

## ISO 9001 CLARIFICATION

The ALSDE and ALJP LEA Group Committee will remain consistent with Chapter 61E of the Code of Alabama 1975. It is clearly stated within the law that “The Legislature therefore desires to authorize the joint purchase of information technology and competitive bidding as well as ensure quality vendors.” This statement is recognized by the ALSDE and Committee and we believe it is supported by the ISO-9001 certification requirement within the law. The ISO-9001 certification requirement is a practical requirement to ensure our schools are able to purchase information technology from quality vendors. A company/vendor having this current and up-to-date certification has demonstrated, and been certified by an ISO Registrar, quality and exemplary business management in terms of customer service, sound consistent business practices, and the proven ability to offer services and products to the participating Alabama Public Local Education Agencies (LEA Group). The Title 16 Chapter 61E of the Code of Alabama 1975 (formerly known as Alabama Act No. 2003-392), signed into law on June 23, 2003 by Governor Bob Riley, is the guiding document in the creation and administration of this bid and resulting contract(s).

The ALSDE’s interpretation of the term “affiliates” as included in the ISO-9001 requirement stated within the Title 16 Chapter 61E of the Code of Alabama 1975 that “any companies that have ISO-9001 certification or any companies or contractors whose affiliates, subdivisions, subsidiaries, or departments have ISO-9001 certification can bid on the information technology to be jointly purchased.” It is not the ALSDE’s position to make an interpretation of a set term within a law if it is defined elsewhere in state law or federal law. The ALSDE prefers to use such related and documented definitions when available. A primary resource in the defining of the term “affiliates” is the Code of Alabama 1975, Title 6 “Civil Law”, Chapter 12, and Section 6-12-2:

### Section 6-12-2

2) AFFILIATE. A person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the term "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

Though this definition within the law relates to “Escrow Fund for Certain Tobacco Product Manufacturers” the ALSDE considers this definition as “our definition” of the term affiliate. This may also be considered as our defined “interpretation” of the term affiliates, if necessary.

In additional support of our definition of the term affiliate, we find it is consistent with the Federal Communication Commission (FCC), in the Telecommunications Act of 1996 (available on the Internet at <http://www.fcc.gov/Reports/tcom1996.txt> located in section 3 of the document) stating the following:

“The term ‘affiliate’ means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term “own” means to own an equity interest (or the equivalent thereof) of more than 10 percent.”

However, if the bidding company does meet ISO-9001 certification requirement, then that company, if awarded the contract, can name authorized resellers that could include companies that do not meet the ISO-9001 or affiliate requirement. An authorized reseller of a product line manufactured/published does not automatically meet the definition of an affiliate. Authorized resellers can be removed by awarded company in accordance with their definition of an authorized reseller.

The **bidding company/vendor listed on the cover page must meet the ISO-9001 certification** or be a vendor who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another vendor of which the ownership represents 10% equity of a company that is currently ISO-9001-certified. If there is an affiliated relationship and the awarded vendor does not actually hold the certification, the bidder must include documentation of proof that the bidding vendor has an affiliation or is a subdivision, subsidiary, or department of a company that does have an ISO-9001 certification, in accordance to the definition stated above, including a letter of qualification on the ISO-9001. This letter should be on the ISO-9001-certified company’s letterhead and signed by an authorized official of the company as well as notarized. The content of the letter should describe the relation between the two companies and how the definition of affiliate is met including a description of the ownership or control. An ISO-9001 certificate should be included and in the “ISO CERTIFICATION INFORMATION” area on the cover page, the certifying company’s information should be entered. Adjacent to the title of that section the bidder will include a statement that identifies the relation to the certified company. This statement should read: In Affiliation With..., Subdivision of ..., Subsidiary of ..., or A Department of .... (Ex: *In Affiliation with XYZ Corp.*).