

Request for Proposal

[Project Name]

[Enter Company Name]

[Enter Company Address]

[Month and Day], 20[Year]

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Section 1 – Definitions

For the purposes of this solicitation and the resulting Master Purchase Agreement (defined herein as “MPA”), the following definitions shall apply, unless otherwise indicated:

“**Awarded Supplier**” refers to the Supplier with whom XXXX successfully executes a MPA.

“**XXXX**” refers to [Company Name], its affiliates, subsidiaries, and assignees.

“**XXXX Category Manager**” refers to the single point of contact within XXXX that will interact with the Awarded Supplier on day to day basis (for further details please see Section 4.6).

“**XXXX Marks**” refers to the names, seals, and logos of XXXX and all of its affiliates, subsidiaries, and assignees.

“**Confidential Information**” refers to information (whether disclosed in discussions, in hardcopy and/or electronic form) that relates to the past, present and future research, development, business activities, products, services, and technical knowledge of the other party, which is identified by the discloser as confidential or which, based on the circumstances surrounding its disclosure, should be regarded as confidential. In addition, as it relates to XXXX, **Confidential Information** means any information relating to non-public information regarding the business of XXXX which a reasonable person would consider as confidential.

“**Disputed Amounts**” means any amounts that are subject to a bona fide dispute raised by XXXX in writing.

“**Dispute Provisions**” means an agreement of settlement, proper court order, or award from any mutually submitted arbitration with regards to Disputed Amounts.

“**Indemnitees**” refers to any XXXX respective members, employees, officers, directors, personnel, agents, successors, and assignees.

“**Losses**” refers to any legal expenses, damages, fines, fees or other losses.

“**Material Discrepancies**” means an overpayment of three percent (3%) or higher between amounts billed to XXXX and the records of the Supplier.

“**MPA**” is the Master Purchase Agreement between XXXX and the Awarded Supplier for the Products (as defined herein) discussed herein.

“**Notices**” are all notices, requests, consents, approvals, or authorizations in connection with this Agreement.

“**P-Card**” refers to a procurement card available through Visa USA.

“**PERS**” refers to the PeopleSoft Enterprise Resource System.

“**PO**” is a Purchase Order, in hardcopy and/or electronic form, meeting the descriptions in Section 3.6.

“**Portal**” refers to the Internet account management tool provided by the Supplier.

“**Potential Supplier**” refers to all Suppliers invited to participate in this RFP up to the time of the award of the business to a particular Supplier.

“**Products**” refers to [Needs to update this definition with the goods being purchased, if any].

“RFP” refers to this Request for Proposal and all of its associated attachments, amendments, and addendums.

“RMA” refers to a Return Merchandise Authorization from the Supplier.

“Services” are defined as the Supplier obligations surrounding **[Needs to update this definition with a brief description of the services to be provided]**.

“Subcontractors” are defined as any third party that is contracted by the Supplier to provide any of the Products and Services discussed herein.

“Supplier” refers to the provider of the Products and Services as they are described herein.

“Supplier Tools” shall mean any programming tools, methods, designs, algorithms, structures, sequences, methodologies, routines and subroutines which were created or owned by the Supplier prior to the commencement of the Services provided hereunder.

“Terms” refers to the collective provisions, terms, and conditions found in this RFP.

“Valid Invoice” is an invoice that matches all material aspects of the associated PO and is sent to the correct address as expressed by XXXX.

“Work Product” shall mean all programming tools, methods, ideas, discoveries, know-how, concepts, drawings, designs, diagrams, models, algorithms, structures, sequences, techniques, models, flow charts, methodologies, processes, procedures, routines, subroutines, software code (including both object code and source code, data, research, development, specifications, documentation, user manuals, reports, summaries and other information, in whatever form, created or prepared by the Supplier and its employees and subcontractors in the performance of Services under this MPA whether of a technical, marketing, financial or other business nature.

Section 2 – General Information

The purpose of this section is to briefly define the mission of this solicitation, and to provide basic information to the Potential Supplier about XXXX.

2.1. Mission Statement

XXXX is seeking, through this RFP, to enter into a MPA with a Supplier to provide **[Needs to complete the Mission Statement of the RFP]**.

2.2. Confidentiality of RFP

THIS RFP, ITS ASSOCIATED DOCUMENTS, AND ALL RESULTING CONTRACTUAL AGREEMENTS WHETHER ELECTRONIC OR PAPER, ARE THE CONFIDENTIAL PROPERTY OF XXXX. ANY REPRODUCTION OR DISEMINATION OF THE CONTENTS OF THIS RFP (IN WHOLE OR IN PART), EXCEPT WHERE ESSENTIAL TO THE PREPARATION OF YOUR SUBMITTAL, MUST HAVE THE PRIOR, EXPRESS WRITTEN CONSENT OF XXXX.

Potential Supplier is requested to accord the same treatment to this RFP and any other XXXX confidential information that the Potential Supplier may have access to as a result of this RFP as it would the confidential data of its own company. Potential Supplier proposals will be treated in a like manner by XXXX. Potential Supplier agrees that all aspects of this RFP process, including the Potential Supplier's receipt of this RFP, completion of the RFP process, submission of any required proposals, and potential selection by XXXX to provide the Products, will be kept in confidence. No sharing or disclosure of any associated RFP materials with other organizations or companies is allowed, including sharing this RFP as "an example RFP", without the PRIOR, EXPRESS WRITTEN consent of XXXX. Additionally, no news releases or public disclosure in any manner pertaining to this RFP or the selection of any Supplier related to this RFP may be made by any participating Supplier.

Violation of the confidentiality conditions of this RFP will result in the immediate termination of the offending Potential Supplier's participation in the RFP.

2.3. About XXXX

[Enter Company description]

2.4. Terms of Participation

By participating in this RFP process, the Potential Supplier acknowledges and agrees that XXXX may change, modify, amend, suspend or discontinue any aspect of this RFP, in whole or in part, at any time, without notice and without obligation or liability to the Potential Supplier or to any third party. XXXX will make every effort to provide any amendment of these Terms to Potential Supplier via email. Potential Supplier is encouraged to review the revised Terms, if applicable, upon receipt of email notification.

Potential Supplier agrees that all terms of its proposal, including any pricing set forth therein, shall remain valid through the entire RFP process and for the Awarded Supplier, for the entire term of the resulting MPA, beginning on the final proposal due date (see Section 5.3 of this document for more specific deadlines and timeframes). If, during the course of the MPA resulting from this RFP,

changes are made to legal codes, regulations, statutes or laws that affect the Awarded Supplier's ability to continue to adhere to any section of the MPA, the Awarded Supplier must immediately request, in writing, a meeting with the XXXX Category Manager (see Section 4.6 for more information on the XXXX Category Manager). In this meeting XXXX and the Awarded Supplier will each use best efforts to settle on provisions that will need to be made in order to maintain best in class Supplier service to all XXXX locations.

A Potential Supplier response to and ultimate acceptance of the Terms herein must be done only by persons with the legal capacity to provide such acceptance on behalf of the Potential Supplier. XXXX may, at its sole and absolute discretion, refuse to accept any Potential Supplier proposals and furthermore may, at any time, even if the proposal of a Potential Supplier has been provided to XXXX, refuse to permit a Potential Supplier or representative of a Potential Supplier continued participation in the RFP process.

XXXX requires that the Awarded Supplier execute with XXXX a MPA, which will be the mutually agreeable, definitive written agreement detailing specific requirements, service levels (as such requirements and service levels are described in detail in the RFP) and all provisions under which XXXX and the Awarded Supplier will conduct their business relationship.

XXXX reserves the right to include additional provisions, terms or other requirements in the MPA that cover additional Products or Services from any participating Supplier, or to modify any of the provisions, Terms or other requirements herein or subsequently provided, if it determines, in its sole discretion in the course of discussions with any Potential Supplier that such additions or modifications would be useful, appropriate and mutually beneficial in promoting the success of the relationship between XXXX and the Awarded Supplier. XXXX will provide those additions or modifications to any Potential Supplier for review and ultimate acceptance.

XXXX will manage the MPA development and MPA creation process that will result from both the requirements as put forth within this RFP along with the ultimate acceptance of the Awarded Supplier responses.

All costs incurred by a participating Potential Supplier in connection with this RFP, inclusive but not limited to preparing proposals, travel and entertainment costs, presentations, human resource requirement, or any other expenses, are the sole responsibility of the participating Potential Supplier. If any XXXX employees visit Potential Supplier facilities, whether located within or outside of the Chicago area and at any point in the RFP process, all associated travel and entertainment costs will be the sole responsibility of XXXX and not the Potential Supplier. Under no circumstances are Potential Supplier to offer, provide or give any XXXX employee gifts of any sort or any value, free travel for any purpose, or any other type of financial or non-financial inducement throughout the RFP process, up to and including the point at which XXXX awards any business as a result of this RFP. Failure to comply with this section will result in the immediate termination of the participation of the offending Potential Supplier in the RFP process.

By providing a proposal to XXXX, Potential Supplier agrees that i) it has read and familiarized itself with all of the Terms contained within this RFP, ii) it understands these Terms, and iii) that it understands and will comply with Section 5.5.1 below. The Terms constitute the entire RFP and supersede and replace any and all prior solicitations for any RFP between the parties regarding such subject matter.

2.5. Additional Disclaimers

XXXX shall have no obligation with respect to the Products and Services discussed herein unless and until XXXX enters into a MPA with the Awarded Supplier. XXXX also shall have no obligation to enter into any agreement with any Potential Supplier pertaining to the Products and Services that are the subject of this RFP or any resulting proposal, and nothing contained in this RFP shall create an

obligation on the part of XXXX to enter into an exclusive agreement with a single Potential Supplier with respect to the provision of the Products and Services that are the subject of this RFP. While XXXX reserves the right, at its sole discretion, to enter into multiple agreements for the provision of such Products and Services with multiple Potential Supplier, our objective is to, as a result of this RFP, have one Supplier that will manage the orders required to fulfill the needs of XXXX as they relate to the Products and Services discussed herein.

It is our intention that all of the worldwide locations of XXXX, if applicable, will partake of the Products and Services provided by the Potential Supplier as a result of this RFP. With that stated, nothing in this RFP will constitute a commitment by XXXX to have a minimum number of the XXXX locations participate in the resulting MPA.

XXXX is subject to certain laws, regulations and accreditation requirements for our owned and operated schools by each state in which we do business. The final MPA that XXXX may enter into with the Awarded Supplier will be subject to these laws and regulations. It is possible that the policy of adhering to these laws and regulations might materially impact the substance of any provision of any MPA or any other resulting agreement that is entered into. This policy will not be abridged or negated with respect to a contemplated MPA.

Nothing within this RFP will constitute a commitment by XXXX to spend a minimum amount of money for any Products or Services, and XXXX reserves the right to withhold final approval of any related expenditures if it deems that it is in the best interest of XXXX to do so.

2.6. Declining Participation

If you have received the RFP in hardcopy and/or electronic documents, and do not wish to participate, please notify the person indicated below via email. Along with immediate termination of your participation, all written, electronic, copied, or printed versions of any materials associated with this RFP must be returned to:

[Company Name]
[Company Address]
[Company Contact Name]

Section 3 – Business Requirements

This section details the business requirements of XXXX and constitutes the deliverables desired from the Potential Supplier during the term of the eventual MPA.

3.1. Term of the MPA

The term of the MPA shall commence on [Month and Day], 20[Year], unless otherwise specified herein, and continue for [Spell out number of months] ([Numeric value for the number of months]) months after the date of commencement. The MPA may be extended by XXXX for a additional twelve (12) month periods upon thirty (30) calendar days notice to the Awarded Supplier prior to the expiration of the current term. The extended period will be subject to the same Terms and pricing as the initial term.

Extending the MPA, according to the Terms, shall be at the sole discretion of XXXX, and shall not create any obligation on the part of XXXX to repeat any part of the procurement process.

[Needs to complete the Business Requirements for this RFP here, in Section 3.]

3.2. Ordering

XXXX will issue a PO that commits both the Awarded Supplier and XXXX to all terms conditions and provisions represented in the MPA. The Awarded Supplier shall provide the Products and Services ordered by XXXX against a valid PO. Under no circumstances will XXXX be liable to pay monies up front or deposits on any PO placed for any Products or Services.

XXXX and the Awarded Supplier will mutually agree that, regardless of the method which XXXX uses to transmit a PO (paper, fax, email, etc.) the PO will include all of the components indicated in Table 3 herein. XXXX reserves the right to change, modify or enhance any requirements on a PO, provided that any such change, modification or enhancement that results in an order for different Products will be subject to the agreed upon lead time constraints.

Table 3: PO Requirements	
Requirements	Description
Requisitioner	XXXX person responsible for project management duties for a particular PO.
Buyer	XXXX Procurement Department person with authority to transmit that order to the Supplier and who will serve as the contact for that PO.
Supplier Number	The PERS Supplier number assigned within the system to the Supplier.
Supplier Name	The name of the Supplier providing the Product.
Supplier Address	The address of the Supplier to which all PO's are to be transmitted.
Supplier Phone and Fax Number	The telephone number and facsimile number of the Supplier primary contact (name indicated under "Attention").
Attention	This is the Supplier primary contact responsible for receiving the PO.
Ship to Name	The name of the XXXX location to which Awarded Supplier is to ship the Product.
Ship to Address	The address of the XXXX location to which the Awarded Supplier id to ship the Product.
Ship to Receiver	The person at the XXXX location responsible for receiving the Product.
Project Number	Identification which XXXX provides for each project, and must be

	indicated on any invoice, packing slips, or other correspondence which will be issued against that PO.
Description	The information provided, by item, along with any special instructions for any particular item.
Costs by Item	The unit cost for the listed Product, consistent with the provided description.
Tax	Any local, state, or federal taxes.
Total Amount	The total amount approved by XXXX for the order.
PO Number	The number, exclusive to only that PO, which references that specific PO and that must be referenced on any invoice, packing slips, or other correspondence which will be issued against that PO.
Order Date	The date that the PO was issued and the date by which all terms and conditions put forth will be effective.
Delivery Instructions	XXXX specific instructions pertaining to any delivery requirements for Product ordered under a PO.
Delivery or Service Date	The date by which the Product is requested to be delivered or provided.
Accounting Codes	The accounting codes used in PERS and associated with the accounts in which the PO funding is included.

Consistent with the requirements outlined in Table 3 above, and regardless of the means used to deliver the PO, Supplier must ensure each invoice will be identified, in all material respects, to the PO to which it is associated so that such an invoice can be paid in accordance with Section 3.9, "Invoicing and Payment Terms". Awarded Supplier invoicing must not cover more than one PO per invoice. Other conditions associated with each PO are:

- a) XXXX will be responsible for sales, use, excise or other taxes imposed with respect to any Product provided by Awarded Supplier, except on taxes based on the net income of Supplier. All charges must be listed and provided for on any Awarded Supplier invoicing.
- b) All packing slips and Product labeling for every Product must include the applicable PO number along with the serial number for each Product (if applicable). All shipments (regardless of the container) must have a label including and indicating the PO number.

For all requests for changes received, the Awarded Supplier will use its best efforts to accommodate the XXXX request without additional fees, except for any variance in Product cost resulting from XXXX request for change. The Awarded Supplier acknowledges that, at any time prior to the shipping of an order, XXXX may cancel that order without charge.

3.3. Fulfillment and Shipping Requirements

Potential Supplier is requested to provide on the "Fulfillment and Shipping" tab of "Attachment 4 – Media Fulfillment Workbook" the Product fulfillment timeframes that XXXX should expect when placing Product orders. Responses will be measured against those of other Potential Supplier and used to establish the expected fulfillment service levels that will need to be maintained throughout the term of MPA and any extensions thereof. Potential Supplier are requested to fill in all of the following fields on the "Fulfillment and Shipping" tab of "Attachment 4 – Media Fulfillment Workbook":

- Supplier/Responder:
- Order Received by Supplier
- Order Processed by Supplier
- Order Shipped by Supplier
- Method of Shipment
- Order Received by XXXX

The timeframes entered into the fields mentioned above should correspond with the day in the process the event would happen. The "Order Submitted to Supplier" column is already populated with a "one (1)" to indicate that this is the first day of the process.

The Awarded Supplier agrees that upon shipment of an ordered Product, the tracking information for that order will be sent via email to the contact person who is listed on the PO. This information should also be forwarded to the person who submitted the PO, if this name is different from the contact.

Potential Supplier is requested to have the means to provide palletized delivery of bulk Product orders. Please provide details on your ability to meet this requirement.

Potential Supplier should review the list on the "XXXX Location Information" tab of "Attachment 4 – Media Fulfillment Workbook". In your response, please clearly indicate any locations to which you will be unable to provide Product.

Potential Supplier is requested to propose specific reparations, financial or otherwise, that would be provided to XXXX if, as the Awarded Supplier, it were unable to, for a particular order, meet the service levels they have proposed.

3.4. Returns

Potential Supplier is requested to detail the escalation process that XXXX would follow if a package containing an ordered Product was lost or damaged in transit. XXXX expects that this process will be managed by the Awarded Supplier and the involvement of XXXX would not extend beyond notifying the Awarded Supplier of the loss or damage.

Potential Supplier is requested to detail the process that XXXX would follow to obtain a RMA to return Product that was not needed or ordered in error. XXXX will be responsible for shipping charges associated with the return of the Product for which the RMA was obtained. Please detail your ability, if you are the Awarded Supplier, to issue a credit memo for the full amount invoiced for the Product which is being returned under the RMA and the terms under which you would issue such credit memo. Please also detail your ability, if you are the Awarded Supplier, not to assess any fees to XXXX for the return of the Product.

Potential ARE is requested to detail the process that XXXX would follow in the event that a shipment has a shortage of Product. The Awarded Supplier will be responsible for shipping costs to send the missing Product to complete the order to the appropriate location. The Awarded Supplier agrees that XXXX will not be responsible for any fees associated with the replacement of the missing Product.

3.5. Invoicing and Payment Terms

The payment of invoices will be handled as follows:

- a) Any invoice that does not conform to the requirements described herein will not be considered a Valid Invoice until the Awarded Supplier corrects any issues so said invoice conforms to all requirements stated herein. Any time taken by the Awarded Supplier to correct any such invoice issues will result in a corresponding, day-for-day delay in the due date for payment of said invoice.
- b) Valid Invoices will become due and payable within thirty (30) days after their receipt by XXXX. No action may be taken by the Awarded Supplier to suspend or in any way negatively affect services in response to overdue Valid Invoices unless the undisputed amount thereof has been outstanding for more than forty-five (45) days after invoice date, and the Awarded Supplier issues to XXXX (after such forty-five (45) day period) a written late payment notice

describing in detail the unpaid charges and giving XXXX fifteen (15) days to resolve. If at the end of such fifteen (15) day period, XXXX has not paid such Valid Invoice, or otherwise provided valid information as to why such Valid Invoice is disputed, then the Awarded Supplier may, after providing specific written notice to XXXX of its intent to do so, suspend service to the XXXX location for which such charges apply until payment is made, provided that all other XXXX locations will not be affected, and will experience no disruption of business.

Potential Supplier is requested to detail its ability to provide electronic invoicing for the orders placed by XXXX. Please provide a sample of the information that would be provided through this method of invoice delivery and information regarding the preferred delivery format (i.e. XML, CSV, TIFF).

Potential Supplier is requested to detail their ability to accept electronic payment settlement through one of two methods: electronic check or electronic use of a Payment Card via the MasterCard or Visa payment network.

Potential Supplier must indicate whether it can accept either or both.

For electronic payment made via electronic check, Potential Supplier must provide the following information:

- Financial Institution (bank) to which payment is to be made
- Financial Institution's address
- Financial Institution's ABA Routing Code
- Vendor's Account Number at their Financial Institution
- Vendor's Electronic Commerce contact's name and phone number

This information will be used to establish electronic payments from XXXX to the Awarded Supplier and will be treated as Confidential Information. Potential Supplier who are unable to accept electronic payment should clearly indicate this fact in their proposal.

Notwithstanding anything to the contrary in the MPA, failure of XXXX to pay any Disputed Amounts on a timely basis will not be considered a late payment or a breach of the MPA; provided (i) XXXX has notified the Awarded Supplier of such Disputed Amount as set forth herein, (ii) all undisputed amounts are paid in a timely fashion, (iii) appropriate personnel of XXXX make themselves available to resolve the dispute and (iv) all Disputed Amounts that XXXX subsequently agrees in writing to pay or that are required to be paid pursuant to Dispute Provisions shall be paid within fifteen (15) days from the date of such agreement or determination. Notwithstanding any provision in the MPA to the contrary, so long as XXXX complies with the Dispute Provisions with respect to any Disputed Amount, XXXX shall not be responsible for Awarded Supplier attorneys' fees or court costs, regardless of the outcome of the dispute.

Section 4 – Legal Requirements

This section sets out many of the Terms that shall become part of the executed MPA should you be selected as the Awarded Supplier. Be forewarned that all responses to this RFP from participating Potential Supplier should be considered to form the basis for the mutually agreeable provisions from which the MPA will be crafted and under which both parties will operate. It is imperative that given the legal nature of Section 4 that Potential Supplier have their legal counsel review all of the terms herein.

4.1. Confidentiality of Future Agreement

If you are the Awarded Supplier and both parties successfully execute a MPA, each party may be given access to Confidential Information of the other party. In connection with Confidential Information, the following subsections shall apply:

- a) The Confidential Information of the discloser may be used by the receiver only in connection with the specific Services performed under the MPA, and may only be copied or reproduced to the extent necessary for the receiving party to perform its obligations hereunder. Notwithstanding anything to the contrary in this section, in the case of XXXX as the receiver, any Confidential Information of the Potential Supplier incorporated into a deliverable may be used, disclosed and/or transferred by XXXX to the same extent as such deliverable.
- b) Each party agrees to protect the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind. Access to the Confidential Information shall be restricted to Potential Supplier and XXXX personnel engaged in a use permitted hereby and who are bound, in writing, to maintain the confidentiality thereof.
- c) All Confidential Information made available by either party, including all copies of said Confidential Information, shall be returned or destroyed upon the (i) completion of the MPA, or (ii) requested by the discloser at any time, unless the receiver is otherwise expressly allowed to retain such Confidential Information pursuant to the MPA, or in the case of XXXX as the receiver, Potential Supplier Confidential Information is included in a deliverable.
- d) Nothing will be put forth within the MPA that shall prohibit or limit either party from the use of information (including, but not limited to, ideas, concepts, know-how, techniques, and methodologies) for which such party can establish evidence supporting that the information was (i) previously known to it without any obligation of confidence, (ii) independently developed by or for it, (iii) acquired by it from a third party which is not, to its knowledge, under any obligation of confidence with respect to such information, or (iv) which is or becomes publicly available through no breach of this agreement.
- e) If either party receives a subpoena or other validly issued administrative or judicial process demanding disclosure of Confidential Information of the other party, it shall promptly notify the other party of such receipt and tender to that party the defense of such demand. After providing such notification, the party receiving the subpoena shall be entitled to comply with such a subpoena or other process to the extent required by law.

Awarded Supplier's failure to maintain adherence to the above clauses will result in the Awarded Supplier being liable for all Losses incurred by XXXX due to the violation of confidentiality, and will constitute a material breach of the MPA resulting in action being taken to terminate the MPA for cause, as described in Section 4.15 of this document and a change of the Supplier of record on the MCA.

4.2. Future Public Statements

Potential Supplier, and the eventual Awarded Supplier, shall not (i) refer to XXXX in any brochures, advertisements or other similar materials, or (ii) otherwise use the name, logo or other identifying information of XXXX outside of its own organization, without the PRIOR, EXPRESS WRITTEN APPROVAL of XXXX in regards to each instance.

4.3. Use of XXXX Marks

XXXX may, after the awarding of the business discussed herein, grant the Awarded Supplier the non-exclusive right to use XXXX Marks for purposes of a mutually acceptable communication program regarding the Services so long as such use is in complete compliance with XXXX standards that may be established by XXXX and/or the applicable XXXX School, as amended by XXXX from time to time. The Awarded Supplier shall not use the XXXX Marks in any manner or capacity without the prior written approval of XXXX, which approval may be withheld at the sole and complete discretion of XXXX. Potential Supplier acknowledges XXXX's exclusive right, title, and interest in and to the XXXX Marks. If granted permission to use the XXXX Marks, the Awarded Supplier will only use the XXXX Marks in connection with the Services, and not for the benefit of itself or any other person or entity.

4.4. Ownership of XXXX Marks

The Awarded Supplier, if granted the right to use CEC Marks, shall not at any time do or cause to be done any act, directly or indirectly, contesting or in any way impairing CEC's right, title and interest in the CEC Marks. In connection with any licensed use of the CEC Marks, the Awarded Supplier shall not in any manner represent that it has any ownership interest in the CEC Marks, and the Awarded Supplier specifically acknowledges that its use of the CEC Marks shall not create any right, title or interest in the CEC Marks. CEC retains all ownership and intellectual property rights to any materials, brochures or any other documents developed by the Awarded Supplier for the purposes of this MPA or developed jointly by the Awarded Supplier and CEC during the Term of this MPA.

- a) Every use of the CEC Marks by the Awarded Supplier shall inure to the sole benefit of CEC. The Awarded Supplier shall not: (a) register or attempt to register under federal or state law any CEC Mark or a mark that is derived from or comprised of, in whole or in part, any CEC Mark, or any mark substantially similar thereto, or (b) institute any legal proceeding for infringement of or interference with or assert or defend any claim regarding a CEC Mark, before any court or administrative body or otherwise, without the prior written approval of CEC.
- b) Except as authorized hereunder as part of Services, prior to the publication, public distribution, or use of any material bearing the CEC Marks, the awarded shall submit representative specimens of such material to CEC for approval.
- c) No material may be published, released, distributed, or used in any manner that has not been approved by CEC. If CEC has not responded in writing within twenty (20) business days after receipt of a representative specimen, the Awarded Supplier shall provide CEC with written notice of such failure to respond and such material shall be deemed to be disapproved if CEC has not responded within ten (10) business days of receiving such notice. The Awarded Supplier shall promptly notify CEC in writing of any infringement or misuse of a CEC Mark of which the Awarded Supplier becomes aware and shall cooperate with CEC in any efforts to eliminate such infringement or misuse. CEC, in its sole discretion, shall determine whether it shall take action against an unlicensed third party relating to or involving any of the CEC Marks or a similar name, mark, logo, likeness, image, or appearance. In the

event that CEC does not elect to take such action, the Awarded Supplier shall have no right to take any such action.

4.5. Notices

All Notices must be given in writing, sent by messenger, overnight delivery service, facsimile transmission to the fax number set forth below, or the United States of America mails, postage prepaid, certified or registered, return receipt requested, and addressed (or sent to the facsimile number) as follows:

Notices to Supplier	Notices to XXXX
Attn:	
Address:	
Telephone:	
Fax:	
Copy To:	

4.6. XXXX Category Manager

Within thirty (30) days of the effective date of the MPA, the XXXX Corporate Procurement Department shall designate a XXXX category manager to work with the Awarded Supplier to administer this relationship to enable XXXX to ensure optimal results for both parties in line with the MPA, and shall so notify the Awarded Supplier, with responsibilities including but not limited to:

- a) Providing the Awarded Supplier with information regarding the Product sales and Services provided at/to/for XXXX, including but not limited to the contact person responsible for receiving Product or signing off on the satisfactory completion of any Services.
- b) Acting as a liaison between the Awarded Supplier and XXXX to ensure that all Terms and responsibilities of the MPA are being achieved by the Awarded Supplier and XXXX.

4.7. Independent Status

The MPA shall in no way affiliate or otherwise cause the Awarded Supplier or its representatives to be treated as or deemed to be employees of XXXX, and as such, the Supplier shall remain solely responsible for the payment of all Federal income taxes and Social Security costs required to be paid to the United States Government. Furthermore, neither the Supplier nor its representatives are eligible for any fringe benefits normally allowed XXXX employees.

4.8. Subcontractors

If any part of the MPA between XXXX and the Potential Supplier is to be subcontracted, the subcontractor must comply with all requirements of the MPA, and must execute an agreement to that effect. The Potential Supplier shall disclose all subcontractors that will be used to perform any part of the duties of the Potential Supplier under the resulting MPA. XXXX, in its sole and absolute discretion, reserves the right to reject any subcontractor. In the event XXXX does not reject the use of a subcontractor in the performance of the MPA, the Potential Supplier is not relieved of its responsibility and obligation to meet all the requirements of the MPA, nor shall such failure to reject constitute approval or acceptance of the results of any work performed by the subcontractor. As a result of any such subcontracts, XXXX shall incur no additional obligations, nor shall the obligations of the Potential Supplier be reduced. Neither shall any subcontractor have any recourse against XXXX for any claims arising under any subcontract. The Potential Supplier agrees to indemnify and hold harmless XXXX from any of the claims of its subcontractors.

4.9. Assignment

The MPA shall be binding on the heirs, assigns, and successors of the Awarded Supplier and of XXXX, respectively; provided, however, that the Awarded Supplier may not assign the MPA without the prior, express written consent of XXXX, which consent shall not be unreasonably withheld. XXXX may transfer or assign the MPA without the written approval of the Awarded Supplier. For purposes hereof, any sale or transfer of the voting stock of either party, or any merger or consolidation involving either party after which holders of a majority of the voting stock of the party prior to such stock merger or consolidation do not hold a majority of voting stock of the party or after which the party is not the surviving entity, shall be deemed an assignment of the MPA.

4.10. Audits of Books and Records

XXXX shall have the right to audit all applicable and non-confidential books and records of the Awarded Supplier that relate to the Services or to any of the business XXXX does with the Awarded Supplier to confirm that the Awarded Supplier is in compliance with the MPA. The audit shall be on at least twenty (20) business days written advance notice, shall be during normal business hours, and shall be conducted in an efficient, thorough and timely manner without interruption of the normal business functions of the Awarded Supplier, at the expense of XXXX.

If during the course of such an audit Material Discrepancies are discovered, the Awarded Supplier agrees to (i) reimburse XXXX for the full amount of all costs associated with the audit, (ii) promptly correct any deficiencies detected in the audit, (iii) pay interest on the amount of any overpayment from the date that the payment was originally due at a rate of XXXX (XX%) per annum, and (iv) promptly refund any overpayments discovered by such audit, or XXXX may, at its sole discretion, set off any such overpayment against any money subsequently due by XXXX to the Awarded Supplier.

4.11. Counterparts

The MPA may be executed in counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall constitute the MPA.

4.12. Amendments, Addendums and Renegotiations

XXXX reserves the right to make changes and/or additions to the MPA with amendments or addendums that are signed by both XXXX and the Awarded Supplier. Nothing in this RFP, the future MPA, any amendments, or addendums will limit this ability or be construed as a forfeiture of this right. XXXX reserves the right to, at any time during the term of the MPA, to reopen negotiations with the Awarded Supplier. This will be at the discretion of XXXX and nothing within this RFP, the future MPA, any amendments, or addendums will limit, or prohibit this right.

4.13. Work Product

The Awarded Supplier and its employees and subcontractors shall immediately disclose and assign to XXXX any rights, title and interest in the Work Product including inventions, models, processes, patents, copyrights and improvements thereon relating to the performance of the Services herein for XXXX. The Awarded Supplier and XXXX agree that the Work Product to be produced by the Awarded Supplier shall be considered a "work made for hire" as defined in the Copyright Act of 1976, 17 U.S.C. §101, and is therefore owned exclusively by XXXX under §201(b), which vests copyright ownership of works made for hire in the customer for whom the work is prepared, in this case XXXX.

In the event that the Work Product is not, under applicable law, deemed to be a “work made for hire” or any intellectual property rights in the Work Product are not deemed to be owned by XXXX on creation, then the Awarded Supplier hereby assigns to XXXX, and hereafter agrees to assign to XXXX, any and all intellectual property and other rights and interests in and to the Work Product, including copyright, patent rights and trade secret rights. The Awarded Supplier shall require any Subcontractors to execute agreements that comply with the aforementioned standards of ownership. This provision shall survive termination or expiration of the MPA.

Notwithstanding the foregoing, Work Product does not include Supplier Tools. The Awarded Supplier will grant XXXX, upon execution of the MPA, an unrestricted, irrevocable, non-exclusive, perpetual, worldwide, royalty-free right and license, with the right to sublicense, to use, copy, distribute and modify in any way it deems fit the Supplier Tools that are included with the Work Product and with any other deliverables the Awarded Supplier provides to XXXX. The terms of this section shall survive the termination or expiration of the MPA.

4.14. Changes to Services

The Services provided under this MPA shall not be materially changed or altered without the prior written consent of each party.

4.15. Termination

The MPA resulting from this RFP will allow for XXXX to terminate such MPA at any time on prior written notice to the Potential Supplier if the Potential Supplier (i) materially breaches the Terms of the MPA and fails to remedy such a breach within ten (10) days after the receipt of written notice thereof, or (ii) either party makes an assignment for the benefit of creditors, files a petition for bankruptcy or for reorganization or rearrangement under any bankruptcy or insolvency law, or if any involuntary petition under any such law is filed against the parties, or (iii) either party is liquidated, dissolved or otherwise goes out of business.

The MPA resulting from this RFP will further allow for XXXX to terminate such MPA without cause, at any time with thirty (30) days prior written notice to the Potential Supplier.

If at any time XXXX invokes such termination right, XXXX will only be liable for payment of the agreed upon pricing for Products that have already been delivered to and accepted by XXXX. Any packages that are in transit at the time of termination shall be promptly returned to the Supplier upon receipt. XXXX will be under no obligation to pay any penalties or fees as a result of this termination and will be under no obligation to the Potential Supplier from the date of termination forward.

4.16. Consequences of Termination

Termination or expiration of the MPA shall not relieve the parties hereto of any liability that may have accrued prior to the effective date of such termination or expiration, nor prejudice the right of either party to obtain performance of any obligation provided for in the MPA that expressly survives. Upon termination or expiration of the MPA the Awarded Supplier shall return to XXXX all materials originally provided to the Awarded Supplier by XXXX for the use of the Awarded Supplier and/or otherwise bearing the XXXX Marks.

4.17. Indemnification

The Awarded Supplier agrees to indemnify, hold harmless and defend XXXX, including its directors, officers, employees, subsidiaries and affiliates and, at the option of XXXX, any Indemnitees from and against any and all Losses arising from or in connection with this RFP and the future MPA between XXXX and the Awarded Supplier. In addition, the Awarded Supplier should indemnify XXXX and any Indemnitees against:

- Awarded Supplier's breach of any of its representations, warranties, provisions, or obligations hereunder, as stated within the MPA.
- The negligence, intentional misconduct, or violation of any law, ordinance, or regulation by the Awarded Supplier, its employees or its hired and pre-approved subcontractors, stated within the MPA or under a valid PO.
- Any claims of infringement of any patent, trade secret, copyright or other proprietary rights, alleged to have occurred because of Products provided for XXXX by the Awarded Supplier and/or based upon the performance of any Services provided by the Awarded Supplier.
- Any claims of Losses or damages that could possibly be filed by any member of the Awarded Supplier, or any third party claims related to the Awarded Supplier of any of its subcontractors, whether or not approved by XXXX, for the fulfillment of any aspect of the MPA.

4.18. Limitation of Liability

Except for (i) breaches of the Awarded Supplier's confidentiality obligations under the MPA, (ii) either party's indemnity obligations under the MPA, and (iii) either party's willful misconduct or gross negligence, neither party to the MPA will be liable to the other party for any indirect, incidental, consequential, special, punitive or exemplary damages arising from the subject matter of the MPA, regardless of the type of claim and even if that party has been advised of the possibility of such damages, such as, but not limited to, lost profits, loss of revenue or anticipated profits or lost business.

4.19. Insurance

The Awarded Supplier will be asked to procure and maintain the following:

- a) Commercial General Liability insurance, listing XXXX as a coinsured and protecting both parties from any and all claims for damages due to bodily injury (including death), property damage and personal and advertising injury arising in connection with the Services provided under the MPA. This coverage shall (i) be occurrence-based; (ii) provide limits of liability in an amount of not less than \$5,000,000 (including excess and/or umbrella limits), and (iii) include at least those coverages generally designated Premises/Operations, Blanket Contractual Liability, Personal Injury & Advertising Liability, XXXX and Contractors Protective Liability, and Broad Form Property Damage;
- b) Workers Compensation Insurance for its employees that meets the statutory limits and laws of the state in which both parties operate under the proposed MPA along with all federal statutes and regulations;
- c) Comprehensive Automobile Liability (including Automobile Non-Ownership Liability) with a combined single limit of not less than \$1,000,000 per occurrence;
- d) Fidelity insurance, with a limit of liability of not less than the estimated total amount that will be paid by XXXX to the Awarded Supplier as a result of the MPA, shall be maintained through the term of the proposed MPA to ensure against any of the Awarded Supplier's on-site employees' dishonest acts causing loss of XXXX assets or materials; and
- e) Errors and Omissions insurance that is maintained throughout the term of the proposed MPA with a limit of liability of not less than \$1,000,000 each claim and \$1,000,000 aggregate.

XXXX, at its sole discretion, shall retain the right to, and the Awarded Supplier shall not waive, any of the above requirements without the prior, express written consent of XXXX. Furthermore, XXXX shall have the right to require higher limits, additional coverage and the like, from the Awarded Supplier, and any Subcontractors engaged by the Awarded Supplier, at the discretion of XXXX by giving written notice to any of those aforementioned parties.

All insurance coverage shall be written with insurers having an A.M. best rating of A- or better. Any coverage limits noted above shall not be construed as a limitation or satisfaction of any party or any hold harmless or indemnification agreement contained within the proposed MPA.

The Awarded Supplier, acting on behalf of XXXX, shall obtain, file, and keep current evidence of satisfaction of all the insurance requirements of the Awarded Supplier, XXXX, and any Subcontractors by securing insurance certificates.

4.20. Representation s and Warranties

In addition to any representations and warranties set forth in other parts of the MPA, both parties further represent and warrant as follows:

- a) The Awarded Supplier and XXXX each have the full power and authority necessary to enter into the MPA.
- b) The MPA will be duly authorized by all necessary action on the part of the Awarded Supplier and XXXX, and will be duly executed and delivered by each.
- c) The Awarded Supplier will not enter into any agreement with any other entity that contains restrictive provisions regarding confidentiality and/or non-competition that may impair its ability to provide the Products or perform the Services. XXXX will not enter into any agreement with any other entity that contains restrictive provisions regarding confidentiality and/or non-competition that may impair its ability to perform its obligations as they are described herein.
- d) The execution by the Awarded Supplier and XXXX of the MPA and the performance of their obligations will not breach or violate any other agreement to which either party is a party.
- e) All Services will be performed to the best ability of the Awarded Supplier and in a good, workmanlike manner with highest standards of care, skill and diligence used by persons who are trained by the Awarded Supplier with respect to the type of Services required herein.
- f) Any materials created by the Awarded Supplier hereunder shall be of original development by the Awarded Supplier, or the Awarded Supplier shall have the legal right to convey the entire right, title, and interest in such materials to XXXX. The Awarded Supplier further warrants that neither the execution or the MPA nor the performance of its obligations herein, to the best of its knowledge, will infringe upon or violate any patent, copyright, trade secret or other proprietary right of any third party.
- g) The Awarded Supplier will not employ child, convict or forced labor and it will not discriminate based on gender, race, sexual orientation, national origin or any other basis prohibited by law in its employment practices.
- h) The Awarded Supplier will use reasonable and best efforts to adhere to the published guidelines and policies of XXXX, as now in effect or as they may be amended from time to time.

4.21. Disclosure of Litigation

The Potential Supplier warrants that there are no suits, actions or other proceedings, pending or threatened, in any judicial or quasi-judicial forum that will or may adversely affect the ability of the Potential Supplier to fulfill its obligations under the MPA resulting from this RFP.

The Potential Supplier further warrants that it will immediately notify XXXX if, during the term of the MPA resulting from this RFP or any extension of such MPA, the Potential Supplier becomes aware of any suits, actions or proceedings, pending or threatened, in any judicial or quasi-judicial forum that involves the Potential Supplier or any subcontractor and that will or may adversely affect the ability of the Potential Supplier to fulfill its obligations under the resulting MPA or extension of such MPA.

For purposes of any applicable disclosure requirements, any litigation, actions, or other judicial or quasi-judicial proceedings that, in the aggregate, involve claims against the Potential Supplier totaling at least XXXX percent (XXXX%) of the total MCA amount shall be presumed to adversely affect the ability of the Potential Supplier to fulfill its duties under the resulting MPA. The Potential Supplier shall require all subcontractors to provide a similar warranty based on an identical percentage of the subcontract amount.

4.22. Notice of Change in Financial Condition

If, during the period of the MPA or any extension thereof, the Awarded Supplier experiences (i) a change in its financial condition which may affect its ability to perform under the MPA, or (ii) a change of ownership or control, XXXX shall be immediately notified in writing. Failure to notify XXXX of such a change in financial condition or change of ownership or control is sufficient grounds for terminating the MPA with cause as described in Section 4.15 of this document.

4.23. Jurisdiction

The Potential Supplier agrees that the eventual MPA shall be construed in accordance with, and all issues relating to the compliance with state regulatory and licensing requirements shall be governed by, the laws of the state in which the services are provided. The parties agree that any legal action, suit, or proceeding arising out of or in connection with the MPA shall be litigated in the County of Cook, in the State of Illinois.

Section 5 – Proposal Requirements

5.1. Supplier Selection Criteria

Notwithstanding any other provision of this RFP, XXXX reserves the right to choose and contract with any participating Potential Supplier based on XXXX's understanding of the ability of that Potential Supplier to meet all of the requirements outlined within this RFP. In doing this, XXXX will judge all costs included in any proposal on a complete, "total cost of ownership" basis. In determining the Potential Supplier that best meets our overall requirements, we will statistically score all Potential Supplier proposals.

While XXXX retains the right to decide in its sole and absolute discretion on how our business will be awarded to a Potential Supplier, XXXX will utilize specific selection criteria, as described below, based on Potential Supplier responses to the overall requirements of the RFP. Selection criteria on which participating Potential Supplier will be judged in part are:

Potential Supplier Selection Criteria	
<u>Product and Services Requirements</u>	<ul style="list-style-type: none">• [Sourcing Specialist will update based on the requirements entered in Section 3]
<u>Negotiations</u>	<ul style="list-style-type: none">• Your ability and willingness to work with XXXX from now until the signing of the MPA.
<u>Terms</u>	<ul style="list-style-type: none">• Greatest degree to which the all the terms as put forth in this RFP are accepted without any major changes or revisions.• The reparations that you propose in areas where XXXX is asking for suggestions will be measured. Potential Supplier are encouraged to provide remedies appropriate to the situation and that provide adequate liquid and/or non-financial reparations for being unsuccessful in maintaining the agreed upon service levels.
<u>Cost</u>	<ul style="list-style-type: none">• Total Cost of Ownership (including any Discounts, Rebates, Spec Fees, or Back End Manufacturer incentives received directly because of the XXXX volume of product purchases, etc.) whereby your proposal as a Potential Supplier provides XXXX with the lowest net price.

XXXX will score each selection criteria section above for each of the participating Supplier. The total of all four (4) criteria will represent a statistical comparison of all participating Supplier that will play a significant, though not necessarily definitive, role in assisting the XXXX Strategic Sourcing Unit in the overall selection process.

The XXXX approach to judging Potential Supplier responses effectively attempts to limit, to the highest degree possible, subjectivity. As such XXXX believes that, by providing participating Potential Suppliers with the above described selection criteria, they will respond with proposals intended to meet the overall requirements of XXXX.

XXXX reserves the right to change, modify, cancel, suspend, or discontinue any part of the selection criteria along with reserving the right to not publicly notify or disclose to any Potential Supplier how the RFP was ultimately awarded. XXXX will not release any information on the specific ratings, statistics, numerical rankings, or any other decision making processes we utilize related, in whole or in part, to any Potential Supplier.

5.2. Effect of Selection Criteria on Potential Supplier Responses

In responding to this RFP, Potential Supplier are encouraged to do more than simply address the stated requirements of any RFP document. Be creative, cutting-edge, and proactive in crafting your proposal. Potential Supplier should respond to this RFP with full consideration for the potential that exists as a result of not only the long-term business plans of XXXX but also the rapid growth that XXXX has experienced in recent years. Responses that exceed the requirements, as they are described herein, will be given additional consideration in their scoring.

5.3. Proposal Due Dates and Timelines

The consolidated proposal of the Potential Supplier must be received at the location indicated in Section 5.4, no later than [Time] P.M., Central Standard Time, [Month and Day], 20[Year]. Proposals will become the confidential property of XXXX and will not be returned. Provided below are key deliverables and the dates by which they are due:

Deliverable	Date
Potential Supplier Questions Due Date	[Time] P.M., Central Standard Time, [Month and Day], 20[Year]
Proposal Due Date	[Time] P.M., Central Standard Time, [Month and Day], 20[Year]
Finalist Selection, Notification and Negotiations	[Time] P.M., Central Standard Time, [Month and Day], 20[Year]
Contract Signing	[Early/Mid/Late] [Month]
Contract Effective Date	[Time] P.M., Central Standard Time, [Month and Day], 20[Year]

The above times are subject to change at the discretion of XXXX. Failure to meet any of the stated times, without the PRIOR, EXPRESS WRITTEN approval of the XXXX Strategic Sourcing Unit, will result in the disqualification of the violating Potential Supplier from the RFP process. XXXX will notify the two (2) finalists on [Month and Day], 20[Year] and the final negotiations of the MPA will begin.

NOTE: XXXX will negotiate with multiple Potential AERs until the signing of the MPA. The signing of the MPA is the only act that will constitute the awarding of the business discussed herein. Nothing in this RFP or any document other than the MPA will be construed as an award of any business by XXXX.

5.4. Correspondence and Queries

All correspondence and inquiries concerning this RFP should be directed to both contacts listed below. The submission of all electronic documents which make up your proposal should also be directed to both contacts below. Three (3) complete, bound, printed versions of your proposal should be submitted to the first contact listed below. Any materials that are received late will not be considered.

Submission of RFP Electronic and Paper Documents:	Submission of RFP Electronic Documents:
[Company Name]	[Company Name]
[Company Address]	[Company Address]
[Company Contact]	[Company Contact]

Your proposal should be prepared in a clear straightforward manner with emphasis placed on completeness, conciseness, and clarity of content. All associated printed materials relating to Product (marketing materials, Product slicks, Product pamphlets, etc.) must be provided within your printed versions, and be included in the table of contents with details as to which Product is applicable to each specific reference within your proposal.

5.5. Proposal Organization and Requirements

The Potential Supplier is requested to organize its response to this RFP in the manner prescribed below. Failure to arrange the responses accordingly may result in the disqualification of the proposal. The proposal should follow these general requirements:

- Each page in the response should be numbered sequentially.
- An accurate table of contents should appear as the first page of the proposal and should indicate where each section begins.
- The Attachments provided by XXXX for use in conjunction with this RFP should not be modified. Modifications to the Attachments will be considered a failure to arrange your response properly. The proposal need not appear in outline format but you should be certain that the proper information is contained in the proper section.
- Potential Supplier are encouraged to minimize redundancy and provide concise responses. The XXXX Strategic Sourcing Unit will weigh organization, clarity, presentation, and accessibility to detail in each proposal in its evaluation.

When referring to a section of this RFP in your proposal, the Potential Supplier is requested to refer to the RFP **section number**, **section title** and **page number**. In addition, a checklist is provided (as Attachment 1), which provides a reference index that identifies RFP requirements in reference to Potential Supplier section numbers, title, and page number. When preparing a proposal, the Potential Supplier is requested to use the checklist as a structural template and to build its proposal in accordance with the section numbers and headings therein. Below are details as to the contents that should appear in each section of your proposal.

5.5.1 Section 1 - Letter of Transmittal

Section 1 of the Potential Supplier proposal should include a transmittal letter that clearly identifies the Potential Supplier organization and all subcontractors.

- The transmittal letter should state, on company letterhead, in boldfaced type:

(Potential Supplier Name) hereby represents and warrants it has analyzed the XXXX RFP; understands the requirements of XXXX; and agrees to be bound by the

terms and conditions of the proposal for 180 days after the submission deadline, or longer if the proposal is included in a MPA with XXXX.

Furthermore, (Potential Supplier Name) is an expert in the Products and the licensing of the Products and understands that XXXX will rely on this expertise.

Additionally, (Potential Supplier Name) will be making a number of representations outside of its formal proposal document in, possibly, discussions, presentations, negotiations, demonstrations, sales or reference material and other information providing interactions. (Potential Supplier Name) hereby warrants that XXXX can rely on these as inducements into any subsequent MPA, and can be made a part thereof.

2. The Potential Supplier transmittal letter should be signed by an officer, principal or agent of the Potential Supplier organization who is solely authorized to commit the organization to the terms and conditions of the MPA which will result from this procurement.
3. The Potential Supplier is requested to identify each potential Subcontractor it proposes to employ for the duration of the MPA. The Potential Supplier is requested to include letters of commitment from each potential Subcontractor proposed, indicating its willingness to undertake the work outlined in the Potential Supplier response and to abide by all applicable Terms of the XXXX RFP and eventual MPA.
4. The Potential Supplier is requested to identify the individual who will be the primary point of contact between the Potential Supplier and XXXX, including the individual's name, address, telephone number, email address and fax number.
5. The Potential Supplier is requested to identify the individual(s) who will be authorized to negotiate with XXXX, including the individual's name(s), address(es), telephone number(s), email address(es) and fax number(s).
6. The Potential Supplier is requested to acknowledge the receipt of RFP addenda, if any, by signing and returning the acknowledgement form included with the addenda. In addition, the signed original of the acknowledgement forms should be included with the letter of transmittal.

5.5.2 Section 2 - Executive Summary

Section 2 of the Potential Supplier proposal should include an executive summary that outlines all components of the Potential Supplier document.

1. The executive summary should assert that the response of the Potential Supplier has met, or exceeded, all of the areas of requirements outlined in this RFP. Failure to make this assertion may result in the disqualification of the Potential Supplier proposal.
2. The executive summary should not include or intimate any information regarding the pricing that the Potential Supplier is proposing for the Products included in this RFP.
3. The executive summary should end with the completed and signed Proposal Requirements Checklist included as Attachment 1, which identifies each of the requirements of this RFP and the location of the Potential Supplier response in the proposal.

The executive summary, not including the Proposal Requirements Checklist, should not exceed five (5) pages in length.

5.5.3 Section 3 – Conflicts and Disclosures

Section 3 of the Potential Supplier proposal should include the disclosure of any conflicts of interest or litigation that would or may affect the ability of the Potential Supplier to provide the Products discussed in this RFP.

1. The Potential Supplier is requested to disclose in writing any business relationship (including any agreement, contract, letter of intent or commitment, memorandum of understanding or any similar type of arrangement, whether written or oral, financial or non-financial) with any organization that will or may create a conflict of interest in providing the Products discussed herein at the agreed to pricing and service levels.
2. The Potential Supplier is requested to disclose in writing any litigation, actions, or other judicial or quasi-judicial proceedings that, in the aggregate, involve claims against the Potential Supplier totaling at least ten percent (10%) of the total MCA amount that will or may affect the ability of the Potential Supplier to provide the Products discussed herein at the agreed to pricing and service levels.

In the event that no conflict of interest or litigation exists that would or may affect the ability of the Potential Supplier to perform as expected under the terms of the MPA, a letter that states this should be included in Section 3 that is signed by the same officer, principal or agent that signed the Letter of Submittal in Section 1. The page number of such a letter should be entered into the Proposal Requirements Checklist for both of the requirements in Section 3.

5.5.4 Section 4 – Financial Strength and Service

Section 4 of the Potential Supplier proposal should include the following information about the financial strength and stability of the Potential Supplier.

1. The Potential Supplier is requested to populate and provide a printed copy of Table 4 in its proposal.

Table 4: Financial Metrics		
Metric	Value (3 year average) in either percentage or ratio term, unless otherwise noted.	Definition
Return on Assets	%	Income after taxes for the trailing 12 months divided by the average total assets, expressed as a percentage. "Average total assets" is defined as the average of total assets for the 6 most recent quarters.
Return on Investment	%	Income after taxes for the trailing 12 months divided by the average total long-term debt, other long-term liabilities and shareholder or owner equity, expressed as a percentage. "Average total long-term debt" is defined as the average of long-term debt over the 6 most recent quarters.
Return on Equity	%	Income available to Common Stockholders or owners for the trailing 12 months divided by the average Common Equity, expressed as a percentage. "Average Common Equity" is defined as the average of Common Equity for the 6 most recent quarters.

Revenue/Employee	%	Revenue for the last 12 month (March 2006 being the latest financial month) period divided by the average number of employees for that same period.
Net Income/Employee	%	Net Income for the last 12 month (March 2006 being the latest financial month) period divided by the average number of employees for that same period.
Long term Debt to Total Equity	X:X	Total Long Term Debt for the most recent fiscal quarter divided by Total Shareholder or Owner Equity for the same period.
Total Debt to Total Equity	X:X	Total Debt for the most recent fiscal quarter (ending March 31, 2006) divided by the Total Shareholder Equity for the same period.
Interest Coverage	X:X	Ratio to Total Revenue for the trailing twelve months (ending March 31, 2006) divided by the Interest Expense for the same period.
Receivables Turnover	X:X	Ratio of Total Revenue for the trailing 12 months (ending March 31, 2006) divided by Average Receivables. "Average Receivables" is defined as the average of accounts receivable for the 4 most recent quarters.
Inventory Turnover	X:X	Cost of Goods Sold for the trailing 12 months (ending March 31, 2006) divided by the average inventory. "Average inventory" is defined as the average of total assets for the 6 most recent quarters.
Asset Turnover	X:X	Total Revenues for the trailing 12 months (ending March 31, 2006) divided by the average total assets. "Average total assets" is defined as the average of total assets for the 6 most recent quarters.
Quick Ratio	X:X	Cash plus Short Term Investments plus accounts receivable for the most recent fiscal quarter (ending March 31, 2006) divided by the Total Current Liabilities for the same period.

2. The Potential Supplier is requested to include in this section, the following references:
 - a. Three (3) customer references from the education industry that we may contact about your performance. Provide company names, addresses, contact names, titles, and phone numbers. Provide the name of at least two (2) organizations that have experienced some amount of difficulty in working with your organization, and can attest to your ability to resolve material problems that develop in the course of doing business with your organization.
 - b. Three (3) customer references where you have completed integration with PERS. These references should be capable of speaking to your ability to work with their resources in planning, problem identification, and problem resolution.
 - c. Two (2) customer references of organizations that you were under contract with, but over the last 12 months have lost their business.

5.5.5 Section 5 – Terms

By submission of a proposal, unless otherwise noted in this section of the response, the Potential Supplier expressly accepts the Terms laid out in this RFP.

1. **Section 5** of the Potential Supplier proposal should contain a printed copy of the completed Terms Response Grid which is included as Attachment 2. To complete this Grid, place a "one" in the column corresponding to your response to the Term indicated. Responses can be Accept, Reject, or Accept with Modifications. If you place a "one" in the Accept with Modifications column, you must present your modifications in the column marked "Modifications".

XXXX reserves the right to reject any Potential Supplier proposal on the basis of exceptions taken to the Terms. This rejection may be made at the sole discretion of XXXX.

Any exceptions or reservations to the Terms asserted by any Potential Supplier will be evaluated by XXXX in terms of the impact those exceptions may impose on XXXX and the XXXX procurement objectives.

[Sourcing Specialist will construct the Proposal Requirements based on the information entered in Section 3 by the Category Manager.]

5.5.6 Section 10 – Shipping Requirements

Section 10 of the Potential Supplier proposal should contain its response to the fulfillment and shipping requirements.

1. The Potential Supplier is requested to detail its plans on how to provide the tracking information to the appropriate XXXX personnel for each order.
2. The Potential Supplier is requested to provide specific details on how it will provide palletized delivery for bulk Product orders.
3. The Potential Supplier should include the completely filled in Attachment 4 – Media Fulfillment Workbook.
4. The Potential Supplier should be sure to include its proposed recompense that it will provide to XXXX for repeated violation of the proposed fulfillment and shipping service levels. Keep in mind that these proposed reparations will be scored and compared to those of other Potential Supplier.

5.5.7 Section 11 – Returns

Section 11 of the Potential Supplier proposal should contain the response to the requirements relating to returns.

1. The Potential Supplier is requested to detail the process that XXXX would follow in the event that items shipped from the Potential Supplier are lost or damaged in transit.
2. The Potential Supplier is requested to detail the process that XXXX would follow to obtain a RMA for items that were ordered in error, or was not needed. Please include in this section your ability to issue a credit memo for the full amount of the Product on the RMA, and your ability to not assess fees to XXXX for this type of return.

5.5.8 Section 12 – Invoicing and Payment

Section 12 of the Potential Supplier proposal should contain its response to the Invoicing and Payment requirements.

1. The Potential Supplier is requested to detail, in a manner consistent with Section 3.9, its ability to provide electronic invoicing to XXXX.

2. The Potential Supplier is requested to describe its ability to accept electronic payments via electronic check, or payment card. Please include the information requested if electronic payment is an option.
3. The Potential Supplier is requested to detail its ability to accept alternate methods, as they are listed in Section 3.9, of payment if electronic payment is not an option.

Appendix A – Inventory of Forms

This RFP is comprised of [Spelled out number of documents] ([Numeric value for the number of documents]) documents. These documents are listed below:

[Sourcing Specialist will list the documents that make up the entire RFP here.]