



Office of Procurement Services
8115 Gatehouse Road, Suite 4400
Falls Church, VA 22042

10/27/2021

CDW Government, LLC
Attn: Emmerly Duprey, Executive Account Manager
230 N. Milwaukee Ave
Vernon Hills, IL 60061

Reference 2000003333; IT Support Hardware & Services

Dear Mr. Duprey:

Acceptance Agreement

Contract Number: 4400010792

This acceptance agreement signifies a contract award to award to CDW Government, LLC. for IT Support Hardware & Services. The period of the contract shall be from October 1, 2021 through June 30, 2026 with the option to renew for three (3) one-year periods.

The contract award shall be in accordance with:

1. This Acceptance Agreement.
2. The Terms and Conditions of RFP2000003333; IT Support Hardware & Services, and all addenda.
3. Your Proposal dated June 29, 2021.
4. The attached summarized Pricing Schedule.
5. The signed Memorandum of Negotiations.

Please note that this is not an order to proceed. A purchase order, which constitutes your notice to proceed, will be issued to your company. Please provide your Insurance Certificate according to Special Provisions Paragraph 21 within ten (10) days after receipt of this letter. Contract award documents may be viewed on the Fairfax County, Department of Purchasing and Supply Management website at: www.fairfaxcounty.gov/register.

Sincerely,

DocuSigned by:

Michelle Pratt

1912EDF639964EC...

Michelle R. Pratt
Director

MRP/RT

VO
11-2-21



Office of Procurement Services
8115 Gatehouse Road, Suite 4400
Falls Church, VA 22042

MEMORANDUM OF NEGOTIATION
RFP2000003333

The County of Fairfax, Fairfax County Public Schools (hereinafter called the County or FCPS) and CDW Government LLC (hereinafter called the Contractor or CDWG) hereby agree to the following in the execution of Contract 4400010792. The final contract contains the following items:

- a. Fairfax County's Request for Proposal RFP2000003333 and all Addenda;
- b. CDW Government LLC Technical and Business proposal as amended by this Memorandum of Negotiations;
- c. Contractor's Best and Final Offer response dated September 28, 2021;
- d. Contractor's written negotiation responses dated September 9, 2021;
- e. Contractor's clarification responses;
- f. The Memorandum of Negotiations ("MON"); and
- g. All subsequent amendments to the contract.

In the event of a conflict or ambiguity between or among the documents listed above, the terms and conditions of this MON will have priority over documents referenced in (a) and (b).

1. The parties agree that this award is contingent upon the successful integration of the online ordering platform with the County's Marketplace through Equal Level, Inc. which includes the sustained and successfully tested ability to do the following within the mutually agreed upon estimated integration schedule to be developed and included in the contract by amendment after contract award:
 - a. Receive orders with 100% accuracy from Equal Level.
 - b. Invoice the procurement card provider with 100% accuracy at the level III data level, resulting in accurate charges for FCPS/Fairfax County; and
 - c. Process credits with the procurement card provider with 100% accuracy at the level III data level, resulting in accurate credits for Fairfax County.

Successful integration based on the above shall be determined by the County in its sole discretion, shall be provided in writing and be provided in writing and will not be unreasonably withheld.

2. Exception to Appendix A, General Conditions, and Instructions to Bidders. Section 22 is replaced in its entirety with the following:

22. 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 result in a binding contract. The following documents, which are included in the solicitation, are incorporated by reference in and made part of the resulting contract:

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

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3. Exception to Appendix A, General Conditions, and Instructions to Bidders. Section 25 is replaced in its entirety with the following:

25. INSPECTION-ACCEPTANCE: Acceptance shall occur only after receipt and inspection provided such inspection, as appropriate, is accomplished within a reasonable time but under no circumstances longer than five (5) business days from receipt. The County reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

4. Exception to Appendix A, General Conditions, and Instructions to Bidders. Section 34 is replaced in its entirety with the following:

34. DELIVERY/SERVICE FAILURES: If a Contractor (i) fails to deliver goods or services within the time specified or within a reasonable time as interpreted by the Purchasing Agent: or (ii) fails to make replacements or corrections of rejected articles or services when so requested, immediately or as directed by the Purchasing Agent, then the Purchasing Agent shall have the authority to purchase in the open market goods or services of comparable grade or quality to replace goods or services not delivered or rejected. On all such purchases, the Contractor shall reimburse the County, within a reasonable time specified by the Purchasing Agent, for any expense incurred up to, but not exceeding, 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.

5. Exception to Appendix A, General Conditions, and Instructions to Bidders. Section 39 (**PRICE REDUCTION**) is removed in its entirety.

6. Exception to Appendix A, General Conditions, and Instructions to Bidders. Section 53 is replaced in its entirety with the following:

53. 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.

PAYMENT FOR EQUIPMENT, INSTALLATION, AND TESTING: When equipment requires installation (which mean erection) and testing, and the installation or testing is delayed, payment may be made based on 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 based on 75% at the time of delivery and the balance shall be paid after satisfactory test or installation is completed.

7. Exception to Appendix A, General Conditions, and Instructions to Bidders. Section 54 is replaced in its entirety with the following:

54. 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.

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- b. Warrant that when the contract includes a software license, or use of licensed software, the Contractor has the right to grant to the County the license to use the Software granted through the Contract without violating or infringing any law, rule, regulation, copyright, patent, trade secret, or other proprietary right of any third party.
 - c. Protect the County against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit or delivery.
 - d. 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.
 - e. Pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules, regulations, and policies of the County.
 - f. Protect the County from loss or damage to County owned property while it is in the custody of the Contractor.
8. Exception to Appendix A, General Conditions, and Instructions to Bidders. Section 56 is replaced in its entirety with the following:

56. INDEMNIFICATION:

- a. General Indemnification: Contractor must indemnify keep and save harmless, and defend the County, its agents, officials, employees and volunteers against Claims that may accrue or arise against the County arising under this contract, if the Claim was caused by the negligence or error, or omission of the Contractor, its employees, its subcontractor, or its subcontractor's employees. As used in this Section, a Claim includes: injuries, death, damage to property, breach of data security, suits, liabilities, judgments, or costs and expenses. Upon request by the County, the Contractor must at its own expense appear, defend, and pay all attorney's fees and all costs and other expenses related to the Claim. If, related to a Claim, any judgment is rendered against the County or a settlement reached that requires the County to pay money, the Contractor must at its 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, does not limit the Contractor's responsibility to indemnify, keep and save harmless, and defend the County as provided in this Contract.
- b. Intellectual Property Indemnification: In addition to the General Indemnification, Contractor will indemnify the County for and defend the County against third-party claims for infringement of any valid United States patent, trademark or copyright by the Contractor's products, software, services, or deliverables. Contractor must indemnify the County for any loss, damage, expense or liability, including costs and reasonable attorney's fees that may result by reason of any such claim.

In the event of a claim covered by this subparagraph, and in addition to all other obligations of Contractor in this Paragraph 58, Contractor must at its expense and within a reasonable time: (a) obtain a right for the County to continue using such products and software, or allow Contractor to continue performing the Services; (b) modify such products, software, services or deliverables to make them non-infringing; or (c) replace such products or software with a non-infringing equivalent. If, in the Contractor's reasonable opinion, none of the foregoing options is feasible Contractor must immediately notify the County and accept the return of the products, software, services, or deliverables, along with any other components rendered unusable as a result of the infringement or claimed infringement, and refund to the County the price paid to Contractor for such components as well as any pre-paid fees for the allegedly infringing services, including license, subscription fees, or both. Nothing in Paragraph 58, however, relieves the Contractor of liability to the County

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for damages sustained by the County by virtue of any breach of contract related to a third-party infringement claim.

- c. Right to Participate in Defense. The County may, at its sole expense, participate in the defense or resolution of a Claim. Contractor will have primary control of the defense and resolution of the Claim, except when such defense or resolution requires the County to (i) admit liability or wrongdoing; or (ii) to pay money. In either of these cases Contractor must obtain the County's prior written consent before entering into such settlement or resolution.
- d. No Indemnification by the County. The parties agree that under applicable law the County cannot indemnify or defend the Contractor. To the extent any promise or term contained in this Contract, including any exhibits, attachments, or other documents incorporated by reference therein, includes an indemnification or obligation to defend by the County, that promise or term is stricken from this Contract and of no effect.
- e. Limitation of Liability. There is no limitation on the liability of a contractor for claims for bodily injury, including death, and damage to real property or tangible personal property resulting from the negligence of a supplier or any employee of a supplier. For Information Technology contracts in excess of \$100,000 there is no limitation of liability of a contractor for the intentional or willful misconduct, fraud, or recklessness of a supplier or any employee of a supplier.
9. Exception to Special Provisions, Section 36 USE OF CONTRACT BY OTHER PUBLIC BODIES: is removed in its entirety.
10. Exception to Special Provisions, Section 39.1 HIPPA COMPLIANCE: is removed in its entirety.

All other prices, terms, and conditions remain the same.

ACCEPTED BY:

Dario Bertocchi

Dario Bertocchi (Oct 18, 2021 11:29 EDT)

Director, Program Sales

Name: Dario Bertocchi

CDW Government LLC

Oct 18, 2021

Date

Gautam Sethi

Gautam Sethi, Assistant Superintendent

Department of Information Technology

DocuSigned by:

Michelle Pratt

Michelle R. Pratt, Director

Office of Procurement Services

10/18/2021

Date

10/27/2021

Date

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**PRICING SCHEDULE
CDWG**

PART I - HARDWARE

<u>PERCENTAGE DISCOUNT:</u>	
HP Servers	21.5 %
<u>PERCENTAGE DISCOUNT:</u>	
HP Products	43 %
<u>PERCENTAGE DISCOUNT:</u>	
Peripheral Products	9-71%

CDWG will offer FCPS the ability to purchase from over 600+ OEM's (which is representative in the full CDWG catalog via cdwg.com) at a minimum of 1% discount off the advertised price.

Additional Manufacturers:
Minimum 1%