Department of Financial Services

FAIRFAX COUNTY
PUBLIC SCHOOLS

Office of Procurement Services
8115 Gatehouse Road, Suite 4400
Falls Church, Virginia 22042-1203
Telephone: 571-423-3550

NOTE: Fairfax County Public Schools conducts all procurement activities in accordance with delegated authority from the Purchasing Agent of Fairfax County Government. Bids and proposals in response to FCPS solicitations must be delivered to the address above on or before the date and time stipulated in the solicitation.

RFP 2000001931

Latin Textbooks (2016 Adoption)

PRE-PROPOSAL CONFERENCE

An optional pre-proposal conference will be held on Monday, August 8, 2016 at 1:00pm EST at the Fairfax County Public Schools, 8270 Willow Oaks Corporate Drive, Fairfax, VA 22031, Conference Room 4001. The purpose of this conference is to allow potential Offerors an opportunity to present questions and obtain clarification relative to any facet of this solicitation.

While attendance at this conference will not be a prerequisite to submitting a proposal, Offerors who intend to submit a proposal are encouraged to attend. Bring a copy of the solicitation with you. Any changes resulting from this conference will be issued in a written addendum to the solicitation.

All questions pertaining to this RFP to be addressed at the pre-proposal conference should be submitted in writing to Jordan Shomo, Contract Administrator, at jrshomo@fcps.edu no later than 12:00pm EST on August 2, 2016. Any outstanding questions must be submitted in writing to the contract administrator no later than 12:00pm EST on August 31, 2016.

NOTE: For convenience, Appendix B Pricing Schedule and Attachment C Publisher Certification and Agreement are available in Excel and Word format, respectively. Please email jrshomo@fcps.edu to request these documents.

Department of Financial Services

FAIRFAX COUNTY
PUBLIC SCHOOLS

Office of Procurement Services
8115 Gatehouse Road, Suite 4400
Falls Church, Virginia 22042-1203
Telephone: 571-423-3550

ISSUE DATE: July 15, 2016	**REQUEST FOR PROPOSAL NUMBER:** 2000001931	**TITLE:** Latin Textbooks (2016 Adoption)
DEPARTMENT: Instructional Services	**DUE DATE/TIME:** September 8, 2016 at 10:00am Eastern	**CONTRACT ADMINISTRATOR:** Jordan Shomo 571-423-3596 or jrshomo@fcps.edu

Proposals - In accordance with the following and in compliance with all terms and conditions, unless otherwise noted, the undersigned offers and agrees, if the proposal is accepted, to furnish items or services for which prices are quoted, delivered or furnished to designated points within the time specified. It is understood and agreed that with respect to all terms and conditions accepted by Fairfax County the items or services offered and accompanying attachments shall constitute a contract.

Note: Fairfax County does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment in the performance of its procurement activity.

NAME AND ADDRESS OF FIRM:

_____

_____

_____

_____

Telephone/Fax No.: _____

E-Mail Address: _____

Federal Employer Identification No or _____

Federal Social Security No.(Sole Proprietor) _____

Prompt Payment Discount: __% for payment within___days/net ___days

State Corporation Commission (SCC) Identification No. _____

By signing this proposal, Offeror certifies, acknowledges, understands, and agrees to be bound by the conditions set forth in the General Conditions and Instructions to Bidders as described in Appendix A, the Certification Regarding Ethics in Public Contracting set forth in Appendix B, and by any other relevant certification set forth in Appendix B.

BUSINESS CLASSIFICATION – Described in Appendix B - CHECK ONE: ☐ LARGE (Y) ☐ SMALL (B)

☐ MINORITY-OWNED SMALL (X) ☐ MINORITY OWNED LARGE (V) ☐ WOMEN-OWNED SMALL (C)

☐ WOMEN OWNED LARGE (A) ☐ NON PROFIT (9)

CHECK ONE: ☐ INDIVIDUAL ☐ PARTNERSHIP ☐ CORPORATION

State in which Incorporated: _____

_____ Vendor Legally Authorized Signature

_____ Date

_____ Print Name and Title

_____

Sealed proposals subject to terms and conditions of this Request for Proposal will be received by the Director of the Office of Procurement Services at 8115 Gatehouse Road, Suite 4400, Falls Church, VA 22042-1203 until the date/time specified above.

AN EQUAL OPPORTUNITY PURCHASING ORGANIZATION

SPECIAL PROVISIONS

1. SCOPE OF SERVICES:

1.1. The purpose of this Request for Proposal is to solicit sealed proposals to establish contracts through competitive negotiation for the provision of Latin basal textbooks. Basal textbooks are those books approved by the School Board through a formal process for use in schools. Fairfax County Public Schools (herein referred to as "FCPS", "County") will award one textbook for each of the levels listed below.

Latin: Levels 1-3, 4, 5, AP Latin-Vergil

1.2. A contract will be awarded to a single Contractor for Levels 1-3 for each of the languages above. Level 1-3 textbooks, their online and offline versions, and their ancillary resources should be submitted as a single proposal submission. Levels 4, 5 and AP Latin-Vergil will be evaluated individually and may be awarded to a single Contractor or to different Contractors. Contracts for Levels 4, 5 and AP Latin-Vergil may be awarded to a Contractor different from the one to whom Levels 1-3 is awarded.

1.3. The Commonwealth of Virginia Board of Education and FCPS program of studies information for the courses above can be found here: http://www.doe.virginia.gov/testing/sol/standards_docs/foreign_language/index.shtml and http://www.fcps.edu/is/pos/hs.shtml#hsWL

1.4. All FCPS basal resources are subject to an adoption process which includes community input and School Board approval. As such, in addition to **Special Provisions, Section 17 Basis of Award**, the following evaluation process will be followed.

a. **Part 1:** Evaluation of Technical and Cost Proposals by Selection Advisory Committee (SAC)

b. **Part 2:** Evaluation of proposed titles (and their related Ancillary Resources) that were selected for further review after SAC evaluation.

i. 30 day public review
ii. Review by School Board-approved textbook committee

c. **Part 3:** Recommendation by SAC to proceed with negotiations, taking Parts 1 and 2 above into consideration.

1.5. The publisher agrees to prepare and submit a NIMAS fileset to the NIMAC that complies with the terms and procedures set forth by the NIMAC. Should the Contractor be a distributor of the materials and not the publisher, the distributor agrees to immediately notify the publisher of its obligation to submit NIMAS file sets of the purchased products to the NIMAC. The files will be used for the production of alternate formats as permitted under the law for students with print disabilities.

2. PRE-PROPOSAL CONFERENCE:

2.1. An optional pre-proposal conference will be held on Monday, August 8, 2016 at 1:00pm EST at the Fairfax County Public Schools, 8270 Willow Oaks Corporate Drive, Fairfax, VA 22031, Conference Room 4001. To request reasonable ADA accommodations, call the Office of Equity and Employee Relations at 571-423-3070, HRequity&empolyeerelations@fcps.edu or TRS at 711. Please allow seven (7) working days in advance of the event to make the necessary arrangements.

2.2. The purpose of this conference is to allow potential Offerors an opportunity to present questions and obtain clarification relative to any facet of this solicitation. While attendance at this conference will not be a prerequisite to submitting a proposal, Offerors who intend to submit a proposal are highly encouraged to attend.

SPECIAL PROVISIONS

2.3. All questions pertaining to this RFP to be addressed at the pre-proposal conference should be submitted in writing to Jordan Shomo, Contract Administrator, at jrshomo@fcps.edu no later than 12:00pm on August 2, 2016.

3. **CONTRACT PERIOD AND RENEWAL:**

3.1. This contract will begin on January 1, 2017, or date of award, whichever is later, and terminate on August 31, 2024.

3.2. Automatic contract renewals are prohibited. This contract may be renewed at the expiration of its term by agreement of both parties. Contract renewals must be authorized by and coordinated through the Office of Procurement Services. FCPS reserves the right to renew the contract for three (3) additional one-year periods.

3.3. Notice of intent to renew will be given to the Contractor in writing by the Office of Procurement Services, normally 60 days before the expiration date of the current contract. (This notice shall not be deemed to commit the County to a contract renewal.)

3.4. The obligation of the County to pay compensation due the contractor under the contract or any other payment obligations under any contract awarded pursuant to this Request for Proposal is subject to appropriations by the Fairfax County Board of Supervisors to satisfy payment of such obligations. The County's obligations to make payments during subsequent fiscal years are dependent upon the same action. If such an appropriation is not made for any fiscal year, the contract shall terminate effective at the end of the fiscal year for which funds were appropriated and the County will not be obligated to make any payments under the contract beyond the amount appropriated for payment obligations under the contract. The County will provide the contractor with written notice of non-appropriation of funds within thirty (30) calendar days after action is completed by the Board of Supervisors. However, the County's failure to provide such notice shall not extend the contract into a fiscal year in which sufficient funds have not been appropriated.

4. **BACKGROUND:**

4.1. Fairfax County is part of the Washington D.C. metropolitan area in the Commonwealth of Virginia. It is 395 square miles in size with a population of over 1.1 million residents. FCPS is the largest school district in the Commonwealth of Virginia and 10th largest school district in the nation.

4.2. FCPS has 196 schools and centers as well as 48 alternative programs and learning centers. In the 2015-2016 School Year, approximately 187,000 students attended FCPS schools (approximately 12,000 students per grade level), representing approximately 14% of all students enrolled in the Commonwealth of Virginia.

4.3. One of the four goals of the FCPS Strategic Plan "Ignite" is Student Success which commits to reach, challenge and prepare every student for success in school and life. Overarching strategies within this goal seek to ensure that "teachers, students and parents will have access to contemporary and effective technology resources" (Ignite, page 15) and "Data tools will be available to schools, school teams, and individual teachers to diagnose and monitor individual student progress" (Ignite, page 17) (Full Ignite text: http://www.fcps.edu/news/docs/FCPS%20Strategic%20Plan%202015-20_Final_Revised1a.pdf)

4.4. FCPS has implemented initiatives such as Access4All which aim to ensure that every FCPS student has adequate access to reliable technology and to the internet. However, at this time many FCPS students still have limited or no access to internet outside of the school day. When it is available, it is desired that the proposed materials include both an online and offline format which is interactive and accessible for all students.

SPECIAL PROVISIONS

4.5. FCPS currently follows Regulation 3004 which establishes the procedures for adopting basal resources for local use. During this adoption cycle, FCPS is currently piloting a new procedure for adoption which may be used in future basal resource adoptions. (Ref: http://www.boarddocs.com/vsba/fairfax/Board.nsf/files/8ST4D76A7313/$file/R3004.pdf)

5. **TASKS TO BE PERFORMED:**

5.1. Qualified Offerors are encouraged to submit a proposal for Latin basal textbooks and supporting materials that are consistent with the Commonwealth of Virginia Board of Education and FCPS Program of Studies (Ref: http://www.doe.virginia.gov/testing/sol/standards_docs/foreign_language/index.shtml and http://www.fcps.edu/is/pos/hs.shtml#hsWL)

5.2. Offerors shall provide customer support for FCPS students, teachers and staff using contracted textbooks and any related material or service. Offerors shall remain in compliance with the expected functionality criteria described in **Part II of Attachment A Technical Requirements** at the time of contract award and throughout the duration of the contract unless otherwise negotiated in writing.

5.3. At the time of contract award, the Contractor shall provide FCPS with login information allowing for designated FCPS employees to access the contracted materials for review and planning purposes. Terms and conditions of pre-purchase access will be established during the negotiation phase of the RFP process. FCPS students, teachers and staff shall have access to all online materials at the time of purchase.

6. **TECHNICAL PROPOSAL INSTRUCTIONS:**

6.1. The offeror must submit the Technical Proposal in a separate binder containing the following information. This information will be considered the minimum content of the proposal. Proposal contents shall be arranged in the same order and identified with headings as presented herein.

a. Name of firm submitting proposal; main office address; when organized; if a corporation, when and where incorporated; appropriate Federal, State, and County registration numbers.

b. Understanding of the problem and technical approach.

1. Statement and discussion of the requirements as they are analyzed by the offeror.

2. Offeror's proposed definitive Scope of Work with explanation of technical approaches and a detailed outline of the proposed program for executing the requirements of the technical scope and achieving project objectives.

3. Offeror should demonstrate an awareness of difficulties in the completion of this undertaking, and a plan for surmounting them. Special attention should be given to methodological issues that will be encountered in such a project.

6.2. Treatment of the Issues:

In this section, the offeror may also comment if deemed appropriate, on any aspect of the Request for Proposal, including suggestions on possible alternative approaches to the coverage, definition, development, and organization of the issues presented in the “Tasks to be Performed” section, and may propose alternative approaches.

6.3. Statement of Qualifications:

The statement of Qualifications must include a description of organizational and staff

experience, and resumes of proposed staff.

a. Organizational and Staff Experience: Offerors must describe their qualifications and experience to perform the work described in this Request for Proposal. Information in this section should include direct experience with the specific subject matter and with K-12 school districts of similar size to FCPS.

b. References: Offeror should include two (2) references. Special notation should be made of K-12 school districts of similar size to FCPS. References must include organization names, addresses, names of contact persons, telephone numbers and email addresses.

c. Personnel: Full-time and part-time staff and proposed consultants who may be assigned direct work on this project should be identified. Information is required which will show the composition of the task or work group, its specific qualifications, and recent relevant experience. Special mention shall be made of direct technical supervisors and key technical personnel, and approximate percentage of the total time each will be available for this project. The technical areas, character and extent of participation by any subcontractor or consultant activity must be indicated and the anticipated sources will be identified.

   Resumes of staff and proposed consultants are required indicating education, background, recent relevant experience with the subject matter of the project and with K-12 school districts of similar size to FCPS. Current telephone numbers and email addresses must be included.

d. Escalation Personnel: A team of people to whom FCPS can escalate issues must be identified and a plan for identifying and resolving ongoing and significant concerns should be detailed. The Offeror's corporate policy for escalation of issues should be included in this section.

e. A staffing plan is required which describes the Offeror's proposed staff distribution to accomplish this work. The staffing plan should indicate a chart that partitions the time commitment of each professional staff member across the proposed tasks and a timeline for the project. It is mandatory that this section identify the key personnel who are to work on the project, their relationship to be contracting organization, and amount of time to be devoted to the project. This includes Consultants as well as regular employees of the Offeror, if relevant.

f. Financial Statements: The Offeror shall provide an income statement and balance sheet from the most recent reporting period.

6.4. The personnel named in the technical proposal will remain assigned to the project throughout the period of this contract. No diversion or replacement may be made without submission of a resume of the proposed replacement with final approval being granted by the County Purchasing Agent.

6.5. If an online format of the textbook is submitted, the Offeror is expected to meet or exceed the functionality expectations outlined in **Part II of Attachment A Technical Requirements**. As part of the Technical Proposal, the Offeror must provide an explanation of how the online textbook system meets or exceeds each criterion as indicated on Attachment A**.** If an Offeror fails to respond to each criterion, the proposal may be deemed non-responsive and disqualified from further consideration.

6.6. The Offeror shall complete and submit **Attachment C Publisher's Certification and Agreement**.

SPECIAL PROVISIONS

7. **CONSULTATION SERVICES:**

7.1. The contractor's staff must be available for consultation with County staff on an as-needed basis between 8:00 AM and 5:00 PM, Eastern Time, Monday through Friday.

8. **COST PROPOSAL INSTRUCTIONS:**

8.1. The Offeror must submit a Cost Proposal separately from the Technical Proposal and Ancillary Resources. The Cost Proposal shall contain **Appendix B Pricing Schedule** which identifies the contract price for each line item listed. The medium for each line item (print, digital, disc) should be identified. Bundles including more than one item shall be listed as a line item and details of the items included in each bundle must be clearly stated. Materials which will be offered gratis based on volume or otherwise should be identified and the details of the discount included. The length of electronic subscriptions (1 year, 2 years, 3 years, 7 years, etc.) should be identified along with the price for each. **Multiple subscription length options for online textbooks are preferred and each should be listed as a separate line item on the Pricing Schedule.**

8.2. Any other costs that may arise throughout the life of the contract should also be identified in the Cost Proposal.

9. **PRICING:**

9.1. The subsequent contract will be a firm-fixed price agreement. The price will not increase throughout the life of the contract.

9.2. As required by the Code of Virginia §22.1-241, the contract price shall not exceed the lowest wholesale price at which the textbook involved in the contract are currently bid under contract anywhere in the United States.

9.3. In accordance with Code of Virginia §22.1-241, if, subsequent to the date of contract award, the prices of textbooks named in this contract are reduced or the terms of the contract are made more favorable to purchase anywhere in the United States or a special or other edition of any book named in the contract is sold outside of Virginia at a lower price than contracted in the Commonwealth, the publisher shall grant the same reduction or terms to FCPS and give FCPS the option of using such special or other edition adapted for use in Virginia and at the lowest price at which such special edition is sold elsewhere and the contract shall so state.

10. **TRADE SECRETS/PROPRIETARY INFORMATION:**

10.1. Trade secrets or proprietary information submitted by an Offeror in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, **Offerors must invoke the protections of this section prior to or upon submission of the data or other materials (Ref: Appendix B Proprietary Information)**

10.2. **The Offeror must identify the data or other materials to be protected and state the reasons why protection is necessary**. Disposition of material after award(s) should be stated by the Offeror.

11. **CONTACT FOR CONTRACTUAL MATTERS:**

11.1. All communications and requests for information and clarifications shall be directed to the following procurement official:

Jordan Shomo, Contract Administrator
Fairfax County Public Schools
Office of Procurement Services
8115 Gatehouse Road, Suite 4400

SPECIAL PROVISIONS

Falls Church, Virginia 22042-1203
Telephone: 571-423-3596
Email: jrshomo@fcps.edu

11.2. No attempt shall be made by any offeror to contact members of the Selection Advisory Committee (SAC) about this procurement (see paragraph 17.3).

12. **REQUIRED SUBMITTALS:**

12.1. Each Offeror responding to this Request for Proposal must supply all the documentation required in the RFP. Failure to provide documentation with the Offeror's response to the RFP will result in the disqualification of the Offeror's proposal.

13. **SUBMISSION OF PROPOSAL:**

13.1. Unless otherwise specified in writing from an authorized FCPS employee, all proposals, sample materials and ancillary resources shall be delivered to the following address in sealed envelopes or packages with the proposal number, title and the Offerors name and address clearly displayed on the outside.

Department of Financial Services
Office of Procurement Services
8115 Gatehouse Road
Suite 4400
Falls Church, VA 22042-1203
Telephone: 571-423-3550

13.2. **At a minimum, all USB drives submitted as part of a proposal shall be labeled with the Offeror's name, basal resource title or course title, and part of the proposal identified (Technical or Cost). The Offeror must include a notarized statement in their proposal submission that declares that all USB drives are accurate and complete copies of the printed version. One USB drive may be submitted for a proposal, but the Technical and Cost proposals must be separate files on that USB drive. Failure to provide labeled USB drives and an accompanying notarized statement may result in the disqualification of the Offeror's proposal.**

13.3. Proposals containing submissions for multiple resources may be included in one sealed package or envelope, however Technical Proposals, Cost Proposals and sample materials should be clearly labeled so that it is clear which proposal materials are being submitted for the evaluation of which resources. If FCPS cannot easily determine for which resource the submitted proposal materials are related, that proposal may be deemed non-responsive in part or in full.

13.4. Offerors are reminded that changes to the request for proposal, in the form of addenda, are often issued between the issue date and within three (3) days before the due date of the solicitation. **All addenda MUST be signed and submitted to the Office of Procurement Services, 8115 Gatehouse Road, Suite 4400, Falls Church, VA 22042-1203 before the due date/time or must accompany the proposal.** Notice of addenda will be posted on eVA and the DPSM current solicitation webpage http://www.fairfaxcounty.gov/solicitation/. It is the Offeror's responsibility to monitor the web pages for the most current addenda.

13.5. It is the Offeror's responsibility to clearly identify and to describe the services being offered in response to the Request for Proposal. Offerors are cautioned that organization of their response, as well as thoroughness is critical to the County's evaluation process. The RFP forms must be completed legibly and in their entirety; and all required supplemental information must be furnished and presented in an organized, comprehensive and easy to follow manner.

13.6. Unnecessarily elaborate brochures of other presentations beyond that sufficient to present a complete and effective proposal is not desired. Elaborate artwork, expensive paper, bindings, visual and other presentation aids are not required. The County encourages the use of recycled paper, therefore it is urged that proposals be submitted on paper made from or with recycled content and be printed on both sides.

13.7. **Each proposal must contain the following:**

a. Separately from (b) below, Offeror should submit one (1) print original, four (4) print copies and one (1) electronic USB drive of the Technical Proposal which each includes the following:

i. Cover sheet (DPSM32), completed and signed

ii. Response to the Technical Proposal Instructions **(Ref: Special Provisions, Section 6)**

iii. Completed forms in Appendix B, other than the Pricing Schedule (Pricing Schedule to be included as part of the Cost Proposal)

iv. Signed addenda, as applicable

v. A notarized statement that all USB drives are accurate and complete copies of the printed version. **Only one such statement is required per proposal submission**. Please place in a highly visible location in your sealed proposal envelope or package. Failure to provide labeled USB drives and an accompanying notarized statement may render the proposal non-responsive.

vi. Response to **Parts I, II and III of Attachment A Technical Requirements**.

vii. Response to **Attachment D Publisher Certification and Agreement** including signed Publisher's Agreement and completed Author/Editor and Content Review Expert Information forms **for each basal resource in a submission.**

viii. Log in and password information allowing the SAC to access to the proposed digital and online resources related to the basal resources for review and evaluation purposes.

b. Separately from (a) above, Offeror should submit one (1) print original, four (4) print copies and one (1) electronic USB drive of the Cost Proposal (Ref: Special Provisions, Section 7) which includes the following:

i. **Appendix B Pricing Schedule**

13.8. By executing the cover sheet (DPSM32), Offeror acknowledges that they have read this Request for Proposal, understand it, and agree to be bound by its terms and conditions. Proposals may be submitted by mail or delivered in person.

14. VIRGINIA FREEDOM OF INFORMATION ACT

14.1. Except as provided, once an award is announced, all proposals/bids submitted to this RFP will be open to inspection by any citizen, or interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by a firm prior to or as part of its proposal will not be subject to public disclosure under the Virginia Freedom of Information Act only under the following circumstances: (1) the appropriate information is clearly identified by some distinct method such as highlighting or underlining; (2) only the specific words, figures, or paragraphs that constitute trade secrets or proprietary information are identified; and (3) a completed summary page is supplied (Appendix B) that includes (a) the information to be protected, (b)

the section(s)/page number(s) where this information is found in the proposal, and (c) a statement why protection is necessary for each section listed. The firm must also provide a separate electronic copy of the proposal (USB) with the trade secrets and/or proprietary information redacted. If all of these requirements are not met, then the firm's entire proposal will be available for public inspection.

15. **LATE PROPOSALS:**

15.1. Proposals received in the Office of Procurement Services after the date and time prescribed shall not be considered for contract award and shall be returned to the offeror.

16. **PERIOD THAT PROPOSALS REMAIN VALID:**

16.1. Proposals will remain valid for a period of three hundred sixty five (365) calendar days after the date specified for receipt of proposals.

17. **BASIS FOR AWARD:**

17.1. This Request for Proposal is being utilized for competitive negotiation. Under the competitive negotiation process, a contract may be awarded to the responsible offeror whose proposal is determined to be the most advantageous to the County, taking into consideration price and the evaluation factors set forth in the Request for Proposal. The County reserves the right to make multiple awards as a result of this solicitation.

17.2. A Selection Advisory Committee has been established to review and evaluate all proposals submitted in response to this Request for Proposal. The Committee shall conduct a preliminary evaluation of all proposals on the basis of the information provided with the proposal, and the evaluation criteria listed below. Based upon this review, the cost proposals of the highest rated offeror(s) will then be reviewed.

17.3. No Offeror, including any of their representatives, subcontractors, affiliates and interested parties, shall contact any member of the Selection Advisory Committee or any person involved in the evaluation of the proposals. Selection Advisory Committee members will refer any and all calls related to this procurement to the procurement official named in 11.1 above. Failure to comply with this directive may, at the sole discretion of the County result in the disqualification of an offeror from the procurement process.

17.4. Based on the results of the preliminary evaluation, the highest rated offeror(s) may be invited by the County Purchasing Agent to make oral presentations to the Selection Advisory Committee. This committee will then conduct a final evaluation of the proposals. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. After negotiations have been conducted with each offeror so selected, the County shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror.

17.5. Should the County determine in writing and at its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The Committee will make appropriate recommendations to the County Executive and School Board, if appropriate, prior to actual award of contract.

SPECIAL PROVISIONS

17.6. **Proposal Evaluation Criteria**

The following factors will be considered in the award of this contract. The maximum score for each criterion below, to be used in the proposal evaluation, is included in brackets for your reference:

a. Understanding and approach to the problem and treatment of the issues **(Ref: Special Provisions, Section 6.1-6.2) [50 points]**

b. Qualification of Offeror with appropriately qualified and experienced personnel and results of reference checks **(Ref: Special Provisions, Section 6.3) [50 points]**

c. Response to Part I of **Attachment A Technical Requirements [450 points]**

d. Response to Part II of **Attachment A Technical Requirements [400 points]**

e. Response to Part III of **Attachment A Technical Requirements [250 points]**

f. Reasonableness of cost proposal **(Ref: Special Provisions, Section 7) [300 points]**

17.7. Fairfax County reserves the right to make on-site visitations to assess the capabilities of individual offerors and to contact references provided with the proposal.

17.8. The County Purchasing Agent may arrange for discussions with firms submitting proposals, if required, for the purpose of obtaining additional information or clarification.

17.9. Offerors are advised that, in the event of receipt of an adequate number of proposals, which, in the opinion of the County Purchasing Agent, require no clarifications and/or supplementary information, such proposals may be evaluated without further discussion. Consequently, offerors should provide complete, thorough proposals with the offerors most favorable terms. Should proposals require additional clarification and/or supplementary information, offerors should submit such additional material in a timely manner.

17.10. Proposals which, after discussion and submission of additional clarification and/or supplementary information, are determined to meet the specifications of this Request for Proposal will be classified as "acceptable". Proposals found not to be acceptable will be classified as "unacceptable" and no further discussion concerning same will be conducted.

17.11. The County may cancel this Request for Proposal or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous.

18. **CONTRACT INSURANCE PROVISIONS:**

18.1. The Contractor shall be responsible for its work and every part thereof, and for all materials, tools, equipment, appliances, and property of any and all description used in connection therewith. The Contractor assumes all risk of direct and indirect damage or injury to the property or persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the contract.

18.2. The Contractor shall, during the continuance of all work under the contract maintain the following insurance:

a. Workers' Compensation and Employer's Liability insurance limits of not less than $100,000 to protect the contractor from any liability or damages for any injuries (including death and disability) to any and all of its employees, including any and all liability or damage which may arise by virtue of any statute or law in force within the Commonwealth of Virginia.

b. Commercial General Liability insurance in the amount of $1,000,000 per occurrence and $2,000,000 in the aggregate including contractual liability, personal and advertising injury, and products and completed operations coverage. Completed operations liability endorsement shall continue in force for three years following completion of the contract.

c. Professional Liability/Errors and Omissions coverage responding to Contractor's errors, acts or omissions in the amount of $1,000,000 per claim and in the aggregate.

d. Cyber/Information Technology insurance in the amount of $1,000,000 per claim, including coverage for costs of 3rd party notification, credit monitoring, and fraud protection.

18.3. Fairfax County Public Schools, the Fairfax County School Board, its officers and employees shall be named as an "additional insured" in the Automobile and General Liability policies and it shall be stated on the Insurance Certificate that this coverage "is primary to all other coverage the County may possess"

18.4. Indemnification: Article 63 of the General Conditions and Instruction to Bidders (Appendix A) shall apply.

18.5. Additional Requirements

e. The Contractor agrees to provide insurance issued by companies admitted within the Commonwealth of Virginia, with the Best's Key Rating of at least A:VI.

f. European markets including those based in London, and the domestic surplus lines markets that operate on a non-admitted basis are exempt from the requirement provided that the contractor's broker can provide financial data to establish that a market is equal to or exceeds the financial strengths associated with the A.M. Best's rating of A:VI or better.

g. Liability insurance may be arranged by General Liability and Automobile Liability policies for the full limits required, or by a combination of underlying Liability policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability policy.

h. The contractor will provide an original, signed Certificate of Insurance citing the contract number and such endorsements as prescribed herein.

i. The contractor will secure and maintain all insurance certificates of its subcontractors, which shall be made available to FCPS on demand.

j. The contractor will provide on demand certified copies of all insurance policies related to the contract within ten business days of demand by the FCPS. These certified copies will be sent to the FCPS from the contractor's insurance agent or representative.

1. No change, cancellation, or non-renewal shall be made in any insurance coverage without a 45 day written notice to the FCPS. The contractor shall furnish a new certificate prior to any change or cancellation date. The failure of the contractor to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished.

2. Compliance by the contractor and all subcontractors with the foregoing requirements as to carrying insurance shall not relieve the contractor and all subcontractors of their liabilities provisions of the contract.

3. Contractual and other liability insurance provided under this contract shall not contain a supervision, inspection or engineering services exclusion that would preclude the County from supervising and/or inspecting the project as to the end result. The contractor shall assume all on-the-job responsibilities as to the control of persons

directly employed by it and of the subcontractors.

4. Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the FCPS. The Contractor shall be as fully responsible to the FCPS for the acts and omissions of the subcontractors and of persons employed by them as it is for acts and omissions of person directly employed by it.

5. Precaution shall be exercised at all times for the protection of persons (including employees) and property.

6. The Contractor and all subcontractors are to comply with the Occupational Safety and Health Act of 1970, Public Law 91-596, as it may apply to this Contract.

7. If the Contractor delivers services from a County leased facility, the Contractor is required to carry property insurance on all equipment, to include County owned installed and maintained equipment used by the Contractor while in their care, custody and control for use under this contract.

k. Liability Insurance "Claims Made" basis:

If the liability insurance purchased by the contractor has been issued on a "claims made" basis, the contractor must comply with the following additional conditions. The limit of liability and the extensions to be included as described previously in these provisions, remain the same. The Contractor must either:

1. Agree to provide certificates of insurance evidencing the above coverage for a period of two years after final payment for the contract. This certificate shall evidence a "retroactive date" no later than the beginning of the Contractor's or sub-contractor's work under this contract, or

2. Purchase the extended reporting period endorsement for the policy or policies in force during the term of this contract and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.

19. **METHOD OF ORDERING:**

19.1. The County may use two (2) different methods of placing orders from the final contract: Purchase Orders (PO's) and approved County procurement cards. The method of payment is at the discretion of the County at no additional surcharges will be accepted for the use of the procurement card.

19.2. A Purchase Order (PO) may be issued to the contractor on behalf of the County agency ordering the items/services covered under this contract. An issued PO will become part of the resulting contract. The purchase order indicates that sufficient funds have been obligated as required by Title 15.2-1238 of the Code of the Commonwealth of Virginia.

19.3. Procurement Card orders and payments may also be made by the use of a Fairfax County or Fairfax County Public Schools "Procurement" Card. The Procurement Card is currently a Master Card. Contractors are encouraged to accept this method of receiving orders.

19.4. Regardless of the method of ordering used, solely the contract and any modification determine performance time and dates.

SPECIAL PROVISIONS

19.5. Performance under this contract is not to begin until receipt of the purchase order, Procurement Card order, or other notification to proceed by the County Purchasing Agent and/or County agency to proceed. Purchase requisitions shall not be used for placing orders.

20. **REPORTS AND INVOICING:**

20.1. Contractor must maintain all records in compliance with federal and state regulations. The Contractor(s) must submit to each program administrator, monthly statistical reports and an annual tabulated report.

20.2. The Contractor must invoice each County department using the final contract separately. Invoices for all users of the contract must meet County requirements, unless otherwise indicated. The Contractor must send each department an itemized monthly invoice (or as agreed to between the parties), which must include the information listed below:

a. Employee name;
b. The name of the County department;
c. Date of services
d. The type of services; and,
e. The itemized cost for each item/service.

20.3. County departments must receive monthly invoices by the 10th of each month following the month the Contractor provided the service. In addition, the Contractor will provide each County department a monthly and year-to-date utilization report which lists all information shown above in paragraph 20.2, a-e. The Contractor will mail the invoices and the utilization reports to the individuals identified in the final contract.

21. **PAYMENTS:**

21.1. The County will pay the Contractor based upon completion, acceptance, and approval by the County of each task outlined in the **Special Provisions Section 5 Tasks to be Performed**.

22. **CHANGES:**

22.1. Fairfax County may, at any time, by written order, require changes in the services to be performed by the Contractor. If such changes cause an increase or decrease in the Contractors cost of, or time required for, performance of any services under this contract, an equitable adjustment shall be made and the contract shall be modified in writing accordingly. The County Purchasing Agent must approve all work that is beyond the scope of this Request for Proposal.

22.2. No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written authorization of the Fairfax County Purchasing Agent.

22.3. FCPS reserves the right to add newer editions of contracted textbooks, additional ancillary materials, added online functionality, etc. at their discretion. FCPS may determine that testing of software is required before purchase or implementation and samples may be requested at any time for the purpose of assessment.

23. **DELAYS AND SUSPENSIONS:**

23.1. The County may direct the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time deemed appropriate for the convenience of the County. The County will extend the Contractor's time of completion by a period of time that in the discretion of the Purchasing Agent is reasonably suited for completion of work. The County may further amend the contract by mutual agreement for any increase in the cost of performance of the contract (excluding profit) resulting solely from the delay or suspension of the contract. No adjustment shall be made under this clause for any delay or interruption resulting from any other cause, including the fault or negligence of the Contractor.

23.2. If the County does not direct the Contractor, in writing, to suspend, delay, or interrupt the contract, the Contractor must give the County Purchasing Agent written notice if Fairfax County fails to provide data or services that are required for contract completion by the Contractor. The County may extend the Contractor's time of completion by a period of time that in the discretion of the Purchasing Agent is reasonably suited for completion of work. The County may further amend the contract by mutual agreement for any increase in the cost of performance of the contract (excluding profit) resulting solely from the delay or suspension of the contract. No adjustment shall be made under this clause for any delay or interruption resulting from any other cause, including the fault or negligence of the Contractor.

23.3. The Contractor shall continue its work on other phases of the project or contract, if in the sole discretion of the Purchasing Agent such work is not impacted by the County's delay, suspension, or interruption. All changes to the work plan or project milestones shall be reflected in writing as a contract amendment.

24. **ACCESS TO AND INSPECTION OF WORK:**

24.1. The Fairfax County Purchasing Agent and using agencies will, at all times, have access to the work being performed under this contract wherever it may be in progress or preparation.

25. **PROJECT AUDITS:**

25.1. The Contractor shall maintain books, records and documents of all costs and data in support of the services provided. Fairfax County or its authorized representative shall have the right to audit the books, records and documents of the contractor under the following conditions:

a. If the contract is terminated for any reason in accordance with the provisions of these contract documents in order to arrive at equitable termination costs;

b. In the event of a disagreement between the contractor and the County on the amount due the Contractor under the terms of this contract;

c. To check or substantiate any amounts invoiced or paid which are required to reflect the costs of services, or the Contractor's efficiency or effectiveness under this contract; and,

d. If it becomes necessary to determine the County's rights and the contractor's obligations under the contract or to ascertain facts relative to any claim against the Contractor that may result in a charge against the County.

25.2. These provisions for an audit shall give Fairfax County unlimited access during normal working hours to the Contractor's books and records under the conditions stated above.

25.3. Unless otherwise provided by applicable statute, the contractor, from the effective date of final payment or termination hereunder, shall preserve and make available to Fairfax County for a period of three (3) years thereafter, at all reasonable times at the office of the Contractor but without direct charge to the County, all its books, records documents and other evidence bearing on the costs and expenses of the services relating to the work hereunder.

25.4. Fairfax County's right to audit and the preservation of records shall terminate at the end of three (3) years as stated herein. The Contractor shall include this "Right of Audit and Preservation of Records" clause in all subcontracts issued by it and they shall require same to be inserted by all lower tier subcontractors in their subcontracts, for any portion of the work.

25.5. Should the Contractor fail to include this clause in any such contract or lower tier contract, or otherwise fail to insure Fairfax County's rights hereunder, the Contractor shall be liable to Fairfax County for all reasonable costs, expenses and attorney's fees which Fairfax County may have to incur in order to obtain an audit or inspection of or the restoration of records

which would have otherwise been available to Fairfax County from said persons under this clause. Such audit may be conducted by Fairfax County or its authorized representative.

26. **DATA SOURCES:**

26.1. The County will provide the Contractor all available data possessed by the County that relates to this contract. However, the Contractor is responsible for all costs for acquiring other data or processing, analyzing or evaluating County data.

27. **SAFEGUARDS OF INFORMATION:**

27.1. Unless approved in writing by the County Purchasing Agent, the Contractor may not sell or give to any individual or organization any information, reports, or other materials given to, prepared or assembled by the Contractor under the final contract.

28. **ACCESS TO AND CONFIDENTIALITY OF STUDENT RECORDS:**

28.1. At the time of award, the Contractor shall sign the Confidentiality Addendum and Covenant of Confidentiality (sample provided as **Attachment B Confidentiality Addendum**).

28.2. For purposes of obtaining access to Student Records in connection with the performance of this contract, each employee or agent of the Offeror shall abide by the requirements of 28.3 and 28.4 below.

28.3. The Offeror hereby covenants and agrees that it shall maintain in strict confidence and trust, and that it shall cause each employee of the Offeror and all other agents of the Offeror to maintain in strict confidence and trust, all student records, reports, and other documents or materials of any nature relating to any student enrolled in Fairfax County Public Schools (collectively, the “Student Records”). The Offeror shall not misuse or disclose, and shall take all reasonable steps necessary to ensure that no employee or agent of the Offeror shall misuse or disclose any Student Records.

28.4. Upon expiration or termination of the contract, the Offeror shall take all reasonable steps necessary to cause each employee of the Offeror and all agents of the Offeror to promptly deliver to the FCPS designated representative all Student Records in their possession. The Offeror shall (i) designate one employee to be responsible for ensuring the Offeror’s confidentiality of Student Records, (ii) train the Offeror’s staff members with regard to confidentiality responsibilities, and (iii) maintain at all times a list of the Offeror staff members with access to Student Records.

29. **ORDER OF PRECEDENCE:**

29.1. In the event of conflict, the Acceptance Agreement (provided at contract award) and the Special Provisions of this contract shall take precedence over the General Conditions and Instructions to Bidders, (Appendix A).

30. **SUBCONTRACTING:**

30.1. If one or more subcontractors are required, the contractor is encouraged to utilize small, minority-owned, and women-owned business enterprises. For assistance in finding subcontractors, contact the Virginia Department of Business Assistance http://www.dba.state.va.us; the Virginia Department of Minority Business Enterprise http://www.dmbe.state.va.us/; local chambers of commerce and other business organizations.

30.2. As part of the contract award, the prime contractor agrees to provide the names and addresses of each subcontractor, that subcontractor's status as defined by Fairfax County, as

a small, minority-owned and/or woman-owned business, and the type and dollar value of the subcontracted goods/services provided. Reference Appendix B to this solicitation.

31. **USE OF CONTRACT BY OTHER PUBLIC BODIES:**

31.1. Reference Paragraph 75, General Conditions and Instructions to Bidders, Cooperative Purchasing. Offerors are advised that the resultant contract(s) may be extended, with the authorization of the Offeror, to other public bodies, or public agencies or institutions of the United States to permit their use of the contract at the same prices and/or discounts and terms of the resulting contract. If any other public body decides to use the final contract, the Contractor(s) must deal directly with that public body concerning the placement of orders, issuance of purchase orders, contractual disputes, invoicing and payment. The County of Fairfax acts only as the "Contracting Agent" for these public bodies. Failure to extend a contract to another public body will have no effect on consideration of your offer. (See Appendix B for sample listing).

31.2. It is the Contractors responsibility to notify the public body(s) of the availability of the contract(s).

31.3. Other public bodies desiring to use this contract will need to make their own legal determinations as to whether the use of this contract is consistent with their laws, regulations, and other policies.

31.4. Each public body must execute a separate contract with the Contractor(s). Public bodies may add terms and conditions required by statute, ordinances, and regulations, to the extent that they do not conflict with the contracts terms and conditions. If, when preparing such a contract, the general terms and conditions of a public body are unacceptable to the Contractor, the Contractor may withdraw its extension of the award to that public body.

31.5. Fairfax County **shall not** be held liable for any costs or damages incurred by another public body as a result of any award extended to that public body by the Contractor.

32. **NEWS RELEASE BY VENDORS:**

32.1. As a matter of policy, the County does not endorse the products or services of a contractor. News releases concerning any resultant contract from this solicitation will not be made by a contractor without the prior written approval of the County. All proposed news releases will be routed to the Purchasing Agent for review and approval.

33. **AMERICANS WITH DISABILITIES ACT REQUIREMENTS:**

33.1. Fairfax County Government is fully committed to the Americans with Disabilities Act (ADA) which guarantees non-discrimination and equal access for persons with disabilities in employment, public accommodations, transportation, and all County programs, activities and services. Fairfax County government contractors, subcontractors, vendors, and/or suppliers are subject to this ADA policy. All individuals having any County contractual agreement must make the same commitment. Your acceptance of this contract acknowledges your commitment and compliance with ADA.

33.2. Fairfax County is committed to a policy of nondiscrimination in all County programs, services, and activities and will provide reasonable accommodations upon request. Bidders requesting special accommodations should call the Office of Equity and Employee Relations at 571-423-3070, HRequity&empolyeerelations@fcps.edu or TRS at 711. Please allow seven (7) working days in advance of the event to make the necessary arrangements.

34. **HIPAA COMPLIANCE:**

34.1. Fairfax County Government has designated certain health care components as covered by the Health Insurance Portability and Accountability Act of 1996. The successful vendor may

be designated a business associate pursuant to 45 CFR part 164.504(e) of those agencies identified as health care components of the County, including the Fairfax-Falls Church Community Services Board, upon award of contract. The successful vendor shall be required to execute a Fairfax County Business Associate Agreement and must adhere to all relevant federal, state, and local confidentiality and privacy laws, regulations, and contractual provisions of that agreement. These laws and regulations include, but are not limited to: (1) HIPAA – 42 USC 201, et seq., and 45 CFR Parts 160 and 164; and (2) Va Code – Title 32.1, Health, § 32.1-1 et seq. The vendor shall have in place appropriate administrative, technical, and physical safeguards to ensure the privacy and confidentiality of protected health information.

34.2. Further information regarding HIPAA Compliance is available on the County's website at http://www.fairfaxcounty.gov/HIPAA.

35. **STATE CORPORATION COMMISSION IDENTIFICATION NUMBER**:

35.1. Pursuant to *Code of Virginia*, §2.2-4311.2 subsection B, a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid or proposal the identification number issued to it by the State Corporation Commission (SCC). Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized. Any bidder or offeror that fails to provide the required information may not receive an award.

36. **BACKGROUND CRIMINAL INVESTIGATION/IDENTIFICATION:**

36.1. By the signature of its authorized official on the response to this solicitation, the Contractor certifies that neither the contracting official nor any of the Contractor's employees, agents or subcontractors who will have direct contact with students has been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child. The Contractor agrees to remove from the contract any employee, agent or subcontractor who has been determined by the School Board to be disqualified from service due to such convictions or the failure to truthfully report such convictions.

36.2. The Contractor shall immediately notify the FCPS contract administrator if any Contractor or employee of said Contractor providing services under the contract is arrested or indicted as a defendant in Virginia or any other jurisdiction. FCPS reserves the right to require that the employee be suspended from working on the contract until the charge(s) is adjudicated. This requirement does not apply to minor traffic violations, not requiring the appearance of the employee in court, unless the charge includes the illegal possession, distribution, use or influence of drugs or alcohol.

36.3. Due to enhanced security measures, Contractor employees/representatives are required to have photo identification and be able to present same upon request. Contractor employees/representatives shall report to the appropriate administrative and/or main office each time a site is visited. **All Contractor employees will be required to wear a company picture ID badge, or temporary name tag, issued by the County, clearly visible above the waist.** Contractor employees/representatives who arrive at the County/School facility without appropriate identification badges will immediately be dismissed from the job site.

36.4. Failure to comply with the above requirements may result in termination of the contract.

COUNTY OF FAIRFAX
COMMONWEALTH OF VIRGINIA

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

(Vendor: The general rules and conditions which follow apply to all purchases and become a definite part of each formal solicitation and resulting contract award issued by the DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT, unless otherwise specified. Bidders or their authorized representatives are expected to inform themselves fully as to the conditions, requirements, and specifications before submitting bids; failure to do so will be at the bidder's own risk and relief cannot be secured on the plea of error.)

Subject to all State and local laws, policies, resolutions, and regulations and all rules, regulations and limitations imposed by legislation of the Federal Government, bids on all solicitations issued by the DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT will bind bidders to applicable conditions and requirements herein set forth unless otherwise specified in the solicitation.

I. AUTHORITY -The Purchasing Agent has the sole responsibility and authority for negotiating, placing and when necessary modifying every solicitation, contract and purchase order (except for capital construction projects) issued by the County of Fairfax. In the discharge of these responsibilities, the Purchasing Agent may be assisted by assigned buyers. Unless specifically delegated by the County Purchasing Agent, no other County officer or employee is authorized to order supplies or services, enter into purchase negotiations or contracts, or in any way obligate the government of the County of Fairfax for an indebtedness. Any purchase ordered or contract made which is contrary to these provisions and authorities shall be of no effect and void and the County shall not be bound thereby.

2. DEFINITIONS-

AGENCY: Any Department, Agency, Authority, Commission, Board or other unit in the Administrative Service of the County.

BEST VALUE: As predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.

BID: The offer of a bidder to provide specific goods or services at specified prices and/or other conditions specified in the solicitation.

BIDDER/OFFEROR: Any individual, company, firm, corporation, partnership or other organization bidding on solicitations issued by the Purchasing Agent and offering to enter into contracts with the County. The term "bidder" will be used throughout this document and shall be construed to mean "offeror" where appropriate.

CONSULTANT SERVICES: Any type of services required by the County, but not furnished by its own employees, which is in its nature so unique that it should be obtained by negotiation on the basis of demonstrated competence and qualification for the type of service required and at fair and reasonable compensation, rather than by competitive sealed bidding.

CONTRACTOR: Any individual, company, firm, corporation, partnership or other organization to whom an award is made by the County.

COUNTY: County of Fairfax.

GOODS: All material, equipment, supplies, printing, and automated data processing/information technology hardware and software.

INFORMALITY: A minor defect or variation of a bid or proposal from the exact requirements of the invitation to bid or the request for proposal which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

INVITATION FOR BID (IFB): A request which is made to prospective suppliers (bidders) for their quotation on goods or services desired by the County. The issuance of an IFB will contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement.

PROFESSIONAL SERVICES: Any type of professional service performed by an independent contractor within the practice of accounting, actuarial services, architecture, dentistry, land surveying, landscape architecture, law, medicine, optometry, pharmacy, or professional engineering (which shall be procured as set forth in the Code of Virginia §2.2-4301 in the definition of competitive negotiation at paragraph 3 (a), and in conformance with the Fairfax County Purchasing Resolution).

PURCHASING AGENT: The Purchasing Agent employed by the Board of Supervisors of Fairfax County, Virginia.

QUICK QUOTE (QQ): A method of competitive bidding for the purchase or lease of goods, non professional services or for the purchase of insurance, construction, or construction management when the estimated cost thereof shall be less the $50,000.

REQUEST FOR PROPOSAL (RFP): A request for an offer from prospective offerors which will indicate the general terms which are sought to be procured from the offeror. The RFP will specify the evaluation factors to be used and will contain or incorporate by reference other contractual terms and conditions applicable to the procurement.

General Conditions and Instructions to Bidders

RESPONSIBLE BIDDER/OFFEROR: An individual, company, firm, corporation, partnership or other organization having the capability in all respects to perform fully the contract requirements, and also having the moral and business integrity and reliability which will assure good faith performance, and having been prequalified, if required. (Reference paragraph 24, General Conditions and Instructions to Bidders).

RESPONSIVE BIDDER/OFFEROR: An individual, company, firm, corporation, partnership or other organization having submitted a bid which conforms in all material respects to the invitation for bid or request for proposal.

SERVICES: Any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

SOLICITATION: The process of notifying prospective bidders that the County wishes to receive bids on a set of requirements to provide goods or services. The notification of County requirements may consist of public advertising (newspaper, County Web Site, or other electronic notification), the mailing of Notices of Solicitation, Invitation for Bid (IFB) or Request for Proposal (RFP), the public posting of notices, issuance of an Open Market Procurement (OMP), or telephone calls to prospective bidders.

STATE: Commonwealth of Virginia.

CONDITIONS OF BIDDING

3. BID FORMS-Unless otherwise specified in the solicitation, all bids shall be submitted on the forms provided, to include the bid Cover Sheet and Pricing Schedule(s), properly signed in ink in the proper spaces and submitted in a sealed envelope or package. The item pages of the Pricing Schedule which do not include any items for which a bid is required need not be included in the submission of a bid.

Should the bid prices and/or any other submissions differ on the copy of the submitted bid, the ORIGINAL copy shall prevail.

4. LATE BIDS & MODIFICATIONS OF BIDS-

a. Any bid/modification received at the office designated in the solicitation after the exact time specified for receipt of the bid/modification is considered a late bid/modification. A late bid/modification will not be considered for award except under the following conditions only:

   1. It was sent by registered or certified mail not later than the fifth (5th) calendar date prior to the date specified for receipt of the bid/modification; or

   2. The bid/modification was sent by mail and it is determined by the County Purchasing Agent that the late receipt was due solely to mishandling by the County after receipt at the address specified in the solicitation.

b. If an emergency or unanticipated event or closing interrupts or suspends normal County business operations so that bids cannot be received at the County office designated for receipt of bids by the exact time specified in the solicitation, the due date/time specified for receipt of bids will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal County business operations resume.

c. The official time used for receipt of bids/modifications is the Bid Clerk's time and date stamp clock located in the Department of Purchasing and Supply Management. All bidders are responsible for ensuring all bids/modifications are received prior to the scheduled due date/time.

d. A late hand-carried bid, or any other late bid not submitted by mail, shall not be considered for award.

5. WITHDRAWAL OF BIDS-

a. A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his or her bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid which shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. The bidder shall give notice in writing to the Purchasing Agent of his or her claim of right to withdraw his or her bid within two (2) business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice.

b. A bidder for a contract other than for public construction may request withdrawal of his or her bid under the following circumstances:

General Conditions and Instructions to Bidders

1. Requests for withdrawal of bids prior to opening of such bids shall be transmitted to the County Purchasing Agent in writing.

2. Requests for withdrawal of bids after opening of such bids but prior to award shall be transmitted to the County Purchasing Agent, in writing, accompanied by full documentation supporting the request. If the request is based on a claim of error, documentation must show the basis of the error. Such documentation may take the form of supplier quotations, vendor work sheets, etc. If bid bonds were tendered with the bid, the County may exercise its right of collection.

c. No bid may be withdrawn under this paragraph when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

d. If a bid is withdrawn under the authority of this paragraph, the lowest remaining bid shall be deemed to be the low bid.

e. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

f. If the county denies the withdrawal of a bid under the provisions of this paragraph, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.

g. Work papers, documents, and materials submitted in support of a withdrawal of bids may be considered as trade secrets or proprietary information subject to the conditions of the Virginia Freedom of Information Act.

6. ERRORS IN BIDS-When an error is made in extending total prices, the unit bid price will govern. Erasures in bids must be initialed by the bidder. Carelessness in quoting prices, or in preparation of bid otherwise, will not relieve the bidder. Bidders are cautioned to recheck their bids for possible error. Errors discovered after public opening cannot be corrected and the bidder will be required to perform if his or her bid is accepted.

7. MAILING OF BIDS – All bids and proposals submitted in response to a Fairfax County solicitation shall be submitted in a sealed envelope or package identified with the solicitation number, title, bidder's name and address, and due date/time of opening/closing clearly marked on the outside of such envelope or package.

8. COMPLETENESS-To be responsive, a bid must include all information required by the solicitation.

9. ACCEPTANCE OF BIDS/BINDING 90 DAYS-Unless otherwise specified, all formal bids submitted shall be binding for ninety (90) calendar days following bid opening date, unless extended by mutual consent of all parties.

10. CONDITIONAL BIDS-Conditional bids are subject to rejection in whole or in part.

11. BIDS FOR ALL OR PART-Unless otherwise specified by the County Purchasing Agent or by the bidder, the Purchasing Agent reserves the right to make award on all items in the aggregate or on any of the items on an individual basis, whichever is in the best interest of the County. A bidder may restrict his or her bid to consideration in the aggregate by so stating but shall name a single unit price on each item bid. Any bid in which the bidder names a total price for all the articles without quoting a unit price for each and every separate item may not be considered for award.

12. AREA BIDS-For the purchase and delivery of certain goods and services the County may be divided into Areas (e.g., Areas I, II, III, and IV). When such goods and services are included in the Pricing Schedule, bidders may bid on all areas or an individual area. A map showing the areas of the County will be furnished with the solicitation when required.

13. TIME FOR RECEIVING BID-Bids received prior to the time of opening will be securely kept, unopened. The representative of the Purchasing Agent assigned to open them will decide when the specified time has arrived, and no bid received thereafter will be considered, except as provided in paragraph 4, General Conditions and Instructions to Bidders. No responsibility will attach to the Purchasing Agent or his or her representative for the premature opening of a bid not properly addressed and identified. Unless specifically authorized in the solicitation, telegraphic, electronic, or facsimile bids/modifications will not be considered.

14. BID OPENING-All bids received in response to an Invitation for Bid (IFB) will be opened at the date, time and place specified, read publicly, and made available for inspection as provided in paragraph 68, General Conditions and Instructions to Bidders. Tabulations of bids received are posted on the Department of Purchasing & Supply Management Bulletin Board as well as the County's web site: http://www.fairfaxcounty.gov/dpsm/bidtab.htm.Proposals received in response to a Request for Proposal (RFP) will be made available as provided in paragraph 68, General Conditions and Instructions to Bidders.

15. OMISSIONS & DISCREPANCIES-Any items or parts of any equipment listed in this solicitation which are not fully described or are omitted from such specification, and which are clearly necessary for the completion of such equipment and its appurtenances, shall be considered a part of such equipment although not directly specified or called for in the specifications.

Should a bidder find discrepancies or ambiguities in, or omissions from, the solicitation, including the drawings and/or specifications, he or she shall notify the Purchasing Agent at least five (5) days prior to the date set for the opening of bids. If necessary, the Purchasing Agent will send a written addendum for clarification to all bidders no later than three (3) days before the date set for opening of bids. Notifications regarding specifications will not be considered if received within five days of the date set for opening of bids.

General Conditions and Instructions to Bidders

16. RESPONSE TO SOLICITATIONS-In the event a vendor cannot submit a bid on a solicitation, he or she is requested to return the solicitation cover sheet with an explanation as to why he or she is unable to bid on these requirements.

17. BIDDER INTERESTED IN MORE THAN ONE BID-If more than one bid is offered by any one party, either directly or by or in the name of his or her clerk, partner, or other persons, all such bids may be rejected. A party who has quoted prices on work, materials, or supplies to a bidder is not thereby disqualified from quoting prices to other bidders or firms submitting a bid directly for the work, materials or supplies.

18. TAX EXEMPTION-The County is exempt from the payment of any federal excise or any Virginia sales tax. The price bid must be net, exclusive of taxes. However, when under established trade practice any federal excise tax is included in the list price, a bidder may quote the list price and shall show separately the amount of federal tax, either as a flat sum or as a percentage of the list price, which shall be deducted by the County. Fairfax County's Federal Excise Tax Exemption Number is 54-74-0127K. Contractors located outside the Commonwealth of Virginia are advised that when materials are picked up by the County at their place of business, they may charge and collect their own local/state sales tax. Materials used in the performance of construction contracts are subject to Virginia Sales/Use Tax as described in Section 630-10-27J of the Virginia Retail Sales and Use Tax Regulations.

19. PROHIBITION AGAINST UNIFORM PRICING-The County Purchasing Agent shall encourage open and competitive bidding by all possible means and shall endeavor to obtain the maximum degree of open competition on all purchase transactions using the competitive sealed bidding, competitive negotiation, or open market methods of procurement. In submitting a bid each bidder shall, by virtue of submitting a bid, guarantee that he or she has not been a party with other bidders to an agreement to bid a fixed or uniform price. Violation of this implied guarantee shall render void the bids of participating bidders. Any disclosure to or acquisition by a competitive bidder, in advance of the opening of the bids, of the terms or conditions of the bid submitted by another competitor may render the entire proceedings void and may require re-advertising for bids.

SPECIFICATIONS

20. QUESTIONS CONCERNING SPECIFICATIONS-Any information relative to interpretation of specifications and drawings shall be requested of the Purchasing Agent, in writing, in ample time before the opening of bids. No inquiries, if received by the Purchasing Agent within five (5) days of the date set for the opening of bids, will be given any consideration. Any material interpretation of a specification, as determined by the County Purchasing Agent, will be expressed in the form of an addendum to the specification which will be sent to all prospective bidders no later than three (3) days before the date set for receipt of bids. Oral answers will not be authoritative.

21. BRAND NAME OR EQUAL ITEMS-Unless otherwise provided in the invitation for bid, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named; it conveys the general style, type, character, and quality of the article desired, and any article which the County in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

22. FORMAL SPECIFICATIONS-When a solicitation contains a specification which states no substitutes, no deviation therefrom will be permitted and the bidder will be required to furnish articles in conformity with that specification.

The bidder shall abide by and comply with the true intent of the specifications and not take advantage of any unintentional error or omission, but shall fully complete every part as the true intent and meaning of the specifications and drawings. Whenever the mention is made of any articles, material, or workmanship to be in accordance with laws, ordinances, building codes, underwriter's codes, A.S.T.M. regulations or similar expressions, the requirements of these laws, ordinances, etc., shall be construed as to the minimum requirements of these specifications.

23. FEDERAL SPECIFICATIONS-Any Federal Specifications referred to herein may be obtained from the GSA Federal Supply Service Bureau - Specification Section, 470 East L'Enfant Plaza, S.W., Suite #8100, Washington, D.C. 20407 (Voice: 1-202-619-8925, Fax: 1-202-619-8978).

AWARD

24. AWARD OR REJECTION OF BIDS-The Purchasing Agent shall award the contract to the lowest responsive and responsible bidder complying with all provisions of the IFB, provided the bid price is reasonable and it is in the best interest of the County to accept it. Awards made in response to a RFP will be made to the highest qualified offeror whose proposal is determined, in writing, to be the most advantageous to the County taking into consideration the evaluation factors set forth in the RFP. The Purchasing Agent reserves the right to award a contract by individual items, in the aggregate, or in combination thereof, or to reject any or all bids and to waive any informality in bids received whenever such rejection or waiver is in the best interest of the County. Award may be made to as many bidders as deemed necessary to fulfill the anticipated requirements of Fairfax County. The Purchasing Agent also reserves the right to reject the bid of a bidder deemed to be a non-responsible bidder.

In determining the responsibility of a bidder, the following criteria will be considered:

a. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
b. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
c. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
d. The quality of performance of previous contracts or services;
e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;

General Conditions and Instructions to Bidders

f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
g. The quality, availability and adaptability of the goods or services to the particular use required;
h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
i. The number and scope of the conditions attached to the bid;
j. Whether the bidder is in arrears to the County on debt or contract or is a defaulter on surety to the County or whether the bidder's County taxes or assessments are delinquent; and
k. Such other information as may be secured by the County Purchasing Agent having a bearing on the decision to award the contract. If an apparent low bidder is not awarded a contract for reasons of nonresponsibility, the County Purchasing Agent shall so notify that bidder and shall have recorded the reasons in the contract file.

25. NOTICE OF ACCEPTANCE/CONTRACT DOCUMENTS-A written award (or Acceptance Agreement) mailed (or otherwise furnished) to the successful bidder within the time for acceptance specified in the solicitation shall be deemed to result in a binding contract. The following documents which are included in the solicitation shall be incorporated by reference in the resulting contract and become a part of said contract:

a. County of Fairfax Solicitation Form/Acceptance Agreement (Cover Sheet) and other documents which may be incorporated by reference, if applicable,
b. General Conditions and Instructions to Bidders,
c. Special Provisions and Specifications,
d. Pricing Schedule,
e. Any Addenda/Amendments/Memoranda of Negotiations

26. TIE-BIDS – If all bids are for the same total amount or unit price (including authorized discounts and delivery times), and if the public interest will not permit the delay of readvertisement for bids, the County Purchasing Agent is authorized to award the contract to the resident Fairfax County tie bidder whose firm has its principal place of business in the County, or if there be none, to the resident Virginia tie bidder, or if there be none, to one of the tie bidders by drawing lots in public; or the County Purchasing Agent may purchase the goods or services in the open market except that the price paid shall not exceed the lowest contract bid price submitted for the same goods or services. The decision of the County to make award to one or more such bidders shall be final.

27. PROMPT PAYMENT DISCOUNT-

a. Unless otherwise specified in the solicitation, prompt payment discounts requiring payment in less than fifteen (15) days will not be considered in evaluating a bid for award. However, even though not considered in the evaluation, such discounts will be taken if payment is to be made within the discount period.

b. In connection with any discount offered, time will be computed from the date of delivery of the supplies to the carrier when delivery, inspection and acceptance are at the point of origin; or, from date of delivery, inspection and acceptance at destination; or, from date correct invoice or voucher is received in the office specified by the County, if the latter is later than the date of acceptance. In the event the bidder does not indicate a prompt payment discount, it shall be construed to mean NET 30 days.

For the purpose of earning the discount, payment is deemed to be made as of the date of mailing of the County check or issuance of an Electronic Funds Transfer.

28. INSPECTION-ACCEPTANCE-For determining acceptance of supplies in accordance with the provisions of the prompt payment discount paragraph, inspection and acceptance shall be accomplished only after examination (including testing) of supplies and services to determine whether the supplies and services conform to the contract requirements. Acceptance shall occur only after receipt and inspection provided such inspection, as appropriate, is accomplished within a reasonable time.

29. DEFINITE BID QUANTITIES-Where definite quantities are specifically stated, acceptance will bind the County to order quantities specified and to pay for, at contract prices, all such supplies or services delivered that meet specifications and conditions of the contract. However, the County will not be required to accept delivery of any balances unordered, as of the contract expiration date, unless the Contractor furnished the Purchasing Agent with a statement of unordered balances not later than ten (10) days after the termination date of the contract.

30. REQUIREMENT BID QUANTITIES-On "Requirement" bids, acceptance will bind the County to pay for, at unit bid prices, only quantities ordered and delivered. Where the County specifies estimated quantities, the Contractor shall not be required to deliver more than ten (10) percent in excess of the estimated quantity of each item, unless otherwise agreed upon.

CONTRACT PROVISIONS

31. TERMINATION OF CONTRACTS-Contracts will remain in force for full periods specified and/or until all articles ordered before date of termination shall have been satisfactorily delivered and accepted and thereafter until all requirements and conditions shall have been met, unless:

a. Terminated prior to expiration date by satisfactory deliveries of entire contract requirements, or upon termination by the County for Convenience or Cause.

b. Extended upon written authorization of the Purchasing Agent and accepted by Contractor, to permit ordering of unordered balances or additional quantities at contract prices and in accordance with contract terms.

General Conditions and Instructions to Bidders

32. TERMINATION FOR CONVENIENCE-A contract may be terminated in whole or in part by the County in accordance with this clause whenever the County Purchasing Agent shall determine that such a termination is in the best interest of the County. Any such termination shall be effected by delivery to the Contractor at least five (5) working days prior to the termination date of a Notice of Termination specifying the extent to which performance shall be terminated and the date upon which termination becomes effective. An equitable adjustment in the contract price shall be made for completed service, but no amount shall be allowed for anticipated profit on unperformed services.

33. TERMINATION OF CONTRACT FOR CAUSE-

a. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his or her obligations under this contract, or if the Contractor violates any of the covenants, agreements, or stipulations of this contract, in addition to the County's remedies under the contract and all other rights available at law or in equity, the County shall have the right to immediately terminate this contract. Such termination shall be effected by delivering a notice of termination to the Contractor at any time specifying the effective date of such termination. In such event all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the contract shall, at the option of the County, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.
b. Notwithstanding the above, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of contract by the Contractor for the purpose of set off until such time as the exact amount of damages due to the County from the Contractor is determined.

34. CONTRACT ALTERATIONS-No alterations in the terms of a contract shall be valid or binding upon the County unless made in writing and signed by the Purchasing Agent or his or her authorized agent.

35. SUBLETTING OF CONTRACT OR ASSIGNMENT OF CONTRACT FUNDS-It is mutually understood and agreed that the Contractor shall not assign, transfer, convey, sublet or otherwise dispose of his or her contractual duties to any other person, firm or corporation, without the previous written consent of the Purchasing Agent. If the Contractor desires to assign his or her right to payment of the contract, Contractor shall notify the Purchasing Agent immediately, in writing, of such assignment of right to payment. In no case shall such assignment of contract relieve the Contractor from his or her obligations or change the terms of the contract.

36. FUNDING-A contract shall be deemed binding only to the extent of appropriations available to each Agency for the purchase of goods and services.

37. DELIVERY/SERVICE FAILURES-Failure of a Contractor to deliver goods or services within the time specified, or within reasonable time as interpreted by the Purchasing Agent, or failure to make replacements/corrections of rejected articles/services when so requested, immediately or as directed by the Purchasing Agent, shall constitute authority for the Purchasing Agent to purchase in the open market articles/services of comparable grade/quality to replace the services, articles rejected, and/or not delivered. On all such purchases, the Contractor shall reimburse the County, within a reasonable time specified by the Purchasing Agent, for any expense incurred in excess of contract prices. Such purchases shall be deducted from the contract quantities if applicable. Should public necessity demand it, the County reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Agent.

38. NON-LIABILITY-The Contractor shall not be liable in damages for delay in shipment or failure to deliver when such delay or failure is the result of fire, flood, strike, the transportation carrier, act of God, act of Government, act of an alien enemy or by any other circumstances which, in the Purchasing Agent's opinion, are beyond the control of the Contractor. Under such circumstances, however, the Purchasing Agent may, at his or her discretion, cancel the contract.

39. NEW GOODS, FRESH STOCK-All Contractors, unless otherwise specifically stated, shall provide new commodities, fresh stock, latest model, design or pack.

40. NON-DISCRIMINATION-During the performance of this contract, the Contractor agrees as follows:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such Contractor is an equal opportunity employer.
c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
d. The Contractor will include the provisions of the foregoing paragraphs a, b, and c above in every subcontract or purchase order of over $10,000 so that the provisions will be binding upon each subcontractor or vendor.
e. Contractor and Subcontractor hereunder shall, throughout the term of this contract, comply with the Human Rights Ordinance, Chapter 11 of the Code of the County of Fairfax, Virginia, as reenacted or amended.

General Conditions and Instructions to Bidders

41. SMALL AND MINORITY BUSINESS UTILIZATION

a. It is the policy of the County of Fairfax as declared by the Fairfax County Board of Supervisors' adoption of a Small and Minority Business Enterprise Program, April 6, 1981, that Fairfax County and its employees undertake every effort to increase opportunity for utilization of small or minority businesses in all aspects of procurement to the maximum extent feasible.

B Where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such subcontracting opportunities to small, women and minority businesses.

c. Where Federal grants or monies are involved it is the policy of Fairfax County, through its agents and employees, to comply with the requirements set forth in the U.S. Office of Management and Budget Circular No. A-102, uniform administrative requirements for Grants and Cooperative Agreements with State and Local Governments, as they pertain to small and minority business utilization.

42. GUARANTEES & WARRANTIES-All guarantees and warranties required shall be furnished by the Contractor and shall be delivered to the Purchasing Agent before final payment on the contract is made. Unless otherwise stated, manufacturer's standard warranty applies.

43. PRICE REDUCTION-If at any time after the date of the bid the Contractor makes a general price reduction in the comparable price of any material covered by the contract to customers generally, an equivalent price reduction based on similar quantities and/or considerations shall apply to this contract for the duration of the contract period (or until the price is further reduced). Such price reduction shall be effective at the same time and in the same manner as the reduction in the price to customers generally. For purpose of this provision, a "general price reduction" shall mean any horizontal reduction in the price of an article or service offered (1) to Contractor's customers generally, or (2) in the Contractor's price schedule for the class of customers, i.e., wholesalers, jobbers, retailers, etc., which was used as the basis for bidding on this solicitation. An occasional sale at a lower price, or sale of distressed merchandise at a lower price, would not be considered a "general price reduction" under this provision. The Contractor shall submit his or her invoice at such reduced prices indicating on the invoice that the reduction is pursuant to the "Price Reduction" provision of the contract documents. The Contractor in addition will within ten days of any general price reduction notify the Purchasing Agent of such reduction by letter. FAILURE TO DO SO MAY REQUIRE TERMINATION OF THE CONTRACT. Upon receipt of any such notice of a general price reduction, all ordering offices will be duly notified by the Purchasing Agent.

The Contractor, if requested, shall furnish, within ten days after the end of the contract period, a statement certifying either (1) that no general price reduction, as defined above, was made after the date of the bid, or (2) if any such general price reductions were made, that as provided above, they were reported to the Purchasing Agent within ten (10) days and ordering offices were billed at the reduced prices. Where one or more such general price reductions were made, the statement furnished by the Contractor shall include with respect to each price reduction (1) the date when notice of any such reduction was issued, (2) the effective date of the reduction, and (3) the date when the Purchasing Agent was notified of any such reduction.

44. CHANGES-Should it become proper or necessary in the execution of this contract to make any change in design, or to make any alterations which will increase the expense, the Purchasing Agent shall determine an equitable adjustment. No payment shall be made to the Contractor for any extra material or services, or of any greater amount of money than stipulated to be paid in the contract, unless some changes in or additions to the contract requiring additional outlay by the Contractor shall first have been expressly authorized and ordered in writing by contract amendment or otherwise furnished by the Purchasing Agent.

45. PLACING OF ORDERS-Orders against contracts will be placed with the Contractor on a Purchase Order (or Procurement Card) executed and released by the Purchasing Agent or his or her designee. The Purchase Order must bear the appropriate contract number and date. Where Blanket Purchase Agreements (BPAs) have been executed and a Blanket Purchase Order has been released by the Purchasing Agent, telephonic orders may be placed directly with the Contractor by authorized personnel in the ordering Agency.

DELIVERY PROVISIONS

46. SHIPPING INSTRUCTIONS - CONSIGNMENT-Unless otherwise specified in the solicitation each case, crate, barrel, package, etc., delivered under the contract must be plainly stenciled or securely tagged, stating the Contractor's name, purchase order number, and delivery address as indicated in the order. Where shipping containers are to be used, each container must be marked with the purchase order number, name of the Contractor, the name of the item, the item number, and the quantity contained therein. Deliveries must be made within the hours of 8:00 AM - 3:00 PM. Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the receiver at the delivery point. No deliveries will be accepted on Saturdays, Sundays and holidays, unless previous arrangements have been made. It shall be the responsibility of the Contractor to insure compliance with these instructions for items that are drop-shipped.

47. RESPONSIBILITY FOR SUPPLIES TENDERED-Unless otherwise specified in the solicitation, the Contractor shall be responsible for the materials or supplies covered by the contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notice of rejection. Rejected materials or supplies must be removed by and at the expense of the Contractor promptly after notification of rejection, unless public health and safety require immediate destruction or other disposal of rejected delivery. If rejected materials are not removed by the Contractor within ten (10) days after date of notification, the County may return the rejected materials or supplies to the Contractor at his or her risk and expense or dispose of them as its own property.

General Conditions and Instructions to Bidders

48. INSPECTIONS-Inspection and acceptance of materials or supplies will be made after delivery at destinations herein specified unless otherwise stated. If inspection is made after delivery at destination herein specified, the County will bear the expense of inspection except for the value of samples used in case of rejection. Final inspection shall be conclusive except in regard to latent defects, fraud or such gross mistakes as to amount to fraud. Final inspection and acceptance or rejection of the materials or supplies will be made as promptly as practicable, but failure to inspect and accept or reject materials or supplies shall not impose liability on the County for such materials or supplies as are not in accordance with the specifications.

49. COMPLIANCE-Delivery must be made as ordered and in accordance with the solicitation or as directed by the Purchasing Agent when not in conflict with the bid. The decision of the Purchasing Agent as to reasonable compliance with delivery terms shall be final. Burden of proof of delay in receipt of goods by the purchaser shall rest with the Contractor. Any request for extension of time of delivery from that specified must be approved by the Purchasing Agent, such extension applying only to the particular item or shipment affected. Should the Contractor be delayed by the County, there shall be added to the time of completion a time equal to the period of such delay caused by the County. However, the contractor shall not be entitled to claim damages or extra compensation for such delay or suspension. These conditions may vary for construction contracts. See Special Provisions for the individual solicitation.

50. POINT OF DESTINATION-All materials shipped to the County must be shipped F.O.B. DESTINATION unless otherwise stated in the contract or purchase order. The materials must be delivered to the "Ship to" address indicated on the purchase order.

51. ADDITIONAL CHARGES-Unless bought F.O.B. "shipping point" and Contractor prepays transportation, no delivery charges shall be added to invoices except when express delivery is authorized and substituted on orders for the method specified in the contract. In such cases, difference between freight or mail and express charges may be added to invoice.

52. METHOD AND CONTAINERS-Unless otherwise specified, goods shall be delivered in commercial packages in standard commercial containers, so constructed as to ensure acceptance by common or other carrier for safe transportation to the point of delivery. Containers become the property of the County unless otherwise specified by bidder.

53. WEIGHT CHECKING-Deliveries shall be subject to re-weighing over official sealed scales designated by the County. Payments shall be made on the basis of net weight of materials delivered. Normal shrinkage may be allowed in such instances where shrinkage is possible. Net weights only, exclusive of containers or wrapping, shall be paid for by the County.

54. DEMURRAGE AND RE-SPOTTING-The County will be responsible for demurrage charges only when such charges accrue because of the County's negligence in unloading the materials. The County will pay railroad charges due to the re-spotting of cars, only when such re-spotting is ordered by the County.

55. REPLACEMENT-Materials or components that have been rejected by the Purchasing Agent, in accordance with the terms of a contract, shall be replaced by the Contractor at no cost to the County.

56. PACKING SLIPS OR DELIVERY TICKETS-All shipments shall be accompanied by Packing Slips or Delivery Tickets and shall contain the following information for each item delivered:

1. The Purchase Order Number,
2. The Name of the Article and Stock Number (Supplier's),
3. The Fairfax County Identification Number (FCIN), if specified in the order,
4. The Quantity Ordered,
5. The Quantity Shipped,
6. The Quantity Back Ordered,
7. The Name of the Contractor.

Contractors are cautioned that failure to comply with these conditions shall be considered sufficient reason for refusal to accept the goods.

BILLING

57. BILLING-Billing for the Fairfax County Public Schools and for County agencies: Unless otherwise specified on the contract or purchase order (PO), invoices are to be submitted, in DUPLICATE, for each purchase order immediately upon completion of the shipment or services. If shipment is made by freight or express, the original Bill of Lading, properly receipted, must be attached to the invoice. Invoices should be mailed to the "BILL TO" address on the PO or to the appropriate address specified in the contract.

PAYMENTS

58. PAYMENT-Payment shall be made after satisfactory performance of the contract, in accordance with all of the provisions thereof, and upon receipt of a properly completed invoice. Fairfax County reserves the right to withhold any or all payments or portions thereof for Contractor's failure to perform in accordance with the provision of the contract or any modifications thereto.

59. PARTIAL PAYMENTS-Unless otherwise specified, partial payments will be made upon acceptance of materials or services so invoiced if in accordance with completion date. However, up to 5 percent (5%) of the value of the entire order may be retained until completion of contract.

General Conditions and Instructions to Bidders

60. PAYMENT FOR EQUIPMENT, INSTALLATION, AND TESTING-When equipment requires installation (which shall also be interpreted to mean erection and/or setting up or placing in position, service, or use) and test, and where such installation or testing is delayed, payment may be made on the basis of 50% of the contract price when such equipment is delivered on the site. A further allowance of 25% may be made when the equipment is installed and ready for test. The balance shall be paid after the equipment is tested and found to be satisfactory. If the equipment must be tested, but installation is not required to be made by the Contractor or if the equipment must be installed but testing is not required, payment may be made on the basis of 75% at the time of delivery and the balance shall be paid after satisfactory test or installation is completed.

GENERAL

61. GENERAL GUARANTY-Contractor agrees to:

a. Save the County, its agents and employees harmless from liability of any nature or kind for the use of any copyrighted or uncopyrighted composition; secret process, patented or unpatented; invention; article or appliance furnished or used in the performance of a contract for which the Contractor is not the patentee, assignee, licensee or owner.
b. Protect the County against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit or delivery.
c. Furnish adequate protection against damage to all work and to repair damages of any kind to the building or equipment, to his or her own work or to the work of other contractors, for which his or her workers are responsible.
d. Pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the County.
e. Protect the County from loss or damage to County owned property while it is in the custody of the Contractor.

62. SERVICE CONTRACT GUARANTY-Contractor agrees to:

a. Furnish services described in the solicitation and resultant contract at the times and places and in the manner and subject to conditions therein set forth provided that the County may reduce the said services at any time.
b. Enter upon the performance of services with all due diligence and dispatch, assiduously press to its complete performance, and exercise therein the highest degree of skill and competence.
c. All work and services rendered in strict conformance to all laws, statues, and ordinances and the applicable rules, regulations, methods and procedures of all government boards, bureaus, offices and other agents.
d. Allow services to be inspected or reviewed by an employee of the County at any reasonable time and place selected by the County. Fairfax County shall be under no obligation to compensate Contractor for any services not rendered in strict conformity with the contract.
e. Stipulate that the presence of a County Inspector shall not lessen the obligation of the Contractor for performance in accordance with the contract requirements, or be deemed a defense on the part of the Contractor for infraction thereof. The Inspector is not authorized to revoke, alter, enlarge, relax, or release any of the requirements of the contract documents. Any omission or failure on the part of the Inspector to disapprove or reject any work or material shall not be construed to be an acceptance of any such defective work or material. Notification of an omission or failure will be documented by the Purchasing Agent.

63. INDEMNIFICATION-Contractor shall indemnify, keep and save harmless the County, its agents, officials, employees and volunteers against claims of injuries, death, damage to property, theft, patent claims, suits, liabilities, judgments, cost and expenses which may otherwise accrue against the County in consequence of the granting of a contract or which may otherwise result therefrom, if it shall be determined that the act was caused through negligence or error, or omission of the Contractor or his or her employees, or that of the subcontractor or his or her employees, if any; and the Contractor shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and if any judgment shall be rendered against the County in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County as herein provided.

64. OFFICIALS NOT TO BENEFIT-

a. Each bidder or offeror shall certify, upon signing a bid or proposal, that to the best of his or her knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of his or her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.
b. Whenever there is reason to believe that a financial benefit of the sort described in paragraph "a" has been or will be received in connection with a bid, proposal or contract, and that the contractor has failed to disclose such benefit or has inadequately disclosed it, the County Executive, as a prerequisite to payment pursuant to the contract, or at any other time, may require the Contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.
c. In the event the bidder or offeror has knowledge of benefits as outlined above, this information should be submitted with the bid or proposal. If the above does not apply at time of award of contract and becomes known after inception of a contract, the bidder or offeror shall address the disclosure of such facts to the Fairfax County Purchasing Agent, 12000 Government Center Parkway, Suite 427, Fairfax, Virginia 22035-0013. Relevant Invitation/Request for Proposal Number (see cover sheet) should be referenced in the disclosure.

General Conditions and Instructions to Bidders

65. LICENSE REQUIREMENT-All firms doing business in Fairfax County, shall obtain a license as required by Chapter 4, Article 7, of The Code of the County of Fairfax, Virginia, as amended, entitled "Business, Professional and Occupational Licensing (BPOL) Tax." Questions concerning the BPOL Tax should be directed to the Department of Tax Administration, telephone (703) 222-8234 or visit: http://www.fairfaxcounty.gov/dta/business_tax.htm. The BPOL Tax number must be indicated in the space provided on the Cover Sheet, "Fairfax License Tax No." when appropriate.

66. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH: A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with a Fairfax County pursuant to the Fairfax County Purchasing Resolution shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. Fairfax County may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

67. COVENANT AGAINST CONTINGENT FEES-The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For violation of this warranty, the County shall have the right to terminate or suspend this contract without liability to the County or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

68. VIRGINIA FREEDOM OF INFORMATION ACT-All proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act (Reference Section 4.D., of the Fairfax County Purchasing Resolution)

BIDDER/CONTRACTOR REMEDIES

69. INELIGIBILITY-

a. Any person or firm suspended or debarred from participation in County procurement shall be notified in writing by the County Purchasing Agent.

   1. The Notice of Suspension shall state the reasons for the actions taken and such decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the Notice by instituting legal action as provided in the Code of Virginia.
   2. The Notice of Debarment shall state the reasons for the actions taken and the decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the notice by instituting legal action as provided in the Code of Virginia.

b. The County Purchasing Agent shall have the authority to suspend or debar a person or firm from bidding on any contract for the causes stated below:

   1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

   2. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County contractor;

   3. Conviction under the state or federal antitrust statutes arising out of the submission of bids or proposals;

   4. Violation of contract provisions, as set forth below, of a character which is regarded by the County Purchasing Agent to be so serious as to justify suspension or debarment action:

      (a) failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
      (b) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension or debarment;

   5. Any other cause the County Purchasing Agent determines to be so serious and compelling as to affect responsibility as a contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands;

   6. The contractor has abandoned performance or been terminated for default on any other Fairfax County project;

   7. The contractor is in default on any surety bond or written guarantee on which Fairfax County is an obligee.

c. If, upon appeal, it is determined that the action taken by the County Purchasing Agent was arbitrary or capricious, or not in accordance with the Constitution of Virginia, statutes or regulations, the sole relief available to the person or firm shall be restoration of eligibility. The person or firm may not institute legal action until all statutory requirements have been met.

General Conditions and Instructions to Bidders

70. APPEAL OF DENIAL OF WITHDRAWAL OF BID-

a. A decision denying withdrawal of a bid submitted by a bidder or offeror shall be final and conclusive unless the bidder appeals the decision within ten (10) days after receipt of the decision by instituting legal action as provided in the Code of Virginia. The bidder or offeror may not institute legal action until all statutory requirements have been met.

b. If no bid bond was posted, a bidder refused withdrawal of bid under the provisions of Article 2, Section 4 a.9, of the Fairfax County Purchasing Resolution, prior to appealing, shall deliver to the County a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.

c. If, upon appeal, it is determined that the decision refusing withdrawal of the bid was arbitrary or capricious, the sole relief shall be withdrawal of the bid.

71. APPEAL OF DETERMINATION OF NONRESPONSIBILITY-

a. Any bidder who, despite being the apparent low bidder, is determined not to be a responsible bidder for a particular County contract shall be notified in writing by the County Purchasing Agent. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within ten (10) days of receipt of the notice by instituting legal action as provided in the Code of Virginia. The bidder may not institute legal action until all statutory requirements have been met.

b. If, upon appeal, it is determined that the decision of the County Purchasing Agent was arbitrary or capricious and the award for the particular County contract in question has not been made, the sole relief available to the bidder shall be a finding that the bidder is a responsible bidder for the County contract in question. Where the award has been made and performance has begun, the County may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

72. PROTEST OF AWARD OR DECISION TO AWARD-

a. Any bidder or offeror may protest the award or decision to award a contract by submitting a protest in writing to the County Purchasing Agent, or an official designated by the County of Fairfax, no later than ten (10) days after the award or the announcement of the decision to award, whichever occurs first. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit such protest in the same manner no later than ten days after posting or publication of the notice of such contract as provided in Article 3, Section 4, of the Fairfax County Purchasing Resolution. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction which are subject to inspection under Article 2, Section 4d of the Fairfax County Purchasing Resolution, then the time within which the protest must be submitted shall expire ten days after those records are available for inspection by such bidder or offeror under Article 2, Section 4d, or at such later time as provided herein. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The County Purchasing Agent shall issue a decision in writing within ten (10) days of the receipt of the protest stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within ten (10) days of receipt of the written decision by instituting legal action as provided in the Code of Virginia.

b. If prior to award it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The County Purchasing Agent shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be declared void by the County. Where the award has been made and performance has begun, the County Purchasing Agent may declare the contract void upon a finding that this action is in the best interest of the County. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance at the rate specified in the contract up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

c. Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this article shall not be affected by the fact that a protest or appeal has been filed.

d. An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

73. CONTRACTUAL DISPUTES-

a. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the County Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy to the contractor within ninety (90) days. The decision of the County Purchasing Agent shall be final and conclusive unless the contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A contractor may not institute legal action, prior to receipt of the County Purchasing Agent's decision on the claim, unless the County Purchasing Agent fails to render such decision within the time specified.

General Conditions and Instructions to Bidders

b. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

74. LEGAL ACTION-No bidder, offeror, potential bidder or offeror, or contractor shall institute any legal action until all statutory requirements have been met.

75. COOPERATIVE PURCHASING-The County may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, or the District of Columbia, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for professional services, a public body may purchase from another public body's contract even if it did not participate in the request for proposal (RFP) or invitation for bid (IFB), if the RFP or IFB specified that the procurement was being conducted on behalf of other public bodies. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

76. PROFESSIONAL AFFILIATION-The Department of Purchasing & Supply Management holds membership in the National Institute of Governmental Purchasing, Inc., a non-profit, educational and technical organization that includes among its goals and objectives the study, discussion, and recommendation of improvements in governmental purchasing and the interchange of ideas and experiences on local state, and national governmental purchasing problems.

77. DRUG FREE WORKPLACE-During the performance of a contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract of over $10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to a contractor in accordance with this section, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

78. VENUE: This contract and its terms, including, but not limited to, the parties' obligations under it, the performance due from each party under it, and the remedies available to each party for breach of it, shall be governed by, construed and interpreted in accordance with the laws of the Commonwealth of Virginia. Any jurisdiction's choice of law, conflict of laws, rules, or provisions, including those of the Commonwealth of Virginia that would cause the application of any laws other than those of the Commonwealth of Virginia shall not apply. Any and all disputes, claims and causes of action arising out of or in connection with this contract or any performance hereunder, shall be brought in the applicable court of Fairfax County, Virginia, or in the United States District Court, Eastern District of Virginia, Alexandria Division.

79. IMMIGRATION REFORM AND CONTROL ACT: Contractor agrees that it does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

80. CONTRACTOR NOT TO BENEFIT: Contractor agrees that the goods and/or services provided to Fairfax County pursuant to this Agreement are for the benefit of Fairfax County and that Contractor shall not undertake any actions or efforts stemming from or related to this Agreement that shall inure to the detriment of Fairfax County. Any information provided to the Contractor for the performance of this Contract shall not be used for any other purpose without the written consent of the Purchasing Agent.

APPROVED:

/S/ David P. Bobzien
COUNTY ATTORNEY

/S/ Cathy A. Muse
COUNTY PURCHASING AGENT

OFFEROR DATA SHEET

NAME OF OFFEROR:_____

ADDRESS: _____

_____

E-MAIL ADDRESS: _____

Name and e-mail addresses of both service and fiscal representatives (Key Personnel) who would handle this account.

Service Representative: _____
Telephone Number: (___) _____
E-Mail Address: _____

Fiscal Representative: _____
Telephone Number: (___) _____
E-Mail Address: _____

Payment Address, if different from above:

_____

_____

VIRGINIA STATE CORPORATION COMMISSION (SCC)
REGISTRATION INFORMATION

The bidder:

☐ is a corporation or other business entity with the following SCC identification number: _____ **-OR-**

☐ is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust **-OR-**

☐ is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the bidder in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from bidder's out-of-state location) **-OR-**

☐ is an out-of-state business entity that is including with this bid/proposal an opinion of legal counsel which accurately and completely discloses the undersigned bidder's current contacts with Virginia and describes why whose contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.

Please check the following box if you have not checked any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for bids:

BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE

All firms located or operating in Fairfax County must obtain a Business, Professional and Occupational License (BPOL) as required by Chapter 4, Article 7, of the Code of the County of Fairfax, Virginia. In order for the Department of Tax Administration to determine your BPOL requirement prior to contract award, it is necessary for you to provide the following information:

- If you currently have a Fairfax County business license, please submit a copy with your proposal.
- Do you have an office in: Virginia ☐ Yes ☐ No
  Fairfax County ☐ Yes ☐ No
- Date business began/will begin work in Fairfax County

A detailed description of the business activity that will take place in Fairfax County. If business is located outside of Fairfax County, give the percentage of work actually to be done in the County

_____
_____
_____
_____
_____
_____
_____

_____ _____
Signature Date

<u>Complete and return this form or a copy of your current Fairfax County Business License with your proposal.</u>

CERTIFICATION REGARDING DEBARMENT OR SUSPENSION

In compliance with contracts and grants agreements applicable under the U.S. Federal Awards Program, the following certification is required by all offerors submitting a proposal in response to this Request for Proposal:

1. The Offeror certifies, to the best of its knowledge and belief, that neither the Offeror nor its Principals are suspended, debarred, proposed for debarment, or declared ineligible for the award of contracts from the United States federal government procurement or nonprocurement programs, or are listed in the *List of Parties Excluded from Federal Procurement and Nonprocurement Programs* issued by the General Services Administration.

2. "Principals," for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).

3. The Offeror shall provide immediate written notice to the Fairfax County Purchasing Agent if, at any time prior to award, the Offeror learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. This certification is a material representation of fact upon which reliance will be placed when making the award. If it is later determined that the Offeror rendered an erroneous certification, in addition to other remedies available to Fairfax County government, the Fairfax County Purchasing Agent may terminate the contract resulting from this solicitation for default.

Printed Name of Representative: _____

Signature/Date: _____/_____

Company Name: _____

Address: _____

City/State/Zip: _____

SSN or TIN No: _____

Certification Regarding Ethics in Public Contracting

In submitting this proposal and signing below, Offeror certifies the following in connection with a bid, proposal, or contract:

Check one:

☐ 1. I have not given any payment, loan, subscription, advance, monetary deposit, services or anything of more than nominal value to any public employee or official who has official responsibility and authority for procurement transactions.

☐ 2. I have given a payment, loan, subscription, advance, monetary deposit, services or anything of more than nominal value to a public employee or official who has official responsibility and authority for procurement transactions, and in exchange I received consideration of substantially equal or greater value.

☐ 3. I have given a payment, loan, subscription, advance, monetary deposit, services or anything of more than nominal value to a public employee or official who has official responsibility and authority for procurement transactions, but in exchange I have not received consideration of substantially equal or greater value.

If #2 above is selected, please complete the following:

Recipient: _____

Date of Gift: _____

Description of the gift and its value:

_____

_____

Description of the consideration received in exchange and its value:

_____

_____

_____

Printed Name of Bidder/Offeror Representative: _____

Signature/Date: _____/_____

Company Name: _____

Company Address: _____

City/State/Zip: _____

This certification supplements but does not replace the requirements set forth in paragraph 64 (OFFICIALS NOT TO BENEFIT) of the General Conditions and Instructions to Bidders included in this solicitation.

Sample Listing of Local Public Bodies

REFERENCE PARAGRAPH 31 OF THE SPECIAL PROVISIONS,"USE OF CONTRACTS BY OTHER PUBLIC BODIES." You may select those public bodies that this contract may be extended to; a "blank" will signify a "NO" response:

	Alexandria Public Schools, VA		Manassas Park, Virginia
	Alexandria Sanitation Authority		Maryland-National Capital Park & Planning Commission
	Alexandria, Virginia		Maryland Transit Administration
	Arlington County, Virginia		Metropolitan Washington Airports Authority
	Arlington Public Schools, Virginia		Metropolitan Washington Council of Governments
	Bladensburg, Maryland		Montgomery College
	Bowie, Maryland		Montgomery County, Maryland
	Charles County Public Schools, MD		Montgomery County Public Schools
	College Park, Maryland		Northern Virginia Community College
	Culpeper County, Virginia		Omni Ride
	District of Columbia		Potomac & Rappahannock Trans. Commission
	District of Columbia Courts		Prince George's County, Maryland
	District of Columbia Public Schools		Prince George's County Public Schools
	DC Water and Sewer Authority		Prince William County, Virginia
	Fairfax County Water Authority		Prince William County Public Schools, VA
	Fairfax, Virginia (City)		Prince William County Service Authority
	Falls Church, Virginia		Rockville, Maryland
	Fauquier County Government and Schools, Virginia		Spotsylvania County Schools, Virginia
	Frederick, Maryland		Stafford County, Virginia
	Frederick County Maryland		Takoma Park, Maryland
	Gaithersburg, Maryland		Upper Occoquan Sewage Authority
	Greenbelt, Maryland		Vienna, Virginia
	Herndon, Virginia		Virginia Railway Express
	Leesburg, Virginia		Washington Metropolitan Area Transit Authority
	Loudoun County, Virginia		Washington Suburban Sanitary Commission
	Loudoun County Public Schools		Winchester, Virginia
	Loudoun County Sanitation Authority		Winchester Public Schools
	Manassas, Virginia		
	Manassas City Public Schools, Virginia		

Complete and return this form with your proposal.

_____
Vendor Name

BUSINESS CLASSIFICATION

DEFINITIONS

Small Business – means a business, independently owned or operated by one or more individuals who are U.S. citizens or legal resident aliens, and together with affiliates, has 250 or fewer employees, or average annual gross receipts of $10 million or less averaged over the previous three years. One or more of the individual owners shall control both the management and daily business operations of the small business.

Minority-Owned Business - means a business concern that is at least 51% owned by one or more minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51% of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more minority individuals.

Woman-Owned Business – means a business that is at least 51% owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51% of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women.

YOU MUST CLASSIFY YOUR BUSINESS/ORGANIZATION BY MARKING THE APPROPRIATE BOXES ON THE COVER SHEET (DPSM32). This designation is required of all business/organizations including publicly traded corporations, non-profits, sheltered workshops, government organizations, partnerships, sole proprietorships, etc.

PROPRIETARY INFORMATION:

Ownership of all data, materials, and documentation originated and prepared for the Owner pursuant to the REQUEST FOR PROPOSAL shall belong exclusively to the Owner and be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by an Offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act, however, the Offeror must invoke the protections of Section 2.2-4342F of the Code of Virginia, in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information.

NOTICE OF PROPRIETARY INFORMATION

Confidentiality References Protection in Accordance with the Code of Virginia, Section 2.2-4342F

Section Title	Page Number	Reason(s) for Withholding from Disclosure

INSTRUCTIONS: Identify the data or other materials to be protected and state the reasons by using the codes listed below. Indicate the specific words, figures, or paragraphs that constitute trade secrets or proprietary materials.

A. This page contains information relating to "trade secrets', and "proprietary information" including processes.
Operations, style of work, or apparatus, identify confidential statistical data, amount or source of any income... of any person (or) partnership. "Reference the Virginia Public Procurement Act,,Section 2.2-4342F. Unauthorized disclosure of such information would violate the Trade Secrets Act 18 U.S.C. 1905.

B. This page contains proprietary information including confidential, commercial or financial information which was provided to the Government on a voluntary basis and is of the type that would not customarily be released to the public. See Virginia Public Procurement Act, Section 2.2-4342F; 5 U.S.C. 552 (b)(4); 12 C.F.R. 309.5(c)(4).

C. This page contains proprietary information including confidential, commercial or financial information. This disclosure of such information would cause substantial harm to competitive position and impair the Government's ability to obtain necessary information from contractors in die future. 5 U.S.C. See Virginia Public Procurement Act. Section 2.2-4342F; 552 (b)(4); 12 C. F. R 309.5(c)(4).

RETURN THIS PAGE, IF APPLICABLE

FAIRFAX COUNTY PUBLIC SCHOOLS

Department of Financial Services / Office of Procurement Services
8115 Gatehouse Road, Suite 4400
Falls Church, VA 22042-1203
http://www.fcps.edu/fs/procurement
Telephone: 571-423-3550 Fax: 571-423-3576

SUBCONTRACTOR (S) NOTIFICATION FORM

Contract Number/Title: _____

Prime Contractors Name: _____

Prime Contractor's Classification: _____

You are required to provide the County with names, addresses, anticipated dollar amount and small/minority classification of each first-tier subcontractor (ref. paragraph 30, Special Provisions). Please complete this form and return it with your submission.

Please check here if you are not using a subcontractor: _____

SUBCONTRACTOR(S) NAME	STREET ADDRESS	CITY	STATE	ZIP CODE	ANTICIPATED DOLLAR AMOUNT	VENDOR CLASSIFICATION

Complete and return this form with your proposal.

PRICING SCHEDULE

PLEASE NOTE:

If the "Digital" column is marked, indicate length of subscription (in years) included with purchase in the "Subscription Length" column

Include all of the digital subcription options that are available. FCPS prefers to have short, moderate and long subscribtion options.

If a bundle is submitted as a line item below, provide comprehensive information describing which items are included in the bundle (use additional documentation if necessary)

If a line item may be offered gratis, provide indicate that in the "Gratis" column and provide details elsewhere describing terms of discount

Additional documentation can be used to provide more information for line items, if necessary. Please indicate on any additional documention to which line item it refers.

								Mark all that apply					
Line Item #	**Language level**	**ISBN**	**Textbook Title**	**Author(s)/ Editor(s)**	**Edition**	**Copyright Year**	**UOM**	**Print**	**Digital**	**Disc**	**Subscription Length**	**Contract Price**	**Gratis (Y/N), provide details**
1													
2													
3													
4													
5													
6													
7													
8													
9													
10													
11													

PRICING SCHEDULE

12															
13															
14															
15															
16															
17															
18															
19															
20															
21															
22															

PART I

TECHNICAL REQUIREMENTS

Instructions: For each resource submitted, **Offeror must provide at least one example to show how the proposed resource meets each criterion 1-9 below**. It is requested that the Offeror include screenshots, excerpts or images from the resource rather than simply referencing certain page numbers to illustrate or explain each example used.

1	Lessons are aligned with State and FCPS Standards **(Ref: Special Provisions, Section 1.3)**
2	Exercises are included that allow students to practice essential skills
3	Content is organized so that scope and sequence is easy to read and understand. Content format includes titles, subheadings, and appropriate cross-referencing for ease of use and understanding.
4	Writing style, syntax and vocabulary are appropriate and enhance student understanding. Vocabulary consists of both familiar and challenging words.
5	Graphics and illustrations are accurate, support the text, and enhance student understanding
6	Textbook includes opportunities for students to integrate skills and concepts
7	Online version of the textbook includes audio, video, interactive and/or assessment functionality
8	Cumulative vocabulary/grammar sections are provided at each level
9	The program supports and promotes language learning and cultural awareness

TECHNICAL REQUIREMENTS

PART II

Instructions: Any resources with a digital or online component must meet or exceed the functionality requirements below. **The Offeror must provide an explanation of how they meet or exceed each criterion.** Expected functionality is indicated with an (E) and desired functionality is indicated with a (D).

Level = (E) Expected Functionality, (D) Desired Functionality

		Level
	Delivery Methods:	
1	Content must be fully accessible through FCPS supported browsers. Provide a list of all minimum browsers, versions, plugins required, and client operating systems as well as browsing functionality that may require compatibility mode. Describe the process for updating to support new browsers versions and the policy for supporting older browsers.	E
1a	Online Textbook must be certified against Internet Explorer 11 and later.	E
1b	Online Textbook must be certified against Firefox 44 and later.	E
1c	Online Textbook must be certified against Chrome (latest version) and later.	E
2	Content must be accessible via mobile device, either via browsers in a Responsive Web Design (RWD) format or in a mobile app. Provide description of:	E
2a	Mobile support of IOS.	D
2b	Mobile support of android.	D
3	Offeror will provide a full offline version of the textbook in the format of an app, ePub, pdf or equivalent.	D
4	Describe what product features, if any, can be used when the user is *not* connected to the Internet.	E
	Maintenance, Upgrades, and Planned Outages:	
5	FCPS prefers that the system be available to a level of 99.9%, calculated over a 30 day period, 24/7, outside of regularly-scheduled maintenance and/or update windows. Offeror must provide the system's actual monthly availability for the last school year.	E
5a	Describe the credit structure in place for failure to meet 99.9% SLA.	D
5b	Describe the credit structure if any individual application features or components are not available (such as videos, quizes, interactive content) 99.9% SLA.	D
6	The Offeror will provide identified FCPS contact with at least 7 days notification of any planned service outage. The Offeror will post this notification to any user log-in into the textbook or accessing online resources for at least 7 days prior to the planned service outage.	E
7	When regular scheduled maintenance is required, when and how long is the "down-time" period? Provide the current yearly schedule and the schedule for previous year(s).	E

TECHNICAL REQUIREMENTS

PART II

Instructions: Any resources with a digital or online component must meet or exceed the functionality requirements below. **The Offeror must provide an explanation of how they meet or exceed each criterion.** Expected functionality is indicated with an (E) and desired functionality is indicated with a (D).

Level = (E) Expected Functionality, (D) Desired Functionality

		Level
	Account Management and Authentication:	
8	The system should support the option of Authentication of Users via interaction with district identity management server (Novell Access Manager) using SAML, Shibboleth, or LDAP. Provide detailed documentation for how the system integrates with these methods.	D
9	The system shall support unique UserID for FCPS students, teachers and staff specified by FCPS and independent of other using institutions.	E
9a	Accounts must be set up on a schedule determined by FCPS prior to the start of the school year.	E
10	The system will support User account creation and maintenance performed using an automated method on a daily basis (SFTP, cURL etc.). Detailed results for each processed data file shall be made available, or delivered, to FCPS using an automated method. Describe these options in detail. If this functionality is not currently available, please answer 11.	D
11	If 10 cannot currently be met, please detail the Offeror's intent and/or options to develop processes that adequatly meet the need to meet the requirements of 10 and the anticipated timeline of completion. If 10 is met, maximum points are issued for this item.	E
12	The system shall have a configurable idle time-out and maximum log on attempt. Describe the defaults and options for configuration.	E
13	The system shall provide the capability to enforce complex password policy as well as provide capability to enforce different password policies for different groups of users. The FCPS security policy (Regulation 6225.5) is linked for further information: http://www.boarddocs.com/vsba/fairfax/Board.nsf/files/8YCPFY647147/$file/R 6225.pdf. Complex password policy: An employee's, contractor's, or a middle or high school student's password must be at least eight (8) characters long and must contain at least one (1) uppercase alphabetic character, one (1) lowercase alphabetic character, and one (1) numeral.	E
14	Passwords shall be transmitted and stored in an encrypted format.	E
15	Offeror must describe the system's password management capabilities (i.e., admin reset, global reset, individual self-service reset, forced change, etc.).	E
15a	Indicate whether the proposed system provides the ability to require the end user to change passwords upon initial login.	D
15b	Describe password self-service.	E
15c	Password change and resets must be configurable. Describe how they are configurable in the proposed system.	E

TECHNICAL REQUIREMENTS

PART II

Instructions: Any resources with a digital or online component must meet or exceed the functionality requirements below. **The Offeror must provide an explanation of how they meet or exceed each criterion.** Expected functionality is indicated with an (E) and desired functionality is indicated with a (D).

Level = (E) Expected Functionality, (D) Desired Functionality

		Level
	Standards Support:	
16	Offeror should conform to and deliver access to content via IMS Global Learning Tools Interoperability v1.1 (or higher) standard. Describe the system's support for IMS standards including LTI Common Cartridge Thin Common cartridge, and IMS One Roster.	D
17	Offeror should provide Common Cartridge v1.3 (or higher) in the format for provisioning of LTI links. Metadata provided in Common Cartridge must map to the following user types: School Admin, Principal, Curriculum Admin, Admin, Teacher, and Student, with rights customizable by user type.	D
	Reporting:	
18	Offerors should provide reports, preferrably daily usage reports (total daily logins for students and teachers separately), for the last 30, and 90 days, and for the full school year. In addition, Offerors should provide a listing of support tickets reported with ticket details including resolutions when requested. Reports should be provided within 5 days of request. Reports shall be delivered to the designated FCPS representative in Microsoft Excel or CSV format unless otherwise agreed upon in writing. Describe current reporting capabilities and anticipated future reporting capabilities available to FCPS. Indicate if reports are able to be self-generated by FCPS or available by request.	E
	Roles and Managements Capabilities:	
19	The system shall support a role-based access system following the "need to know" principle. This principle requires each user be granted the most restrictive set of privileges needed for the performance of authorized tasks. The system shall support controls to ensure the provision of, and access to data, features, functionality, and administrative capabilities based on end users permissions for delivery of services based on end-user roles. List and describe the user roles within the system and access to data.	E
20	Describe any class, school and central district management portal or other administrative features.	E
21	Role permissions shall be configurable at the district level.	D
	Network and Caching:	
22	Describe any system features that would consume a significant amount of network bandwidth. Provide average usage.	E
23	FCPS requires that, where appropriate, the system should be programmed to be HTTP cacheable by the FCPS Content Engine, Blue Coat, in a mutually agreeable technical manner.	D

TECHNICAL REQUIREMENTS

PART II

Instructions: Any resources with a digital or online component must meet or exceed the functionality requirements below. **The Offeror must provide an explanation of how they meet or exceed each criterion.** Expected functionality is indicated with an (E) and desired functionality is indicated with a (D).

Level = (E) Expected Functionality, (D) Desired Functionality

		Level
	Support:	
24	Offeror must provide clearly visible support contact information within the online environment. At a minimum, support hours must be Monday - Friday with weekend support hours also provided. Evening hours also preferred. Provide all support hours for students, teachers and staff.	E
25	Escalation phone support must be provided for designated FCPS contacts. Identify escalation contacts. Describe hours of availability for tier 2 and tier 3 technical support coverage. Describe process and procedures for escalation and documented response and reconciliation targets by severity and impact.	E
26	Describe the methods of support provided to the district and to end-users. e.g. Toll-free help-desk live operator, email, live chat. Explain and state the hours that each support type is available. (Describe hours of availability for tier 1 & 2 support coverage.)	E
27	Provide a report over the current school year outlining the top 10 customer reported issues for the product(s) being proposed. Note their frequency, impact, the resolution, and the time to resolve.	E
28	Offeror should provide a web-based incident tracking system allowing designated FCPS support contacts to create and track system problems. Describe current incident tracking capabilities.	D
29	The system shall provide an online knowledge base. Describe what tools and documentation are available and accessible online that provide training materials, support references, and quick reference guides.	E
30	The Offeror shall provide details on version releases to the designated FCPS contract at a minimum of 7 days before the release.	E
31	In addition to scheduled maintenance and service outages, describe the Offeror notification processes to clients (e.g. via email or other) concerning upcoming releases, fixes, changes, and retirements.	E
	Security and Privacy:	
32	**Encryption:** All user names and logins, and all transfer of student data via web browser, mobile app or API must be encrypted (e.g. TLS). Any passwords or other sensitive student data stored locally on the client (e.g. on a mobile device, or HTML local storage) must be encrypted.	E
32a	The Offeror shall provide information and documentation on the security of data at rest.	E
33	**Data location**: Any student identifiable data must be stored in servers based in the United States. Identify state in which servers are located.	E

TECHNICAL REQUIREMENTS

PART II

Instructions: Any resources with a digital or online component must meet or exceed the functionality requirements below. **The Offeror must provide an explanation of how they meet or exceed each criterion.** Expected functionality is indicated with an (E) and desired functionality is indicated with a (D).

Level = (E) Expected Functionality, (D) Desired Functionality

34	**Data seizure or disclosure**: Access to FCPS data shall only be in response to a properly issued subpoena.	E
34a	The Offeror should describe the system safeguards in place to prevent unauthorized access to the system.	E
35	**Auditing:** The Offeror shall describe the auditing capacity of the system.	E
35a	The system shall provide logon/logoff monitoring and support activity-based auditing when requested by FCPS	E
35b	The system shall provide FCPS an audit report that details account privileges that can be filterable by school and role.	E
36	**Privacy Policies:** Privacy policies must be posted online and accessible to all users. Notice of changes to policies should be provided to the designated FCPS contact no later than within 24 hours of their effective date. FCPS requires that the Offeror be a signatory to the SIIA/Future of Privacy Forum student data privacy pledge (http://studentprivacypledge.org/) or certify in writing that they provide equivalent or better assurances. Provide documentation of pledge signature or certification of assurances equal to or greater than those required by the pledge.	E
37	The Offeror must agree to sign and comply with the FCPS confidentiality addendum at the time of contract award **(Ref: Attachment B for sample)**	E
38	The Offeror shall list any 3rd party tracking or advertising networks used in the system.	E
39	**Secure Web Development:** The Offeror must provide information on how the system support secure web environment, including but not limited to, cookie handling, input validation, directory browsing control, and system hardening.	E
39a	If the application provides a system-wide directory listing, it must also provide a method to delist a student in the directory. Describe method used.	E
40	The Offeror shall describe current processes and policies for host site security, including but not limited to, physical access control, virus protection, system updates, server and device security standard, backup and disaster recovery, change management, and incident handling.	E

Instructions: For each resource submitted, **Offeror must provide at least one example to show how the proposed resource's ancillary materials meets each criterion 1-5 below**. It is requested that the Offeror include screenshots, excerpts or images from the resource rather than simply referencing certain page numbers to illustrate or explain each example used.

1	Ancillary Resources encourage the development of speaking, writing, listening, and reading skills in the target language through a variety of authentic, culturally relevant, and interactive language learning activities	
2	Ancillary Resources address varied student learning needs through differentiated practice opportunities across the four skills area (speaking, reading, listening, and writing)	
3	Ancillary Resources provide a range of formative, summative, and self-assessment opportunities	
4	Ancillary Resources include reading, listening, and viewing materials representing an array of areas where the target language is spoken	
5	Ancillary Resources promote the development of critical and creative thinking skills	

Confidentiality Addendum - SAMPLE

THIS ADDENDUM, executed and effective as of the ___ day of _____, 2017, by and between the _____, a corporation organized and existing under the laws of _____ (the "Company"), and the **FAIRFAX COUNTY SCHOOL BOARD**, a public body corporate and politic organized and existing under the laws of the Commonwealth of Virginia (the "School Board"), recites and provides as follows.

Recitals

The Company and the School Board are parties to a certain agreement entitled "_____" of even date herewith (the "Agreement"). In connection with the execution and delivery of the Agreement, the parties wish to enter into this Addendum in order to clarify and make certain modifications to the terms and conditions set forth therein.

The Company and the School Board agree that the purpose of such terms and conditions is to ensure compliance with the Family Educational Rights and Privacy Act (FERPA), including but not limited to (i) the identification of Company as an entity acting for the School Board in its performance of functions that a School Board employee otherwise would perform; and (ii) the establishment of procedures for the protection of confidential student records, including procedures regarding security and security breaches.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged hereby, the parties agree as follows.

Agreement

The Agreement is amended hereby as follows:

1. The following provisions shall be deemed to be included in the Agreement:

Confidentiality Obligations Applicable to Certain FCPS Student Records. The Company hereby covenants and agrees that it shall maintain, in strict confidence and trust, all FCPS student records containing either (1) non-directory information of any kind, whether provided by or created for FCPS pursuant to this contract, or (2) directory information as to which the eligible student or his family has opted out of disclosure (collectively, "FCPS Confidential Student Records").

The Company shall cause each officer, director, employee and other representative who shall have access to FCPS Confidential Student Records during the term of the Agreement (collectively, the "Authorized Representatives") to maintain in strict confidence and trust all FCPS Confidential Student Records. The Company shall take all reasonable steps to insure that no FCPS Confidential Student Records are disclosed to any person or entity except those who (i) are Authorized Representatives of the Company performing functions for FCPS under the Agreement and have agreed to be bound by the terms of this Agreement or a Confidentiality Agreement (as defined below) executed pursuant hereto; (ii) are authorized representatives of FCPS, or (iii) are entitled to such FCPS Confidential Student Records from the Company pursuant to federal and/or Virginia law. The Company shall use FCPS Confidential Student Records, and shall take all reasonable steps necessary to ensure that its Authorized Representatives shall use such records, solely for purposes related to and in fulfillment of the performance by the Company of its obligations pursuant to the Agreement.

The Company shall: (i) designate one of its Authorized Representatives to be responsible for ensuring that the Company and its Authorized Representatives maintain the FCPS Confidential Student Records as confidential; (ii) train the other Authorized Representatives with regard to their

confidentiality responsibilities hereunder and pursuant to federal and Virginia law; (iii) maintain at all times a list of Authorized Representatives with access to FCPS Confidential Student Records; (iv) cause each Authorized Representative to execute a written covenant of confidentiality in substantially the form set forth on Exhibit A hereto (the "Confidentiality Agreement") prior to his or her performance of any services contemplated by the Agreement and shall deliver any and all such Confidentiality Agreements to the School Board upon request.

Other Security Requirements. The Company shall maintain all technologies, policies, procedures and practices necessary to secure and protect the confidentiality and integrity of FCPS Confidential Student Records, including procedures to (i) restrict access to such records as described in the "Confidentiality" provision of this Addendum; (ii) establish user IDs and passwords as necessary to protect such records; (iii) protect all such user passwords from detection and unauthorized use; (iv) prevent hostile or unauthorized intrusion that could compromise confidentiality, result in data corruption, or deny service; (v) prevent and detect computer viruses from spreading to disks, attachments to e-mail, downloaded files, and documents generated by word processing and spreadsheet programs; (v) minimize system downtime; (vi) notify FCPS of planned system changes that may impact the security of FCPS Confidential Student Records; (vii) return or destroy FCPS Confidential Student Records that exceed specified retention schedules; (viii) permit periodic security audits by FCPS or designated third party using applicable regulations and industry best practice standards as benchmarks, and make commercially reasonable efforts to remediate the vulnerabilities discovered; (ix) in the event of system failure, enable immediate recovery of FCPS records to the previous business day.

In the event of a security breach, the Company shall (i) immediately take action to close the breach; (ii) notify FCPS within 24 hours of Company's first knowledge of the breach, the reasons for or cause of the breach, actions taken to close the breach, and identify the FCPS Confidential Student Records compromised by the breach; (iii) return compromised FCPS Confidential Student Records for review; (iv) provide communications on the breach to be shared with affected parties and cooperate with FCPS efforts to communicate to affected parties by providing FCPS with prior review of press releases and any communications to be sent to affected parties; (v) take all legally required, reasonable, and customary measures in working with FCPS to remediate the breach which may include toll free telephone support with informed customer services staff to address questions by affected parties and/or provide monitoring services if necessary given the nature and scope of the disclosure; (vi) cooperate with FCPS by providing information, records and witnesses needed to respond to any government investigation into the disclosure of such records or litigation concerning the breach; and (vii) provide FCPS with notice within 24 hours of notice or service on Company, whichever occurs first, of any lawsuits resulting from, or government investigations of, the Company's handling of FCPS records of any kind, failure to follow security requirements and/or failure to safeguard confidential information. The Company shall provide satisfactory documentation of its compliance with the security requirements of this provision prior to performing services under the Agreement. The Company's compliance with the standards of this provision is subject to verification by FCPS personnel or its agent at any time during the term of the Agreement.

Applicability of Confidentiality and Security Provisions to Non-Confidential Records

To the extent that FCPS provides non-confidential information to Company under this Agreement, such as student records containing only directory information as to which no opt-out has been filed, de-identified student information, and FCPS records not pertaining to students, the Confidentiality and Security paragraphs shall not apply, *provided that* the notice obligation under subsection (viii) shall apply to lawsuits and investigations involving FCPS records of any kind.

Disposition of FCPS Confidential Student Records Upon Termination of Agreement

Upon expiration of the term of the Agreement, or upon the earlier termination of the Agreement for any reason, the Company covenants and agrees that it promptly shall deliver to the School Board, and shall take all reasonable steps necessary to cause each of its Authorized Representatives

promptly to deliver to the School Board, all FCPS Confidential Student Records. The Company hereby acknowledges and agrees that, solely for purposes of receiving access to FCPS Confidential Student Records and of fulfilling its obligations pursuant to this provision and for no other purpose (including without limitation, entitlement to compensation and other employee benefits), the Company and its Authorized Representatives shall be deemed to be school officials of the School Board, and shall maintain FCPS Confidential Student Records in accordance with all federal state and local laws, rules and regulations regarding the confidentiality of such records. The non-disclosure obligations of the Company and its Authorized Representatives regarding the information contained in FCPS Confidential Student Records shall survive termination of the Agreement. The Company shall indemnify and hold harmless the School Board from and against any loss, claim, cost (including attorneys' fees) or damage of any nature arising from or in connection with the breach by the Company or any of its officers, directors, employees, agents or representatives of the obligations of the Company or its Authorized Representatives under this provision or under a Confidentiality Agreement, as the case may be.

Certain Representations and Warranties. The Company hereby represents and warrants as follows: (i) the Company has full power and authority to execute the Agreement and this Addendum and to perform its obligations hereunder and thereunder; (ii) the Agreement and this Addendum constitute the valid and binding obligations of the Company, enforceable in accordance with their respective terms, except as such enforceability may be limited by bankruptcy or similar laws affecting the rights of creditors and general principles of equity; and (iii) the Company's execution and delivery of the Agreement and this Addendum and compliance with their respective terms will not violate or constitute a default under, or require the consent of any third party to, any agreement or court order to which the Company is a party or by which it may be bound.

Governing Law; Venue. Notwithstanding any provision contained in the Agreement to the contrary, (i) the Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without reference to conflict of laws principles; and (ii) any dispute hereunder which is not otherwise resolved by the parties hereto shall be decided by a court of competent jurisdiction located in the Commonwealth of Virginia.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed by their duly authorized officers effective as of the date first written above.

[Company]

By:_____
[Name and Title]

FAIRFAX COUNTY SCHOOL BOARD

By:_____
Roger L. Ball
Director of Office of Procurement Services

Department of Financial Services

FAIRFAX COUNTY
PUBLIC SCHOOLS

Office of Procurement Services
8115 Gatehouse Road, Suite 4400
Falls Church, Virginia 22042-1203
Telephone: 571-423-3550

Exhibit A

Covenant of Confidentiality - SAMPLE

In connection with the performance by _____ (the "Company") of its obligations under that certain agreement with the Fairfax County School Board dated _____, 2017, as the same shall have been amended by that certain Addendum of even date therewith (the "Agreement"), the undersigned authorized representative of the Company (the "Authorized Representative"), for good and valuable consideration, the receipt and sufficiency of which is acknowledged, hereby covenants and agrees as follows, with knowledge that the Fairfax County School Board is relying upon the statements set forth herein.

The Authorized Representative hereby covenants and agrees that he or she: (i) shall maintain in strict confidence and trust all records, reports and other documents or materials of any nature relating to the operations, students, families and employees of Fairfax County Public Schools (collectively, the "FCPS Confidential Student Records"); (ii) shall not disclose any FCPS Confidential Student Records to any person or entity who has not agreed to be bound by the terms of the Agreement, or a sworn statement executed pursuant thereto, unless the person or entity is an Authorized Representative of FCPS or is otherwise entitled to access to such FCPS Confidential Student Records pursuant to federal and/or Virginia law; (iii) shall use the FCPS Confidential Student Records solely for purposes related to and in furtherance of the performance by the Company of its obligations pursuant to the Agreement; (iv), upon expiration of the term of the Agreement, or upon the earlier termination of the Agreement for any reason, promptly shall deliver all FCPS Confidential Student Records to Fairfax County Public Schools; (v) shall continue to maintain as confidential all information obtained from FCPS Confidential Student Records after the expiration or termination of the Agreement.

IN WITNESS WHEREOF, the Authorized Representative has executed this Covenant of Confidentiality as of the __ day of _____, 2017.

_____
[Name]

_____
[Address]

_____

(___)____-_____
[Telephone No.]

Publisher Certification and Agreement
including Content Review Submission Forms

Introduction

For the purposes of this document, the term "resources" means print or electronic media for student use that serve as the primary resource for a grade-level subject or course.

By submitting resources for evaluation, publishers agree to follow the procedures set forth in this document. Failure to comply with all procedures may result in disqualification of the resource as a part of the review and approval process.

Primary Material Submitted for Review

As noted in Section 22.1-238.C of the *Code of Virginia* above, the term resource refers to print or electronic media for student use that serves as the primary resource for a grade-level subject or course.

For the remainder of this document, such instructional media will be referred to as "primary material." Primary material contains the content information that is the basis for the grade-level subject or course. Review committees will review the material selected by the publisher as the "primary material."

In submitting their materials for review, publishers must provide an explanation of if and how the content in the primary material medium (digital or print) is different from or comparable to that offered in the other medium. For example, digital primary material may contain items such as embedded video clips or content that is delivered through an interactive format.

Submission Forms

Publishers must complete the Publisher's Certification and Agreement listing all primary materials submitted for review consideration at the time it signals intent to submit resources for review as part of FCPS's basal resource approval process.

Publisher's Certification

Only one copy is required per proposal submission provided all resources submitted are included below. Print and complete additional pages if more space is necessary.

_____
(Date)

_____
(Publishing Company)

Name of Primary Contact: _____
Phone Number, including area code: _____
E-mail Address: _____

The publishing company indicated above submits the following primary materials to the FCPS for consideration in resource approval process.

Line Item # on Pricing Schedule	Title	ISBN	Copyright	Grade Level or Course

The PUBLISHER certifies the following:

1. Each resource has been thoroughly examined and reviewed by at least three qualified content experts for factual accuracy in the subject matter and the resources are free from any factual or editing errors. The credentials of the author(s) and/or editor(s) and content review experts are provided on the attached forms which must be completed and accompany the submitted proposal.
2. Each resource has been thoroughly examined and reviewed by qualified editors to identify any typographical errors.
3. Any duplicate version (i.e., print or digital) of the primary material that is available to Virginia school divisions contains at least the same content included in the primary material selected by the publisher for review. Any additional content, above that contained in the primary material reviewed is accurate and free of errors. If the content of the print and digital versions of the same primary material varies, those variations are outlined in an attachment to the certification.
4. The Quality Assurance and Editing Process described below was followed for all primary materials submitted by the publisher for review.

Quality Assurance and Editing Process: Please describe, ***in three pages or less*****,** the internal process used to ensure accuracy and lack of bias including:

- the quality assurance and workflow steps used to ensure accuracy of content;
- the quality assurance and workflow steps used to eliminate editing and typographical errors, including errors in grammar, written expression, spelling, formatting, and other substantive elements that may affect student learning;
- the fact-back-up guidelines (i.e., what is an acceptable source for a fact and what is not) used by the authors, editors, and outside content experts;
- the review by outside content experts, other than the authors, to verify accuracy and ensure freedom from bias; and
- the process used to reach consensus on information with divergent interpretations.

Publisher's Agreement

Only one copy is required per proposal submission.

The PUBLISHER agrees to the following:

1. After submission of a resource to FCPS for consideration in the basal resource approval process, the PUBLISHER will promptly inform FCPS in writing of any changes made in the resource prior to its approval by the School Board.
2. If any factual or editing errors are identified in a PUBLISHER's resource following its approval by the School Board, the PUBLISHER will submit a corrective action plan to FCPS within 30 days of being notified by FCPS of the errors. Each corrective action plan must be tailored to the materiality of the errors identified and must be implemented in the manner most conducive to and least disruptive of student learning. Corrective action plans may include, but are not limited to: a) corrections upon reprinting of the resource; b) corrective edits to an online resource; c) electronic errata sheets posted on the PUBLISHER's and FCPS's Web sites; d) print errata sheets provided to schools for insertion into resources; e) replacement books; and f) return of the resource and refund of any payment made for the resource. Upon approval of the corrective action plan, the PUBLISHER will implement the plan at the PUBLISHER's expense.
3. If, upon being notified by FCPS of factual or editing errors in an approved resource, the PUBLISHER disputes that the resource contains such errors, the PUBLISHER must submit a written explanation of its position to FCPS within 30 days of receiving notice from FCPS of the error. Upon request, the PUBLISHER may meet with FCPS. The School Board reserves to itself the right to make a final determination of whether the resource contains a factual or editing error. If the School Board determines that the resource contains such an error, the PUBLISHER will submit a corrective action plan to FCPS within 15 days after receiving notice of the School Board's determination.
4. If numerous and/or significant errors are identified in a resource on the School Board's approved list, the School Board may, in its sole discretion, withdraw the resource from the approved list. The School Board must notify the PUBLISHER in writing before it removes its resource from the approved list. The PUBLISHER will have 30 days to respond in writing and the right to meet with FCPS before removal. A "significant error" is a factual or editing error that the School Board or Department of Education determines within the context of the intended use of the resource will substantially interfere with student learning. A change in knowledge that occurs subsequent to publication shall not constitute a significant error.
5. If the PUBLISHER makes updates/revisions to resources after they have been approved by the School Board, the PUBLISHER will ensure that the updated/revised material has been vetted through the same quality assurance process for accuracy and editing outlined in the signed certification. The PUBLISHER will notify FCPS and any school division that has purchased this material of the updates/revisions that have been made.

☐ Please check here if this submission includes an attachment that outlines if and how duplicate versions (print or digital) of primary materials vary. (Item #3 in the certification)

_____ _____

(Signature of President of the Company or Designee) (Date)

_____

(Name and Title of Person Signing)

Author(s)/Editor(s) and Content Review Expert Information

This attachment must be completed for each material submitted for review. Please print additional copies for each material as necessary.

Primary Material

Please list name and edition of the resource, or series submitted as a primary material.

Publisher: _____
Product Name: _____
Author(s): _____
Edition: _____ **ISBN:** _____
Line Item # on Pricing Schedule: _____

Author/Editor Information

Please complete the table below. Include each author and/or editor associated with the development of the primary material. Please insert copies of the table for additional authors/editors.

Author/Editor:	**Role of the author/editor in writing the resource (include references to specific sections, chapters, pages, etc.)**
Education and professional background:	
Related published works:	
Professional qualifications and specific areas of expertise:	
Did the author/editor review the final copy of his/her work before publication? ☐ **Yes** ☐ **No**	

Content Review Expert Information

Please include each content review expert associated with the quality assurance process for accuracy and editing for the primary material listed. At least one content review experts should be included, preferably from experts with a graduate degree in the content area being reviewed or teachers with recent experience teaching the content in the appropriate grade level or course. Please insert copies of the table for additional content review experts as necessary.

Publisher: _____
Product Name: _____
Author(s): _____
Edition: _____ **ISBN:** _____
Line Item # on Pricing Schedule: _____

Reviewer:	**Role the reviewer had in the review process (entire book or include references to specific sections, chapters, pages, etc.)**
Education and professional background:	
Related published works:	
Professional qualifications and specific areas of expertise:	