



FLOYD COUNTY PUBLIC SCHOOLS

140 Harris Hart Road

NE Floyd, VA 24091

Telephone: (540) 745-9400 FAX: (540) 745-9496

Invitation to Bid# FCPS 2024-01

Notice is hereby given of the intention of the School Board Office for the County of Floyd, Virginia, to enter into a Contract for:

Multi-Function Printer/Copier Lease Agreement and Maintenance

Floyd County Public Schools invites qualified firms to submit sealed bids for the lease and maintenance of a certain number of multi-function printers/copiers as described more fully below. This procurement shall utilize competitive sealed bidding, pursuant to §§ 2.2-4302.1 and 2.2-4303. All responses to this Invitation to Bid and any resulting contract shall be consistent with and governed by the Virginia Public Procurement Act.

Deadlines and Delivery Instructions: Bids will be received in the Director of Technology for the FLOYD COUNTY SCHOOL BOARD, 140 Harris Hart Road, NE, Floyd, Virginia 24091.

It is the responsibility of the vendor to assure that its bid is delivered to the place designated for receipt of bids and by the time set for receipt of bids. Bids received in response to this ITB will be opened at the time and place stated and will be made public only as provided by the Virginia Public Procurement Act and the Virginia Freedom of Information Act. No bids received after the time designated for receipt of bids will be considered. No responsibility will be attached to any officer or agent for the premature opening of a bid not properly addressed and identified. Any bids that are submitted by email, phone, or facsimile shall not be considered.

Due Date and Time: 2:00 pm, Friday, Apr 26, 2024

In the event that School Board offices are closed due to inclement weather and/or emergency situations prior to or at the time set aside for proposals, the published due date will default to the next open business day at the same time.

FLOYD COUNTY SCHOOL BOARD

Brandon Williams

Director of Technology

140 Harris Hart Road NE

Floyd, VA 24091

williamsbt@floyd.k12.va.us

540-745-9400

Electronic Invitation to Bid/RFP Retrieval Instructions: Full copies of Invitation to Bids must be retrieved over the Internet at the following address:

<https://www.floyd.k12.va.us/Page/2683>

Requests for Information: Any communications pertaining to the scope of work, the preparation or submittal of a bid, and all other communications referring to this solicitation must be made in **writing** (email is sufficient) to Brandon Williams, Director of Technology, 140 Harris Hart Road NE, Floyd, Virginia 24091, email: williamsbt@floyd.k12.va.us. All questions must be received no later than April 24, 2024. Any revisions to the ITB will be made only by addendum issued by Floyd County Public Schools. Contractors are responsible for checking the school division website for any updates or revisions to the ITB.

Submission Requirement: All ITB requirements must be addressed in the bid. All bids must be signed by an authorized representative of the company submitting the bid. Non-responsive bids will not be considered.

Contractors that are considering submitting a bid should not make contact with members of the Floyd County School Board.

Withdraw of Bids Prohibited: Bids may not be withdrawn for a period of ninety (90) calendar days after bid opening unless the bid is substantially lower than the other bids because of a clerical error as defined in Virginia Code § 2.2-4330. Pursuant to § 2.2-4330 (B)(1), the bidder shall give notice in writing and shall submit the original work papers with such notice to Floyd County Public Schools of its claim of right to withdraw the bid within two (2) business days after the opening of bids.

* * * * *

Floyd County Public Schools expressly reserves the right to cancel this ITB and/or reject any or all bids, to waive any informality or irregularity in the bids received, and to accept a bid which is deemed to be in the best interest of Floyd County Public Schools. Floyd County Public Schools reserves the right to accept all or part of a bid or to cancel in part or in its entirety this ITB. All bids, whether selected or rejected, shall become the property of Floyd County Public Schools.

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Note: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, sexual orientation, gender identity, political affiliation, or veteran status or any other basis prohibited by state law relating to discrimination in employment.

INTRODUCTION

Floyd County Public Schools is releasing an invitation to bid for replacing and maintaining its fleet of multi-function printer/copiers through a three (3) year minimum lease and maintenance contract.

Floyd County Public Schools is seeking to secure a qualified vendor to provide printer and copier replacement and maintenance services.

This document establishes the anticipated services to be performed and outlines the proposal submission requirements, however; this document does not guarantee a billable service with the Contractor.

SUBMITTAL REQUIREMENTS

A. Scope of Work

The successful Bidder shall furnish all labor, supervision, equipment, tools, materials and incidentals necessary to provide products of the types and amounts below. This includes, but is not limited to the following:

1. Desired Hardware Solution:
 - a. Color Multi-Functional Printer –Qty: 7
 - 60+ prints-per-minute
 - Staple Finisher
 - Hole Punch
 - PowerFilter
 - b. B&W Multi-Functional Printer –Qty: 4
 - 60+ prints-per-minute
 - Staple Finisher
 - Hole Punch
 - PowerFilter
 - c. COLOR Multi-Functional Printer –Qty 4
 - 30 prints-per-minute
 - Staple Finisher
 - PowerFilter

2. Desired Software Solution:

- a. Secure Print

3. Maintenance Plan:

- a. Parts, labor, Toner, Staples
- b. Include 400,000 B&W prints per month / Included 25,000 Color prints per month
- c. Auto Toner Shipment
- d. Automated Meter Reads
- e. Fixed for term

4. Early Termination of Existing Lease:

Bid must include cost of balance due on Floyd County Public School's existing copier lease and maintenance agreement. Within thirty (30) days of installation, the successful bidder shall issue a check to Floyd County Public Schools to cover balance due.

C. Bid Format

The bids are to be submitted in a format that allows uniform review and easy access to information by the evaluation committee. A table of contents shall be provided, and pages and exhibits numbered in an organized manner. All bids shall provide a delineation of capabilities to satisfy the requirements of this invitation. Emphasis should be on completeness and clarity of content. Failure to provide all requested information or deviation from the required format may result in disqualification.

The items to be addressed in the bid in the order listed are:

1. Cover Sheet
2. Bid Form (**Exhibit A**)
3. Statement of Qualifications
4. Response Capability
5. Insurance
6. References
7. Submission of Proprietary Information
8. Certification of No Crimes Against Children (**Exhibit B**)
9. Certification of Authority to Transact Business in Virginia (**Exhibit C**)

Section 1 – Cover Sheet

Included on the cover sheet shall be:

- a. The name of the firm and the location of the office that will have the responsibility for the services to be provided.
- b. The name, address, and phone number of a key representative who is knowledgeable about the bid.
- c. The cover sheet shall state that the bid shall be valid for ninety (90) days.
- d. The signature, in ink, of an officer or employee having the authority to bind the company by their signature. Signatures by anyone other than the president, vice president, or general partner should have accompanying documentation that the individual is empowered to bind the company or partnership.

Section 2 – Bid Form

Complete bid form attached as **Exhibit A**. Failure to complete all information requested on the bid form will result in the Bid being considered non responsive and being rejected.

Section 3 – Qualifications and Experience of the Company

Provide all necessary and relevant information to enable the School Board to determine that the Bidder is capable in all respects of providing the goods and services listed in the Scope of Work (Section A) above.

Section 4 – Response Capability

Give an overview of the workload priority to be assigned to this project and staffing available relative to the Bidder's ability to respond to Floyd County Public Schools.

Section 5 – Insurance

Insurance of the types and in the amounts set forth in the terms and conditions shall be purchased and maintained by the Bidder during the life of the Contract.

Section 6 – References

Three references should be provided, preferably to include at least one public school system in the Floyd County geographical area. The name, title, address, and telephone number of the contact person should be provided.

Section 7 – Submission of Proprietary Information (Submit Under Separate Cover)

Trade secrets or proprietary information submitted in a bid shall not be subject to disclosure under the Virginia Freedom of Information Act. However, in order for this information to be protected from disclosure, the Bidder must specifically invoke the protections of Virginia Code § 2.2-4342 or other applicable statute, prior to or upon submission of the trade secrets or proprietary information. The Bidder must clearly identify any part of its bid considered to be protected as trade secret or as proprietary information and must state the reasons why protection is necessary. Bidders shall submit under separate cover any information considered proprietary and any copyrighted material. Separate cover means that proprietary information must be placed in a separate area of the bid and be clearly identified as containing proprietary and/or copyrighted information.

- a. Any Bidder shall identify a trade secret or proprietary information by clearly stating "Trade Secret" or "Proprietary Information" adjacent to the particular information, and by clearly identifying the information to be subject to the protection, such as by encircling, highlighting, underlining or other similar means. The Bidder shall state the reasons why protection is necessary on a separate page of the bid.
- b. Any Bidder shall not identify as a trade secret or proprietary information those sections of the bid that are material to Floyd County Public School's ultimate award of the contract.

- c. Floyd County Public Schools reserves the right to contact a Bidder and to request that the Bidder explain or clarify why the Bidder identified certain information as a trade secret or as proprietary information.
- d. Any Bidder shall not identify as trade secret or proprietary information their complete bid.

All information contained within the body of the bid not under separate cover and labeled proprietary shall be public information in accordance with state statutes.

Section 8 – Certification of No Crimes Against Children (Exhibit B)

The Contractor shall complete and include in its bid packet the CERTIFICATION OF NO CRIMES AGAINST CHILDREN attached hereto as **Exhibit B**.

Section 9 – Certification of Authority to Transact Business in Virginia (Exhibit C)

To the extent the Contractor is organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, the Contractor shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia, or as otherwise required by law, and in which case the Contractor shall complete the Certification of Authority to Transact Business in Virginia attached as Exhibit E and provide to Floyd County Public Schools the Contractor's identification number issued to it by the Virginia State Corporation Commission.

Section 10 – Form W-9

Complete a W-9 and return with response.

D. Submittal Instructions

1. Each Bidder shall submit one (1) original and copy of their bid. Each bid shall be printed in English and received in hard copy by the deadline. Oral bids and bids received by telephone, fax, telegraph, or e-mail shall be rejected.
2. An authorized representative of the Bidder shall sign bids.
3. Bids should clearly respond to the Scope of Work. All information requested in this solicitation should be submitted. Failure to submit all information requested may result in the bid being deemed non-responsive. Bids which are deemed non-responsive, incomplete, or lack key information may be rejected in full by Floyd County Public Schools.
4. By submitting a bid, the Bidder agrees to the use of Floyd County Public School's contract in any subsequent contract negotiations or suggest needed amendments thereto.
5. Bids should be organized in the order delineated above in Section C.

6. All pages of the bid should be numbered.
7. Any contact with any representative of Floyd County Public Schools, other than that outlined above, concerning this ITB is **prohibited**. Such unauthorized contact may disqualify a Bidder from this procurement.
8. Floyd County Public Schools assumes no responsibility for oral instruction or interpretation. Any question regarding the procurement solicitation shall be in writing.
9. Each bidder shall be prepared, if so requested by Floyd County Public Schools, to present evidence of their experience, qualifications and financial ability to carry out the terms of the Contract.

E. Calendar of Events Date

1. Release ITB – April 8, 2024
2. Receive Proposals – Apr 26, 2024
3. Evaluation Process Begins – April 29, 2024

F. Term

The term of the contract resulting from an award under this ITB will begin July 1, 2024, and will continue until the end of the contract with an option for renewal by Floyd County Public Schools, if agreeable to the Contractor, on the same terms and conditions for two additional one-year terms. Floyd County Public Schools and the Contractor may renegotiate prices at the time of contract extension renewal. The Contractor and Floyd County Public Schools will mutually agree at least sixty (60) days prior to each renewal option whether to renew the terms of the Contract. Prices will be locked in at the bid prices for the first year of the contract.

G. Contract Award

Floyd County Public Schools intends to enter into a contract for the products and services solicited under this ITB with a competent, responsive, responsible firm after using the competitive sealed bid process as authorized by the Virginia Public Procurement Act, specifically including Virginia Code §§ 2.2-4301, 2.2-4302.1 and 2.2-4303. The Contract will incorporate by reference the Terms and Conditions set forth below, and be subject to all other requirements of this ITB.

Upon the award or announcement of the decision to award a contract as a result of this solicitation, the School Board will publicly post such notice at the Floyd County School Board Office, 140 Harris Hart Road NE, Floyd, VA 24091 and also on the Floyd County Public Schools website at:

<https://www.floyd.k12.va.us>

List of Attached Exhibits

- A. Certification of No Crimes Against Children.
- B. Bid Form.
- C. Certification of Authority to Transact Business in Virginia.

TERMS & CONDITIONS

1. BID TERM

All Bids shall remain valid for a period of ninety (90) days after the scheduled bid due date.

2. REJECTION OF BIDS/PROPOSALS

Floyd County Public Schools reserves the right to reject any and all bids/proposals.

3. FLOYD COUNTY SCHOOLS RIGHTS

Floyd County Schools reserves the right to make an award on the basis which best serves its interests, to accept or reject any and all bids, to buy any part or the proposal, and to waive any informality therein.

4. VIRGINIA PUBLIC PROCUREMENT ACT

All procurements made by Floyd County Public Schools will be in accordance with the Virginia Public Procurement Act.

5. PROCEDURE FOR BID PROTESTS

Any vendor submitting a proposal may protest the award or decision to award a contract by submitting a written protest to the **Finance Department of the Floyd County School Board** no later than ten (10) days after the award or the announcement of the decision to award whichever occurs first. The written protest shall include the basis for the protest and the relief sought. (Section 2.2-4360, Code of Virginia).

6. CONTRACT ADMINISTRATOR

Brandon Williams, Director of Technology, will serve as Contract Administrator for any contract which results from this request. He will be the point of contact at Floyd County Public Schools for day-to-day operations. His contact information is (540) 745-9480.

7. VIRGINIA FREEDOM OF INFORMATION ACT

Except as provided below, once an award is announced all proposals submitted in response to this request will be open to the inspection of any interested person, contractor or corporation, in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by contractors as part of its proposal will not be subject to public disclosure under the Virginia Freedom of Information Act; however, the contractor must invoke the protections of this section prior to or upon submission of its proposal, and must identify the specific data or other materials to be protected and state the reasons why protection is necessary. Contractors may not request that its entire proposal be treated as proprietary information.

8. ETHICS IN PUBLIC CONTRACTING

By entering into the Contract, the Contractor certifies that its bids or proposals are made in full compliance with the Virginia Conflicts of Interest Act and without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other bidder or offeror, supplier, manufacturer or subcontractor in connection with their bid or proposal. The Contractor further certifies that no officer or employee of Floyd County Public Schools, or members of his or her immediate family, including spouse, parents, or children, or any person representing or purporting to represent Floyd County Public Schools, has been promised or has received, directly or indirectly, any financial benefit by way of fee, commission, finder's fee, political contribution, payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, or any similar form of remuneration on account of the acts of negotiating, awarding and/or executing the Contract, or for any purpose following the submission of the bid or proposal, from Contractor or any officer or director of such private entity. Contractor further agrees to comply with the provisions of Virginia Code §§ Sections 2.2-4367 through 2.2- 4377, Ethics in Public Contracting. the Virginia Governmental Frauds Act (Virginia Code § 18.2-498.1 *et seq.*) or any other applicable law or regulation.

9. IMMIGRATION REFORM AND CONTROL ACT OF 1986

By entering into the Contract, the Contractor certifies that it does not and will not, during the performance of the Contract, employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

10. DISCRIMINATION BY CONTRACTOR PROHIBITED

1. During the performance of the Contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
2. The contractor will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

11. HOLD HARMLESS AGREEMENT

The Contractor and all its subcontractors shall bear all loss, expense (including reasonable attorney's fees) and damage in connection with, and shall indemnify Floyd County Public Schools, Floyd County School Board, Floyd County Board of Supervisors, officers, employees and agents against and save them harmless from all claims, demands, and judgments made or recovered against them because of bodily injuries, including death at any time resulting there from, and/or because of damage to property, to the extent caused by the Contractor's negligence. Compliance by the Contractor with the insurance provisions hereof shall not relieve the Contractor from liability under this provision.

12. NO CRIMES AGAINST CHILDREN

The Contractor acknowledges that the implementation of the Contract may require the Contractor, the Contractor's employees and other persons that will provide services under the Contract, including but not limited to Contractor and subcontractors, to have direct contact with Floyd County Public Schools students. Therefore, the Contractor hereby certifies that neither the Contractor, the Contractor's employees nor any person that will provide services under the Contract, including but not limited to Contractor and subcontractors, who will have direct contact with students on school property during regular school hours or during school-sponsored activities, have been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child.

The Contractor understands that, pursuant to Virginia Code § 22.1-296.1, making a materially false statement regarding offenses which are required to be included in the certification referenced above is a Class I misdemeanor and, upon conviction, the fact of such conviction shall be grounds for the revocation of the contract to provide such services and, when relevant, the revocation of any license required to provide such services. Floyd County Public Schools shall not be liable for materially false statements regarding the certifications required under the Contract.

The Contractor shall execute and deliver to Floyd County Public Schools upon execution of the Contract the CERTIFICATION OF NO CRIMES AGAINST CHILDREN attached hereto. The Contractor shall require Contractor and all other subcontractors to execute such certification prior to performing any Work.

13. CONTRACTUAL CLAIMS PROCEDURE

1. Contractual claims or disputes by the Contractor, whether for money or other relief, except for claims or disputes exempted by law from the procedure set forth herein, shall be submitted in writing no later than sixty (60) days after final payment; provided, however, that the Contractor shall give Floyd County Public Schools written notice of its intention to file a claim or dispute within fifteen (15) days after the occurrence upon which the claim or dispute shall be based. Any written notice of the Contractor's intention to file such a claim or dispute need not detail the amount of the claim, but shall state the facts and/or issues relating to the claim in sufficient detail to identify the claim, together with its character and scope. Whether or not the Contractor files such written

notice, the Contractor shall proceed with the services as directed. If the Contractor fails to make its claim or dispute, or fails to give notice of its intention to do so as provided herein, then such claim or dispute shall be deemed forfeited.

2. Floyd County Public Schools, upon receipt of a detailed claim, may at any time render its decision and shall render such decision within one hundred twenty (120) days of final payment. Each such decision rendered shall be forwarded to the Contractor by written notice.
3. If the Contractor disagrees with the decision of Floyd County Public Schools concerning any pending claim, the Contractor shall promptly notify Floyd County Public Schools by written notice that the Contractor is proceeding with the services under protest. Any claim not resolved whether by failure of the Contractor to accept the decision of Floyd County Public Schools or under a written notice of the Contractor's intention to file a claim or a detailed claim not acted upon by the Floyd County School Board, shall be specifically exempt by the Contractor from payment request, whether progress or final. Pendency of claims shall not delay payment of amounts agreed due in the final payment.
4. The decision on contractual claims by the Floyd County School Board shall be final and conclusive unless the Contractor appeals within six months of the date of the final decision on the claim by instituting legal action in the appropriate circuit court.

14. ORGANIZATIONAL STATUS

1. To the extent the Contractor is organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, the Contractor shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia, or as otherwise required by law, and in which case the Contractor shall provide to Floyd County Public Schools the Contractor's identification number issued to it by the Virginia State Corporation Commission.
2. The Contractor shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50 of the Code of Virginia, to be revoked or canceled at any time during the term of the contract.
3. Floyd County Public Schools may void the Contract and any other contract with the Contractor if the Contractor is a business entity and the Contractor fails to remain in compliance with the provisions of this section.

15. SEVERABILITY

If any provision of the Contract is held to be illegal, invalid, or unenforceable, or is found to be against public policy for any reasons, such provision shall be fully severable, and the Contract shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been part of the contract, and the remaining provisions of the Contract shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision, or by its

severance from the contract.

16. ASSIGNMENT

Neither party to the Contract will have the right to assign the Contract in whole or in part without the prior written consent of the other.

17. AMENDMENT

No amendment of the Contract will be effective unless it is reduced to writing and executed by the Superintendent of Floyd County Public Schools and by the individual signing the Contractor's proposal or by other individuals named by either party. If the Contractor deviates from the terms of the Contract without a written amendment, it does so at its own risk.

18. INDEPENDENT CONTRACTOR

The Contractor is not an employee of Floyd County Public Schools, but is engaged as an independent contractor. The Contractor will indemnify and hold harmless the Commonwealth of Virginia, Floyd County Public Schools, and its employees and agents, with respect to all withholding, Social Security, unemployment compensation and all other taxes or amounts of any kind relating to the Contractor's performance of the Contract. Nothing in the Contract will be construed as authority for the Contractor to make commitments which will bind Floyd County Public Schools or to otherwise act on behalf of Floyd County Public Schools, except as Floyd County Public Schools may expressly authorize in writing.

19. DRUG-FREE WORKPLACE

During the performance of the Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

"Drug-free workplace" means a site for the performance of Work done in connection with a specific contract awarded to the Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Contract.

20. GOODS AND SERVICES

During the term of the Contract, the Contractor will provide for Floyd County Public Schools the goods and services offered to Floyd County Public Schools by the Contractor in its proposal and/or any addenda to its proposal which has been approved in writing by Floyd County Public

Schools and as may be further specified by Floyd County Public Schools in writing when it selected the Contractor

21. WAIVER

The failure of Floyd County Public Schools or the Contractor to insist upon the strict performance of any provisions of the Contract, the failure of either to exercise any right, option or remedy hereby reserved, or the existence of any course of performance hereunder shall not be construed as a waiver of any provision hereof or of any such right, option or remedy or as a waiver for the future of any such provision, right, option or remedy or as a waiver of a subsequent breach thereof. The consent or approval by Floyd County Public Schools of any act by the Contractor requiring the consent or approval of Floyd County Public Schools shall not be construed to waive or render unnecessary the requirement for the consent or approval of Floyd County Public Schools of any subsequent similar act by the Contractor. No provision of the Contract shall be deemed to have been waived unless such waiver shall be in writing signed by the party to be charged.

22. INDEMNIFICATION

The Contractor will indemnify and hold harmless Floyd County, Floyd County School Board, the Superintendent of Floyd County Public Schools, and their agents, employees and officials from any and all costs, damage or loss, claims, liability, damages, expenses (including, without limitation, attorneys' fees and expenses) caused by or arising out of the performance or non-performance of the Contract by the Contractor or its agents or subcontractors, including the provision of any services or products. The Contractor warrants that the products, goods and services provided Floyd County Public Schools may be used by Floyd County Public Schools without being in violation of any copyright, patent or similar property right or claim by others and will defend, indemnify and save Floyd County Public Schools (its employees and agents) from and against any such claim.

23. GOVERNING LAW

Regardless of the place of residence of either party now or in the future, the Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard for Virginia's conflicts of laws rules. Venue for any litigation arising from the Contract shall only be proper in the Circuit Court of Floyd County, Virginia or in the General District Court of Floyd County, Virginia depending on whether the amount in controversy is within the jurisdictional limit of either court. All parties to the Contract voluntarily submit to the jurisdiction and venue of such courts, regardless of the actual location of such parties for resolution of any and all claims, causes of action or disputes arising out of or related to the Contract. The provisions of the Contract shall not be construed in favor of or against either party but shall be construed according to their fair meaning as if both parties jointly prepared the Contract.

24. TERMINATION

Floyd County Public Schools may terminate the Contract for its convenience and any or no cause at any time upon written notice to the Contractor. The Contractor shall not be paid for any

service rendered or expense incurred after receipt of such notice except such fees and expenses incurred prior to the effective date of termination that are necessary for curtailment of the Contractor's services under the contract

25. DEFAULT

In case of default by the Contractor for failure to deliver or perform in accordance with the contract's specifications or terms and conditions, Floyd County Public Schools may procure the articles or services from other sources and hold the defaulting contractor responsible for any resulting additional purchase and administrative costs. Floyd County Public Schools will normally repurchase from the next low bidder or purchase competitively by re-solicitation. If the repurchase results in increased costs to Floyd County Public Schools, a letter will be sent to the defaulted contractor requiring payment for additional costs. When repayment is requested, the Contractor will be removed from future bidding until the repayment has occurred. The Contractor shall not be liable for any excess cost if the failure to perform arises out of any act of war, order of legal authority, strikes, act of God, or other unavoidable causes not attributed to their fault or negligence. Failure of a contractor's source to deliver is generally not considered to be an unavoidable cause. The burden of proof rests with the Contractor.

26. NON-APPROPRIATION

Any obligation of Floyd County Public Schools to pay compensation due to the Contractor pursuant to the Contract is subject to appropriation of funds by the Virginia General Assembly, the Floyd County Board of Supervisors, and the Floyd County School Board and/or any other organization of the Commonwealth authorized to appropriate such funds. The Floyd County School Board's obligations to make payments during subsequent fiscal years are dependent upon the same action. If such appropriation is not made for any fiscal year, the Contract shall terminate effective at the end of the fiscal year for which funds were appropriated and the Floyd County School Board shall not be obligated to make any payments under the Contract beyond the amount appropriated for payment obligations under the Contract. In the event of non-appropriation of funds for the items under the Contract, Floyd County Public Schools may terminate the Contract as to the services for which funds have not been appropriated. Written notice will be provided to the Contractor as soon as possible after such action is taken, but failure to give such notice shall be of no effect and the Floyd County School Board shall not be obligated under the Contract beyond the date of termination specified in the Floyd County School Board's written notice.

27. INSURANCE

- (a) In addition to any other forms of insurance for bonds required in the Contract Documents, the Contractor shall provide and maintain the following insurance.
 - (i) **Workers' Compensation and Employer's Liability:** Workers' Compensation insurance in accordance with statutory requirements, and Employers Liability insurance in limits of not less than \$500,000 (each accident) or a maximum limit of \$1,000,000, to protect the Contractor from any liability or damages for any injuries (including death and disability) to any and all of its employees, including any and all

liability or damage which may arise by virtue of any statute or law in force within the Commonwealth of Virginia.

- (ii) **Automobile Liability:** A minimum of \$1,000,000 combined single limit for each accident for property damage liability and bodily injury liability including death in Automobile Liability coverage. The policy shall cover all persons involved, at any time, and arising out of the ownership, maintenance, or use of owned, non-owned, borrowed, leased, rented, or hired automobiles. In addition, all mobile equipment used by the Contractor in connection with the contracted work, will be insured under a standard Automobile Liability policy. The Garage Keeper's Liability coverage shall also be maintained where appropriate.
 - (iii) **Comprehensive General Liability:** Comprehensive General Liability insurance at a minimum \$2,000,000 per occurrence, written on an occurrence basis, including ongoing and completed operations; contractual liability; and \$6,000,000 general aggregate.
- (b) Additional insurance provisions that apply to all Contracts include:
- (i) **Additional Insured:** Floyd County Public Schools, its officers, employees, agents, and volunteers shall be included via blanket endorsement as Additional Insured on the Automobile and Comprehensive General Liability coverage listed above, and it shall be stated on the Insurance Certificate that this coverage "is primary and non-contributory to all other coverage the School Board may possess."
 - (ii) **Liability Insurance "Claims Made" basis:** If the liability insurance purchased by the Contractor has been issued on a "claims made" basis, the Contractor must comply with the following additional conditions. The limit of liability and the extensions to be included as described previously in these provisions, remain the same. The Contractor must either:
 1. Agree to provide certificates of insurance evidencing the above coverage for a period of two years after final payment for the contract. This certificate shall evidence a "retroactive date" no later than the beginning of the contractor's or subcontractor's work under the Contract, or
 2. Purchase the extended reporting period endorsement for the policy or policies in force during the term of the Contract and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.
 - (iii) **Excess or Umbrella Liability Policy:** Liability insurance may be arranged by Comprehensive General Liability and Automobile Liability policies for the full limits required, or by a combination of underlying liability policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability policy.

- (c) All Contractors shall provide thirty days (30) notice of cancellation of any insurance policy. Each of the policies shall include a waiver of subrogation, to the extent of Contractor's indemnification obligations herein, against the School Board, its officers, employees, agents and volunteers.
- (d) The insurance specified herein shall be with an insurance company acceptable to the parties hereto and licensed to do business in the Commonwealth of Virginia. All insurance must be obtained before any work is commenced and kept in effect until its completion. If any of the work is sublet, similar insurance shall be obtained by or on behalf of the subcontractor to cover their operation.
- (e) Current insurance certificates documenting compliance with these coverage requirements shall be provided to Floyd County Public Schools prior to the award of any Contract.

28. NOTICES

All notices and demands by any party to any other shall be given in writing and sent by a nationally-recognized, overnight courier or by United States certified mail, postage prepaid, return receipt requested, and addressed as follows:

To Floyd County Public Schools:

Jessica Cromer, Ed.D.
Superintendent
Floyd County Public Schools
140 Harris Hart Road NE
Floyd, Virginia 24091
Phone: 540-745-9400
Email: cromerj@floyd.k12.va.us

With copies to:

Bradford A. King
Sands Anderson, PC
1111 E. Main Street, Suite 2400
Richmond, Virginia 23219
Phone: 804.783.7263
Email: bking@sandsanderson.com

Any party may, upon prior notice to the others, specify a different address for the giving of notice. Notices shall be effective one day after sending if sent by overnight courier or three (3) days after sending if sent by certified mail, return receipt requested.

29. PAYMENT PROVISIONS UNDER VIRGINIA CODE § 2.2-4354 (REQUIRED)

- a. The Contractor shall take one of the two following actions within seven (7) days after receipt of amounts paid to the Contractor by Floyd County Public Schools or work

performed by a subcontractor under the Contract:

- (1) Pay the subcontractor for the proportionate share of the total payment received from Floyd County Public Schools attributable to the work performed by the subcontractor under the Contract; or
 - (2) Notify Floyd County Public Schools and the subcontractor, in writing, of its intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.
- b. The Contractor shall provide its federal employer identification number to Floyd County Public Schools.
 - c. The Contractor shall pay interest to the subcontractor on all amounts owed by the Contractor that remain unpaid after seven (7) days following receipt by the Contractor of payment from Floyd County Public Schools for work performed by the subcontractor under the Contract, except for amounts withheld as allowed in subdivision a (2), above.
 - d. Unless otherwise provided under the terms of the Contract, such interest shall accrue at the rate of one percent (1%) per month.
 - e. The Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements to each lower-tier subcontractor.
 - f. The Contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause above may not be construed to be an obligation of Floyd County Public Schools.

30. TAXES

Floyd County Public Schools (federal I.D. #54-6001281) is exempt from federal, state and local taxes. Taxes included on invoices will be deducted from the payment amount. Tax-exempt forms will be completed for the Contractor upon request.

31. COUNTERPARTS

The Contract may be executed in two or more counterparts, each of which shall be deemed an original, but all of such counterparts together shall be deemed to be one and the same instrument. It shall not be necessary in making proof of the Contract or any counterpart hereof to produce or account for the other counterpart.

EXHIBIT A - BID FORM

All pages of this Bid Form are to be included in the completed bid. Bids containing any conditions, omissions, unexplained erasures, alterations or items not called for in the ITB or irregularities of any kind may be rejected as being non-responsive. No changes are to be made to the bid form. Any changes to a bid amount must be initialed by the authorized person signing the bid form.

In compliance with this Invitation for Bids and with all the conditions imposed therein and hereby incorporated by reference, the undersigned offers and agrees to furnish the goods/services in accordance with the attached signed proposal or as mutually agreed upon by subsequent negotiations.

Price of: _____ And _____/100 Dollars

The undersigned states that it has made a best or good faith effort to seek the participation of and utilize local, Small, Minority-Owned, Women-Owned, and Service Disabled Veteran-Owned businesses as suppliers and subcontractors whenever possible for this Project.

NAME AND ADDRESS OF FIRM:

DATE: _____

BY: _____
(Signature in Ink)

NAME/TITLE: _____

PHONE/E-MAIL/FAX: _____

EVA Vendor ID or DUNS#: _____

Acknowledgment of Addenda:

No. 1, Date _____ Signature _____

No. 2, Date _____ Signature _____

No. 3, Date _____ Signature _____

RETURN BID FORM TO FLOYD COUNTY SCHOOL BOARD. SIGN CERTIFICATION ABOVE.

EXHIBIT B

CERTIFICATION OF NO CRIMES AGAINST CHILDREN

Contractor acknowledges that the implementation of this Contract requires Contractor, Contractor's employees or other persons that will provide services under this Contract to have direct contact with students who attend **Floyd County Public Schools**. Therefore, Contractor hereby certifies that neither Contractor, Contractor's employees nor any person that will provide services under this Contract who will have direct contact with students on school property during regular school hours or during school-sponsored activities have been convicted of a violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02; any offense involving the sexual molestation, physical or sexual abuse, or rape of a child; or any crime of moral turpitude.

Contractor understands that pursuant to Code of Virginia § 22.1-296.1. making a materially false statement regarding offenses which are required to be included in the certification referenced above is a Class I misdemeanor and, upon conviction, the fact of such conviction shall be grounds for the revocation of the contract to provide such services and, when relevant, the revocation of any license required to provide such services. The **Floyd County School Board** shall not be liable for materially false statements regarding the certifications required under this Contract.

Have you, your employees, or any person who will have direct contact with students under this contract been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child?

NO

YES (please explain)

Contractor

Date

By: _____

Print: _____

Title: _____

EXHIBIT C

Certification of Authority to Transact Business in Virginia

To the extent the Contractor is organized or authorized to transact business in the Commonwealth of Virginia pursuant to Title 13.1 or Title 50 of the Code of Virginia, as amended, or as otherwise required by law, it shall include in its bid the Identification Number issued to such bidder by the Virginia State Corporation Commission (SCC). Furthermore, any bidder that is not required to be authorized to transact business in the Commonwealth of Virginia as a domestic or foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid a statement describing why the bidder is not required to be so authorized. Please complete the following by checking the appropriate line that applies and providing the requested information:

A. Bidder is a Virginia business entity organized and authorized to transact business in Virginia by the SCC and such bidder's Identification Number issued to it by the SCC is _____.

B. Bidder is an out-of-state (foreign) business entity that is authorized to transact business in Virginia by the SCC and such bidder's Identification Number issued to it by the SCC is _____.

C. Bidder does not have an Identification Number issued to it by the SCC and such bidder is not required to be authorized to transact business in Virginia by the SCC for the following reason(s):

Please attach additional sheets of paper if you need more space to explain why such bidder / offeror is not required to be authorized to transact business in Virginia.

State the complete legal name of the bidder, exactly as it is recorded with the State Corporation Commission, if recorded there.

LEGAL NAME: _____

BY: _____
(Authorized Signature)

TYPED NAME: _____

TITLE: _____

BIDDER'S MAILING ADDRESS _____

CITY _____ STATE _____ ZIP CODE _____

TELEPHONE _____ FAX _____

CONTACT EMAIL ADDRESS _____

ESCROW ACCOUNT REQUESTED (if applicable): YES NO