

This bid will be for purchasing of the devices/equipment only.

Each band will be awarded to one vendor per manufacturer.

Would it be possible to send us a “sample” of this reporting template for our review?

No, the tiers are correct for both.

We noticed under volume band III for the color printers that there isn't a speed listed. We also noticed that it states 11"x 17" for paper capacity. Is this device supposed to be A3 or A4?

There is no speed requirement for this printer.

The printer should be able to service/print both paper sizes listed: 8.5" x 11" and 11" x 17".

1/18/24

Can ESCNJ please confirm that they do not consider the Manufacturer's Dealers, listed in this Bid Response, as sub-contractors?

While the ESCNJ would not use the definition sub-contractor for a dealer, the ESCNJ still must approve all dealers as indicated in the bid specifications and on Bid Proposal Form H- Dealers, which will include a review by the ESCNJ of the required paperwork to be submitted for each dealer.

Can Dealers accept POs and Payments on behalf of the Manufacturer as long as the Manufacturer submits the reports, pays the administrative fees, and remains responsible for the Dealer's performance under the contract?

Yes, but all POs must be made out to the manufacturer c/o the dealer. Confirming that awarded manufacturers shall always be responsible for submitting reports, paying administrative fees and the dealer's performance.

Are "third-party products," products not directly produced by the Manufacturer or products the Manufacturer does not have an Authorization Letter to sell?

Third-party products are any products not directly produced by the manufacturer to be sold in conjunction with the MFD and printer devices being requested.

"All MFDs/copiers shall be capable of supplying these standard functions:

Automatic document feed, collate, staple, & duplex

3-hole punch multiple trays, auto duplex/feed, network printing, & cloud printing

Interruption capabilities

Color and monochrome scanning to email or hard drive job queuing

Bypass tray

Centralized management of user account tracking

Confidentiality copy/printing solutions

Scan to searchable PDF documents user authentication"

Are these specifications required on each tier's recommended devices? Yes.

Are these functions/features supposed to come standard on each tier's hardware recommendation? Yes.

If so, are they to be priced separately or presented as one total unit price? Pricing shall be bid as requested on each Bid Proposal Form for the MFD/copiers. There are lines for each item that may be bid as a separate cost, otherwise the purchase price of the MFD shall include at minimum the functions listed in the standard functions section.

If not, are these supposed to be priced as optional add-ons and kept separate from each tier's recommended model's unit price? See above.

1/19/24

Are we permitted to bid and recommend products that are not manufactured by Toshiba but, are authorized to sell and service? i.e. Brother, HP, Docuware Software.

All auxiliary or additional items being bid can only be ones that directly relate to the MFDs and printers being bid. If other manufacturers items directly relate to these items, they are allowed. We cannot allow for standalone items that would be sold through our technology bid, so we ask that you only bid products that directly relate to the core items of MFDs and printers and their applicable services. All manufacturers being bid will require manufacturers' letters of authorization.

1/23/24

EOT = End of Term Removal. The RFP states removal of equipment, do you require vendors to pick up and remove equipment at the end of contract?

Removal for this bid would only pertain to loaner equipment that needs to be removed once the loaner is no longer needed. No other equipment would require removal.

Marco does not currently carry specific "Sexual Harassment" insurance. Marco would either need this specific requirement waived or further clarification if other policies where this might be included would be sufficient. Other insurance types Marco may not carry due to them not being applicable to Marco's business (e.g. Pollution Cleanup). Marco would request to be able to provide evidence of our current coverage and discuss if anything additional is needed, if awarded. Marco would require the ability to determine in its sole discretion if additional coverage type is warranted based on the applicability to the business.

Marco would require Indemnification to be contractually limited to third-party claims, any attorney costs be "reasonable," and the scope of claims be limited to gross negligence or willful misconduct. This can be negotiated, if awarded.

Insurance requirements will not be waived.

Marco will include a Sample contract that can be negotiated, if awarded. Marco would also request the ability to resubmit our contract form if we make updates to it during the course of the contract for review and negotiation. Marco would require the ability to negotiate the Termination of Contract provision, if awarded.

There will be no contract negotiations at any time.

"Managed print services offered by the vendor to optimize or manage all aspects of a company's document output from printers, scanners, faxes, and copiers (within the awarded vendor's brand). The managed print services allowed under this bid and its subsequently awarded contract will only apply to the printers/devices directly supplied by the manufacturer(s)/brand(s) on the award."

Is this saying that the vendor may only service newly placed equipment that they are selling under the contract? Or is it saying that the vendor needs to specify what brands of equipment they are certified to support, listing each OEM and provide a price list for those devices/categories?

Awarded vendors can only service the brands of equipment they are selling through the contract.

ALL EQUIPMENT PRICING FOR THIS BID SHALL INCLUDE SHIPPING AND HANDLING. Unless otherwise indicated, pricing shall include all equipment cost, delivery, set-up, removal, emergency and scheduled preventative maintenance repairs, all parts, all supplies (except paper and staples), and proper training to key personnel.

Please define removal. Is this removal of a competitor's equipment to install our new equipment, or *future* removal of our own equipment that is being placed with a new purchase?

Please see previous clarification provided regarding removal: <https://www.escnj.us/domain/44>

Wide Format Options

Can we include a color wide format device? There is only a volume band included for BW

No.

REQUESTS FOR CLARIFICATIONS FORM – PAGE 1

Pursuant to Paragraph _____ of the IFB:

ANY ISSUES THAT A BIDDER MAY HAVE WITH REGARD TO THE LEGAL OR TECHNICAL TERMS OF THE INVITATION FOR BIDS MUST BE RAISED IN THE QUESTION PERIOD AND RESOLVED *BEFORE* THE SUBMISSION OF A PROPOSAL. ACCEPTED BIDS WILL BE SUBJECT TO THE TERMS CONTAINED HEREIN AND IN THE CORE FORMS OF AGREEMENT ATTACHED AS EXHIBIT _____.

IF A BIDDER HAS A FORM OF AGREEMENT, LICENSE AGREEMENT OR OTHER TERMS AND CONDITIONS THAT ARE INTENDED TO BE PART OF THE BID, THE BIDDER SHOULD SUBMIT SUCH AGREEMENT OR TERMS AND CONDITIONS DURING THE QUESTION PERIOD AND ASK IF THEY ARE ACCEPTABLE.

PLEASE NOTE: 1) THIS FORM IS *NOT* TO BE CONSIDERED AS A REQUIREMENT TO SUBMIT ALTERNATE “OR EQUAL” PRODUCTS FOR PRIOR APPROVAL. 2) ANY REQUESTED MODIFICATIONS RESULTING TO A MATERIAL CHANGE IN THE TERMS AND CONDITIONS WILL RESULT IN A FORMAL ADVERTISED ADDENDUM ISSUED TO ALL BIDDERS.

ANY REQUEST FOR MODIFICATION NOT RESULTING IN A FORMAL ADDENDUM IS DEEMED TO BE REJECTED.

FINAL BIDS CONTAINING MATERIAL DEVIATIONS *WILL* BE REJECTED.

If the Bidder seeks to request consideration of forms of agreement, license agreements or to modify core terms and conditions of the specifications or other criteria contained in this IFB and any addenda, they must be clearly stated below and on separate pages if necessary and attached to this page to be returned with your proposal.

I have read and understand the Requests for Clarifications Form. Please check one box below.

☒ **I AM** requesting clarifications to this IFB.

☐ **I AM NOT** requesting clarifications to this IFB.

Company Name Toshiba America Business Solutions, Inc.

Authorized Signature _____

Company Address 520 Fellowship Road

Mount Laurel, NJ 08054

Printed Name Michael Torcaso

Title Senior VP & Executive CFO

Telephone (240) 731-9962 (Main Contact – Martin Quinn)

REQUESTS FOR CLARIFICATIONS FORM – PAGE 2**REQUESTED MODIFICATIONS, CLARIFICATIONS OR DOCUMENTS TO BE CONSIDERED ARE NOTED AS FOLLOWS:**

Provision	Clarification or Modification	Comment
Fees (p.4)	<p>Toshiba offers the following proposal:</p> <p>Industry research has shown close to a 1:1 ratio between the sales price on a piece of equipment and the actual amount of service and supply costs required to operate that equipment over its useful life. Therefore, to simplify the reporting process and remove the burden to capture the actual service and supply costs, the Vendor may report as follows:</p> <p>Toshiba shall report the actual amount invoiced (less any taxes) for all equipment sold under the reporting period (calendar quarter). In addition, the Toshiba shall report an additional amount equal to the invoice amount and identified as “Life Cycle Service and Supplies,” or an actual amount and identified as “Usage Based Service and Supplies,” providing the Co-op Member elects to enter into a Maintenance Agreement. Thus, in Toshiba’s Detailed Sales Report, for each item sold, there will be two-line items: one for the piece of equipment, and one for the Life Cycle or Usage Based Service and Supplies. The amount reflected for the Life Cycle Service and Supplies must be equal to the amount of the equipment.</p>	<p>This simplified reporting process removes the burden to capture the actual service and supply costs and is widely accepted and embraced in Toshiba’s other consortium agreement with similar reporting requirements.</p> <p>The ESCNJ will not amend reporting requirements, as these are the reporting requirements for the over 100 bids we have awarded.</p>
Authorized Purchases (p.6)	<p>Toshiba requests the following modification(s) to the provision:</p> <p>The ESCNJ only recognizes purchases made through the approved purchase order process. Respondents should follow all Co-op members purchasing guidelines <u>except to the extent they conflict with the executed contract</u>. All purchases require a Written Purchase Order with authorized signatures and a Purchase Order Number.</p>	<p>Toshiba cannot know all of the Co-op Member’s purchasing guidelines before receiving the POs. Therefore, we will comply to the extent they do not conflict with the final negotiated contract, the ESCNJ RFP and Toshiba’s response to the same.</p> <p>Awarded ESCNJ vendors are required to comply with all terms and conditions of the bid as awarded by ESCNJ. Vendors can only decline to provide goods/services to an ESCNJ member if the member’s requirements vastly differ from the contract terms without legal reasoning.</p>

6. American Goods	<p>Toshiba makes the following clarification:</p> <p>In accordance with N.J.S.A. 18A:18A-20, only manufactured products of the United States, wherever available, and where possible are to be used with this project. <u>The MFDs and printers offered in this bid are not manufactured in the United States.</u></p>	<p>Clarification- There is no specific brand being requested in these specifications, but as indicated, bidders should propose products manufactured in the United States when possible/available.</p>
29. Force Majeure (p.23)	<p>Toshiba requests that “epidemics” and “pandemics” be added to the list of force majeure events</p>	<p>These are prudent additions given our experience of the last few years.</p> <p>This will not be added.</p>
30. Insurance and Insemination, (B) Indemnification	<p>Toshiba requests the following modification(s) to the provision:</p> <p>The respondent shall assume risk of and responsibility for, and agrees to indemnify, defend, and save harmless the ESCNJ and its agents, employees, Board members, the Consultant, and Co-op members, from and against any and all claims, <u>direct</u> demands, suits, actions, recoveries, judgments and <u>actual</u> costs and expenses (including, but not limited to, <u>reasonable</u> attorney fees) in connection therewith on account of the loss of life or property or injury or damage to any person, body or property of any person or persons whatsoever, which shall arise from or result directly or indirectly from the work and/or materials supplied under this contract and the performance by respondent of services under the contract or by a party for whom the respondent is liable. This indemnification obligation is not limited by, but is in addition to, the insurance obligations contained in this agreement. The respondent is to assume all liability of every sort incident to the work, including property damage caused by him or his employees or by any subcontractor employed by him or any of the subcontractor’s employees. <u>IN NO EVENT SHALL RESPONDENT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES. RESPONDENT’S ENTIRE LIABILITY UNDER THE AGREEMENT IS LIMITED TO PROVEN DIRECT DAMAGES NOT TO EXCEED THE AMOUNT RESPONDENT HAS RECEIVED UNDER THE AGREEMENT FOR THE PRIOR TWELVE (12) MONTHS.</u></p>	<p>Toshiba can agree to capped direct damages and the actual costs of indemnifying ESCNJ.</p> <p>Insurance and indemnification requirements cannot be altered, modified, or waived, including any “cap.”</p>
34. Liquidated Damages	<p>Toshiba requests the following modification(s) to the provision:</p> <p>Liquidated damages shall be assessed against the contractor in the amount as listed in the General Specifications and Contract should the contract/work/service not be completed in accordance with the plans and specifications. <u>IN NO EVENT SHALL LIQUIDATED DAMAGES EXCEED MORE THAN 1% OF THE OVERALL REVENUE THE CONTRACTOR RECEIVES UNDER THE AGREEMENT IN ANY GIVEN YEAR.</u></p>	<p>Toshiba can agree to pay liquidated damages provided they are capped.</p> <p>These requirements cannot be altered, modified, or waived, including any “cap.”</p>

35. Termination of the Contract	<p>Toshiba requests the following modification(s) to the provision:</p> <p>If the ESCNJ determines that the contractor has failed to comply with the terms and conditions of the bid and/or proposal upon which the issuance of the contract is based or that the contractor has failed to perform said service, duties and/or responsibilities in a timely, proper, professional and/or efficient manner, including the timely reporting of quarterly reporting and mailing of reimbursement checks, <u>and has not cured the failure within a thirty (30) day period from written notice of said failure</u>, then the ESCNJ shall have the authority to terminate the contract upon written notice setting forth the reason for termination and effective date of termination. This includes the timely reporting of sales via the Mandated Quarterly Reports.</p> <p>Termination by the ESCNJ of the contract does not absolve the contractor from potential liability for damages caused the Co-op member by the contractor's breach of this agreement. The Co-op member may withhold payment due the contractor and apply same towards damages once established. The Co-op member will act diligently in accordance with governing statutes to mitigate damages. Damages may include the additional cost of procuring said services or goods from other sources.</p> <p>The contractor further agrees to indemnify and hold the Co-op member harmless from any liability to subcontractors or suppliers concerning work performed or goods provided arising out of the lawful termination of this agreement. The contract may be terminated by the ESCNJ for convenience without any liability or penalty to the ESCNJ except that the contractor shall be paid for services that are rendered prior to the date of termination, excluding loss of profits, loss of business advantage, compensatory or consequential damages.</p>	<p>Toshiba requests written notice and a 30-day period to cure any defect. We cannot agree to third-party indemnification.</p> <p>This is not an acceptable modification.</p>
Warranty (p.34)	<p>Toshiba requests the following modification(s) to the provision:</p> <p>Vendors shall warrants all <u>Toshiba MFD</u> equipment for the term of the contract (including any extensions), against defects in materials or workmanship and will replace at no cost to the purchaser address any defective equipment <u>per the term of the Manufacturer's Warranty, which ships with the equipment and Toshiba's Total Quality Commitment (TQC) a copy of which is attached to this RFP response.</u> Together the <u>Manufacturer's Warranty and TQC are the sole remedy for MFD warranty claims.</u> <u>The warranty and remedies for all other equipment sold by the Vendor are set down in the Manufacturer's Warranty that ships with the product.</u></p> <p><u>Notwithstanding the foregoing, Co-op Members must keep equipment under ESCNJ's maintenance contract in order to maintain warranty coverage under this provision.</u></p>	<p>MFDs, printers and software have different warranty periods. Co-op members must maintain a maintenance contract in order to avail themselves of the warranties in this clause.</p> <p>You cannot require a maintenance contract and must offer the standard warranty for the brands being sold.</p>

	Toshiba requests the following be appended to the provision:	
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	<u>EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT,</u> <u>CONTRACTOR MAKES NO OTHER REPRESENTATIONS OR</u> <u>WARRANTIES HEREIN, EXPRESS OR IMPLIED, AND SPECIFICALLY</u> <u>DISCLAIMS ANY REPRESENTATION OR WARRANTY OF</u> <u>MERCHANTABILITY OR ANY REPRESENTATION OR WARRANTY</u> <u>ARISING BY USAGE AND TRADE, COURSE OF DEALING OR COURSE</u> <u>OF PERFORMANCE, TITLE, NONINFRINGEMENT OR FITNESS FOR A</u> <u>PARTICULAR PURPOSE. THE SERVICES ARE PROVIDED "AS IS."</u>	
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Please attach copies of any documents to be considered.

Exceptions also noted on the _____