

December 12, 2023

Dear Vendors:

Montgomery County Public Schools will be applying for Category 1 E-rate funding for funding year 2024. In accordance with E-rate rules that all equivalent product lines must be provided the opportunity to submit proposals, we are hereby conducting an E-rate Request for Proposal. Attached to this email is a list of the equipment and services (or their functional equivalent) for which we are seeking proposals.

Proposals are required to be submitted to me via e-mail no later than 3PM on January 15, 2024 in Excel format by school building. The following are requirements with which the winning vendor will be expected to comply:

- Vendors must have a valid E-rate SPIN number and must submit it with the proposal unless Authorized Resellers can or must be used to submit orders.
- Proposals must include a description of the manufacturer's equipment warranty for each component listed. Descriptions should be specific and include the number of years covered by the warranty. E-rate rules allow for NO MORE than a 3-year manufacturer's warranty to be included as long as the costs are seamlessly bundled with the cost of the equipment and not broken out separately.
- Montgomery County Public Schools will submit a Form 472 BEAR for Universal Services reimbursement. Therefore, each item response should indicate the actual VITA contract costs and not just the school system's share.
- Vendor shall maintain copies of all bids, correspondence, receipts, purchase orders, delivery information, memoranda and other data relating to Vendor's equipment and services related to this procurement. All such records shall be retained for 10 years following completion of services and/or installation of equipment, and shall be subject to inspection and audit by the District.
- In addition to the foregoing, the winning vendor must maintain and enforce an internal E-rate audit process that ensures that vendor complies with all E-rate program rules and regulations. This process must include the following:
 - Ensuring that services or products are not provided to the District without District's express written permission or official purchase authorization
 - Documenting that E-rate funded equipment/services were provided within the E-rate funding year
 - Ensuring that invoices are submitted to the District in a timely manner
 - Maintaining fixed asset list of E-rate-supported equipment provided to the District with detailed information for each item (model number, serial number, product description) and made available to the District in electronic format upon project completion.

Thank you in advance for your proposal. If you have any questions, please contact me at the e-mail address below.

Sincerely,



Angela M. Bland, CPPB, C.P.M.

Supervisor of Purchasing

abland@mcps.org

(540) 381-6128 Ext. 1340



Montgomery County Public Schools

Request for Proposal (RFP) # 24-20
For Leased Lit Fiber WAN with Internet Service (E-rate)
Issue Date: December 12, 2023
Proposal Due Date and Hour: January 15, 2024 3PM

Montgomery County Public Schools
208 College Street
Christiansburg, VA 24073

MONTGOMERY COUNTY PUBLIC SCHOOLS
RFP# 24-20
ISSUE DATE: December 12, 2023

GENERAL INFORMATION FORM
(TO BE COMPLETED AND RETURNED)

QUESTIONS: All inquiries for information regarding this solicitation should be directed to:
<https://sites.google.com/mcps.org/eratefy24cat1rpf/home>

DUE DATE: Sealed Proposals will be received until January 15, 2024 at 3:00 PM. Failure to submit proposals to the correct location by the designated date and hour will result in disqualification.

ADDRESS: Proposals should be mailed or hand delivered to: Montgomery County Public Schools Purchasing Department, 208 College Street, Christiansburg, VA 24073. Reference the Opening Date and Hour, and RFP Number in the lower left corner of the return envelope or package.

COMPANY INFORMATION/SIGNATURE: In compliance with this Request for Proposal and to all the conditions imposed therein and hereby incorporated by reference, the undersigned offers and agrees to furnish the services in accordance with the attached signed proposal and as mutually agreed upon by subsequent negotiation.

FULL LEGAL NAME (PRINT) (Company name as it appears with your Federal Taxpayer Number)		FEDERAL TAXPAYER NUMBER (ID#)	CONTRACTOR'S REGISTRATION
BUSINESS NAME/DBA NAME/TA NAME (If different than the Full Legal Name)		FEDERAL TAXPAYER NUMBER (If different than ID# above)	
BILLING NAME (Company name as it appears on your invoice)		FEDERAL TAXPAYER NUMBER (If different than ID# above)	
PURCHASE ORDER ADDRESS		PAYMENT ADDRESS	
CONTACT NAME/TITLE (PRINT)		SIGNATURE (IN INK)	DATE
E-MAIL ADDRESS	TELEPHONE NUMBER	TOLL FREE TELEPHONE NUMBER	FAX NUMBER

I. SCOPE OF SERVICES

Section 1: Introduction

Montgomery County Public Schools, hereafter referred to as Applicant, is requesting proposals for leased lit fiber WAN with internet service for delivery of Internet access services to the district. Service is expected to terminate at the district hub site listed in the attached pricing sheet. The new service is being planned to begin on July 1, 2024 which represents the expiration of the current service.

Please visit <https://sites.google.com/mcps.org/eratefy24cat1rpf/home> to submit questions and view provided answers. It is the proposer's responsibility to monitor the website for updated questions and responses.

Section 2: Service Requests

1. Applicant is seeking proposals for a fully managed, bundled Internet access solution. See Section 3 for solution requirements.
2. Network Design and Construction Routes
 - a. Applicant leaves point of presence (PoP) location and fiber routes up to respondent. However, due to current and future bandwidth needs, designs are encouraged to provide dedicated infrastructure to Applicant. This includes little to no aggregation or third-party equipment between Applicant site and PoP.
 - b. Applicant is not advocating or mandating any preconceived network design or construction route and leaves this decision up to the vendor to present their best solution.
 - c. Respondents should clearly illustrate proposed network design and construction routes. Respondents should show evidence that they looked at alternate routes for the build and should provide narrative language supporting rationale for chosen build route(s).
 - d. The applicant's stated decision criteria (outlined in the RFP) will be used to determine if an award is made as-a-result of this RFP. The applicant has, in accordance with E-rate guidelines, rated cost of service as the highest weighted factor in its decision criteria.
3. Special Construction
 - a. In E-rate terminology, **special construction** refers to the upfront, non-recurring costs associated with the installation of new fiber to or between eligible entities.
 - i. Special construction and service eligibility for reimbursement have changed starting funding year 2016. See the Federal Communications Commission E-rate modernization order 2 (WC Docket No. 13-184) (<https://www.fcc.gov/document/fcc-releases-order-modernizing-e-rate-21st-century-connectivity>) for more information.
 - b. Special construction charges eligible for Category One support consist of three components:
 - i. construction of network facilities
 - ii. design and engineering
 - iii. project management
 - c. If no new fiber is being installed, then any installation costs are considered standard **non-recurring costs (NRC)**.
 - i. For leased lit fiber solutions requiring special construction, this means that the costs associated with building the fiber are considered special construction and the costs associated with the equipment required to activate the service are a standard NRC.
 - d. **Special Construction Payment Plan Option**
 - i. The applicant requests that the respondents consider allowing Applicant to pay the non-discount share of special construction costs (portion of costs that are the responsibility of the applicant) to be paid in equal

annual installments over five years from Funding Year 2024 to Funding Year 2029 inclusive. Responses must include agreement or non-agreement of this request.

- e. Excess fiber strands for special construction projects
 - i. To the extent that the winning service provider installs additional strands of fiber for future business ventures, the winning service provider assumes full responsibility to ensure those incremental costs are allocated out of the special construction charges to the district in accordance with FCC rules and orders.
 - ii. If, after the issuance of the FCDL, USAC or the FCC determines that the winning service provider did not cost allocate those charges associated with the additional strands, Applicant will not be responsible for reimbursing the winning vendor and the winning vendor will assume all responsibilities deemed ineligible by USAC.

Section 3: Solution Specifications

- 1. Dedicated Internet Access
 - a. Applicant must have dedicated, symmetrical bandwidth of 10Gbps
 - b. The solution must be scalable to 100Gbps.
 - c. Applicant also requires firewall services bundled with Internet access service that can support maximum bandwidth and number of concurrent connections.
 - d. Applicant requires firewall to be Cisco ASA or equivalent.
 - e. Applicant requires the firewall solution to provide redundant failover with no interruption or down time of service.
 - f. Contract options are requested for 36 months terms of service with two optional 12-month extensions.
 - g. Applicant must be able to provide SIP trunk capability, as need.
 - h. Each respondent is required to complete the attached pricing sheet with this RFP.
 - i. Special construction, monthly recurring cost, and any additional non-recurring costs are **required** to be broken out and listed separately.
 - ii. Respondents are free to propose alternate pricing terms provided they have also included pricing in the requested format.
 - iii. No increased pricing will be allowed during the term of the quoted special construction, NRC, and MRC rate in each pricing cell of the matrix.
 - i. All costs required to deliver the proposed solution must be included in the bid. By submitting a bid, the respondent certifies that it has engineered a full solution including all monthly recurring charges, all installation charges and all special construction costs. Costs added to the quote after the respondent has submitted their bid are solely the responsibility of the respondent and not the applicant.
 - j. If a bandwidth upgrade is requested mid-contract, the term length does not reset or renew, but a new schedule for costs must be provided. For example, if an upgrade occurs in month 20 of a 36-month contract, then 16 months of service must remain on the contract at the new bandwidth and costs before a contract renewal is available.
 - k. All solutions must adhere to the Service Level Agreement (SLA) terms in Section 4.
- 2. Wide Area Network
 - a. Leased Lit Fiber solution to provide a secure and dedicate point to point Wide Area Network (WAN) connection.

- b. The proposed WAN solution will provide symmetrical 10GB Ethernet transport to each endpoint that is upgradeable to 100GB.
- c. The Fiber optic solution will connect all sites as specified in the pricing worksheet attachment and provide connection to the district hub site located at the MCPS Operations Center located at 208 College Street, Christiansburg, VA.
- d. The service provider is responsible to obtain all necessary right of ways and permits for this project.
- e. During the term of this contract, any changes in the routing of the fiber cable due other entities holding access restrictions to cabling pathways or routes, infrastructure changes and/or requirements (street widening, new underground cabling requirements, etc.), utility company changes (pole relocation, etc.), or other changes impacting the routing of cabling between sites and the district office will be the sole responsibility of the service provider at no expense to the District.
- f. The vendor is responsible for identifying any nonrecurring activation, setup, and/or special construction fees on the pricing worksheet attachment.
- g. To the extent that the winning service provider installs additional strands of fiber for future business ventures, the winning service provider assumes full responsibility to ensure those incremental costs are allocated out of the special construction charges to the district in accordance with FCC rules and orders. If, after the issuance of the FCDL, USAC or the FCC determines that the winning service provider did not cost allocate those charges associated with the additional strands, Applicant will not be responsible for reimbursing the winning vendor and the winning vendor will assume all responsibilities deemed ineligible by USAC.
- h. Data transmission between campuses must allow for QOS.

Section 4: Service Level Agreement

1. Proposed services must meet the following specifications:
 - a. The provider will make all reasonable efforts to ensure 99.999% network availability of each circuit.
 - b. .25% frame/packet loss commitment
 - c. 25ms round trip network latency commitment on **transport between Applicant site and PoP only. This does not apply to traffic outside of the PoP.**
 - d. 10ms network jitter commitment
 - e. There is no right of provider to limit or throttle the capacity of the circuit at any time for any reason
 - f. Vendor stated commitment is to respond to any outage within two (2) hours and a four (4) hour restoration of service.
 - g. Vendor must have a brick and mortar staffed support center within a 100 mile radius of the DIA Network operations center
2. Network operations center: Solution will provide customer support functions including problem tracking, resolution and escalation support management on a 24x7x365 basis. Customer has the right and is encouraged to call concerning any problems that may arise relative to its connection with vendor provided services.
3. Trouble reporting and response: Upon interruption, degradation or loss of service, Customer may contact Vendor by defined method with a response based on trouble level. Upon contact from the Customer, the Vendor support team will initiate an immediate response to resolve any Customer issue. Customer will receive rapid feedback on trouble resolution, including potential resolution time.

4. Vendor must provide a phone number as a primary method of reporting trouble.
5. Escalation: In the event that service has not been restored in a timely manner, or the Customer does not feel that adequate attention has been allocated, the Customer can escalate the trouble resolution by request. A list of escalation contacts will be provided when the implementation schedule is completed.
6. Resolution: The Customer will be notified immediately once the problem is resolved and will be asked for verbal closure of the incident.
7. Trouble reporting, escalation and resolution: A detailed trouble reporting, escalation and resolution plan will be provided to the district.
8. Measurement: Time starts from the time the Customer contacts the vendor and identifies the problem. Credits for outages should be the following:

Length of Service Outage	Credit is the following percentage of monthly recurring cost
Less than 2 hours	No Credit
Greater than two (2) hours and less than four (4) hours	5%
Greater than four (4) hours and less than eight (8) hours	10%
Greater than eight (8) hours and less than twelve (12) hours	15%
Greater than twelve (12) hours and less than sixteen (16) hours	20%
Greater than sixteen (16) hours and less than twenty-four (24) hours	35%
Greater than twenty-four (24) hours	50%

9. Reports: Upon request, an incident report will be made available to the Customer within five (5) working days of resolution of the trouble.
10. Link performance per segment: The service will maintain the proposed link performance throughout the term of the contract.
11. Historical uptime: Provide aggregate uptime statistics for your proposed service in the geographic area encompassing Applicant.
12. Products and services must be delivered before billing can commence. At no time may the Service Provider invoice before July 1, 2024.

Section 5: General Terms for All Proposals

1. **Failure to include any requested information noted as required by the respondent is grounds for disqualification.**
2. All costs required to deliver the proposed solution must be included in the bid. By submitting a bid, the respondent certifies that it has engineered a full solution including all monthly recurring charges, all installation charges and all special construction costs. Costs added to the quote after the respondent has submitted their bid are solely the responsibility of the respondent and not the applicant. Failure to respond to Applicant questions regarding Respondent's costs of service is grounds for disqualification.
3. Description of Proposal
 - a. Respondent will provide a description of their proposal for all services and solutions.
 - b. Description will include an overview of the proposal, any deviations from the requested architecture, design or requirements, assumptions made, and other detail Applicant may find useful or necessary (or could differentiate the solution from a competing proposal).
4. Reselling and subcontracting
 - a. Any respondent who intends to resell or subcontract a lit service from a 3rd party must supply proof in writing that said party can provide service at all proposed Applicant locations.
 - b. If, at any point following the bid submission, any changes from the 3rd party alter the costs or significantly change scope of proposed service then Applicant will not be liable for the cost increase and reserves the right to disqualify the bid and cancel any signed contracts without penalty.
5. Timeline
 - a. For each response, respondents must include a timeline for bringing service online.
 - b. Proposals requiring little to no special construction should be able to bring all sites online by July 1, 2024. The contract must include a statement that all fees will be covered by the new vendor for any sites not connected by July 1, 2024.
 - c. For solutions requiring special construction, a schedule of bringing the service online must be included with an explanation of how this timeline shifts if the date of the E-rate funding commitment shifts.
6. Demarcation
 - a. All solutions must terminate service or infrastructure in the demarcation point at the address specified in the pricing sheet.
 - b. Solutions bringing service to the property line but not to the demarcation point are not acceptable.
 - c. Respondent must specify a specific demarcation setup included in base fees, e.g. wall mounted CPE and CAT6a handoff, rack mount patch panel, etc.
7. Network Diagram
 - a. For each response, respondents must include a network diagram displaying the paths to be used to serve each endpoint.
 - b. Diagrams must show if the circuit is routed through any aggregation hubs or third-party facilities/equipment between district site and point of presence.
 - i. If this detailed information cannot be supplied, then at a minimum the quantity of each must be supplied in order to provide a picture of potential latency.

8. References

- a. For each response, respondent must provide 3 references from current or recent customers (preferably K-12) with projects equivalent to the size of Applicant.

9. E-rate Program Integrity Assurance (PIA) Review

- a. If their solution is chosen, respondents are required to promptly provide Applicant with any information being requested as part of PIA review.
- b. Vendors may assist applicants with preparing funding requests or responding to PIA questions and may speak directly with PIA reviewers.
- c. For all responses that include special construction, the respondent agrees to, by submitting its bid, produce all construction labor, construction materials and other cost information requested during PIA review.
- d. **All responses must agree, in writing, to this section with a yes or no answer. Answering no or failure to answer at all is grounds for disqualification.**

10. Required Notice to Proceed and Funding Availability

- a. Applicant will follow the purchasing policies of the Applicant Board and requirements and procedures of the FCC's E-rate program as administered by the Universal Service Administrative Company to be eligible for all available funding.
- b. The implementation of any associated contracts resulting from this competitive bid process will be dependent on the district's issuance of a written Notice to Proceed.
- c. E-rate funding notification alone will not signify Notice to Proceed. The district will have the right to allow the contract to expire without implementation if appropriate funding (including any state matching funds for special construction projects) does not come available.
- d. Respondents must provide both SPI and BEAR for E-rate reimbursement methods.

Section 6: Evaluation Criteria

1. Internet access

% Weight	Criteria
30	E-rate eligible recurring and one-time circuit costs¹
20	Complete bid submission²
15	Proposed contract terms and conditions³
20	Service reliability and dedicated infrastructure⁴
10	E-rate ineligible recurring or one-time costs⁵
5	Provider references⁶

2. Criteria Explanation

1. **E-rate eligible costs:** the total cost of ownership for the eligible components of the proposed service. Total cost of ownership takes into account all one-time and recurring costs. Note that E-rate eligible costs refers to the pre-discount cost of the solution, not the post-discount portion of costs that are the responsibility of the Applicant. This criterion must be the highest weighted per E-rate program rules.
2. **Complete bid submission:** Bids concisely address Applicant's requirements, as set forth in the RFP, and do not contain a significant amount of corporate boilerplate marketing information.
3. **Proposed contract terms and conditions:** Proposed contract has flexibility and terms desired by Applicant.
4. **Service reliability and dedicated infrastructure:** Solution provides dedicated infrastructure for Applicant's service with no shared equipment or routing of traffic through aggregation hubs.
5. **E-rate ineligible costs:** Any costs of the proposed service that are not eligible for E-rate funding. This does not refer to the post-discount portion of eligible costs that are the responsibility of the Applicant.
6. **Provider references:** response included K12 references that were similar in size and scope.

Appendix A

Entity Name	Address	City	State	Zipcode	Demarcation Point
MCPS Operations Center	208 College Street	Christiansburg	VA	24073	Server Room
Auburn Campus	4163 Riner Road	Riner	VA	24149	Auburn Elementary – server room - rear of office pod
Christiansburg Middle School	1205 Buffalo Drive NW	Christiansburg	VA	24073	Main Closet in rear of library
Falling Branch Elementary School	735 Falling Branch Road	Christiansburg	VA	24073	Main closet – Front hallway - IT room A029
Belview Elementary School	3187 Pepper's Ferry Road	Radford	VA	24141	Main closet – just past office
School Board Office	750 Imperial Street SE	Christiansburg	VA	24073	Main Closet – 2 nd Floor- just past conference room A
Eastern Montgomery Campus	8561 Roanoke Road	Elliston	VA	24087	Eastern Montgomery Elementary – Main closet – rear of library
Shawsville Middle School	4179 Old Town Road	Shawsville	VA	24162	Supply/file room in center of office complex
New River Detention Center	650 Wades Lane	Christiansburg	VA	24073	Telephone/hvac control room
Price's Fork Elementary School	4201 Price's Fork Road	Blacksburg	VA	24060	Main closet - rear of library
Harding Avenue Elementary School	429 Harding Avenue	Blacksburg	VA	24060	Main closet – rear hall of office complex
Gilbert Linkous Elementary School	813 Tom's Creek Road	Blacksburg	VA	24060	Custodial office – off of boiler room
Margaret Beeks Elementary School	709 Airport Road	Blacksburg	VA	24060	Custodial office – off of boiler room
Blacksburg Campus	3109 Price's Fork Road	Blacksburg	VA	24060	Blacksburg Middle – main closet in rear of library
Christiansburg Campus	1180 N. Franklin Street	Christiansburg	VA	24073	Telephone Room

Pricing Worksheet

[illegible]

II. CONTRACT PERIOD

The term of this contract is for three year(s), or as negotiated. There will be an option for two-one year renewals, or as negotiated.

III. CONTRACTOR REQUIREMENT

By signing this solicitation, the bidder certifies that any employee working on this project has not been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child. Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor and, upon conviction, the fact of such conviction shall be grounds for the revocation of the contract to provide such services and, when relevant, the revocation of any license required to provide such services. MCPS shall not be liable for materially false statements regarding the certifications required by this subsection.

IV. PROPOSAL PREPARATION AND SUBMISSION

A. General Requirements

1. RFP Response: In order to be considered for selection, Offerors must submit a complete response to this RFP. **One electronic copy and four paper copies of each proposal must be submitted to:**

Montgomery County Public Schools
Purchasing Department
208 College Street
Christiansburg, VA 24073
abland@mcps.org

Reference the Opening Date and Hour, and RFP Number in the lower left hand corner of the return envelope or package.

No other distribution of the proposals shall be made by the Offeror.

2. Proposal Preparation

- a. Proposals shall be signed by an authorized representative of the Offeror. All information requested should be submitted. Failure to submit all information requested may result in MCPS requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals which are substantially incomplete or lack key information may be rejected by MCPS at its discretion. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.
- b. Proposals should be prepared simply and economically providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.
- c. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each paragraph in the proposal should reference the paragraph number of the corresponding section of the RFP. It is also helpful to cite the paragraph number, subletter, and repeat the text of the requirement as it appears in the RFP. If a response covers more than one page, the paragraph number and subletter should be repeated at the top of the next page. The proposal should contain a table of contents which cross references the RFP requirements. Information which the offeror desires to present that does not fall within any of the requirements of the RFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.
- d. Each copy of the proposal should be bound in a single volume where practical. All documentation submitted with the proposal should be bound in that single volume.
- e. Ownership of all data, material and documentation originated and prepared for MCPS pursuant to the RFP shall belong exclusively to MCPS and be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by an Offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act. However, to prevent disclosure the Offeror must invoke the protections of Section 2.2-4342F of the Code of Virginia, in writing, either before or at the time the data or other materials is submitted. The written request must specifically identify the data or other materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that

constitute trade secret or proprietary information. The classification of an entire proposal document, line item prices and/or total proposal prices as proprietary or trade secrets is not acceptable and may result in rejection of the proposal.

3. Oral Presentation: Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to MCPS. This will provide an opportunity for the Offeror to clarify or elaborate on the proposal but will in no way change the original proposal. MCPS will schedule the time and location of these presentations. Oral presentations are an option of MCPS and may not be conducted. Therefore, proposals should be complete.

V. CONTRACT AWARD

Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposal, including price, if so stated in the Request for Proposal. Negotiations shall be conducted with the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, MCPS shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. MCPS may cancel this Request for Proposal or reject proposals at any time prior to an award, and is not required to furnish a statement of the reason why a particular proposal was not deemed to be the most advantageous. (Section 2.2-4359(D.), Code of Virginia.) Should MCPS determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of this solicitation and the Contractor's proposal as negotiated. See Attachment B for sample contract form.

VI. CONTRACT ADMINISTRATION

- A. Doug Wickham, Director of Technology, at MCPS or his designee, shall be identified as the Contract Administrator and shall use all powers under the contract to enforce its faithful performance.
- B. The Contract Administrator, or his designee, shall determine the amount, quantity, acceptability, fitness of all aspects of the services and shall decide all other questions in connection with the services. The Contract Administrator, or his designee, shall not have authority to approve changes in the services which alter the concept or which call for an extension of time for this contract. Any modifications made must be authorized by the MCPS Purchasing Department through a written amendment to the contract.

VII. ATTACHMENTS

Attachment A- Terms and Conditions
Attachment B - Standard Contract Form

ATTACHMENT A

TERMS AND CONDITIONS

SPECIAL TERMS AND CONDITIONS

1. **AUDIT:** The Contractor hereby agrees to retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. MCPS, its authorized agents, and/or State auditors shall have full access to and the right to examine any of said materials during said period.
2. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that MCPS shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.
3. **CANCELLATION OF CONTRACT:** MCPS reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the Contractor. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

4. **INSURANCE:**

By signing and submitting a bid under this solicitation, the Bidder certifies that if awarded the contract, it will have the following insurance coverages at the time the work commences. Additionally, it will maintain these during the entire term of the contract and that all insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

During the period of the contract, MCPS reserves the right to require the Contractor to furnish certificates of insurance for the coverage required.

INSURANCE COVERAGES AND LIMITS REQUIRED:

A. Worker's Compensation - Statutory requirements and benefits.

B. Employers Liability - \$100,000.00

C. General Liability - \$500,000.00 combined single limit. MCPS shall be named as an additional insured with respect to goods/services being procured. This coverage is to include Premises/Operations Liability, Products and Completed Operations Coverage, Independent Contractor's Liability, Owner's and Contractor's Protective Liability and Personal Injury Liability.

D. Automobile Liability - \$500,000.00

The contractor agrees to be responsible for, indemnify, defend and hold harmless MCPS, its officers, agents and employees from the payment of all sums of money by reason of any claim against them arising out of any and all occurrences resulting in bodily or mental injury or property damage that may happen to occur in connection with and during the performance of the contract, including but not limited to claims under the Worker's Compensation Act. The contractor agrees that it will, at all times, after the completion of the work, be responsible for, indemnify, defend and hold harmless MCPS, its officers, agents and employees from all liabilities resulting from bodily or mental injury or property damage directly or indirectly arising out of the performance or nonperformance of the contract

5. **INDEPENDENT CONTRACTOR:** The contractor shall not be an employee of MCPS, but shall be an independent contractor.

Nothing in this agreement shall be construed as authority for the contractor to make commitments which shall bind MCPS, or to otherwise act on behalf of MCPS, except as MCPS may expressly authorize in writing.

6. **WORK SITE DAMAGES:** Any damage to existing utilities, equipment or finished surfaces resulting from the performance of this contract shall be repaired to the Owner's satisfaction at the Contractor's expense.

GENERAL TERMS AND CONDITIONS

1. **ANTI-DISCRIMINATION:** By submitting their proposals, offerors certify to MCPS that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act, and Section 2.2-4311 of the Virginia Public Procurement Act. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into

separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1 E).

In every contract over \$10,000 the provisions in A and B below apply:

A. During the performance of this contract, the Contractor agrees as follows:

- 1) The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- 2) The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
- 3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this Section.

B. The Contractor will include the provisions of A above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

2. **ANTITRUST:** By entering into a contract, the Contractor conveys, sells, assigns, and transfers to MCPS all rights, title and interest in and to all causes of the action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by MCPS and the Commonwealth of Virginia under said contract.

3. **APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The Contractor shall comply with applicable federal, state and local laws and regulations.

4. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the Contractor in whole or in part without the written consent of MCPS.

5. **CHANGES TO THE CONTRACT:** Changes can be made to the Contract in any one of the following ways:

A. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract

B. MCPS may order changes within the general scope of the contract at any time by written notice to the Contractor. Changes within the scope of the contract include, but are not limited to, things such as the method of packing or shipment and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated for any additional costs incurred as the result of such order and shall give MCPS a credit for any savings. Said compensation shall be determined by one of the following methods:

- 1) By mutual agreement between the parties in writing; or
- 2) By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the Contractor accounts for the number of units of work performed, subject to MCPS right to audit the Contractor's records and/or to determine the correct number of units independently; or
- 3) By ordering the Contractor to proceed with the work and to keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Contractor shall present MCPS with all vouchers and records of expenses incurred and savings realized. MCPS shall have the right to audit the records of the Contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to MCPS within thirty (30) days from the date of receipt of the written order from MCPS. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Virginia Public Procurement Act. Neither the existence of a claim or a dispute resolution process, litigation or any other provision of this contract shall excuse the Contractor from promptly complying with the changes ordered by MCPS or with the performance of the contract generally.

6. **CLAIMS.** Contractual claims, whether for money or other relief, shall be submitted in writing to the Supervisor of Purchasing, MCPS Purchasing Department, 208 College Street, Christiansburg, Virginia 24073, no later than sixty (60) days after final payment; however, written notice of the contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pending claims shall not delay payment of amounts agreed due in the final payment (*Code of Virginia*, Section 2.2-4363). A contractor may not institute legal action prior to receipt of the Supervisor of Purchasing's decision on the claim, unless that office fails to render such decision within thirty (30) days. The decision of

- the Supervisor of Purchasing shall be final and conclusive unless the contractor, within six (6) months of the date of the final decision on the claim, institutes legal action as provided in the *Code of Virginia*, Section 2.2-4364.
7. **CLARIFICATION OF TERMS:** If any prospective offeror has questions about the specifications or other solicitation documents, the prospective offeror should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.
 8. **DEBARMENT STATUS:** By submitting their proposals, offerors certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.
 9. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, MCPS, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which MCPS may have.
 10. **DRUG-FREE WORKPLACE:** In every contract over \$10,000 the following provisions apply: During the performance of this contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a Contractor the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.
 11. **EO/AA STATEMENT:** MCPS, an equal opportunity, affirmative action institution covered by presidential executive order 11246 as amended, advises all contractors, subcontractors, vendors and suppliers that direct receipt of federal funds may require appropriate action on their part.
 12. **ETHICS IN PUBLIC CONTRACTING:** By submitting their proposals, offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.
 13. **FACSIMILE PROPOSALS:** Facsimile **unsealed** proposals received in the MCPS Purchasing Department prior to the time and date designated for proposal submission will be accepted.
For **sealed** Request for Proposal (RFP) programs, an offeror may fax a proposal to a **non-MCPS** third party, who in turn must deliver it, with the number of copies specified in the RFP, to the Purchasing Department in a sealed envelope before the proposal due date and time.
 14. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By submitting their proposals, the offerors certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.
 15. **INDEMNIFICATION:** Contractor agrees to indemnify, defend and hold harmless MCPS and their officers, agents, and employees from any claims, damages and actions of any kind or nature whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature, furnished by the contractor/any services of any kind or nature furnished by the contractor, provided that such liability is not attributable to the sole negligence of MCPS or failure of MCPS to use the materials, goods, or equipment in the manner already and permanently described by the contractor on the materials, goods or equipment delivered.
 16. **INDEPENDENT CONTRACTOR:** The contractor shall not be an employee of MCPS, but shall be an independent contractor.
Nothing in this agreement shall be construed as authority for the contractor to make commitments which shall bind MCPS, or to otherwise act on behalf of MCPS, except as MCPS may expressly authorize in writing.
 17. **LATE PROPOSALS:** To be considered for selection, proposals must be received by the MCPS Purchasing Department, 208 College Street, Christiansburg, Virginia 24073, by the designated date and hour. The official time used in the receipt of bids is that time on the automatic time stamp machine in the MCPS Purchasing Department. Proposals received in the MCPS Purchasing Department after the date and hour designated are automatically disqualified and will not be considered. MCPS is not responsible for delays in the delivery of mail by the U.S. Postal Service, private couriers, or another means of

delivery. It is the sole responsibility of the offeror to insure that its proposal reaches the MCPS Purchasing Department by the designated date and hour.

18. **MANDATORY USE OF MCPS FORMS AND TERMS AND CONDITIONS:** Failure to submit a proposal on the official MCPS form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, MCPS reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.

19. **NONDISCRIMINATION OF CONTRACTORS:** An offeror or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faithbased organizational status, any other basis prohibited by state law relating to discrimination in employment or because the offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

20. **PAYMENT:**

A. **TO PRIME CONTRACTORS:**

- 1) Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the MCPS or state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- 2) Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- 3) All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the Contractor at the contract price, regardless of which public agency is being billed.
- 4) The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- 5) Unreasonable Charges. Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia, § 2.2-4363*).

B) **TO SUBCONTRACTORS:**

- 1) A contractor awarded a contract under this solicitation is hereby obligated:
 - a) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - b) To notify MCPS and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.

The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in b) above. The date of mailing of any payment by U.S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.

21. **PRECEDENCE OF TERMS:** Paragraphs 1, 2, 3, 7, 8, 12, 14, 17, 18, and 27 of these General Terms and Conditions shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

22. **PUBLIC NOTICE OF AWARD:** Public notice of the purchase order/contract award will be posted on the Public Information Board located in the MCPS Purchasing Department, 208 College Street, Christiansburg, Virginia. Award information may also be obtained by contacting the buyer whose name appears on the solicitation.

23. **QUALIFICATIONS OF OFFERORS:** MCPS may make such reasonable investigations as deemed proper and necessary to determine the ability of the offeror to perform the work/furnish the item(s) and the offeror shall furnish to MCPS all such information and data for this purpose as may be requested. MCPS reserves the right to inspect offeror's physical facilities prior to award to satisfy questions regarding the offeror's capabilities. MCPS further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such offeror fails to satisfy MCPS that such offeror is properly qualified to carry out the obligations of the contract and to complete the work/furnish the item(s) contemplated therein.
24. **SUPREMACY CLAUSE:** Notwithstanding any provision in the offeror's response to the contrary, the offeror agrees that the terms and conditions contained in MCPS proposal prevail over contrary terms and conditions contained in the offeror's response.
25. **TAXES:** Sales to MCPS and the Commonwealth of Virginia are normally exempt from State sales tax, State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this contract shall be free of Federal excise and transportation taxes. MCPS excise tax exemption registration number is 54-6001433.
26. **TESTING AND INSPECTION:** MCPS reserves the right to conduct any test/inspection it may deem advisable to assure supplies and services conform to the specification.
27. **TRANSPORTATION AND PACKAGING:** By submitting their proposals, all offerors certify and warrant that the price(s) offered are for FOB destination and include only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.
28. **USE OF BRAND NAMES:** Unless otherwise provided in this solicitation; the name of a certain brand, make or manufacturer does not restrict offerors to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which MCPS in its sole discretion determines to be equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The offeror is responsible to clearly and specifically indicate the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable MCPS to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Unless the offeror clearly indicates in its proposal that the product offered is an "equal" product, such proposal will be considered to offer the brand name product referenced in the solicitation.
29. **VENDOR'S MANUAL:** Any resulting contract is subject to the provisions of the Commonwealth of Virginia Vendor's Manual and any revisions thereto, which are hereby incorporated into this contract in their entirety. A copy of this manual is available from the Division of Purchases and Supply in Richmond, VA (804) 786-3845.

ATTACHMENT B

**Standard Contract form for reference only
Offerors do not need to fill in this form**

**MONTGOMERY COUNTY PUBLIC SCHOOLS
STANDARD CONTRACT**

Contract Number: _____

This contract entered into this ____ day of _____ 20____, by _____, hereinafter called the "Contractor" and Montgomery County Public Schools, called "MCPS".

WITNESSETH that the Contractor and MCPS, in consideration of the mutual covenants, promises and agreements herein contained, agrees as follows:

SCOPE OF CONTRACT: The Contractor shall provide the _____ to MCPS as set forth in the Contract Documents.

CONTRACT PERIOD: The initial contract period is _____ through _____.

COMPENSATION AND METHOD OF PAYMENT: The Contractor shall be paid by MCPS in accordance with the contract documents.

CONTRACT DOCUMENT: The contract documents shall consist of this signed contract, Request For Proposal Number _____ dated _____, together with all written modifications thereof and the proposal submitted by the Contractor dated _____ and the Contractor's letter dated _____, all of which contract documents are incorporated herein.

In WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound thereby.

Contractor:

Montgomery County Public Schools

By: _____

By: _____

Title: _____