



MONTGOMERY COUNTY PUBLIC SCHOOLS
MARYLAND
www.montgomeryschoolsmd.org

301-279-3172

June 18, 2014



RFP Number: 1086.4
Proposals Due: July 10, 2014
Open Time: 2:00 p.m.

To: Prospective Offerers:

Montgomery County Public Schools (MCPS) is seeking proposals from qualified vendors who are interested in contracting with the school system to develop and support a third party billing service for students with disabilities who are Medicaid eligible for the MCPS Department of Special Education.

Your proposal must be received no later than 2:00 p.m., July 10, 2014, Montgomery County Public Schools, Division of Procurement, 45 W. Gude Drive, Suite 3100, Rockville, Maryland 20850.

The Contractor shall submit one (1) original and three (3) separate copies of the technical proposal and business section. **The proposal must be signed by an official having authority to contract with MCPS.** The firm and official's name shall be used. This solicitation does not commit Montgomery County Public Schools to pay any costs incurred in the submission of proposals or guarantee that an award will be made.

In the event of emergency closing of MCPS Central Offices, this RFP will open at the same time on the next regular working day.

Sincerely,

Kathleen Lazor, Director II
Department of Materials Management

BR
Enclosure

Procurement Unit

45 West Gude Drive, Suite 3100 ♦ Rockville, Maryland 20850-9999

MONTGOMERY COUNTY PUBLIC SCHOOLS
RFP #1086.4, Third Party Billing Services for
Students with Disabilities

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Rider Clause

PART B

General Instructions and Business Section

**Department of Materials Management
Division of Procurement
MONTGOMERY COUNTY PUBLIC SCHOOLS
Rockville, Maryland**

**Request For Proposal #1086.4, Third Party Billing Services
For Students with Disabilities**

PART A

1.0 INTENT

Montgomery County Public Schools (MCPS) is soliciting proposals from vendors interested in contracting with the school system to develop and support a third party billing service for students with disabilities who are Medicaid eligible for the Department of Special Education Services and the Division of Business, Fiscal, and Information Systems.

2.0 BACKGROUND

On July 2, 1988, President Reagan signed into law P.L. 100-360, "The Medicare Catastrophic Coverage Act." Although the legislation relates primarily to Medicare, it also contains a significant amendment to the Social Security Act, relating to the financing of services included in a student's Individualized Education Plan (IEP). According to the amendment, Medicaid reimbursement can be received for covered services for Medicaid eligible students with disabilities when the services are included in the IEP.

This legislation provides the foundation for the Montgomery County Public Schools to partially recover costs through Medicaid for appropriate related services provided to public school students. The recovery of costs for services related to screening, evaluations, face-to-face consultations and/or treatment will be sought "after the fact". Appropriate related services will continue to be provided in a "free and appropriate manner" as required by state and federal law. IEP services will continue to be provided at no cost to parents. Claims will be made to Maryland's Medicaid Fee for Service program for appropriate related services that include, but are not limited to, speech/language therapy, physical therapy, occupational therapy, psychological services, and audiology; case management costs will be pursued as well.

3.0 SCOPE OF WORK

Montgomery County Public Schools is initiating the development of a third party billing system for special education service delivery, under Public Law 100-360, the Catastrophic Coverage Act of 1988 and the Individuals with Disabilities Education Act.

Montgomery County Public Schools is the largest school system in Maryland with 151,289 students projected for this school year. Approximately 17,657 students receive special education services; of these, nearly 23 percent (4000) may be eligible under Medicaid. MCPS bills for occupational, physical and speech therapies, audiology, case management, transportation, social service, psychological, autism waiver and other appropriate services.

4.0 MANDATORY SERVICE

The following services and vendor responsibilities are considered mandatory.

- Initiate and maintain all components of the billing system and process for services rendered.
- Produce record keeping forms and other elements as needed.
- Enter, edit, correct errors, and transmit claims to Maryland Medicaid for payment.
- Generate audit reports for claims submitted for payment. Provide spreadsheet files and hardcopy.
- Maintain files of required information on each client.
- Meet requirements of Maryland Department of Health and Mental Hygiene, Center for Medicare/Medicaid Services, Affordable Care Act, & HIPAA to file claims electronically.
- Receive and file claims on a schedule of MCPS choosing.

5.0 VENDOR QUALIFICATIONS

- 5.1 Vendors must have 4-5 years experience in processing school-based third party insurance claims for health services in the state of Maryland.
- 5.2 Vendor must have thorough knowledge of federal and state legislation regarding third party reimbursements.
- 5.3 Vendor must be able to handle large volume submission of claims in a prompt, accurate and timely manner.
- 5.4 Vendor must be able to adjust procedures as needed to meet Federal, State and MCPS needs.

6.0 PLACE OF PERFORMANCE

Services will be provided at the vendor's site; vendor must pick up encounter forms from MCPS.

7.0 SPECIAL CONDITIONS

7.1 Damages

All claims of damage relating to contractual service will be the total responsibility of the contracted agency.

7.2 Supplemental Service

No additional or supplemental service outside of the contracted prescribed services can be billed by the contracted agency.

7.3 MCPS Staff

The contractor may not use MCPS staff in the performance of this contract.

7.4 Billing

Billing to MCPS shall be monthly; terms schedule may be adjusted at request of either party.

7.5 Travel Reimbursement

The contract award does not include reimbursement for travel.

8.0 CONTRACT TERM

The term of contract shall be for a two (2)-year period. However, the contract may not begin until one day after approval by the Board of Education and will conclude as stated under the contract term. MCPS reserves the right to extend this contract at existing prices, terms and conditions for up to two additional 2-year extensions. Written notice indicating MCPS' intention to pursue the extension of the contract will be issued to the successful vendor(s) 90 days prior to the expiration of the original contract. The vendor(s) shall have (10) days from the date of notification to return the notice acknowledging its intent to accept or reject the extension. Once all responses are evaluated, MCPS staff may make a recommendation to the Board of Education to extend the contract or decide to rebid. If the contract is extended by the Board of Education a contract amendment will be issued.

MCPS reserves the right to cancel the contract in whole or part at any time in accordance with Article 26 attached.

9.0 COST ADJUSTMENT

Price increases will not be considered for the first year of the contract. If the contract is extended, contract prices may be adjusted by the following procedure.

Written request for price relief and appropriate documentation shall be submitted to the director of the Department of Materials Management, sixty-(60) days prior to the effective date. Adjustments will be based upon the Consumer Price Index (CPI), specifically, the All Consumers Index, published by the U.S. Department of Labor, Bureau of Labor Statistics, for the Washington D.C. Metropolitan Area and shall not exceed seventy-five percent (75%) of the percentage change of January 1 CPI's rounded to the nearest tenth of a percentage. Downward adjustments shall be made by MCPS without a request from the Contractor.

MCPS reserves the right to accept or reject the request as may be determined to be in the best interest of MCPS. If the price increase is accepted, a contract amendment will be issued. Any services requested prior to a request for a price increase shall be honored at the original contract price.

10.0 PROJECT CONTACT

The MCPS project contact for this proposed procurement is:

Montgomery County Public Schools
Division of Business, Fiscal, and Information Systems
Ms. Julie Hall
850 Hungerford Dr., Room 225
Rockville, MD 20850
Phone: 301-279-3166

All prospective offerors are cautioned that information relating to the proposed procurement may be obtained only from Ms. Barbara Regalia, CPPB, Senior Buyer, Division of Procurement. Once the contract is awarded Ms. Julie Hall will be your point of contact.

Any attempt to solicit information from other sources within the MCPS system may be cause for rejection of the offeror's proposal.

11.0 REFERENCES

All offerors shall include a list of a minimum of three (3) references, from similar client(s) only, who can attest to the firm's knowledge, quality of work, timeliness, diligence, flexibility, and ability to meet MCPS needs. Include names, contact persons, email address and phone numbers of all references.

12.0 FORMAT OF RESPONSE

Responses to this RFP should be in the same sectional format and sequence as this RFP and provide an individual response to each RFP specification. All proposals must be presented using the same numbering sequence and order used in this RFP document or as otherwise specified by MCPS. Vendors may contact Barbara Regalia via email, Barbara_Regalia@mcpsmd.org for the Word document to help them prepare their response.

Vendors must include any and all statements and representations made within its proposal in the contract for services with MCPS. This includes, but is not limited to, the vendor's point-by-point response to this RFP. If vendor responds only "Understand and comply" it is assumed that the vendor complies with MCPS' understanding of the requirement.

MCPS shall not be responsible nor be liable for any costs incurred by the vendor in the preparation and submission of their proposals and pricing.

13.0 PROPOSAL SUBMISSION

Proposals shall be submitted in the same order as the RFP. Proposals in response to this RFP are due on or before 2:00 p.m. July 10, 2014, at the address below. An original and three (3) copies of the proposal should be sent by mail, courier or hand delivered to:

Montgomery County Public Schools
Division of Procurement
45 W. Gude Drive, Suite 3100
Rockville, MD 20850

The proposal must be signed by an official having authority to contract with MCPS. The firm and the official's name shall be used in the contract process.

14.0 MANDATORY SUBMISSIONS

Failure to include the following required submissions may render the proposal non-responsive as determined by the director of the Department of Materials Management.

An inventory of current equipment, materials, and supplies available for use in fulfilling this contract must be provided.

Examples of reports and forms from previous projects must be submitted.

15.0 EVALUATION SELECTION CRITERIA

15.1 Criteria for Selection

Vendor's understanding of the requirements as demonstrated by the RFP response.

Vendor's ability to provide the described mandatory services as demonstrated by the RFP response

Related past experience

Qualifications

References. A list of at least three (3) references including contact persons and telephone numbers must be submitted. If the reference information is not accurate and MCPS cannot contact the person(s) named then your bid may not be considered.

Cost: Consideration will be given to creative billing options based on long-term service, and volume.

15.2 Evaluation Process

Vendors who pass the initial screening against MCPS requirements will be asked to provide the following:

Written response to questions to clarify the proposal submitted that must be returned with two (2) working days of MCPS request.

Vendor may be required to give an oral presentation and be interviewed by the MCPS proposal evaluation committee.

MCPS reserves the right to make an award without further discussion of the proposals received. MCPS may also negotiate with the one offeror who submits the best proposal or with two or more offerors who are in the competitive range. Therefore, it is important that your proposal be submitted initially on the most favorable terms from both the technical and cost standpoints. After the submission and closure of proposals, no information will be released until after the award. It is understood that your proposal will become a part of the official file on this matter without obligation to MCPS.

16.0 SCHEDULE OF EVENTS

RFP Issued:	June 18, 2014
Proposals Due:	July 10, 2014
Anticipated award date:	August 21, 2014

All dates are subject to change at the discretion of MCPS.

17.0 VENDOR OBLIGATION**Contractors' and sub-contractors' responsibility regarding Registered sex offenders:**

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. 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 \$5000 fine.

Each contractor shall screen their work-forces 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 used to perform the work. Violation of this provision may cause MCPS to take action against the contractor up to and including termination of the contract.

18.0 ADDENDA/ERRATA

Changes and addenda to a solicitation may occur prior to the solicitation opening date and time. It is the vendor's responsibility to check the MCPS website, under "Event Calendar" or contact the Division of Procurement at 301-279-3172 to verify whether addenda/errata have been issued. Failure to provide the signed acknowledgement of the addenda/errata may result in a bid being deemed non-responsive. MCPS website is <http://www.montgomeryschoolsmd.org/departments/procurement/>

19.0 INQUIRES

Inquiries regarding this solicitation must be submitted in writing, to Barbara Regalia, CPPB, Senior Buyer via email, Barbara.Regalia@mcpsmd.org or faxed to 301-279-3173. Questions shall be received no later than four business days prior to the RFP opening in order for the bidder to receive a reply prior to submitting its RFP response. The Board of Education will not be responsible for any oral or telephone explanation or interpretation. Vendor contact with any other MCPS employee regarding this solicitation until the contract is awarded by the Board of Education will be considered by MCPS as an attempt to obtain an unfair advantage and result in non-consideration of its RFP response. The MCPS Procurement website address is <http://www.montgomeryschoolsmd.org/departments/procurement/>

**Mid-Atlantic Purchasing Team
Rider Clause**

**Request For Proposal No. 1086.4, Third Party Billing Services
For Students with Disabilities**

USE OF CONTRACT(S) BY MEMBERS COMPRISING Mid –Atlantic Purchasing Team COMMITTEE

Extension to Other Jurisdictions

The [issuing jurisdiction] extends the resultant contract (s), including pricing, terms and conditions to the members of the Mid-Atlantic Purchasing Team, as well as all other public entities under the jurisdiction of the United States and its territories.

Inclusion of Governmental & Nonprofit Participants (Optional Clause)

This shall include but not be limited to private schools, Parochial schools, non-public schools such as charter schools, special districts, intermediate units, non-profit agencies providing services on behalf of government, and/or state, community and/or private colleges/universities that required these good, commodities and/or services.

Notification and Reporting

The Contractor agrees to notify the issuing jurisdiction of those entities that wish to use any contract resulting from this solicitation and will also provide usage information, which may be requested. The Contractor will provide the copy of the solicitation and resultant contract documents to any requesting jurisdiction or entity.

Contract Agreement

Any jurisdiction or entity using the resultant contract (s) may enter into its own contract with the successful Contractor (s). There shall be no obligation on the party of any participating jurisdiction to use the resultant contract (s). Contracts entered into with a participating jurisdiction may contain general terms and conditions unique to that jurisdiction Including, by way of illustration and not limitation, clauses covering minority participation, non-discrimination, indemnification, naming the jurisdiction as an additional insured under any required Comprehensive General Liability policies, and venue.

Bidder's Authorization To Extend Contract:

	Yes	No		Yes	No		Yes	No
Alexandria, Virginia			Gaithersburg, Maryland			Rockville, Maryland		
Alexandria Public Schools			Greenbelt, Maryland			Spotsylvania County		
Alexandria Sanitation Authority			Harford County			Spotsylvania County Gov & Schools		
Annapolis City			Harford County Schools			Stafford County, Virginia		
Anne Arundel County			Howard County			Takoma Park, Maryland		
Anne Arundel School			Howard County Schools			Upper Occoquan Service Authority		
Arlington County, Virginia			Herndon, Virginia			Vienna, Virginia		
Arlington County Public Schools			Leesburg, Virginia			Washington Metropolitan Area Transit Authority		
Baltimore City			London County, Virginia			Washington Suburban Sanitary Commission		
Baltimore County Schools			Loudoun County Public Schools			Winchester, Virginia		
Bladensburg, Maryland			Loudoun County Water Authority			Winchester Public Schools		
Bowie, Maryland			Manassas City Public Schools					
Carroll County			Manassas Park, Virginia					
Carroll County Schools			Maryland DGS Purchasing					
Charles County Government			Maryland-National Capital Park & Planning Commission					
City of Fredericksburg			Metropolitan Washington Airport Authority					
College Park, Maryland			Metropolitan Washington Council of Government					
District of Columbia Government			Montgomery College					
District of Columbia Water & Sewer Auth.			Montgomery County, Maryland					
District of Columbia Public Schools			Montgomery County Public School					
Fairfax, Virginia			Northern Virginia Community College					
Fairfax County, Virginia			Prince George's Community College					
Fairfax County Water Authority			Prince George's County, Maryland					
Falls Church, Virginia			Prince Georgia Public Schools					
Fauquier County Schools & Government			Prince William County, Virginia					
Frederick, Maryland			Prince William County Public Schools					
Frederick County, Maryland			Prince William County Service Author					

Request For Proposal #1086.4, Third Party Billing Services for Students with Disabilities

PART B

Montgomery County Public Schools (MCPS) is soliciting proposals from vendors interested in contracting with the school system to develop and support a third party billing service for students with disabilities who are Medicaid eligible for the Department of Special Education Services and the Division of Business, Fiscal, and Information Systems

The following instructions will establish the acceptable minimum requirements for the format and content of proposals.

Type of Contract

The proposed contract is expected to be firm fixed contract based on the services described in Part A, 3.0, Scope of Work, 4.0 Mandatory Services, and 5.0 Vendor Qualifications.

Documents To Be Submitted in Response to This RFP

One (1) original and three (3) separate copies of the entire RFP, to include Parts A, and B.

The proposal must be signed by an official having authority to contract with MCPS. The firm and the official's name shall be used.

The documents required above must be received by the due date and time set forth in the cover letter and addressed to Montgomery County Public Schools, Division of Procurement, 45 W. Gude Dr., Suite 3200, Rockville, Maryland 20850.

MCPS reserves the right to make an award without further discussion of the proposals received. MCPS may also negotiate with the one offerer who submits the best proposal or with two or more offerers who are in the competitive range. Therefore, it is important that your proposal be submitted initially on the most favorable terms from both the technical and cost standpoints. After the submission and closure of proposals, no information will be released until after the award. It is understood that your proposal will become a part of the official file on this matter without obligation to MCPS.

Treatment of Technical Data in Proposal

The proposal submitted in response to this request may contain technical data which the offeror or subcontractor offeror does not want used or disclosed for any purpose other than evaluation of the proposal. The use and disclosure of any such technical data, subject to the provisions of the Maryland Public Information Act, may be so restricted:

Provided, that offerer marks the cover sheet of the proposal with the following legend, specifying the pages of the proposal which are to be restricted in accordance with the conditions of the legend:
"Technical data contained in pages ___ of this proposal shall not be used or disclosed, except for evaluation purposes."

Provided, that if a contract is awarded to this offerer as a result of or in connection with the submission of this proposal, MCPS shall have the right to use or disclose these technical data to the extent provided in the contract.

This restriction does not limit the right of MCPS to use or disclose technical data obtained from another source without restriction.

MCPS assumes no liability for disclosure or use of unmarked technical data or products and may use or disclose the data for any purpose and may consider that the proposal was not submitted in confidence and therefore is releasable. Price and cost data concerning salaries, overhead, and general and administrative expenses are considered proprietary information and will not be disclosed.

Unnecessarily Elaborate Brochures

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective proposal are not desired and may be construed as an indication of the offeror's lack of cost consciousness. Elaborate art work and expensive visual and other presentation aids are neither necessary nor wanted.

Project Contact

The MCPS project contact for the proposed procurement is:

Montgomery County Public Schools
Division of Business, Fiscal and Information Systems
Ms. Julie Hall
850 Hungerford Dr., Room 225
Rockville, MD 20850
Phone: 301-279-3166

All prospective offerers are cautioned that information relating to the proposed procurement may be obtained only from Barbara Regalia, CPPB, Senior Buyer, Division of Procurement. Any attempt to solicit information from other sources within the MCPS system may be cause for rejection of the offeror's proposal.

Evaluation Criteria

MCPS will evaluate the proposals in accordance with the criteria set forth in Part A.

Place of Performance

Services will be provided at the vendor's site; vendor must pick up encounter forms from MCPS.

Certification

The two forms attached to this RFP, Equal Opportunities Certification and Certification of Nonsegregated Facilities, must accompany the proposal. Evaluation of proposals is dependent upon satisfactory completion of these forms.

Contract

MCPS plans to enter a contractual agreement with the agency to whom the award is made and intends to make the attached Articles 1 - 31 a part of the contract. **Articles 15, 29, 30 and 31 are not applicable to this RFP.**

Equal Opportunity Certification

1. Are you participating in any contractual agreement which contains the Equal Employment Opportunity Clause prescribed in Executive Order 11246, as amended?

() Yes () No

2. Name and address of Federal "Compliance Agency," if known:

("The Rules and Regulations of the Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, define the term Compliance Agency as the agency designated by the director of OFCCP, to conduct compliance reviews and to undertake such other responsibilities assigned.")

3. Are you required to maintain a written affirmative action plan according to 41 CFR 60-2 and 60-1 (a)(4)?

() Yes () No

4. Has the "Compliance Agency" required you to correct deficiencies in your affirmative action plan or your employment policies and practices?

() Yes () No

5. Are you required to submit an annual compliance report as described in 41 CFR 60-17 (a)?

() Yes () No

If the answer to "5" is yes, enclose a copy of your latest compliance report.

Data on Subcontractors. (Use supplementary sheets where required.)

_____ (1)* (2)** (3)***
(Subcontractor's Name)

_____ () Yes () Yes () Yes
(Street)

_____ () No () No () No
(City) (State)

_____ (1)* (2)** (3)***
(Subcontractor's Name)

_____ () Yes () Yes () Yes
(Street)

_____ () No () No () No
(City) (State)

- *(1) Previously held contracts subject to EQ 10925, 11114, and 11246, as amended.
- ** (2) Previously filed certificate of nonsegregated facilities.
- *** (3) Previously filed annual (EE0-1, EEO-4, or EEO-6) compliance report.

Certification of Nonsegregated Facilities

By submission of this offer, the offerer or subcontractor certifies that there is not maintained or provided for employees any segregated facilities and that employees will not be permitted to perform their services at any location, under the offerer's control, where segregated facilities are maintained. The offerer, or subcontractor, agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "Segregated Facilities" means any rooms, work areas, restrooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin because of habit, local custom, or otherwise. The offerer further agrees that except where there has been obtained identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause that there will be forwarded the following notice to such proposed subcontractors except where the proposed subcontractors have submitted certifications for specific time period:

**Notice to Prospective Subcontractors of
Requirement for Certifications of
Nonsegregated Facilities**

A Certification of Nonsegregated Facilities, as required by the May 9, 1967, order (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities by the Secretary of Labor, must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period, i.e., quarterly, semiannually, or annually.

NOTE: Failure of an offerer to agree to the Certification of Nonsegregated Facilities shall render his offer nonresponsive to the terms of solicitations involving awards of contracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause.

PLACE OF PERFORMANCE

Following is the name and location of the facility where the service will be performed:

(Name of Facility)

(Address)

Minority Business Enterprise

The offerer () is () is not a minority business enterprise. A minority business enterprise is defined as a "business at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock is owned by minority group members." For the purpose of this definition, minority group members are Blacks, Hispanic Americans, American Orientals, American Indians, American Eskimos, and American Aleuts.

Check the appropriate box below.

- African American Asian American Hispanic Native American
- Female Disabled None

NON-DEBARMENT ACKNOWLEDGEMENT:

_____ I acknowledge that my firm has NO pending litigation and/or debarment from doing business with the State of Maryland or any of its subordinate government units and/or federal government within the past five (5) years.

_____ I acknowledge that my firm has pending litigation or has been debarred from doing business with the State of Maryland or any of its subordinate government units and/or federal government, within the past five (5) years. (Attachment)

As the duly authorized representative of the applicant, I hereby certify that the above information is correct and that I will advise Montgomery County Public Schools should there be a change in status.

By (Signature) _____

Name and Title _____

Witness Name and Title _____

VENDOR'S CERTIFICATION: Upon notification of award, this document in its entirety is the awarded vendor's contract with MCPS. By signing below, the undersigned acknowledges that he/she is entering into a contract with MCPS.

- A. The undersigned proposes to furnish and deliver supplies, equipment, or services, in accordance with specifications and stipulations contained herein, and at the prices quoted. This certifies that this bid is made
- B. 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.

C. I hereby certify that I am authorized to sign for the bidder. I/We certify that none of this company's officers, directors, partners, or its employees have been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or federal government; and that no member of the Board of Education of the Montgomery County Public Schools, Administrative or Supervisory Personnel, or other employees of the Board of Education has any interest in the bidding company except as follows:

By (Signature) _____

Name and Title _____

Witness Name and Title _____

CONTRACT ARTICLES

<u>No.</u>	<u>Title</u>
1	Description/Specifications
2	MCPS Project Officer
3	Personnel
4	MCPS Contract Administrator
5	Statement of Work
6	Deliverables
7	Price
8	Period of Performance
9	Submission of Vouchers
10	Inspection and Acceptance
11	Payment
12	Withholding Contract Payments
13	Services of Consultants
14	Publication and Publicity
15	Data Collection (Not Required)
16	Documentation and Copyright
17	Notice of Delays
18	Excusable Delays
19	MCPS Property
20	Covenant Against Contingent Fees
21	Officials Not to Benefit
22	Equal Opportunity
23	Compliance With Local Laws
24	Changes
25	Disputes
26	Termination for Convenience of MCPS
27	Order of Precedence
28	Severability
29	Bid Performance (Not Required)
30	Performance Bond (Not Required)
31	Nonappropriation of Funds (Not Required)

ARTICLE 1. DESCRIPTION/SPECIFICATIONS

The contractor shall, in conformance with the MCPS provisions, furnish all personnel, materials, services, and facilities necessary to perform the requirements of the statement of work and the contractor's proposal.

ARTICLE 2. MCPS PROJECT CONTACT

- a) The MCPS project contact is responsible for the technical aspects of the project and technical liaison with the contractor. The MCPS project contact is also responsible for the review and approval of any and all deliverables including reports, and such other responsibilities as may be specified in the contract.
- b) The project contact is not authorized to make any commitments or otherwise obligate MCPS or authorize any changes which affect the contract price, terms, or conditions. Any contractor requests for changes shall be referred directly to the director of the Department of Materials Management. No such changes shall be made without the written authorization of the director of the Department of Materials Management.
- c) The project officer may be changed at any time; but notification of the change, including the name and address of the successor project officer, will be provided to the contractor in writing.

ARTICLE 3. PERSONNEL

The following personnel are considered to be essential to the work being performed. Prior to diverting any of the specified individuals to other programs, the contractor shall notify the project officer reasonably well in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the contractor without the written consent of the project officer. However, the project officer may ratify in writing such diversion; and such ratification shall constitute the consent of the project officer required by this clause. The following listing may be amended from time to time during the course of the contract to either add or delete personnel, as appropriate. Failure to obtain the approval of the project officer as required or to propose replacement personnel acceptable to the project officer may be cause for termination because of default.

Name _____

Title _____

Name _____

Title _____

MCPS reserves the right to require that the contractor replace any individual charged to the contract at any point during the contract period if it determines that this action is in its best interests. In such case, the written authorization of both the director of procurement and the project officer is required. In the notification to the contractor, MCPS shall stipulate the last day the person's time can be billed to the contract or how long the person can be involved in contract activities.

ARTICLE 4. MCPS CONTRACT ADMINISTRATOR

For day-to-day operational problems and for technical questions, the successful vendor may contact the project officer.

ARTICLE 5. STATEMENT OF WORK

The contractor agrees, in consideration of the price stated in ARTICLE 7, to do the work described in Part A.

ARTICLE 6. DELIVERABLES

All deliverables shall be submitted to the project officer according to the kinds and dates indicated in Part A or as agreed upon after contract has been awarded.

ARTICLE 7. PRICE

The proposed contract is expected to be firm fixed contract based services described in Part A, 3.0, Scope of Work, 4.0 Mandatory Services, and 5.0 Vendor Qualifications.

ARTICLE 8. PERIOD OF PERFORMANCE

The term of contract shall be for two (2) years starting no sooner than one day after Board award. MCPS reserves the right to extend this contract at existing prices, terms and conditions for up to two (2) additional 2-year terms. Written notice to extend the contract will be issued to the successful vendor(s) 90 days prior to the expiration of the original contract. The vendor shall have ten (10) days from date of notification to accept or reject the extension. If the Board of Education approves the extension a contract amendment shall be issued.

ARTICLE 9. SUBMISSION OF VOUCHERSAll Contracts

The contractor's vouchers shall be approved for payment by the project contact only after the inspection or other evaluation has been completed by the project officer and after the project officer is satisfied that the contractor is performing the work and has prepared the voucher as required by the contract.

ARTICLE 10. INSPECTION AND ACCEPTANCE

MCPS, through any authorized representative, has the right at all reasonable times to inspect, or otherwise evaluate, the work performed or being performed at the premises on which it is being performed. If any inspection or evaluation is made by MCPS on the premises of the contractor or a subcontractor, the contractor shall provide and shall require their subcontractors to provide all reasonable facilities and assistance for the safety and convenience of MCPS representatives in the performance of their duties. All inspections and evaluations shall be performed so that they will not unduly delay the work.

ARTICLE 11. PAYMENT

Within 30 days after receiving of each invoice and accepting the work, MCPS shall, except as provided in this contract, pay for the work performed when approved by the project contact and director of the Department of Materials Management. A payment schedule will be jointly developed between MCPS and the awarded contractor.

ARTICLE 12. WITHHOLDING OF CONTRACT PAYMENTS

Despite any other payment provisions of this contract, failure of the contractor to submit required reports when due; or failure to perform or deliver required work, supplies, or services; or failure to deliver acceptable work, supplies, or services will result in withholding payments under this contract unless such failure arises out of causes beyond the control and without the fault or negligence of the contractor as defined by the clause entitled "Excusable Delays" or "Termination for Convenience of MCPS," as applicable. MCPS shall promptly notify the contractor of its intention to withhold payment of any invoice or voucher submitted.

ARTICLE 13. SERVICES OF CONSULTANTS

The contractor is prohibited from using the services of MCPS employees in performing this contract. Former employees may be used, provided that a 12-month period has elapsed since their last employment at MCPS.

ARTICLE 14. PUBLICATION AND PUBLICITY

The contractor shall not publish or otherwise publicize the methods employed or results achieved until the work performed has been accepted by MCPS. Publication and discussion of services or presentations and other forms of publicity are encouraged, following acceptance of the work by MCPS, provided that:

- a) The primary purpose is to disseminate information about the work rather than to promote the contractor's accomplishments or knowledge.
- b) Publication or presentation prominently displays or acknowledges MCPS financial support as follows:

The contents of this publication do not necessarily reflect the views or policies of MCPS; and the mention of trade names, commercial products, or organizations does not imply endorsement by MCPS.

- c) Confidentiality of students and their families is maintained at all times.

ARTICLE 15. DATA COLLECTION (Not Required)

Questionnaires, survey instruments, or any other form of data collection from more than nine persons must be reviewed by the Department of Educational Accountability and approved by the deputy superintendent of schools prior to use as required by MCPS Regulation EHC-RA: Clearance of Data Acquisition Activities.

ARTICLE 16. DOCUMENTATION AND COPYRIGHT

Collected data, analyses, and any analytical processes, programs and files developed as a contractual requirement are the sole property of MCPS. Programs shall be completely documented, including the file layout of tapes, disks, and so on. MCPS may, at its sole discretion, waive title to any portion or to all data and analyses. MCPS has the

sole right to copyright any process or program and may license its use by others for a fee or without charge.

ARTICLE 17. NOTICE OF DELAYS

Whenever the contractor has knowledge that any actual or potential situation, including, but not limited to, labor disputes is delaying or threatening to delay the timely performance of the work under this contract, the contractor shall immediately give written notice, including all relevant information, to the director of the Department of Materials Management.

ARTICLE 18. EXCUSABLE DELAYS

Except because of failures of subcontractors, the contractor shall not be considered to have failed in performance of this contract if such failure arises out of causes beyond the control and without the fault or negligence of the contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the government in its sovereign capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of the contractor. If the failure to perform is caused by the failure of a subcontractor to perform and if such failure arises out of causes beyond the control of both the contractor and subcontractor and without the fault or negligence of either of them, the contractor shall not be deemed to have failed in performance of this contract unless (a) the supplies or services to be furnished by the subcontractor were obtainable from other sources; and (b) the director of the Department of Materials Management shall have ordered the contractor in writing to procure such supplies or services from such other sources, and the contractor shall have failed to comply reasonably with such order. Upon request of the contractor, the director of the Department of Materials Management shall ascertain the facts and extent of such failure; and if he shall determine that any failure to perform was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of MCPS to invoke the termination article of this contract. As used in this article, the terms "subcontractor" and "subcontractors" mean subcontractor(s) employed at any level of the work being performed.

ARTICLE 19. MCPS PROPERTY

The use of MCPS property must be approved in advance by the director of the Department of Materials Management. Title to property leased

with a purchase option shall pass to MCPS even though the option date is later than the contract period. Any payments required to acquire title are a contract cost. If MCPS has agreed to provide property owned by it, the following special provisions shall apply:

- a) The amount of MCPS property to be furnished to the contractor may be increased or decreased by written direction of the superintendent, and the contract price shall be adjusted to reflect the change pursuant to the stipulations of the "changes" article.
- b) The contractor shall insure all MCPS property in their possession or control and shall be liable to MCPS for the fair market value of any damage or loss to MCPS property, aside from that incurred by normal wear and tear. The contractor shall maintain the property in operating condition, with the cost being chargeable to the contract.
- c) All MCPS property shall be returned promptly upon completion of the contract or otherwise disposed of, as directed in writing by MCPS. All costs of shipment or disposal are a contract cost.
- d) Unless specifically stated otherwise in writing, MCPS property may be used only for the performance of this contract.
- e) Title to all MCPS property shall remain in the hands of MCPS at all times. Title to the property acquired by the contractor for use under the contract shall vest in MCPS upon delivery to the contractor.
- f) Any dispute concerning interpretation of the provisions of this article shall be subject to the stipulations of the "Disputes" article.

ARTICLE 20. COVENANT AGAINST CONTINGENT FEES

The contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warranty, MCPS shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE 21. OFFICIALS NOT TO BENEFIT

No elected official or employee of Maryland, Montgomery County, or MCPS shall benefit from or receive any money as a result of this contract. Violation of this article will void the contract. The contractor shall pay MCPS any funds received by any official or employee, the contract will be terminated in accordance with ARTICLE 26, and MCPS shall seek appropriate legal remedy. This prohibition does not apply to contracts with an MCPS employee or elected official who contracted in their own name.

ARTICLE 22. EQUAL OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

- a) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, sex, or national origin. Such action shall include, but not be limited to, employment, grade improvement, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices of the provisions of this Equal Opportunity clause.
- b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.
- c) The contractor will send to each labor union, or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of the contractor's commitment under this Equal Opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

ARTICLE 23. COMPLIANCE WITH LOCAL LAWS

The contractor shall comply with all applicable laws, ordinances, and codes of Maryland and Montgomery County.

ARTICLE 24. CHANGES

The director of the Department of Materials Management may, at any time, by a written order and without notice to the sureties make changes within the general scope of the contract in any one or more of the following: a) specifications or statement of work and b) place of performance or delivery. If any such changes cause an increase or decrease in the cost of or the time required for the performance of this contract, whether changed or not changed by any such order, an equitable adjustment shall be made a) in the contract price or time of performance or both and b) in such other provisions of the contract as may be so affected; and the contract shall be modified in writing accordingly. Any claim by the contractor for adjustment under this article must be asserted within 30 days from the date of receipt by the contractor of the notification of change, provided, however, that the director of the Department of Materials Management if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this article shall excuse the contractor from proceeding with the contract as changed.

ARTICLE 25. DISPUTES

- a) Any dispute concerning a question of fact arising under this contract shall be disposed of by written agreement between the contractor and the contracting officer. Pending final decision of a dispute hereunder, the contractor shall proceed diligently with the contract performance.
- b) This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in Paragraph a) above, provided that nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

ARTICLE 26. TERMINATION FOR DEFAULT OR FOR CONVENIENCE OF MCPS

a) The performance of work under the contract may be terminated by MCPS in accordance with this article in whole or, from time to time, in part:

- (1) Whenever the contractor shall default in performance of this contract in accordance with its terms (including in the term "default" any such failure by the contractor to make progress in the prosecution of the work that would endanger such performance) and shall fail to cure such default within a period of ten days (or such longer period as the director of the Department of Materials Management may allow) after receipt from the superintendent of a notice specifying the default; or
- (2) Whenever for any reason the Board of Education shall determine that such termination is in the best interest of MCPS.

Any such termination shall be effected by delivery to the contractor of a Notice of Termination specifying whether termination is for the default of the contractor or for the convenience of MCPS, the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective. If after notice of termination of this contract for default under (1) above and if it is determined for any reason that the contractor was not in default pursuant to (1) or that the contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the contractor pursuant to the provisions of the clause of this contract relating to excusable delays, the Notice of Termination shall be deemed to have been issued under (2) above; and the rights and obligations of the parties shall in such event be governed accordingly.

b) After receipt of a Notice of Termination and except as otherwise directed by the contracting office, the contractor shall:

- (1) Stop work under the contract on the date and to the extent specified by the Notice of Termination
- (2) Place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for

completion of such portion of the work under the contract as it is not terminated

- (3) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination
- (4) Assign to MCPS in the manner and to the extent directed by the director of the Department of Materials Management all of the rights, title, and interest of the contractor under the orders or subcontracts so terminated, in which case MCPS shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts
- (5) With the approval or ratification of the superintendent, to the extent he may require, which approval or ratification shall be final and conclusive for all purposes of this clause, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable in whole or in part in accordance with the provisions of this contract
- (6) Transfer title to MCPS (to the extent that title has not already been transferred) and deliver in the manner, at the times, and to the extent directed by the director of the Department of Materials Management (a) the work in process, completed work, supplies, and other materials produced as a part of, or acquired in respect of the performance of, the work terminated by the Notice of Termination and (b) the completed or partially completed plans, information, and other property which, if the contract had been completed, would be required to be furnished to MCPS
- (7) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination
- (8) Take such action as may be necessary, or as the director of the Department of Materials Management may direct, for the protection and preservation of the property related to this contract which is in the possession of the contractor and in which MCPS has or may acquire an interest

The contractor shall proceed immediately with the performance of the above obligations despite any delay in determining or

adjusting the amount of the fee, or any item of reimbursable cost, under this clause.

- c) After receipt of a Notice of Termination, the contractor shall submit to the director of the Department of Materials Management their termination claim in the form and with the certification prescribed by the director. The claim shall be submitted promptly but in no event later than 90 days from the effective date of termination, unless one or more extensions in writing are granted by the director of the Department of Materials Management. Upon request of the contractor to submit their termination claim within the time allowed, the superintendent may, subject to any review required by MCPS procedures in effect as of the date of execution of this contract, determine, on the basis of information available to them, the amount, if any, due to the contractor by reason of the termination and shall thereupon pay to the contractor the amount so determined.
- d) Subject to the provisions of Paragraph c) and subject to any review required by MCPS procedures in effect as of the date of execution of this contract, the contractor and the superintendent may agree upon the whole or any part of the amount or amounts to be paid (including an allowance for the fee) to the contractor by reason of the total or partial termination of work pursuant to this clause. The contract shall be amended accordingly, and the contractor shall be paid the agreed amount.
- e) If the contractor and the superintendent fail to agree in whole or in part, as provided in Paragraph d), as to the amounts with respect to costs and fee or as to the amount of the fee to be paid to the contractor in connection with the termination of work pursuant to this article, the superintendent shall, subject to any review required by MCPS procedures in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the contractor by reason of the termination and shall pay to the contractor the amount determined as follows:
 - (1) If the settlement includes cost and fee:
 - (a) There shall be included all costs and expenses reimbursable in accordance with this contract not previously paid to the contractor for the performance of this contract prior to the effective date of the Notice of Termination and such of these costs as may continue for a reasonable time thereafter with the

approval of or as directed by the superintendent, provided, however, that the contractor shall proceed as rapidly as practicable to discontinue such costs.

- (b) There shall be included so far as not included under (a) above the cost of settling and paying claims arising out of the termination of work under subcontracts or orders as provided in Paragraph b) (5) above, which are properly chargeable to the terminated portion of the contract.
- (c) There shall be included the reasonable costs of settlement including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of termination inventory, provided, however, that if the termination is for default of the contract, there shall not be included any amounts for the preparation of the contractor's settlement proposal.
- (d) There shall be included a portion of the fee payable under the contract determined as follows: (I) If this contract is terminated for the convenience of the MCPS and not for the default of the contractor, a percentage of the fee equivalent to the percentage of the completion of the work contemplated by the contract, less fee payments previously made, shall be paid. (ii) If this contract is terminated for the default of the contractor, the total fee payable shall be such a proportionate part of the fee (or, if this contract calls for services of different types, of such part of the fee as is reasonably allowable to the type of service under consideration) as the total amount of service delivered to and accepted by MCPS bears to the total amount of services of a like kind called for by this contract.

If the amount determined under this Subparagraph (1) is less than the total payment made to the contractor, the contractor shall repay the excess amount.

- (2) If the settlement includes only the fee, the amount will be determined in accordance with Subparagraph (1) (d) above.
- f) The contractor shall have the right of appeal, under the article of this contract entitled "Disputes," of any determination made by the superintendent under Paragraphs c) and e) above, except that if the contractor has failed to submit their claim within the time provided in Paragraph c) above and has failed to request extension of such time, they shall have no such right of appeal. In any case where the superintendent has made a determination of the amount due under Paragraph c) or e) above, MCPS shall pay to the contractor (1) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the superintendent or (2) if an appeal has been taken, the amount finally determined on such appeal.
- g) If a partial termination is made, the portion of the fee which is payable with respect to the work under the continued portion of the contract shall be equitably adjusted by agreement between the contractor and the superintendent; and such adjustment shall be shown by an amendment to this contract.

MCPS may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the contractor in connection with the terminated portion of the contract whenever the aggregate of such payments shall be within the amount to which the contractor will be entitled. If the total of such payments is in excess of the amount finally determined to be due under this article, such excess shall be payable by the contractor to MCPS upon demand, together with interest computed yearly at the rate of 9 percent from the date such excess payment is received by the contractor to the date on which such excess is repaid to MCPS. The provisions of this article relating to the fee shall be inapplicable if this contract does not provide for payment of a fee.

ARTICLE 27 ORDER OF PRECEDENCE

If any conflict in the interpretation of the requirements of this contract occurs, preference shall be given in the following order of precedence: a) the contract provisions, b) the statement of work, and c) the contractor's proposal.

ARTICLE 28 SEVERABILITY

Should any portion of the contract be found illegal the remainder shall remain in full force and effect and shall be binding on both parties.

ARTICLE 29 BID SECURITY (Not Required)

With the proposal, each bid must be accompanied by an approved bid bond from a surety company acceptable to the Owner, or by a certified or cashier's check executed in favor of the Owner for five percent (5%) of the total amount.

The bid bond shall be returned to all except the successful bidder within five (5) days after awards have been made. The bid security of the successful bidder(s) will be returned upon receipt of the performance bond.

ARTICLE 30. PERFORMANCE BOND (Not Required)

No contract shall exist until MCPS receives a duly executed Performance Bond in the amount of one hundred percent (100%) of the contract, made payable to MCPS as security for the faithful performance of the contract and having as surety thereon such surety company or companies as are acceptable to MCPS and as are authorized to transact business in the State of Maryland. In the event the Performance Bond is not delivered within ten (10) days of Notice of Award then the offer may be ruled null and void and the award shall be made to the next lowest responsive offerer.

ARTICLE 31. NONAPPROPRIATION OF FUNDS (Not Required)

- (a) In the event sufficient funds are not appropriated for the payment of all lease/purchase payments required to be paid in the next succeeding Renewal Term hereunder, and Lessee has no funds legally available for lease/purchase payments from other sources, then Lessee may terminate this lease at the end of the original term or the then current renewal term, as the case may be, without penalty or expense to Lessee of any kind whatsoever, and Lessee shall not be obligated to make payment of the lease/purchase payments provided for in the lease beyond the then current term. Lessee agrees to deliver notice to Lessor of such termination at least thirty (30) days prior to the end of the then current fiscal year.

- (b) If this agreement is terminated under this provision, Lessee agrees, peaceably to deliver such items of the equipment to Lessor on the date of such termination.

To the extent lawful, Lessee covenants that it will not, until the date on which the next succeeding renewal term would have ended, expend, or commit any funds for the purchase or use of equipment to be used for the same purpose as, or a purpose functionally equivalent to, the equipment. Notwithstanding anything in this lease to the contrary, the provisions of this subpart shall survive termination of the lease.