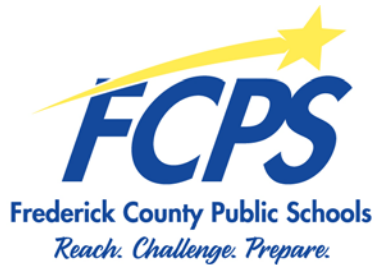


Purchasing Office
191 South East St
Frederick, Maryland 21701
301-644-5116 phone
301-644-5213 fax
Willis.meekins@fcps.org



Leslie Pellegrino, CPA,
Acting Purchasing Manager
Kim Miskell, CSBO, Assistant Purchasing
Manager
**Bill Meekins CPPB, CPPO, NIGP-CPP, CSBO,
CPCP, Purchasing Agent**
Shane Ryberg, Purchasing Agent

PROPOSAL NUMBER/NAME:	22CURR1, Tutoring Services
PROPSAL ISSUE DATE:	August 5, 2021
CONTRACT MANAGER:	Bill Meekins CPPB, CPPO, NIGP-CPP, CSBO, CPCP, Purchasing Agent willis.meekins@fcps.org
CONTRACT ADMINISTRATOR:	Tom Saunders, Director, School Administration Secondary Thomas.saunders@fcps.org
QUESTIONS:	Questions are due no later than 4:00 P.M., local time, on August 19, 2021. Submit questions in writing to the Contract Manager listed above with a copy to the Contract Administrator.
PRE-PROPOSAL DATE:	9:30 A.M., local time, August 13, 2021 (Attendance is encouraged, but not mandatory.)
PRE-PROPOSAL LOCATION:	Skype Meeting (240) 236-6172 (FCPS), Conference ID: 9065784
OBTAINING PROPOSALS DOCUMENTS:	To view and/or download this solicitation package please visit our webpage at: www.fcps.org/bidlist . If you have problems downloading this bid or applicable addenda, contact: Staci Greeley at staci.greeley@fcps.org
BONDS REQUIRED:	NO
MBE REQUIREMENTS:	NO
PROPOSAL DUE:	2:00 P.M., local time, on August 25, 2021. Faxed or emailed bids are not acceptable.
SEALED PROPOSALS DELIVERED TO:	FCPS is accepting electronic proposal submissions through ProcureNow. Bidders can create a FREE account with ProcureNow by signing up at http://secure.procurenw.com/signup . Instructions on how to do so may be found at https://www.fcps.org/fiscal/solicitations-and-awards . No proposal submissions will be accepted via mail.
TENTATIVE AWARD DATE:	BOE Work Session, scheduled on: September 8, 2021
ELIGIBILITY TO BID:	All Frederick County Public School vendors and or contractors interested in bidding on FCPS projects must register at eMaryland Marketplace Advantage www.procurement.maryland.gov . FCPS will no longer accept bidder's applications.

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THE SCHOOL YEAR AT A GLANCE

2021

August 18 (Wednesday)	First Day of School
September 6 (Monday)	Schools* and Offices Closed
September 7 (Tuesday)	Schools* Closed
September 16 (Thursday)	Schools* Closed
September 23 (Thursday)	2-Hour Early Dismissal for Students
September 24 (Friday)	3 1/2 -Hour Early Dismissal for Students
October 12 (Tuesday)	4-Hour Delayed Opening: Elementary and Middle Only (Parent-Teacher Conferences), No 1/2 Day Pre-K; High Schools Open on Time
October 13 (Wednesday)	4-Hour Delayed Opening: Elementary and Middle Only (Parent-Teacher Conferences), No 1/2 Day Pre-K; High Schools Open on Time
October 14 (Thursday)	3 1/2-Hour Early Dismissal: Elementary and Middle Only (Parent-Teacher Conferences), No 1/2 Day Pre-K; High Schools Open Full Day
October 15 (Friday)	Schools* Closed for Students
October 26 (Tuesday)	Schools* Closed for Students
November 24 (Wednesday)	Schools* and Offices Closed
November 25-26 (Thursday-Friday)	Schools** and Offices Closed
December 6 (Monday)	2-Hour Early Dismissal for Students
December 23 (Thursday)	Schools* Closed
December 24 (Friday)	Schools** and Offices Closed
December 27 (Monday)	Schools** and Offices Closed
December 28-30 (Tuesday-Thursday)	Schools** Closed
December 31 (Friday)	Schools** and Offices closed

2022

January 14 (Friday)	Schools* Closed for Students
January 17 (Monday)	Schools** and Offices Closed
February 18 (Friday)	2-Hour Early Dismissal for Students
February 21 (Monday)	Schools** and Offices Closed
March 28 (Monday)	Schools* Closed for Students
April 15-18 (Friday-Monday)	Schools** and Offices Closed
April 19-22 (Tuesday-Friday)	Schools* Closed for Students
May 6 (Friday)	2-Hour Early Dismissal for Students
May 30 (Monday)	Schools** and Offices Closed
June 1 *** (Wednesday)	2-Hour Early Dismissal/Last Day of School for Students

*BOE Determined

**State Mandated (See page 41)

***FCPS will make up days closed for inclement weather or other emergencies in the following sequence: June 2, 3, 6, 7, and 8. If no snow days are used, the last day for students is Wednesday, June 1. The June 2-hour early dismissal will occur on the last day of school for students. The school year will provide 180 days for students. Dates are subject to BOE revision.

Get Calendar Details:

www.fcps.org/calendar

Like us on Facebook: FCPS Maryland

Follow us on Twitter: @FCPSMaryland

Select FindOutFirst email calendar updates and emergency-closing text messages:

www.fcps.org/fof

See the Calendar Handbook months pages



FCPS Maryland



@FCPSMaryland



www.fcps.org/fof

DIRECTORY OF SCHOOLS

ELEMENTARY

1. **Ballenger Creek** ● 240-236-2500
Ms. Megan Stein, Principal
5250 Kingsbrook Drive
Frederick, MD 21703
Fax 240-236-2501
2. **Blue Heron** 240-566-0700
Ms. Amy Schwiegerath, Principal
7100 Eaglehead Drive
New Market, MD 21774
Fax 240-566-0701
3. **Brunswick** ◆◆ 240-236-2900
Dr. Kimberly Mazaleski, Principal
400 Central Avenue
Brunswick, MD 21716
Fax 240-236-2901
4. **Butterfly Ridge** ◆◆◆ 240-566-0300
Dr. Patricia Hosfelt, Principal
601 Contender Way
Frederick, MD 21703
Fax 240-566-0301
5. **Carroll Manor** ◆◆ 240-236-3800
Ms. Kimberly Robertson, Principal
5624 Adamstown Road
Adamstown, MD 21710
Fax 240-236-3801
6. **Centerville** 240-566-0100
Ms. Karen Hopson, Principal
3601 Carriage Hill Drive
Frederick, MD 21704
Fax 240-566-0101
7. **Deer Crossing** 240-236-5900
Ms. Amy Routzahn, Principal
10601 Finn Drive
New Market, MD 21774
Fax 240-236-5901
8. **Emmitsburg** ● 240-236-1750
Ms. Amber Madigan, Principal
300 South Seton Avenue
Emmitsburg, MD 21727
Fax 240-236-1751
9. **Glade** ◆◆ 240-236-2100
Mr. Stephen Raff, Principal
9525 Glade Road
Walkersville, MD 21793
Fax 240-236-2101
10. **Green Valley** 240-236-3400
Dr. Giuseppe Di Monte, Principal
11501 Fingerboard Road
Monrovia, MD 21770
Fax 240-236-3401

21. **New Midway-Woodsboro**
Ms. Kimberly Clifford, Principal
A) New Midway 240-236-1500
Grades 3-5
12226 Woodsboro Pike
Keymar, MD 21757
Fax 240-236-1501
B) Woodsboro ● 240-236-3700
Grades Pre-K–2
101 Liberty Road
Woodsboro, MD 21798
Fax 240-236-3701
22. **North Frederick** ◆◆◆ 240-236-2000
Ms. Tracy Poquette, Principal
1010 Fairview Avenue
Frederick, MD 21701
Fax 240-236-2001
23. **Oakdale** 240-236-3300
Ms. Leigh Warren, Principal
5830 Oakdale School Road
Ijamsville, MD 21754
Fax 240-236-3301
24. **Orchard Grove** ◆◆ 240-236-2400
Mr. Jay Corrigan, Principal
5898 Hannover Drive
Frederick, MD 21703
Fax 240-236-2401
25. **Parkway** ● 240-236-2600
Ms. Nicole Bell, Principal
300 Carroll Parkway
Frederick, MD 21701
Fax 240-236-2601
26. **Sabillasville** 240-236-6000
Mr. John Veronie, Acting Principal
16210-B Sabillasville Road
Sabillasville, MD 21780
Fax 240-236-6001
27. **Spring Ridge** ◆◆ 240-236-1600
Dr. DeVeda Coley, Principal
9051 Ridgefield Drive
Frederick, MD 21701
Fax 240-236-1601
28. **Sugarloaf** 240-566-0500
Ms. Carmen Working, Principal
3400 Stone Barn Drive
Frederick, MD 21704
Fax 240-566-0501
29. **Thurmont** 240-236-0900
Grades 3-5
Mr. Karl Williams, Principal
805 East Main Street
Thurmont, MD 21788
Fax 240-236-0901

MIDDLE

40. **Ballenger Creek** 240-236-5700
Mr. Jay Schill, Principal
5525 Ballenger Creek Pike
Frederick, MD 21703
Fax 240-236-5701
41. **Brunswick** 240-236-5400
Mr. Everett Warren, Principal
301 Cummings Drive
Brunswick, MD 21716
Fax 240-236-5401
42. **Crestwood** 240-566-9000
Mr. Neal Case, Principal
7100 Foxcroft Drive
Frederick, MD 21703
Fax 240-566-9001
43. **Governor Thomas Johnson** 240-236-4900
Dr. Joshua Work, Principal
1799 Schifferstadt Boulevard
Frederick, MD 21701
Fax 240-236-4901
44. **Middletown** 240-236-4200
Mr. Paul Fer, Principal
100 Martha Mason Street
Middletown, MD 21769
Fax 240-236-4250
45. **Monocacy** 240-236-4700
Mr. Reginald Gunter, Principal
8009 Opossumtown Pike
Frederick, MD 21702
Fax 240-236-4701
46. **New Market** 240-236-4600
Ms. T.C. Suter, Principal
125 West Main Street
New Market, MD 21774
Fax 240-236-4650
47. **Oakdale** 240-236-5500
Mr. Daniel Enck, Principal
5810 Oakdale School Road
Ijamsville, MD 21754
Fax 240-236-5501
48. **Thurmont** 240-236-5100
Ms. Janine Smith, Principal
408 East Main Street
Thurmont, MD 21788
Fax 240-236-5101
49. **Urbana** 240-566-9200
Mr. Andrew Kibler, Principal
3511 Pontius Court
Ijamsville, MD 21754
Fax 240-566-9201
50. **Walkersville** 240-236-4400
Ms. Elizabeth Ann Miller, Principal
55 West Frederick Street
Walkersville, MD 21793
Fax 240-236-4401

51. **West Frederick** 240-236-4000
Ms. Maggie Gilgallon-Joyce, Principal
515 West Patrick Street
Frederick, MD 21701
Fax 240-236-4050
52. **Windsor Knolls** 240-236-5000
Mr. Brian Vasquezna, Principal
11150 Windsor Road
Ijamsville, MD 21754
Fax 240-236-5001
53. **Brunswick** 240-236-8600
Mr. Michael Dillman, Principal
101 Cummings Drive
Brunswick, MD 21716
Fax 240-236-8601
54. **Catoctin** 240-236-8100
Ms. Jennifer Clements, Principal
14745 Sabillasville Road
Thurmont, MD 21788
Fax 240-236-8101
55. **Frederick** 240-236-7000
Dr. David Franceschina, Principal
650 Carroll Parkway
Frederick, MD 21701
Fax 240-236-7015
56. **Governor Thomas Johnson** 240-236-8200
Ms. Tracey K. Kibler, Principal
1501 North Market Street
Frederick, MD 21701
Fax 240-236-8201
57. **Linganore** 240-566-9700
Ms. Cynthia Hanlon, Principal
12013 Old Annapolis Road
Frederick, MD 21701
Fax 240-566-9701
58. **Middletown** 240-236-7400
Mr. Bernard Quesada, Principal
200 Schoolhouse Drive
Middletown, MD 21769
Fax 240-236-7450
59. **Oakdale** 240-566-9400
Ms. Lisa Smith, Principal
5850 Eaglehead Drive
Ijamsville, MD 21754
Fax 240-566-9401
60. **Tuscarora** 240-236-6400
Mr. Christopher Berry, Principal
5312 Ballenger Creek Pike
Frederick, MD 21703
Fax 240-236-6401
61. **Urbana** 240-236-7600
Mr. David Kehne, Principal
3471 Campus Drive
Ijamsville, MD 21754
Fax 240-236-7601

62. **Walkersville** 240-236-7200
Dr. Stephanie Ware, Principal
81 West Frederick Street
Walkersville, MD 21793
Fax 240-236-7250

OTHER

63. **Career and Technology Center** 240-236-8500
Mr. Michael Concepcion, Principal
7922 Opossumtown Pike
Frederick, MD 21702
Fax 240-236-8501
64. **Carroll Creek Montessori Public Charter School** 240-566-0600
Ms. Marilyn Horan, Principal
7215 Corporate Court
Frederick, MD 21703
Fax 240-566-0601
65. **FCPS Blended Virtual Program**
c/o Centerville ES
3601 Carriage Hill Drive
Frederick, MD 21704
Elementary 240-236-8970
Ms. Kate Krietz, Co-Principal
Fax 240-236-8971
Middle 240-236-8960
Mr. Frank Vetter, Co-Principal
Fax 240-236-8961
66. **Frederick Classical Charter School** 240-236-1200
Dr. Camille S. Bell, Principal
8445 Spires Way, Suite CC
Frederick, MD 21701
Fax 240-236-1201
67. **Frederick County Virtual School** 240-236-8450
Mr. Michael Watson, Principal
c/o GTJMS
1799 Schifferstadt Boulevard
Room 116
Frederick, MD 21701
Fax 240-236-8451
68. **Heather Ridge School** 240-236-8000
Ms. Elizabeth Stiffler, Principal
1445 Taney Avenue
Frederick, MD 21702
Fax 240-236-8001
69. **Monocacy Valley Montessori Public Charter School** 240-236-6100
Ms. Amy Dorman, Principal
217 Dill Avenue
Frederick, MD 21701
Fax 240-236-6101
70. **Rock Creek School** 240-236-8700
Ms. Katie Buckley, Principal
55B West Frederick Street
Walkersville, MD 21793
Fax 240-236-8701

11. **Hillcrest** ♦♦★ **240-236-3200**
Mr. Justin McConaughy, Principal
1285 Hillcrest Drive
Frederick, MD 21703
Fax 240-236-3201
12. **Kempton** ♦♦♦ **240-236-3500**
Ms. Kathryn Golightly, Principal
3456 Kempton Church Road
Monrovia, MD 21770
Fax 240-236-3501
13. **Lewistown** ♦ **240-236-3750**
Ms. Belinda Fockler, Principal
11119 Hessong Bridge Road
Thurmont, MD 21788
Fax 240-236-3751
14. **Liberty** ♦♦♦ **240-236-1800**
Ms. Jana Strohmeier, Principal
11820 Liberty Road
Frederick, MD 21701
Fax 240-236-1801
15. **Lincoln** ♦♦♦ **240-236-2650**
Mr. Eric Rhodes, Principal
200 Madison Street
Frederick, MD 21701
Fax 240-236-2651
16. **Middletown** ♦♦♦ **240-236-1100**
Grades 3-5
Ms. Jan Hollenbeck, Principal
201 East Green Street
Middletown, MD 21769
Fax 240-236-1150
17. **Middletown Primary** ♦♦♦ **240-566-0200**
Grades Pre-K-2
Ms. Sandra Fox, Principal
403 Franklin Street
Middletown, MD 21769
Fax 240-566-0201
18. **Monocacy** ♦♦♦ **240-236-1400**
Mr. Troy Barnes, Principal
7421 Hayward Road
Frederick, MD 21702
Fax 240-236-1401
19. **Myersville** ♦♦♦ **240-236-1900**
Ms. Dana Austin, Principal
429 Main Street
Myersville, MD 21773
Fax 240-236-1901
20. **New Market** ♦♦♦ **240-236-1300**
Mr. Jason Bowser, Principal
93 West Main Street
New Market, MD 21774
Fax 240-236-1301
30. **Thurmont Primary** ♦♦♦ **240-236-2800**
Grades Pre-K-2
Dr. Michele Baisey, Principal
7989 Rocky Ridge Road
Thurmont, MD 21788
Fax 240-236-2801
31. **Tuscarora** ♦♦♦ **240-566-0000**
Ms. Carrie Zimmerman, Principal
6321 Lambert Drive
Frederick, MD 21703
Fax 240-566-0001
32. **Twin Ridge** ♦♦♦ **240-236-2300**
Ms. Heather A. Hobbs, Principal
1106 Leafy Hollow Circle
Mt. Airy, MD 21771
Fax 240-236-2301
33. **Urbana** ♦♦♦ **240-236-2200**
Ms. Tracy Hilliard, Principal
3554 Urbana Pike
Frederick, MD 21704
Fax 240-236-2201
34. **Valley** ♦♦♦ **240-236-3000**
Ms. Jennifer Hyde, Principal
3519 Jefferson Pike
Jefferson, MD 21755
Fax 240-236-3001
35. **Walkersville** ♦♦♦ **240-236-1000**
Ms. Christina McKeever, Principal
83 West Frederick Street
Walkersville, MD 21793
Fax 240-236-1050
36. **Waverley** ♦♦♦♦ **240-236-3900**
Dr. Allie Watkins, Principal
201 Waverley Drive
Frederick, MD 21702
Fax 240-236-3901
37. **Whittier** ♦♦♦ **240-236-3100**
Mr. Lorcán ÓhEithir, Principal
2400 Whittier Drive
Frederick, MD 21702
Fax 240-236-3101
38. **Wolfsville** ♦♦♦ **240-236-2250**
Ms. Linda Stuart, Principal
12520 Wolfsville Road
Myersville, MD 21773
Fax 240-236-2251
39. **Yellow Springs** ♦♦♦ **240-236-1700**
Ms. Hannah Feldman, Principal
8717 Yellow Springs Road
Frederick, MD 21702
Fax 240-236-1701



KEY

- ♦ Half-day pre-kindergarten program available
- ♦♦ Full-day pre-kindergarten program available
- ♦♦♦ Special education pre-kindergarten available
- ★ STAR (Title I) Schools

FREDERICK COUNTY PUBLIC SCHOOLS (FCPS)
GENERAL TERMS AND CONDITIONS
SECTION I

1. BIDDER REGISTRATION

- a. All Frederick County Public School (FCPS) suppliers and or contractors interested in bidding on FCPS projects must register on eMaryland Marketplace Advantage <https://emma.maryland.gov> FCPS will no longer accept bidder's applications.
- b. Contractors are required to register with eMaryland Marketplace Advantage <https://emma.maryland.gov> within five days following notice of award. Maryland law requires local and state agencies to post award notices on eMaryland Marketplace Advantage. This cannot be done without the contractor's self-registration in the system. Registration is free. Failure to comply with this requirement may be considered grounds for default. It is recommended that any interested bidder register with eMaryland Marketplace Advantage regardless of the award outcome for this procurement as it is a valuable resource for bid notification for municipalities through Maryland.

2. PRE-BID MEETING

- a. A Pre-Bid Meeting will be held at the date and time indicated on the cover page of this solicitation package.
- b. Attendance at the Pre-Bid Meeting is not mandatory; however, all suppliers are strongly encouraged to attend.
- c. The agenda for this Pre-Bid Meeting will include the following: introduction of staff; description of scope of work; timeline/scheduling; budget priorities/concerns; and procurement responsibilities.
- d. Questions shall be submitted, via email, to the person(s) indicated on the cover page of this solicitation package. Due to possible changes and/or additions to the specifications, bids should not be submitted prior to the Pre-Bid meeting.
- e. If FCPS offices are closed, or operating on a modified schedule, due to inclement weather on the day a Pre-Bid is scheduled, the Pre-Bid is cancelled and will not be rescheduled unless an addendum is issued. Bidders are advised that they are to email questions to the identified Contract Manager by the date and time required within this solicitation. For the fastest, most reliable information, regarding closures and/or delays check the following:
 - www.fcps.org
 - Social Media: FCPS on Twitter and FCPS on Facebook
 - Email/Text Messages: Sign up for FindOutFirst email and emergency-only text messages
 - FCPS TV: Comcast Channel 18 (Frederick area)
 - Local radio and TV stations

3. PREPARATION OF BID

- a. Should any bidder be in doubt as to the meaning of the specifications, or should they find any

discrepancy or omission, they shall notify the Contract Manager listed on the solicitation cover sheet. If required, bidders will be notified of clarifications and/or additional information by means of addendum.

- b. Bidders, or their authorized representatives, are expected to fully inform themselves as to the conditions and requirements of the specifications before submitting bids. Failure to do so will be at the bidder's own risk.
- c. Bidder must submit one original proposal, with original signatures, unless otherwise specified. Bids must be prepared on the proposal form(s) provided. FCPS proposal forms format shall not be altered.
- d. Each bid will be sealed, show the full business address and contact information of the bidder and be signed by the person(s) legally authorized to sign contracts. All correspondence concerning the bid and contract, including notice of award, copy of contract, and purchase order, will be emailed, or mailed, to the address shown on the bid in the absence of written instructions from the bidder to the contrary.
- e. The following items must be included in submission:
 - i. Proposal pages completely and accurately filled out:
 - Verify all mathematical calculations.
 - Strike through errors, initial and make correction.
 - Initial corrections.
 - ii. Signature Acknowledgement Form completed and signed.
 - iii. Statutory Affidavit and Non-Collusion Certification form completed and signed.
 - iv. Certificate of Compliance form completed and signed.
 - v. Conflict of Interest Form completed and signed.
 - vi. W-9 (This is the company information that will be entered in the FCPS supplier database).
 - vii. Certificate of Insurance (if applicable).
- f. Bidders shall be required under Article 56, Section 270(4), Annotated Code of Maryland, to provide proof of Certificate of Registry and must be licensed to do business in the State of Maryland and must provide a tax certification number. Visit the following website to ensure compliance: www.Egov.maryland.gov/BusinessExpress .
- g. Bids by partnerships must be signed with the partnership name, followed by the signature and designation of the person having authority to sign. When requested, satisfactory evidence of authority of the person signing will be furnished. Anyone signing the bid as an agent shall file satisfactory evidence of their authority to do so, if requested.
- h. Bids by corporations must be signed with the name of the corporation, which must match the information on the submitted W-9, followed by the signature and designation of the person having authority to sign. When requested, satisfactory evidence of authority of the person signing will be furnished. Anyone signing the bid as an agent shall file satisfactory evidence of their authority to do so, if requested.
- i. Failure to sign the bid document will result in rejection of the bid as non-responsive.
- j. FCPS will not be responsible for any costs incurred by a bidder in preparing and submitting a proposal in response to this solicitation.
- k. If the bidder has made an error, the bidder may request, in writing, to have their bid withdrawn.

Approval of a bidder's request is not automatic and may be given only by the Purchasing Manager. Requests for withdrawal are usually denied, unless the bidder proves to the satisfaction of the Purchasing Manager that the mistake was either a scrivener's error or another type of clearly unintentional error so departing from customary and reasonable business practices as to be obvious and to legitimately and substantially impair the supplier's business

4. BID PRICING

- a. Prices quoted shall not exceed the prices established under any governmental price control regulations.
- b. All proposals submitted shall be irrevocable for a period of 90 days following the proposal due date, and FCPS has within that time period after due date to accept the proposal. FCPS reserves the right to reject any offer that specifies less than 90 days of acceptance time. Upon mutual agreement between FCPS and the contractor, the acceptance time may be extended. Proposals may not be withdrawn during this period.
- c. FCPS retains the right, with mutual consent of the bidder(s), to utilize the bid pricing and approved price changes for future purchases for as long as the bidder(s) mutually agrees to extend the prices.
- d. If the contract includes equipment, all prices must be FOB-Destination (inside delivery), unless specifically authorized in Section II – FCPS Specific Terms and Conditions.
- e. Charges for express delivery will only be allowed if authorized by FCPS in writing.
- f. The bidder(s) are encouraged to bid only one product per line item that most nearly meets the specifications. If the bidder believes that there is more than one product available, a limit of two offers will be considered for each line item.
- g. If two or more particular brands, models, or makes are listed in the specifications (under Base and Alternate Bids) and the bidder has not indicated in the bid which of the two or more brands, models, etc., is being bid, it shall be understood that FCPS may require the bidder to furnish whichever is preferred by FCPS.
- h. All unit prices on items bid shall be completed on the provided proposal sheet(s). A “NO BID” or “N/A” notation should be completed for each item not being bid. Blank spaces in the proposal sheet will be considered as not being bid.
- i. In case of an error in the extension of prices in the bid, the unit price shall govern.
- j. Neither law nor regulations make allowance for errors either of omission or commission on the part of the bidders. In case of error in multiplication of unit price when arriving at total price per line item, the unit price shall govern. If there is a discrepancy between the price written in numbers and the price written in words, the words will govern.
- k. Unit Prices must be rounded off to no more than two decimal places unless so specified in Section II – FCPS Specific Terms and Conditions.
- l. FCPS reserves the right to consider discounts in evaluating a bid with line item pricing requirements. The bidder should calculate all discounts, other than prompt payment, as part of their unit pricing.

5. TAXES

- a. No charge will be allowed for federal excise, state, and/or municipal sales and use taxes, from which the Board of Education of Frederick County is exempt.
- b. A contractor is not eligible, per the Maryland Comptroller's Office, to utilize the tax exemption certificate for governmental agencies

6. ADDENDUM

- a. All changes to the bid solicitation will be made through appropriate addendum issued from the Purchasing Department.
- b. Addendum will be available on the FCPS Purchasing Department webpage. All suppliers who are known by the Purchasing Department to have downloaded the bid documents will receive an email notification.
- c. Addendum will be issued a minimum of four (4) days prior to the bid opening date, unless the addendum issued extends the due date. (verified with COMAR, which states addendums within a "reasonable" time)
- d. Each bidder shall ascertain, prior to submitting a bid that they have received all addendum issued and the bidder shall acknowledge receipt on the Signature Acknowledgement Form. Failure of any bidder to acknowledge the receipt of addendum will not relieve that bidder from any obligations under this solicitation as amended by addendum. All addendum so issued will become a part of the award and contract documents.

7. RECEIPT OF BIDS

- a. Bids received prior to the time of opening will be time stamped and securely kept unopened. No bid received thereafter will be considered. FCPS will not be responsible for the premature opening of bids received that are not properly addressed or identified. Any bid may be withdrawn before the scheduled time for opening bids, via written request approved by the Purchasing Manager.
- b. All inner and outer envelopes and packaging, used by Fed Ex, UPS and etc., are to be labeled with the following:
 - Bidder Name
 - Bid Number and Name
 - Due Date and Time
- c. Bids received after the designated date and/or time will not be accepted, regardless of when they were mailed or given to a delivery carrier. It is the responsibility of the supplier to ensure that submittals are delivered on time, to the proper location listed in the solicitation.
- d. Bids not received by the date, time, and location designated on the solicitation cover sheet, due to improper labeling, will be considered non-responsive.
- e. In the event of inclement weather on the date when bids are scheduled to be opened and the FCPS

offices are closed, or operating under a modified schedule, bids will be opened on the next business day at the same time as previously scheduled. Bids will be accepted until the scheduled time of opening on the next business day. Often when schools are closed due to inclement weather, administrative offices remain open. When in doubt, refer to Section 2(e) for closing and delays.

8. OPENING OF BIDS

- a. Sealed bids will be publicly opened at the location, date, and time indicated on the solicitation cover sheet.
- b. All bids received must be signed by a person legally authorized to sign the company into a contract. Bids will be submitted on-line via ProcureNow (<https://secure.procurenow.com/portal/fcps>).
- c. Complete evaluation of the proposals will not take place at the bid opening and no indication of award will be made. A final recommendation(s) shall be prepared for review and approval by the Board of Education of Frederick County.
- d. The recommended award will be posted to the FCPS BoardDocs website a minimum of three days prior to the Board of Education meeting in which it will be presented.
- e. Final award recommendation, and the bid tabulation, will be posted on the FCPS webpage, www.fcps.org/bidlist, after the Board of Education of Frederick County approval.

9. STANDARD OF QUALITY, "OR EQUAL CLAUSES," AND SUBSTITUTIONS

- a. Any make/model specified in the solicitation is used only to establish a quality level, unless specifically noted in Section II – FCPS Specific Terms and Conditions. Any material or article that will perform adequately the duties imposed by the general design will be considered equal and satisfactory. FCPS retains the right to determine if items are equivalent and will be accepted.
- b. It will be the responsibility of the bidder to submit a clear and concise proposal wherein each substitution and deviation is identified and described, in writing, at the time of solicitation submission.
- c. In the absence of any statement to the contrary by the bidder, the submission will be interpreted as being the exact brand and/or qualities, etc., enumerated in the detailed specifications, whenever the specifications indicate a product of a particular manufacturer, model or brand.
- d. Bidders must submit detailed literature if bidding an item other than the specified item. Detailed literature is defined as product features or specifications relating to construction and/or performance.
- e. The detailed literature is to be arranged and labeled according to item number referenced on the solicitation document.
- f. It is the bidders' responsibility to submit required literature, or links to webpages, with the bid submission. Failure to submit such data as required and/or at the time designated by the Purchasing Department shall be cause for rejection of that item.
- g. No substitutions or deviations will be permitted following the award of the contract unless "cause and effect" is presented in writing and approved by the Contract Manager. A statement of any credit

or extra cost involved will be included with the request.

- h. FCPS shall not be responsible to provide personnel, testing facilities, or other resources necessary to search out substitutions and deviations in bid proposals which are unclear through the nebulous terms such as "comparable", or blanket statements of deviation such as "our standard design, construction, hardware, finishes, etc."
- i. The bidder will, upon request and with no cost to the FCPS, furnish documents, independent laboratory tests reports, and/or similar materials of proof to substantiate that the substitutions and deviations of the items they propose to furnish do not prevent these items from being truly and factually equal to, or exceeding, that which is specified.
- j. The cost of testing a representative sample of an order or shipment for acceptance and compliance with specifications shall be borne by FCPS. If the order or shipment is rejected for failure to meet the requirements of the specifications or purchase description, the cost of testing will be charged to the awarded suppliers

10. SAMPLES

- a. Samples will be requested for testing and evaluation purposes. Failure to submit samples as required at the time designated may be cause for rejection of that item.
- b. All samples must be delivered with all charges prepaid to the designated point of delivery. Samples must be marked as "SAMPLE" and include the name of the bidder, bid name and number, and return instructions, if applicable.
- c. The right is reserved to retain any sample submitted with bids for the purposes of examination and testing. FCPS reserves the right to use all samples in any manner which may best serve the final determination of the successful bidder, even if said examination and testing results in damage to or destruction of the sample.
- d. FCPS retains the right to determine the method of testing to be utilized.
- e. Samples that are not retained by FCPS must be removed within two weeks upon notification. Return shipping must be prepaid by the suppliers. Samples not removed within this two-week period shall be retained, or disposed of, at the discretion FCPS, and without compensation to the bidder

11. GUARANTEES AND WARRANTIES

- a. The awarded supplier(s) will guarantee the material and workmanship on all services, equipment, materials, supplies, and labor, furnished by them, for a minimum period of one year from the date of acceptance, unless a longer period of time is specified in Section II – FCPS Specific Terms and Conditions.
- b. If, within the guarantee period, any defects or signs of deterioration are noted, the awarded supplier(s) at their expense, shall correct the condition or they shall replace the part or entire unit of work/equipment to the complete satisfaction of FCPS. These repairs, replacements, or adjustments shall be made only at such times as will be designated by FCPS to minimize the disruption to building/school operations.
- c. Should the awarded supplier(s) fail to comply with the terms of this guarantee, FCPS may have such

work performed as it deems necessary to fulfill the guarantee, charging the cost to the awarded supplier(s).

12. AWARDS OR REJECTION OF BIDS

- a. The basis of award shall be the lowest responsible bidder submitting a responsive bid that conforms to the specifications established in the solicitation with consideration given to the quantities involved, time required for delivery, purpose for which required, competency and responsibility of bidder, the ability of the bidder to perform satisfactory service, and the plan for utilization of minority contractors, if applicable.
- b. FCPS reserves the right to determine completeness and/or timeliness of bids, to reject any or all bids in whole or in part, to make partial awards, to waive any informality in any quotation, to increase or decrease quantities if quantities are listed in the bid, to reject any bid that shows any omissions, alterations of form, additions not called for, conditions, or alternate proposals, and to make any such award as is deemed to be in its best interest.
- c. Bidders may be required, before the awarding of a contract, to show to the complete satisfaction of FCPS, that they have the necessary facilities, ability and financial resources to execute the contract in a satisfactory manner, and within the time specified. Bidders may be required to demonstrate they have the necessary experience, history and references to assure FCPS of their qualifications.
- d. The Board of Education of Frederick County reserves the right to award the bid within 90 days from the date of the bid opening unless a different time period is stated in the bid document.
- e. Unless stated otherwise in Section II – FCPS Specific Terms and Conditions, the contract may be awarded by line item, group, or in the aggregate, whichever is in the best interest of FCPS.
- f. In the event of a tie, where all other factors, such as past performance, are considered comparable, the award shall be made to the Frederick County based bidder; the closest Maryland out-of-county based bidder; and the closest out-of-state based bidder, in that order of preference.
- g. FCPS does not have local, state or federal preference requirements except when mandated by a targeted funding source.
- h. If, after competitive sealed bids have been opened, the Purchasing Manager determines that only one responsible bidder has submitted a responsive bid, the procurement contract may be negotiated with that one bidder as sole source procurement.
- i. A recommendation for the award of a contract will be presented to the Board of Education of Frederick County for approval. Upon approval of the award of contract, the bidder(s) shall be notified of their award(s). If applicable, an FCPS contract document shall also be issued.
- j. The Board of Education of Frederick County reserves the right to reject the bid of a bidder who has, in the opinion of FCPS, failed to properly perform under previous contracts, or, who investigation shows, is not in a position to perform the contract.
- k. The Board of Education of Frederick County retains the right to reject any and all bids, if it is deemed in the best interest of FCPS to do so.
- l. If, during the life of the contract, a product or service does not meet the solicitation terms and conditions, FCPS retains the right to cancel the awarded item(s) and award to a new bidder, as long

as that bidder mutually agrees to the award.

13. CONTRACT FORMATION

- a. Notification of the contract award will be made by letter after approval by the Board of Education of Frederick County.
- b. The primary form of contract is the purchase order(s), and any agreed upon schedules, addendum, shop drawings, and documents associated with the bid solicitation/submission/award.
- c. A secondary form of contract, if required, may be noted in Section II – FCPS Specific Terms and Conditions, of this bid solicitation.
- d. No amendment, modification or change to the contract shall be effective unless such change is in writing and mutually agreed upon by authorized representatives of FCPS and the awarded supplier(s). Changes may not significantly alter the original scope of the agreement.

14. PROTESTS

- a. The Purchasing Manager shall attempt to resolve, informally, all protests of bid award recommendations. Bidders are encouraged to present their concerns promptly to the Contract Manager for consideration.
 - i. The bidder must submit their concern, in writing, addressed to the Purchasing Manager. It should include the following:
 - Name, address, contact information of the protestor;
 - Statement of reasons for the protest;
 - Supporting documentation to substantiate the claim;
 - The remedy sought.
 - ii. The protest must be received by the Purchasing Manager at least two calendar days prior to the date of the Board of Education meeting at which the recommendation will be presented. It is the suppliers responsibility to ascertain the date and time of award.
 - iii. A bidder who does not file a timely protest before the contract is awarded by the Board of Education of Frederick County is deemed to have waived any objection.
- b. The Purchasing Manager shall inform the Chief Financial Officer and/or general counsel upon receipt of the protest, and shall confer with them prior to the issuance of a decision regarding disputes of contracts or awards valued at \$50,000 or above.
- c. The Purchasing Manager shall issue a decision in writing.
- d. Should the protestor disapprove of the Purchasing Manager's decision, they have the right to address the Board of Education of Frederick County during the public comment section of the same Board meeting where the award recommendation is scheduled for award.
- e. The Board of Education of Frederick County's decision is deemed the final action at the local level.
- f. A bidder may appeal a decision of the Board directly to the Maryland State Board of Education in accordance with Board Policy 105.11 and Maryland law.

15. CONTRACT DISPUTES

- a. Any dispute arising under this contract shall be decided by the Contract Administrator, the Contract Manager and the Purchasing Manager, who will communicate their decision to writing and furnish a copy to the supplier. This decision shall be final and conclusive unless, within 30 days, the supplier furnishes a written appeal addressed to the Board of Education of Frederick County. The local Board of Education has the right to hear appeals as provided by Maryland law.
- b. The Board of Education of Frederick County, or its duly authorized representative, will review the appeal for the determination of such appeal and their finding shall be final and conclusive. In connection with any appeal preceding under this clause, the supplier will be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute, the supplier shall proceed diligently with the performance of the contract and in strict accordance with the FCPS staff's decision. Exceptions are decisions determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as to imply bad faith, or not supported by evidence.
- c. This clause does not preclude consideration of laws questioned in connection with the decision provided for above.

16. CONTRACT ASSIGNMENT

- a. The awarded supplier(s) will not assign or transfer any portion of their interest or obligation under this Agreement to any third party, without the prior written consent of the Contract Manager. Nothing herein shall be construed to create any personal or individual liability upon any employee, officer, elected official of the Board of Education of Frederick County, nor shall this Agreement be construed to create any rights hereunder in any person or entity other than the parties to this Agreement.
- b. The awarded supplier(s) will, when required, submit to the Contract Manager, in writing, the name of each subcontractor they intend to employ, the portion of the material to be furnished, their place of business, and any such information as may be required in order to know whether such subcontractor is reputable and reliable and able to furnish satisfactorily the material as called for in the specifications.
- c. FCPS reserves the right to approve or disapprove all subcontractors to be employed on a project. FCPS further reserves the right to approve or disapprove a change of subcontractor once an initial subcontractor has been approved. Any increased cost associated with the change of a subcontractor shall be the full obligation and responsibility of the awarded supplier(s)
- d. The awarded supplier(s) will not legally, or equitably, assign any of the funds payable under the contract, or its claim thereto, unless by, and with, the consent of the Contract Manager.
- e. The awarded supplier(s) will have the same provisions inserted in all subcontracts relative to the terms of the general conditions and other contract documents. Nothing contained in this contract shall create any contractual relations between any subcontractor and FCPS.

17. MULTI-YEAR CONTRACT

- a. Contracts that require funding appropriation for more than one fiscal year automatically terminate if money sufficient for the continued performance is not appropriated for any fiscal year. The date of termination is the last day of the fiscal year for which money was last appropriated, or the date provided in the termination clause of the procurement contract, whichever is earlier.
- b. If the multi-year contract is terminated due to lack of funding, FCPS shall reimburse the supplier for the reasonable value of any nonrecurring costs that were incurred as a result of the multi-year contract, but not amortized in the price of the supplies or services delivered under the multi-year contract. The reasonable value will be negotiated, and mutually agreed upon, by FCPS and the supplier
- c. The cost of termination may be paid from any appropriation available for that purpose.

18. HOLD HARMLESS

It is understood that the awarded supplier shall defend and hold harmless the Board of Education of Frederick County, and its representatives, from all suits, actions, or claims of any kind brought about as a result of any injuries or damages sustained by person(s) or property during the performance of this contract.

19. TERMINATION FOR DEFAULT

- a. When an awarded supplier has not performed or has unsatisfactorily performed the contract, payment shall be withheld at the discretion of FCPS. FCPS may, by written notice of default to the supplier terminate the whole or any part of the contract in any of the following circumstances:
 - i. If the supplier fails to perform the services or provide the products within the time and manner specific herein or any extension thereof, or:
 - ii. If the supplier fails to perform any of the provisions of this contract, or fails to make progress as to endanger performance of this contract, in accordance with its terms and in either of these two circumstances does not cure such failure within a period of ten calendar days (or longer as authorized by the Purchasing Manager) after receipt of written notice from the Purchasing Manager of such failure, or:
 - iii. If the supplier willfully attempts to perform the services other than specified as to coverage, limits, protections, and quality or otherwise, without specified authorization in the form of contract amendment, or:
 - iv. If a determination is made by FCPS that the obtaining of the contract was influenced by an employee FCPS having received a gratuity, or a promise therefore, in any way or form.
- b. In the event FCPS terminates the contract in whole or in part, FCPS may procure such products and services, in a manner the Purchasing Manager deems appropriate, and the supplier shall be liable to FCPS for any additional cost(s) incurred.
- c. If, after notice of termination of this contract under provisions of this clause, it is determined for any reason that the supplier was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to a termination for convenience.

20. TERMINATION FOR CONVENIENCE

The contract may be terminated by FCPS in accordance with this clause in whole, or in part, whenever FCPS determines that such a termination is in the best interest of FCPS. Written notice shall be given a minimum of 30 days in advance. FCPS will pay for all services, in accordance with contract pricing, up to the date of the termination. However, the awarded supplier(s) shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Under this contract, the awarded supplier does not have a right to unilateral termination for convenience.

21. GOVERNING LAW AND VENUE

- a. The supplier will comply with all Federal, State, and local laws, ordinances and regulations pertaining to work under their charge. If the supplier performs any work which it knows or should know to be contrary to such laws, ordinance, and regulations and without such notices to FCPS they shall bear all costs arising therefrom.
- b. All suppliers and subcontractors must abide by the Board of Education of Frederick County policies and FCPS regulations while working on school property.
- c. The supplier certifies that their firm adheres to or follows non-discriminatory practices with respect to the employment and promotion of personnel without regard to color, creed, race, sex, or national origin.
- d. The solicitation shall be construed in accordance with, and interpreted under, the laws of the State of Maryland. Any lawsuits shall be filed in the appropriate State Court located in Frederick County, Maryland.

22. MULTI-AGENCY PARTICIPATION

- a. FCPS reserves the right to extend the terms and conditions of this solicitation to any and all other agencies within the state of Maryland, as well as, any other federal, state, municipal, county, or local governmental agency under the jurisdiction of the United States and its territories. This is conditioned upon mutual agreement of all parties pursuant to special requirements, which may be appended thereto. The awarded supplier(s) agrees to notify the issuing body of those entities that wish to use any contract resulting from this bid and will also provide usage information, which may be requested.
- b. By agreeing to extend the contract to other agencies, the supplier(s) reaffirms and warrants his original commitment to FCPS so that afterwards all items and services shall continue to conform to the requirements and conditions of the original agreement for its duration. Agencies who utilize the contract agree to notify FCPS Purchasing Department of any significant experiences, problems or issues which may, or may have the potential to, affect our administration of this contract.
- c. FCPS assumes no obligation on behalf of any other agency and shall be held harmless if either party is damaged due to the agency or supplier's failure to become informed of, or comply with, any provision or pricing under this agreement. All purchase orders and billing will be transacted between the supplier and the public agency.
- d. Each participating jurisdiction or agency shall enter into its own contract with the awarded supplier(s) and this contract shall be binding only upon the principals signing such an agreement. Invoices shall be submitted in duplicate "directly" to the ordering jurisdiction for each unit

purchased. Disputes over the execution of any contract shall be the responsibility of the participating jurisdiction or agency that entered into that contract. Disputes must be resolved solely between the participating agency and the awarded supplier(s). The Lead Agency does not assume any responsibility other than to obtain pricing for the specifications provided.

23. PACKAGING AND DELIVERY REQUIREMENTS

- a. All materials must be securely packed in accordance with accepted trade practices.
- b. A packing list will be included in each shipment. This list shall contain the following information: Purchase Order Number, Supplier Name, Item Description, Item Number, Quantity and Delivery Location. Failure to comply with this condition may be considered sufficient reason to refuse to accept the goods.
- c. All materials, supplies and equipment for FCPS shall be delivered F.O.B Destination. Unless otherwise noted in Section II – FCPS Specific Terms and Conditions, all items shall be delivered inside the office, school, or warehouse.
- d. Special delivery and handling instructions will be defined in Section II – FCPS Specific Terms and Conditions, of each bid.
- e. All school deliveries shall be made during the hours of 9:00 A.M. and 2:00 P.M. local time and only on regular school days, see School Calendar Closings enclosed, except where modified in Section II – FCPS Specific Terms and Conditions.
- f. All warehouse deliveries shall be made during the hours of 9:00 A.M. to 2:30 P.M. on all regular scheduled school days, see School Calendar Closings enclosed, except where modified in Section II – FCPS Specific Terms and Conditions.
- g. Bulk materials, delivered to the Warehouse, are to be delivered on skids, or pallets, to the Warehouse receiving platform.
- h. No help for unloading will be provided. Suppliers shall notify their delivery personnel accordingly.
- i. The awarded supplier(s) shall be held responsible for and shall be required to make good at their expense, any and all damage done or caused by their employees in the execution of the contract as determined by FCPS.
- j. The supplier will be required to furnish proof of signed delivery in every instance. Delivery receipts indicating only the number and weight of cartons received will not constitute "proof" of delivery in the event of a dispute. FCPS will not accept responsibility for deliveries that have not been signed for by an FCPS employee.

24. BILLING AND PAYMENT

- a. Invoices shall be submitted to: accounts.payable@FCPS.org or in duplicate to:

FREDERICK COUNTY PUBLIC SCHOOLS
Accounts Payable Department
191 South East Street
Frederick, MD 21701

- b. Invoices and packing slips must contain the following information:
 - i. Bid Number
 - ii. Purchase Order Number
 - iii. Item Number (if applicable)
 - iv. Quantity (if applicable)
 - v. Brief Description of Item or Work Performed including the dates worked
 - vi. Unit Price Bid/Partial Payment Amount
 - vii. Extended Total for Each Item
 - viii. Grand Total
 - ix. Public School Construction Number (PSC) (if applicable)
- c. Payments will be made by FCPS check, single use credit account or credit card. Credit card statements with level three data are preferred. Bidders are prohibited from charging additional costs or fees from their bid price to process such orders.
- d. Invoices to be submitted once commodities have been received and/or services have been rendered.

25. COMPLIANCE WITH SPECIFICATIONS

- a. The awarded supplier(s) will abide by, and comply with, the true intent of the specifications and not take advantage of any unintentional error or omission, but will fully complete every part as to the true intent and meaning of the specifications and drawings.
- b. Whenever mention is made of any article, material, or workmanship to be in accordance with laws, ordinances, building codes, underwriter's code, A.S.M.E. regulations, or similar expressions, the requirements of these laws, ordinances, etc., shall be construed as to the minimum requirements of these specifications.
- c. Where the requirements of the specifications call for a higher grade and are not in conflict with the laws, ordinances, etc., the specifications shall govern.
- d. In the case of any apparent conflict between the specifications and such laws, ordinances, etc., the awarded supplier(s) will contact the Contract Administrator and the Contract Manager for a decision before proceeding with any work.

26. LIQUIDATED DAMAGES

- a. A date for delivery and/or installation/assembly shall be stated in the specifications. Requests for extension of completion time due to strikes, lack of materials, or any other causes over which the awarded supplier(s) has no control must be submitted, in writing, with supporting documentation, to the Contract Manager. Requests must occur immediately upon occurrence of conditions for a time extension to be granted. Extensions are not guaranteed.
- b. If the awarded supplier(s) fails to provide the services, equipment, or other items required within the prescribed time limits, the Contract Manager may elect to obtain services, equipment, or other items necessary from an alternate source.
- c. The awarded supplier(s) will pay any additional cost(s) incurred by FCPS for obtaining replacement services, equipment, and other necessary items.
- d. FCPS shall have the unilateral right of alternate source selection to perform the work when the awarded supplier(s) does not perform the required work.

- e. In addition to, or in lieu of, paying for any incurred replacement costs(s), the awarded supplier(s) may pay liquidated damages, in the amount of \$150 per day, for any delay or failure in performance, as well as any related damages sustained by FCPS.
- f. The assessment of liquidated damages by FCPS against the awarded supplier(s) does not supersede or affect the right of FCPS to impose other remedies that may be available.

27. SAFETY REQUIREMENTS

- a. When applicable, all machinery/equipment must meet OSHA-MOSHA requirements as to the safety of the operation of the equipment. All required safety devices shall be included in the price(s) bid.
- b. When applicable, kitchen equipment and supplies must meet Maryland State Health Department, National Sanitation Foundation (NSF) and Frederick County Health Department requirements.
- c. All construction activities must be conducted in strict compliance with OSHA/MOSHA requirements.
- d. Equipment offered which fails to comply with any applicable section of the National Electrical Code, or is not U.L. Listed (where U.L. Listings have been established for that type of device) shall be rejected.
- e. The awarded supplier(s) shall submit Safety Data Sheets (SDS) for all items awarded to that supplier provided under the terms of this proposal, if applicable.
- f. The awarded supplier(s) and subcontractor(s) are required to comply with all provisions of the Access to Information about Hazardous and Toxic Substances Act, a part of the Maryland Occupational Safety and Health Law.
- g. The awarded supplier(s) is responsible to report to FCPS any asbestos material or suspected material found or uncovered that is not part of the scope of the project. In addition, they may not introduce new asbestos or asbestos bearing materials into the site.
- h. It is the responsibility of the awarded supplier(s) to comply with all Municipal, State, and Federal EPA regulations and laws when handling or disposing of asbestos materials.
- i. If the awarded supplier(s) intentionally endangers or jeopardizes the health of any building/school occupant(s) through mishandling of hazardous material, the supplier(s) will be held liable for such action.

28. PATENTS

The supplier will defend all suites or claims for infringement of any patent rights and will save the Board of Education of Frederick County harmless from loss.

29. TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS

All FCPS technology based instructional products (instructional software, online resources, and computer based equipment) must be consistent with the federal Rehabilitation Act, Maryland Subpart B Technical Standards, Section 508, and the most recent revision of WCAG Standards at level AA, for accessibility by students and staff, with disabilities unless doing so would fundamentally alter the nature of the

instructional activity or result in undue financial and administrative burdens. Requests for bids, proposals, procurement contracts, and grants will follow established procedures for evaluating compliance to accessibility standards in all purchase decisions.

30. EMPLOYMENT OF CHILD SEX OFFENDERS AND PERSONS WITH UNCONTROLLED ACCESS TO STUDENTS

- a. Be advised that individuals who are registered sex offenders are not eligible to work on any FCPS' project. The awarded supplier(s) must initially check the Maryland Department of Public Safety & Correctional Services' Maryland Sex Offender Registry and search for the name of any employee to be assigned to work on this project. This applies to subcontractors and material/equipment suppliers as well. For projects lasting more than a few months, the supplier will periodically re-check the names of workers against the registry to ensure ongoing compliance. In the event that a registered sex offender is discovered to be working on a FCPS project, whether through employment by the supplier, subcontractor or equipment or material supplier, FCPS will notify the site superintendent to immediately remove the individual from the premises and permanently terminate his work assignment. FCPS may terminate this contract at no additional costs, as a result if the supplier is unable to demonstrate they have exercised care and diligence in the past in checking the Maryland registry.
- b. Contracted service providers who have regular, direct and unsupervised access to children cannot begin service without undergoing the same process as new employees per FCPS Regulation 300-33. If required, an awarded supplier(s) is responsible for payment of the full cost of the criminal background check. Additional information regarding this requirement will be found in Section II – FCPS Specific Terms and Conditions.
- c. The awarded supplier(s), or subcontractor(s), may not knowingly assign an employee to work on FCPS school premises with direct, unsupervised, and uncontrolled access to children, if the employee has been convicted of a crime identified as a crime of violence.
- d. The awarded supplier(s) will not assign employees who has been convicted of an offense under § 3-307 or § 3-308 of the Criminal Law Article or an offense under the laws of another state that would constitute a violation of § 3-307 or § 3-308 of the Criminal Law Article if committed in the state.
- e. An awarded supplier will not assign employee who has been convicted of a crime of violence as defined in § 14-101 of the Criminal Law Article, or an offense under the laws of another state that would be a violation of § 14-101 of the Criminal Law Article if committed in this state.
- f. With the passing of Maryland Law MD. Code, Educ. 6-113.2, employers of all contracted staff must obtain background information relating to child sexual abuse or sexual misconduct. This means that all contracted staff having direct contact with students must meet all of the FCPS and Maryland State Department of Education (MSDE) requirements before doing business with FCPS. For additional information, visit:
 - Maryland State Department of Education Website;
 - House Bill 486 Child Sexual Abuse and Sexual Misconduct Prevention;
 - MSDE Guidelines For MD. Code, Educ. 6113.2;
 - Employment History Review Form for Child Abuse and Sexual Misconduct

Effective immediately, we will not fingerprint staff provided to FCPS by contractors or staffing agencies. Based on recent procedural review and guidance received from the state of Maryland, it is confirmed that the fingerprint records from the state's Criminal Justice Information System (CJIS) are to be processed and kept by employers only. This means that the contractors providing staff to FCPS are responsible to

perform the CJIS fingerprint check since they are the employers of staff being provided to FCPS under various agreements. The fingerprint check required by FCPS and all Maryland school districts is the Adam Walsh Act background transaction (commonly referred to as the Child Care background check).

31. DRUG, ALCOHOL, AND TOBACCO-FREE WORKPLACE

- a. All awarded suppliers and subcontractors must abide by Board Policy 112 while working on any FCPS property at all times.
- b. The Board of Education of Frederick County endorses the provisions of Public Law 100-690, Title V, Subtitle D (Drug-Free Workplace Act of 1988) and Public Law 101-226 (The Drug-Free Schools and Communities Act of 1989) and regulations promulgated there under and establishes a drug-free and alcohol-free workplace and school system.
- c. Maryland State Law (COMAR 13A.02.04) provides that each local school system is required to maintain a tobacco-free school environment.

32. WEAPON POSSESSION ON SCHOOL PROPERTY

- a. The criminal code of Maryland makes it illegal to possess a weapon on school property.
- b. No person shall carry or possess any rifle, gun, knife, or deadly weapon of any kind on FCPS property.
- c. Any awarded supplier(s) whose employees violate this clause may be subject to the termination of the contract for cause.

33. FOREIGN LANGUAGE TRANSLATOR REQUIREMENT

- a. An awarded supplier(s) that assigns employees to an FCPS project that do not speak English must have an on-site, full time interpreter.
- b. Failure of an awarded supplier(s) to have an on-site, full time interpreter that is fluent in speaking and understanding an employee's native language for those employees that do not speak English is reason for immediate termination of the contract for cause.

34. ILLEGAL IMMIGRANT LABOR

The use of illegal immigrant labor to fulfill contracts solicited by FCPS is in violation of the law and is strictly prohibited. Awarded supplier(s) and subcontractors must verify employment eligibility of workers in order to assure that they are not violating federal/state/local laws regarding illegal immigration. A compliance audit may be conducted.

35. STUDENT/STAFF CONFIDENTIALITY

Under no circumstances may any supplier /contractor/provider/consultant release, disclose, sell or otherwise use names, addresses, or any other information related to students, or staff, of FCPS and may only use this information for purposes required under any contract/agreement or memorandum of understanding.

Security & Confidentiality

“Company” shall adopt, implement, and maintain commercially reasonable security measures and procedures (including firewalls, passwords, encryption, commercially available virus protection, access and use of adequate back-up computer servers, and periodic back-up of data) on a continuing basis. “Company” acknowledges that the CUSTOMER data housed on the “company” system is the property of CUSTOMER and “company” agrees not to use such data for any purpose except to the extent necessary to fulfill its obligations under the agreement. “Company” agrees that it shall treat the CUSTOMER data with the same degree of care as it accords its own confidential information of a similar nature. “Company” will agree to comply with the provisions regarding the protection of confidential student data as proscribed in the Student Data Privacy Act of 2015 (H.B. 298), and FCPS Policy 442: Student Data Privacy.

36. PUBLIC INFORMATION ACT NOTICE

- a. Bidders should identify those portions of their solicitation, which they deem to be confidential, or to contain proprietary commercial information or trade secrets. Bidders should provide justification why such material, upon request, should not be disclosed by FCPS under the Public Information Act, Title 4, General Provisions Article, Annotated Code of Maryland.
- b. Unless portions of a solicitation are identified as confidential, all records are considered public. A person or governmental unit that wishes to inspect a public record, or receive copies of a public record, shall submit a written or electronic request and direct it to the Office of Legal Services per FCPS Regulation 200-42.

37. FORCE MAJEURE

Force Majeure is defined as an occurrence beyond the control of the affected party and not avoidable by reason of diligence. It includes the acts of nature, war, riots, strikes, fire, floods, epidemics, terrorism, or other similar occurrences. If either party is delayed by Force Majeure, said party shall provide written notification to the other within 48 hours. Delays shall cease as soon as practicable and written notification of same provided. The time of contract completion may be extended by contract modification, for a period of time equal to that delay caused under this condition. FCPS may also consider requests for price increase for raw materials that are directly attributable to the cause of delay. FCPS reserves the right to cancel the contract and/or purchase materials, equipment or services from the best available source during the time of Force Majeure, and the supplier shall have no recourse against FCPS. Further, except for payment of sums due, neither party shall be liable to the other or deemed in default under this contract, if and to the extent that such party’s performance of this contract is prevented by reason of Force Majeure as defined herein.

38. ETHICS POLICY

- a. The Board of Education of Frederick County has an Ethics Policy, which covers conflict of interest, financial disclosure and lobbying. All bidders are expected to comply with any and all Ethics Policies that may apply to them individually or as a business entity.
- b. All bidders should carefully review Board Policy 109, Ethics, which prohibits FCPS employees from benefiting from business with the school system.

39. NON-COLLUSION

- a. Bidder represents and certifies that prices for these services have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition or any matter related to such prices with any competitor or other bidder. Prices quoted in this bid have not been knowingly disclosed directly or indirectly to any competitor or other supplier prior to the opening of this bid.
- b. Bidder represents and certifies that it has not employed or retained any other company or person (other than a full-time bona fide employee working exclusively for the bidder) with the primary intent to solicit or secure the contract.

40. CONFLICT OF INTEREST

All suppliers interested in conducting business with Frederick County Public Schools (FCPS) must complete and return the Suppliers Conflict of Interest Disclosure Form included in the solicitation packet, in order to be eligible to be awarded a contract with FCPS.

41. FEDERAL CONTRACT AWARDS

In the event that federal funds are utilized for purchases under this contract, Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, will be applicable.

This document can be found at the end of Section I, General Terms and Conditions, as Attachment “A”.

**ATTACHMENT A - APPENDIX II TO PART 200—CONTRACT PROVISIONS FOR NON-FEDERAL
ENTITY CONTRACTS UNDER FEDERAL AWARDS**

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to

compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.

These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.

FREDERICK COUNTY PUBLIC SCHOOLS (FCPS)
SPECIFIC TERMS AND CONDITIONS
SECTION II

1. BACKGROUND

FCPS consists of 68 schools; 38 elementary schools (grades K-5), 13 middle schools (grades 6-8), 10 high schools (grades 9-12), 3 public charter schools, an alternative school, a special education school, Flexible Evening High, and a Career and Technology Center. Current enrollment is approximately 44,000 students and 2900 teachers.

2. SCOPE

The purpose of this RFP is to solicit sealed proposals to establish a multi-year contract for 24/7 tutoring services.

3. CONTRACT PERIOD

The contract period will be for a 12-month period from the date of award with two, one-year renewal options available. Contract renewal shall be invoked at the sole discretion of the Board of Education. Upon submission of bid, the vendor consents to the possibility of a contract renewal as a condition of award.

4. PRICING

- a. All prices shall remain firm through the initial contract period.
- b. FCPS expects all vendors to provide year over year cost reductions recommendations.
- c. Price decreases are acceptable at any time, need not be verifiable, and are required should the contractor/producer/processor/manufacture experience a decrease in costs associated with the execution of the contract.
- d. Price adjustments from the contractor/producer/processor/manufacture for any/all items may be considered at renewal. The request is subject to approval by the Contracting Officer. The request must be submitted in writing at least 60 days prior to the renewal term and shall be accompanied by supporting documentation.
- e. Should the awarded vendor, at any time during the life of the contract, sell materials of similar quality to another customer, or advertise special discounts or sales, at a price below those quoted within the contract, the lowest discounted prices shall be offered to FCPS.

5. BIDS FOR ALL OR PART

A bidder may restrict their bid to be considered in the aggregate by so stating, but must submit a unit price on each item bid. Failure to provide unit prices may result in the bid being considered non-responsive.

6. PREPARATION OF PROPOSAL

- a. Due to possible changes and/or additions to the solicitation package, FCPS requests that bidders delay submission of their bid package until after the date of the pre-bid meeting or the date that

questions are due to allow time for the possible issuance of an addendum. All changes will be processed through appropriate addenda.

- b. The Technical and Cost proposals will be submitted separately on-line via ProcureNow (<https://secure.procurenow.com/portal/fcps>).

c. Technical Proposal:

- i. The Technical Proposal will include the following forms completed:
- Signature Page
 - Statutory Affidavit and Non-Collusion Certification
 - Certification of Compliance
 - Vendor Conflict of Interest Disclosure Form
 - Questionnaire
 - Supporting documents

d. Cost Proposal:

- i. The Cost Proposal will include the following form(s) completed:
- Form of Proposal Part 2—Pricing
- ii. No separate costs for travel, mileage, overhead or miscellaneous are acceptable. All costs are to be included in the hourly rates on the Form of Proposal Part 2.

7. SUBMITTAL FORMAT

- a. In order to facilitate the analysis of responses to this RFP, offerors should prepare the proposal in accordance with the following instructions, and should structure the proposal so that it contains individual tabs/sections detailing proposed services.
- i. Offeror's responses should be prepared as simply as possible, with straight-forward, concise descriptions of their capabilities to satisfy the requirements of this RFP.
- ii. Promotional materials are not needed. Emphasis shall be concentrated on accuracy, completeness, and clarity of content. All information should be presented in a non-technical format to ensure understanding. All responses should be tailored specifically for the FCPS.
- iii. FCPS encourages proposals that provide innovative alternatives to addressing its existing needs as described in the solicitation. Information which the offeror desires to present that does not fall within any of the requirements of the RFP should be attached at the end of the proposal and designated as additional material.
- iv. FCPS is under no obligation to consider, or negotiate, information or documentation that is submitted not in compliance with the requirements herein, or that is submitted by an offeror after the proposal opening date. Notwithstanding the preceding sentence, FCPS may, in its sole discretion, consider and/or negotiate such submissions.

b. Detailed Submittal Format

- i. Introduction letter

- ii. Executive summary– Provide a narrative, prepared in non-technical terms, summarizing the offeror’s proposal. The executive summary should identify the primary contact for the offeror, including name, address, telephone number, and email address.
- iii. Service model and Approach – The offeror shall explain the service model and approach that they plan on utilizing to provide services to FCPS.
- iv. Student Data – The offeror should explain the process(es) and tools to import data from the FCPS student information system, and explain how export data is shared back to the student information system.
- v. Key Individuals – The offeror should provide a list of key individuals to be assigned to the FCPS contract, specify their role in administering the contract, and provide a current biography/resume for each individual.
- vi. Tutor Certification – The offeror should explain the process in how tutors are certified and selected.
- vii. References – All offerors should include a list of a minimum of three (3) references, from similar projects/contracts, who could attest to the firm’s knowledge, quality or work, timeliness, diligence, flexibility, and ability to meet budget constraints. Include names and addresses, contact persons, phone numbers, and email addresses or all references. FCPS reserves the right to contact references other than, and/or in addition to, those furnished by an offeror. References may or not be reviewed or contacted, at the discretion of FCPS.
- viii. Timeline – The offeror shall provide information on the timeline for getting the provided service up and running, and an expected go-live date.
- ix. Technical Requirements – All offerors should complete Appendix A.
- x. Pricing Schedule – **to be uploaded separate from the rest of the proposal.**

8. EVALUATION CRITERIA AND AWARD

- a. A committee of FCPS staff will independently review and evaluate each technical proposal.
- b. The process for determining which vendor(s) to approve may take the form of either a questionnaire, interview, and/or site visit, and includes appraisals of various aspects of the supplier's business including capacity, financials, quality assurance, organizational structure and processes and performance.
- c. 70 points will be assigned for the technical proposal and will be assigned as follows:
 - Executive Summary - 5
 - Service Model and Approach – 15
 - Student Data – 10
 - Key Individuals – 5
 - Tutor Certification - 10
 - References – 15
 - Timeline– 10

- d. Based on the information obtained via the evaluation, a supplier is scored and is either approved or not approved as one from whom to procure materials or services. There may be an approved supplier list to which a qualified supplier is then added.
- e. Points will be deducted for incomplete or missing responses, or responses that do not follow the required format. Extraneous marketing materials or irrelevant information is not to be submitted.
- f. If not approved, the supplier will not be considered further in price evaluations.
- g. If approved, cost proposals will be evaluated on a weighted basis. 30 total points will be awarded with the maximum points given for the lowest overall calculated costs.
- h. Final ranking will be made on the basis of the criteria and rubric listed above.
- i. An interview may be required to obtain more information prior to recommendation for award.

9. VENDOR PERFORMANCE EVALUATION

- a. The Contract Manager and Administrator shall confer periodically to discuss the status of the contract. Issues of noncompliance may arise throughout the contract term and shall be brought to the attention of the Contract Manager as they occur.
- b. The Contract Manager or Administrator may request multiple metrics, from the vendor, to evaluate contract performance. Metrics may include, but are not limited to:
 - i. Delivery
 - ii. Response time
 - iii. Backorders
 - iv. Quality of deliverables
 - v. Invoicing
 - vi. Sales data (Contract data, non-contract data)
 - vii. Financial
- c. Where technical, construction or performance specifications have been identified in the bidding document, the contract administrator shall utilize these specifications as the basis of determining contract compliance.
- d. If noncompliance occurs, it shall be documented in a timely manner, including actions taken and final resolution. Copies of the correspondence will be maintained in the Purchasing Department bid documents.
- e. Issues of noncompliance will be handled on a case by case basis. This may include, but is not limited to, written correspondence, face-to-face meetings, and/or an agreed upon performance management plan. FCPS retains the right to terminate the contract, in whole or in part, if the noncompliance issue is not resolved to the satisfaction of FCPS.

10. CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE

FCPS requires insurance certificates evidencing the compliance of insurance requirements at least ten calendar days after receipt of the Notice of Award. The vendor will not commence work until a notice to proceed letter, or purchase order, is issued, nor will the vendor allow any subcontractor to commence work on their subcontract until the insurance required of the subcontractor has been obtained and approved.

a. Worker's Compensation

The vendor will procure and maintain, during the life of the contract, Worker's Compensation Insurance, as required by applicable State laws. In the case of sublet work, the vendor will require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the vendor's Worker's Compensation Insurance.

b. Employers' Liability Insurance

The vendor will procure and maintain, during the life of the contract, Employers' Liability Insurance in the following amounts:

E.L. Each Accident	\$100,000.00
E.L. Disease - Each Employee	\$100,000.00
E.L. Disease - Policy Limit	\$500,000.00 each employee

The vendor will require any subcontractor to procure and maintain Employer's Liability Insurance during the life of the contract. It will be the responsibility of the vendor to ensure that all subcontractors comply with this provision, and the vendor will indemnify, and hold harmless, the Board of Education of Frederick County for the failure of the vendor, or any subcontractor, to comply with these provisions.

c. Commercial General Liability Insurance

The vendor will procure and maintain, during the life of the contract, Commercial General Liability Insurance including premises and operations, completed operations and products, on a per occurrence basis, with at least the following limits:

General Aggregate	\$2,000,000 per project
Products-Completed Operations Aggregate	\$2,000,000
Personal & Advertising Injury	\$1,000,000 each occurrence
Each Occurrence	\$1,000,000
Fire Damage	\$50,000
Medical Expense	\$5,000 any one person

The "X, C, U" Coverage for explosion, collapse, and underground property damage shall not be excluded from the policy.

Completed operations liability coverage shall be in force for one year after completion of work.

d. Scope of Insurance and Special Hazards

The insurance required in C. and E. will provide adequate protection for the vendor and subcontractors, respectively, against damage claims which may arise from operations under the contract, whether such operations be by the insured or by anyone directly or indirectly employed by them and, also against any of the special hazards which may be encountered in the performance of this contract as enumerated in C. above. Insurance coverage required under C. above shall specifically include property damage caused by conditions otherwise subject to exclusions "X, C, U" (Explosion, Collapse or Underground Damage) as defined by the National Bureau of Casualty Underwriters. Exceptions: contracts that do not require excavation or underground work are not required to have the above "X, C, U" coverage.

e. Comprehensive Automobile Liability

The vendor shall maintain Comprehensive Automobile Liability Insurance including all automotive equipment owned, non-owned and hired, operated, rented, or leased. Minimum limits of Automobile Liability Insurance shall be:

Bodily Injury	\$1,000,000 per person/\$1,000,000 accident
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Property Damage	\$1,000,000 each occurrence, or
Combined Single Limit Bodily Injury and Property Damage Liability	\$1,000,000

f. Subcontractor's Insurance

The vendor will either:

- i. Require each of their subcontractors to procure and maintain, during the life of the subcontracts, Liability Insurance of the type and in the same amounts as specified above; or
- ii. Insure the activities of the subcontractors in their own policies. It will be the responsibility of the vendor to insure that all subcontractors comply with this provision, and the vendor will indemnify and hold harmless the Board of Education of Frederick County for the failure of the vendor, or any subcontractor, to comply with these provisions.

g. Builder's Insurance

FCPS shall provide and maintain Builder's Risk Protection.

h. Proof of Carriage of Insurance

The vendor will furnish FCPS with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of policies. Such certificates also shall contain substantially the following statement: "The insurance covered by this certificate will not be cancelled or materially altered, except after thirty days written notice has been received by FCPS."

i. Additional Insured

The Owner, Board of Education of Frederick County, the Frederick County Government, and other entities stipulated by the Owner, shall be named as additional insured on all vendor's policies, other than Worker's Compensation Insurance policy. The vendor's insurance will be primary and non-contributory to any insurance carried by the Board of Education of Frederick County or other entity. Waiver of subrogation applies to above policies in favor of the certificate holder. Insurance providers must have an AM Best Company rating of at least A-/VIII.

11. FCPS POLICIES, PROCEDURES, AND REGULATIONS (PPR)

The vendor will be required to comply with FCPS policies, procedures, and regulations. A listing of applicable PPRs has been included in Appendix B. Additional PPRs may apply, as situations warrant, that are not included. A full listing of PPRs can be found at <https://www.fcps.org/boe/policies>.

12. THREAT OF HARM

Should a student express the desire to hurt themselves, or others, the vendor will contact the Contract Administrator immediately at the end of the session.

13. SECURITY AND CONFIDENTIALITY

The vendor shall adopt, implement, and maintain commercially reasonable security measures and procedures (including firewalls, passwords, encryption, commercially available virus protection, access and use of adequate back-up computer servers, and periodic backup of data) on a continuing basis. The vendor acknowledges that the FCPS data house on the vendor's system is the property of FCPS and the vendor agrees not to use such data for any purpose except to the extent necessary to fulfill its obligation under the agreement. The vendor agrees that it shall treat FCPS data with the same degree of care as it accords its own confidential information of a similar nature. The vendor will agree to comply with the provisions regarding the protection of confidential student data as proscribed in the Student Data

14. TECHNICAL REQUIREMENTS

- a. Single Sign-On (SSO) and Rostering: SSO and rostering functionality are mandatory components of all proposed solutions. The Contractor shall be responsible for all costs associated with providing this functionality, to include customization and integration with third party service providers. Proposals that do not include certification of this functionality at the time of proposal submission will not be considered. If the evaluation committee determines the proposed solution is selected for product demonstrations, the Offeror shall provide real-time proof of concept of SSO and rostering functionality using a sampling of FCPS data in a test environment. The solution shall be capable of SSO functionality by one of the following methods:
 - i. Customization with ADFS SAML 2.0; or
 - ii. Full integration with Clever, Inc.'s instant login tool
 - iii. Offerors shall also integrate with the existing Student Information System (SIS), which is eSchool Plus using Clever, Inc.'s existing SIS data integration tools; The solution shall also provide rostering functionality by one of the following methods
 - iv. Fully integrate with Clever, Inc.'s class rostering tool.
 - v. Offeror shall provide specific data requirements for SIS data extract and provide a secure method of automated upload to a data server.
- b. The solution should be fully functional on the most recent version of the Google Chrome OS as of the date of this RFP. Offerors should provide process for ensuring that the proposed solution adapts to newer technologies (i.e. browser updates, new mobile technology, etc.)
- c. The solution must comply with the Information Technology Accessibility Act (...) which requires that information technology developed, purchased, or provided is accessible to individuals with disabilities. All products and services must comply with and conform to the guidelines for website accessibility set forth by the World Wide Web Consortium's Version 2.0 of the Web Content Accessibility Guidelines ("WCAG 2.0") Level AA success criteria. Offeror must provide information on how their solution complies with these Guidelines.

15. PROTECTION OF PROPRIETARY INFORMATION

In connection with the performance of the work under this delivery order, the bidder may be furnished, or may develop or acquire, proprietary data (trade secrets) or confidential or privileged technical, business, or financial information, including FCPS plans, policies, reports, financial plans, internal data protected by the Privacy Act of 1974 (Pub.L. 93-579), Personally Identifiable Information (PII) protected by the Family Education Rights and Privacy Act (FERPA) or other information which has not been released to the public or has been determined by the Board of Education to be otherwise exempt from disclosure to the public. The bidder agrees to hold the information in confidence and not to directly or indirectly duplicate, disseminate, or disclose the information in whole or in part to any other person or organization except as may be necessary to perform the work under this delivery order. The bidder agrees to return the information to FCPS or otherwise dispose of it at the direction of the Director of Technology Infrastructure.

16. FEDERAL REGULATORY COMPLIANCE

The offeror is required to know and understand all applicable federal regulations that impact the work

contracted under this RFP, and to deliver to and/or operate for FCPS federally compliant products and services. Relevant federal regulations include, but are not limited to:

- Elementary and Secondary Education Act, 2001
- Individuals with Disabilities Education Act, 2004
- Rehabilitation Act of 1973, Section 508
- Web Content Accessibility Guidelines 2.0/W3C guidelines
- Family Education Rights and Privacy Act (FERPA)
- Children's Online Privacy Protection Act (COPPA)
- Children's Internet Protection Act (CIPA)
- Health Information Privacy Rules (HIPPA)

Scope of Work:

Frederick County Public Schools (FCPS) is seeking to employ an Educational Support System (ESS) that provides 24/7 on demand, virtual 1:1 access to expert tutors. This ESS will provide all FCPS secondary students (grades 6-12) with access to unlimited academic support in all subject areas as students return to school in a face to face environment.

Referenced below are mandatory requirements that should be addressed in all proposals.

Mandatory Requirements:

- Unlimited live multilingual help on demand with a minimum of English, Spanish and French tutors available.
- Detailed writing feedback to be provided within 24 hours of request.
- Recorded sessions that can be reviewed if necessary
- Unlimited help from experts across every subject
- Available 24/7
- Accessible by every learner regardless of academic level
- Accessible on all device types and operating systems
- Tutors provide feedback that can be accessed by teachers to identify student progress and learning needs
- Scales to match student demand for support
- Reports will be available to school level personnel that track student use and progress, tutor notes that identify where students are having gaps in their learning and help adjust classroom instruction.
- Capacity to interface with FCPS Student Information System tools.

RFP 22CURR1 Tutoring Services

FORM OF PROPOSAL

I. PRICING SCHEDULE

FCPS has identified approximately 24,000 students in grades 6 – 12. Please provide a per student price for your solution for comparative purposes.

# of Student Licenses	Monthly Price per Student	Cost per Student

Detailed Cost Breakdown: In addition to cost above, provide costs based on the following:

- a. Per user fees and/or per school fee based on varying number of licenses/users
- b. Services (installation, implementation, training for year 1 and proceeding years, travel, professional development, technical integration fees, etc.)
- c. Customization costs (if applicable)

Payment Schedule: Provide a proposed payment schedule that defines payment intervals.

SIGNATURE ACKNOWLEDGING PROPOSAL

Note: When submitting your bid/proposal, please use this page as a cover sheet for your proposal.

In compliance with your invitation for bidders, the undersigned proposes to furnish and deliver all labor and materials in accordance with the accompanying specifications and "Instructions and General Conditions" for the price as listed on the enclosed Proposal Sheet(s).

I/We certify that this bid/proposal is made without previous understanding, agreement, or connection with any person, firm, or corporation submitting a bid/proposal for the same goods/services and is, in all respects fair and without collusion or fraud; 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 Frederick County, Administrative or Supervisory Personnel or other employees of the Frederick County Public Schools, has any interest in the bidding company except as follows:

COMPANY: _____

dba: _____

REGISTERED MARYLAND CONTRACTOR NUMBER: _____

FEDERAL IDENTIFICATION: _____ DATE: _____

The undersigned has familiarized themselves with the conditions affecting the work, the specifications, and is legally authorized to make this proposal on behalf of the Contractor listed above.

NAME (please print): _____

SIGNATURE OF ABOVE: _____

TITLE: _____

ADDRESS: _____

TELEPHONE # _____ FAX # _____

E-MAIL ADDRESS (for correspondence): _____

E-MAIL ADDRESS (for receiving Purchase Orders): _____

**(DO NOT COMPLETE THIS AREA IF YOUR COMPANY IS UNABLE TO RECEIVE
PURCHASE ORDERS ELECTRONICALLY)**

ACKNOWLEDGMENT OF ADDENDA (if applicable)

The above-signed company/firm acknowledges the receipt of the following addenda for the above-referenced solicitation.

Date Received by Proposer/Bidder:

Addendum #1	_____	Addendum #2	_____
Addendum #3	_____	Addendum #4	_____
Addendum #5	_____	Addendum #6	_____
Addendum #7	_____	Addendum #8	_____

FREDERICK COUNTY PUBLIC SCHOOLS

STATUTORY AFFIDAVIT AND NON-COLLUSION CERTIFICATION

Special Instructions: An authorized representative of the bidder needs to complete the following affidavit and insert an answer to paragraphs 1 and 3.

BIDDERS: The submission of the following Affidavit at the time of the bid opening is:

☒ requested to be completed but not required to be notarized.

☐ required to be completed and notarized.

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

1. I am the _____ (officer) and duly authorized representative of the firm of
the organization named _____ whose address is
(Name of Corporation)

_____ and that I

possess the authority to make this affidavit and certification on behalf of myself and the firm for which I am acting.

2. Except as described in paragraph 3 below, neither I, nor to the best of my knowledge, the above firm, nor any of its officers, directors, or partners, or any of its employees who are directly involved in obtaining or performing contracts with any public bodies has:
- a. been convicted of bribery, attempted bribery, or conspiracy to bribe, under the laws of any state or of the federal government;
 - b. been convicted under the laws of the state, another state, or the United States of: a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;
 - c. been convicted of criminal violation of an antitrust statute of the State of Maryland, another state, or the United States;
 - d. been convicted of a violation of the Racketeer influenced and Corrupt Organization Act, or the Mail Fraud Act, for acts in connection with the submission of bids or proposals for a public or private contract;
 - e. been convicted of any felony offenses connected with obtaining, holding, or maintaining a minority business enterprise certification, as prohibited by Section 14-308 of the State Finance & Procurement Article;
 - f. been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction under any of the laws or statutes described in Paragraph (a) through (e) above; or
 - g. been found civilly liable under an antitrust statute of this State, another state, or the United States for acts or omissions in connection with the submission of bids or proposals for a public or private contract.
3. The only conviction, plea, or admission by any officer, director, partner, or employee of this firm to involvement in any of the conduct described in Paragraph 2 above is as follows:

If none, write "None" below. If involvement, list the date, count, or charge, official or administrative body,

the individuals involved, their position with the firm, and the sentence or disposition of the charge.

(you may attach an explanation if necessary)

4. I affirm that this firm will not knowingly enter into a contract with a public body under which a person or business debarred or suspended under Maryland State Finance and Procurement Title 16, subtitle 3, Annotated Code of Maryland, as amended, will provide, directly or indirectly, supplies, services, architectural services, construction-related services, leases of real property, or construction.
5. I affirm that this proposal or bid to the Board of Education of Frederick County is genuine and not collusive or a sham; that said bidder has not colluded, conspired, connived and agreed, directly or indirectly, with any bidder or person to put in a sham bid or to refrain from bidding and is not in any manner, directly or indirectly, sought by agreement of collusion or communication or conference, with any person to fix the bid prices of the affidavit or any other bidder, or to fix any overhead, profit or cost element of said bid price, or that if any bidder, or to secure an advantage against the Board of Education of Frederick County or any other person interested in the proposed contract; and that all statements in the proposal or bid are true. I acknowledge that, if the representations set forth in this affidavit are not true and correct, the Board of Education of Frederick County may terminate any contract awarded and take any other appropriate action.

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

(Legal Name of Company)

(dba)

(Address)

(City)

(State)

(Zip)

(Telephone)

(Fax)

(Print Name)

(Title)

(Date)

(Signature)

(Title)

(Date)

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

() Corporation

() Partnership

() Individual

() Other

If required to be notarized:

(Witness)

(Title)

SUBSCRIBED AND SWORN to before me on this _____ day of _____, 20____.

NOTARY PUBLIC

My Commission Expires: _____

FREDERICK COUNTY PUBLIC SCHOOLS

CERTIFICATION OF COMPLIANCE

1. All Contractors, subcontractors or vendors must abide by FCPS Board policies and regulations while working on FCPS property.
2. Maryland Law requires that any person who enters into a contract with a county board of education may not knowingly employ an individual to work at a school (or FCPS facility) if the individual is a registered sex offender. Please reference §11-113 of the Criminal Procedure Article of Maryland Code for penalty.
3. Be advised that individuals who are registered sex offenders are not eligible to work on any FCPS project. The Contractor must initially check the Maryland Department of Public Safety & Correctional Services' MARYLAND SEX OFFENDER REGISTRY and search for the name of any employee to be assigned to work on this project. This applies to subcontractors and material/equipment suppliers as well.
4. In the event that a registered sex offender is discovered to be working on a FCPS project, whether through employment by the prime Contractor, subcontractor or vendor, the site superintendent will immediately remove the individual from the premises and permanently terminate his work assignment. FCPS may terminate this contract as a result if the Contractor is unable to demonstrate he has exercised care and diligence in the past in checking the Maryland registry.
5. Effective July 1, 2015, amendments to §6-113 of the Education Article of the Maryland Code further require that a contractor or subcontractor or vendor for a local school system may not knowingly assign an employee to work on school premises with direct, unsupervised, and uncontrolled access to children, if the employee has been convicted of, or pled guilty or nolo contendere to, a crime involving:
 - a. A sexual offense in the third or fourth degree under §3-307 or §3-308 of the Criminal Law Article of the Maryland Code.
 - b. Child sexual abuse under §3-602 of the Criminal Law Article of the Maryland Code or any other State; or
 - c. A crime of violence as defined in §14-101 of the Criminal Law Article of the Maryland Code or any other State
6. With the passing of Maryland Law MD. Code, Educ. 6-113.2, employers of all contracted staff must obtain background information relating to child sexual abuse or sexual misconduct. This means that all contracted staff having direct contact with students must meet all of the FCPS and Maryland State Department of Education (MSDE) requirements before doing business with FCPS. See: [Maryland State Department of Education Website](#); [House Bill 486 Child Sexual Abuse and Sexual Misconduct Prevention](#); [MSDE Guidelines For MD. Code, Educ. 6113.2](#); and [Employment History Review Form for Child Abuse and Sexual Misconduct](#) for additional information.

In addition, there has been no change to the current FCPS requirement, that all contracted staff who have contact with students are required to be fingerprinted in order to obtain a criminal background check. Fingerprints and background check are still an enforced FCPS requirement.

7. Under recent amendments to §5-561 of the Family Law Article of the Maryland Code, each contractor, subcontractor, or vendor shall certify by signing this affidavit that any individuals in its work-force including sub-contractors, have undergone a criminal background check, including fingerprinting, if the individuals will work in a FCPS school facility in circumstances where they have direct, unsupervised, and uncontrolled access to children.

By my signature below, I affirm under penalties of perjury that the contents of this Certification of Compliance are true to the best of my knowledge, information and belief.

Signature_____Date_____

Print name and title of
signatory_____

Print name of
company_____

Vendor Conflict of Interest Disclosure Form

All vendors interested in conducting business with Frederick County Public Schools (FCPS) must complete and return the Vendor Conflict of Interest Disclosure Form, in order to be eligible to be awarded a contract with FCPS.

Please note that all vendors must comply with FCPS's conflict of interest certification, as stated below.

If a vendor has a relationship with a FCPS employee or an immediate family member (spouse, child (stepchild or adopted), parent, or sibling) of a FCPS employee, the vendor shall disclose the information required below.

Certification: I hereby certify, that to the best of my knowledge, there is no conflict of interest involving the vendor named below:

1. No FCPS employee or the employee's immediate family member has an ownership interest in the vendor's company, or is deriving personal financial gain from this contract.
2. No retired or separated FCPS employee who has been retired or separated from the organization for less than one (1) year has an ownership interest in the vendor's company.
3. No FCPS employee is contemporaneously employed or prospectively to be employed with the vendor.
4. The vendor did not provide any information or criteria in the drafting of the solicitation prior to it being advertised for competitive pricing.
5. Vendor hereby declares it has not, and will not provide gifts or hospitality of any dollar value, or any other gratuities to FCPS employee to maintain a contract.
6. Vendor hereby declares that in the process of preparing a quote/bid/proposal for FCPS, there have been no acts of bribery, extortion, trading, laundering of corrupt practices, and/or nepotism have transpired between FCPS employee and the vendor.
7. Please note any other exceptions below.

Vendor Name & Email	Vendor Address & Phone Number
Conflict of Interest Disclosure	
Name of FCPS employee or immediate family member with whom there may be a potential conflict of interest. <i>If no conflict of interest, write "N/A" and initial.</i>	Disclose the relationship to the employee or the immediate family member, their interest in the vendor's company, and any additional information

I certify that the information provided is true and correct by my signature below:

Signature of Vendor Authorized Representative/Date

Printed Name of Vendor Authorized Representative

ATTACHMENT A – TECHNICAL REQUIREMENTS

MANDATORY COMPONENTS OF ALL PROPOSED SOLUTIONS

Proposals that do not include certification of this functionality at the time of proposal submission will not be considered.

Single Sign-On

Solutions proposed shall be capable of single sign on (SSO) functionality by one of the following methods. Offeror's shall certify the functionality by checking the appropriate box below.

- ☐ Customization with FCPS' single sign-on tool ADFS for SAML 2.0 integration; or
- ☐ Full integration with Clever, Inc.'s instant login tool Offerors shall also integrate with the existing Student Information System (SIS), which is eSchool Plus, using Clever, Inc.'s existing SIS data integration tools.

Rostering

Solutions proposed shall also provide rostering functionality by one of the following methods. Offeror's shall certify the functionality by checking the appropriate box below.

- ☐ Fully integrate with Clever, Inc.'s class rostering tool.
- ☐ Offeror shall provide specific data requirements for SIS data extract and provide a secure method of automated upload to a data server.

ADDITIONAL REQUESTED COMPONENTS OF ALL PROPOSED SOLUTIONS

Offeror's shall certify the functionality by checking the appropriate box(es) below.

Chromebooks

- ☐ Proposed solution is fully functional on the most recent version of the Google Chrome OS as of the date of this RFP.

Accessibility

Provide information on how your solution complies with these accessibility guidelines within your proposal.

- ☐ Proposed solution complies with and conforms to the guidelines for website accessibility set forth by the World Wide Web Consortium's Version 2.0 of the Web Content Accessibility Guidelines ("WCAG 2.0") Level AA success criteria.

FREDERICK COUNTY PUBLIC SCHOOLS	Reg. No. 500-40
Subject: TEACHING OF POTENTIALLY CONTROVERSIAL ISSUES/USE OF HISTORICAL ARTIFACTS	Issued: 5/12/21
Preparing Office: Office of the Superintendent	Amended:

I. Policy 516, Policy 432 and Policy 500

II. Procedures

- A. The principal, in conjunction with the Maryland State Department of Education (MSDE) staff and with appropriate staff in the FCPS Curriculum, Instruction and Innovation Department, and in accordance with curricular guidelines, bears the primary responsibility for the development of school procedures for the teaching ¹ of controversial issues, both past and present.
- B. Teachers are expected to follow Board of Education of Frederick County (Board) approved criteria for determining appropriateness of issues for consideration as part of the curriculum and adhere to criteria listed below:
 1. The treatment of the issue in question will be within range, knowledge, maturity, and competence of the students.
 2. The issue will be significant and curriculum related, but utilizing time proportionate in relation to the regularly planned curriculum, and should not adversely impact instruction.
 3. Rather than sharing their own views or opinions, teachers ² are expected to present material, facilitate respectful conversation, and create a safe classroom space for student discourse.
 4. Instruction and instructional materials should address diverse viewpoints providing a balance of information that affords students opportunities to develop skills in assessing the credibility and corroborative value of information in constructing their own views.

¹ For the purposes of this regulation, teaching is interpreted to mean teaching in either a virtual or in-person classroom.

² For purposes of this regulation, teachers include instructional staff such as substitute teachers and instructional assistants.

5. Curriculum, Instruction and Innovation staff, in consultation with Accelerating Achievement and Equity staff, will provide training and support to instructional staff as it relates to best practices in teaching of potentially controversial subject matter to address parameters as stated above and in compliance with Board Policy 516. This training will include an overview of Board Policy 516 and FCPS Regulation 500-40 and will equip instructional staff with the knowledge and competencies needed to prepare for and facilitate general and discipline specific conversations on controversial topics.

Approved:

original signed by

Theresa R. Alban
Superintendent

POLICY	BOARD OF EDUCATION OF FREDERICK COUNTY, MARYLAND
TEACHING OF POTENTIALLY CONTROVERSIAL ISSUES/USE OF HISTORICAL ARTIFACTS	POLICY 516

I. **Purpose**

The purpose of this policy is to establish guidelines for the teaching ¹ of controversial issues and providing context for use of historical artifacts in Frederick County Public Schools (FCPS).

II. **Policy Statement**

The Board of Education (Board) recognizes the role of public education in preparing students for effective citizenship. Consequently, the instructional program developed to achieve this purpose must appropriately emphasize cultural heritage, and the rights, privileges, and responsibilities of citizenship. The Board also recognizes that as students prepare for effective citizenship, they often encounter issues that may be considered controversial, both past and present, where there exists significant opposing viewpoints and/or multiple perspectives. The Board encourages the examination of potentially controversial issues related to Board approved curriculum in an impartial, objective manner and recognizes the instructional value of historical artifacts and current events within the context of stated curricular objectives and the importance of teaching students to be critical thinkers.

III. **Definitions**

- A. Controversial Issue – a point or matter about which there exist significant opposing viewpoints and/or multiple perspectives.
- B. Curriculum – the prescribed elements of programs and courses which state clearly and specifically what students are to know and be able to do, how well they will be able to do it, how they will meet the learning objectives and by what means they will be assessed.

IV. **Standards**

- A. A controversial issue may be considered when the following conditions are met:
 - 1. The issue has political, economic, or social significance and is presented within appropriate curricular guidelines.
 - 2. Students are provided access to relevant and credible information pertaining to the issue under study.
 - 3. The issue is presented in an atmosphere free from bias and prejudice.
 - 4. Students are able to form and express their own opinions on the issue without fear or retribution from school staff or peers.

¹ For the purposes of this policy, teaching is interpreted to mean teaching in either a virtual or in-person classroom.

- B. Controversial issues must be presented in an impartial and objective manner, and the use of historical artifacts or modern representations (symbols) will be within the context of a stated curricular objective.
- C. The use of resource speakers in teaching controversial issues is permitted in accordance with Board Policy 432 and FCPS Regulation 300-12 *Guest Speakers*.

V. **Compliance**

- A. Principals, in consultation with appropriate staff in the Curriculum, Instruction and Innovation Department, are responsible for developing and implementing school-based procedures for approving controversial issues to be considered in the classroom which are beyond the approved curriculum standards.
- B. Curriculum, Instruction and Innovation staff, particularly those with curricular responsibilities, are responsible for providing training and support to instructional staff with regard to the teaching of controversial issues and may consult with Accelerating Achievement and Equity staff as needed. This training will include an overview of Board Policy 516 and FCPS Regulation 500-40 and will equip instructional staff with the knowledge and competencies needed to prepare for and facilitate general and discipline specific conversations on controversial topics.
- C. Rather than sharing their own views or opinions, teachers are expected to present material, facilitate respectful conversation, and create a safe classroom space for student discourse.

VI. **Delegation of Authority**

The Superintendent is authorized to develop procedures for implementation of this policy.

Cross-reference:

FCPS Regulation 200-47 *Antique Weapons – Historical Demonstrations and Classroom Presentations*

Board Policy 308 *Personal and Academic Freedom*

Board Policy 314 *Political Activity*

Legal Reference	COMAR 13A.14.04 "Religious Education"		
	COMAR 13A.04.08 "Program in Social Studies"		
	COMAR 13A.04.09 "Program in Science"		
	COMAR 13A.04.14 "Program in English Language Arts/Literacy"		
	COMAR 13A.04.18 "Program in Comprehensive Health Education"		
Source Document	FCPS Regulation 500-40 <i>Teaching of Potentially Controversial Issues/Use of Historical Artifacts</i>		
Policy History	Reviewed	Adopted 5/12/2021	Revised

POLICY	BOARD OF EDUCATION OF FREDERICK COUNTY, MARYLAND
CREATING WELCOMING AND AFFIRMING SCHOOLS FOR TRANSGENDER AND GENDER NONCONFORMING STUDENTS	POLICY 443

443.1 Purpose

Gender identity is a protected status in Frederick County Public Schools (FCPS). The purpose of this policy is to prevent discrimination, stigmatization, harassment, and bullying of students who are transgender or who are gender nonconforming and to create school cultures that are safe, welcoming, and affirming for all students. This policy is also designed to ensure that all students have the opportunity to express themselves and live authentically.

Bullying, harassment, and intimidation based on perceived or real sex, sexual orientation, or gender identity or expression is prohibited in FCPS (see Board Policy 437). FCPS addresses bullying, harassment, and intimidation in compliance with its disciplinary policies and regulations, which includes education and providing students and staff with appropriate resources and supports. The Board of Education (Board) acknowledges that the transfer of students who are victims of bullying, harassment, or intimidation to a different school is not a preferred mode of responding and such response should only be considered in consultation, agreement, or at the request of the victim and his/her parent or legal guardian.

443.2 Definitions

*Bullying/Harassment/Intimidation*¹ - Intentional conduct, including verbal, physical, or written conduct, or intentional electronic communication that creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is: (a) motivated by an actual or a perceived personal characteristic of sex, sexual orientation, gender identity, or gender expression; or (b) threatening or seriously intimidating; and (c) occurs on school property, at a school activity or event, or on a school bus; or (d) substantially disrupts the orderly operation of a school.

Gender Expression - The manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.

Gender Identity - A person's deeply held sense or psychological knowledge of their own gender, which can include being female, male, another gender, or no gender. Gender identity is an innate and largely inflexible part of a person's identity. One's gender identity can be the same or different than the gender assigned at birth. The responsibility for determining an individual's gender identity rests with the individual.

¹ Board Policy 437 *Bullying – Harassment - Intimidation*

Gender Nonconforming – A term for people whose gender expression differs from stereotypical expectations, such as “feminine” boys, “masculine” girls, and those who are perceived as androgynous. This includes people who identify outside traditional gender categories or identify as multiple genders. Other terms that can have similar meanings include gender diverse or gender expansive.

Non-binary/Genderqueer – Terms used by those who identify with neither, both, or a combination of genders.

Sexual Orientation – A person’s romantic and/or physical attraction to people of the same or opposite gender or other genders. Transgender and gender nonconforming people may have any sexual orientation.

Transgender – An adjective describing a person whose gender identity or expression is different from that traditionally associated with an assigned gender at birth.

Transition – The process in which a person goes from living and identifying as one gender to living and identifying as another. Transition is a process that is different for everyone, and it may or may not involve social, legal, or physical changes. There is no one step or set of steps that an individual must undergo in order to have their gender identity affirmed and respected.

443.3 Policy Statement

Flexibility – This policy is designed to provide an overarching framework and assurances that all students will be safe, welcomed, and affirmed. Depending on privacy needs or a transgender student’s own personal transition, school staff are authorized to work with students (and their families, if students explicitly wish) to provide options that may support a student’s needs.

443.4 Privacy/Confidentiality

FCPS respects the rights of students to express their gender identity or expression as they wish. Transgender and gender nonconforming students have the right to discuss and express their gender identity and expression openly and to decide where, when, and with whom to share private information. The fact that a student may wish to use a different name or pronoun at school, or to disclose their transgender or gender nonconforming status to school staff, does not authorize school staff to disclose a student’s personally identifiable or medical information. FCPS will ensure all personally identifiable and medical information relating to transgender and gender nonconforming students will be kept confidential according to applicable federal, state and local privacy and student records laws.

443.5 Use of Preferred Name/Official Records

(a) Names/Pronouns

FCPS recognizes the right of every student to be referred to by their preferred name and pronoun. All staff who work with students will have access to a current and complete list of preferred names and pronouns for all students and will use them in

every interaction, unless the interaction could compromise student privacy (see Section 443.4).

(b) Student Records

Each school is required to maintain an official student record of each student, which includes the legal name of the student and birth gender. Official student records can be modified as stipulated under Maryland law ² and/or in accordance with Maryland State Department of Education (MSDE) guidelines. ³ (See also FCPS Regulation 400-20 *Student Records*, Section E “Procedures to Request Amendment of Student Records”)

443.6 Access to Gender-Segregated Facilities

Students, including non-binary students, should determine which facilities are consistent with their gender identity. All students must have access to facilities, including rest rooms, locker rooms, or changing facilities, that correspond to their gender identity. Access is provided without any additional complicating procedure.

Any student, regardless of gender or gender identity or expression, who is uncomfortable for any reason using a gender-segregated facility will be provided a safe and nonstigmatizing alternative. Options include, but are not limited to, privacy curtains, provisions to use private restrooms or office restrooms, or a separate changing schedule. These options are provided to any student without question or complicating procedures required. Under no circumstance is any student required or directed to use a private use facility.

443.7 Participation in Sports and Physical Education Classes

Students are permitted participation in FCPS sports and physical education classes in a manner consistent with their gender identity. The gender identity of student-athletes is not required to be disclosed to coaches, teammates, opponent’s coaches, or anyone else if not authorized by the student. If special events, such as out-of-state tournaments or competitions specify particular disclosures, those will be discussed in advance and confidentially with the student.

443.8 Overnight Field Trips

² §4-211(f), General Article, *Annotated Code of Maryland*

³ MSDE Guidelines 10/6/17 – Documentation Needed for Name and/or Gender Change

Requests for name and/or gender changes on official school records shall be honored if the parent/legal guardian submits:

- a. A new amended birth certificate with name and gender change;
- b. A court order changing the student’s name; or
- c. A statement signed, under penalty of perjury, by a healthcare practitioner who treated or evaluated the student for gender identity issues, requesting name and/or gender change be made on the “official school record” and explaining the health-related reasons for the request.

Notification of the change must be communicated to the Unique Student Identification Specialist in the Division of Curriculum, Assessment, and Accountability at MSDE. **NOTE:** Changing an official student record under option “c” does not involve a court order or court action and is applicable for FCPS and MSDE student record purposes only. Other agencies (i.e. state, federal, college institutions) may still require a court order to recognize an official name change.

The comfort of all students is paramount in the decisions around overnight field trips. Maximizing students' social integration may be achieved by applying these guidelines:

- Make arrangements in consultation with the student. If the transgender or gender nonconforming student's parents or guardians are involved and supportive, they may also be consulted.
- Be sensitive to the need to maintain the student's privacy and not disclose or require disclosure of the student's transgender or gender nonconforming status to the other students or their parents without the consent of the transgender or gender nonconforming student and/or the student's parent.
- Allow students the opportunity to room with others according to their gender identity.
- Make efforts to accommodate any student who desires greater privacy; however, no student should be isolated.

443.9 Other Activities

Dress codes designated for school events like dances, graduations, and other ceremonies shall be gender neutral.

443.10 Training and Professional Development

All FCPS personnel who work directly with students are required to participate in, or have access to, annual training that includes:

- The importance of privacy for all students, as well as an overview of the legal and other implications of disclosing gender identity to parents.
- Terms, concepts, and current developmental understandings of gender identity, gender expression, and gender diversity in children and adolescents.
- Developmentally appropriate strategies for communication with students and parents about issues related to gender identity and gender expression that protect student privacy.
- Developmentally appropriate strategies for preventing and intervening in bullying incidents, including cyberbullying.
- Classroom management practices, curriculum, and resources that educators can integrate into their classrooms to foster a more gender-inclusive environment for all students.
- This policy.

Legal Reference	Title IX, Education Amendments of 1972, 20 U.S.C. 1681		
	U.S. Constitution, Equal Protection Clause, 14 th Amendment and 1 st Amendment		
	FERPA 20 U.S.C. 1232		
	COMAR 13A.08.02 "Student Records"/FCPS Regulation 400-20 <i>Student Records</i>		
	HIPPA 45 C.F.R. 160		
	COMAR 13A.01.04.03 "School Safety"		
	§7-424, Education Article, Annotated Code of Maryland		
	COMAR 13A.06.03 "Interscholastic Athletics in the State"		
Source Documents	GLSEN (Gay, Lesbian and Straight Education Network) <i>Model District Policy on Transgender and Gender Nonconforming Students</i> , Revised February 2016		
	MSDE (Maryland State Department of Education) <i>Providing Safe Spaces for Transgender and Gender Nonconforming Youth: Guidelines for Gender Identity Non-Discrimination</i> , October 2015		
	NSBA (National School Boards Association) <i>2016 Transgender Students in Schools: Frequently Asked Questions and Answers for Public School Boards and Staff</i> , Version 9.0 Updated March 9, 2017		
	MPSSAA (Maryland Public Secondary Schools Athletic Association) <i>Guidance for Participation of Transgender Youth in Interscholastic Athletics</i> , Revised August 2016		
Policy History	Reviewed: 2018	Adopted: 6/14/17	Revised: 1/9/19

POLICY	BOARD OF EDUCATION OF FREDERICK COUNTY, MARYLAND
POLITICAL ACTIVITY	SECTION 314

314.1 Political Activity

The Board of Education (Board) affirms the principle that active participation is required by the individual citizen in our democratic form of government. To the extent allowable by law, Frederick County Public Schools (FCPS) employees as citizens have the right and responsibility to vote, serve on juries, act as election judges, discuss political issues, serve the political party of their choice as party worker, delegate or official, campaign for candidates to public office, and campaign for and serve in public office.

FCPS employees, however, have a responsibility to their students not to impose partisan political views in the classroom or to exploit students by the use of political materials, or conduct political activities during the employee's work day. Nothing in this policy will be construed to mean that employees are restricted from conversing with colleagues about political topics during breaks/lunches outside of the presence of students.

The Board affirms that using FCPS resources for political activities is prohibited.

In weighing the importance of employees' First Amendment rights, encouraging the educational component of political advocacy and the responsibility not to unduly impose political views on students, the Board sets forth the following expectations regarding political activities on school premises.

314.2 Political Activities on School Premises

The following activities are permitted during an employee's work time or during school-sponsored activities:

- A. Special programs where each candidate for an office is given an equitable opportunity to present his/her candidacy may be established with the approval of the deputy superintendent or designee.
- B. Instructional activities where issues or political events are discussed as part of a broad-based instructional format.

Legal Reference			
	Maryland Public Ethics Law, §5-506, General Provisions, <i>Annotated Code of Maryland</i>		
Policy History	Reviewed: 2005, 2016	Adopted: 11/9/05	Revised: 2/24/16

- C. Display of bumper stickers on personal vehicles, provided the content is not obscene or disruptive. FCPS employees who transport students in the regular course of their duties are encouraged to cover a political bumper sticker while on school premises.

314.3 Nonpermissible Political Activities on School Premises During an Employee's Work Time or During School-Sponsored Activities

- A. Soliciting votes or contributions for or against a particular candidate or ballot proposition.
- B. Discussing opinions with students regarding a political candidate or ballot proposition, unless the topic is part of the approved curriculum.
- C. Distributing campaign literature, materials or signs for or against a candidate or ballot proposition.
- D. Soliciting volunteers to assist with a campaign for or against a political candidate or ballot proposition.
- E. Preparing for, organizing or participating in any political meeting, petition, rally or event.
- F. Using school system resources for any political campaign activities including, but not limited to, classroom bulletin boards, facsimile machines, copy machines, printers, scanners, computers or email accounts. ¹
- G. Spending FCPS funds to urge voters to vote for or against a candidate or ballot proposition.
- H. Requiring employees to engage in political campaign activities as part of their job duties.
- I. Providing employees with additional compensation or benefits for engaging in political activities.

314.4 Voter Registration Activities

- A. Voter registration materials must be approved by the deputy superintendent or designee; voter registration materials containing information advocating a candidate or identifying a particular candidate may not be distributed on school property during school hours or a school-sponsored activity.
- B. In years with two elections (primary and general), two voter registration drives may be proposed.
- C. Any partisan group (representing a political party or private interest) that may want to sponsor a drive must solicit the participation of others; when a

¹ Cross-reference FCPS Regulation 300-45 *Computers: Staff Use* and FCPS Regulation 400-73 *Computers: Acceptable Use of Digital Networks and Online Resources*

drive is initiated by any partisan group (representing a political party or private interest), all parties will be invited to send representatives as registrars; the registrars will be non-partisan, not currently holding public office as an elected official in national, state, or local government; if registrars of assorted parties are not available, the school visit will be canceled by any of the concerned individuals.

- D. Any group that may want to sponsor a drive must submit a schedule of dates, schools, times, and persons attending to the deputy superintendent or designee for prior written approval.
- E. Any group that may want to sponsor a drive must allow the Board of Education to handle announcements, press release statements, etc., through the deputy superintendent or designee; principals and schools will not be directly contacted.

314.5 Use of FCPS Facilities - Political Activities

- A. FCPS buildings and grounds may be used for non-partisan political debates and issues forums sponsored by FCPS or non-partisan organizations. FCPS buildings or grounds shall not be used for partisan political rallies, political fundraisers, and presentations by candidates for public office or related election activities. FCPS buildings or grounds shall also not be used for partisan activities associated with any issue scheduled to be included on the ballot of the next election. Nothing herein shall serve to restrict the county Board of Elections in the administration of Election Day activities.

There shall be no temporary or permanent signs, banners, or pennants placed in or on FCPS buildings or on FCPS grounds by any group except those associated with activities sponsored by FCPS or the PTA. Two exceptions are:

- (1) Activities carried on in FCPS facilities by the Board of Elections shall be exempt from this restriction.
 - (2) Other groups that use FCPS facilities may place temporary identification signs on FCPS grounds only during the actual hours the FCPS facility is used. At the conclusion of the use of the FCPS facility, the group must remove the signs.
- B. In accordance with FCPS Regulation 400-30 *Community Informational Materials*, students and staff are not to be used for advertising and political information, which includes placing flyers on vehicles on school premises.

1.1 Service Level Agreement (SLA)

1.1.1 Definitions

- A. A “Problem” is defined as any situation or issue reported via a help desk ticket that is related to the system operation that is not an enhancement request.
- B. “Problem resolution time” is defined as the period of time from when the help desk ticket is opened to when it is resolved.
- A. Monthly Charges: for purposes of SLA credit calculation, Monthly Charges are defined as the charges set forth in **Attachment B, Financial Proposal Form**, invoiced during the month of the breach for the monthly fixed services, or, in the event of annual billing, 1/12 of the annual invoice amount **Financial Proposal Form**.

1.1.2 SLA Requirements

The Contractor shall:

- A. Be responsible for complying with all performance measurements, and shall also ensure compliance by all subcontractors.
- B. Meet the Problem response time and resolution requirements as defined in **Section 2.6.9**.
- C. Provide a monthly report to monitor and detail response times and resolution times.
- D. Log Problems into the <<Contractor-supplied>> help desk software and assign an initial severity (Emergency, High, Medium or Low as defined in **Section 2.6.9**).
- E. Respond to and update all Problems, including recording when a Problem is resolved and its resolution. Appropriate FCPS personnel shall be notified when a Problem is resolved.
- F. FCPS shall make the final determination regarding Problem severity.
- G. Contractor shall review any Problem with FCPS to establish the remediation plan and relevant target dates.

1.1.3 SLA Effective Date (SLA Activation Date)

SLAs set forth herein shall be in effect beginning with the commencement of monthly services as of the completion of the effective date of the contract

Beginning on the SLA Activation Date, for any performance measurement not met during the monthly reporting period, the SLA credit for that individual measurement shall be applied to the Monthly Charges.

1.1.4 Service Level Reporting

- A. Contractor performance will be monitored by FCPS.
- B. The Contractor shall provide detailed monthly reports evidencing the attained level for each SLA.
- C. The Contractor shall provide a monthly summary report for SLA performance.

- D. Monthly reports shall be delivered via e-mail to the Contract Monitor by the 15th of the following month, in advance of the invoice payment.
- E. If any of the performance measurements are not met during the monthly reporting period, the Contractor will be notified of the standard that is not in compliance.

1.1.5 SLA Service Credits

Time is an essential element of the Contract. For work that is not completed or services not delivered within the time(s) specified in the service level metrics, the Contractor shall be liable for service credits in the amount(s) provided for in the Contract.

Service credits will be cumulative for each missed service requirement. FCPS, at its option for amount due FCPS as service credits, may deduct such from any money payable to the Contractor or may bill the Contractor as a separate item. In the event of a catastrophic failure affecting all services OR the entire Solution, all affected SLAs shall be credited to the FCPS.

In no event shall the aggregate of all SLA credits paid to the FCPS in any calendar month exceed 25% of the Monthly Charges.

Example: If the Monthly Charges were \$100,000 and one SLA was missed, with an applicable 4% credit, the credit to the monthly invoice would be \$4,000, and FCPS would pay a net Monthly Charge of \$96,000.

The parties agree that any assessment of service credits shall be construed and treated by the parties not as imposing a penalty upon the Contractor, but as compensation to FCPS for the Contractor's failure to satisfy its service level obligations.

1.1.6 Root Cause Analysis

If the same SLA measurement yields an SLA credit more than once, the Contractor shall conduct a root cause analysis. Such root cause analysis shall be provided within 30 days of the second breach, and every breach thereafter.

In addition, for each 'Emergency' or 'High' priority Problem, the affected parties will perform a root cause analysis and institute a process of problem management to prevent recurrence of the issue.

1.1.7 Service Level Measurements Table (System performance)

No.	Service Requirement	Measurement	Service Level Agreement	SLA Credit
1	Problem Response Time – High	Average Response Time for High Priority Problems.	98% <15 minutes	1%
2	Problem Response Time - Normal	Average Response Time for Normal or Low Priority Problems	98% <2 hours	1%
3	Problem Resolution Time - High	Resolution Time for each High Priority Problem	98% <4 hours	1%
4	Problem Resolution Time - Normal	Resolution Time for Normal Priority Problems	98% <24 hours	1%

No.	Service Requirement	Measurement	Service Level Agreement	SLA Credit
5	Problem Resolution Time - Low	Resolution Time for Low Priority Problems	98% <72 hours	1%
6	Scheduled Downtime/ Maintenance	Scheduled maintenance and downtime shall only occur during non-business hours*. The Contractor shall provide 14 calendar days' notice prior to any scheduled downtime.	<6 hours each month	1%
7	Service Availability	All application functionality and accessibility shall be maintained at 99.5% uptime performance levels. Contractor shall minimize or eliminate unscheduled network downtime to .5% or less.	<99.5%	2%
9	Disaster Recovery	Contractor shall provide recovery and continuity of operations within 24 hours of a System/network failover.	<24 hours	2%
10	Notification of Security Incident	Notification of a Security Incident within 1 hour of occurrence	<1 hour	4%
11	Security Incident Reporting	Security incident reporting requirement in 24 hours	<24 hours	4%
12	Security Control Continuity	Security controls (defined in section 1.3.4) identified to be out of compliance, must be brought to within compliance within 24 hours or submit a security control deviation request within the same time period.	<24 hours	4%
13	SOC 2	A copy of the required comprehensive annual SOC 2 report must be delivered to FCPS within 30 days of completion.	<30 days	4%

FCPS shall have the unilateral right to reallocate percentages among the various SLAs annually on the anniversary of the Contract, provided that such reallocation will not exceed the cap identified in **Section 1.1.5**.

1.1.8 Problem Response Definitions and Times

The Contractor shall meet the Problem response time and resolution requirements.

The Contractor shall provide a monthly report to monitor and detail response times and resolution times.

Service Priority	Response Time	Resolution Time	Response Availability	Work Outage	Users Affected
Emergency	Less than 15 minutes	Within 2 hours of first report	24 hours per day, seven days per week	Major portions of the System are inaccessible Systems or users are unable to work, or to perform some portion of their job.	Users or internal System functionalities are impaired.

Service Priority	Response Time	Resolution Time	Response Availability	Work Outage	Users Affected
High	Less than 30 minutes	Within 4 hours after first report	24 hours per day, seven days per week	Major portions of the System are inaccessible Systems or users are unable to work, or to perform some portion of their job.	Affects the majority of users to include public facing users or Affects high profile users (i.e. executive management)
Normal	Within 2 hours	Within 1 day (24 hours) after first report. If the outage is not resolved a resolution plan must be in place.	Mon-Fri, 7AM-7PM	Specific non-critical features are not operating as specified Systems or users are unable to perform a small portion of their job, but are able to complete most tasks.	Affects a number of users
Low	Within 2 hours	Within 3 days (72 hours) after first report. If the outage is not resolved a resolution plan must be in place.	Mon-Fri, 7AM-7PM	Lower priority features that can be done manually are not operating as specified Often a request for service with ample lead time.	Affects a number of users

1.2 Disaster Recovery and Data

The following requirements apply to the Contract:

1.2.1 Redundancy, Data Backup and Disaster Recovery

- F. Unless specified otherwise in the RFP, Contractor shall maintain or cause to be maintained disaster avoidance procedures designed to safeguard FCPS data and other confidential information, Contractor's processing capability and the availability of hosted services, in each case throughout the Contract term. Any force majeure provisions of the Contract do not limit the Contractor's obligations under this provision.
- G. The Contractor shall have robust contingency and disaster recovery (DR) plans in place to ensure that the services provided under the Contract will be maintained in the event of disruption to the Contractor/subcontractor's operations (including, but not limited to, disruption to information technology systems), however caused.
 - 1) The Contractor shall furnish a DR site.
 - 2) The DR site shall be at least 100 miles from the primary operations site, and have the capacity to take over complete production volume in case the primary site becomes unresponsive.
- H. The contingency and DR plans must be designed to ensure that services under the Contract are restored after a disruption within twenty-four (24) hours from notification and a recovery point objective of one (1) hour or less prior to the

outage in order to avoid unacceptable consequences due to the unavailability of services.

- I. The Contractor shall test the contingency/DR plans at least twice annually to identify any changes that need to be made to the plan(s) to ensure a minimum interruption of service. Coordination shall be made with the FCPS to ensure limited system downtime when testing is conducted. At least one (1) annual test shall include backup media restoration and failover/fallback operations at the DR location. The Contractor shall send the Contract Monitor a notice of completion following completion of DR testing.
- J. Such contingency and DR plans shall be available for FCPS to inspect and practically test at any reasonable time, and subject to regular updating, revising, and testing throughout the term of the Contract.

1.2.2 Data Export/Import

- K. The Contractor shall, at no additional cost or charge to FCPS, in an industry standard/non-proprietary format:
 - 1) perform a full or partial import/export of FCPS data within 24 hours of a request; or
 - 2) provide to the FCPS the ability to import/export data at will and provide the FCPS with any access and instructions which are needed for the FCPS to import or export data.
- L. Any import or export shall be in a secure format per the Security Requirements.

1.2.3 Data Ownership and Access

- M. Data, databases and derived data products created, collected, manipulated, or directly purchased as part of a RFP are the property of the FCPS. Contractor is considered the custodian of the data and shall determine the use, access, distribution and other conditions based on appropriate FCPS statutes and regulations.
- N. Public jurisdiction user accounts and public jurisdiction data shall not be accessed, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of the Contract, including as necessary to perform the services hereunder or (4) at the FCPS's written request.
- O. The Contractor shall limit access to and possession of FCPS data to only Contractor Personnel whose responsibilities reasonably require such access or possession and shall train such Contractor Personnel on the confidentiality obligations set forth herein.
- P. At no time shall any data or processes – that either belong to or are intended for the use of FCPS or its officers, agents or employees – be copied, disclosed or retained by the Contractor or any party related to the Contractor for subsequent use in any transaction that does not include FCPS.
- Q. The Contractor shall not use any information collected in connection with the services furnished under the Contract for any purpose other than fulfilling such services.

- 1.2.4** Provisions in Sections 1.2.1 – 1.2.3 shall survive expiration or termination of the Contract. Additionally, the Contractor shall flow down the provisions of Sections 1.2.1-1.2.3 (or the substance thereof) in all subcontracts.

1.3 Security Requirements

The following requirements are applicable to the Contract:

1.3.1 Employee Identification

- R. Contractor Personnel shall display his or her company ID badge or FCPS badge (if issued) in a visible location at all times while on FCPS premises. Upon request of authorized FCPS personnel, each Contractor Personnel shall provide additional photo identification.
- S. Contractor Personnel shall cooperate with FCPS site requirements, including but not limited to, being prepared to be escorted at all times, and providing information for FCPS badge issuance.
- T. Contractor shall remove any Contractor Personnel from working on the Contract where the FCPS determines, in its sole discretion, that Contractor Personnel has not adhered to the Security requirements specified herein.
- U. The FCPS reserves the right to request that the Contractor submit proof of employment authorization of non-United FCPSs Citizens, prior to commencement of work under the Contract.

1.3.2 On-Site Security Requirement(s)

- V. For the conditions noted below, Contractor Personnel may be barred from entrance or leaving any site until such time that the FCPS's conditions and queries are satisfied.
 - 1) Contractor Personnel may be subject to random security checks when entering and leaving FCPS secured areas. The FCPS reserves the right to require Contractor Personnel to be accompanied while in secured premises.
- W. Further, Contractor Personnel shall not violate Md. Code Ann., Criminal Law Art. Section 9-410 through 9-417 and such other security policies of the agency that controls the facility to which the Contractor Personnel seeks access. The failure of any of the Contractor Personnel to comply with any provision of the Contract is sufficient grounds for the FCPS to immediately terminate the Contract for default.

1.3.3 Information Technology

- (a) Contractors shall comply with and adhere to the FCPS IT Security Policy and Standards. These policies may be revised from time to time and the Contractor shall comply with all such revisions.
- (b) The Contractor shall not connect any of its own equipment to a FCPS LAN/WAN without prior written approval by the FCPS Department of Technology Infrastructure. The Contractor shall complete any necessary paperwork as directed and coordinated with the Contract Monitor to obtain approval by the FCPS to connect Contractor-owned equipment to a FCPS LAN/WAN.

The Contractor shall:

- 1) Implement administrative, physical, and technical safeguards to protect FCPS data that are no less rigorous than accepted industry best practices for information security such as those listed below (see **Section 1.3.4**);
- 2) Ensure that all such safeguards, including the manner in which FCPS data is collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws as well as the terms and conditions of the Contract; and
- 3) The Contractor, and Contractor Personnel, shall (i) abide by all applicable federal, FCPS and local laws, rules and regulations concerning security of Information Systems and Information Technology and (ii) comply with and adhere to the FCPS IT Security Policy and Standards as each may be amended or revised from time to time.

1.3.4 Data Protection and Controls

- A. Contractor shall ensure a secure environment for all FCPS data and any hardware and software (including but not limited to servers, network and data components) provided or used in connection with the performance of the Contract and shall apply or cause application of appropriate controls so as to maintain such a secure environment (“Security Best Practices”). Such Security Best Practices shall comply with an accepted industry standard, such as the NIST cybersecurity framework.
- B. To ensure appropriate data protection safeguards are in place, the Contractor shall implement and maintain the following controls at all times throughout the Term of the Contract (the Contractor may augment this list with additional controls):
 - 1) Establish separate production, test, and training environments for systems supporting the services provided under the Contract and ensure that production data is not replicated in test or training environment(s) unless it has been previously anonymized or otherwise modified to protect the confidentiality of Sensitive Data elements. The Contractor shall ensure the appropriate separation of production and non-production environments by applying the data protection and control requirements listed in **Section 1.3.4**.
 - 2) Apply hardware and software hardening procedures as recommended by Center for Internet Security (CIS) guides <https://www.cisecurity.org/>, Security Technical Implementation Guides (STIG) <https://public.cyber.mil/stigs/>, or similar industry best practices to reduce the systems’ surface of vulnerability, eliminating as many security risks as possible and documenting what is not feasible or not performed according to best practices. Any hardening practices not implemented shall be documented with a plan of action and milestones including any compensating control. These procedures may include but are not limited to removal of unnecessary software, disabling or removing unnecessary services, removal of unnecessary usernames or logins, and the deactivation of unneeded features in the Contractor’s system configuration files.
 - 3) Ensure that FCPS data is not comingled with non-FCPS data through the proper application of compartmentalization Security Measures.
 - 4) Apply data encryption to protect Sensitive Data at all times, including in transit, at rest, and also when archived for backup purposes. Unless otherwise directed, the Contractor is responsible for the encryption of all Sensitive Data.

- 5) For all FCPS data the Contractor manages or controls, data encryption shall be applied to such data in transit over untrusted networks.
- 6) Encryption algorithms which are utilized for encrypting data shall comply with current Federal Information Processing Standards (FIPS), “Security Requirements for Cryptographic Modules”, FIPS PUB 140-2:
<http://csrc.nist.gov/publications/fips/fips140-2/fips1402.pdf>
<http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/1401vend.htm>
- 7) Enable appropriate logging parameters to monitor user access activities, authorized and failed access attempts, system exceptions, and critical information security events as recommended by the operating system and application manufacturers and information security standards, including Maryland Department of Information Technology’s Information Security Policy.
- 8) Retain the aforementioned logs and review them at least daily to identify suspicious or questionable activity for investigation and documentation as to their cause and remediation, if required. FCPS shall have the right to inspect these policies and procedures and the Contractor or subcontractor’s performance to confirm the effectiveness of these measures for the services being provided under the Contract.
- 9) Ensure system and network environments are separated by properly configured and updated firewalls.
- 10) Restrict network connections between trusted and untrusted networks by physically or logically isolating systems from unsolicited and unauthenticated network traffic.
- 11) By default “deny all” and only allow access by exception.
- 12) Review, at least annually, the aforementioned network connections, documenting and confirming the business justification for the use of all service, protocols, and ports allowed, including the rationale or compensating controls implemented for those protocols considered insecure but necessary.
- 13) Perform regular vulnerability testing of operating system, application, and network devices. Such testing is expected to identify outdated software versions; missing software patches; device or software misconfigurations; and to validate compliance with or deviations from the security policies applicable to the Contract. Contractor shall evaluate all identified vulnerabilities for potential adverse effect on security and integrity and remediate the vulnerability no later than 30 days following the earlier of vulnerability’s identification or public disclosure, or document why remediation action is unnecessary or unsuitable. The FCPS shall have the right to inspect the Contractor’s policies and procedures and the results of vulnerability testing to confirm the effectiveness of these measures for the services being provided under the Contract.
- 14) Enforce strong user authentication and password control measures to minimize the opportunity for unauthorized access through compromise of the user access controls. At a minimum, the implemented measures should be consistent with the most current Maryland Department of Information Technology’s Information Security Policy (<https://doit.maryland.gov/policies/Pages/default.aspx>), including specific requirements for password length, complexity, history, and account lockout.

- 15) Ensure FCPS data is not processed, transferred, or stored outside of the United FCPSs (“U.S.”). The Contractor shall provide its services to the FCPS and the FCPS’s end users solely from data centers in the U.S. Unless granted an exception in writing by the FCPS, the Contractor shall not allow Contractor Personnel to store FCPS data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. The Contractor shall permit its Contractor Personnel to access FCPS data remotely only as required to provide technical support.
- 16) Ensure Contractor’s Personnel shall not connect any of its own equipment to a FCPS LAN/WAN without prior written approval by the FCPS, which may be revoked at any time for any reason. The Contractor shall complete any necessary paperwork as directed and coordinated with the Contract Monitor to obtain approval by the FCPS to connect Contractor -owned equipment to a FCPS LAN/WAN.
- 17) Ensure that anti-virus and anti-malware software is installed and maintained on all systems supporting the services provided under the Contract; that the anti-virus and anti-malware software is automatically updated; and that the software is configured to actively scan and detect threats to the system for remediation. The Contractor shall perform routine vulnerability scans and take corrective actions for any findings.
- 18) Conduct regular external vulnerability testing designed to examine the service provider’s security profile from the Internet without benefit of access to internal systems and networks behind the external security perimeter. Evaluate all identified vulnerabilities on Internet-facing devices for potential adverse effect on the service’s security and integrity and remediate the vulnerability promptly or document why remediation action is unnecessary or unsuitable. FCPS shall have the right to inspect these policies and procedures and the performance of vulnerability testing to confirm the effectiveness of these measures for the services being provided under the Contract.

1.3.5 Security Logs and Reports Access

- X. For a SaaS or non-FCPS hosted solution, the Contractor shall provide reports to the FCPS in a mutually agreeable format.
- Y. Reports shall include latency statistics, user access, user access IP address, user access history and security logs for all FCPS files related to the Contract.

1.3.6 Security Plan

- Z. The Contractor shall protect FCPS data according to a written security policy (“Security Plan”) no less rigorous than that of the FCPS, and shall supply a copy of such policy to the FCPS for validation, with any appropriate updates, on an annual basis.
- AA. The Security Plan shall detail the steps and processes employed by the Contractor as well as the features and characteristics which will ensure compliance with the security requirements of the Contract.

1.3.7 Security Incident Response

- A. The Contractor shall notify FCPS in accordance with **Section 1.3.8** when any Contractor system that may access, process, or store FCPS data or FCPS systems experiences a Security Incident or a Data Breach as follows:

- 1) notify FCPS within twenty-four (24) hours of the discovery of a Security Incident by providing notice via written or electronic correspondence to the Contract Administrator;
 - 2) notify FCPS within one (1) hour if there is a threat to Contractor's Solution as it pertains to the use, disclosure, and security of FCPS data; and
 - 3) provide written notice to FCPS within one (1) Business Day after Contractor's discovery of unauthorized use or disclosure of FCPS data and thereafter all information the FCPS requests concerning such unauthorized use or disclosure.
- B. Contractor's notice shall identify:
- 1) the nature of the unauthorized use or disclosure;
 - 2) the FCPS data used or disclosed,
 - 3) who made the unauthorized use or received the unauthorized disclosure;
 - 4) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and
 - 5) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.
 - 6) The Contractor shall provide such other information, including a written report, as reasonably requested by the FCPS.
- C. The Contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the Contract. Discussing Security Incidents with the FCPS should be handled on an urgent as-needed basis, as part of Contractor communication and mitigation processes as mutually agreed upon, defined by law or contained in the Contract.
- D. The Contractor shall comply with all applicable laws that require the notification of individuals in the event of unauthorized release of FCPS data or other event requiring notification, and, where notification is required, assume responsibility for informing all such individuals in accordance with applicable law and to indemnify and hold harmless the FCPS and its officials and employees from and against any claims, damages, and actions related to the event requiring notification.

1.3.8 Data Breach Responsibilities

- A. If the Contractor reasonably believes or has actual knowledge of a Data Breach, the Contractor shall, unless otherwise directed:
- 1) Notify the appropriate FCPS-identified contact within 1 hour by telephone in accordance with the agreed upon security plan or security procedures unless a shorter time is required by applicable law;
 - 2) Cooperate with the FCPS to investigate and resolve the data breach;
 - 3) Promptly implement commercially reasonable remedial measures to remedy the Data Breach; and
 - 4) Document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services.

- B. If a Data Breach is a direct result of the Contractor's breach of its Contract obligation to encrypt FCPS data, remediate an identified vulnerability, address a non-compliant control, or otherwise prevent its release, the Contractor shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by FCPS law; (3) a credit monitoring service required by FCPS or federal law; (4) a website or a toll-free number and call center for affected individuals required by FCPS law; and (5) complete all corrective actions as reasonably determined by Contractor based on root cause; all [(1) through (5)] subject to the Contract's limitation of liability.

1.3.9 FCPS shall, at its discretion, have the right to review and assess the Contractor's compliance to the security requirements and standards defined in the Contract.

1.3.10 Provisions in **Sections 1.3.1 – 1.3.10** shall survive expiration or termination of the Contract. Additionally, the Contractor shall flow down the provisions of **Sections 1.3.3-1.3.10** (or the substance thereof) in all subcontracts.

1.4 Problem Escalation Procedure

1.4.1 The Contractor must provide and maintain a Problem Escalation Procedure (PEP) for both routine and emergency situations. The PEP must FCPS how the Contractor will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of the FCPS within appropriate timeframes.

1.4.2 The Contractor shall provide contact information to the Contract Administrator, as well as to other FCPS personnel as directed should the Contract Administrator not be available.

1.4.3 The Contractor must provide the PEP no later than ten (10) Business Days after notice of recommended award. The PEP, including any revisions thereto, must also be provided within ten (10) Business Days after the start of each Contract year and within ten (10) Business Days after any change in circumstance which changes the PEP. The PEP shall detail how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. The PEP shall include:

BB. The process for establishing the existence of a problem;

CC. Names, titles, and contact information for progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;

DD. For each individual listed in the Contractor's PEP, the maximum amount of time a problem will remain unresolved with that individual before the problem escalates to the next contact person listed in the Contractor's PEP;

EE. Expedited escalation procedures and any circumstances that would trigger expediting them;

FF. The method of providing feedback on resolution progress, including the frequency of feedback to be provided to FCPS;

GG. Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays) and on an emergency basis; and

HH. A process for updating and notifying the Contract Monitor of any changes to the PEP.

1.4.4 Nothing in this section shall be construed to limit any rights of the Contract Monitor or FCPS which may be allowed by the Contract or applicable law.

1.5 SOC 2 Type 2 Audit Report

1.5.1 A SOC 2 Type 2 Audit applies to the Contract. The applicable trust services criteria are: Security, Availability, Processing Integrity, Confidentiality, and Privacy.

1.5.2 In the event the Contractor provides services for identified critical functions, handles Sensitive Data, or hosts any related implemented system for the FCPS under the Contract, the Contractor shall have an annual audit performed by an independent audit firm of the Contractor's handling of Sensitive Data or FCPS's critical functions. Critical functions are identified as all aspects and functionality of the Solution including any add-on modules and shall address all areas relating to Information Technology security and operational processes. These services provided by the Contractor that shall be covered by the audit will collectively be referred to as the "Information Functions and Processes." Such audits shall be performed in accordance with audit guidance: Reporting on an Examination of Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality, or Privacy (SOC 2) as published by the American Institute of Certified Public Accountants (AICPA), National Institute of Standards and Technology (NIST) and as updated from time to time, or according to the most current audit guidance promulgated by the AICPA, NIST, or similarly-recognized professional organization, as agreed to by FCPS, to assess the security of outsourced client functions or data (collectively, the "Guidance") as follows:

II. The type of audit to be performed in accordance with the Guidance is a SOC 2 Type 2 Audit (referred to as the "SOC 2 Audit" or "SOC 2 Report"). All SOC2 Audit Reports shall be submitted to the Contract Monitor as specified in Section F below. The initial SOC 2 Audit shall be completed within a timeframe to be specified by the FCPS. The audit period covered by the initial SOC 2 Audit shall start with the Contract Effective Date unless otherwise agreed to in writing by the Contract Monitor. All subsequent SOC 2 Audits after this initial audit shall be performed at a minimum on an annual basis throughout the Term of the Contract, and shall cover a 12-month audit period or such portion of the year that the Contractor furnished services.

JJ. The SOC 2 Audit shall report on the suitability of the design and operating effectiveness of controls over the Information Functions and Processes to meet the requirements of the Contract, including the Security Requirements identified in **Section 1.3**, relevant to the trust services criteria identified in 1.5.1: as defined in the aforementioned Guidance.

KK. The audit scope of each year's SOC 2 Report may need to be adjusted (including the inclusion or omission of the relevant trust services criteria of Security, Availability, Processing Integrity, Confidentiality, and Privacy) to accommodate any changes to the environment since the last SOC 2 Report. Such changes may include but are not limited to the addition of Information Functions and Processes through modifications to the Contract or due to changes in Information

Technology or the operational infrastructure. The Contractor shall ensure that the audit scope of each year's SOC 2 Report engagement shall accommodate these changes by including in the SOC 2 Report all appropriate controls related to the current environment supporting the Information Functions and/or Processes, including those controls required by the Contract.

- LL. The scope of the SOC 2 Report shall include work performed by the TO Contractor and any subcontractors that provide essential support to the TO Contractor or essential support to the Information Functions and Processes provided to FCPS under the Contract. The Contractor shall ensure the audit includes all such subcontractors operating in performance of the Contract.
- MM. All SOC 2 Audits, including those of the Contractor, shall be performed at no additional expense to FCPS.
- NN. The Contractor shall provide to the Contract Monitor, within 30 calendar days of the issuance of each SOC 2 Report, a complete copy of the final SOC 2 Report(s) and a documented corrective action plan addressing each audit finding or exception contained in the SOC 2 Report. The corrective action plan shall identify in detail the remedial action to be taken by the Contractor along with the date(s) when each remedial action is to be implemented.
- OO. If the Contractor currently has an annual, independent information security assessment performed that includes the operations, systems, and repositories of the Information Functions and Processes being provided to FCPS under the Contract, and if that assessment generally conforms to the content and objective of the Guidance, FCPS will determine in consultation with appropriate FCPS government technology and audit authorities whether the Contractor's current information security assessments are acceptable in lieu of the SOC 2 Report(s).
- PP. If the Contractor fails during the Contract term to obtain an annual SOC 2 Report by the date specified in **Section 1.5.2.A**, FCPS shall have the right to retain an independent audit firm to perform an audit engagement of a SOC 2 Report of the Information Functions and Processes utilized or provided by the Contractor and under the Contract. The Contractor agrees to allow the independent audit firm to access its facility/ies for purposes of conducting this audit engagement(s), and will provide the necessary support and cooperation to the independent audit firm that is required to perform the audit engagement of the SOC 2 Report. FCPS will invoice the Contractor for the expense of the SOC 2 Report(s), or deduct the cost from future payments to the Contractor.
- QQ. Provisions in **Section 1.5.1-2** shall survive expiration or termination of the Contract. Additionally, the Contractor shall flow down the provisions of **Section 1.5.1-2** (or the substance thereof) in all subcontracts.

1.6 Non-Disclosure Agreement

1.6.1 Non-Disclosure Agreement (Offeror)

A Non-Disclosure Agreement (Offeror) is not required for this procurement.

1.6.2 Non-Disclosure Agreement (Contractor)

All Offerors are advised that this solicitation and any Contract(s) are subject to the terms of the Non-Disclosure Agreement (NDA) contained in this solicitation as **Attachment I**. This Agreement must be

provided within five (5) Business Days of notification of recommended award; however, to expedite processing, it is suggested that this document be completed and submitted with the Proposal.

1.7 HIPAA - Business Associate Agreement

Based on the determination by the FCPS that the functions to be performed in accordance with this solicitation constitute Business Associate functions as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the recommended awardee shall execute a Business Associate Agreement as required by HIPAA regulations at 45 C.F.R. §164.500 *et seq.* and set forth in **Attachment J**. This Agreement must be provided within five (5) Business Days of notification of proposed Contract award. However, to expedite processing, it is suggested that this document be completed and submitted with the Proposal. Should the Business Associate Agreement not be submitted upon expiration of the five (5) Business Day period as required by this solicitation, the Procurement Officer, upon review of the Office of the Attorney General and approval of the Secretary, may withdraw the recommendation for award and make the award to the responsible Offeror with the next highest overall-ranked Proposal.

1.8 Nonvisual Access

The bidder or offeror warrants that the information technology offered under this bid or proposal (1) provides equivalent access for effective use by both visual and nonvisual means consistent with the standards of § 508 of the federal Rehabilitation Act of 1973 and Code of Maryland Regulations 14.33.02; (2) provides an individual with disabilities with nonvisual access in a way that is fully and equally accessible to and independently usable by the individual with disabilities so that the individual is able to acquire the same information, engage in the same interactions, and enjoy the same services as users without disabilities, with substantially equivalent ease of use; (3) will present information, including prompts used for interactive communications, in formats intended for both visual and nonvisual use; (4) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and (5) is available, whenever possible, without modification for compatibility with software and hardware for nonvisual access. The bidder or offeror further warrants that the cost, if any, of modifying the information technology for compatibility with software and hardware used for nonvisual access will not increase the cost of the information technology by more than 15 percent.

If the information technology procured under this solicitation does not meet the nonvisual access standards set forth in the Code of Maryland Regulations 14.33.02, the State will notify the bidder or offeror in writing that the bidder or offeror, at its own expense, has 12 months after the date of the notification to modify the information technology in order to meet the nonvisual access standards. If the bidder or offeror fails to modify the information technology to meet the nonvisual access standards within 12 months after the date of the notification, the bidder or offeror may be subject to a civil penalty of a fine not exceeding \$5,000 for a first offense, and a fine not exceeding \$10,000 for a subsequent offense.

The bidder or offeror shall indemnify the State for liability resulting from the use of information technology that does not meet the applicable nonvisual access standards.

For purposes of this regulation, the phrase 'equivalent access' means the ability to receive, use, and manipulate information and operate controls necessary to access and use information

technology by nonvisual means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output.

Attachment A. Non-Disclosure Agreement (Contractor)

See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-I-Non-DisclosureAgreementContractor.pdf>.

Attachment B. HIPAA Business Associate Agreement
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See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-J-HIPAABusinessAssociateAgreement.pdf>.