

GENERAL TERMS & CONDITIONS

Addenda: It is the bidder's/proposer's sole responsibility to monitor the CCPS purchasing website www.ccps.org to ensure that they download any additional addendums or clarifications prior to submitting their bid or proposal and duly acknowledge receipt of and full understanding of said addendums on the proper bid/proposal submittal form. Failure to do so may result in non-receipt of important information prior to the closing date and may render the bid or proposal non responsive and ineligible to award. It is highly recommended that the submitting bidder/proposer ascertain if they have received all the addendums posted prior to submitting their bid/proposal. Failure of any bidder/proposer to obtain any such addendum or interpretation will not relieve the bidders/proposers company from any obligation under his/her proposal as submitted.

Adjustments to Contract: After award of the Contract, questions and correspondence relative to requests for deviation from "Instructions to Bidders/Proposers", "General Conditions", or the "Specific Conditions" of the Contract must be directed to the Purchasing Manager. In the event that the Contractor is unable to deliver as a result of strikes or acts of God, the Contractor will be held responsible for securing temporary relief in the delivery of the items contracted through such means as may be acceptable to and in agreement with the Purchasing Manager, for those goods and services that are necessary for the day-to-day conduct and function of the Board's programs. Any change permitted under the terms of this contract will be only as authorized by the Purchasing Manager in the form of a contract amendment and/or a written Purchase Order Change Notice.

Advertising and Promotion of Contract: The Contractor must not advertise or publish information for commercial benefit concerning this Contract without the prior written approval of an authorized representative of the participating jurisdiction affected.

Application: It is understood and agreed to by the Contractor that this Contract is entered into solely for the convenience and economical advantage offered to the Owner.

Assignment and Delegation: The Contractor must not assign any right nor delegate any duty under this Contract without the prior written approval of an authorized representative of the participating jurisdiction affected.

Authority: This Contract is issued under the authority of the Owner. Changes to the Contract including the addition of work or materials, the revision of payment terms, or the submission of work or materials, directed by an unauthorized employee or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract amendments, will be void and without effect, the Contractor will not be entitled to any claim under this Contract based on those changes.

Awarded Bidder/Proposer: The Awarded Bidder/Proposer must provide the items and/or perform the services with that standard of care, skill, and diligence normally provided by a Contractor in the performance of product or service delivery similar to the items/services hereunder. Notwithstanding any review, approval, acceptance, or payment for the services by CCPS, the Contractor must be responsible for professional and technical accuracy of its work furnished to the Owner under this agreement.

The Awarded Bidder/Proposer must and will, in a professional manner, perform all services, except as herein otherwise specified, necessary or proper to perform and complete all the work required by this contract, within the time herein specified, in accordance with the provisions of this bid/proposal in accordance with the specifications covered by this contract and any and all supplemental specifications, in accordance with the directions of the Board of Education. The Contractor must observe, comply with and be subject to all terms conditions, requirements and limitations of the Bid/Proposal and Specifications and must complete the entire work to the complete satisfaction of the Board of Education. Awarded Bidder/Proposer will be required under Article 56, Section 270(4), of the Annotated Code of Maryland, to provide proof of Certificate of Registry.

Bidder's/Proposer's Obligation: Bidder's/Proposer's must abide by and comply with the true intent of the Bid/Proposal and Specifications and not take advantage of any unintentional error or omission, but must fully complete every part as the true intent and meaning of the specifications, as decided by CCPS, and as described herein. Deviations, exceptions, alternates, etc., in the bid/proposal submission may render the bid/proposal as non-responsive.

Certification of Compliance: The Owner requires compliance with the applicable provisions including any amendments thereto and implementing regulations resulting from the following Acts: Energy Policy and Conservation Act (P1 94-163); Provision of the Occupational Safety and Health Act and the standards and regulations including amendments issued thereunder; the National Occupational Safety and Health Act Provisions of the Fair Labor Standards Act; and Attachment O of OMB Circular A102. Executive Order 11246, “Equal Employment Opportunity,” as amended by Executive Order 11375; Department of Labor Regulations (41 CFR Part 60).

Contracts in excess of \$100,000:

Section 306 of the Clean Air Act (42 U.S.C. 1857) (h); Section 508 of the Clean Water Act (33 U.S.C. 1368); Executive Order 117389 and Environmental Protection Agency regulations (40 CFR Part 15).

Compliance with Applicable Law & Regulations: The materials and services supplied under this Contract must comply with all applicable federal, state, and local laws and the Contractor must maintain all applicable licenses and permits.

Contract: A bid or proposal submittal does not constitute a contract nor does it confer any right on the bidder/proposer to the award of a contract. A contract is not created until the submittal is accepted in writing by an authorized representative of the Board of Education or awarded through a sealed competitive bids or a sealed competitive proposals solicitation process and awarded by the Cecil County Board of Education.

All Bids and Proposals with respect to all items accepted, addenda, agreements and all papers and documents accompanying the same, including these general and special conditions will constitute the Formal Contract between the Bidder/Proposer and CCPS upon acceptance Cecil County public Schools or award by the Cecil County Board of Education.

Damage: The Contractor will be held responsible for, and will be required to make good at its own expense, any and all damages done or caused by it or its agents in the execution of this contract.

Determination of Grade: Owner reserves the right to award an item and/or service to other than the lowest bid/proposal if, in its judgment, there is sufficient reason to believe that another will better serve the best interests of the Board of Education Of Cecil County, whether based on objective test, subjective test, or experience.

Drug Free Environment Policy: The Cecil County Public Schools is supportive of “America’s War Against Drugs” and committed to a drug free workplace. The system further realizes that the abuse of drugs impacts adversely upon the high standards of safety, security and productivity that we expect of all employees, contractors, subcontractors, consultants, and all other persons on the property of the Board of Education of Cecil County. Contractors are advised that the Cecil County Public Schools prohibits the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance or alcohol on school premises or as part of any of its activities. Compliance with this regulation is a condition of award.

Employment of Registered Sex Offenders, Sexually Violent Predators and Criminal Background Check Certifications for Persons With Uncontrolled Access to Students: Potential contractors/vendors of Cecil County Public Schools are advised that the Maryland law requires certain child sex offenders to register with the State and with the local law enforcement agency in the county in which they will reside, work and/or attend school. Section 11-722(c) of the Criminal Procedure Article of the *Annotated Code of Maryland* states, “[a] person who enters into a contract with a County Board of Education or a non-public school may not knowingly employ an individual to work at a school if the individual is a registrant. A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding five years or a fine not exceeding \$5,000 or both”. If a child sex offender, sexually violent predator, or sex offender, as defined in the Criminal Law and Criminal Procedure Articles of the Annotated Code of Maryland, is employed by the Award Bidder/Proposer, the Award Bidder/Proposer is prohibited from assigning that employee to perform management, delivery, installation, repair, construction or any other type of services on any Cecil County Public Schools’ property, including the project property. Violation of this provision may result in immediate Termination for Cause.

Additionally, in accordance with Md. Ed. Code Ann., §6-113 (b), the Award Bidder/Proposer and any of its subcontractors will not knowingly assign any employee to work on school premises with direct, unsupervised and uncontrolled access to children, if that employee has been convicted of a crime identified in Md. Ed. Code Ann., §6-113(a).

1. Effective July 1, 2015, amendments to 6-113 of the Education Article of the Maryland Code further require that the Award Bidder/Proposer, a Contractor or Subcontractor for a local school system may not knowingly assign an employee to work on school premises with direct, unsupervised, and uncontrolled access to children, if the employee has been convicted of, or pled guilty or nolo contendere to, a crime involving:
 - a. A sexual offense in the third or fourth degree under 3-307 or 3-308 of the Criminal Law Article of the Maryland Code or an offense under the laws of another state that would constitute an offense under 3-307 or 3-308 of the Criminal Law Article if committed in Maryland.
 - b. Child sexual abuse under 3-602 of the Criminal Law Article, or an offense under the laws of another state that would constitute child sexual abuse under 3-602 of the Criminal Law Article if committed in Maryland; or
 - c. A crime of violence as defined in 14-101 of the Criminal Law Article, or an offense under the laws of another state that would be a violation of 14-101 of the Criminal Law Article if committed Maryland, including: (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking; (11) armed carjacking; (12) sexual offense in the first degree; (13) sexual offense in the second degree; (14) use of a handgun in the commission of a felony or other crime of violence; (15) child abuse in the first degree; (16) sexual abuse of a minor; (17) an attempt to commit any of the crimes described in items (1) through (16) of this list; (18) continuing course of conduct with a child under 3-315 of the Criminal Law Article; (19) assault in the first degree; (20) assault with intent to murder; (21) assault with intent to rape; (22) assault with intent to rob; (23) assault with intent to commit a sexual offense in the first degree; and (24) assault with intent to commit a sexual offense in the second degree.

Also effective July 1, 2015, amendments to 5-561 of the Family Law Article of the Maryland Code mandate that each contractor and subcontractor must require that any individuals in its work-force must undergo a criminal background check if the individuals have direct unsupervised and uncontrolled access to children.

It will be the responsibility of the contractor to obtain similar certification from all sub-contractors and material suppliers performing work or services on school system property, and to monitor adherence to this requirement. In the event that the Cecil County Public Schools recognize a registered sex offender has entered upon school system property in the performance of work for a contractor/vendor, such will be grounds for termination of the contract.

Authorized staff must solemnly declare and affirm by Signature, under the penalties of perjury that the contents of the Employment of Registered Sex Offenders, Sexually Violent Predators and Criminal Background Check Certifications Affidavit are true and correct to the best of their knowledge, information and belief, that no employee, subcontractor, subcontractor employee, or material supplier that is a registered sex offender, sexually violent predator / child sex offender or criminal offender as described above, will be allowed to enter onto the school system property at any time in the performance of the work or services for which the contract is awarded.

Examination of Bid/Proposal Documents: Each bidder/proposer must examine the bid/proposal documents carefully and must make a written request to the Owner for interpretation or correction of any ambiguity, inconsistency or error therein which Bidder/Proposer may discover. Any interpretation or correction required will be issued as an Addendum by the Owner. Only a written interpretation or correction by an Addendum document will be binding. No bidder/proposer must rely upon any interpretation or correction given by any other method.

Any interpretation or correction of any ambiguity, inconsistency or error therein which Bidder/Proposer may discover, concerning the terms, conditions, specifications or verbiage contained

in the solicitation document must be submitted in writing only, within (5) five business days of the date of the Bid/Proposal opening.

Exceptions: It will be the responsibility of the proposer to include with its proposal a list and clarification of any deviations from the CCPS Terms, Conditions and Specifications. Exceptions must be submitted with the bid/proposal and be attached to the “Offer and Acceptance Form.” Exceptions will be permitted by CCPS only if the Proposer is notified in writing by the Purchasing Department prior to the approval of the ITB/RFP contract award or acceptance of the Award of Contract letter.

Force Majeure: Except for payments of sums due for products delivered to and accepted by the, participating jurisdictions no party will be liable to the other nor deemed in default under this Contract if and to the extent that such party’s performance of this Contract is prevented by reason of Force Majeure. The term “Force Majeure” means an occurrence that is beyond the control of the party affected and occurs without fault or negligence. Without limiting the forgoing, Force Majeure includes acts of God: fire; flood; or other similar occurrences beyond the control of the Contractor or the participating jurisdictions.

Gifts and Gratuities: Acceptance of gifts from Contractors and the offering of gifts by Contractors are prohibited. No employee of the Cecil County Public Schools purchasing products under provisions of the Contract issued as a result of this Invitation For Bid or Request for Proposal will accept or receive, either directly or indirectly, from any person, firm, or corporation any gift or gratuity.

Governing Law/Disputes: The contract will be governed by the law of the State of Maryland and nothing in this contract will be interpreted to preclude the parties from seeking, after completion or termination of the agreement, any and all remedies provided by law.

Except as otherwise provided in these contractual documents, any claim, dispute, or other matter in question concerning a question of fact must initially be referred to the CCPS Contract Manager. Any claim, dispute, or other matter in question concerning a question of fact referred to the Contract Manager that is not disposed of by agreement will be referred to the Purchasing Manager, CCPS, who will reduce his/her decision to writing and mail or otherwise furnish a copy to the Contractor. The decision of CCPS will be final and conclusive.

Indemnification

Bidder/Proposer must indemnify and save harmless the Cecil County Public Schools (CCPS), its agents, and employees, against and from all suits, actions, claims, demands, damages, losses, expenses or costs of every kind and description to which CCPS may be subjected or put, including but not exclusively so, by reason of injury (including death) to persons or damage to property, in any way resulting from Contractor's performance of the work specified or performed under this Contract, or any part thereof, or by or on account of any act or omission of the Contractor, its agents or employees, whether such suits, actions, claims, demands, damages, losses, expenses or costs be against, suffered or sustained by CCPS, its agents and employees, or be against, suffered or sustained by other corporations and persons to whom CCPS, its agents and employees, may become liable therefore, except that Contractor must not indemnify and save harmless CCPS, its agents and employees, against and from all suits, actions, claims, demands, damages, losses, expenses or costs arising from or due to the negligence of CCPS or its agents and employees. The whole or so much of the moneys due, or to become due the Contractor under the Contract, as may be considered necessary by the Purchasing Manager, may be retained by CCPS until such suits or claims for damages must have been settled, or otherwise disposed of, and satisfactory evidence to that effect furnished to the Purchasing Manager.

Interpretation of the term “Approved Equal”: The Owner reserves the right to evaluate the quality of items and services offered as alternate or approved equal, and further reserves the right to reject any or all items judged not approved.

If a clarification of the Instructions, Conditions or Specifications is requested, the prospective bidders’/proposers’ question(s) must be made in writing to the Purchasing Department of the Cecil County Public Schools not later than the questions due date and time (deadline) noted in the Notice to Bidder/Proposer document. Inquiries must be sent to Richard G. Raulie, CPPO, C.P.M., Purchasing Manager rgraulie@ccps.org. An acknowledgement of receipt of the e-mail inquiry will be sent by return e-mail to the

sender. If no acknowledgement e-mail is received within one business day, please fax your inquiry to the Purchasing Department at 410-996-5137.

Method of Bid/Proposal: Bid/Proposal must be submitted on the basis of individual items and/or services as specified according to the pricing structure for CCPS requirements on the Bid/proposal Form. A unit price must be given for each item or service and the total unit price of each item must be extended, if appropriate, unless a lot price is requested. In case of discrepancy between unit price and total price, the unit price will prevail. Prices quoted must be FOB destination and will include all delivery costs. Invoices must not include Federal Excise or State Sales and Use taxes, or any other taxes from which CCPS is exempt. Exemption certificates will be furnished upon request. Mandatory taxes from which CCPS is not exempt will be paid directly to entity on behalf of CCPS by award bidder/proposer. Bids/proposals must not be withdrawn or altered for a period of sixty (60) days after the opening thereof.

Multi-agency Participation: It is the intent of the Cecil County Public Schools, if appropriate, to make this proposal available to any and all governmental and educational agencies within the State of Maryland. This will include public schools, private schools, parochial schools and/or state, community and private colleges located within the State of Maryland. A copy of the contract pricing and the proposal requirements incorporated in this contract will be supplied to requesting agencies. This agreement would be upon mutual consent between the Contractor and those agencies. Each participating agency would enter into its own agreement with the Contractor and this contract will be binding only upon the principals signing such an agreement.

Occupational Safety and Health Acts: Contractor(s) who perform any work under this Contract must fully comply with the provisions of the Federal Occupational Safety and Health Act of 1970 and any amendments thereto and regulations pursuant to the act, and also to the Maryland Occupational Safety and Health Act, Article 89, Section 28 to 49A inclusive, Annotated Code of Maryland, as amended by Chapter 59, Laws of Maryland 1973, and any regulations pursuant thereto.

Order of Precedence: In the event of a conflict in the provisions of this solicitation, the following will prevail in the order set forth below:

- 1) Specific Conditions
- 2) General Conditions
- 3) Specifications or Scopes of Work and/or Services
- 4) Documents referenced in the solicitation
- 5) Instructions to Bidders/Proposers

Owner's Right to Purchase from Other Sources: For failure to meet specifications, delivery schedules, and/or poor administrative or operational procedures or for any other just cause, the Owner reserves the right to purchase from another vendor and charge the Contractor for the difference between what the Owner must pay for this item and the contract price that would have been charged by the Contractor. The Contractor will be responsible for any and all additional costs occasioned thereby.

Payment: Payment will be made within thirty (30) days after receipt of the original and two (2) copies of correct invoice/statements properly supported by signed delivery receipts.

Plan for Utilization of Minority Contractors: Consideration for the award for the contract for the school building, improvement, supplies, or other equipment will be given to the lowest responsible bidder/proposer who conforms to specifications with consideration for award given to:

- The quantities involved;
- The time required for delivery/completion of work;
- The purpose for which the bid/proposal is required;
- The competency and responsibility of the bidder/proposer;
- The ability of the bidder/proposer to perform satisfactory service; and
- The plan for the utilization of minority contractors. If bidder's/proposer's company plan exists, bidders/proposers are instructed to provide this internal plan with the bid/proposal submittals.

Price Adjustment: All unit prices and rates quoted must remain firm during the term of the Contract.

Product Protection Guarantees: Our school district requires ‘automatic’ product/service protection recourse against suppliers for safety. The supplier whose name and address appear in the bid/proposal submittal is the responsible party. Contractors are expected to take immediate action to correct any situation in which the integrity of products, services and safety is violated.

Qualification of Proposers: The Owner may make such investigations as deemed necessary to determine the ability of the bidder/proposer to perform the work, and the bidder/proposer must furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any bid/proposal if the evidence submitted by, or investigation of, such bidder/proposer fails to satisfy the Owner that such bidder/proposer is properly qualified to carry out the obligations of the Contract and to complete the work contemplated therein.

Purchaser’s Right of Selection: It is the responsibility of the Purchasing Manager of the Cecil County Public Schools to evaluate offers and recommend awards. The Owner reserves the right to accept this bid/proposal in part, in whole, or in any way in which the Board of Education determines will best serve its purposes and best serve the interest of the Owner in regards to the same being the lowest responsive bid/proposal. The Owner reserves the right to reject any and all bids/proposals that comply with these specifications, or to accept a higher bid/proposal that complies provided that in the judgment of the Board of Education, the items offered under the higher bid/proposal have additional values or functions that justify the difference in price. The Board of Education reserves the right to waive any informality in bids/proposals received when such waiver is in the interest of the Board of Education. In awarding the bid/proposal, consideration will be given to any previous performance for the Owner as to the quality of service and merchandise; and to the bidder’s/proposer’s ability to perform, if awarded the bid/proposal. Per Section 5-112, Subsection C(1) of the Annotated Code of Maryland, Education Article: “A contract for a school building, improvements, supplies or other equipment will be awarded to the lowest responsible bidder/proposer who conforms to the specifications with consideration given to: (i) The quantities involved; (ii) the time required for delivery; (iii) the purpose for which required; (iv) the competency and responsibility of the bidder; (v) the ability of the bidder to perform satisfactory service; and (vi) the plan for utilization of minority contractors.”

Quantities: The quantities, as given, are intended only as a guide. The quantities are based on forecasts or previous purchases and are accurate to the best of our knowledge and ability; however, bidder/proposers must understand that a quantity stated does not constitute a guarantee to purchase. The quantities shown are not to be construed as minimum or maximum. The contract will be for the actual quantities ordered by, and for, the Owner.

Record Retention: The Contractor agrees to retain all books, records, and other documents relative to this agreement for three years after Contract close out and final payment. Each district, its authorized agents, and /or federal/state representatives must have full access to, and the right to examine, any of said materials during the Contract period. If an investigation or audit is in progress, records must be maintained until stated matter is closed.

Royalties & Patents: The Contractor must pay for all royalties and patents and must defend all suit or claims for infringement on any patent right and must save the Board of Education harmless from loss of account thereof.

Severability: The provisions of this Contract are severable. Any instruction, term, or condition deemed illegal or invalid will not affect any other instruction, term, or condition of the Contract.

Standards of Identity: All products must conform to U.S. minimum standards of identity as required by State and Federal regulations. Failure to comply places the Contractor in violation of the Contract with the Board of Education, as well as State and/or Federal Law.

Subcontract/Assignment: The Contractor must not enter into any subcontract or assignment under this Contract without the advance written approval of an authorized representative of Cecil County Public Schools. The subcontractor must, by reference, incorporate all terms and conditions of this Contract.

Substitutes: In the event the Contractor is out of stock and cannot supply the product(s) or service(s) a substitution of equal or better quality, as agreed by an authorized representative of the participating jurisdiction affected, may be made. All Contract terms and conditions will apply to the products approved for substitution.

Technology-Based Instructional Products: All Cecil County Public Schools’ technology based instructional products (instructional software, online resources, and computer based equipment) must be consistent with the Subpart B, Technical Standards, Section 508 of the Federal Rehabilitation Act of 1973, as amended, for accessibility by students with disabilities unless doing so would fundamentally alter the nature of the instructional activity or result in undue financial and administrative burdens. Requests for bids, proposals, procurement contracts, and grants will follow established procedures for evaluating compliance to accessibility standards in all purchase decisions. (COMAR 13A.05.02.13H)

Termination of Contract: The contract may be terminated for cause by any or all of the parties upon issuance of written notice thirty (30) days prior to the intended date of termination.

The Owner may terminate the Contract at any time based on:

1. The Contractor’s failure to supply the required quantity and /or quality of product and services.
2. Poor contractor performance, poor administrative procedures and numerous failures by the Contractor to remedy the problems.
3. Any reason the Owner deems serious enough to warrant cancellation of the Contract.
4. If the Owner terminates the Contract for Cause or Convenience, the Contractor will not be entitled to further compensation for uncompleted or incomplete deliveries. Should the Owner be required to seek other sources of supply and the cost to the Owner exceeds the unpaid balance, the Contractor will be liable for the additional cost incurred by the owner.

The Contractor may terminate the Contract based on:

1. Issuance of an order of a court or other public authority having jurisdiction requiring the Contractor to terminate the Contract.
2. An act of government making material unavailable.
3. Unanticipated circumstances beyond the control of the Contractor.

Any of the above notices must be submitted by the Contractor in writing within seven (7) days of the event and accepted as valid by the Board of Education before any relief will be given to the Contractor.

Testing: Owner may, at its discretion, have random samples of product tested by an independent testing laboratory to ascertain if the product is, in fact, as represented by the Contractor. If it is established that the product is not as represented, the cost of testing, as well as any additional cost of replacing the product or any damage shown to be caused by the inferior product, as reasonably determined by CCPS, will be the responsibility of the Contractor. If it is indicated that the Contractor knowingly furnished a product that did not meet the standard offered, the Contractor may be disqualified from future bid/proposals.

Waiver and Rejection Rights: Notwithstanding any other provisions of the solicitation, the Owner reserves the right to:

- Waive any immaterial defect or informality,
- Reject any and all offers or portions thereof, and/or
- Cancel a solicitation.

End of Section