

INVITATION TO BID ON AUDIO-VISUAL AND TELEVISION PRODUCTION EQUIPMENT

Bid No. ESD112-ETC-11

- Deadline to Respond -

January 6, 2012

5:00 p.m. Pacific Time



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December 9, 2011

Invitation to Bid

Bid No. ESD112-ETC-11

Notice to Original Equipment Manufacturers, Resellers and Distributors of Audio-Visual and Television Production Equipment

Notice is hereby given that The Vancouver Educational Telecommunication Consortium (TV-ETC), and Educational Service District 112 (ESD 112), fiscal agent, Vancouver, Washington, shall receive formal sealed bids for audio-visual and television production equipment. Bids shall be submitted to the TV-ETC department at Educational Service District 112, 2500 NE 65th Avenue, Vancouver, WA 98661 **by 5:00 p.m. on January 6, 2012**. Bids shall be opened and publicly read on January 9, 2012 at 9:00 a.m. at ESD 112. All interested persons are entitled to attend the bid opening.

This Invitation to Bid (ITB) has been published in a newspaper of general circulation pursuant to applicable laws. In addition, the (ITB) and associated bid documents are posted on ESD 112's procurement web site at <http://esd112.org/procurement> as of December 9, 2011.

ESD 112 reserves the right to reject any or all bids, to waive informalities, and to accept only such bids or portion of any bids as may be to the best interest of TV-ETC, and ESD 112, or to reissue the ITB.

Bids shall be sealed and marked as follows:

**CONFIDENTIAL: DO NOT OPEN
SEALED BID ENCLOSED
BID NO. ESD112-ETC-11
ATTENTION: BID ADMINISTRATOR
ESD 112 TV ETC DEPARTMENT**

Bids shall be delivered in sealed envelopes, and shall bear on the outside the name and address of the Bidder as well as the designation of the Contract. Bids forwarded by U.S. Mail shall be sent first class to the address listed below. Bids forwarded by delivery service other than the U.S. Mail or hand delivered must be delivered to the address listed below. All bids must clearly display the bid number on the envelope.

Bids shall be addressed to:

**EDUCATIONAL SERVICE DISTRICT 112
TV ETC DEPARTMENT
2500 NE 65TH AVENUE
VANCOUVER, WA 98661-6812**

For further information, contact Rose Yandell at: [rose.yandell @esd112.org](mailto:rose.yandell@esd112.org)

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Invitation to Bid (Event Schedule)

Bid No. ESD112-ETC-11

Date and Time	Event
Monday, December 9, 2011	Invitation to Bid release date
Thursday, December 22, 2011	Last day for Bidders to submit request for general information about this Invitation to Bid to the Bid Administrator
Friday, January 6, 2012 (5:00 p.m.).....	Bids are due to ESD 112 by 5:00 p.m. PT
Monday, January 9, 2012 (9:00 a.m.)	Public Bid Opening Educational Service District 112 (Pacific Room) 2500 NE 65th Avenue Vancouver, WA 98661
January 9 – January 20, 2012 (Estimated).....	Bid Evaluation Period
January 23, 2011 (Estimated).....	Award Contract(s) to Bidder(s)

This Invitation to Bid Event Schedule is subject to change. Any changes to the Event Schedule will be issued in written addendum and published on the ESD 112 web site at <http://esd112.org/procurement>.

AUTHORIZATION

AND

BACKGROUND INFORMATION



Authorization.

Educational Service Districts (ESD's) in the State of Washington are political subdivisions of the state that they are organized under and operate in accordance with state statutes. Chapter 28A.310 of the Revised Code of Washington (RCW) is the primary statute that governs ESD's. Chapter 28A.310 authorizes ESD's to enter into contracts, to provide informational services and to establish cooperative programs. RCW 28A.310.200, Section 28A.310.180 (3) directs ESD's to establish "joint purchasing programs. TV-ETC, a program of ESD 112, is the fiscal agent for this joint purchasing program that has been established in accordance with, and is operating pursuant to, ESD 112's governing law.

Eligible Bidders.

For consideration, Bidders shall be original equipment manufacturers (OEM's) or an OEM's authorized reseller or distributor (agent) who is able to carry out the scope of work, and all terms and conditions of this ESD 112 Contract.

Background.

Educational Service District 112 is soliciting bids and awarding contracts for educational and public organizations in the State of Washington. The Vancouver Educational Telecommunication Consortium (TV-ETC) provides quality programming for educational access channels airing on the Comcast Cable System. The intent of this bid is to purchase the highest quality audio-visual and television production equipment for the lowest cost for K-12 consortium members located in Vancouver, WA.

SCOPE OF WORK



Scope of Work.

The intent of this Invitation to Bid is to award contracts to the lowest responsible and responsive Bidder(s) and purchase quality audio-visual and television production equipment for The Vancouver Educational Telecommunication Consortium. This will allow consortium members to provide quality programming for the educational access channels airing on the Comcast Cable System.

1.0 Bid Price Information.

ESD 112 is requesting bid prices from OEM's or an OEM's authorized reseller or distributor (agent) for audio-visual and television production equipment products identified in Bid Price Form A.

1.1 Bid Price Form.

Bidders shall provide bid prices for products offered in Bid Price Form A. Bidders shall not alter the formatting, add or delete columns or rows in Bid Price Form A, or their bid may be rejected. Bid Price Form A is located on the ESD 112 procurement web site at <http://esd112.org/procurement>.

1.2 Bid Prices.

Bidders shall offer bid prices for products listed on Bid Price Form A. All bid prices provided in the Bidder's Bid Price Form A reflect contract prices and shall be firm for the entire contract period, and **include all costs**, except for sales tax.

1.3 Sales Tax.

All bid prices provided in Bid Price Form A shall not include any applicable Sales Tax. Applicable sales tax may be noted as a separate line item on the purchase and invoice documents.

1.4 Multiple Awards.

Products offered in Bid Price Form A may be awarded item by item or by group, whichever is deemed in the best interest of TV-ETC, and ESD 112.

2.0 Contract Period.

Awarded Bidders shall begin selling products and performing other obligations under the Contract on the Initial Date of Award. All contractual obligations shall be completed by **May 31, 2012**.

3.0 Shipping / Delivery and Freight Terms.

3.1 Awarded Bidders shall **deliver products FOB: Destination** (seller retains title and control of goods until they are delivered and the contract of carriage has been completed and the bill of lading has been signed by the eligible Purchaser), with **no minimum shipment** amounts required to specific locations in **Vancouver, WA**.

3.2 If the Awarded Bidder anticipates an unexpected delay, the Awarded Bidder shall inform the eligible Purchaser of the anticipated delivery date in writing or by phone. The eligible Purchaser has the option of canceling the purchase order or accepting the new delivery date.

3.3 Delivery hours are typically between 8:00 a.m. and 4:00 p.m., Mondays through Fridays, excluding all major holidays, unless special arrangements have been made. All products shall be delivered during typical delivery hours directly to the eligible Purchaser's destination, unless directed otherwise by the eligible Purchaser.



- 3.4 Awarded Bidders may charge eligible Purchasers for express shipping when requested by the eligible Purchaser.
- 3.5 Awarded Bidders agree that shipping errors shall be at the expense of the Bidder. For example, if a Bidder ships a product to an eligible Purchaser that was not ordered, it is the responsibility of the Bidder to pay for return mail or shipment, at the convenience of the eligible Purchaser.
- 3.6 A packing list must be furnished with each shipment that includes the eligible Purchaser's name, purchase order number, contact number, quantity and other pertinent information. **A copy of the packing list must be sent via fax to Rose Yandell at (360) 750-9142.** Awarded Bidders must be able to provide evidence that the products were delivered, upon request.
- 4.0 Payment Terms.**
Eligible Purchasers shall authorize and process for payment each invoice within thirty (30) days (Net 30 terms) after the corrected or reconciled invoice Receipt Date. Awarded Bidders must accept full payment by one of the following methods: procurement (credit) card, conventional check or other electronic means at the eligible Purchaser's option, without imposing any additional fees, costs or conditions.
- 5.0 Purchase Quantities.**
All purchase quantities are subject to the availability and appropriation of funds. When funds (state and/or federal) are reduced, not appropriated or otherwise made available to support the bid quantities, the Purchaser shall have the right to reduce or cancel any of the bid product quantities listed in Bid Price Form A, if necessary.
- 6.0 Warranty.**
The Awarded Bidder shall furnish a copy of the manufacturer's warranty with each shipment to eligible Purchasers for products sold through the ESD 112 Contract. Bidders shall agree to honor the most restrictive and comprehensive warranty as between the OEM's written warranty or the warranty provisions in Section 10 in the Terms and Conditions Section of this Invitation to Bid.
- 7.0 Product Specifications.**
The Awarded Bidder shall furnish a complete operator's specification manual and parts catalog, if available, with each product shipment to eligible Purchasers.

INSTRUCTIONS FOR SUBMITTING A BID



Request for Clarification about This Invitation to Bid.

Upon release of this Invitation to Bid, all Bidder communications regarding this Invitation to Bid shall be in writing and directed to Rose Yandell in an e-mail addressed to [rose.yandell @esd112.org](mailto:rose.yandell@esd112.org). Unauthorized contact regarding the Invitation to Bid with other ESD employees, school district personnel, consultants and members of ESD 112's governing board may result in disqualification. Any oral communications shall be considered unofficial and non-binding on ESD 112. Bidders should rely only on written statements issued by the Bid Administrator. Responses to verbal requests for information or clarification shall be considered unofficial until confirmed in written Addenda. All responses to inquires, clarification statements, and written Addenda shall be available on ESD 112 procurement web site at <http://esd112.org/procurement>.

- Bidders shall promptly notify the Bid Administrator of any ambiguity, inconsistency, or error which they may discover upon examination of the bid documents. All Bidders shall thoroughly familiarize themselves with bid requirements and instructions and submit to the Bid Administrator any concern (via e-mail) **no later than five (5) calendar days prior to the date for receipt of the Bids**. The submittal of a bid constitutes acceptance of products and procedures specified as sufficient, and satisfactory.
- Bidders can inquire general information regarding this Invitation to Bid via e-mail: attention Rose Yandell [rose.yandell @esd112.org](mailto:rose.yandell@esd112.org) within **five (5) calendar days prior to the receipt of bids**.
- Any substantive interpretation or correction or any change of the bid documents shall be made by written Addendum. Addenda shall be made available on the ESD 112 procurement web site at <http://esd112.org/procurement>. Interpretations or corrections of, or changes to the bid documents made in any other manner shall not be binding, and Bidders shall not rely upon such interpretations, corrections and changes.
- It is the **Bidder's responsibility** to check the ESD 112 procurement web site for **Addenda changes**.

Instruction to Bidders.

Bidders are advised to become familiar with the scope of work, bidding instructions, terms and conditions, and all other portions and sections of this Invitation to Bid document.

- **Contact Information.**
Technical or programmatic questions about the TV-ETC program at ESD 112 or this Invitation to Bid shall be directed to Rose Yandell via e-mail at: [rose.yandell @esd112.org](mailto:rose.yandell@esd112.org).
- **Following Directions.**
Following directions in submitting a bid is an indicator of a Bidder's responsiveness to this Invitation to Bid. Bids that are not submitted in accordance with the bid submission requirements and instructions may be rejected.
- **Clarity of Responses.**
Bidders shall respond to all bid submission requirements with direct, concise, complete and correct data and information, avoiding ambiguity in this Invitation to Bid.
- **Careful Planning of Submission.**
Bidders are advised to plan the submission of their bids well in advance of the deadline, to avoid unanticipated delivery problems that are out of the control of the Bidder or the Bid Administrator. Such delays could be caused by postal problems, delayed delivery and transportation vehicles, and unfavorable weather conditions. ESD 112 shall not be responsible for any late submissions, and reminds Bidders to avoid potential delivery problems by submitting their bids early. **Bids that**



are received at ESD 112 after the deadline for submission shall be rejected and returned to the Bidder.

- **Bid Forms.**

Bidders shall use all associated bid forms that are currently available for download at <http://esd112.org/procurement>. Bidders that do not use the current bid forms for their bid submission are **non-responsive and their bid may be rejected.**

Instructions for Submitting All Required Bid Forms and Documents (Checklist).

To ensure that every bid receives a fair evaluation and comparison, it is required that each bid is submitted in two (2) parts. Each part is described below.

PART 1: Folder with Required Documentation

Each Bidder shall submit **one folder** with a sleeve or pocket for a CD, and organized, and sequenced in the following manner:

_____ **#1: Bid Price Form A**

(This form is available for download on the ESD 112 procurement web site)

Bidder shall include an electronic version of this file (with the scanned information and signature) in **MS Excel format (unprotected)** on the required CD.

_____ **#2: Offer and Acceptance Form**

(This form is available for download on the ESD 112 procurement web site)

Bidders shall submit **two (2) original signed** copies of the Offer and Acceptance Form, and agree to abide by the scope of work and terms and conditions of this Invitation to Bid. In addition to providing two (2) hard copies of this document in the folder, the Bidder shall include an electronic version of this file (with the scanned information and signature) in PDF format on the required CD.

_____ **#3: Non-Collusion Form**

(This form is available for download on the ESD 112 procurement web site)

Bidders shall include a completed form that is **notarized and signed** by an **authorized representative**. In addition to providing a hard copy of this document in the folder, the Bidder shall include an electronic version of this file (with the scanned signatures) in PDF format on the required CD.

_____ **#4: Bidder's Narrative of Qualifications Form**

(This document is generated by the Bidder)

Bidders shall submit a copy of their current company profile and business references. In addition to providing a hard copy of this document in the folder, the Bidder shall include an electronic version of this file in MS Word 2003 or newer, or in PDF format, on the required CD.

PART 2: CD Containing All Required Bid Forms and Documents

Each Bidder shall submit **one CD in the required folder** that includes all electronic documents named in Part 1 in the file format noted for each document. The CD must be placed in a CD sleeve or pocket and placed in the folder.

BID EVALUATION



Bid Evaluation Criteria.

The bids shall be evaluated by the Bid Administrator or the Bid Administrator's designee. Contracts will be awarded to the lowest responsive, responsible Bidder(s) as defined below. To be eligible for evaluation, a bid shall have **arrived on time**, and shall **materially satisfy all requirements** in this Invitation to Bid. Bids with deviations or exceptions to the requirements or Terms and Conditions of this Invitation to Bid may be disqualified from consideration, even if the Bidder considers them necessary.

1.0 Responsive and responsible Bidders shall be determined according to the following criteria:

A responsive Bidder is a Bidder that submits a bid that conforms in all material respects to the instructions, terms and conditions, post award requirements, and other requirements of this bid. Bids that do not conform to all material respects may be considered non-responsive.

A responsible Bidder is a Bidder that satisfies the following criteria, in accordance with RCW 43.19.1911(9), as reflected in the materials submitted in response to Bidders Narrative of Qualifications form:

- The ability, capacity, and skill of the Bidder to perform the Contract or provide the service required;
- The character, integrity, reputation, judgment, experience, and efficiency of the Bidder;
- The ability of the Bidder to perform the Contract within the time specified;
- The quality of performance of previous contracts or services;
- The previous and existing compliance by the Bidder with laws relating to the contract or services;
- Such other information as may be secured having a bearing on the decision to award the Contract.

2.0 Identification of the Lowest Bidder(s) for Audio-Visual and Television Production Equipment.

The lowest Bidder is determined as follows:

2.1 Method of Determining Lowest Bidder.

The lowest Bidder is the Bidder that is responsive and responsible and **submits the lowest bid prices for products offered in Bid Price Form A**. An evaluation recording sheet shall be used to record the bids and identifies the lowest Bidder(s). The identified lowest Bidder(s) shall be awarded an ESD 112 Contract.

2.2 No Competing Bids.

A responsive, responsible Bidder submitting a bid for audio-visual and television production equipment, **absent of any other competitive bids** for the same products, shall be awarded a ESD 112 Contract without further evaluation, provided that all bid requirements are satisfied.

2.3 Tie-Breaker.

In the case of a tie of lowest bid prices offered in Bid Price Form A between two or more competing bids, the Bidder with the highest quantity of lowest bid prices identified on Bid Price Form A shall be awarded an ESD 112 Contract. If there is still a tie, then both or all Bidders that are still tied shall be awarded a Contract.



Letters of Intent to Award.

After bids are evaluated and scored, the Bid Administrator and/or Designee will send a letter of intent to award, indentifying the lowest Bidder. The agreement that results from this Invitation to Bid shall be the ESD 112 Contract and shall be made available to eligible Purchasers.

The Bid Administrator and /or Designee shall issue a letter notifying all Bidders of the intent to accept the bids and award the Contract to the lowest Bidder(s) for products offered in Bid Price Form A. **The bid shall not be formally accepted and a Contract shall not be officially awarded until receipt of the signed Offer and Acceptance Form.**

Bidders that are not awarded a Contract that wish to protest may refer to the section of this Invitation to Bid entitled **Protest Process**.

Award of Contracts.

If there is no delay that results from an unresolved protest, the ESD 112 Superintendent or Designee shall sign and send each Awarded Bidder one original copy of the Offer and Acceptance Form.

Protest Process.

For a protest to be considered, the protest shall be based on:

- Errors in computing the score; and/or
- Failure to follow procedures described in the Invitation to Bid; and/or
- A matter of bias, discrimination or conflict of interest on the part of an evaluator; and/or
- Failure to comply with applicable law.

Protest Procedure.

Protests shall be filed and resolved in accordance with the following:

- Protests shall be submitted in writing or e-mail and addressed to the Bid Administrator at ESD 112 within five (5) business days after receiving a copy of the Letter of Intent to Award.
- Upon receiving a letter of protest, the Bid Administrator at ESD 112 shall convene a Review Team.
- The Review Team will consider the protest as soon as reasonably possible.
- The Review Team may receive written or oral information from the Protester and the Bid Administrator, and may seek answers to their questions.
- A face to face hearing may take place, depending on the nature of the protest.
- The Review Team shall render a decision and send a letter to the Protestor and the Bid Administrator. If the Review Team's decision is in favor of the Bid Administrator, awards shall be made two (2) business days after the Review Team's decision is issued.
- If the Review Team's decision is in favor of the Protestor, the final award of Contracts is delayed until the protest is resolved.



- Bidders shall exhaust their administrative remedies, which include filing a protest as described herein. Failure to file a protest shall preclude judicial review or subsequent legal action.

Format and Content.

Protests shall include the following:

- Information about the protesting Bidder such as name of firm, mailing address, phone number and name of individual responsible for submission of the protest. The protest letter shall be submitted on company letterhead and signed by an authorized agent of the Bidder.
- The facts, law and arguments that are relied on as the basis for the protest.
- Any relevant exhibits or evidence supporting the protest.
- Description of the relief or corrective action requested.

CONTRACT ADMINISTRATION



Contract Administration.

It shall be the responsibility of the Bid Administrator at Educational Service District 112 to administer all Contracts awarded under this bid.

Representations.

Bidders represent that all the statements and information that were submitted in accordance with the bid requirements are accurate and true and create contractual obligations. Any misrepresentation or action that is inconsistent with bid requirements constitutes a violation of the Terms and Conditions of the ESD 112 Contract that may result in a penalty, including termination.

Monitoring of the Contract's Execution.

The Bid Administrator shall monitor all aspects of the execution of ESD 112 Contract activity in an ongoing manner, including but not limited to the following:

1. Awarded Bidder's adherence to the Contract's Terms and Conditions.
2. Eligible Purchasers satisfaction with products and services from the Awarded Bidder.

Dispute.

To seek review of a dispute between the Bid Administrator and the Awarded Bidder:

1. The ***dispute shall arise after the contract has been awarded;***
2. An attempt to resolve the dispute shall have been made by the Bid Administrator and the Awarded Bidder, but the dispute could not be resolved to the satisfaction of both parties;
3. The Awarded Bidder disagrees with a decision made by the Bid Administrator, such as, but not limited to the following:
 - A decision to impose a remedy;
 - Other decisions made by the Bid Administrator that are informal in nature but the Awarded Bidder believes to be unfair or partial.

Procedure for Dispute Review.

The procedure for reviewing a dispute shall take place in accordance with the following:

1. The Awarded Bidder shall submit a letter of dispute in writing (via e-mail or on company letterhead) to the Bid Administrator, requesting a review of the dispute by the Chief Fiscal Officer at ESD 112.
2. The Chief Fiscal Officer shall convene a Review Team and schedule the review meeting, as soon as possible. If the Chief Fiscal Officer is not available, then another ESD 112 Cabinet member shall convene a Review Team and schedule the review meeting.
3. The Review Team shall hear the facts and review the materials that are pertinent to the dispute, and shall seek answers to questions from both the Bid Administrator and the Awarded Bidder.



4. A decision will be made and issued in writing as soon as is reasonably possible. The decision shall be final and binding.

Format and Content.

The letter of dispute shall include the following:

1. Information in writing about the Awarded Bidder such as name of firm, mailing address, phone number and name of individual responsible for requesting a review.
2. The facts and arguments that are relied on as the basis for the review.
3. Any relevant exhibits or evidence supporting the position taken by the Awarded Bidder in regard to the dispute.
4. Description of the requested resolution to the dispute.

Material Violations.

A Material Violation occurs when an Awarded Bidder has caused financial harm to either ESD 112 or any eligible Purchaser under this Contract:

1. Refusal to sell products to eligible Purchasers at or below the Contract price;
2. Selling equipment or products that are not new, B stock, and/or products that are not free of liens, as defined in Section 9 of the Terms and Conditions;
3. Refusal to comply with the Shipping, Delivery and Freight Terms;
4. Including sales tax in the bid price;
5. Violation of any of the Bidder integrity provisions stated in Section 14 of the Terms and Conditions in this bid;
6. The committing of three (3) or more non-material violations;
7. The Awarded Bidder or his/her assigned reseller or agent are under suspension or debarment, or are lawfully denied from participation in public procurement activities with eligible Purchasers during the term of this Contract.

Remedy for Material Violation.

In addition to any other rights set out elsewhere in the ESD 112 bid documents, requirements, terms and conditions, the ***Bid Administrator reserves the right to cancel the ESD 112 Contract and end the Awarded Bidder's participation.***

Non-Material Violations.

A non-material violation occurs when an Awarded Bidder refuses to comply with the terms and conditions of the ESD 112 Contract, but does not create significant financial harm to ESD 112 or to eligible Purchasers:

1. Refusal to submit requested bid documents to the Bid Administrator;



2. Any other violation that is not in compliance with the ESD 112 Contract, but does not create significant financial harm to ESD 112 or eligible Purchasers.

Remedy for Non-Material Violation.

The Awarded Bidder that fails to remedy any violation that is a non-material term of the ESD 112 Contract after having been given **thirty (30) calendar days written notice** that the violation occurred may be subject to the remedy. The Bid Administrator reserves the right in his/her sole discretion to apply any of the following remedies alone or in combination for non-material violations of the ESD 112 Contract:

1. Require the Awarded Bidder to write, submit, and execute a plan for improvement within thirty (30) calendars days from the date of violation that meets the approval of the Bid Administrator.
2. Cancel the ESD 112 Contract, and/or discontinue the Awarded Bidder's participation in the Contract.

Determining the Remedy.

In determining the appropriate remedy or remedies, the Bid Administrator shall consider the following:

1. Whether the nature of the dispute is a **material** violation, a **non-material** violation, or a matter of **non-performance** of the Contract;
2. The number of non-material violations committed by the Awarded Bidder during the term of the Contract;
3. Information submitted by the Bidder regarding the alleged violation; and
4. The impact of the following factors:
 - a. Nature and degree of harm caused to ESD 112 or eligible Purchasers;
 - b. Financial detriment or benefit experienced by Bidder or its agent; and
 - c. Likelihood of similar violations.

Debarment.

If an *Awarded Bidder's Contract is cancelled due to a material violation*, the *Awarded Bidder shall be debarred and suspended from participating in the next ESD 112 Invitation to Bid*. Disputes regarding the decision to cancel the Awarded Bidder's Contract are subject to the dispute resolution process described in this Invitation to Bid.

Public Record.

All bids and documents received at ESD 112 in response to or in connection with this bid and the resulting Contracts are the property of ESD 112 and shall be subject to public disclosure (RCW 42.56.070). Bidders and/or other interested parties who wish to request copies of official records, data or information may contact the Bid Administrator for further information.

TERMS AND CONDITIONS



Terms and Conditions.

The submission of a bid is an offer to enter into a Contract that, upon acceptance by ESD 112, obligates the Bidder (and their authorized agents) to comply with the Terms and Conditions set forth below, and all the requirements in the bid documents. If there is an inconsistency with a requirement or special condition in the bid documents, the Terms and Conditions shall govern.

Terms and Conditions for Transactions with all Eligible Purchasers.

Upon acceptance of an award, the Bidder agrees to the following:

1. **Contract Requirements.** Each bid shall conform to all requirements, terms and conditions contained in any part of the 2011 Invitation to Bid on Audio-Visual and Television Production Equipment, including but not limited to instructions to the Bidders, scope of work, post-award requirements, terms and conditions and all bid forms, collectively referred to as the ESD 112 Contract, or Contract documents.
2. **Contract Compliance.** By submitting a bid, the Bidder agrees to comply with the ESD 112 Contract terms, including offering bid products for the bid price when it sells its products to eligible Purchasers identified in the Bidders bid, until the expiration of the Contract.
3. **Role.** ESD 112's role is to secure competitive prices for eligible Purchasers. ESD 112 shall in no way whatsoever incur any liability in relation to the specifications, delivery, payment or any other aspect of purchases, installation, or use of equipment by eligible Purchasers.
4. **Cost of Bid Preparation.** ESD 112 shall not pay or reimburse Bidders for the development, presentation or provision of any bid or portion of the bid in response to this Invitation to Bid.
5. **Bid Withdrawal.** No bidder may withdraw his/her bid after the hour set for the bid opening, unless contracts are not awarded within sixty (60) days of the bid opening. If the decision to award the ESD 112 Contracts is delayed for more than sixty (60) days due to a protest, the Bid Administrator may invite all Bidders to agree to extend their bid until the protest is resolved, or may reject all bids. Once the bid is accepted, the Awarded Bidder is obligated to perform contractual obligations in accordance with the ESD 112 Contract.
6. **Security.** ESD 112 is not requiring Bidders to furnish a bid bond at the time of opening or a performance bond after award. However, ESD 112 requires a high level of integrity with Bidders and may require any Awarded Bidder to supply a performance bond if problems arise regarding requisitions, delivery of products or services, or compliance with contract requirements.
7. **Contract Execution.** The Contract is considered fully executed at the time that the ESD 112 Superintendent signs and delivers the Offer and Acceptance Form to the Bidder.
8. **Assigned Resellers and Agents.** Awarded Bidder represents and warrants:

- a. The assigned resellers or agents identified in the Awarded Bidder's bid that will be performing obligations that are required under the ESD 112 Contract on behalf of the Awarded Bidder, have been provided a copy of the ESD 112 Invitation to Bid documents and the Awarded Bidder's bid, and they are familiar with the ESD 112 Contract requirements.
- b. The assigned resellers or agents identified in the Awarded Bidder's bid have entered into an agreement with the Awarded Bidder which obligates the reseller or agent to comply with all the provisions associated with the ESD 112 Contract when such reseller or agent are engaged in work that is associated hereunder the ESD 112 Contract.
- c. The Awarded Bidder assumes full responsibility for ensuring that its assigned resellers or agents are in full compliance with the provisions. The Awarded Bidder understands and agrees that it will be subject to the remedies that are imposed for violations under the ESD 112 Contract, including violations that are committed by the Awarded Bidder's resellers or agents.

9. Products and Equipment.

- a. Products shall be new, with new serial numbers and made with components that meet original equipment manufacturer specifications.
- b. No "B" stock or refurbished products may be bid or sold to eligible Purchasers.
- c. All products and equipment shall be free of liens.
- d. All products and equipment containing hazardous materials shall be provided with at least one set of the appropriate material safety data sheet(s). All safety data sheets and labels shall be in accordance with the eligible Purchaser's requirements.

10. Warranty.

Awarded Bidder agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to eligible Purchasers under this ESD 112 Contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this Contract. Awarded Bidders acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the state where the eligible Purchaser is located apply to this contract. Product liability disclaimers and/or warranty disclaimers are not applicable to these purchases under this Contract unless otherwise specified and mutually agreed upon by the eligible Purchaser. In general, the Awarded Bidder warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the eligible Purchaser relied on after considering the Awarded Bidder's skill or judgment, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the eligible Purchaser has not been warned. Remedies available to eligible Purchasers include the following: The Awarded Bidder will repair or replace (at no charge to eligible Purchaser) the product whose nonconformance is discovered and made known to the Awarded Bidder in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the Awarded Bidder will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the eligible Purchaser may otherwise have under this Contract.

11. **Non-Appropriation.**

Awarded Bidder acknowledges eligible Purchasers are government entities that cannot contract for payment of funds that have not yet been appropriated by the appropriate governing body. An eligible Purchaser's obligation to make payments during any fiscal year succeeding the current fiscal year shall be subject to the availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the eligible Purchaser shall have the right to terminate the contract or reduce pending purchases. The Awarded Bidder may seek reimbursement for the reasonable costs incurred prior to termination.

12. **Force Majeure.**

The Awarded Bidder shall not incur any liability to the ESD 112 or eligible Purchasers if its performance of any obligation pursuant to the ESD 112 Contract or a purchase order is prevented or delayed by causes beyond its control and without the fault or negligence of any other party. Causes beyond a party's control may include, but are not limited to, acts of God or war, changes in controlling law, civil disorders, natural disasters, fire, epidemics and quarantines, riots, general strikes throughout the trade, and freight embargoes.

13. **Acknowledgement of Contract Numbers by Bidders and Their Agents.**

Upon award of a Contract, the Awarded Bidder shall assign the Contract number of ESD112-ETC-11 to be referenced on purchase orders submitted by eligible Purchasers for products purchased under this Contract.

14. **Awarded Bidder Integrity Provisions.**

The Awarded Bidder shall abide by the highest standards of ethics and integrity in the performance of the ESD 112 Contract, and shall comply with all applicable state and federal laws, regulations.

The Awarded Bidder shall not, in connection with the ESD 112 Contract or any other agreement with ESD 112 or a eligible Purchaser, directly or indirectly offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion or violation of a known legal duty by any ESD 112 officer or employee or eligible Purchaser.

The Awarded Bidder, upon execution of a Purchase Order and by the submission of any bills or invoices for payment pursuant thereto certifies and represents that the Bidder has not violated any of these provisions.

15. **Records.**

Awarded Bidder shall maintain or supervise the maintenance of all records necessary to properly account for purchases that are made under this Contract. Upon receiving a request from ESD 112 or a eligible Purchaser, an Awarded Bidder shall provide, or make available for inspection or copying, any information or documentation of any type or form, including but not limited to, the Awarded Bidder's business or financial records, documents or files of any type or form which refers to or concerns the ESD 112 Contract or related purchase order, payment and/or delivery. Where reasonably practical, requested documents shall be made available or provided within five (5) business days. If Awarded Bidder is unable to provide documents within five (5) business days, Awarded Bidder shall respond to the request within five (5) business days and provide an explanation of why additional time is required and the date when the documents will be made available. Awarded Bidders shall retain such information and documentation for a period of six (6) years beyond the termination of the purchase order, or six (6) years following completion of an audit that is initiated during the six (6) year period.

16. Public Information.

Awarded Bidder agrees that the Contract and all records related to the Contract received by eligible Purchasers will be public documents, as far as distribution of copies. Awarded Bidder gives ESD 112 and eligible Purchasers express permission to make copies of the Contract and any records in accordance with applicable public records laws. Awarded Bidder acknowledges documents and information provided in response to the Invitation to Bid will be public documents and copies may be given to the public in accordance with public records laws. The permission to make copies as noted shall take precedence over any statements of confidentiality, proprietary information, or copyright information.

17. Rejections.

All goods or materials supplied under this Contract are subject to approval by the eligible Purchaser. Any rejection of equipment or goods because of nonconformity to the terms, conditions, and specification of this Contract, whether held by the eligible Purchaser or returned, shall be at the Awarded Bidder's sole risk and expense.

18. Waiver and Release Bid Claims.

If an award is cancelled as a result of a protest, the Awardee shall not claim against ESD 112, any alleged (a) bid preparation charges, (b) cost incurred to ensure that the Awardees' bid is responsive, (c) claims for anticipated lost profits, or (d) claims for damages, and (e) attorney's fees. Any claims seeking damages or costs that the Awardee may have are hereby waived. Awardee hereby releases ESD 112, its officials, officers, employees and agents from any and all liability that may arise as a result of decisions that are made to award, reject, terminate or implement ESD 112 Contracts. The release provision does not include claims that are based on a decision to terminate the contract except where the contract is terminated as a result of a bid protest or court order. The release provision does not include claims that are based on the implementation of the contract except to the extent those decisions regarding the implementation are being made in response to a bid protest or court order.

19. Release of Personal Liability.

It is agreed by and between the parties hereto that in no event shall any official, officer, employee or agent of ESD 112 be in any way personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement or representation made herein or in any connection with this agreement.

20. Patents and Copyrights.

Awarded Bidder releases, indemnifies and holds ESD 112 and eligible Purchasers, their officials, officers, employees and agents harmless from liability of any kind or nature, including liability associated with the use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this Contract.

21. Headings.

Paragraph headings have been included for the convenience of the parties and shall not be considered a part of the ESD 112 Contract for any purpose relating to construction or interpretation of the terms of the Contract.

22. Assignment.

Neither this Agreement nor any interest therein may be assigned by either party without the prior written consent of the other party.

23. Indemnification.

In addition to any liability or obligation of the Awarded Bidder to ESD 112 or eligible Purchasers that



may exist under any other provision of the ESD 112 Contract or by law or otherwise, the Awarded Bidder shall defend, indemnify and hold harmless ESD 112, eligible Purchasers and their officials, officers, employees and agents from and against claims, actions, proceedings, liabilities, losses, damages, costs and expenses, including legal fees, for any or all injuries to persons, property and/or for money damages claims that may arise from acts or omissions of Awarded Bidder and Awarded Bidder's employees, agents, subcontractors or volunteers.

24. **Termination.**

The ESD 112 Contract may be terminated by mutual written agreement of the parties. An eligible Purchaser may terminate the Contract as it relates to a transaction between the Awarded Bidder and the eligible Purchaser, if the Awarded Bidder violates a material provision of the ESD 112 Contract.

25. **Cancellation.**

ESD 112 may cancel the ESD 112 Contract for material or non-material violations or for failure to perform, as described under Contract Administration.

26. **Waiver.**

No provision of the ESD 112 Contract or the right to receive reasonable performance of any act called for by its terms shall be deemed waived by a waiver of a breach thereof as to a particular transaction or occurrence.

27. **Severability.**

If any term of condition of the ESD 112 Contract or application thereof to any person or circumstance is found by a court of competent jurisdiction to be invalid, void or unenforceable, such finding shall not affect the other terms, conditions, or applications of the ESD 112 Contract which can be given effect without the invalid, void or unenforceable term, condition, or application and, to this end, the terms and conditions of the ESD 112 Contract are declared severable.

28. **Governing Law and Venue.**

The ESD 112 Contract shall be governed by the laws of the State of Washington and any action or litigation undertaken by ESD 112 or the Awarded Bidder to enforce the terms of the ESD 112 Contract shall be conducted in Clark County, Washington. In the event a dispute arises between an eligible Purchaser and the Awarded Bidder, legal action involving the dispute shall be governed by the law of the state where the eligible Purchaser is located and any legal action or litigation shall be conducted in the county and state where the eligible Purchaser's principle place of business is located.

29. **Compliance with Law.**

The Awarded Bidder, and products provided under this Contract, shall comply with all federal, state and local laws. Notwithstanding any provision in the ESD 112 Contract to the contrary, the terms of the ESD 112 Contract are subject to and shall be consistent with all applicable state and federal laws. To the extent a provision in the ESD 112 Contract is ambiguous or inconsistent with applicable state and federal laws; the provision shall be interpreted and applied in a manner that complies with all applicable laws.

30. **Whole Agreement.**

The parties agree that the Terms and Conditions in the ESD 112 Invitation to Bid and any bid requirements, forms or appendices referred to therein constitutes the entire agreement between the parties with regards to ESD 112's and the Awarded Bidder's obligations regarding the ESD 112 Contract. Upon acceptance of a bid and the Contract award, the ESD 112 Contract shall supersede



all prior or existing written or oral agreements between the parties on this subject. Amendments or corrections to the ESD 112 Contract shall be in writing and signed by both parties.

31. Opportunity Without Discrimination.

ESD 112 and the Awarded Bidder agree to comply with all applicable state and federal rules and regulations which prohibit discrimination on the basis of race, color, creed, religion, national origin, age, sex, marital status, sexual orientation, honorably discharged veteran or military status, use of a guide dog or service animal, or the presence of any sensory, mental or physical disability.

32. Employment Representation.

During the term of the ESD 112 Contract, to the extent that employee(s) of the Awarded Bidder may have contact with public school children, the Awarded Bidder is prohibited from employing any person who has pled guilty or been convicted of any felony crime involving the physical neglect, injury, death or sexual abuse or exploitation of a minor. The Awarded Bidder shall conduct a criminal background checks to ensure compliance with this provision. Failure of the Awarded Bidder to comply with this section shall be grounds for immediate termination of the Contract.

33. Independent Contractor.

Awarded Bidder is an independent contractor, and as such shall have no authorization, express or implied to bind ESD 112 or any eligible Purchasers to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for ESD 112 or an eligible Purchaser, except as expressly set forth herein. Compensation shall be the total amount payable to the Awarded Bidder by the eligible Purchaser. The Awarded Bidder shall be responsible for the payment of all income tax and social security tax due as a result of payments received from eligible Purchasers for these contract services. Persons employed by ESD 112 or eligible Purchasers, acting under the direction of ESD 112 or the eligible Purchaser, will not be deemed to be employees or agents of the Awarded Bidder.

Exclusion, Debarment and Suspension Certification.

Awarded Bidder certifies that they, nor their Principals, are on the Excluded Parties List Report (web address: <http://epls.arnet.gov/News.html>) and that they are not presently debarred, suspended, proposed for debarment, or declared ineligible or voluntarily excluded for the award of contracts by any governmental agency or department. ("Principals", for purposes of this certification, mean officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity, e.g., general manager; plant manager, head of subsidiary, division, or business segment; and similar positions.) The Awarded Bidder or his/hers reseller (agent) shall provide an immediate written notice to ESD 112 if, at any time during the term of this Agreement, including any renewals hereof, it learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

GLOSSARY OF TERMS



GLOSSARY OF TERMS:

Addenda	Modifications or interpretations of the Invitation to Bid and the requirements contained therein that is prepared in response to properly submitted questions and comments. Addenda shall be available for review on the ESD 112 procurement web site. Bidders are required to carefully and completely review all Addenda because the Addenda may contain terms and conditions that once issued become elements of the Call of Bids.
Amendment	For the purposes of a Contract, shall mean an agreement between the parties to change the Contract after it is fully signed by both parties. Such agreement shall be memorialized in a written document describing the agreed upon change including any terms and conditions required to support such change. An Order Document shall not constitute an Amendment to a Contract.
Audio-Visual and Television Production Equipment	Technology products that enhance the delivery of a lesson or presentation by providing a rich visual and auditory experience.
Authorized Reseller or Agent	A reseller or agent that is authorized and commissioned by an original equipment manufacturer to sell their products offered in the Bidder's Bid. Authorized agents are required to meet all terms and conditions, and requirements in this Invitation to Bid.
Award	The acceptance of a bid and creation of a contract with a Bidder.
Awarded Bidder	A Bidder that is awarded an ESD 112 Contract.
"B" Stock	Products that cannot be sold as new; they have been used and returned by either a previous eligible Purchaser, or used by the Awarded Bidder in product demonstrations or displays, or used for some other purpose.
Base Price	The MSRP listed in the original equipment manufacturers currently published product and price sheet.
Bid	A written offer to perform a contract to supply goods and/or services in response to an Invitation for Bid.
Bid Administrator	The ESD 112 employee that is responsible for conducting a specific bid and administering the bid.
Bid Evaluation	The process of examining a bid after opening to determine the Bidder's responsibility, responsiveness to requirements, and to ascertain other characteristics of the bid that relate to determination of the successful Bidder.
Bid Form	A bid document that a Bidder is required to complete in its entirety and submit with their bid.
Bid Opening	The formal process through which bids are opened and the contents revealed for the first time.
Bid Price	The final adjusted bid price for products and/or services listed in Bid Price Form A.



	The bid price reflects the ESD 112 Contract price and shall include all costs.
Bidder	A company, firm, joint venture corporation, partnership or other business that submits a bid.
Cabinet Member	The highest level of ESD 112 administrators that report directly to the ESD 112 Superintendent.
Competition	The process by which two or more Bidders vie to secure the business of a eligible Purchaser by offering most favorable terms as to price, quality, delivery and/or service, or other terms and conditions stated in the Invitation to Bid.
Dispute	An unresolved disagreement between the Awarded Bidder and the Bid Administrator that arises after the award has been made.
Effective Date of Award	The date that performance of the contract shall start.
ESD 112	The abbreviation for Educational Service District 112, located at 2500 NE 65 th Avenue, Vancouver, WA 98661.
ESD 112 Contract	The agreement that exists when ESD 112 accepts the bid and awards the contract for audio-visual and television production equipment.
FOB Destination	The seller retains title and control of goods until they are delivered and the contract of carriage has been completed and the bill of lading has been signed by the eligible Purchaser.
Formal Sealed Bid	A bid that has been submitted in a sealed envelope to prevent its contents from being revealed or known before the public bid opening takes place.
Initial Contract Award Period	The date when the ESD 112's Superintendant signs the offer and acceptance agreement to December 31, 2012.
Interlocal Agreement	An agreement between two or more public agencies that is entered into in accordance with state laws that applies to the public agencies.
Letter of Intent to Award	The official announcement to the Bidder that ESD 112 intends to award them an ESD 112 Contract.
Lowest Bidder	The lowest Bidder is the Bidder that is responsive and responsible and provides the lowest bid price for audio-visual and television production equipment listed in Bid Price Form A.
Narrative of Bidder Qualifications	A document that a Bidder is required to submit in response to the Invitation to Bid that addresses indicators of qualification and responsibility of that Bidder.
OEM	Acronym for Original Equipment Manufacturer.
Offer and Acceptance Form	A form that must be signed and submitted by an authorized Bidder, expressing an offer to participate in the ESD 112 Contract and the agreement to be bound by the terms and conditions of the Invitation to Bid, if the bid is accepted and award is made.



Protest	A Bidder's written objection to a decision made by the Bid Administrator during the bid evaluation process, and results in a review by a Review Team.
Public Bid Opening	The event that is advertised in the published Invitation to Bid, and by which bids are opened and read aloud for the first time in the presence of anyone who wishes to attend.
Responsible	Having the following attributes, as described in RCW 43.19.1911 (9): <ul style="list-style-type: none">• The ability, capacity, and skill of the Bidder to perform the contract or provide the service required;• The character, integrity, reputation, judgment, experience, and efficiency of the Bidder;• Whether the Bidder can perform the contract within the time specified;• The quality of performance of previous contracts or services;• The previous and existing compliance by the Bidder with laws relating to the contract or services;• Such other information as may be secured having a bearing on the decision to award the contract.
Responsive	Conforming in all material respects to the terms and conditions, the scope of work, technical specifications, and other requirements of a bid. Bids must be responsive to receive award consideration.
Review Team	A panel of three (3) Senior Program Managers at ESD 112 with the authority to endorse or retract decisions made at the program level.
Revised Code of Washington (RCW)	Compilation of statutory laws enacted by the state legislature. Organized topically into volumes, containing chapters and sections.
Scope of Work	Specific requirements, provisions or conditions that are peculiar to the Contract under consideration and are supplemental to the Terms and Conditions.