



Office of Purchasing
10910 Clarksville Pike, Ellicott City, Maryland 21042-6198
(410) 313-5644, fax (410) 313-5644

Request For Proposal – Special Education Review Bid # 026.25.B6

Solicitation Number: Bid # 026.25.B6
Proposal Issued Date: August 15, 2024
Pre-Proposal Conference: N/A
Question Deadline: August 27, 2024
Proposal Due Date and Time: September 10, 2024

Public Opening: **Not Public**
Anticipated Contract Start: **November 1, 2024**

NOTE: MINORITY & SMALL BUSINESS ENTERPRISES AND VETERAN-OWNED BUSINESSES ARE ENCOURAGED TO RESPOND TO THIS RFP.

This proposal must be signed by an offeror authorized to make a binding commitment for the firm submitting the proposal. By submitting a proposal in response to this RFP, the offeror selected for award agrees that it shall comply with all federal, State, and local laws, and HCPSS policies and regulations applicable to its activities under the resulting contract. Any offeror selected for award, including businesses outside of the State, must comply with registration/verification requirements of the Maryland Department of Assessments and Taxation. www.dat.maryland.gov

Your signature on this page provides HCPSS your acknowledgment and acceptance of the terms and conditions contained in the Request for Proposals and will abide by all of its terms and conditions. Unauthorized exceptions, amendments, or deviations in the response may result in disqualification of the submittal.

Offeror Name: _____

Address: _____

Phone: _____ Fax: _____ e-mail: _____

Federal ID or Social Security Number: _____ MDOT MBE Certification #: _____

MD Dept. of Assess. & Taxation #: _____ eMaryland Marketplace #: _____

DGS Small Business Certification # (if any): _____

Signature of Offeror: _____

Printed Name, Title and Date: _____



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(410) 313-5644, fax (410) 313-6789

NO BID REPLY FORM

Sealed Proposals For: Howard County Public School System

Offeror: _____

To assist us in obtaining good competition on our Request for Proposals, we ask that each firm that has received an invitation, but does not wish to submit a Proposal, state their reason(s) below. This information will not preclude receipt of future invitations unless you request removal from the Offerors' List by so indicating below. This form may be faxed to (410) 313-6789.

We must offer a "No Response" at this time because:

- _____ 1. We do not wish to submit a proposal under the terms and conditions of the RFP document. Our objections are:

- _____ 2. We do not feel we can be competitive.
- _____ 3. We cannot submit a proposal because of the marketing or franchising policies of the manufacturing company.
- _____ 4. We do not wish to sell to The Howard County Public School System. Our objections are:

- _____ 5. We do not sell the item(s)/service(s) requested in the specific specifications.
- _____ 6. Other: _____

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Section I: GENERAL INFORMATION

1.1 PURPOSE

The Howard County Public School System's (HCPSS) is looking for a Contractor to conduct an independent, comprehensive review of the early intervention/special education processes, programs, and services.

1.2 BACKGROUND

The Howard County Public School System (HCPSS) currently serves 58,000 students across 78 schools and is located between the metropolitan areas of Baltimore, MD and Washington, DC. While it is a suburban system in many respects, parts of the area are becoming more urbanized with an influx of students and families from the two major metropolitan areas (many of whom relocate to Howard County because of the outstanding reputation of the school system).

1.3 GENERAL

- A.** Services shall be performed in accordance with the specifications, terms, general conditions, and attachments. **If further information is required, contact the Procurement Specialist through Bonfire Procurement Portal.** *The Procurement Specialist is the only person authorized to answer questions regarding this RFP. Offerors should not rely on information obtained from any source other than the named Procurement Specialist. Offerors are responsible for monitoring Bonfire for any amendments to the RFP. Failure of any offeror to receive any such Addenda or interpretation may not relieve such offeror from obligation under his/her proposal as submitted.*
- B.** Must legally be able to contract in MD;
- C.** HCPSS intends to award a one -year contract with one option to renew. This award will be a single award contract.
- D.** Offerors are responsible for reviewing and understanding this solicitation. To that end, prospective offerors may submit questions to the HCPSS Procurement Specialist named above. Questions must be in writing and submitted via Bonfire.
- E.** Questions must be received in the Office of Purchasing by **August 27, 2024, at 3:00 p.m. EST.**
- F.** Questions received after this date will be answered only if time permits.
 - 1. The Procurement Specialist will distribute a written summary of responses to timely-received questions to all prospective bidders known to have received a copy of this RFP.
 - 2. Oral communications are not binding.
- G.** Under no circumstances are offerors, including third party vendors or their staff, to contact any other HCPSS staff, employees or any related constituency for purposes associated with this solicitation, including but not limited to, obtaining, or providing information. **Offerors failing to comply with this requirement may be disqualified.**

1.4 PRE-PROPOSAL CONFERENCE

N/A

1.5 DUE DATE AND TIME

- A. Proposals must be fully submitted on Bonfire by 11:00 AM September 10, 2024 in order to be considered for this project. HCPSS will not be responsible for submissions that are not fully uploaded in Bonfire by the due date and time. **Offeror submission must be 100% complete before the due date and time.**
- B. LATE SUBMISSIONS CANNOT BE ACCEPTED. Any proposal received after the time and date specified, or at a different location will not be opened or given any consideration.

1.6 CONFIDENTIALITY

Bidders should give specific attention to the identification of those portions of their submittal which they deem to be confidential, proprietary information or trade secrets, and provide any justification of why such materials, upon request, should not be disclosed by HCPSS under the Access to Public Records Act, State Government Article, Title 10, Subtitle 6 of the Annotated Code of Maryland. Contractors must clearly indicate each and every section that is deemed to be confidential, proprietary, or a trade secret. It is not sufficient to preface your technical offer with a proprietary statement. Bid prices will be opened publicly.

1.7 NO OBLIGATION

HCPSS shall pay no costs or other amounts incurred by any entity in responding to this RFP or prior to the effective date of the contract entered into for the services provided. HCPSS reserves the right, in their sole discretion, to select qualified responses to this RFP without discussion of responses with bidders. HCPSS reserves the right to reject any or all submitted responses. All submittals will become a part of the HCPSS official procurement files and will be available for public inspection.

1.8 BIDDERS OBLIGATIONS

- A. Subcontractors will not be accepted for this solicitation.
- B. Offeror will be the sole point of contract responsibility. HCPSS will look solely to Offeror for performance of the contract.

1.9 PROPOSAL INSTRUCTIONS

All proposal submissions in PDF format must be submitted via Bonfire.

1.10 RIGHT TO AMEND MODIFY OR WITHDRAW RFP

HCPSS reserves the right, in their sole discretion, to amend, or modify any provisions of this RFP, or to withdraw this RFP, at any time prior to the award of a Contract, if it is in the best interest of HCPSS to do so. The decision of HCPSS shall be administratively final. HCPSS reserves the right to negotiate a contract amendment with the Offeror for additional services that may be required.

1.11 REJECTION/CANCELLATION OF RFP

This solicitation is subject to cancellation when determined by the Director of Procurement and Materials Management to be in the best interest of HCPSS. Additionally, to ensure fair competition and to permit a determination of the lowest responsive proposal from a responsible offeror, HCPSS may reject proposals that include omissions, alterations of form,

or that are conditional or irregular in any respect, or reject non- responsible offerors that show a risk of default.

1.12 PRICE GUARANTEE

The Offeror warrants that the proposal shall be effective for a period of not less than 120 days from the date proposals are due. NOTE: For the successful offeror, prices shall remain firm for the duration of the contract.

1.13 EXCEPTIONS

If an offeror takes any exceptions to the terms and conditions of the RFP, an offeror shall notify HCPSS by email to afua_tisdale@hcpss.org no later than August 27, 2024, at 3:00 PM. Failure to take exceptions within the timelines indicated shall be construed by HCPSS as full acceptance of the stated terms and conditions. Exceptions and/or modifications to the terms and conditions of the RFP are not accepted and an integral part of any awarded contract unless they have been agreed to in writing by an authorized HCPSS representative.

1.14 REQUIRED DOCUMENTS

The required documents for this RFP include an original, unaltered, executed solicitation document including any addenda issued by HCPSS, completed bid/proposal affidavit, financial statement, completed Qualifications/Experience Affidavit, completed Price Proposal Work Sheet, and any other documents requested. Failure to do so may cause rejection of the proposal. Acceptable documents for compliance with the mandatory Financial Statement requirement include the Offeror's:

1. Latest Balance Sheet and Income Statement prepared by an independent accounting firm;
2. Annual Report;
3. Dun & Bradstreet complete Business Report; or,
4. Other financial documents determined to be acceptable by the Director of Procurement and Materials Management.

1.15 SIGNING OF FORMS

The Proposal, if submitted by an individual, shall be signed by the individual; if submitted by a partnership, they shall be signed by such member or members of the partnership as have authority to bind the partnership; if submitted by a corporation, they shall be signed by an officer, and attested by the corporate secretary or an assistant corporate secretary. If not signed by an officer there must be attached a copy of that portion of the by-laws or a copy of the board resolution, duly certified by the corporate secretary, showing the authority of the person so signing on behalf of the corporation.

If awarded a contract for these services, the contractor agrees to sign the Standard Contract Agreement for Professional Services (See sample Appendix E) and the Employee Data Sharing Agreement (See Appendix B).

1.16 PROPOSAL WITHDRAWAL

No proposal may be withdrawn after it is submitted to HCPSS unless the Offeror makes a written request to the Procurement Specialist before the time set for receipt of proposals, or if HCPSS fails to award or issue a notice of intent to award, or the Offeror provides clear and convincing evidence that a mistake in the price proposal has been made, *and only then with the approval of the HCPSS Director of Procurement and Materials Management.*

1.17 BUSINESS REGISTRATION

Before a business entity can do business in the State, it must be registered with the State Department of Assessments and Taxation (SDAT). SDAT is located at State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. For registration information, visit <https://www.egov.maryland.gov/businessexpress>. It is strongly recommended that any potential Offeror complete registration prior to the Proposal due date and time. The Offeror's failure to complete registration with SDAT may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

1.18 COMPETITIVE SEALED PROPOSAL PROCESS

Offerors shall submit all requirements as set forth in the RFP.

- A. Letter of Transmittal – the offeror shall include a Letter of Transmittal, signed by the person authorized to legally bind the offeror to the proposal. The letter shall specifically state that the offeror shall complete all services set forth in the proposal within the proposed time limits to the satisfaction of HCPSS. The letter shall be concise and need not repeat any of the detailed information set forth in the proposal.
- B. The HCPSS Procurement Specialist will review each submission. Offerors whose technical offers are determined to be not responsive, or offerors determined to be not responsible shall be rejected and timely notified.
- C. Qualified proposals shall be evaluated by an evaluation committee in accordance with the specifications and evaluation criteria contained herein. Technical proposals classified by the evaluation committee as not responsive, or Offerors determined as not responsible shall be rejected and timely notified.
- D. The evaluation committee, after an initial review of the responses, may elect to conduct discussions for the purpose of ensuring a complete understanding of HCPSS requirements and Offeror's technical proposal.
- E. Upon completion of the evaluation, and discussions, if held, the evaluation committee shall make a recommendation to the Director of Procurement and Materials Management. The said recommendation shall be based on the highest evaluated score considering the evaluation criteria set forth in the RFP. Recommendation of award shall be made to the firm receiving the highest evaluated total score.
- F. When in the best interest of HCPSS, the Procurement Specialist may permit offerors who have submitted acceptable proposals to submit written best and final offers.
- G. The contract award may be subject to approval by the Howard County Board of Education. Upon approval of the Board, the unsuccessful offerors will be notified.

1.19 IRREGULARITIES AND ERRORS

- A. HCPSS reserves the right to waive any minor mistakes in the solicitation or proposal. HCPSS reserves the right to negotiate or modify any element of the solicitation to ensure that the best possible arrangements for achieving the stated purpose are obtained.

- B.** If a bidder discovers any ambiguities, conflicts, discrepancies, exclusionary specifications, omissions, or other errors in this RFP, bidder must immediately notify the Purchasing Office. If a bidder fails to so notify the Issuing Office, such bidder submits a response at its own risk and under such conditions. If such bidder is awarded a contract, then it is not entitled to additional compensation, relief, or time by reason of the error or its later correction.
- C.** Failure of the offeror to thoroughly understand all aspects of the solicitation before submitting their proposal will not act as an excuse to permit withdrawal of their proposal nor secure relief or plea of error. Neither law nor regulation makes allowances for errors or omissions on the part of the offeror.
- D.** HCPSS reserves the right to change the contents of this solicitation. Changes will be made in the form of written addenda and posted to the HCPSS Purchasing web site at, <https://purchasing.hcpss.org/business-opportunities>.
- E.** It is the Offeror's sole responsibility to monitor the HCPSS Purchasing website prior to submitting their proposal and acknowledge receipt of said addenda on the proper bid form. Failure to do so may result in non-receipt of important information and may not relieve such Offeror from any obligation under his/her proposal submittal.

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Section II: TERMS AND CONDITIONS

2.1 CONTRACT AWARD

- A.** It is the intent of The Board of Education of Howard County on behalf of the Howard County Public School System (hereinafter "HCPSS" or the "Board") to award to the most advantageous offer considering technical and financial rankings. HCPSS retains the right to award in aggregate, item-by-item, group-by-group, in full or in part, make multiple awards, partial awards, to increase or decrease quantities where quantities are shown and may reject any bid which indicates any omission, contains alteration of form or additions, or imposes conditions, or offers alternate items and may make any award which is deemed in the best interest of the HCPSS or to make no award at all at its sole discretion.
- B.** The HCPSS shall be the sole authority as to whether Bidder's offer meets specifications or is an approved equal and further reserves the right to reject any or all proposals or waive any informality which may appear to be in its best interest. HCPSS further reserves the right to consider information other than price when evaluating bids. A contract may be awarded to the provider(s) whose proposal best meets HCPSS requirements and needs at the time of award and whose fee structure is in the best interest of HCPSS.
- C.** HCPSS reserves the right to make an award with or without negotiations or to request best and final offers or to make award with or without further review.
- D.** In the event of tie bids where all factors are equal, award shall be made to one of the tie bidders in the following order of preference: Howard County based Bidder, the out of county Bidder but incorporated in Maryland, and then the out of state based Bidder. In the event a tie bid still exists, the Director of Procurement and Materials Management or their designee, shall conduct a coin toss for selection of the potential Award Bidder(s) or seek a geographical, proportional or divided award of contract, whichever is in the best interest of HCPSS.

2.2 CONTRACT DOCUMENTS

- A.** Contract Documents consist of all solicitation documents, the specifications and scope of work and any applicable addenda, and any additional documentation issued. All of these materials and documents associated with this solicitation will be included in the Contract(s) which the Board of Education awards as a result of this solicitation and will become the contract. The offeror, by submitting its proposal, agrees that if awarded the contract that it will be bound under the contract to all the Terms and Conditions of the Contract Documents for any future goods and/or services awarded under this contract.
- B.** If Offeror's proposal is accepted and awarded, it will become incorporated and an integral part of the contract. However, Bidder's terms and conditions and any exceptions to HCPSS terms and conditions, unless expressly accepted by HCPSS, shall be excluded from the contract documents.

2.3 ORDER OF PRECEDENCE

In the event of an inconsistency among provisions of this Request for Proposal, the inconsistency shall be resolved by the following order of precedence:

- Section III: Specifications
- Section II: Terms and Conditions
- Section I: General Information

Appendices

2.4 INITIATION OF WORK

The Offeror shall not commence performance of the services until it receives a formal written notice to proceed from HCPSS.

2.5 BILLING AND PAYMENT

A. The awarded Contractor shall submit invoices monthly to the Howard County Public School System, (Department of Special Education), 10910 Clarksville Pike, Ellicott City, MD 21042 or by email to Attn: Terrell_Savage@hcpss.org at the completion of each phase. To expedite payments, invoices must contain the following information:

1. Purchase Order Number
2. Bid Number
3. Name of school or office
4. Description of work along with quantities
5. Start date and completion date.
6. Itemized breakdown of project costs to include labor and materials.
7. Total due

B. Invoices that do not contain the above information may be rejected.

C. Timely invoicing is required. Awarded Bidder(s) must submit invoices for services and/or goods no later than thirty days (30) days following services rendered or receipt of goods. Awarded Bidder(s) expressly waives its right to payment if invoices are not submitted by the end of each fiscal school year (June 30th) or within sixty (60) days following services rendered, receipt of goods, or completion of project milestones, whichever is later, however, not to exceed 365 calendar days.

2.6 INSURANCE

The Offeror has in force, or shall obtain, and will maintain insurance for the full term of the contract (including any executed renewals) in not less than the amounts specified and accordance with the requirements contained in APPENDIX H, INSURANCE REQUIREMENTS.

2.7 SUBCONTRACTING OR ASSIGNMENT

A. It is mutually understood and agreed that Awarded Bidder(s) shall not assign, transfer, convey, sublet, or otherwise dispose of their contract or their rights, title or interest, therein, or their power to execute such contract in whole or in part to any other person, firm, or corporation, without the previous written consent of the HCPSS' Purchasing Director, but in no case shall such consent relieve the contractor from their obligation, or change the terms of the contract or purchase order.

B. Assignment or subcontracting without the written approval of HCPSS will be cause for termination.

C. In the event that some or all of the services and/or goods under this solicitation are permitted to be subcontracted, the bidder shall identify all proposed subcontractor/sub-consultant who will be furnishing services and/or under the terms of this solicitation. Subcontractor/sub-consultants shall conform in all respects to the applicable provisions specified for the prime contractor and shall be subject to approval by HCPSS. If a subcontractor/sub-consultant is determined to be unacceptable by HCPSS, the contractor shall substitute an acceptable

subcontractor/sub-consultant with no change in any contract unit prices or overall contract sum. If a firm fails, within a timely manner, to propose another subcontractor/sub-consultant to which HCPSS has no objection, HCPSS reserves the right to reject the proposal. The bidder will use only those subcontractor/sub-consultants approved by HCPSS. All subcontractor/sub-consultants shall comply with all federal and state laws and regulation which are applicable to the services covered by the subcontractor and shall include all terms and conditions set forth herein which apply with equal force to the subcontractor/sub-consultant, as if they were the contractor referred to herein. The Awarded Bidder(s) is responsible for the contract performance, whether or not subcontractor/sub-consultants are used.

2.8 CHANGES, ALTERATIONS OR MODIFICATIONS IN THE SERVICES

- A.** HCPSS shall have the right, at their discretion, to change, alter, or modify the services provided for in this agreement and such changes, alterations, or modifications may be made even though it will result in an increase or decrease in the services of the Awarded Bidder(s) or in the contract cost thereof.
- B.** If such changes cause an increase or decrease in the Awarded Bidder's cost of, or time required for, performance of any service under this contract, whether or not changed by an order or amendment, an equitable adjustment shall be made and the contract shall be modified in writing accordingly. Any claim of the Awarded Bidder(s) for adjustment under this clause must be asserted in writing within thirty (30) days from the date of receipt by the Awarded Bidder(s) of the notification of change unless the project manager or his duly authorized representative grants a further period of time before the date of final payment under the contract.
- C.** No services for which an additional cost or fee will be charged by the Awarded Bidder(s) shall be furnished without prior written authorization of HCPSS.

2.9 DELAYS AND EXTENSIONS OF TIME

The Awarded Bidder(s) shall execute the work continuously and diligently and no charges or claims for damages shall be made by the Awarded Bidder(s) for any delays, acceleration, or hindrance, from any cause whatsoever, during the progress of any portion of the services specified in the contract documents. Any and all-time extensions and/or changes/substitutions of products, materials, equipment, and/or supplies must be requested in writing by the Awarded Bidder(s) before the extension and/or change takes place and must be approved in writing by HCPSS. Such delays, acceleration, or hindrances, if any, may be compensated for by an extension of time for such reasonable period as HCPSS may decide. Time extensions may be granted only for excusable delays such as delays beyond the control and without the fault or negligence of the awarded bidder(s).

2.10 PRICE ADJUSTMENTS

- A.** HCPSS will only consider adjustments on labor rates based only upon federal minimum wage increases and decreases in the Consumer Price Index (CPI-W), Baltimore Region, as published by the Bureau of Labor Standards. Requested increases above a 5% cap will not be considered. To receive consideration for a price increase, the Contractor must submit to The Howard County Public School System, sixty (60) days prior to the contract expiration date, a statement of any change in the hourly rate wage actually to be paid to its employees during the renewal term.
- B.** Adjustments will be calculated by comparing the current index with the previous year's index

to determine the change in index points. The point change will then be divided by the price index to obtain the percentage of change. The percentage of change will then be multiplied by .75 to obtain the adjustment to be applied to the current prices.

- C. The HCPSS will also consider adjustments based on fees outside of the control of the Contractor, such as manufacturer price increases. However, such increases will be a "pass through" to the Howard County Public School System with no markup allowed. For such changes to be considered by the Howard County Public School System, documentation from the manufacturer (or any other applicable party) assessing a cost increase must accompany a written request from the Contractor. The Howard County Public School System will then review the request and advise the Contractor of approval or disapproval of the price change request. Price increase requests will not be considered if not accompanied with the proper information.

2.11 REMEDIES AND TERMINATION

- A. **Correction of Errors, Defects, and Omissions** - The Awarded Bidder(s) agrees to perform work as may be necessary to correct errors, defects, and omissions in the services required under the contract documents without undue delays and without cost to HCPSS. The acceptance of the work set forth herein by HCPSS shall not relieve the Awarded Bidder(s) of this responsibility.
- B. **Set-Off** - HCPSS may deduct from and set-off against any amounts due and payable to the awarded bidder(s) any back-charges or damages sustained by HCPSS by virtue of any breach of this agreement by the awarded bidder(s) to perform the services or any part of the services in a satisfactory manner. Nothing herein shall be construed to relieve the Awarded Bidder(s) of liability for additional construction and design or other costs, expenses, and damages resulting from a failure to satisfactorily perform the services. Nothing herein shall limit the liability of the Awarded Bidder(s) for damages and HCPSS may affirmatively collect damages from the awarded bidder(s).
- C. **Termination for Cause** - If the Awarded Bidder(s) fails to fulfill its obligations under this contract properly and on time, otherwise violates any provision of the contract, HCPSS may terminate the contract by providing thirty (30) days' written notice to the Awarded Bidder(s). The notice shall specify the acts of omissions relied on as cause for termination. All finished or unfinished supplies and services provided by the Awarded Bidder(s), shall at HCPSS's option, become HCPSS property. HCPSS shall pay fair and equitable compensation for satisfactory performance of services or goods delivered prior to the receipt of notice of termination, less the amount of damages caused by Awarded Bidder's breach.
- D. If the damages are more than the compensation payable to the Awarded Bidder(s), the Awarded Bidder(s) will remain liable after termination and HCPSS can affirmatively collect damages.
- E. **Termination for Convenience** - HCPSS may terminate all or any part of the work required under this contract for the convenience of HCPSS by providing ninety (90) days' written notice. In the event of such termination, HCPSS shall determine the costs the Awarded Bidder has incurred to the date of termination. The Awarded Bidder(s) shall not be reimbursed for any anticipatory profits which have not been earned up to the date of termination. The Awarded Bidder(s) agrees that the Awarded Bidder(s) does not have the right to termination

for convenience.

- F. Termination for Non-Appropriation of Funds:** HCPSS may terminate this contract, in whole or in part, due to insufficient funding with thirty (30) days' written notice to the awarded bidder(s). HCPSS shall pay for all of the purchases and services, if any, incurred up to the date of the termination notice.
- G. Obligations of Awarded Bidder(s) upon Termination** - Upon notice of termination as provided above, the Awarded Bidder(s) shall:
- H.** Take immediate action to orderly discontinue its work and demobilize its work force to minimize the occurrence of costs.
- I.** Take such action as may be necessary to protect the property of HCPSS, place no further orders or subcontract, and assign to HCPSS in the manner and to the extent directed by HCPSS all of the right, title and if ordered by HCPSS, possession and interest of Awarded Bidder(s) under the orders or subcontracts terminated.
- J.** Deliver to HCPSS all materials, equipment, data, drawings, specifications, reports, estimates, and such other information accumulated by the Awarded Bidder(s) which has been or will be reimbursed under this agreement after considering any damages that may be payable to HCPSS. Title to such items shall be transferred to HCPSS.
- K. Remedies Not Exclusive** - The rights and remedies contained in this general condition are in addition to any other right or remedy provided by law, and the exercise of any of them is not a waiver of any other right or remedy provided by law.

2.12 RESPONSIBILITIES AND WARRANTIES

- A.** The Awarded Bidder(s) (also referred to herein as "Contractor") shall perform the services and/or provide the goods with that standard of care, skill, and diligence normally provided by a Contractor, or professional in the performance of services and/or goods similar to the services and/or goods hereunder.
- B.** Notwithstanding any review, approval, acceptance, or payment for the services by HCPSS, the Contractor shall be responsible for professional and technical accuracy of its work furnished by the Contractor under this agreement.
- C.** HCPSS's review, approval, or acceptance of, nor payment for, any of the services required under this contract shall NOT be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the Contractor shall be and remain liable to HCPSS in accordance with applicable law for all damages to HCPSS caused by the Contractor's negligent performance of any or the services furnished under this contract.
- D.** Contractor warrants that it is qualified to do business in the State of Maryland and that it will take such action as, from time-to-time hereafter, may be necessary to remain so qualified.
- E.** Contractor warrants that it is not in arrears with respect to the payment of any monies due and owing the county or state, of any department or agency thereof, including but not limited to the

payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this agreement.

- F. Contractor warrants that it shall comply with all federal, state, and local law, ordinances and legally enforceable rules and regulations applicable to its activities and obligations under this agreement.
- G. Contractor warrants that it shall procure, at its expense, all licenses, permits, insurance, and governmental approval, if any, necessary to the performance of its obligations under this agreement.
- H. Contractor agrees that the equipment or supplies furnished under this award and or contract shall be covered by the most favorable commercial warranties the Contractor gives to any customer for such equipment or supplies and that the right and remedies provided herein are in addition to and do not limit any rights afforded to the HCPSS by any other clauses of the contract. All equipment shall in the very least carry a standard factory warranty against defects in parts and workmanship for the time period stated in the product warranty specifications and/or for one (1) year from date of acceptance. If the manufacturer warrants equipment for a period longer than one (1) year, the Contractor shall pass through this time to HCPSS.
- I. Contractor warrants that the facts and matters set forth hereafter in the "Contract Affidavit" which is attached to this agreement and made a part hereof are true and correct.

2.13 PROTESTS AND DISPUTES

- A. Except as otherwise provided in these contractual documents, any claim, dispute, or other matter in question concerning a question of fact shall initially be referred to the Procurement Specialist in writing, no later than seven (7) calendar days after the basis for the claim or dispute is known or should have been known. A formal written response to the claim or dispute shall be issued by the Procurement Specialist in a timely manner. If the Award Bidder is unsatisfied with this response, the Award Bidder may appeal the Procurement Specialist's decision to the Director of Procurement and Materials Management, who shall reduce his decision in writing and mail or otherwise furnish a copy to the Award Bidder. This decision of the Director of Procurement and Materials Management shall be the final and conclusive action.
- B. HCPSS reserves the right to proceed with the work under the Contract Documents during the dispute process if it is in the best interest of HCPSS, at HCPSS' sole discretion. There shall be no appeal or dispute of termination for non-appropriation of funds or for loss of appropriated funds. Any costs incurred in the dispute process will be borne by the bidder(s) in all instances.

2.14 GOVERNING LAW AND VENUE

The Contract Documents shall be governed by the laws of the State of Maryland and nothing in these Contract Documents shall be interpreted to preclude HCPSS from seeking, after completion or termination of the agreement, any and all remedies provided by law. Any lawsuit arising out of the Contract Documents shall be filed in the appropriate state court of competent jurisdiction located in Howard County, Maryland.

2.15 WAIVER OF JURY TRIAL

The Awarded Bidder(s) and the Board hereby waive trial by jury in any action or proceeding to which the Board and/or Awarded Bidder(s) are parties arising out of or in any way pertaining to the Contract Documents. It is agreed and understood that this waiver constitutes a waiver of trial by jury of all claims against all parties to such actions or proceedings, including claims against parties who are not parties to the Contract Documents. This waiver is knowingly, willingly and voluntarily made by the Board and the Awarded Bidder(s) and the Awarded Bidder(s) hereby represent and warrant that no representations of fact or opinion have been made by and individual to induce this waiver of trial by jury or to in any way modify or nullify its effect. The parties further represent and warrant that they have been represented or have had the opportunity to be represented, in the signing of the Contract Documents and in the making of this waiver by legal counsel, selected of their own free will, and that they have had the opportunity to discuss this waiver with legal counsel.

2.16 EXAMINATION OF RECORDS

The Contractor agrees that the auditor of HCPSS or any of their duly authorized representatives shall, have five (5) years after the final renewal expiration date under this contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this contract.

2.17 DISSEMINATION OF INFORMATION

During the term of this agreement, the Contractor shall not release any information related to the services or performance of the services under this agreement nor publish any final reports or documents without the prior written approval of the HCPSS contract manager.

2.18 COOPERATIVE PURCHASING CLAUSE

- A. In accordance with State Finance and Procurement Article, Sect. 13-110, Maryland Annotated Code, HCPSS reserves the right to extend the terms of any contract resulting from this proposal to public bodies, subdivisions, school districts, community colleges, colleges, and universities including nonpublic schools. The Contractor agrees to notify HCPSS of those entities that request to use any contract resulting from this proposal and provide usage information to HCPSS, if requested.
- B. Howard County Public School System assumes no authority, liability, or obligation, on behalf of any other public or non-public entity that may enter into a cooperative agreement associated with the contract resulting from this proposal. All purchases and payment transactions will be made directly between the contractor and the requesting entity.

2.19 NON-HIRING OF OFFICIALS AND EMPLOYEES

No official or employee of HCPSS whose duties as such official or employee include matters relating to or affecting the subject matter of this contract, shall during the pendency and term of this contract and while serving as an official or employee of HCPSS become or be an employee of the contractor or any entity that is a subcontractor on this contract.

2.20 ACCESS TO PUBLIC RECORDS ACT NOTICE

- A. The Board of Education of Howard County is subject to the Maryland Public Information Act, State Government Article § 10-611, et. seq. As a result, the Board may be required to disclose, upon request, certain public records.
- B. All information submitted as part of this proposal is subject to release under the Maryland Public Information Act (MPIA). If you would like the Howard County Public School System to

consider redactions if your proposal is subject to a MPIO request, submit a proposed MPIO copy including justifications for each redaction and under what specific exemption that justification is qualified for redaction.

- C. Transparency in the use of public funding is fundamental to HCPSS operations. Prior to the award of bids and contracts, the Board of Education of Howard County reviews and approves cost to be incurred by the school system – therefore, offerors should be aware that submission to this RFP may subject your pricing offer to release in a public forum. Additionally, pricing and payments made by HCPSS under the resulting Contract may also become subject to release as public information. HCPSS may consider both the ability to obtain necessary pricing from future offerors as well as the potential to cause harm to the competitive position of offerors in determining release of pricing detail.
- D. Copyrighted submittals are unacceptable and will be disqualified as non-responsive. All submittals become the property of HCPSS.

2.21 CONTINGENT FEE PROHIBITION

- A. The Contractor warrants that they have not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor, to solicit or secure this agreement, and that they have not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this agreement.
- B. For breach or violation of this warranty, HCPSS shall have the right to terminate this agreement without liability, or, at its discretion, to deduct from the contract price or consideration, or percentage, brokerage fee, gift or contingent fee.

2.22 OWNERSHIP AND USE

- A. All materials, including but not limited to training documents, program and software, diagnostic equipment and energy information systems furnished by Offeror to HCPSS in connection to this Program shall remain the property of the School System. No materials will be returned to the Contractor at the end of the contract period including any that are copyrighted. HCPSS shall have the right to continue using all and any control equipment and document materials for as long as the School System desires to do so.
- B. All documents, materials or data developed as a result of this contract shall be the property of HCPSS. Therefore, HCPSS has the right to use and reproduce any documents, materials, and data, including confidential information, used in or developed as a result of this contract. HCPSS may use this information for its own purposes or use it for reporting to state or federal agencies. The awarded bidder(s) must keep confidential and warrant that it has title to or right of use of all documents, material, or data used or developed in connection with this contract.

2.23 ADHERENCE TO SCHOOL SYSTEM POLICIES AND STATE AND FEDERAL REGULATIONS

The Offeror and any Sub-Offeror personnel assigned to this project must be cognizant and abide by the Board of Education of Howard County Policies and operating procedures at all times. Health and safety policies and procedures will not be compromised. Proposed programs must not violate or conflict with the Board policies and Implementation Procedures. Moreover, the Contractor shall be cognizant and enforce all federal and state regulations and policies and all proposals and subsequent work shall adhere to known regulations and policies.

2.24 SEX OFFENDER NOTIFICATION

- A. Maryland law requires certain sex offenders to register with the local law enforcement agency; See *Maryland Annotated Code*, Criminal Procedure Article, §11-704. One of the purposes of this law is to inform school systems when a Registered Sex Offender is residing or working in the area. When the sex offender registers, the local police are required to notify the Superintendent of Schools, and the Superintendent, in turn, is required to send a notice to school principals.
- B. As a contractor/consultant working for HCPSS we require that you do not employ Registered Sex Offenders to work on projects for our school system if they, as a result, are required to perform delivery, installation, repair, construction or any other kind of services **on HCPSS property**. Further, Maryland Law requires that any person who enters into a contract with a county board of education "may not knowingly employ an individual to work at a school" if the individual is a registered sex offender; See §11-722 Criminal Procedure Article. An employer who violates this requirement is guilty of a misdemeanor and if convicted may be subject to up to five years imprisonment and/or a \$5,000 fine.
- C. Each contractor shall regularly screen their workforces to ensure that a Registered Sex Offender does not perform work at a county public school and also ensure that a subcontractor and independent contractor conducts screening of its personnel who may work at a school. The term "work force" is intended to refer to all of the contractor's direct employees and subcontractors and/or independent contractors it uses to perform the work. Violations of this provision may cause HCPSS to take action against the contractor up to and including immediate termination of the contract for cause.
- D. Additionally, § 6-113 of the Education Article further requires that a contractor or subcontractor for a local school system may not knowingly assign an employee to work on school property 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 sexual offense, child sexual abuse and crimes of violence. The Contractor shall submit to HCPSS a listing of any employees assigned to perform under this agreement and certify that the necessary criminal history records checks have been conducted and that all assigned employees comply with the requirements.

2.25 CRIMINAL HISTORY BACKGROUND CHECKS

All employees, agents, or representatives of the Awarded Bidder(s) who will be performing work on any phase of the contract arising out of this Bid may be subject to a criminal history background check by HCPSS. Such persons, if requested by the school system, must provide fingerprints and other required information in accordance with HCPSS requirements to facilitate such a check, as well as pay for the necessary fees to obtain such a check from the federal or state government. At the completion of a background check, the school system may, at its sole discretion, decide that a particular employee, agent, or representative of the Contractor be barred from school system property.

2.26 ETHICS

- A. The Board of Education of Howard County has adopted an Ethics policy. Required by state statute, these Ethics regulations cover members of the Board of Education, the Superintendent, and all employees; and it specifies limits of participation of these individuals with entities doing business with The Howard County Public School System. For a copy of the regulations, please contact the Purchasing Office, Howard County Department of Education (410) 313-6644.

- B.** In accordance with Board Policy 2070-Ethics, offerors are hereby notified that the giving or offering of a gift or series of gifts to a Board official or employee is improper and may result in disqualification from future work on the grounds that the Offeror is no longer a responsible Offeror. All bidders are placed on notice that all questions/interpretations concerning the Board Ethics Policy may be submitted to the Ethics Review Panel.

2.27 DEBARMENT STATUS

By submitting their proposal, the offeror(s), certify that they are not currently debarred by the State of Maryland or another governmental entity from submitting bids or proposals on contracts for the type of products or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

2.28 TOBACCO FREE AND ALCOHOL/DRUG FREE ENVIRONMENT

The Board of Education of Howard County maintains a tobacco, alcohol/drug-free environment. The sale or use of tobacco, alcohol, or drugs, in any form, or related product, is prohibited in school buildings and grounds at all times. Persons found violating this policy will be requested to remove the product and themselves from school premises. Repeated use or sale of tobacco on HCPSS property, or any use or sale of alcohol, misuse of other drugs, or any use of illegal drugs by a contract employee while servicing this contract or while on HCPSS property will result in a prohibition of that employee from servicing the HCPSS contract. Repeated instances of violations by contract employees may result in termination of the contract for cause.

2.29 INDEMNIFICATION

- A.** The Awarded Bidder(s) shall be responsible for any loss, personal injury, expense, death and/or any other damage which may occur by reason of its acts, negligence, willfulness, or failure to perform any of its obligations under this agreement. Furthermore, any acts on the part of any agent, director, partner, servant, or employee of the Awarded Bidder(s) are deemed to be the Awarded Bidder's acts.
- B.** Awarded Bidder agrees to indemnify and hold harmless the Howard County Public School System and its Board, employees, agents, representatives, and students from any claim, damage, liability, expense, and/or loss, including defense costs and attorney fees, arising directly or indirectly out of the Awarded Bidder's performance under the Contract Documents. The indemnification obligation of the Awarded Bidder shall include but shall not be limited to injuries to individuals and property of individuals who are not parties to the contract. In addition, the indemnification obligation of the Awarded Bidder shall cover the acts or omissions of any permitted subcontractors hired by the Awarded Bidder. Furthermore, the indemnification obligation of the Awarded Bidder shall survive termination of the contract for any reason.

2.30 PERMITS, CODES AND LAWS

All work shall be in accordance with all State, County, Federal, and Governmental rules, regulations, and laws. The contractor is responsible for assuring that all of their employees and services provided under the contract follow and comply with any such requirements pertaining and applicable to the service being provided under this contract. All costs to comply with these requirements shall be paid by the contractor and included in the contractors Bid price.

2.31 eMARYLAND MARKETPLACE ADVANTAGE REGISTRATION

Awarded bidders are required to register on eMaryland Marketplace Advantage at

<https://procurement.maryland.gov> within five days following notice of award. Maryland law requires local and state agencies to post award notices on eMaryland Marketplace Advantage. This cannot be done without the awarded bidder's self-registration in the system. Registration is free. Failure to comply with this requirement may be considered grounds for default. It is recommended that any interested bidder register with eMaryland Marketplace Advantage regardless of the award outcome for this procurement as it is a valuable resource for bid notification for municipalities throughout Maryland. If you have any questions or need assistance, contact the help desk at emma.helpdesk@maryland.gov or call (410) 767-1492.

2.32 RIGHT TO STOP WORK

If HCPSS determines, either directly or indirectly, that the Contractor's performance is not within the specifications, terms or conditions of this bid and/or that the quality of the job is unacceptable, HCPSS has the right to stop work. The stoppage of work shall continue until the default has been corrected and/or corrective steps have been taken to the satisfaction of HCPSS. HCPSS also reserves the right to e-bid this contract if it is decided that performance is not within the specifications as set out.

2.33 NON-DISCRIMINATION

- A. In the execution of the obligations and responsibilities hereunder, included, but not limited to hiring or employment made possible by or relating to the Contract Documents, or the provisions of goods and services provided, the Awarded Bidder(s) shall not discriminate against persons on the basis of **religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender identity, disability, or genetic information**. For more information, contact the Equity Assurance Office of the Howard County Public School System at 10910 Route 108, Ellicott City, MD 21042 or call 410-313-6654.
- B. HCPSS 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. HCPSS 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 the awarded contract acknowledges your commitment and compliance with ADA.

2.34 INDEPENDENT CONTRACTOR

It is expressly understood and agreed that this Agreement is not intended and shall not be construed to create the relationship of agent, servant, employee, partner, joint venture, or association between the parties. The Awarded Bidder(s) will not be entitled to and expressly disclaims any right to worker's compensation, retirement, insurance, or other benefits afforded to employees of HCPSS.

2.35 CONTRACTOR PERFORMANCE/EVALUATION SCORECARD

- A. Upon completion of a project/service or at any time during the project/service, the awarded contractor shall receive a performance evaluation scorecard rating the contractor's performance on the project/service, see Appendix G. The evaluation scorecard will become part of the contractor's permanent file. A sample Contractor Performance/Evaluation Scorecard is included with the bid documents.
- B. The evaluation scorecard shall include the following performance indicators: Quality of Work, Responsiveness, Professionalism, Resources, Schedule Management, Quality Control, Deficiency Resolution, Submittal Management, Training, Appearance, Security, Safety, Utility Conservation, Disruptions, Quality of Materials, Emergency Response, Hazardous Materials, Innovation, Teamwork, Cost Management, Billing, Compliance. A contractor shall have up to 3 weeks after notification to appeal, challenge or otherwise dispute the scorecard results. After

the 3-week period, the scorecard shall be considered final and accepted by the contractor.

- C. A contractor receiving a 70% or less overall evaluation scorecard rating for a project/service may be disqualified for bidding on any future project/service with the HCPSS for a period of three (3) years and/or for the remaining contract term including renewal options.

2.36 ANTI-BRIBERY

Awarded bidder(s) warrants that neither it nor any of its officers, directors, or partners nor any of its employees who are directly involved in obtaining or performing contracts with any public body has been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or of the federal government.

2.37 MULTIPLE PROPOSALS

No bidder will be allowed to offer more than one proposal for a solicitation regardless of the availability of several items or services that they feel may perform the same function or meet the specifications as described in the solicitation. If a bidder should submit more than one proposal for a solicitation, all solicitations may be rejected at the discretion of HCPSS.

2.38 FORCE MAJEURE

Force Majeure shall be defined as an event beyond the control of the affected party and not avoidable by reason of diligence. It includes the acts of nature, war, riots, strikes, fire, floods, epidemics, pandemics, government decrees and/or similar occurrences. If either party is delayed by a force majeure event, said party shall provide written notification to the other within 48 hours. Delays shall cease as soon as practicable and written notification shall be provided. The time of contract completion may be extended by contract modification request, for a period of time equal to that of the delay caused under this condition. HCPSS reserves the right to cancel the contract and/or purchase materials, equipment or services from the best available source during the time of force majeure, and the Awarded Bidder(s) shall have no recourse against HCPSS. Further, except for payment of sums due, neither party shall be liable to the other nor deemed in default under this contract to the extent that such party's performance is prevented by reason of force majeure as defined herein.

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Section III: SPECIFICATIONS/SCOPE OF WORK

3.1 Contractor Requirements

- A. Gather baseline data and information about HCPSS through an analysis and synthesis of district documentation pertaining to the current state of special education, including early childhood special education and nonpublic services, through record reviews, on-site observations, interviews, budget reviews, and other procedures.
- B. Procedures to ensure stakeholders are included and engaged in the process to include HCPSS staff (i.e., administrators, teachers, paraeducators, related service providers, central office), parents, students, and special education community organization representatives.
- C. Assessment of inclusive education and equitable practices to address the needs of students receiving early intervention and special education services, including system/school culture.
- D. Review of organizational structure for the central office support to schools, including staffing resources to address students' needs in the areas of academics, social emotional learning, behavior, communication, mental health, and trauma.
- E. Analysis of staffing resources for teachers, related services providers, and support staff including recommendations (e.g., staffing models) to effectively address the service needs for learners, birth through age twenty-one. A draft of recommendations, based on a comparative analysis (e.g., staffing, programs) of other models is expected at a date discussed upon initial planning meeting with HCPSS staff and within 2 months of the planning meeting. Final recommendations due upon submission of final report.
- F. Analysis of current early intervention/special education procedures to determine efficiency and effectiveness of the referral, evaluation, and identification processes, including suggestions for process improvements.
- G. Analysis and recommendations for evidenced-based models, approaches, and other best practices to ensure an efficient and effective delivery of a continuum of special education services in public school environments.
 - a. Must include comparative analyses to inform program/process improvements based on information about established models, approaches, frameworks, initiatives, strategies, etc. in other systems, in and outside of Maryland
- H. Identification of specific strategies to increase effectiveness and ensure high quality services and support.
- I. Review of existing regional and specialized programs, staffing, and outcomes. Identify strategies to address the learning needs of Twice-Exceptional student populations
- J. Develop a detailed plan and timeline for the review project in collaboration with district staff, to include progress tracking and communication with stakeholders.
- K. Offer options for supplemental services that can support other district needs such as strategic planning, leadership development, and professional development for staff.

3.2 Minimum Qualifications:

- A. The offeror shall have at least 5 years' experience in providing work similar in scope and complexity to that described herein. The most recent experience must be within the past three (3) years in a K-12 environment. HCPSS may consider relevant individual experience of key personnel when assessing the responsibility of the Offeror.
- B. Must include individuals who are representative of *characteristics of diversity*, including neurodivergence, as part of the review team.
- C. Must have a team of field experts in Special Education, early childhood special education, or related field as determined by HCPSS. Other expertise could include data analysis and strategic planning experience.

Section IV: TECHNICAL PROPOSAL EVALUATION CRITERIA

4.1 INTRODUCTION

This part details the submittal evaluation and selection process for submissions.

4.2 SUBMITTAL EVALUATION AND SELECTION

4.2.1 The HCPSS will evaluate submittals on the basis set forth in this section. Submittals shall comprehensively address all the desired services outlined in the Request for Proposal and shall demonstrate the successful performance of similar contracts by the contractor making the submittal and shall offer the most cost-effective submittal for the desired services.

4.2.2 Submittals shall be evaluated by a Selection Advisory Committee that may request additional technical assistance from any source. The Committee shall first review each submittal for compliance with the requirements of the Request for Proposal. The Committee may recommend that the HCPSS waive minor irregularities to assure quality of service in the remaining areas and if it determines that, the decision is in the best interests of HCPSS.

4.2.3 **Only the firms whose proposal has achieved the required 70% minimum, or better technical score may be considered for award.** HCPSS reserves the right to make an award with or without negotiations or request best and final offers or to make an award without further review.

4.2.4 Based on the results of the preliminary evaluation, the highest rated offerors may be invited by the Director of Procurement and Materials Management to make oral presentations to the Selection Advisory Committee. This committee shall then conduct a final evaluation of the proposals. The Selection Advisory Committee shall then negotiate an offer with the highest rated offeror. At this time, the offeror and the Selection Advisory Committee may negotiate any changes desired in the offer if deemed in the best interest of HCPSS. If a satisfactory offer cannot be negotiated with the highest qualified offeror, negotiations shall be formally terminated. Negotiations shall then be undertaken with the second-rated offeror and so on.

4.2.5 The Director of Procurement and Materials Management may arrange for discussions with firms submitting proposals, if required, for the purpose of obtaining additional information or clarification.

4.2.6 Offerors are advised that, in the event of receipt of an adequate number of proposals, which, in the opinion of the Director of Procurement and Materials Management, require no clarifications and/or supplementary information, such proposals may be evaluated without further discussion. Hence, proposals should be submitted initially on the most complete and favorable terms from a technical standpoint which offerors are capable of submitting to HCPSS. Should proposals submitted require additional clarification and/or supplementary information, offerors should be prepared to submit such additional clarification and/or supplementary information, in a timely manner, when so requested.

4.2.7 Proposals which, after discussion and submission of additional clarification and/or

supplementary information, are determined to meet the specifications of this Request for Proposal shall be classified as "acceptable". Proposals found not to be acceptable shall be classified as "unacceptable" and no further discussion concerning same shall be conducted.

4.3 BASIS FOR AWARD

4.3.1 The Howard County Public School System reserves the right to award the contract in the aggregate, by individual service, or any combination, whichever is in the best interest of the HCPSS or to make multiple awards in a primary, secondary manner depending on the capacity of the awarded vendors to service the school system.

4.3.2 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 based on the information provided with the statement of qualifications, and the evaluation criteria listed below.

4.3.3 The Committee will use the following criteria and weighing in preparing its technical evaluation of each qualifying submittal as follows:

A numeric evaluation system based on 100 evaluation points will be used to score the **proposals**. The maximum points awarded for each category are listed below.

A. Offeror Capabilities, Qualifications and Experience including Staff Experience (40 percent)

Evaluation in this category will be based on verifiable track record in providing similar service as described in Section III – Scope of Work to the needs of the HCPSS. Submissions must include:

1. Provide provider qualifications, CV or resume, licensure
2. Description of company profile
3. Interpretation
4. Management team and approach

B. Technical Response to RFP and Workplan (60 percent)

Submit a detailed plan/timeline for meeting requirements as stated in the scope of work.

1. HCPSS may request additional information about or clarification of Technical Offers.
2. HCPSS hereby reserves the right to negotiate or modify any element of the Technical Offer to ensure that the best possible arrangements for achieving the stated purpose are obtained.
3. Plan for communication regarding individual requests and overall communication to school system partners.

4.3.4 Offerors shall submit Appendix C – Cost/Fee Structure Proposal as a separate document. The Offeror must utilize the format provided in Appendix C in submitting a cost proposal in response to this RFP. The Offeror must include in its cost proposal all expenses associated with services, and all other out-of-pocket expenses required to perform this service. All such costs will be at the expense of the contractor.

Section V: TECHNICAL PROPOSAL FORMAT

Note: No pricing information is to be included in the Technical Proposal.

When submitting a technical proposal, the following minimum information must be provided. Please note that your proposal, if considered responsive, will be rated against other responsive submissions and the evaluation criteria described under Section IV. Technical Proposal Criteria. Financial statements are to be included in the technical proposal – not the price proposal. **Proposals that do not contain the following information may be rejected.**

5.1 FORMAT OF TECHNICAL PROPOSAL

The Technical Proposal shall include the following documents and information in the order specified as follows. Each section of the Technical Proposal should be separated by a TAB as detailed below:

A. Executive Summary (Submit under TAB A)

- i. Offerors must provide an executive summary of their submittals and represent that Offerors' submittals address all of the requirements of this RFP. The executive summary should not exceed three pages and must represent a full and concise summary of the contents of the submittal. The executive summary must not include any information concerning the cost of the submittal. Offerors must identify any services that are provided beyond those specifically requested. If Offeror is providing services that do not meet the specific requirements of this RFP, but in the opinion of respondent are equivalent or superior to those specifically requested, any such differences must be noted in the executive summary. However, failure to provide the services specifically required may result in disqualification of the submittal.

B. Title Page and Table of Contents (Submit under TAB B)

- i. The Technical Proposal should begin with a Title Page bearing the name and address of the Offeror and the name and number of this RFP. A Table of Contents should follow the Title Page for the Technical Proposal, organized by section, subsection, and page number.

C. Transmittal Letter (Submit in Bonfire and TAB C)

- i. Offerors must submit with their submittals a transmittal letter that identifies the entity submitting the submittal, all principals, and includes a commitment by that entity to provide the services required by HCPSS. **The transmittal letter must state that the submittal is valid for 120 days from the deadline for delivery of submittals. Any submittal containing a term of less than 120 days for acceptance from this deadline will be rejected as non-responsive.**
- ii. The transmittal letter must be signed by a person legally authorized to bind the Offeror to the representations in the response. In the case of a joint submittal, each party must sign the transmittal letter. The Offeror also must indicate, in its transmittal letter, why it believes it is the most qualified respondent to provide the requisite services. The transmittal letter must include a statement of acceptance of the terms and conditions as specified in this RFP and of the contract resulting from this RFP (a copy of the HCPSS Standard Contract appears as Appendix E. If an Offeror takes

exception to any of the proposed terms and conditions or the Standard Contract; those exceptions must be noted in the transmittal letter; however, failure to accept those terms and conditions may result in disqualification of the submittal. Offerors must submit any questions or exceptions with regard to terms and conditions and the Standard Contract prior to the deadline in section 1.13 of RFP for the submission of questions.

D. An original, unaltered, executed solicitation document including any addenda issued by HCPSS (Submit under Tab D).

E. Offeror Response to RFP Requirements and Proposed Work Plan (Provide response in Bonfire Questionnaire) Note: Charts, table and any reports shall be submitted under Tab E.

Provide a comprehensive, detailed narrative describing how the Offeror plans to address and provide each of the desired services outlined in Section 3.1 through 3.2. including a work plan and Quality Assurance Quality Control process and how it will be used for this Contract.

F. Experience and Qualifications of Proposed Staff (Provide response in Bonfire Questionnaire) (Submit Resumes under Tab F)

1. Provide resumes of proposed staff
2. The Offeror shall identify the number and types of staff proposed to be utilized under the Contract.
3. The Offeror shall describe in detail how the proposed staff's experience and qualifications relate to their specific responsibilities, including any staff of proposed subcontractor(s), as detailed in the Work Plan.
 - a. Provide a narrative to elaborate on any special/unique qualifications, expertise, and/or experiences of the Offeror and/or any member of its team, which make it uniquely capable to provide a solution to HCPSS.

G. OFFEROR'S QUALIFICATIONS AND CAPABILITIES (Provide response in Bonfire Questionnaire) Note: Charts, table and any reports shall be submitted under Tab G.

1. The Offeror shall include a completed and accurate Qualification/Experience Form completed on Bonfire Questionnaire.
2. The Offeror shall include information on past experience with similar projects and/or services.
3. The Offeror shall describe how its organization can meet the requirements of this RFP and shall include the following information:
 - a. The number of years the Offeror has provided the similar services.
 - b. The number of clients/customers and geographic locations that the Offeror currently serves;
 - c. The names and titles of headquarters or regional management personnel who may be involved with supervising the services to be performed under this Contract;
 - d. The Offeror's process for resolving billing errors; and
 - e. An organizational chart that identifies the complete structure of the Offeror, including any parent company, headquarters, regional offices, and subsidiaries of the Offeror.

G.1 Company Profile

Company profile, to include:

1. Business contact information.
2. Resume of Account Representative(s)/Key Personnel that will be assigned to this HCPSS contract for the duration of this contract. No changes in these assignments will be allowed without written authorization from HCPSS via contract amendment prior to such changes being made.
3. Statement as to business and/or principals' involvement in any legal action pending or resolved regarding failure to perform in the state of Maryland during the previous three years, furnish details and outcome.
4. Certification that the Contractor is not listed on the System for Award Management (SAM) under the Excluded Parties Listing System (EPLS) federal registry.

H. Equal Employment Opportunity Practices

This solicitation does not contain MBE requirements.

I. Conflict of Interest (Submit under TAB G)

Each Offeror must disclose any existing or potential conflict of interest relative to the performance under the Contract. Examples of potential conflicts may include an existing business or personal relationship between Offeror, its principal, or any affiliate or subcontractor, with HCPSS or any other entity or person involved in any way in the Contract.

By submitting a proposal, the Offeror agrees that, if selected, it will be independent and not be unduly influenced by any group or individuals, public or private, to include the HCPSS, Maryland State Department of Education, Maryland State Government, or any of its respective employees, members, or representatives.

J. COST PROPOSAL

Separate from the Technical Proposal, the Offeror shall submit a separate Price Proposal. The Price Proposal shall contain all price information in the format specified in Section VI.

Technical responses that include any cost will be eliminated and not evaluated.

Price proposals are to be fully loaded prices that include, but are not limited to, all labor, profit/overhead, general operating, administrative, and all other expenses and costs necessary to perform the work set forth in the solicitation. No other amounts will be paid to the Contractor.

It is imperative that prices entered on the Price Proposal Form are correct and accurately calculated by the Offeror. Incorrect entries or inaccurate calculations by the Offeror may cause the Proposal to be rejected.

Except as instructed on the Price Proposal Form, nothing shall be entered on or attached to the Price Proposal Form that alters or proposes conditions or contingencies on the prices. Alterations and/or conditions may cause the Proposal to be rejected.

Section VI: TECHNICAL & PRICE PROPOSAL
CRITERIA

Evaluation Criteria	Maximum Score
Scope of Work Requirements: The extend of the response from Section V.E	60 points
Qualifications to Perform Service: The extent of the response to Section V F&G	40 points

RFP ATTACHMENTS AND APPENDICES

Instructions Page

A Proposal submitted by the Offeror must be accompanied by the completed forms and/or affidavits identified as “with Proposal” in the “When to Submit” column in Table 1 below. All forms and affidavits applicable to this RFP, including any applicable instructions and/or terms, are identified in the “Applies” columns in Table 1.

For documents required as part of the Proposal:

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete certain forms and affidavits after notification of recommended award. The list of forms and affidavits that must be provided is described in Table 1 below in the “When to Submit” column.

For documents required after award, submit copies of each document within the appropriate number of days after notification of recommended award, as listed in Table 1 below in the “When to Submit” column.

Table 1: RFP ATTACHMENTS AND APPENDICES

Applies?	When to Submit	Attachment Name
Y	With Proposal	Section VI: Technical & Price Proposal Form
Y	With Proposal	Appendix A: Qualifications/Experience Affidavit
Y	10 Business Days after recommended award	Appendix B: Student Data Privacy Agreement
Y	With Proposal	Appendix C: Information and Cost Proposal
Y	With Proposal	Appendix C. 1: Cost Proposal Signature Sheet
Y	With Proposal	Appendix D: Proposal Affidavit
Y	10 Business Days after recommended award	Appendix E: Standard Contract
Y	With Proposal	Appendix F: Education Article 6-113.2 Affidavit
Y	10 Business Days after recommended award	Certificate of Liability Insurance
Y	With Proposal	Certification Regarding Debarment, Suspension, and Other Responsibility Matters
N	With Proposal	MBE Forms Attachment A and Attachment B
N	10 Business Days after recommended award	MBE Forms Attachment C and Attachment D
N	10 Business Days after recommended award	MBE Forms Attachment E and Attachment F
N	With Bid	Bid Bond

Applies?	When to Submit	Attachment Name
N	10 Business Days after recommended award	Performance Bond
N	10 Business Days after recommended award	Payment Bond

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APPENDIX A – QUALIFICATIONS/EXPERIENCE FORM

(Please Complete in Bonfire Questionnaire)

Submitted by:

Information furnished in response to this Affidavit and any verification made by HCPSS provides a basis for determining the responsibility of Offerors. If the experience or background of the Offeror is deemed insufficient or the Offeror's references inadequate, the Offeror may be determined not responsible, and its proposal rejected.

Offeror shall have at least 5 years' experience in providing work similar **in scope and complexity** to those described herein. The most recent experience must be within the past 36 months. HCPSS may consider relevant individual experience of key personnel when assessing the responsibility of the Offeror.

How many years has your firm been in the business of providing similar services/scope of work under your present legal name? _____ Years of relevant experience.

1a. Under a different legal name? _____ Years of relevant experience.

List at least three contracts/references similar to the work described herein, in which your organization has completed within the last five years (include company names, firm or government agency, address, contact person, phone number and email address). At least one contract must have been awarded within the past 24 months.

Project:

Beginning and End Date of Contract:

Address:

School District or Organization:

Contact Person: _____

Phone Number:

Project:

Beginning and End Date of Contract:

Address:

School District or Organization:

Contact Person: _____

Phone Number:

Project:

Beginning and End Date of Contract:

Address:

School District or Organization:

Contact Person: _____

Phone Number:

What is your Dunn and Bradstreet Rating?

How many people does your company currently employ on a:

Full-Time basis?

B. Part-Time basis?

Has your organization performed any contract, not included in #2 above, for any unit of the State of Maryland or Howard County Government over the last five years? (Please list names, addresses, dates and the government employee responsible for accepting the work).

Has your company or any of its officers or employees ever been found guilty of any criminal act in regard to the performance of a government contract or subjected to any penalty or liquidated damages arising out of poor or non-performance? Explain.

Has your company ever been suspended or debarred from bidding on contracts by the Board of Public Works or any other local, state or federal organization for any reason? Explain.

Has your company ever filed for bankruptcy/receivership or any other similar defalcation? Explain.

Appendix B: STUDENT DATA PRIVACY AGREEMENT

STUDENT DATA SHARING AGREEMENT:

APPLICABLE TO HOWARD COUNTY PUBLIC SCHOOL SYSTEM USERS/MEMBERS

This is an agreement between [REDACTED] ("VENDOR", or "Company") and the Howard County Public School System ("HCPSS," "System," or "CLIENT"). This agreement is valid for the entirety of the contractual arrangement between the VENDOR and HCPSS.

HCPSS, as a Government entity, is required when entering into agreements with other parties to follow all applicable laws and regulations, including those related to data privacy and security; accessibility; and records retention. Accordingly, the VENDOR's Terms of Service (TOS) are hereby modified by this Amendment as they pertain to HCPSS's use of the Company's Site and/or Services.

- A. **Purpose of the Agreement:** Under this agreement, the VENDOR will be conducting an independent, comprehensive review of the early intervention/special education processes, programs, and services.
- B. **Definition of "CLIENT DATA":** Under this agreement, CLIENT DATA is defined as: (1) all Personally Identifiable Information (PII) contained in a student's "education record" as defined by the Family Educational Rights and Privacy Act (FERPA) (34 CFR Part 99); and (2) other non-public information that include, but are not limited to: personally identifiable personnel data, personally identifiable student data, personally identifiable metadata, and personally identifiable user content.
- C. **Data Collection and Use:** VENDOR will collect and use CLIENT DATA only for the purpose of fulfilling its duties and providing services under this Agreement as defined in Section A, and for improving services under this Agreement.

1. Specific CLIENT DATA Shared Under this Agreement

- i. Information associated with maintaining authentication between VENDOR and CLIENT, e.g. public/private keys, LTI secret, OATH keys.
 - ii. Information associated with maintaining a user's profile, e.g. username, email address, first name, last name, source IP address, or cookies.
 - iii. A user's status within the service, e.g. number of questions answered, time elapsed in lesson, student's score.
- D. **Education Records:** If VENDOR will have access to "education records" as defined under the Family Educational Rights and Privacy Act (FERPA) (34 CFR Part 99), the VENDOR acknowledges that for the purpose of this Agreement it will be designated as a 'school official' with 'legitimate educational interests' and will use the Education Record only for the purpose of fulfilling its duties under this Agreement.
- E. **Data De-Identification:** VENDOR may use de-identified Data for product development or other internal purposes only. De-identified Data will have all direct and indirect personal identifiers removed. This includes, but is not limited to: name, ID numbers, date of birth, demographic information, location

information, and school ID. Furthermore, VENDOR agrees not to attempt to re-identify de-identified Data.

- F. **Data Mining, Marketing and Advertising:** Except as indicated in Section E above, VENDOR is prohibited from mining CLIENT DATA for any purposes other than those agreed to by the parties. **Data mining or scanning of user content for the purpose of advertising or marketing to students or their parents is prohibited. Any and all forms of advertisement, directed towards children, parents, guardians, or District Employees will be strictly prohibited unless allowed with express written consent of the District.**
- G. **Modification of Terms of Service:** VENDOR will not change how CLIENT DATA are collected, used, or shared under the terms of this Agreement in any way without advance notice to the CLIENT. This Agreement is the entire agreement between the CLIENT (including all District end users) and the VENDOR. All other agreements or understandings, whether electronic, click-through, verbal or in writing, with District Employees or other End Users shall be null and void.
- H. **Data Sharing:** VENDOR will not share CLIENT DATA with or disclose it to any third party, except to affiliated subcontractors, agents, or third-party service providers of the VENDOR as required to fulfill the purpose of this agreement, without prior specific and informed written consent of the CLIENT, except as required by law.
- I. **Data Storage:** CLIENT DATA will not be stored outside of the United States without prior, specific and informed written consent from the CLIENT.
- J. **Data Deletion:** Upon termination or completion of the Services hereunder and at the request of the CLIENT, VENDOR will delete the CLIENT DATA, provided that VENDOR may maintain archival copies for audit purposes and dispute resolution purposes. If VENDOR maintains archival copies of CLIENT DATA, VENDOR shall remain under the contractual obligations of this agreement regarding the maintenance and use of CLIENT DATA. This Section shall survive the termination of this Agreement.
- K. **Terms, Data Transfer, Survival and Destruction:** The CLIENT may immediately terminate the Agreement if the CLIENT determines the VENDOR has breached this Agreement. The Agreement will automatically terminate at the expiration date. However, the VENDOR's obligations shall survive termination of this Agreement until ALL CLIENT Data has been returned and/or securely removed or destroyed. VENDOR will ensure that all Data in its possession and in the possession of any subcontractors, or agents to which the VENDOR may have transferred Data, are destroyed.
- L. **Rights and License:** All goods, products, materials, documents, reports, writings, video images, photographs, papers and intellectual property of any nature including software or computer images prepared by the VENDOR (or subcontractors) for the CLIENT or from CLIENT-provided material will not be disclosed to any other person or entity and remains the property of the CLIENT. All student-produced work remains the property of the CLIENT or that eligible student. The VENDOR has a limited, nonexclusive license to the data described herein solely for the purpose of performing its obligations as outlined in the Agreement. This Agreement does not give VENDOR any rights, implied or otherwise, to CLIENT Data, content, or intellectual property, except as expressly stated in the Agreement, including any right to sell or trade CLIENT Data. VENDOR will not use CLIENT's NAME or CLIENT DATA in any publications, without prior and specific writing authorization from the CLIENT. No part of this clause will prevent the VENDOR from sharing its open educational resources developed for public distribution on its platform.
- M. **Access:** Except as otherwise expressly prohibited by law, the VENDOR will immediately notify the CLIENT of any subpoenas, warrants, or other legal orders, demands or requests, including Audits, and governmental requests and demands, received by the VENDOR seeking CLIENT Data. If the

CLIENT receives a similar request, the CLIENT will promptly provide the VENDOR with a copy of official request and the records or information required by the CLIENT to respond.

- N. **Security Controls and Risk Management:** VENDOR will store and process CLIENT Data in accordance with industry best practices. This includes appropriate administrative, physical, and technical safeguards to: 1) ensure the security and confidentiality of CLIENT DATA; 2) protect against any anticipated threats or hazards to the security or integrity of CLIENT DATA; 3) protect against unauthorized access to or use of CLIENT DATA that could result in substantial harm or inconvenience to any customer or to any client employee and/or student; and 4) dispose of CLIENT DATA Information in a secure manner.
1. To comply with the safeguard obligations generally described above, VENDOR has (a) designated an employee to coordinate its information security program, (b) identified reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of CLIENT DATA that could result in the unauthorized disclosure, misuse, alteration, destruction, or other compromise of such data, and assessed the sufficiency of any safeguards in place to control these risks, and (c) designed and implemented information safeguards to control the risks identified through the risk assessment, and regularly tests or otherwise monitors the effectiveness of safeguards' key controls, systems and procedures.
 2. VENDOR will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. VENDOR will also have a written incident response plan, to include prompt notification of HCPSS in the event of a security or privacy breach (as hereinafter defined), as well as best practices for responding to a breach of PII.
- O. **Data Breaches:** VENDOR shall notify CLIENT in writing as soon as commercially practicable, however no later than forty-eight (48) hours, after VENDOR has either actual or constructive knowledge of a breach which affects the confidentiality, integrity, and/or availability of CLIENT's DATA (a "BREACH") unless it is determined by law enforcement that such notification would impede or delay their investigation. VENDOR shall have actual or constructive knowledge of a BREACH if VENDOR actually knows there has been a BREACH or if VENDOR has reasonable basis in facts or circumstances, whether acts or omissions, for its belief that a BREACH has occurred. The notification required by this section shall be made as soon as commercially practicable after the law enforcement agency determines that notification will not impede or compromise the investigation. VENDOR shall cooperate with law enforcement in accordance with applicable law provided however, that such cooperation shall not result in or cause an undue delay to remediation of the BREACH. VENDOR shall promptly take appropriate action to mitigate such risk or potential problem at VENDOR's expense. In the event of a BREACH, VENDOR shall, at its sole cost and expense, restore the Confidential Information, to as close its original state as practical, including, without limitation any and all CLIENT Data, and institute appropriate measures to prevent any recurrence of the problem as soon as is commercially practicable.
- P. **Employee and Subcontractor Qualifications:** VENDOR shall ensure that its employees and all subcontractors who have potential access to CLIENT DATA possess all needed qualifications to comply with the terms of this Agreement. Further, all employees and subcontractors are subject to the same FERPA compliance in relation to the 'school official' designation, and shall be trained that the re-disclosure of PII and/or Confidential Information will violate federal and state laws and may result in criminal and/or civil penalties.
- Q. **Governing Law:** This agreement shall be governed by and construed in accordance with the laws of Maryland, excluding its choice of law rules. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the appropriate Maryland Court. VENDOR will comply with Maryland Education Code ANN. § 4-131, "Operators of School Internet Web sites, Online Services, Online Applications, and Mobile Applications." VENDOR agrees to be bound as an "operator" under the law regardless of the VENDOR's exemptions that may exist in Maryland Education Code ANN.

§ 4-131(a)(3).

- R. **Compliance:** In addition to complying with FERPA and the Maryland Education Code cited above, the VENDOR shall ensure that its products and services comply with the Federal Protection of Pupil Rights Act (34 CFR Part 98), the Federal Children's Internet Protection Act (47 CFR 54.520), and the Federal Children's Online Privacy and Protection Act (16 CFR Part 312).
- S. **Indemnification:** VENDOR agrees to indemnify and hold harmless the Board of Education of Howard County for any damages or costs, including reasonable attorney's fees, which arise out of any negligence or misconduct by VENDOR, its agents and employees concerning its obligations under the terms of this Data Sharing Agreement.
- T. **Limitation of Liability:** VENDOR shall be liable for any and all damages, costs and attorneys' fees which CLIENT may incur as a result of any claims, suits and judgments against CLIENT which arise out of any breach of this Agreement of the VENDOR, its employees, servants, representatives or agents under the term of this Agreement.

Monitoring: VENDOR agrees to allow CLIENT the ability to audit VENDOR's use of CLIENT DATA to ensure compliance with the terms of the Agreements.

APPENDIX C – INFORMATION AND COST PROPOSAL

A. GENERAL

1. Offeror's Name: _____
Address: _____

Telephone: _____
2. Person Responsible for completing this form:
Name: _____
Title: _____

B. CONTRACT FOR INSIDE CONTRACT ADMINISTRATION

In the event your Organization receives a contract as a result of this Invitation for Bid, please designate an inside person whom we may contact during the period of the contract for prompt contract administration:

Name _____	Title _____
Address _____	Phone _____
_____	Fax _____
Email _____	Pager/cellular _____

C. RECEIPT OF ADDENDA

Submitting provider must acknowledge receipt of all addenda issued below:

Addendum: _____	Dated: _____	Received: <input type="checkbox"/>
Addendum: _____	Dated: _____	Received: <input type="checkbox"/>
Addendum: _____	Dated: _____	Received: <input type="checkbox"/>
Addendum: _____	Dated: _____	Received: <input type="checkbox"/>
Addendum: _____	Dated: _____	Received: <input type="checkbox"/>

D. FORM FOR COST PROPOSAL

Total Cost for review \$ _____

Please include a complete itemized budget for justification of total cost.

Note: rates offered shall be inclusive of all overhead, profit, travel, accommodation, administrative fees, and direct and indirect costs and shall represent onsite staff work within Howard County, MD.

Appendix C.1 – COST PROPOSAL SIGNATURE SHEET

THE HOWARD COUNTY PUBLIC SCHOOL SYSTEM

A. Bidder's Certification

1. I/we hereby propose to furnish and deliver supplies, equipment, or services, in accordance with specifications and stipulations contained herein, and at the prices quoted. I/we certify that this bid is made without any previous understanding, agreement, or connection with any person, firm, or corporation making a bid for the same supplies, materials, or equipment and is in all respects fair and without collusion or fraud.

2. I/we certify that this bid is made without having contacted any employee within The Howard County Public School System unless such contacts were previously authorized by the Purchasing Officer.

3. I/we certify that this bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived and agreed, directly or indirectly, with any bidder or person to put in a sham bid or to refrain from bidding and is not in any manner, directly or indirectly, sought by agreement of collusion or communication or conference, with any person to fix the bid prices of the affidavit or any other bidder, or to fix any overhead, profit or cost element of said bid price, or that of any bidder, or to secure any advantage against the Board of Education of Howard County or any other person interested in the proposed contract; and that all statements in said proposal or bid are true.

4. I/we affirm that this firm will not knowingly employ an individual to work at a school if the individual is a Registered Sexual Offender, pursuant to section 11-722 (C) of the Criminal Procedure Article of the Annotate Code of Maryland. A firm or person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both.

5. I hereby certify that I am authorized to sign for the bidder.

B. Vendor/Contractor Disqualification - Bribery

1. A person convicted for bribery, attempted bribery, or conspiracy to bribe shall be disqualified from entering into a contract with any county or other subdivision of the state. Every business entity upon submitting a bid or otherwise applying for a contract shall submit an affidavit stating whether it, its officers, directors, or partners, or its employees have been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or federal government.

Submitted by:

(company name)

(person authorized to sign bids)

(title of authorized representative)

(signature of authorized representative)

(date)

Appendix D – PROPOSAL AFFIDAVIT

AFFIDAVIT

Special Instructions: An authorized representative of the bidder shall complete the following affidavit in accordance with these bid documents and insert an answer to paragraphs 1 and 3.

Statutory Affidavit and Non-Collusion Certification

I, _____, being duly sworn, depose and state:

1. I am the _____ (officer) and duly authorized representative of the organization named _____ whose address is _____ and that I possess the authority to make this affidavit and certification on behalf of myself and the firm for which I am acting.

2. Except as described in Paragraph 3 below, neither I, nor to the best of my knowledge, the above firm, nor any of its officers, directors, or partners, or any of its employees who are directly involved in obtaining or performing contracts with any public bodies has:

(a.) Been convicted of bribery, attempted bribery, or conspiracy to bribe, under the laws of any state or the federal government;

(b.) Been convicted under the laws of the state, another state, or the United States of: a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;

(c.) Been convicted of a criminal violation of an antitrust statute of the State of Maryland, another state, or the United States;

(d.) Been convicted of a violation of the Racketeer Influenced and Corrupt Organization Act, or the Mail Fraud Act, for acts in connection with the submission of bids or proposals for a public or private contract; (e.) Been convicted of any felony offenses connected with obtaining, holding, or maintaining a minority business enterprise certification, as prohibited by Section 14-308 of the State Finance and Procurement Article;

(f.) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction under any of the laws or statutes described in Paragraph (a) through (e) above; or

(g.) Been found civilly liable under an antitrust statute of this State, another state, or the United States for acts or omissions in connection with the submission of bids or proposals for a public or private contract.

3. **The only conviction, plea, or admission by any officer, director, partner, or employee of this firm to involvement in any of the conduct described in Paragraph 2 above is as follows:**

If none, write "None" below. If involvement, list the date, count, or charge, official or administrative body, the individuals, their position with the firm, and the sentence or disposition of the charge.

(you may attach an explanation as necessary)

4. I affirm that this firm will not knowingly enter into a contract with a public body under which a person or business debarred or suspended under Maryland State Finance and Procurement Title 16, subtitle 3, Annotated Code of Maryland, as amended, will provide, directly or indirectly, supplies, services, architectural services, construction-related services, leases of real property, or construction.

5. I affirm that this proposal or bid to the Board of Education of Howard County Maryland is genuine and not collusive or a sham; that said bidder has not colluded, conspired, connived and agreed, directly or indirectly, with any bidder or person to put in a sham bid or to refrain from bidding and is not in any manner, directly or indirectly, sought by agreement of collusion or communication or conference, with any person to fix the bid prices of the affidavit or any other bidder, or to fix any overhead, profit or cost element of said bid price, or that if any bidder, or to secure an advantage against the Board of Education of Howard County Maryland or any other person interested in the proposed contract; and that all statements in the proposal or bid are true. I acknowledge that, if the representations set forth in this

affidavit are not true and correct, the Board of Education of Howard County Maryland may terminate any contract awarded and take any other appropriate action.

6. I affirm that this firm will not knowingly employ an individual to work at a school if the individual is a Registered Sexual Offender, pursuant to section 11-722 (C) of the Criminal Procedure Article of the Annotate Code of Maryland. A firm or person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both.

CONFLICT OF INTEREST – FINANCIAL DISCLOSURE STATEMENT

As used below, the following terms have the meaning indicated:

A. "Financial interest" means: (1) Ownership of any interest as the result of which the owner has received, within the past three years, or is presently receiving, or in the future is entitled to receive, more than \$1000 per year; or

(2) Ownership of more than three percent of a business entity, by a Board member or school system employee.

B. "Qualified Relative" means a spouse, domestic partner, parent, child, and sibling.

Except as disclosed below, the bidder has examined its business records and states that to the best of its knowledge:

1. No Board of Education member or school system employee, or their Qualified Relative, has a Financial Interest in the company or its holding company or a subsidiary;
2. No Board of Education member or school system employee, or their Qualified Relative, is an officer, director, trustee, partner, or employee of the company or its holding company or a subsidiary; and
3. No Board of Education member or school system employee, or their Qualified Relative, is negotiating or has any arrangement concerning prospective employment with the company or its holding company or a subsidiary.

DISCLOSURES:

Attach as necessary.

The statements contained in this affidavit shall be incorporated into the awarded contract as material provisions and shall be effective throughout the life of the contract. The firm has a continuing obligation through the life of the contract to submit a revised affidavit should the firm discover information, or events occur, which render the contents of this affidavit erroneous or incomplete or which would result in the firm providing a different response. The firm's failure to submit a revised affidavit within three (3) working days of either its awareness of any error, change of circumstances, incompleteness, etc., or request by the owner shall constitute breach of contract. Upon submission of a revised affidavit, the owner has the right to take such actions as may be necessary, in the judgement of the owner, to maintain and enforce the provisions of the affidavit, including termination of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM under the penalties of perjury that the contents of these affidavits (Statutory and Non-Collusion) are true and correct, that I am executing this Affidavit in compliance with Section 16-311 of the State Finance and Procurement Article, Annotated Code of Maryland, and the Non-Collusion Certification in compliance with requirements of the Board of Education of Howard County Maryland, and that I am executing and submitting this Form of Proposal on behalf of and as authorized by the bidder named below.

(Signature of Bidder)

(Date)

(Title of Bidder)

SUBSCRIBED AND SWORN to before me on this _____ day of _____, 2024.
of

NOTARY PUBLIC

Name_____

Seal:

My Commission Expires_____

(Legal Name of Company)

(Address)

(City)

(State)

(Zip)

(Telephone)

(Fax)

(E-mail address)

Contractor's License Number # _____

We are/I am licensed to do business in the State of Maryland as a:

() Corporation

() Partnership

() Individual

() Other

APPENDIX E – STANDARD CONTRACT

CONTRACT TITLE: <<>>

CONTRACT NUMBER: <<>>

This Agreement is entered into by and between the Board of Education of Howard County on behalf of Howard County Public School System (hereinafter "HCPSS" or "Board"), and <<>> (hereinafter "Contractor"), which is authorized to do business in the State of Maryland. This Agreement is authorized by the Board on the _____ day of _____, 202____ and shall become effective on the last signature date set forth below.

WHEREAS, HCPSS requires the Contractor to provide goods, products or services as described in this Agreement.

WHEREAS, Contractor has agreed to enter into this agreement with HCPSS to provide the goods, products or services described.

NOW THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the mutual covenants contained herein and other good and valuable considerations, be it agreed by and between the parties as follows:

1. SCOPE AND INCORPORATION OF BID DOCUMENTS

HCPSS is establishing a contract with **Contractor** to provide <<>> in accordance with your firm's submitted bid prices on an as-needed basis.

The terms and conditions set forth in the Request for Proposal – solicitation for "[TITLE]", (Bid #), which was issued on _____ and opened on _____, including any Addenda thereto, the bid pricing of the Contractor (excluding any exceptions that have not been mutually agreed to in writing by HCPSS), and any Purchase Order(s) subsequently issued (collectively, the "Solicitation Documents") are incorporated into this Agreement.

Unless otherwise stated herein, Contractor's terms and conditions, proposal, or any other documentation issued by the Contractor is expressly excluded from this Agreement.

2. RESPONSIBILITIES OF THE CONTRACTOR

For the purposes of this contract the Contractor shall provide the following:

- 2.1 Provide all goods and/or services per the requirements as set forth in the Solicitation Documents.
- 2.2 Deliver all goods and/or services per the requirements as set forth in the Solicitation Documents.
- 2.3 Contractor shall exercise no administrative authority over the work of employees of the Board, but shall act only as advisers in those fields in which they are qualified to offer expert assistance.
- 2.4 All administrative supervision of Board or HCPSS employees is the responsibility of those employees to whom the responsibility has been delegated.

3. DURATION OF CONTRACT

The Contract period shall be <<>>.

HCPSS reserves the right, at its sole discretion, to exercise its option to renew this Agreement for <<>> upon written notice to the Contractor. Unless set forth in a written amendment, the compensation and manner of payment for any renewal terms shall remain as is per Section 4.

4. CONTRACT PRICES

The Board has approved contract spending authority in the amount not to exceed (NTE) \$_____ annually and \$_____ over the term, for full completion of all work, goods, and services as described in the Solicitation Documents for the entire term of the Agreement [SHOULD WE INCLUDE THE TERM AMOUNT OR ANNUAL AMOUNT?] The Contractor understands and agrees that the NTE maximum amount is not a guaranteed amount that HCPSS will spend on this Agreement and that HCPSS may award multiple vendors. All fees and expenses invoiced pursuant to this Agreement shall not exceed the NTE amount for the duration of the Agreement. The NTE amount is the maximum total amount that may be paid to Contractor under this Agreement unless a written amendment is executed between the Parties.

No additional costs for goods, products, or services will be paid by HCPSS without prior written consent of HCPSS Board of

Education. Other than pricing, no additional terms and conditions within the Contractor's Price Proposal shall be accepted without HCPSS' prior written consent.

5. BILLING AND PAYMENTS

All invoices are to be submitted to:

Howard County Public School System
Office of Accounting
10910 Clarksville Pike
Ellicott City, MD 21042

To expedite payments you must follow these guidelines:

- 5.1.1 All invoices must contain a valid Howard County Public School System purchase order number and contract number.
- 5.1.2 Invoices shall be itemized and should fully describe the services provided.
- 5.1.3 After review and approval, the invoices shall be submitted to the Office of Accounting for payment.

Invoices may be returned for correction. Invoices shall be submitted to HCPSS no later than sixty (60) days following services rendered or HCPSS' receipt of goods. Contractor agrees to expressly waive its right to payment if invoices are not submitted by the end of each fiscal school year (June 30th) or within sixty (60) days following services rendered, receipt of goods, or completion of project milestones, whichever is later, however, not to exceed 365 calendar days. Time is of the essence. Untimely receipt of invoices will not be processed nor paid by HCPSS.

6. ORDER OF PRECEDENCE

In the event of conflict between this Agreement and the Solicitation Documents, the terms of this Agreement shall govern. Unless otherwise stated herein, Contractor's terms and conditions, proposal, or any other documentation issued by Contractor is expressly excluded from this Agreement. If the conflict cannot be resolved by reference to the substantive terms of this Agreement, the parties intend that the following order of precedence shall apply in interpreting their Agreement:

- 1. This Agreement
- 2. Solicitation documents; then
- 3. Any HCPSS Purchase Order.

7. TERMINATION

7.1 Termination for Default - Should Contractor fail to perform fully, faithfully, and promptly any obligation owed to HCPSS under this Contract, then HCPSS may, at its sole discretion and election, consider the breach material and, notwithstanding any requirement of notice, terminate the Contract in its entirety. Failure on the part of Contractor to fulfill contractual obligations shall be considered just cause for termination of the contract, and the Contractor shall not be entitled to any costs incurred up to the date of termination. Such termination, or failure to terminate, by HCPSS shall not be construed as a waiver of any other right or remedy afforded by law or by agreement between the parties which HCPSS may have against Contractor. No failure of HCPSS to utilize a remedy afforded by law or contract upon any breach by Contractor shall be construed as a waiver of the right to insist upon full, prompt, and faithful performance of the particular obligation, and all other obligations of Contractor in the future.

7.2 Termination for Convenience of HCPSS - The performance of work under this Contract may be terminated by HCPSS in accordance with this clause in whole, or from time to time in part, whenever HCPSS shall determine that such termination is in the best interest of HCPSS with at least thirty (30) days' written notice to the Contractor. HCPSS will pay all reasonable costs associated with the Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract; provided, however, that the Contractor shall not be reimbursed for any anticipatory profits that have not been earned as of the date of termination.

7.3 Termination for Non-Appropriation: If the HCPSS fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this contract succeeding the first fiscal period, this contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this shall not affect either HCPSS's rights or the Contractor's rights under any termination clause in this contract. The effect of termination of the contract hereunder shall be to discharge both the Contractor and HCPSS from future performance of the contract, but not from their rights and obligations existing at the time of termination.

8. GUARANTEE AND WARRANTIES

Contractor shall unconditionally guarantee the materials and workmanship of all equipment, furniture and materials furnished by the Contractor, its subcontractors or suppliers for a period of at least TWO (2) YEARS from the date of acceptance and/or substantial completion of the installation by HCPSS. If the manufacturer warrants equipment for a period longer than two years the Contractor shall pass through this time frame to HCPSS. All warranty work shall be accomplished to the satisfaction of HCPSS within SEVENTY TWO (72) HOURS of notification of the work to be done.

In the event the Contractor fails to repair, replace, adjust, rectify, remedy, correct or complete the items, defects, deterioration, faulty design or installation and/or unworkmanlike performance, then HCPSS may have the right to secure the services of another contractor to correct the work or complete the performance required by the award of this bid. The Contractor shall be solely responsible for any and all cost, expenses and monies due the new contractor plus ten percent (10%) to reimburse the Board for the expenses of obtaining a new contractor.

For Services, the Contractor warrants and represents that each of its employees, subcontractors, or agents assigned to perform any services under the terms of this Agreement shall have the appropriate skills, training, and background reasonably commensurate with his or her level of performance or responsibility, or are required by law, so as to be able to perform in a competent and professional manner consistent with industry standards. The Contractor further warrants that the services provided hereunder will confirm to the requirements of this Agreement. The aforesaid warranties shall be in addition to any warranty implied by law and any standard warranty or guarantee of Contractor and shall not be exclusive.

9. ASSIGNMENT

The Contractor may not assign or transfer this contract, any interest herein or any claim hereunder, except as expressly authorized in writing by the HCPSS. Unless the performance is expressly waived in writing by the HCPSS, an assignment does not release the Contractor from responsibility for performance of this contract. Assignment or transfer of this contract without the written approval of HCPSS will be cause for termination.

10. INDEMNIFICATION

To the fullest extent permitted by law, Contractor shall at its sole cost and expense, indemnify, defend, pay on behalf of, and save harmless the Board and HCPSS, its agents, and employees, against and from all third-party suits, actions, claims, demands, damages, losses, expenses, attorney fees and/or costs of every kind and description to which HCPSS 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 herein 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 and/or costs be against, suffered or sustained by the Board, HCPSS, its agents and employees, or be against, suffered or sustained by other corporations and persons to whom HCPSS, its agents and employees, may become liable therefore, except for liability arising from or due to the gross negligence of the Board, HCPSS or its agents and employees. The whole or so much of the monies due, or to become due the Contractor under the Contract, as may be considered necessary by the Director of Purchasing, may be retained by HCPSS until such suits or claims for damages shall have been settled, or otherwise disposed of, and satisfactory evidence to that effect furnished to the Director of Purchasing.

11. INTELLECTUAL PROPERTY

Contractor agrees to indemnify and save harmless HCPSS, its officers, agents, and employees with respect to any claim, action, cost, or judgment for patent infringement, or trademark, or copyright violation arising out of the purchase of materials, supplies, equipment, or services covered by this contract. Further, Contractor shall not share, exchange, or release HCPSS's data, except as necessary to Contractor's performance or provisions of services under this Contract, to any other party without the express written consent from the Superintendent or his/her designee of HCPSS.

12. STUDENT DATA PRIVACY

HCPSS, as a government entity, is required when entering into agreements with other parties to follow all applicable laws and regulations, including those related to data privacy and security; accessibility; and records retention. Accordingly, to the extent

applicable to Contractor's performance or provision of services under this Contract, Contractor, referred to as "VENDOR", agrees to the following:

- A. A. Definition of "CLIENT DATA": Under this agreement, CLIENT DATA is defined as: (1) all Personally Identifiable Information (PII) contained in a student's "education record" as defined by the Family Educational Rights and Privacy Act (FERPA) (34 CFR Part 99); and (2) other non-public information that include, but are not limited to: personally identifiable personnel data, personally identifiable student data, personally identifiable metadata, and personally identifiable user content.
- B. B. Data Collection and Use: VENDOR will collect and use CLIENT DATA only for the purpose of fulfilling its duties and providing services under this Agreement as defined in Section A, and for improving services under this Agreement.

1. Specific CLIENT DATA Shared Under this Agreement

- I. Information associated with maintaining authentication between VENDOR and CLEINT, e.g. public/private keys, LTI secret, OATH keys.
 - II. Information associated with maintaining a user's profile, e.g. username, email address, first name, last name, source IP address, or cookies.
 - III. A user's status within the service, e.g. number of questions answered, time elapsed in lesson, student's score.
- C. Education Records: If VENDOR will have access to "education records" as defined under the Family Educational Rights and Privacy Act (FERPA) (34 CFR Part 99), the VENDOR acknowledges that for the purpose of this Agreement it will be designated as a 'school official' with 'legitimate educational interests' and will use the Education Record only for the purpose of fulfilling its duties under this Agreement.
- D. Data De-Identification: VENDOR may use de-identified Data for product development or other internal purposes only. De-identified Data will have all direct and indirect personal identifiers removed. This includes, but is not limited to: name, ID numbers, date of birth, demographic information, location information, and school ID. Furthermore, VENDOR agrees not to attempt to re-identify de-identified Data.
- E. Data Mining, Marketing and Advertising: Except as indicated in Section E above, VENDOR is prohibited from mining CLIENT DATA for any purposes other than those agreed to by the parties. Data mining or scanning of user content for the purpose of advertising or marketing to students or their parents is prohibited. Any and all forms of advertisement, directed towards children, parents, guardians, or District Employees will be strictly prohibited unless allowed with express written consent of the District.
- F. Modification of Terms of Service: VENDOR will not change how CLIENT DATA are collected, used, or shared under the terms of this Agreement in any way without advance notice to the CLIENT. This Agreement is the entire agreement between the CLIENT (including all District end users) and the VENDOR. All other agreements or understandings, whether electronic, click-through, verbal or in writing, with District Employees or other End Users shall be null and void.
- G. Data Sharing: VENDOR will not share CLIENT DATA with or disclose it to any third party, except to affiliated subcontractors, agents, or third-party service providers of the VENDOR as required to fulfill the purpose of this agreement, without prior specific and informed written consent of the CLIENT, except as required by law.
- H. Data Storage: CLIENT DATA will not be stored outside of the United States without prior, specific and informed written consent from the CLIENT.
- I. Data Deletion: Upon termination or completion of the Services hereunder and at the request of the CLIENT, VENDOR will delete the CLIENT DATA, provided that VENDOR may maintain archival copies for audit purposes and dispute resolution purposes. If VENDOR maintains archival copies of CLIENT DATA, VENDOR shall remain under the contractual obligations of this agreement regarding the maintenance and use of CLIENT DATA. This Section shall survive the termination of this Agreement.
- J. Terms, Data Transfer, Survival and Destruction: The CLIENT may immediately terminate the Agreement if the CLIENT determines the VENDOR has breached this Agreement. The Agreement will automatically terminate at the expiration date. However, the VENDOR's obligations shall survive termination of this Agreement until ALL CLIENT Data has been returned and/or securely removed or destroyed. VENDOR will ensure that all Data in its possession and in the possession of any subcontractors, or agents to which the VENDOR may have transferred Data, are destroyed.
- K. Rights and License: All goods, products, materials, documents, reports, writings, video images, photographs, papers and intellectual property of any nature including software or computer images prepared by the VENDOR (or subcontractors) for the CLIENT or from CLIENT-provided material will not be disclosed to any other person or entity

and remains the property of the CLIENT. All student-produced work remains the property of the CLIENT or that eligible student. The VENDOR has a limited, nonexclusive license to the data described herein solely for the purpose of performing its obligations as outlined in the Agreement. This Agreement does not give VENDOR any rights, implied or otherwise, to CLIENT Data, content, or intellectual property, except as expressly stated in the Agreement, including any right to sell or trade CLIENT Data. VENDOR will not use CLIENT's NAME or CLIENT DATA in any publications, without prior and specific writing authorization from the CLIENT. No part of this clause will prevent the VENDOR from sharing its open educational resources developed for public distribution on its platform.

- L. Access: Except as otherwise expressly prohibited by law, the VENDOR will immediately notify the CLIENT of any subpoenas, warrants, or other legal orders, demands or requests, including Audits, and governmental requests and demands, received by the VENDOR seeking CLIENT Data. If the CLIENT receives a similar request, the CLIENT will promptly provide the VENDOR with a copy of official request and the records or information required by the CLIENT to respond.
- M. Security Controls and Risk Management: VENDOR will store and process CLIENT Data in accordance with industry best practices. This includes appropriate administrative, physical, and technical safeguards to: 1) ensure the security and confidentiality of CLIENT DATA; 2) protect against any anticipated threats or hazards to the security or integrity of CLIENT DATA; 3) protect against unauthorized access to or use of CLIENT DATA that could result in substantial harm or inconvenience to any customer or to any client employee and/or student; and 4) dispose of CLIENT DATA Information in a secure manner.

1. To comply with the safeguard obligations generally described above, VENDOR has (a) designated an employee to coordinate its information security program, (b) identified reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of CLIENT DATA that could result in the unauthorized disclosure, misuse, alteration, destruction, or other compromise of such data, and assessed the sufficiency of any safeguards in place to control these risks, and (c) designed and implemented information safeguards to control the risks identified through the risk assessment, and regularly tests or otherwise monitors the effectiveness of safeguards' key controls, systems and procedures.

2. VENDOR will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. VENDOR will also have a written incident response plan, to include prompt notification of HCPSS in the event of a security or privacy breach (as hereinafter defined), as well as best practices for responding to a breach of PII.

- N. Data Breaches: VENDOR shall notify CLIENT in writing as soon as commercially practicable, however no later than forty-eight (48) hours, after VENDOR has either actual or constructive knowledge of a breach which affects the confidentiality, integrity, and/or availability of CLIENT's DATA (a "BREACH") unless it is determined by law enforcement that such notification would impede or delay their investigation. VENDOR shall have actual or constructive knowledge of a BREACH if VENDOR actually knows there has been a BREACH or if VENDOR has reasonable basis in facts or circumstances, whether acts or omissions, for its belief that a BREACH has occurred. The notification required by this section shall be made as soon as commercially practicable after the law enforcement agency determines that notification will not impede or compromise the investigation. VENDOR shall cooperate with law enforcement in accordance with applicable law provided however, that such cooperation shall not result in or cause an undue delay to remediation of the BREACH. VENDOR shall promptly take appropriate action to mitigate such risk or potential problem at VENDOR's expense. In the event of a BREACH, VENDOR shall, at its sole cost and expense, restore the Confidential Information, to as close its original state as practical, including, without limitation any and all CLIENT Data, and institute appropriate measures to prevent any recurrence of the problem as soon as is commercially practicable.
- O. Employee and Subcontractor Qualifications: VENDOR shall ensure that its employees and all subcontractors who have potential access to CLIENT DATA possess all needed qualifications to comply with the terms of this Agreement. Further, all employees and subcontractors are subject to the same FERPA compliance in relation to the 'school official' designation, and shall be trained that the re-disclosure of PII and/or Confidential Information will violate federal and state laws and may result in criminal and/or civil penalties.
- P. Compliance: In addition to complying with FERPA and the Maryland Education Code cited above, the VENDOR shall ensure that its products and services comply with the Federal Protection of Pupil Rights Act (34 CFR Part 98), the Federal Children's Internet Protection Act (47 CFR 54.520), and the Federal Children's Online Privacy and Protection Act (16 CFR Part 312).
- Q. Limitation of Liability: VENDOR shall be liable for any and all damages, costs and attorneys' fees which CLIENT may incur as a result of any claims, suits and judgments against CLIENT which arise out of any breach of this Agreement of the VENDOR, its employees, servants, representatives or agents under the term of this Agreement.

- R. Monitoring: VENDOR agrees to allow CLIENT the ability to audit VENDOR's use of CLIENT DATA to ensure compliance with the terms of the Agreements.

13. INSURANCE REQUIREMENTS

- 13.1 The Contractor shall not commence any operations or services on behalf of the Board of Education of Howard County (the "Board") under this Contract until the Contractor has obtained at the Contractor's own expense all of the insurance as required hereunder and such insurance has been approved by the Board. Approval of insurance required of the Contractor will be granted only after submission to the Board of original certificates of insurance signed by authorized representatives of the insurers or, at the Board's request, certified copies of the required insurance policies.
- 13.2 Insurance as required hereunder shall be in force throughout the term of the Contract. Original certificates signed by authorized representatives of the insurers or, at the Board's request, certified copies of insurance policies, evidencing that the required insurance is in effect, shall be maintained with the Board throughout the term of the Contract.
- 13.3 Contractor shall provide insurance with the minimum requirements noted within the Solicitation Documents and/or as otherwise required by HCPSS.
- 13.4 All required insurance coverages must be underwritten by insurers allowed to do business in the State of Maryland and acceptable to the Board. The insurers must also have a policyholders' rating of "A-" or better, and a financial size of "Class VII" or better in the latest evaluation by A. M. Best Company, unless the Board grants specific approval for an exception.
- 13.5 Waiver of Subrogation. To the fullest extent permitted by law, the Contractor and its invitees, employees, officials, volunteers, agents and representatives waive any right of recovery against the Board of Education of Howard County for any and all claims, liability, loss, damage, costs or expense (including attorneys' fees) arising out of the services provided by Contractor under this Contract. Such waiver shall apply regardless of the cause of origin of the injury, loss or damage, including the negligence of the Board and its elected and appointed officials, officers, volunteers, Contractors, agents and employees. The Contractor shall advise its insurers of the foregoing.

14. INDEPENDENT CONTRACTOR

Contractor hereby acknowledges its status as an independent contractor while performing services on behalf on the Board and that the Board's workers compensation coverage or self-insurance is not intended to and will not respond to cover any medical or indemnity loss arising out of injury to the Contractor or its employees during the Contractor's performance of services for the Board. The Contractor shall be responsible for the reporting and remittance of all state and federal taxes as an independent Contractor, including without limitation, FICA and state and federal unemployment taxes. As the Contractor shall not be deemed a Board employee, it is understood and acknowledged that the Contractor shall not be entitled to Board employee benefits, including but not limited to, retirement and health insurance, and the Contractor expressly disclaims any right or entitlement thereto. If the Contractor is an employer, it warrants that it has and will continue to carry at all times under this Agreement, workmen's compensation insurance meeting the minimum coverage requirements under Maryland law.

15. COMPLIANCE WITH LAWS

The Contractor hereby represents and warrants:

- 15.1 That it is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified.
- 15.2 That it is not in arrears with respect to the payment of any monies due and owing the county or state, of any department or agency thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Agreement.
- 15.3 That it shall comply with all federal, state, and local law, ordinances and legally enforceable rules and regulations applicable to its activities and obligations under this Agreement.
- 15.4 That it shall procure, at its expense, all licenses, permits, insurance, and governmental approval, if any, necessary to the performance of its obligations under this Agreement.
- 15.5 That the facts and matters set forth hereafter in the "Contract Affidavit" which is attached to this Agreement and made a part hereof are true and correct.

16. DELAYS, EXTENSIONS OF TIME

The Contractor agrees to perform all services, in accordance with all the sections of this Agreement in a timely, continuous and diligent manner in order to comply with the time requirements set forth in this bid and/or the contract. The Contractor acknowledges and agrees that the only party that may grant a legally binding time extension or agree to a substitution of products, materials, equipment and/or supplies is HCPSS. Any and all time extensions and/or changes/substitutions of products, materials, equipment and/or supplies must be requested in writing by the Contractor before the extension and/or change takes place and approved in writing by HCPSS.

Delays by the Contractor causing the completion of Projects to extend past the Commencement Date will not change the Commencement Date for Performance guarantee purposes.

17. SEX OFFENDER NOTIFICATION AND BACKGROUND CHECKS

- 17.1 As a Contractor working for HCPSS, we require all contractors to not employ Registered Sex Offenders to work on projects for our school system if they, as a result, are required to perform delivery, installation, repair, construction or any other kind of services **on HCPSS property**. Further, Maryland Law requires that any person who enters 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 registered sex offender; See §11-722 Criminal Procedure Article. An employer who violates this requirement is guilty of a misdemeanor and if convicted may be subject to up to five years imprisonment and/or a \$5,000 fine. In addition, pursuant to §6-113 of the Education Article of the Maryland Annotated Code, a contractor or subcontractor for HCPSS 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 a crime identified under subsection (a) of this §6-113. Furthermore, Contractor's employees who have unsupervised, uncontrolled or direct access to children or who are assigned duties in a school where unsupervised contact with children are required to have a complete fingerprint-based background check at HCPSS's direction and sole discretion, which could include fingerprinting conducted by its in-house fingerprint Contractor or at a site chosen by HCPSS. The cost will be borne by the award Contractor and all records will remain in the custody of HCPSS.
- 17.2 All Contractors shall regularly screen their work-forces to ensure that a Registered Sex Offender as well as other convicted as above does not perform work at a county public school and also ensure that a subcontractor and independent contractor conducts screening of its personnel who may work at a school. The term "work force" is intended to refer to all of the contractor's direct employees and subcontractors and/or independent contractors it used to perform the work. Violations of this provision may cause HCPSS to take action against the contractor up to and including termination of the contract.
- 17.3 Other Crimes. An HCPSS contractor or subcontractor 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:
- a. Section 3-307 of the Criminal Law Article, Maryland Annotated Code, *Sexual Offense in the Third Degree*;
 - b. Section 3-308 of the Criminal Law Article, Maryland Annotated Code, *Sexual Offense in the Fourth Degree*;
 - c. An offense under the laws of another state that would constitute a violation of Sections 3-307 or 3-308 of the Criminal Law Article if committed in Maryland;
 - d. Child sexual abuse under Section 3-602 of the Criminal Law Article, Annotated Code of Maryland;
 - e. An offense under the laws of another state that would constitute child sexual abuse under Section 3-602 of the Criminal Law Article if committed in Maryland;
 - f. A crime of violence as defined in Section 14-101 of the Criminal Law Article, Annotated Code of Maryland; or
 - g. An offense under the laws of another state that would constitute a crime of violence under Section 14-101 of the Criminal Law Article if committed in Maryland.
- 17.4 HCPSS contractors shall ensure compliance with the requirements in the Sections above for their workforce. Workforce means all of the contractor's direct employees, subcontractors, and independent contractors. Violations of any of these provisions may result in immediate termination for cause.

18. TOBACCO PRODUCTS DRUG-, ALCOHOL-, AND TOBACCO-FREE WORK ENVIRONMENTS

The Board of Education of Howard County maintains a tobacco, alcohol/drug free environment. The sale or use of tobacco, alcohol or drugs, in any form, or related product, is prohibited in school buildings and grounds at all times. Persons found violating this policy will be requested to remove the product and themselves from school premises. Repeated use or sale of tobacco on HCPSS property, or any use or sale of alcohol, misuse of other drugs, or any use of illegal drugs by a contract employee while servicing this contract or while on HCPSS property will result in a prohibition of that employee from servicing the HCPSS contract. Repeated instances of violations by contract employees may result in a default ruling and lead to contract termination.

19. NON-DISCRIMINATION CLAUSE

Neither party shall discriminate based on race, color, creed, national origin, religion, physical or mental disability, age, gender, marital status, or sexual orientation in matters affecting employment or in providing access to programs. For more information regarding HCPSS, contact the Equity Assurance Office of the Howard County Public School System at 10910 Route 108, Ellicott City, MD 21042 or call 410-313-6654.

20. REPRESENTATIVES AND NOTICES

Any notices required to be given under this Agreement shall be given, in writing, to the attention of the person identified below. Notice will be deemed to have been given when it has been placed in the hands of the addressee or it has been placed in the U.S. Mail, postage prepaid, certified and return receipt requested.

HCPSS:

<<>>

Phone: <<>>

Email: <<>>

Contractor:

<<>>

Phone: <<>>

Email: <<>>

21. CONFLICT OF INTEREST, LOBBYING, AND ETHICS

- 21.1 Conflict of Interest. The Contractor represents and warrants that there exists no actual or potential conflict of interest between the Contractor's performance under this Agreement and the Contractor's engagement or involvement in any other personal or professional activities. In the event such conflict or potential conflict arises during the term of this Agreement, or any extension thereof, the Contractor shall immediately advise the Board thereof.
- 21.2 In accordance with §5-815 through §5-820 of the General Provisions Article of the Annotated Code of Maryland, the Board of Education of Howard County has promulgated Ethics Policies which cover conflict of interest, financial disclosure and lobbying. All Contractors are expected to comply with any and all Board Ethics Policies that may apply to them individually or as a business entity.
- 21.3 All Contractors should review carefully the conflict of interest policies. Specific attention should be accorded to the Board Ethics Policies (Board Policy 2070) prohibiting Howard County Public School System employees from benefiting from business with the school system.
- 21.4 All Contractors are placed on notice that all questions/interpretations concerning the Board Ethics Policies may be submitted to the Ethics Review Panel in accordance with Board Policy 2070.

22. LIQUIDATED DAMAGES

In the event the Award Bidder(s) fails to deliver the goods or services of the contract in accordance with the specifications, HCPSS reserve the right to purchase the goods/services on the open market in sufficient quantities to assure the continued operation of HCPSS. All additional expenses incurred by HCPSS as a result of such purchases will be deducted from the money owed or monies which may become due to the Contractor.

23. GOVERNING LAW AND VENUE

This Agreement is subject to and will be construed and interpreted under the laws of the State of Maryland. All lawsuits arising out of this Agreement must be filed in the appropriate state court located in Howard County, Maryland.

24. SEVERABILITY

Should any part, term or provision of this Agreement be declared invalid, void, or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect, and shall in no way be invalidated, impaired, or affected thereby.

25. INTEGRATION AND MODIFICATION

This Agreement sets forth the entire agreement between the parties relative to the subject matter hereof. No representation, promise or condition, whether oral or written, not incorporated herein shall be binding upon either party to this Agreement. No waiver, modification or amendment of the terms of this Agreement shall be effective unless made in writing and signed by an authorized representative of all parties to this Agreement.

Signatures on following page

*The signatory of this form hereby affirms that the information as set forth is accurate, truthful and complete, to the best of his/her knowledge and belief.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

APPROVED: <<>>

Signature: _____

DATE: _____

Name (printed): _____

Title: _____

OWNER: **Board of Education of Howard County**

(A Body Politic and Corporate)

Signature: _____

DATE: _____

Jennifer Swickard Mallo, Chair

Approved by:

Signature: _____

DATE: _____

Michael J. Martirano, Ed. D.
Superintendent of Schools

OR

Signature: _____

DATE: _____

Robert Bruce, NIGP-CPP, CPPO, CPPB
Director of Procurement and Materials Management

APPROVED FOR LEGAL FORM AND SUFFICIENCY*

(Subject to Execution by a Duly Authorized Representative and
Chair of the Board of Education of Howard County)

Signature: _____

DATE: _____

OFFICE OF GENERAL COUNSEL

*Approval of Legal Form and Sufficiency Does not Convey Approval or
Disapproval Of the Substantive Nature of this Transaction.
Approval is Based Upon Typeset Document- All Modifications Require Re-Approval.

APPENDIX F – EDUCATION ARTICLE 6-113.2 AFFIDAVIT

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, (print name) _____ possess the legal authority to make this Affidavit on behalf of

_____ (Name of company).

B. SCREENING APPLICANTS FOR EMPLOYMENT UNDER A HOWARD COUNTY PUBLIC SCHOOL SYSTEM (HCPSS) CONTRACT

Effective July 1, 2019, Maryland Law requires contractors to screen all applicants for a position involving direct contact with minors as defined in Section 6-113.2 of the Education Article, Maryland Annotated Code ("statute").

Screening requires the applicant to submit to the contractor the following:

1. Contact information of:
 - The current employer
 - All former school employers; and
 - All former employers of the applicant in which the applicant was employed in a position involving direct contact with minors.
2. Written consent form signed by applicant to release all records relating to child sexual abuse or sexual misconduct.
3. A written statement of whether the applicant:
 - Has been the subject of a child sexual abuse or sexual misconduct investigation by any employer, arbitrator, county board, state licensing agency, law enforcement agency, or child protective services agency, unless the investigation resulted in any of the findings listed in Section 6-113.2(B)(3)(i)(1-5), of the statute.
 - Has ever been disciplined, discharged, non-renewed, or asked to resign from employment, or has ever resigned from, or otherwise separated from, any employment while allegations of child sexual abuse or sexual misconduct were pending or were under investigation, or due to an adjudication or findings of child sexual abuse or sexual misconduct; or
 - Has ever had a license, professional license, or certificate suspended, surrendered, or revoked while allegations of child sexual abuse or sexual misconduct were pending or under investigation, or due to an adjudication or findings of child sexual abuse or sexual misconduct.

Before hiring an applicant for a position involving direct contact with minors, the Contractor shall:

1. Review an applicant's employment history by contacting employers listed by the applicant and requesting dates of employment and answers to questions regarding child sexual abuse or sexual misconduct required by the statute;

- and
2. Request a report from the Maryland State Department of Education regarding the applicant's eligibility for employment or certification status to determine whether the applicant a) holds a valid and active certification appropriate for the position and is otherwise eligible for employment; and b) has been the subject of professional discipline related to child sexual abuse or sexual misconduct.

If the information from an applicant's employer includes an affirmative response to the child sexual abuse or sexual misconduct questions, and the Contractor wants to further consider the applicant for employment, the Contractor shall request additional information from the employer including records related to the child sexual abuse or sexual misconduct.

Contractor shall conduct the employment history review of the applicant: 1) at the time of initial hiring of the employee; or 2) before the employee is assigned to work for a school entity in a position involving direct contact with minors.

Contractor shall maintain a record of each employee's employment history review required by the statute; and provide to HCPSS access to the employee's records upon request.

Before assigning an employee to perform work for HCPSS in a position involving direct contact with minors, Contractor shall provide notice to HCPSS of any affirmative responses to the child sexual abuse or sexual misconduct questions required by the statute.

Contractor may not assign an employee to perform work for HCPSS in a position involving direct contact with minors if HCPSS objects to the assignment after receiving notice required by the statute.

Notwithstanding any other remedies available under the Contract, Contractor may be subject to disciplinary action by the Maryland State Department of Education for willful violations of the statute.

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the requirements of Section 6-113.2 of the Education Article, Annotated Code of Maryland.

Violations of any of these provisions may result in immediate termination for cause.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____(printed name of Authorized Representative and affiant)

_____(signature of Authorized Representative and affiant)

APPENDIX G – CONTRACTOR PERFORMANCE/EVALUATION
SCORECARD

Price proposals are to be fully loaded prices that include, but are not limited to, all labor, profit/overhead, general operating, administrative, and all other expenses and costs necessary to perform the work set forth in the solicitation. No other amounts will be paid to the Contractor.

It is imperative that prices entered on the Price Proposal Form are correct and accurately calculated by the Offeror. Incorrect entries or inaccurate calculations by the Offeror may cause the Proposal to be rejected.

Except as instructed on the Price Proposal Form, nothing shall be entered on or attached to the Price Proposal Form that alters or proposes conditions or contingencies on the prices. Alterations and/or conditions may cause the Proposal to be rejected.

NOTE: Amendments to solicitations often occur prior to the proposal due date and sometimes within as little as 24 hours prior to the time proposals are due. It is the Offeror's responsibility to frequently visit our website, www.hcpss.org to obtain amendments. Completion of this Price Proposal Work Sheet indicates that you have read this section and checked the website for any amendments to this solicitation.

Pricing shall be provided per Student, per License, and by District. AACPS reserves the right to award the option that is in its best interest.

Upon completion of a project or at any time during the project, the awarded contractor shall receive a performance evaluation scorecard rating the contractor's performance on the project. The evaluation scorecard will become part of the contractor's permanent file. A sample Contractor Performance/Evaluation Scorecard is included with the bid documents.

The evaluation scorecard shall include the following performance indicators; Quality of Work, Responsiveness, Professionalism, Resources, Schedule Management, Quality Control, Deficiency Resolution, Submittal Management, Training, Appearance, Security, Safety, Utility Conservation, Disruptions, Quality of Materials, Emergency Response, Hazardous Materials, Innovation, Teamwork, Cost Management, Billing, Compliance.

A contractor shall have up to 3 weeks after notification to appeal, challenge or otherwise dispute the scorecard results. After the 3-week period, the scorecard shall be considered final and accepted by the contractor.

A contractor receiving a 70% or less overall evaluation scorecard rating for a project may be disqualified for bidding on any future projects with the HCPSS for a period of three (3) years and/or for the remaining contract term including renewal options.

Name of Contractor: _____

Name of Project: _____ **Contract/Bid Number:** _____

Reviewed by: _____ **Department:** _____

Please take a moment to tell us about this contractor's performance. We will summarize all the information we obtain about each contractor and provide it to them. Supporting documentation shall be required to support any scores noted on the performance evaluation scorecard.

HOW SATISFIED. Please tell us **how satisfied** you are with the **performance** of the contractor named above. Circle a 10 if you are highly satisfied with their performance on a measure. Circle a 1 if you are highly dissatisfied with their performance on a measure. Circle a number in between to show different degrees of satisfaction. Circle **N/A** for any performance indicators that do not apply to the project. There are no right or wrong answers; just tell us how you feel.

APPENDIX G

CONTRACTOR PERFORMANCE/EVALUATION SCORECARD

A contractor receiving a 70% or less overall evaluation scorecard rating for a project may be disqualified for bidding on any future projects with the HCPSS for a period of three (3) years and/or for the remaining contract term including renewal options. The contractor shall be notified of their performance status after each project.

Satisfaction with the contractor's performance:

**Highly
Dissatisfied**

**Highly
Satisfied**

1. **Quality of Work.** The contractor's ability to do the job right the first time.

1 2 3 4 5 6 7 8 9 10 N/A

2. **Responsiveness.** The contractor's ability to adapt to changes and meet unusual needs.

1 2 3 4 5 6 7 8 9 10 N/A

3. **Professionalism.** The courtesy and standards of conduct maintained by the contractor and his or her employees.

1 2 3 4 5 6 7 8 9 10 N/A

4. **Resources.** The contractor's ability to provide his or her employees with the tools, parts, and supplies needed to do the job.

1 2 3 4 5 6 7 8 9 10 N/A

5. **Schedule Management.** The contractor's ability to show up when scheduled and complete the work on time.

1 2 3 4 5 6 7 8 9 10 N/A

6. **Quality Control.** The contractor's ability to identify problems and deficiencies before you do.

1 2 3 4 5 6 7 8 9 10 N/A

7. **Deficiency Resolution.** The contractor's ability to rapidly correct deficiencies in his or her work.

1 2 3 4 5 6 7 8 9 10 N/A

8. **Submittal Management.** The contractor's ability to provide submittals in a timely and efficient manner.

1 2 3 4 5 6 7 8 9 10 N/A

9. Training. The contractor's ability to provide employees well-trained in all aspects of their jobs.	1	2	3	4	5	6	7	8	9	10	N/A
10. Appearance. The contractor's ability to keep uniforms, tools, and vehicles clean so as to portray a positive image.	1	2	3	4	5	6	7	8	9	10	N/A
11. Security. The contractor's ability to safeguard your facilities and assets.	1	2	3	4	5	6	7	8	9	10	N/A
12. Safety. The contractor's ability to keep the workplace safe and comply with OSHA requirements.	1	2	3	4	5	6	7	8	9	10	N/A
13. Utility Conservation. The contractor's ability to use only the water, gas, electricity, and air conditioning needed to do the job.	1	2	3	4	5	6	7	8	9	10	N/A
14. Disruptions. The contractor's ability to keep interruptions to the operations of your firm or agency to a minimum.	1	2	3	4	5	6	7	8	9	10	N/A
16. Quality of Materials. The contractor's ability to use high quality parts and supplies.	1	2	3	4	5	6	7	8	9	10	N/A
17. Emergency Response. The contractor's ability to rapidly restore normal operations after an emergency, power outage, or severe weather.	1	2	3	4	5	6	7	8	9	10	N/A
18. Hazardous Materials. The contractor's ability to properly handle hazardous materials.	1	2	3	4	5	6	7	8	9	10	N/A
19. Innovation. The contractor's ability to use new materials and adopt new methods to increase effectiveness.	1	2	3	4	5	6	7	8	9	10	N/A

20. **Teamwork.** The contractor's ability to be a team player in order to assist in accomplishing the objectives of your firm or agency. 1 2 3 4 5 6 7 8 9 10 N/A
21. **Cost Management.** The reasonableness of the contractor's costs, especially for contract changes. 1 2 3 4 5 6 7 8 9 10 N/A
22. **Billing.** The contractor's ability to present correct and properly documented invoices. 1 2 3 4 5 6 7 8 9 10 N/A
23. **Compliance.** The contractor complied with all rules, requests, regulations and requirements. This includes compliance with instructions regarding interactions with students, staff, and others. 1 2 3 4 5 6 7 8 9 10 N/A

Please summarize the contractor's overall performance based on the scores for the performance indicators noted above:

Please return the completed survey by email to: afua_tisdale@hcpss.org

Thank you for your prompt assistance.

APPENDIX H – INSURANCE REQUIREMENTS

1. General Insurance Requirements

- 1.1. - The Contractor shall not commence any operations or services on behalf of the Board of Education of Howard County (the "Board") under this Contract until the Contractor has obtained at the Contractor's own expense all of the insurance as required hereunder and such insurance has been approved by the Board. Approval of insurance required of the Contractor will be granted only after submission to the Board of original certificates of insurance signed by authorized representatives of the insurers or, at the Board's request, certified copies of the required insurance policies.
- 1.2. - Insurance as required hereunder shall be in force throughout the term of the Contract. Original certificates signed by authorized representatives of the insurers or, at the Board's request, certified copies of insurance policies, evidencing that the required insurance is in effect, shall be maintained with the Board throughout the term of the Contract.
- 1.3. - The Contractor shall require all Subcontractors to maintain during the term of the Contract insurance to the same extent required of the Contractor herein unless any such requirement is expressly waived or amended by the Board in writing. The Contractor shall furnish Subcontractors' certificates of insurance to the Board immediately upon request.
- 1.4. - All insurance policies required hereunder shall be endorsed to provide that the policy is not subject to cancellation, non-renewal or material reduction in coverage until thirty (30) days prior written notice has been given to the Board
- 1.5. - No acceptance and/or approval of any insurance by the Board shall be construed as relieving or excusing the Contractor from any liability or obligation imposed upon the Contractor by the provisions of this Contract.
- 1.6. - If the Contractor does not meet the insurance requirements of this Contract, the Contractor shall forward a written request to the Board for a waiver in writing of the insurance requirement(s) not met or approval in writing of alternate insurance coverage, self-insurance, or group self-insurance arrangements. If the Board denies the request, the Contractor must comply with the insurance requirements as specified in this Contract.
- 1.7. - All required insurance coverage must be underwritten by insurers allowed to do business in the State of Maryland and acceptable to the Board. The insurers must also have a policyholders' rating of "A-" or better, and a financial size of "Class VII" or better in the latest evaluation by A. M. Best Company, unless the Board grants specific approval for an exception.
- 1.8. - Any deductibles or retentions in excess of \$10,000 shall be disclosed by the Contractor and are subject to the Board's written approval. Any deductible or retention amounts elected by the Contractor or imposed by the Contractor's insurer(s) shall be the sole responsibility of the Contractor.
- 1.9. - If the Board is damaged by the failure or neglect of the Contractor to purchase and maintain insurance as described and required herein, without so notifying the Board, then the Contractor shall bear all reasonable costs properly attributable thereto.

2. Contractor's Insurance

- 2.1. - The Contractor shall purchase and maintain the following insurance coverages at not less than the limits specified below or required by law, whichever is greater:

2.1.1 - Commercial general liability insurance or its equivalent for bodily injury, personal injury and property damage including loss of use, with minimum limits of:

- \$ 1,000,000 each occurrence;
- \$ 1,000,000 personal and advertising injury;
- \$ 2,000,000 general aggregate; and
- \$ 1,000,000 products/completed operations aggregate. This insurance shall include coverage for all of the following:
 - i. Liability arising from premises and operations;
 - ii. Liability arising from the actions of independent contractors; and
 - iii. Contractual liability including protection for the Contractor from bodily injury and property damage claims arising out of liability assumed under this Contract.

2.1.2 - Business auto liability insurance or its equivalent with a minimum limit of \$1,000,000 per accident and including coverage for all of the following:

- i. Liability arising out of the ownership, maintenance, or use of any auto (if no owned autos, then hired and non-owned autos only); and
- ii. Automobile contractual liability.

2.1.3 - If the Contractor has any employees, workers compensation insurance or its equivalent with statutory benefits as required by any state or Federal law, including standard "other states" coverage; employers liability insurance or its equivalent with minimum limits of:

- \$ 100,000 each accident for bodily injury by accident;
- \$ 100,000 each employee for bodily injury by disease; and
- \$ 500,000 policy limit for bodily injury by disease.

2.1.4-If the Contractor is an individual or sole proprietor operating without workers compensation coverage, personal health insurance or its equivalent.

2.1.5- Umbrella excess liability or excess liability insurance or its equivalent with minimum limits of:

- \$ 1,000,000 per occurrence;
- \$ 1,000,000 aggregate for other than products/completed operations and auto liability;
- and
- \$ products/completed operations aggregate 1,000,000

and including all of the following coverages on the applicable schedule of underlying insurance:

- i. Commercial general liability;
- ii. Business auto liability; and
- iii. Employers liability.

2.1.6- Professional liability (or errors or omissions liability) insurance or its equivalent with minimum limits of:

- \$ 1,000,000 each claim or wrongful act; and
- \$ 2,000,000 annual aggregate.

2.2- The Board of Education of Howard County and its elected and appointed officials, officers, employees and authorized volunteers shall be named as additional insureds on the Contractor's commercial general liability insurance with respect to liability arising out of the services provided under

this Contract by Contractor.

2.3- Insurance or self-insurance provided to the Board and its elected and appointed officials, officers, employees and authorized volunteers under any Contractor's liability insurance or self-insurance required herein shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of insurance or self-insurance. (Any cross suits or cross liability exclusion shall be deleted from Contractor's liability insurance policies required herein.)

2.4 - Insurance or self-insurance provided to the Board and its elected and appointed officials, officers, employees and authorized volunteers as specified herein shall be primary, and any other insurance, self- insurance, coverage or indemnity available to the Board and Board's elected and appointed officials, officers, employees and authorized volunteers shall be excess of and non-contributory with insurance or self-insurance provided to the Board and its elected and appointed officials, officers, employees and authorized volunteers as specified herein.

2.5 - If any liability insurance purchased by the Contractor has been issued on a "claims made" basis, the Contractor must comply with the following additional conditions:

2.5.1 - The Contractor shall agree to provide certificates of insurance evidencing such claims made coverages for a period of one year after final payment by the Board for Contractor's services under this Contract. Such certificates shall evidence a retroactive date no later than the earlier of the date of this Contract or the commencement of Contractor's services under this Contract; or

2.5.2- The Contractor shall purchase an extended (minimum one year) reporting period endorsement for each such "claims made" policy in force as of the date of final payment by the Board for Contractor's services under 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. Such certificate or copy of the endorsement shall evidence a retroactive date no later than the earlier of the date of this Contract or the commencement of Contractor's services under this Contract.

Indemnification

To the fullest extent permitted by law, Contractor agrees to defend, indemnify, pay on behalf of, and save harmless the Board of Education of Howard County, its elected and appointed officials, agents, employees, and authorized volunteers against any and all claims, losses, damages, expenses, including reasonable attorneys' fees and all other costs connected therewith, cause of action or liability arising out of or connected to the services provided by Contractor under this Contract, provided that any such claim, loss, damage, expense, cause of action or liability is caused in whole or in part by any negligent act or omission of the Contractor or any of the Contractor's employees, agents, officials or volunteers or anyone for whose acts the Contractor may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. This obligation to indemnify, defend and hold the Board of Education of Howard County, its elected and appointed officials, agents, employees, and authorized volunteers harmless shall survive the termination of this Agreement.

Waiver of Subrogation

To the fullest extent permitted by law, the Contractor and its invitees, employees, officials, volunteers, agents and representatives waive any right of recovery against the Board of Education of Howard County for any and all claims, liability, loss, damage, costs or expense (including attorneys' fees) arising out of the services provided by Contractor under this Contract. Such waiver shall apply regardless of the cause of origin of the injury, loss or damage, including the negligence of the Board and its elected and appointed officials, officers, volunteers, Contractors, agents and employees. The Contractor shall advise its insurers of the foregoing.

Acknowledgment of Contractor's Independent Contractor Status and No Coverage for Contractor under Board's Workers Compensation Coverage

Contractor hereby acknowledges its status as an independent contractor while performing services on behalf on the Board and that the Board's workers compensation coverage or self-insurance is not

intended to and will not respond to cover any medical or indemnity loss arising out of injury to the Contractor or its employees during the Contractor's performance of services for the Board.

Damage to Property of the Contractor and its Invitees

To the fullest extent permitted by law, the Contractor shall be solely responsible for any loss or damage to property of the Contractor or its invitees, employees, officials, volunteers, agents and representatives while such property is on, at or adjacent to the premises of the Board.

**APPENDIX I – CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS**

This certification is required by the Federal Regulations Implementing Executive Order 12549, Debarment and Suspension, 45 CFR Part 93, Government-wide Debarment and Suspension, for the Department of Agriculture (7 CFR Part 3017), Department of Labor (29 CFR Part 98), Department of Education (34 CFR Parts 85, 668, 682), Department of Health and Human Services (45 CFR Part 76).

The prospective bidder, _____ certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. Any exceptions provided will not necessarily result in denial of award but will be considered in determining bidder responsibility and whether or not the system will enter into contract with the party. For any exception noted, indicate on an attached sheet to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

Typed Name & Title of Authorized Representative

Signature of Authorized Representative

Date

I am unable to certify to the above statement. My explanation is attached.

Signature _____ Date _____