Plan of action (when delivery may be expected or suggested replacement)

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

## **ATTACHMENT B Relevant Terms and General Terms & Conditions**

### **A5 Delivery**

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

Normal delivery of orders must be accomplished at established times as set by the member. On-time delivery shall be maintained at 95% or greater. On-time delivery is defined as delivery of order within the specified delivery time frame after the placement of order. Orders will be defined as late without approved notification. The Supplier(s) shall have the capability of expediting the delivery of orders to assure no shortage of product during installation.

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

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

Selection of a carrier for shipment will be the Supplier's option unless otherwise specified by the member. If special delivery or handling charges are applicable they shall be pre-approved by the order initiator.

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

### **A6 Supplemental Agreements**

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

### **A7 Third Party Distributors/Subcontractors**

In the event that Supplier chooses to subcontract any service or delivery of the products under the terms herein, Supplier shall fully warrant prompt performance of the subcontractor in a fully complete, workmanlike manner customary to the trade. Failure by the subcontractor to perform in a timely manner as specified above shall not relieve Supplier of its obligations to make complete timely delivery of products, supplies or service at no additional cost to the member.

### **A8 Substitutions**

No substitutions of alternate items for products ordered are permitted without the express prior written approval of the member. Any and all remanufactured or refurbished products are not acceptable, in lieu of a new product, unless authorized by the member.

### **A9 Minimum Orders**

Supplier must specify any minimum order charge or conditions under which the established price will be adjusted. It is preferred there not be a minimum order quantity or charge.

### **A10 Supplemental Charges**

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

### **A11 Emergency Purchases**

Members reserve the right to make purchases of items included under this Agreement when emergency conditions exist. All emergency purchases shall be reported as regular sales to E&I.

### **A12 Storage**

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

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## **ATTACHMENT B Relevant Terms and General Terms & Conditions**

### **A13 Tracking Lost and Damaged Shipments**

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

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

### **A14 Returns – Defective and Non-Conforming Products or Services**

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

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

### **A15 Reasons for Return or Credit**

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

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

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

### **A16 Restocking Policy**

Supplier shall not impose a restocking fee on member under the following circumstances:

- Item is returned due to damage, incorrect product shipped, or Supplier customer service order entry error.
- Inventory is returned within 24 hours of delivery.
- Inventory is returned, but exchanged for other inventory.

Re-stocking fees for all other reasons can be no greater than 10% of the value of the items needing re-stocking.

### **A17 Warranty and Product Condition of Sale**

At a minimum, there shall be a three (3) year warranty from the date of delivery to include parts, labor and travel. For third party providers, the manufacturer's standard warranty shall apply. Lifetime warranties shall remain in force regardless of whether the resulting agreement is still in place.

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Supplier may offer a warranty that clearly illustrates an improvement to the manufacturer's standard warranty and benefit to the member. Supplier should track the product warranty for all products sold to member. Loaner products shall be made available while member's equipment is out for warranty repair.

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

- New and genuine
- Free from defects in content and materials
- Provided as per manufacturer's requirements
- Sold or manufactured via legal and reputable channels
- Not misbranded

### **A18 Extended Warranty Option**

Supplier shall offer an optional one (1) year warranty extension on all systems. The same terms and conditions that apply to the standard warranty coverage shall apply during additional year of ownership if the extended warranty option is included in the original purchase.

### **A19 User Manuals**

Supplier shall provide on-line links to original instruction manuals for each unit ordered, including complete documentation on all components used. Electronic notification of bulletins, revisions and corrections shall be provided as they are issued. Instruction manuals shall contain:

- Definition of equipment capabilities
- Technical description of equipment operation
- Description of malfunction identification
- Troubleshooting procedures
- Detailed schematics
- Installation and use instructions
- Operating system software manual

### **A20 New and Discontinued Products**

The Supplier shall, at least thirty (30) days prior to their introduction or discontinuance, notify E&I and the membership of any new or discontinued products. Unless noted otherwise the discount and pricing established for new products will be equal to the pricing structure proposed. If the Supplier offers a different discount structure for new products then a separate category of "New Products" pricing should be added to the proposed discount structure on appropriate attachment. In such a case, the Supplier should clearly indicate the number of months products are considered as "new products."

### **A21 Replacement Parts**

If Supplier offers replacement parts, then a separate category of "Replacement Parts" pricing should be added to the proposed discount structure.

### **A22 Business Review Meetings**

In order to maintain a partnership between the member and the Supplier, members may require business review meetings. These meeting shall be held on a quarterly basis, if not more frequently. The business review meeting shall include, but not be limited to, the following:

- Review of Supplier performance
- Review of minimum required reports (as described in the following section)

### **A23 Reporting**

At a minimum, the following reports shall be provided to members, as requested, in an electronic format on a quarterly basis:

- Total orders year to date, including item ID, item description, unit of measure, total quantity ordered, total quantity shipped, sales price, list price, total sales price (total quantity shipped x sales price), method of payment, department
- Overall order accuracy and fill rates
- Number of orders returned due to Customer error
- Total re-stocking charges (\$) applied

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- Number of orders returned due to Supplier error
- Total dollar value of surcharges, transaction fees, delivery charges, and other misc. charges
- Current market updates, i.e. company news, systems failures, product recalls, etc.

**A24 Employee Purchase Program**

Supplier may offer discounted products to members' students, faculty and staff for personal purchases. If offering an Employee Purchase Program, Supplier shall describe how it intends to protect members from liability from personal purchases made by students and employees.

**A25 Samples**

If requested, Supplier is to provide samples of the products. Samples for evaluation must be provided free of charge. The quantity of any sample requested will be reasonable but sufficient to undertake an appropriate evaluation.

## **ATTACHMENT B Relevant Terms and General Terms & Conditions**

### **B. General Terms and Conditions**

#### **B1 Interpretation, Enforcement and Forum of Laws**

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

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

#### **B2 Compliance with Law**

Supplier warrants and certifies that in the performance of this Agreement, it has complied with or will comply with all applicable statutes, rules, regulations and orders of the United States, and any state or political subdivision thereof, including but not limited to, laws and regulations pertaining to labor, wages, hours and other conditions of employment. All federal, state, and local laws, statutes, ordinances, standards, orders, rules and regulations contained in the attached forms are hereby integrated into this contract.

#### **B3 Funding Provided by Federal Contracts or Grants**

Where Federal Contracts or Grants provide funding to members, it is the responsibility of the Supplier and the member to comply with all FAR (Federal Acquisition Regulations) and EDGAR (Educational Department General Administrative Regulations) applicable laws and regulations by completing any certifications and disclosures and any other requirements. Refer to Attachment H – EDGAR Certifications.

#### **B4 Insolvency**

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

#### **B5 Assignments**

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

#### **B6 Resale**

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

#### **B7 Patent Trademark and Copyright Infringement**

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

#### **B8 Use of Name, Logos, etc. in Advertising**

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

#### **B9 Transactions between Supplier and E&I member**

The purchase of products and/or services by a member from Supplier is a transaction solely between member and Supplier. It is understood and agreed that if any litigation arises between Supplier and any E&I member, Supplier shall not make E&I a party to that litigation. A violation of this provision shall be deemed a material breach of this

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Agreement warranting termination by E&I, and Supplier agrees to indemnify E&I against and hold it harmless from all costs associated with such litigation, including reasonable attorney's fees.

**B10 Education Pricing/Pricing Parity**

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

**B11 Responsibility for Damage Claims**

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

**B12 Protection of Property and Liability**

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

**B13 Indemnification of E&I and Member**

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

**B14 Insurance**

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

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

**B15 Licenses/Permits/Taxes and Tax Exempt Status**

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

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

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

### **B16 Americans With Disabilities Act and Rehabilitation Act**

Supplier shall comply with all applicable provisions of the Americans with Disabilities Act, the Rehabilitation Act of 1973 and applicable federal regulations. All electronic and information technology and products and services to be used by E&I member institutions' faculty/staff, students program participants or other constituencies must be compliant with the Americans With Disabilities Act and Section 508 of the Rehabilitation Act of 1973, as amended from time to time. Compliance means that a disabled person can acquire the same information, engage in the same interactions and enjoy the same services as a nondisabled person, in an equally effective manner, with substantially equivalent ease of use.

### **B17 Compliance with Immigration Reform and Control Act of 1986**

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

### **B18 Alcohol, Tobacco & Drug Rules and Regulations**

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

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

### **B19 Non-Appropriation of Funds**

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

### **B20 Weapons, Explosive Devices and Fireworks**

Supplier agrees that neither its employees or agents nor its subcontractors, their employees or agents shall use, possess, display or store any weapon, explosive device or fireworks on all land and buildings owned, leased or under the control of E&I member institutions or their affiliated or related entities, unless written permission is given by the commanding officer of the member's police department or a designated representative. Notification by Supplier to all persons or entities who are employees, agents, officers, subcontractors, consultants, guests, invitees or licensees of Supplier ("Supplier Notification Parties") is a requirement of this Agreement. Supplier further agrees to enforce this requirement against all Supplier Notification Parties.

### **B21 Equal Opportunity and Non-Discrimination**

The parties will comply with all applicable federal and state laws, rules, regulations, and executive orders governing equal employment opportunity, immigration, and non-discrimination, including but not limited to the Americans with Disabilities Act.

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part,

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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 provisions of Section 202 of Executive Order 11246.41 CFR 60-1.1 CFR 60-250.4 and 41 CFR 60-741.4 are incorporated herein by reference and shall be applicable to this Agreement unless this Agreement is exempted under the rules, regulations, or orders of the U.S. Secretary of Labor.

If applicable, the parties will abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

**B22 Sexual Harassment**

Title IX protects individuals from discrimination based on sex, including sexual harassment. E&I fosters an environment that is built on respect and free of sexual harassment. Federal law and the policies of E&I prohibit sexual harassment. Supplier is required to exercise control over its employees so as to prohibit acts of sexual harassment. If a member in its reasonable judgment determines that any employee of Supplier has committed an act of sexual harassment, Supplier agrees as a term and condition of this Agreement to cause such person to be removed from member’s facility and to take such other action as may be reasonably necessary to cause the sexual harassment to cease.

**B23 Employee Documentation**

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

**B24 Expropriation**

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

**B25 Hazardous Materials and OSHA Communication Standards**

The Supplier shall be responsible for providing Material Safety Data Sheets (MSDS) to the appropriate user(s). The Supplier shall retain title and/or ownership and responsibility for hazardous materials delivered in error. Within three working days of notification, the Supplier must retrieve hazardous materials that are delivered in error. The Supplier is responsible for the safe and legal disposal of all hazardous materials generated in the performance of the Agreement. In addition, the Supplier shall be responsible for providing its employees chemical safety training mandated by OSHA Hazard Communication Standard. The Supplier shall provide E&I and its members with safety/recall updates for any equipment/products provided.

**B26 Compliance with Specifications**

The Supplier warrants that all products supplied under this Agreement shall conform to specifications, drawings, samples, or other descriptions contained or referenced herein and shall be merchantable, of good quality and workmanship, and free from defect. The Supplier also warrants that all products covered by this Agreement which are the product of the Supplier or are in accordance with its specifications, will be fit and subject to the member’s inspection before acceptance, and also to later rejection if use reveals defects not apparent upon receipt; and if rejected will be held at Supplier’s risk and expense for storage and other charges; after 60 days of storage, products may be disposed of without cost to member, at Supplier’s expense. Neither receipt of products nor payment therefore shall constitute a waiver of this provision.

Supplier also warrants that all of the services to be performed under this Agreement shall be performed in a professional and workmanlike manner and in conformity with industry standards by persons reasonably suited by skill, training, and experience for the type of services they are assigned to perform, that Supplier owns or has sufficient rights in all products and services to be delivered by Supplier, that the products and services delivered by Supplier will not infringe upon or violate any intellectual property of any third parties, and that any code or software developed or delivered by Supplier under this Agreement will not contain any viruses, worms or other disabling devices or codes.

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**B27 Gratuities**

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

**B28 Covenant Against Contingency Fees**

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

**B29 Suspension or Debarment**

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

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

Supplier certifies that the Supplier and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity, that Supplier is in compliance with all applicable State statutes and rules relating to procurement, and that Supplier is not listed on the federal government's terrorism watch list as described in Executive Order 13224.

**B30 Conflict of Interest**

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

**B31 Strikes or Lockouts**

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

**B32 Force Majeure**

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

**B33 Modification of Terms**

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

**B34 Termination for Convenience**

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

**B35 Termination for Default**

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

**ATTACHMENT B Relevant Terms and General Terms & Conditions**

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

**B36 Continuation of Performance Through Termination**

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

**B37 Holdover Clause**

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

**B38 Independent Audit**

Members may, for a period of three years after expiration of the Agreement, audit the Supplier’s records pertaining to its compliance with the terms of this Agreement. The audit will be conducted by member and/or its designee. Supplier will provide member with access to records. The audit may address any or all of the following conditions and may not be limited to the stated conditions: product compliance, pricing, order processing, order fulfillment, delivery records, invoicing, and receipt of payment.

**B39 Open Records**

All information, documentation, and other materials submitted by Supplier in response to the solicitation or under any resulting contract may be subject to public disclosure under the Freedom of Information Act and/or Open Records laws of the members.

**B40 Student Educational Records.**

Student educational records are protected by the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g (FERPA). Supplier will comply with FERPA and will not access or make any disclosures of student educational records to third parties without prior notice to and consent from Member or as otherwise provided by law.

**B41 Strict Compliance**

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

**B42 Entire Agreement**

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

**B43 Notices**

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

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

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

## **ATTACHMENT C – Supplier Questionnaire**

*All worksheets of the questionnaire MUST be completed to be considered for evaluation. Include completed Questionnaire in Tab 4 of the proposal response and in Microsoft Excel electronic format.*



Attachment C RFP  
683435 Questionnai

**ATTACHMENT D – HUB Forms – State of TX**

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

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

<https://comptroller.texas.gov/purchasing/docs/hub-forms/hsp-allfms.pdf>

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

This form must be completed and returned with Supplier’s Proposal:

Yes  No

Supplier agrees to make a good faith effort to submit a HUB Plan for the State of Texas, as stated above

## **ATTACHMENT E – Compliance Language – State of Connecticut**

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

### **Ethics Forms**

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

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

### **Nondiscrimination Certification Forms**

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

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

### **Definitions**

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

### **Explanation of Forms:**

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

This form must be completed with Supplier's Proposal:

Yes  No      Supplier agrees to accurately complete and submit the appropriate aforementioned documentation upon award.

Yes  No      Supplier agrees to sell items and/or services included in this Request for Proposal to Connecticut State Institutions of Public Higher Education.

## **ATTACHMENT F – Debriefing, Protests And Appeals Process**

### **Debriefing**

Any supplier may request a post-award debriefing up to one (1) calendar week after award of the contract. Post-award debriefing requests must be submitted in writing to the Contract Manager as noted on the cover page of this document, within three days of the requesting supplier receiving notification of the contract award.

### **Protests**

Any supplier may submit a written protest up to two (2) calendar weeks after award of the contract. Written protest must contain the following information:

- Name, address, telephone number, and fax number of the protestor;
- The signature of the protestor or their representative;
- Identification of which solicitation award that is being protested;
- A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
- The form of relief requested.

### **Filing of Protest**

1. The Senior Vice President of Consulting Group and Contracts, or his designee, shall have authority to determine protests and other controversies of actual or prospective offerors with the solicitation or selection for award of a contract.
2. Any actual or prospective offeror or contractor who is aggrieved in connection with the solicitation or selection for award of a contract may file a protest with the Senior Vice President of Consulting Group and Contracts. A protest or notice of controversy must be filed promptly and in any event within two (2) calendar weeks after such aggrieved person knows or should have known the facts giving rise thereto. All protests or notices of other controversies must be in writing.
3. The Senior Vice President of Consulting Group and Contracts shall promptly issue a decision in writing. A copy of that decision shall be mailed or otherwise furnished the aggrieved party and shall state the reasons for the action taken.

### **Appeals**

1. Appeals of the decision made by the Senior Vice President of Consulting Group and Contracts may be filed with the Chairperson of Contracts Committees, within 7 calendar days of the written protest decision.
2. Information regarding the Chairperson of the Contracts Committee may be obtained from the Senior Vice President of Consulting Group and Contracts.
3. The decision by the Contracts Committee Chairperson shall be final and conclusive.

### **Effect of Protest**

In the event of a protest, timely filed as outlined above, the Senior Vice President of Consulting Group and Contracts shall not proceed further with the solicitation or award, until a written determination has been provided.

**ATTACHMENT G – General Certification Forms**

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**CERTIFICATION OF AUTHORIZATION, PERMITS, AND BUSINESS CERTIFICATES REQUIREMENT**

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For the duration of the Contract, Supplier must have and maintain current licenses, permits, fees, business certificates and similar authorizations required by the respective city, county, state, and federal government to conduct business and provide awarded products and/or services to the Members. Upon the request of E&I or Members, Supplier shall provide copies of all licenses, business certificates permits and fees as being paid and current that are required to do business by the city, county and state for the type of business Supplier provides, or seeks to provide, to the Members.

Supplier understands and agrees to abide by the Authorization, Permits, and Business Certificates Requirement above. Supplier certifies that it has all current licenses, certificates, similar authorizations required to conduct business and/or provide awarded products and/or services to the Members.

\_\_\_\_\_ Initials of Authorized Representative of Supplier

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**CERTIFICATION OF INSURANCE REQUIREMENT**

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I, the undersigned Supplier, do hereby certify that I shall maintain all insurance policies required by and in accordance with Section B14 of this RFP. I further understand and agree that I must make the certificates of insurance and insurance policies available to E&I and Members upon request.

\_\_\_\_\_ Initials of Authorized Representative of Supplier

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**CERTIFICATION OF NON-COLLUSION STATEMENT**

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I, the undersigned Supplier, do hereby certify that:

- a) All statements of fact in such proposal are true.
- b) Such Proposal was not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation.
- c) Such Proposal is genuine and not collusive or sham.
- d) Supplier has not, directly or indirectly by agreement, communication or conference with anyone, attempted to induce action prejudicial to the interest of the E&I or Members or of any other bidder or anyone else interested in the proposed procurement.
- e) Supplier did not, directly or indirectly, collude, conspire, connive or agree with anyone else that said bidder or anyone else would submit a false or sham bid or proposal, or that anyone should refrain from bidding or withdraw his bid or proposal.
- f) Supplier did not, in any manner, directly or indirectly seek by agreement, communication or conference with anyone to raise or fix the bid or proposal price of said bidder or of anyone else, or to raise or fix any overhead, profit or cost element of his bid or proposal price, or that of anyone else.
- g) Supplier did not, directly or indirectly, submit his bid or proposal price or any breakdown thereof, or the contents thereof, or divulge information on data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any individual or group of individuals, except to E&I, or to any person or persons who have a partnership or other financial interest with said Proposer in his business.
- h) Supplier did not provide, directly or indirectly to any officer or employee of E&I any gratuity, entertainment, meals, or anything of value, whatsoever, which could be construed as intending to invoke any form of reciprocation or favorable treatment.
- i) No officer or principal of the undersigned Supplier is related to any officer or employee of E&I by blood or marriage within the third degree or is employed, either full or part time, by E&I either currently or within the last two (2) years.
- j) No officer or principal of the undersigned Supplier nor any subcontractor to be engaged by the principal has been convicted by a court of competent jurisdiction of any charge of fraud, bribery, collusion, conspiracy or any other act in violation of any state or federal anti-trust law in connection with the bidding, award of, or performance of any public work contract and/or agreement with any public entity.
- k) I have answered the questions regarding non-collusion truthfully and to the best of my knowledge.

\_\_\_\_\_ Initials of Authorized Representative of Supplier



**ATTACHMENT G – General Certification Forms**

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

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

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

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

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

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

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

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

**ATTACHMENT H – EDGAR Certifications**

**EDGAR Certifications**

When an E&I Member seeks to procure goods and services using funds under a federal grant or contract ("federal funds"), 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" or "new EDGAR"). All Suppliers submitting proposals must complete this EDGAR Certification Form regarding Supplier's willingness and ability to comply with certain requirements that may be applicable to specific E&I Member purchases using federal funds. This completed form will be made available to E&I Members for their use while considering their purchasing options. E&I Members may also require Supplier to enter into ancillary agreements, in addition to E&I's Master Agreement's general terms and conditions, to address the Member's specific contractual needs, including but not limited to, contract requirements for a procurement using federal funds.

The following certifications and provisions are required and apply when Members expend federal funds for any contract resulting from this procurement process. Members will provide notification to Supplier, in writing, if federal funds are to be used and thus these requirements met.

Pursuant to 2 CFR 200.326, all contracts, including small purchases, awarded by the Agency and the Agency's subcontractors shall contain the procurement provisions of Appendix II to part 200, as applicable, which are detailed in this document. **Accordingly, the parties agree that the following terms and conditions apply to the Contract between E&I and Supplier in all situations where Supplier has been notified by Member (in writing) that Supplier is paid or will be paid with federal funds:**

For each of the items below, Supplier should certify Supplier's agreement and ability to comply, by having Supplier's authorized representative complete and initial the applicable boxes and sign the acknowledgment at the end of this form. If you fail to complete any item in this form, E&I will consider Supplier's response as "NO," the Supplier is unable or unwilling to comply. A "NO" response to any of the items may, if applicable, impact the ability of an E&I Member to purchase from the Supplier using federal funds.

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

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

Pursuant to Federal Rule (A) above, when Member expends federal funds, Member reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party. Provisions regarding Supplier default are included in the E&I RFP Attachment B & Master Agreement Attachment B General Terms and Conditions. Any contract awarded will be subject to such E&I Terms and Conditions, as well as any additional terms and conditions in any Purchase Order, E&I Member Ancillary Contract, or Member Construction Contract agreed upon by Supplier and E&I Member, which must be consistent with and protect the E&I Member at least to the same extent as the E&I Terms and Conditions and minimum requirements of law. The remedies under the Contract are in addition to any other remedies that may be available under law or in equity. By submitting a Proposal, you agree to these Supplier violation and breach of contract terms.

**[Note: Just need to be sure the exact administrative, contractual, and legal remedies are in each specific contract (and likewise tell members they need their terms in their ancillary contracts).]**

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

## ATTACHMENT H – EDGAR Certifications

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

Pursuant to Federal Rule (B) above, when Member expends federal funds, Member reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of termination for cause and/or termination for convenience. Provisions are included in the E&I RFP Attachment B & Master Agreement Attachment B General Terms and Conditions. Any contract awarded will be subject to such E&I Terms and Conditions, as well as any additional terms and conditions in any Purchase Order, E&I Member Ancillary Contract, or Member Construction Contract agreed upon by Supplier and E&I Member, which must be consistent with and protect the E&I Member at least to the same extent as the E&I Terms and Conditions and minimum requirements of law. The remedies under the Contract are in addition to any other remedies that may be available under law or in equity. By submitting this Proposal, you agree to these termination terms.

[Note: Just need to be sure the exact administrative, contractual, and legal remedies are in each specific contract (and likewise tell members they need their terms in their ancillary contracts).]

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

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The equal opportunity clause provided under 41 CFR 60-1.4(b) is hereby incorporated by reference. Supplier agrees that such provision applies to any Member purchase or contract that meets the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 and Supplier agrees that it shall comply with such provision.

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

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier  
If not applicable, see below\*

\*Non-Applicability Agreement: Supplier certifies that this section is not applicable to Supplier. Supplier shall state reason for non-applicability. Supplier further certifies that if this section does become applicable, then Supplier will comply with this section and immediately notify E&I and all affected members, in writing, of such applicability and immediately complete respective certifications.

Reason for Non-Applicability: \_\_\_\_\_

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

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.

Current prevailing wage determinations issued by the Department of Labor are available at [www.wdol.gov](http://www.wdol.gov). Supplier agrees that, for any purchase to which this requirement applies, the award of the purchase to the Supplier is conditioned upon Supplier's acceptance of the wage determination.

The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or

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**ATTACHMENT H – EDGAR Certifications**

repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

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

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier  
If not applicable, see below\*

\*Non-Applicability Agreement: Supplier certifies that this section is not applicable to Supplier. Supplier shall state reason for non-applicability. Supplier further certifies that if this section does become applicable, then Supplier will comply with this section and immediately notify E&I and all affected members, in writing, of such applicability and immediately complete respective certifications.

Reason for Non-Applicability: \_\_\_\_\_

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

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

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

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier  
If not applicable, see below\*

\*Non-Applicability Agreement: Supplier certifies that this section is not applicable to Supplier. Supplier shall state reason for non-applicability. Supplier further certifies that if this section does become applicable, then Supplier will comply with this section and immediately notify E&I and all affected members, in writing, of such applicability and immediately complete respective certifications.

Reason for Non-Applicability: \_\_\_\_\_

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

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

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

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

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**ATTACHMENT H – EDGAR Certifications**

If not applicable, see below\*

\*Non-Applicability Agreement: Supplier certifies that this section is not applicable to Supplier. Supplier shall state reason for non-applicability. Supplier further certifies that if this section does become applicable, then Supplier will comply with this section and immediately notify E&I and all affected members, in writing, of such applicability and immediately complete respective certifications.

Reason for Non-Applicability: \_\_\_\_\_

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

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

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

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier  
If not applicable, see below\*

\*Non-Applicability Agreement: Supplier certifies that this section is not applicable to Supplier. Supplier shall state reason for non-applicability. Supplier further certifies that if this section does become applicable, then Supplier will comply with this section and immediately notify E&I and all affected members, in writing, of such applicability and immediately complete respective certifications.

Reason for Non-Applicability: \_\_\_\_\_

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

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

Pursuant to Federal Rule (H) above, Supplier certifies that currently and during the term of an award for all contracts resulting from this procurement process, neither Supplier nor its principals is presently listed on government-wide exclusions in SAM, is not debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded, or otherwise excluded from participation by any federal department or agency, other than under Executive Order 12549.

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

**(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.**

Pursuant to Federal Rule (I) above, when federal funds are expended by Member, Supplier certifies that during the term and after the awarded term of an award for all contracts by Member resulting from this procurement process, the Supplier

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**ATTACHMENT H – EDGAR Certifications**

certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

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

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

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

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

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

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

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

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier  
If not applicable, see below\*

\*Non-Applicability Agreement: Supplier certifies that this section is not applicable to Supplier. Supplier shall state reason for non-applicability. Supplier further certifies that if this section does become applicable, then Supplier will comply with this section and immediately notify E&I and all affected members, in writing, of such applicability and immediately complete respective certifications.

Reason for Non-Applicability: \_\_\_\_\_

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

**CERTIFICATION OF EQUAL EMPLOYMENT STATEMENT**

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

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

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**ATTACHMENT H – EDGAR Certifications**

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**CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS**

---

Supplier certifies that Supplier is in compliance with all applicable provisions of the Buy America Act. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules for free and open competition.

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier  
If not applicable, see below\*

\*Non-Applicability Agreement: Supplier certifies that this section is not applicable to Supplier. Supplier shall state reason for non-applicability. Supplier further certifies that if this section does become applicable, then Supplier will comply with this section and immediately notify E&I and all affected members, in writing, of such applicability and immediately complete respective certifications.

Reason for Non-Applicability: \_\_\_\_\_

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

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

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

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

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**CERTIFICATION OF APPLICABILITY TO SUBCONTRACTORS**

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

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

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**CERTIFICATION OF COMPLIANCE WITH PROCUREMENT OF RECOVERED MATERIALS**

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Supplier agrees that where applicable, it will comply with Section 6002 of the Solid Waste Disposal Act.

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier  
If not applicable, see below\*

\*Non-Applicability Agreement: Supplier certifies that this section is not applicable to Supplier. Supplier shall state reason for non-applicability. Supplier further certifies that if this section does become applicable, then Supplier will comply with this section and immediately notify E&I and all affected members, in writing, of such applicability and immediately complete respective certifications.

Reason for Non-Applicability: \_\_\_\_\_

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

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**CERTIFICATION OF PROFIT AS SEPARATE ELEMENT OF PRICE**

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For purchases using federal funds in excess of \$150,000, a member may be required to negotiate profit as a separate element of the price. See, 2 CFR 200.323(b). When required by a member, supplier agrees to provide information and negotiate with the member regarding profit as a separate element of the price for a particular purchase. However, supplier agrees that the total price, including profit, charged by supplier to the member shall not exceed the awarded pricing, including any applicable discount, under Supplier's Cooperative Contract.

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**ATTACHMENT H – EDGAR Certifications**

Does Supplier agree? YES \_\_\_\_\_ Initials of Authorized Representative of Supplier  
If not applicable, see below\*

\*Non-Applicability Agreement: Supplier certifies that this section is not applicable to Supplier. Supplier shall state reason for non-applicability. Supplier further certifies that if this section does become applicable, then Supplier will comply with this section and immediately notify E&I and all affected members, in writing, of such applicability and immediately complete respective certifications.

Reason for Non-Applicability: \_\_\_\_\_

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

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**CERTIFICATION OF GENERAL COMPLIANCE AND COOPERATION WITH E&I MEMBERS**

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In addition to the foregoing specific requirements, Supplier agrees, in accepting any Purchase Order from a Member, it shall make a good faith effort to work with members to provide such information and to satisfy such requirements as may apply to a particular Member purchase or purchases including, but not limited to, applicable recordkeeping and record retention requirements.

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

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

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

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

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

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

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

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

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



**ATTACHMENT I – Exception Form**

**All deviations and exceptions to the RFP must be expressly stated in this Exception Form (additional pages to this form may be added if necessary).** In the absence of any entry on this Exception Form, Supplier assures E&I and Members of its full agreement and compliance with all specifications, terms and conditions, requirements and obligations of the RFP. **All exceptions must detail the section number, paragraph number, page number, and the specific language excepted.**

**YOU MUST SIGN AND SUBMIT THIS FORM IN TAB 3 OF YOUR PROPOSAL REGARDLESS OF WHETHER THERE ARE EXCEPTIONS LISTED OR NOT.**

Section Reference	Original Language	Exceptions/Revisions	Explanation

\_\_\_\_\_  
Supplier Name

\_\_\_\_\_  
Officer's Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

**ATTACHMENT J – Conflict of Interest Certification**

**I. CONFLICT OF INTEREST QUESTIONNAIRE INSTRUCTIONS**

Supplier must complete Attachment C – Supplier Questionnaire, Section II, A2 - Personnel Conflicts of Interest by indicating if any employees, officers, directors, members, agents or consultants of Supplier are related to any employee, officer or director of E&I. If no Conflicts of Interest exist, Supplier must write N/A in the space provided.

**SUPPLIER MUST SIGN AND SUBMIT THIS CONFLICT FORM EVEN IF NO CONFLICT EXISTS.**

**I hereby certify that I have read Attachment C, Section II, Personnel Conflicts of Interest, and I agree and understand that the failure to disclose a conflict of interest and/or the failure to sign and submit Attachment J with this proposal, even if no conflict exists, may result in disqualification.**

\_\_\_\_\_  
Supplier Name

\_\_\_\_\_  
Officer's Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

**ATTACHMENT K – MWBE Certification Form**

This form must be completed with Supplier’s Proposal. Indicate all that apply within each section.

**Business Class**

- Large Business Concern
- Women Owned Business
- Small Business Concern
- Small Disadvantage Business
- Disabled Owned Business
- Disabled Veteran Owned Business
- Veteran Owned Business
- HUB Zone Business

**Minority Business Status Business Ownership**  
51% owned, operated and controlled

- MBE African American
- MBE Asian Pacific
- MBE Hispanic American
- MBE Native American
- MBE Asian Indian American
- Caucasian/Non-Minority
- Other
- Not Disadvantage

**Third Party Certification**

To promote your company within the E&I Membership, E&I requests third-party certification for all diverse business classes and ownerships. If your company has been certified by one or more organizations, including the Federal, State or Municipal Government, the SBA, or the NMSDC, please provide the respective organization's name and certification number here, and include a copy of the certification with your proposal.

Certifying Organization	Certification Number

\_\_\_\_\_  
Supplier Name

\_\_\_\_\_  
Officer’s Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

# ATTACHMENT L – Tax Information Form

Form <b>W-9</b> (Rev. December 2014) Department of the Treasury Internal Revenue Service	<h2 style="margin:0;">Request for Taxpayer Identification Number and Certification</h2>	Give Form to the requester. Do not send to the IRS.
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Print or type See Specific Instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
	2 Business name/disregarded entity name, if different from above
	3 Check appropriate box for federal tax classification; check only one of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____
	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ (Applies to accounts maintained outside the U.S.)
	5 Address (number, street, and apt. or suite no.)
	6 City, state, and ZIP code
	7 List account number(s) here (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

<b>Social security number</b>	_____ - _____ - _____
or	
<b>Employer identification number</b>	_____ - _____

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

<b>Sign Here</b>	Signature of U.S. person ▶ _____	Date ▶ _____
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**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

# ATTACHMENT L – Tax Information Form

Form W-9 (Rev. 12-2014)

Page 2

**Note.** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily resident in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* above.

## What is FATCA reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; do not leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account, list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9.

**a. Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note. ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

**b. Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

**c. Partnership, LLC that is not a single-member LLC, C Corporation, or S Corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

**d. Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

**e. Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.



# ATTACHMENT L – Tax Information Form

## Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

## Line 3

Check the appropriate box in line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box in line 3.

**Limited Liability Company (LLC).** If the name on line 1 is an LLC treated as a partnership for U.S. federal tax purposes, check the "Limited Liability Company" box and enter "P" in the space provided. If the LLC has filed Form 8832 or 2553 to be taxed as a corporation, check the "Limited Liability Company" box and in the space provided enter "C" for C corporation or "S" for S corporation. If it is a single-member LLC that is a disregarded entity, do not check the "Limited Liability Company" box; instead check the first box in line 3 "Individual/sole proprietor or single-member LLC."

## Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space in line 4 any code(s) that may apply to you.

### Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

- A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)
- B—The United States or any of its agencies or instrumentalities
- C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)
- E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(j)
- F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state
- G—A real estate investment trust
- H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940
- I—A common trust fund as defined in section 584(a)
- J—A bank as defined in section 581
- K—A broker
- L—A trust exempt from tax under section 664 or described in section 4947(a)(1)
- M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note.** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

## Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns.

## Line 6

Enter your city, state, and ZIP code.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on this page), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.ssa.gov](http://www.ssa.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [IRS.gov](http://IRS.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

# ATTACHMENT L – Tax Information Form

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee* code earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

1. **Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.
2. **Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.
3. **Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.
4. **Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).
5. **Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

## What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
5. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>2</sup>
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor <sup>*</sup>
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 2.

\*Note. Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN.
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, *Identity Theft Prevention and Victim Assistance*.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: [spam@uce.gov](mailto:spam@uce.gov) or contact them at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 1-877-IDTHEFT (1-877-438-4338).

Visit [IRS.gov](http://IRS.gov) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.