

I. GENERAL TERMS AND CONDITIONS

The following Terms and Conditions are MANDATORY and shall be incorporated verbatim in any contract award:

1. ADA COMPLIANCE: Pursuant to the Americans with Disabilities Act (ADA), any person requiring special accommodations to participate in this proceeding should contact the Division of Procurement & Property Management Contract Specialist no later than one (1) business day prior to bid opening or the scheduled event. If you are hearing or speech impaired, please contact the Division by calling the ADA office TTY line at (804) 780-6226.
2. ADDENDA: Offerors are reminded that changes to the solicitation in the form of addenda are often issued between the issue date and the due date. All addenda must be acknowledged as part of the proposal submission. Failure to acknowledge an addendum may result in the proposal being declared non-responsive. Notice of addenda will be posted on Bonfire and the eVA portal. It is the offeror's responsibility to monitor ascertain the existence of addenda.
3. ADVERTISING: It is understood and agreed that, in the event a contract is awarded for the services included in this proposal, no indications of such services to the Richmond Public Schools will be used in any way in product literature or advertising unless with written approval of the Richmond School Board.
4. APPLICABLE LAWS AND COURTS: This solicitation and any contract resulting from this solicitation shall be governed and construed in accordance with Virginia law without taking into account conflicts of laws rules. The parties hereto expressly agree that the proper forum for adjudication of matters arising under or relating to the contract resulting from this solicitation shall be the Circuit Court of the City of Richmond and/or any federal courts located in and/or that serve the City of Richmond. The RPS may at its discretion, and if agreeable to the Contractor, resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). The Contractor shall comply with applicable federal, state and local laws and regulations.
5. ANTI-DISCRIMINATION: By submitting its offer, Offeror certifies to the Richmond Public Schools that it 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 § 2.2-4311 of the Virginia Public Procurement Act (VPPA). 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*, § 2.2-4343.1E).

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

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

- 1) The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin or disabilities, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the vendor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, including the names of all contracting agencies with which the contractor has contracts over \$10,000.00.

- 2) The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such vendor is an equal opportunity employer.
 - 3) Notices, advertisements and solicitations placed in accordance with federal laws, rules or regulations shall be deemed sufficient for meeting the requirements of this Section.
- B. The contractor will include the provisions of A. above in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
6. ANTITRUST: By entering into a contract, the contractor conveys, sells, assigns, and transfers to RPS 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 the RPS under said contract.
 7. ASSIGNMENT OF CONTRACT: A contract shall not be assignable by the contractor in whole or in part without the written consent of RPS.
 8. ANNOUNCEMENT OF AWARD: Upon the award or decision to award a contract as a result of this solicitation, RPS will publicly post such notice on the Commonwealth of Virginia's procurement website (www.eva.virginia.gov) for a minimum of 10 days.
 9. AUDIT: The Contractor hereby agrees to retain all books, records, and other documents relative to this contract for five (5) years after final payment. RPS or State auditors shall have full access to and the right to examine any of the Contractor's program material during said period. RPS further reserves the right to review, on demand and without notice, all files of any subcontractor employed by the Contractor to provide services or commodities under this Contract where payments by RPS are based on records of time, salaries, materials or actual expenses. In cases where the Contractor maintains multiple offices, records to be audited should be maintained locally or be deliverable to a location in the Metro-Richmond area.
 10. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH: A contractor organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described above that enters into a contract with a public body pursuant to the Virginia Public Procurement Act shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.
 11. AVAILABILITY FUNDS: It is understood and agreed between the parties herein that RPS shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this contract.
 12. CLARIFICATION OF TERMS: If any prospective Offeror has questions about the specifications or other solicitation documents, the prospective Offeror should contact the contract officer whose name appears on the face of the solicitation, no later than five days before the due date. Any revisions to the solicitation will be made only by addendum issued by the contract officer.
 13. CHANGES TO THE CONTRACT: Changes can be made to the contract in any of the following ways:
 - A. The parties may agree in writing to modify the terms, conditions, or scope of the contract. Any additional goods or services to be provided shall be of a sort that is ancillary to the contract goods or services, or within the same broad product or service categories as were included in the contract

award. Any 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. RPS 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 services to be performed, the method of packing or shipment, the place of delivery or installation, or the location of where services are to be performed. The contractor shall comply with the notice upon receipt, unless the contractor intends to claim an adjustment to compensation, schedule, or other contractual impact that would be caused by complying with such notice, in which case the contractor shall, in writing, promptly notify RPS of the adjustment to be sought, and before proceeding to comply with the notice, shall await the RPS's written decision affirming, modifying, or revoking the prior written notice. If RPS decides to issue a notice that requires an adjustment to compensation, the contractor shall be compensated for any additional costs incurred as the result of such order and shall give RPS 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 the Purchasing Agency's right to audit the contractor's records and/or to determine the correct number of units independently; or

C. By ordering the contractor to proceed with the work and 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 RPS with all vouchers and records of expenses incurred and savings realized. The RPS 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 RPS within thirty (30) days from the date of receipt of the written order from RPS. 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 *Code of Virginia*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by RPS or with the performance of the contract generally.

14. CRIMES AGAINST CHILDREN: The Contractor shall certify that it, its employees, and all other persons, including subcontractors and suppliers, who will have direct contact with students on school property during regular school hours or during school-sponsored activities have not been convicted of a violent felony set forth in the definition of barrier crime in *Code of the Virginia* §19.2-392.02.A, any offense involving the sexual molestation or physical or sexual abuse or rape of a child, or any crime of moral turpitude. The Contractor shall execute the appropriate certification. Pursuant to *Code of Virginia* §22.1-296.1, any person making materially false statements regarding offenses which are required to be included in the certification 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. Richmond Public Schools shall not be liable for materially false statements regarding the certifications required under this provision.
15. CURRENCY: Unless stated otherwise in the solicitation, Offerors shall state prices in US dollars.
16. DEBARMENT STATUS: By submitting its proposal, Offeror certifies that it is not currently debarred suspended or otherwise excluded from submitting offers on contracts by any public body of the Commonwealth of Virginia, nor is it an agent of any person or entity that is currently debarred from submitting offers on contracts by a public body of the Commonwealth of Virginia or by an agency of the United States of America.

17. DEFAULT: In case of failure to deliver goods or services in accordance with the contract terms and conditions, the RPS, 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 RPS may have.

18. DRUG-FREE WORKPLACE:

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 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.

19. ETHICS IN PUBLIC CONTRACTING: By submitting its proposal, Offeror certifies that its proposal is made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other vendor, supplier, manufacturer or subcontractor in connection with its proposal, and that it has 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.
20. EQUAL EMPLOYMENT OPPORTUNITY: In accordance with federal laws, the laws of the Commonwealth of Virginia, and the policies of the School Board of the City of Richmond, Richmond Public Schools does not discriminate on the basis of sex, race, color, age, religion, disability, or national origin in the provision of employment and services. Richmond Public Schools operates equal opportunity and affirmative action programs for students and staff. Richmond Public Schools is an equal opportunity/affirmative action employer.
21. IMMIGRATION REFORM AND CONTROL ACT OF 1986: By submitting its proposal, Offeror certifies that it does not and shall not during the performance of this contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986 (the "Act") or otherwise violate the provisions of the Act.
22. INSURANCE: By signing and submitting a proposal under this solicitation, the Offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The Offeror further certifies that the contractor and any subcontractors will maintain these insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.

2. Employer's Liability - \$100,000
3. Commercial General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
4. Automobile Liability - \$1,000,000 combined single limit.
5. Other insurance as required based upon the nature of the contract.

<u>Profession/Service</u>	<u>Limits</u>
Accounting aggregate	\$1,000,000 per occurrence, \$3,000,000
Architecture aggregate	\$2,000,000 per occurrence, \$6,000,000
Asbestos Design, Inspection or Abatement Contractors aggregate	\$1,000,000 per occurrence, \$3,000,000
Health Care Practitioner (to include Dentists, Licensed Dental Hygienists, Optometrists, Registered or Licensed Practical Nurses, Pharmacists, Physicians, Podiatrists, Chiropractors, Physical Therapists, Physical Therapist Assistants, Clinical Psychologists, Clinical Social Workers, Professional Counselors, Hospitals, or Health Maintenance Organizations.)	\$2,150,000 per occurrence, \$4,250,000
(Limits increase each July 1 through fiscal year 2031 per Code of Virginia § 8.01-581.15.)	
Insurance/Risk Management aggregate	\$1,000,000 per occurrence, \$3,000,000
Landscape/Architecture aggregate	\$1,000,000 per occurrence, \$1,000,000
Legal aggregate	\$1,000,000 per occurrence, \$5,000,000
Professional Engineer aggregate	\$2,000,000 per occurrence, \$6,000,000
Surveying aggregate	\$1,000,000 per occurrence, \$1,000,000

23. **NO CONTACT POLICY:** During the conduct of this solicitation, no Offeror shall initiate contact with any representative of RPS concerning the conduct of this solicitation. Any contact with an RPS representative is prohibited and may result in disqualification from the procurement process.
24. **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, faith-based 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.
25. **PAYMENT:**

a. To Prime Contractor:

- 1) Invoices for services delivered shall be submitted by the Contractor directly to Accounts Payable in the Finance Office. The preferred method is by email to accountspayable@rvaschools.net. All invoices shall show the contract number and/or purchase order number, social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations) and a unique invoice identifying number.
- 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) The following shall be deemed 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.
- 4) 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 resolved in accordance with *Code of Virginia*, § 2.2-4363 and -4364. Upon determining that invoiced charges are not reasonable, the RPS shall notify the contractor of defects or improprieties in invoices within fifteen (15) days as required in *Code of Virginia*, § 2.2-4351. The provisions of this section do not relieve RPS 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) Within seven (7) days of the contractor's receipt of payment from RPS, a contractor awarded a contract under this solicitation is hereby obligated (i) to pay the subcontractor(s) for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or (ii) notify RPS and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
- 2) 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 RPS, except for amounts withheld as stated in (1) 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 RPS.

c. RPS encourages contractors and subcontractors to accept electronic payment and, if applicable, credit card payment.

26. **PRECEDENCE OF TERMS:** The following General Terms and Conditions APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF FORMS AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS AND PAYMENT shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions or any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.
27. **PROPRIETARY INFORMATION/TRADE SECRETS:** Proprietary information or trade secrets in connection with this procurement transaction shall not be subject to public disclosure under the Virginia

Freedom of Information Act, subject to the limitations therein; however, the protections of this section must be invoked prior to or upon submission of data or materials, and must identify the data or other materials to be protected and state the reasons why protection is necessary. (*Code of Virginia* § 2.2-4342(F)).

28. QUALIFICATIONS OF OFFERORS: RPS may make such reasonable investigations as deemed proper and necessary to determine the ability of the offeror to perform the work and the offeror shall furnish to RPS all such information and data for this purpose as may be requested. RPS reserves the right to inspect the firm's physical plant prior to award to satisfy questions regarding the offeror's capabilities. RPS further reserves the right to reject any proposal if the evidence submitted by or investigations of such offeror fails to satisfy RPS that such offeror is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein.
29. SEVERABILITY: If any provision of the Scope of Work, General Terms and Conditions or Special Terms and Conditions be held invalid, such holding shall not affect the remaining provisions.
30. STATE CORPORATION COMMISSION IDENTIFICATION: Pursuant to *Code of Virginia*, §2.2-4311.2 subsection B, a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid or proposal the identification number issued to it by the State Corporation Commission (SCC).

Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized. Any bidder or offeror that fails to provide the required information may not receive an award.

31. TAXES. Sales to RPS are normally exempt from State sales tax. State Sales and Use tax certificates of exemption, Form ST-12, will be issued upon request. Delivery against this contract shall be free of Federal excise and transportation taxes. RPS excise tax exemption registration number is 54-1804146. (Applicable to goods only.)

If sales or deliveries against the contract are not exempt, the contractor shall be responsible for the payment of such taxes unless the tax law specifically imposes the tax upon the buying entity and prohibits the contractor from offering a tax-included price.

32. TERMINATION: RPS may terminate this contract in one of two methods:
- a. Termination with Cause.
 - 1) RPS may terminate this Contract with cause at any time for the Contractor's failure to perform its obligations under this Contract or to otherwise adhere to the terms and conditions of this Contract by delivery of written notice to the Contractor of the RPS' intent to so terminate. Such notice shall be delivered at least seven (7) calendar days prior to the date of termination and shall otherwise be given in accordance with the requirements of this Contract for the delivery of notices.
 - 2) In case of failure to deliver goods or services in accordance with the contract terms and conditions, RPS, after due oral or written notice, may procure them from other sources and hold the vendor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that RPS may have.
 - 3) If the Contractor cures the failure to perform or otherwise adhere to the terms and conditions of the Contract to RPS' satisfaction during this seven (7) calendar-day period as indicated in writing to the Contractor, then the Notice of Termination with cause shall be deemed null and void.
 - 4) Upon such termination, RPS shall be liable only to the extent of reimbursable costs submitted by the Contractor and approved by RPS up to the time of termination and upon delivery to RPS of all

completed or partially completed work performed by the Contractor. RPS shall have full right to use such work in any manner when and where it may designate without claim on the part of the Contractor for additional compensation.

b. Termination without Cause.

- 1) RPS may terminate this Contract without cause by delivery or written notice to the Contractor of its intent to so terminate. Provide the delivery of such notice at least ninety (90) calendar days prior to the date of termination and, otherwise, given in accordance with the requirements of this Contract for the delivery of notices.
- 2) Upon such termination, RPS shall be liable only to the extent of reimbursable costs submitted by the Contractor and approved by RPS up to the time of termination plus such portion of the fixed fee to which the Contractor may be entitled under this Contract as a result and upon delivery to RPS of completed or partially completed work. RPS shall have full right to use such work in any manner when and where it may designate without claim on the part of the Contractor for additional compensation. Upon such termination, the Contractor shall have no further obligation under this Contract.

33. TESTING AND INSPECTION: [GOODS] RPS reserves the right to conduct any tests or inspections if may deem necessary and advisable to assure goods and services conform to the requirements and specifications.

34. TRANSPORTATION AND PACKAGING: [GOODS] By submitting its proposal, offerors certifies and warrants that the price offered for FOB destination includes 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. (For goods only.)