



Arlington Public Schools

Purchasing Office
1426 N. Quincy St., Arlington, VA 22207 • Phone: (703) 228-2411 • Fax: (703) 841-0681
www.apsva.us

November 29, 2016

SCHOOL SPECIALTY INC

Attn: Glenn Kennington
140 Marble Drive
Lancaster, PA 17601

Sent via email to: bideastnotices@schoolspecialty.com
Glenn.Kennington@schoolspecialty.com

Subject: **ACCEPTANCE AND AWARD AGREEMENT – INVITATION TO BID NUMBER #15FY17
INSTRUCTIONAL AIDS, TOYS & GAMES**

Reference: **CONTRACT NUMBER #15-11 FY17, INSTRUCTIONAL AIDS, TOYS & GAMES**

Dear Mr. Kennington:

Your bid opened November 2, 2016, is hereby accepted for:

- 1) 35.0% discount off listed prices (for items with a prefix of 8 or 9) published in School Specialty Catalogs, and
- 2) 12.0% discount off listed prices (for items with a prefix of 6 or 7) published in School Specialty Catalogs, and
- 3) 30.0% discount off listed prices published in Frey Scientific Catalog and Frey On-Line Elementary Catalog, and
- 4) 5.0% discount off listed prices published in the Premier Order Guides.

A contract is awarded to School Specialty, Inc. for the goods referenced above. Please arrange to have an officer or authorized agent of your company sign the Acknowledgement and return to this office within five (5) days.

Orders are to be provided in accordance with the following contract documents:

- 1) Agreement Between Arlington Public School (APS) and Contractor
- 2) Pricing Schedule
- 3) Scope of Services
- 4) Bid Documents and Addenda, included by reference
- 5) General Terms and Conditions
- 6) Modifications issued after Execution of this Agreement

A completed Certificate of Insurance was not submitted with your bid (as outlined in Section 65 of the ITB). Please include a copy of this required document when the Acknowledgement is returned.

This is not an order. A Purchase Order will follow.

Sincerely,

David Webb, C.P.M.
Director/Purchasing
Enclosures

ARLINGTON PUBLIC SCHOOLS
PURCHASING OFFICE

NOVEMBER 29, 2016

OFFER OF CONTRACT FOR BID NUMBER #15FY17 - INSTRUCTIONAL AIDS, TOYS & GAMES

CONTRACTOR:

SCHOOL SPECIALTY INC
Attn: Glen Kennington
140 Marble Drive
Lancaster, PA 17601

CONTRACT:

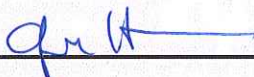
#15-11FY17

We acknowledge Contract reference #15-11FY17 dated November 29, 2016 for **INSTRUCTIONAL AIDS, TOYS & GAMES**, as follows:

- 1) 35.0% discount off listed prices (for items with a prefix of 8 or 9) published in School Specialty Catalogs: Education Essentials; Art Education/ SAX; Special Needs/ Abilitations; Physical Education & Recreation/ Sportime; Early Childhood/ Childcraft; Career & Technical Education/ Brodhead Garrett; and Furniture & Equipment.
- 2) 12.0% discount off listed prices (for items with a prefix of 6 or 7) published in School Specialty Catalogs (as identified in 1, above)
- 3) Items in School Specialty Catalogs (as identified in 1, above) listed as "Net Price" are not eligible for discount
- 4) Shipping for School Specialty Catalogs (as identified in 1, above) is free on orders of more than \$49.00 for items with a prefix of 7 or 9; orders less than \$49.00 are charged \$9.95; free freight on furniture and equipment orders over \$250.00, on items with a prefix of 6 or 8
- 5) For orders from School Specialty Catalogs (as identified in 1, above), use #7781949086 on all Purchase Orders
- 6) 30.0% discount off listed prices published in Frey Scientific Catalog and Frey On-Line Elementary Catalog
- 7) For products indicated with a prefix of N or LN (SSI, Delta, CPO or Frye Scientific Exclusive Products), no discount is available
- 8) For orders from the Frey catalogs shipping is free on all items except: live specimens (prefix L) and hazardous materials (prefix H). For products that must ship by Motor Freight (prefix 6 and 8) a \$75.00 fee or a 12% fee of the line value will be charged. All CPO and DSM products will incur a 12% fee of the line value
- 9) For orders from the Frey catalogs, use #7781949103 on all Purchase Orders
- 10) 5.0% discount off listed prices published in the Premier Order Guides
- 11) Free shipping on Premier Order Guides
- 12) For orders from the Premier Order Guide use #7781949100 on all Purchase Orders

ACKNOWLEDGMENT:

SCHOOL SPECIALTY INC

SIGNATURE: 

TITLE: Assistant Secretary

PRINTED NAME: Stephen M Herren

DATE: 12/1/2016

PRICING SCHEDULE

CONTRACT NUMBER #15-11FY17 - INSTRUCTIONAL AIDS, TOYS & GAMES

Schedule ITEM #	Item Description	CATALOG NAME	Catalog Price DISCOUNT OFF %
1	Items with prefix 8 Items with prefix 9	School Specialty Education Essentials Catalog	35.0%
2	Items with prefix 8 Items with prefix 9	School Specialty Art Education Catalog/ SAX	35.0%
3	Items with prefix 8 Items with prefix 9	School Specialty Special Needs Catalog/ Abilitations	35.0%
4	Items with prefix 8 Items with prefix 9	School Specialty Physical Education & Recreation Catalog/ Sportime	35.0%
5	Items with prefix 8 Items with prefix 9	School Specialty Early Childhood Education Catalog/ Childcraft	35.0%
6	Items with prefix 8 Items with prefix 9	School Specialty Career & Technical Education/ Brodhead Garrett	35.0%
7	Items with prefix 8 Items with prefix 9	School Specialty Furniture & Equipment Catalog	35.0%
8	Items with prefix 6 Items with prefix 7	School Specialty Education Essentials Catalog	12.0%
9	Items with prefix 6 Items with prefix 7	School Specialty Art Education Catalog/ SAX	12.0%
10	Items with prefix 6 Items with prefix 7	School Specialty Special Needs Catalog/ Abilitations	12.0%
11	Items with prefix 6 Items with prefix 7	School Specialty Physical Education & Recreation Catalog/ Sportime	12.0%
12	Items with prefix 6 Items with prefix 7	School Specialty Early Childhood Education Catalog/ Childcraft	12.0%

CONTRACT NUMBER #15-11FY17 - INSTRUCTIONAL AIDS, TOYS & GAMES

Schedule ITEM #	Item Description	CATALOG NAME	Catalog Price DISCOUNT OFF %
13	Items with prefix 6 Items with prefix 7	School Specialty Career & Technical Education/ Brodhead Garrett	12.0%
14	Items with prefix 6 Items with prefix 7	School Specialty Furniture & Equipment Catalog	12.0%
15	Science Supplies	Frey Scientific Catalog Frey on-Line Elementary catalog	30.0%
16	Premier Agendas	Premier K-12 Traditional Order Guide Premier Versatile Order Guide www.premier.us	5.0%

For Schedule Item #s 1-14, above:

17. Catalogs may have a limited number of items that are listed as “Net Price” and these items are not eligible for any discount
18. Shipping free on order of more than \$49.00 for items with prefix 7 or 9
19. Orders less than \$49.00 will be charged \$9.95
20. Free Freight on furniture and equipment orders over \$250.00 on items with prefix of 6 or 8
21. Use # 7781949086 on all Purchase Orders

For Schedule Item #15, above

22. No discount is available for SSI, Delta, CPO or Frye Scientific Exclusive Products as indicated with a prefix of “N” or “LN”.
23. Free Shipping on all items **except**: live specimens (prefix L) and hazardous materials (prefix H)
24. Products that must ship by Motor Freight (prefix 6 and 8) will incur a \$75.00 fee or will incur a 12% fee of the line value. All CPO and DSM products will incur a 12% fee of the line value.
25. Use # 7781949103 on all Purchase Orders.

For Schedule Item # 16, above

26. Free Shipping
27. Use # 7781949100 on all Purchase Orders

SCOPE OF SERVICES

1. SPECIFICATIONS:

- 1.1. 35.0% discount off listed prices (for items with a prefix of 8 or 9) published in School Specialty Catalogs: Education Essentials; Art Education/ SAX; Special Needs/ Abilitations; Physical Education & Recreation/ Sportime; Early Childhood/ Childcraft; Career & Technical Education/ Brodhead Garrett; and Furniture & Equipment.
- 1.2. 12.0% discount off listed prices (for items with a prefix of 6 or 7) published in School Specialty Catalogs (as identified in 1, above).
- 1.3. Items in School Specialty Catalogs (as identified in 1, above) listed as “Net Price” are not eligible for discount
- 1.4. Shipping for School Specialty Catalogs (as identified in 1, above) is free on orders of more than \$49.00 for items with a prefix of 7 or 9; orders less than \$49.00 are charged \$9.95; free freight on furniture and equipment orders over \$250.00, on items with a prefix of 6 or 8
- 1.5. For orders from all School Specialty Catalogs (as identified in 1, above), use # 7781949086 on all Purchase Orders.
- 1.6. 30.0% discount off listed prices published in Frey Scientific Catalog and Frey On-Line Elementary Catalog
- 1.7. For products indicated with a prefix of N or LN (SSI, Delta, CPO or Frye Scientific Exclusive Products), no discount is available
- 1.8. For orders from the Frey catalogs shipping is free on all items **except**: live specimens (prefix L) and hazardous materials (prefix H). For products that must ship by Motor Freight (prefix 6 and 8) a \$75.00 fee or a 12% fee of the line value will be charged. All CPO and DSM products will incur a 12% fee of the line value
- 1.9. For orders from the Frey catalogs, use #7781949103 on all Purchase Orders
- 1.10. 5.0% discount off listed prices published in the Premier Order Guides
- 1.11. Free shipping on Premier Order Guides
- 1.12. For orders from the Premier Order Guide use 7781949100 on all Purchase Orders

2. PERIOD OF CONTRACT AND RENEWALS:

- 2.1. The period of this contract shall be from DATE OF AWARD through November 30, 2021.
- 2.2. This contract may be renewed at the expiration of its term by agreement of both parties. Such renewal may be for one (1) additional five-year period at the same terms and conditions upon mutual agreement of the Contractor and APS.

- 2.3. APS, at its discretion, may extend the initial contract term or contract renewal term of the resultant Contract for a period of not more than six months, unless specifically stated otherwise in the solicitation.
- 2.4. Notice of intent to renew will be given to the Contractor in writing by the APS Purchasing Office, normally 60 days before the expiration date of the current contract. (This notice shall not be deemed to commit APS to a contract renewal)

3. DELIVERY:

- 3.1. The date and place of delivery of items under this contract shall be agreed upon between the authorized representative placing the order and the Contractor at the time the order is placed. Deliveries will be made to various locations in the Arlington Public Schools between the hours of 7:30 AM and 2:30 PM on regular APS business days unless other arrangements have been made.

4. INVOICING:

- 4.1. The Contractor shall submit a Summary Invoice once each month listing the Sales/ Delivery Ticket numbers covering deliveries made during the monthly billing period. The invoice must be accompanied by one copy of each signed Sales/ Delivery Ticket.
- 4.2. Invoices will be delivered to the following address:
Accounts Payable
Arlington Public Schools
1426 N. Quincy Street
Arlington, VA 22206
- 4.3. The invoice shall contain the applicable Purchase Order number, and the name of the agency/ school receiving the supplies.

ARLINGTON PUBLIC SCHOOLS

GENERAL TERMS AND CONDITIONS AND INSTRUCTIONS TO BIDDERS

Bidder: The general terms and conditions and instructions to bidders which follow apply to all purchases and become a part of all formal solicitations and become a part of all Contract awards and Purchase Order issued by the Arlington Public Schools (APS), unless otherwise specified. Bidders or their authorized representatives are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting bids, failure to do so will be at the bidder's own risk and will not be a basis for relief.

Subject to all State and local laws, policies, resolutions, regulations and all accepted rules, regulations and limitations imposed by legislation of the Federal Government, bids on all solicitations issued by APS will bind bidders to applicable conditions and requirements herein set forth unless otherwise specified in the solicitation. Where there is a conflict between these General Conditions and Instructions and the Purchasing Resolution, the Purchasing Resolution shall prevail.

1. AUTHORITY

The Purchasing Agent has the sole responsibility and authority for negotiating, placing and when necessary modifying each and every solicitation, Purchase Order or other award issued by the APS. In the discharge of these responsibilities, the Purchasing Agent is assisted by buyers under his supervision. No other Arlington Public Schools officer or employee is authorized to order supplies or services, enter into purchase negotiations or Contract. Any Purchase Order or Contract made which is contrary to these provisions and authorities shall be void and neither the Arlington County School Board (ACSB), nor any of its officers and employees, shall be bound thereby.

2. INDEPENDENT CONTRACTOR

The Contractor will be legally considered as an independent Contractor and neither the Contractor nor its employees will, under any circumstances, be considered servants or agents of APS. APS will not be legally responsible for any negligence or other wrongdoing by the Contractor, its servants or agents. APS will not withhold from the Contractor payments to the Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the Contractor. Further, APS will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation, normally provided by APS for its employees.

3. ARLINGTON PUBLIC SCHOOLS EMPLOYEES

No employee of APS shall be admitted to any share or part of this Contract or to any benefit that may arise from the contract which is not available to the general public.

4. BID FORMS

All bids shall be submitted in duplicate, on the Bid Form provided, properly signed in ink in the proper spaces, and submitted in a sealed envelope provided with the solicitation.

5. EXAMINATION OF BID DOCUMENTS

- 5.1 Bidders shall thoroughly examine the bid documents. The bidder's failure or omission to examine any document shall not relieve the bidder from any obligations with respect to its bid or to the resultant Contract. The submission of a bid shall be taken as prima facie evidence of compliance with this section.
- 5.2 If a bidder knows, or should have known, that an ambiguity, discrepancy, error, omission or conflicting statement exists in the bid documents, the bidder has an obligation to seek clarification, interpretation or instructions from the Purchasing Agent prior to submitting a bid. Any and all such requests for clarifications, interpretations or supplemental instructions will be in the form of written addendum, if issued, will be sent to prospective bidders prior to the date fixed for the opening of bids. APS will not be responsible for any clarifications, interpretations or instructions except those made by written addendum. Should the bidder fail to seek such a clarification prior to submission of a bid, the bidder thereby waives, and agrees to indemnify and hold APS harmless from any claim, suit or cause of action arising out of or related to such ambiguity, discrepancy, error, omission or conflicting statement which the bidder knew or should have known existed at the time the bid was submitted.
- 5.3 Failure of a bidder to receive any addendum shall not relieve the bidder from the requirements of the bid, including all addenda issued. All addenda so issued shall become part of the bid documents. Each bidder shall be responsible for determining prior to submitting a bid that all addenda issued have been received and shall acknowledge receipt and inclusion of all addenda in the bid.

6. SPECIFICATIONS

- 6.1 If goods/services bid are in substantial compliance with the bid requirements, APS, in its sole discretion, may waive informalities and award a Contract if the informality (see paragraph 17., Informalities) will not affect the price, quality, quantity or delivery schedule of the goods, services or construction being procured.
- 6.2 The bidder shall indicate on their bid form any exceptions from the bid specifications and terms and conditions. If exceptions are not stated, it will be assumed that the goods and/or services fully comply with the bid specifications and terms and conditions and the bidder will be required to deliver the product or service meeting the bid specifications under the terms and conditions specified.
- 6.3 All materials used for the manufacture or construction of any supplies, materials or equipment covered by this bid shall be new (unused), unless otherwise specified. The items bid shall be the latest model, of the best quality, and highest grade workmanship.
- 6.4 Any ancillary items or parts of any equipment listed in the solicitation which are not fully described in the specification and which are necessary for the completion and use of the items or equipment and its appurtenances shall be considered a part of such equipment although not directly specified in the solicitation.

7. SUBSTITUTION OF MATERIALS OR SERVICES

- 7.1 In the specifications, where any item of equipment or material is specified by proprietary name, trade name, and/or name of one or more manufacturers, with the addition of such expressions as "no substitutes," it is to be understood that those items are so specified for reasons of standardization in maintenance and operation, or for reasons of obtaining desirable features best suited to the requirements of APS and no other brand shall be considered.

- 7.2 When a brand name is stated, unless identified as a “no substitute” item in the solicitation, the name of a certain brand, make or manufacturer does not restrict bidders to that specific brand, make or manufacturer. The use of the brand, make or manufacturer’s identification is intended to convey the general type, style, character and quality of the item described. Any article which APS in its sole discretion determines to be the equivalent of the item specified, considering quality, workmanship, economy of operation and suitability for the intended use, may be accepted and considered for award.
- 7.3 If bidding a brand other than that specified, it is the bidders responsibility to substantiate that the goods and/or services meet the specifications. To ensure that sufficient information is available, the bidder shall furnish (and should submit as part of his bid) descriptive material (e.g., catalog cuts, drawings, specifications, etc.) necessary to substantiate that the products or services offered meet the requirements of the solicitation.

8. PREPARATION, SUBMISSION AND RECEIPT OF BIDS

- 8.1 Bids must be submitted to the address stated in the solicitation. Bids shall be submitted in the prescribed format and on the forms furnished, if any, or copies thereof, and shall be signed in ink. Original signatures are required on bids. Bids shall be enclosed in an envelope, and shall be sealed and clearly labeled with the bid number and project name so as to indicate the work covered by the solicitation so as to guard against opening prior to the time set for the opening. Bidders shall designate on the exterior of the outermost envelope the bid number and date and time of opening of the bid. Erasures or other changes must be explained and initialed by the bidder. Bids containing any conditions, omissions, failure to bid all items, unexplained erasures or alterations or items not called for in the bid, or irregularities of any kind, may be rejected by APS as being non-responsive.
- 8.2 Each bid must give the full legal name and business address of the bidder. Bids must be signed by a person authorized to bind the bidder in Contractual matters. The name and title of the person signing the bid shall also be typed or printed as indicated on the bid form.
- 8.2.1 The Bidder shall provide, in the space provided or directed in the solicitation, (i) its social security number if an individual, or (ii) its federal employer identification number if a proprietorship, partnership or corporation.
- 8.3 Bids must be received prior to the date and time of opening specified in the solicitation. Late bids will not be considered.
- 8.4 No APS official or employee shall be responsible for a bid opened that is not properly identified on the envelope, or for any bid not submitted, as specified in the solicitation. Bids for separate solicitations shall not be combined on the same form or submitted in the same envelope. Any such bids may be rejected as non-responsive.
- 8.5 Each Bid Form shall include specific acknowledgment of receipt of all addenda issued during the bidding process. Failure to acknowledge addenda may result in the bid being rejected as non-responsive.
- 8.6 APS accepts no responsibility for any expense incurred by any bidder in the preparation and submission of a bid.

9. ALTERNATE BIDS

Bidders who have other items they wish to offer in lieu of or in addition to what is required by this solicitation shall submit a separate bid clearly marked “ALTERNATE BID”. Alternate bids will be deemed non-responsive and will not

be considered for award. Such bids will, however, be examined prior to awarding the Contract contemplated herein and may result in either cancellation of all bids in order to permit rewriting of the solicitation to include the alternate items in a re-bid or the alternate items may be considered for future requirements.

10. **EXCEPTIONS**

Bidders taking exception to any part or section or term of this solicitation, including, by way of illustration and not limitation, the Contract, the specifications, Special conditions, General Terms and Conditions and Instructions to Bidders and any other attachments or references hereto or thereto, shall indicate such exceptions on the Bid Form. Failure to indicate any exceptions, shall be interpreted as the bidder's intent to fully comply with solicitation as written. However, conditional or qualified bids with such exceptions, unless specifically allowed in this solicitation, are subject to rejection in whole or in part as non-responsive.

11. **SUBMISSION OF PROPRIETARY INFORMATION**

Trade secrets or proprietary information submitted by a Bidder in connection with this procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Bidder must invoke these protections prior to or upon submission of the data or the materials, and must identify the data or other materials to be protected and state the reason why protection is necessary. [Virginia Code Section 2.2-4342(F)]. **Bidders shall submit, in a separate section of the bid, any information considered by the Bidder to be trade secrets or proprietary information, shall clearly identify the information as trade secrets or proprietary information and shall state the reason why protection is necessary. Bidders may not declare the entire bid proprietary nor may they declare pricing to be proprietary.** References may be made within the body of the bid to proprietary information; however all information contained within the body of the bid not in the separate section labeled proprietary shall be public information.

12. **SIGNED BID CONSIDERED AN OFFER**

12.1 A signed bid shall be considered an offer on the part of the bidder and shall be deemed accepted upon award by APS, unless withdrawn under the provisions herein. Should any bidder receiving an award default or fail to deliver the products or services ordered by the time specified, APS may terminate the Purchase Order and/or Contract, and after oral or written notice to the bidder, may procure the products and/or services from other sources and hold the defaulting bidder liable for any resulting additional cost.

12.2 Unless otherwise specified by APS, all formal bids submitted shall be binding for ninety (90) calendar days following bid opening date, unless extended by mutual consent of all parties. No limitation made by the bidder on the binding nature of the bid shall have any effect.

13. **LATE BIDS**

13.1 A late bid is any bid received at the office designated in the solicitation after the exact time specified for receipt of the bid. Late bids will not be considered for award except if it is received before award is made and either:

13.2 It was sent by registered or certified mail not later than the fifth (5th) calendar day prior to the date specified for receipt of the bid or:

13.3 The bid was sent by mail and the Purchasing Agent determines that the late receipt was due solely to mishandling

by the Arlington Public Schools after receipt at the address and the office specified in the solicitation.

13.4 The time a bid is received shall be determined by the date and time stamped by the date and time clock in the Purchasing Office. Bidders are responsible for ensuring that Purchasing Office personnel date and time stamp their bids by the deadline indicated. In the event the time clock is not functioning, the time shall be determined by the time displayed on the landline telephone near the time clock. The time on the telephone will be written on the bid by hand by the Purchasing Office staff.

13.5 A late hand-carried bid, or any other late bid not submitted by mail or courier, shall not be considered for award.

14. WITHDRAWAL OF BID

No bid may be withdrawn after it is filed unless the bidder makes a request in writing to APS prior to the time set for the opening of bids or unless APS fails to award or issue a notice of intent to award within ninety (90) days after date fixed for the opening.

15. WITHDRAWAL OF BID DUE TO ERROR (Other Than Construction)

15.1 Upon proper request and identification, bids may be withdrawn at any time prior to the date and time set for the bid opening. After the bid opening, if the Purchasing Agent denies the withdrawal of a bid, the bidder shall be notified in writing stating the reasons for the decision. Award of the Contract shall be made to the bidder at the bid price, provided the bidder is a responsible and responsive bidder.

15.2 Bidders may request withdrawal of their bid from consideration if the price bid was substantially lower than the other bids due solely to a clerical or arithmetical mistake therein. The bidder shall give written notice to the Director of Purchasing of a claim to withdraw the bid prior to the award of the Contract or issuance of the Purchase Order. The cause and nature of the mistake shall be stated in the claim to withdraw.

15.3 If a bid is withdrawn under the authority of this section, the lowest remaining bid shall be deemed to be the low bid.

15.4 No bid may be withdrawn under this section when the result would be the awarding of the Contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any sub-Contract or other work agreement for the person or firm to whom the Contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

16. REJECTION AND AWARD OF BIDS

16.1 APS reserves the right to accept or reject any or all bids or parts of bids, to waive informalities and re-bid any requirement. Bids having exceptions to the specifications and/or terms and conditions included in the solicitation may be considered, but preference may be given to bids with no exceptions taken.

16.2 Modifications of or additions to any portion of a quote or bid, which affects quality, quantity, price or delivery, shall be cause to reject the bid as non-responsive. Modifications which do not affect quality, quantity, price or delivery will be dealt with, by APS, on a case by case basis and APS, in its sole discretion, may reject such bids as

non-responsive, waive the modifications as informality or require the bidder to withdraw the non-responsive language as a condition of being a responsive bidder.

- 16.3 APS reserves the right to award the Contract for any or all items bid on a lump sum basis, individual item basis or such combination as shall best serve its interests, including award to multiple Contractors, unless otherwise specified by APS. Where a unit price and the extension price are at variance, the unit price will prevail.
- 16.4 A notice of Contract award for this solicitation shall be posted on a bulletin board the public bulletin board on the 1st Floor, Education Center, 1426 N. Quincy Street, Arlington, VA 22207 for a period of at least 10 calendar days.
- 16.5 If a bid from the lowest responsive and responsible bidder exceeds available funds, APS may negotiate with that bidder to obtain a Contract within available funds. Such negotiation may include but is not necessarily limited to adjustment of the bid price and changes in the bid scope or requirements in order to bring the bid within the amount of available funds. The apparent lowest responsive and responsible bidder shall be notified in writing that the bid exceeds available funds and APS wishes to negotiate. If APS and the Bidder are unable to successfully negotiate the scope of work and/or bid price so the price is within available funds, all bids shall be rejected. APS reserves the right to increase or decrease quantities at the quoted unit price.

17. INFORMALITIES

APS has the right to waive minor defects or variances from the exact requirements of the solicitation in bid insofar as those defects or variances do not affect the price, quality, quantity or delivery schedule of the goods or services being procured. If insufficient information is submitted for APS to properly evaluate the bid, APS has the right to require such additional information as it may deem necessary after the bid opening time and date, provided that the information requested does not change the price, quality, quantity or delivery schedule for the goods or services being procured.

18. QUALIFICATION OF BIDDERS

Each bidder may be required, before the award of a Contract, to show to the complete satisfaction of the Purchasing Agent that it has the necessary facilities, ability and financial resources to furnish the goods or services specified herein in a satisfactory manner. Each bidder may also be required to show past history and references which will enable the Purchasing Agent to be satisfied as to the bidder's qualifications. Failure to qualify according to the foregoing requirements will justify bid rejection by APS.

19. NOTICE OF ACCEPTANCE/CONTRACT DOCUMENTS

A written award (Acceptance Agreement or two party Contract) mailed or otherwise furnished to the successful bidder within the time for acceptance specified in the solicitation shall be deemed to result in a binding Contract. The following documents which are included in the solicitation shall be incorporated by reference in the resulting Contract and become a part of the Contract:

- 19.1 Bidder's Bid Form
- 19.2 Pricing Schedule
- 19.3 APS Acceptance Agreement/Acceptance Agreement;
- 19.4 General Terms and Conditions & Instructions to Bidders
- 19.5 Any Special Conditions if applicable
- 19.6 Any addenda

20. SAMPLES

Evidence in the form of samples may be requested if the brand bid is other than that specified. When requested, samples must be furnished free of cost to APS, within seven (7) days of written request, and will, if not used or destroyed in testing and upon request, be returned at the bidder's expense within thirty (30) days of bid award.

21. CONTRACTOR REGISTRATION/ ARLINGTON COUNTY LICENSE

21.1 If required in order to perform the work in this solicitation, the bidder certifies they have the appropriate license or certificate and classification(s) required to perform the work included in the scope of the bid documents, prior to submitting the bid, in accordance with Title 54.1, Chapter 11 of the Code of Virginia and in accordance with the laws, rules and regulations of the Commonwealth of Virginia, Department for Professional and Occupational Regulation, Virginia Board for Contractors in granting the License or Certificate and classifications.

21.2 The successful bidder must comply with the provisions of Chapter 11 ("Licenses") of the Arlington County Code, if applicable. For information on the provisions of that chapter and its applicability to this solicitation, contact the Arlington County Business License Division, Office of the Commissioner of Revenue, 2100 Clarendon Boulevard, Suite 200, Arlington, Virginia 22207, (703) 228-3060.

22. AUTHORITY TO TRANSACT BUSINESS

Any bidder organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership must 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 Virginia Code, or as otherwise required by law. The proper legal name of the firm or entity and the identification number issued to the bidder by the State Corporation Commission must be written in the space provided on the proposal submission form. APS may require a firm to provide documentation prior to award which: 1) clearly identifies the complete name and legal form of the firm or entity (i.e. corporation, limited partnership, etc.), and 2) establishes that the firm or entity is authorized by the State Corporation Commission to transact business in the Commonwealth of Virginia. Failure of a prospective and/or successful bidder or offeror to provide such documentation shall be grounds for rejection of their bid or proposal or cancellation of the award, if an award has been made. For further information refer to the Commonwealth of Virginia State Corporation Commission website at: www.scc.virginia.gov.

23. LICENSES, PERMITS AND FEES

23.1 The Contractor shall secure and pay for all permits, governmental fees and licenses necessary for the proper execution and completion of the work which are legally required prior to and during the work, unless otherwise specified by APS in the solicitation.

23.2 Included in the permits required in the paragraph immediately above, the Contractor shall apply for and be issued a local permit for any land disturbing activity, and shall provide a "responsible land disturber" for the project, as required by Arlington County ordinance.

24. DELIVERY

24.1 Time is of the essence for any orders placed as a result of this solicitation. APS reserves the right to cancel such orders, or any part thereof, without obligation if delivery is not made at the time(s) specified in the awarded

Contract. All items shall be delivered F.O.B. destination and delivery included in the bid price. Failure to do so may be cause for termination of the Contract. The bidder shall assume all liability and responsibility for the delivery of merchandise in good condition to the specified delivery location(s).

24.2 In the case of failure by the Contractor to deliver goods or services in accordance with the Contract, APS, after oral or written notice, may procure the same or similar goods or services from other sources and the Contractor shall be liable for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which APS may have pursuant to this Contract under law. APS shall be entitled to offset such costs against any sums owed by APS to the Contractor.

25. ACCEPTANCE OF MATERIAL

The goods/services delivered under this solicitation shall remain the property of the Contractor until a physical inspection or actual usage of the goods/services is made and thereafter accepted to the satisfaction of APS. The goods/services must comply with the specifications and terms and conditions of the solicitation and be of the highest quality. In the event the goods/services supplied to APS are found to be defective or not to conform to specifications, APS reserves the right to cancel the order upon written notice to the Contractor and return products to Contractor at the Contractor's expense.

26. APS PURCHASE ORDER REQUIREMENT

Purchases by APS are authorized only if an APS Purchase Order is issued in advance of the transaction, indicating that the ordering agency has sufficient funds available to pay for the purchase. Contractors providing goods or services without a signed APS Purchase Order, do so at their own risk. APS will not be liable for payment of any purchases made by its employees without appropriate purchase authorization issued by APS Purchasing Agent.

27. CHANGES TO PURCHASE ORDERS

Any changes to an existing Purchase Order must be approved in advance through issuance of a written change order by the Purchasing Office. APS will not assume responsibility for the cost of any changes made without issuance of a written change order.

28. CHANGES AND AMENDMENTS TO CONTRACTS

28.1 APS may, at any time, by written notice, require changes in the services to be performed by the Contractor. If such changes cause an increase or decrease in the Contractor's cost of, time required for, performance of any services under this Contract, an equitable adjustment shall be made and the Contract shall be modified in writing accordingly. The APS Purchasing Office must approve all work that is beyond the original scope of work.

28.2 No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written authorization of the APS Purchasing Director/Purchasing Agent.

28.3 This Contract shall not be amended except by written amendment executed by persons duly authorized to bind the Contractor and APS.

29. PAYMENT TERMS

Payments will be made within 30 days after receipt of an approved invoice by APS. Discounts for prompt payment **will not** be considered in the evaluation of bids. However, any offered discount will become part of the award and will be taken if payment is made within the discount period offered in the bid. In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. For the purpose of earning the discount, payment shall be considered to have been made on the date that appears on the payment check or the date on which an electronic funds transfer for the payment was made.

30. INVOICES

Invoices unless otherwise specified on the Contract or Purchase Order, will be submitted for each Purchase Order immediately upon completion of the shipment or services. If shipment is made by freight or express, the original Bill of Lading properly receipted, must be attached to the invoice. Mail invoices, as applicable:

Arlington Public Schools
Office of Accounting
1426 N. Quincy St.
Arlington, VA 22207

31. TAXES

APS is exempt from the payment of any federal excise or any Virginia State Tax. The price bid must be net, exclusive of taxes. However, when under established trade practice, any federal excise tax is included in the list price; the bidder may quote the list price and shall show separately the amount of federal tax, either as a flat sum or as a percentage of the list price, which shall be deducted by APS. The APS Federal Tax Exemption Number is 54600128. Contractors located outside the Commonwealth of Virginia are advised that, when the bid calls for materials to be picked up by the APS at their place of business, they may charge and collect their own local/state sales tax.

32. COPYRIGHTS OR PATENT RIGHTS

By submitting a bid, the Bidder certifies that there has been no violation of copyrights or patent rights in manufacturing, producing, or selling the commodities or services to be ordered as a result of the solicitation. The successful bidder shall, at his own expense, defend any and all actions or suits charging such infringement, will indemnify APS and will save APS, its officers, employees, and agents harmless from any and all liability, loss, or expense occasioned by any such violation.

33. APPROPRIATION OF FUNDS

All funds for payments by APS under this Contract are subject to the availability of an annual appropriation for this purpose by the ACSB. In the event of non-appropriation of funds by the ACSB for the goods or services provided under the Contract or substitutes for such goods or services which are as advanced or more advanced in their technology, APS will terminate the Contract, without termination charge or other liability to APS, on the last day of the then current fiscal year or when the appropriation made for the then current year for the services covered by this Contract is spent, whichever event occurs first. If funds are not appropriated at any time for the continuation of this Contract, cancellation will be accepted by the Contractor on thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the APS shall not be obligated under this Contract beyond the date of termination.

34. TERMINATION FOR CONVENIENCE

Unless otherwise stated, any resultant Contract may be terminated by APS, in whole or in part, whenever APS determines that such a termination is in its best interests. Any such termination shall become effective on the date stated in a written notice of termination mailed to the Contractor at least five days prior to the stated termination date. The notice of termination shall state the extent to which performance shall be terminated. The Contractor shall be paid for all goods delivered or services successfully completed prior to the termination date. If funds are not appropriated for this Contract for any APS fiscal year, the Contract shall terminate automatically, without prior notice, after the last day for which funds were appropriated (see paragraph 34., Appropriation of Funds). Contract termination pursuant to this section shall not be considered a Contract default, and APS shall not be liable for future payments or for cancellation or termination charges.

35. TERMINATION FOR CAUSE

35.1 If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Contract, or if the Contractor violates any of the covenants, agreements, or stipulations of this Contract, APS thereupon has the right to declare the Contractor in default in whole or in part. In the event APS elects to declare the Contractor in default, APS will notify the Contractor by written notice describing the nature of the default and providing the Contractor a right to cure such default within ten (10) days after the date of the notice, or within such longer period as APS, in its sole and absolute discretion, may prescribe. In the event the default is not cured within the time period, APS has the right to take necessary actions to correct or complete the work. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the Contract shall, at the option of the APS, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.

35.2 Notwithstanding the above, the Contractor shall not be relieved of liability for damages sustained by APS by virtue of any breach of Contract by the Contractor until such time as the exact amount of damages due to APS from the Contractor can be determined.

36. INTENTIONALLY DELETED

37. OWNERSHIP OF DOCUMENTS

37.1 All finished or unfinished information or materials, documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by or for the Contractor under any resultant Contract shall, at the option of APS, become APS property and shall be delivered to and remain the property of APS upon completion of the work or termination of the Contract. APS shall have the right to use and reproduce the data and reports submitted hereunder, without additional compensation to the Contractor.

37.2 Any art work provided to the Contractor by APS shall be returned to APS upon delivery of the final products and/or services. Any art work, negatives, proofs, etc. produced by the Contractor in order to supply the products or services Contracted for shall become the property of APS and shall be sent to APS upon delivery of the final products and/or services unless otherwise requested by APS. Failure to deliver the art work, negatives, proofs, etc. shall be cause for withholding any payment due.

38. COMPLIANCE WITH ALL REQUIREMENTS

The Contractor shall comply with all applicable Federal, State and Local laws, codes and regulations. The Contractor shall give notice and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority having jurisdiction over the performance of the work.

39. ANTITRUST

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

40. LEGAL PROCEEDINGS

The Contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the Circuit Court of Arlington County, Virginia. The Contractor shall comply with applicable federal, state, and local laws and regulations.

41. ARBITRATION

It is expressly agreed that nothing under the Contract shall be subject to arbitration, and any references to arbitration are expressly deleted from the Contract Documents.

42. SEVERABILITY

The sections, paragraphs, sentences, clauses and phrases of this Contract are severable, and if any phrase, clause, sentence, paragraph or section of this Contract shall be declared invalid by the valid judgment or decree of a court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Contract.

43. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED

During the performance of this Contract, the Contractor agrees as follows:

43.1 The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin, except where religion, sex, or national origin 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 provision of this nondiscrimination clause.

43.2 The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an Equal Opportunity Employer.

43.3 Notices, advertisements and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

43.4 The Contractor will include the provisions of the foregoing paragraphs 43.1, 43.2 and 43.3 in every Sub-Contract

or Purchase Order of over \$10,000, so that the provisions will be binding upon each Sub-Contractor or vendor.

43.5 The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 which prohibits discrimination against individuals with disabilities in employment and mandates their full participation in both publicly and privately provided services and activities.

44. CONTRACTUAL DISPUTE

44.1 Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment; however, written notice of the Contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the dispute is based. Any notice or dispute shall be delivered to the Superintendent, Arlington Public Schools, 1426 N. Quincy Street, Arlington, Virginia 22207 and shall include a description of the factual basis for the dispute and a statement of the amounts claimed or other relief requested. The Superintendent shall render a decision on the claim and shall notify the Contractor within 30 days of receipt of the dispute. The Contractor may appeal the decision of the Superintendent to the Arlington County School Board by providing written notice to the Superintendent, within 15 days of the date of the decision. The Arlington County School Board shall render a decision on the dispute within 60 days of the date of receipt of the appeal notice and such decision shall be final unless the Contractor appeals the decision in accordance with the Virginia Public Procurement Act. Invoices for all services or goods provided by the Contractor shall be delivered to APS no later than 30 days following the conclusion of the work or delivery of the goods, unless other terms are prescribed by Contract.

44.2 A Contractor may not institute legal action as provided in the APS Resolution prior to receipt of APS's decision on the claim.

45. DRUG AND SMOKING FREE WORKPLACE

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

45.2 For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific Contract awarded to a Contractor in accordance with the APS Purchasing Resolution, 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.

45.3 Contractor acknowledges that any building or open area wherein or whereon the Contractor is performing the Work under the contract that there shall be no smoking as defined by Va. Code Ann. §15.2-2820, including e-cigarettes or similar apparatus, at any time in performing the work under the contract.

46. PAYMENTS TO SUBCONTRACTORS

In accordance with Virginia Code Section 2.2-4354 the Contractor agrees that:

46.1 Should any sub-contractor be employed by the Contractor for the provision of any goods or services under the resultant Contract, the Contractor agrees to the following:

46.1.1 The Contractor shall, within seven days after receipt of any payments from the County pursuant to the resultant Contract, either:

46.1.1.1 Pay the sub-contractor for the proportionate share of the total payment received from APS attributable to the goods or services provided by the Sub-Contractor; or

46.1.1.2 Notify APS and the sub-contractor, in writing, of the intention to withhold all or a part of the sub-contractor's payment with the reason for nonpayment. Written notice shall be given to: Superintendent, Arlington Public Schools, 1426 N. Quincy Street, Arlington, VA 22207.

46.1.2 The Contractor shall pay interest to the Sub-Contractor, at the rate of one percent per month on all amounts owed to the Sub-Contractor that remain unpaid after seven days following receipt of payment from APS for goods or services provided under the resultant Contract, except for amounts withheld under the subparagraph immediately preceding this subparagraph.

46.1.3 The Contractor shall include in each of its Sub-Contracts a provision requiring each Sub-Contractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier Sub-Contractor.

46.1.4 The Contractor's obligation to pay an interest charge to a Sub-Contractor shall not be an obligation of APS.

46.1.5 No Contract modification shall be allowed for the purpose of providing reimbursement for these interest charges. No cost reimbursement claim shall include any amount for reimbursement of these interest charges.

47. INDEMNIFICATION

To the fullest extent permitted by law, the Contractor, for itself, heirs, representatives, successors and assigns agrees to save, defend, keep harmless and indemnify APS, and all of its officials, agents and employees (collectively, "APS") from and against any and all claims, loss, damage, injury, costs (including court costs and attorney's fees), charges, liability or exposure, however caused, resulting from, arising out of or in any way connected with the Contractor's performance (or nonperformance) of the agreement terms or its obligations under this Contract.

48. ETHICS IN PUBLIC CONTRACTING

48.1 The provisions contained in Virginia Code Sections 2.2-4367 through 2.2-4377, the Virginia Public Procurement Act, shall be applicable to all Contracts solicited or entered into by APS. A copy of these provisions may be obtained from the Purchasing Agent upon request.

48.2 The provisions of this article supplement, but do not supersede, other provisions of law including, but not limited to, the State and Local Government Conflict of Interests Act (Title 2.2, Chapter 31 of the Virginia Code), the Virginia Governmental Frauds Act (Title 18.2, Chapter 12, Article 1.1 of the Virginia Code) and prohibitions against bribery and related offenses (Title 18.2, Chapter 10, Articles 2 and 3 of the Virginia Code). The provisions apply notwithstanding the fact that the conduct described may not constitute a violation of the Virginia Conflict of Interests Act.

49. NOTIFICATION

Any notice required by the Contract shall be effective if given by regular mail, to the Contractor in the name and at the address given in its proposal submission; provided that change of address shall be effective if given in accordance with this paragraph. Unless otherwise specified, any notice to APS shall be given by regular mail to the Arlington Public Schools, Purchasing Agent, 1426 N. Quincy Street, Arlington, VA 22207. The Contractor agrees to notify APS immediately of any change of legal status or of address. Any notice provided in accordance with this paragraph shall be deemed to have been completed five calendar days after the date of mailing.

50. EXTENSION OF CONTRACT TERM

The APS Purchasing Office, at its sole and absolute discretion, may extend the final Contract term or final Contract renewal term of the resultant Contract for a period of not more than six months, unless specifically stated otherwise in the solicitation.

51. INTENTIONALLY DELETED

52. INTENTIONALLY DELETED

53. GUARANTEES & WARRANTIES

53.1 The Contractor shall, through itself and/or the manufacturer, provide APS with a warranty on all products provided by the Contractor. The warranty shall be for a period of at least one-year, or the manufacturer's standard warranty, whichever is longer.

53.2 The warranty shall include all parts, labor, transportation, and any other costs (except general supply items) necessary to keep the product in good operating condition.

53.3 The cost of this one-year warranty shall be included in the price quoted.

53.4 If seasonal limitations prevent performance of any required testing of the product, the warranty period for such equipment shall begin after the tests have been successfully performed.

54. USE OF INFORMATION AND DOCUMENTS

APS and its officials, employees and agents will copy and use the response of the bidder and documents included with the response, for various purposes related to analysis, evaluation, and decision to award a Contract. The bidder is responsible for obtaining any necessary authorizations for such use of the documents and information, and for assuring that such copying and use is in conformance with laws related to trademarks and copyrights. Any documents or information for which the bidder has not obtained such authorization, or for which such copying and use is not authorized, shall not be

submitted. The undersigned bidder agrees to indemnify, defend and hold APS, its officials, employees and agents harmless from any claims of any nature, including claims arising from trademark copyright laws, related to use of information and documents submitted with the Bidder's response.

55. FAITH BASED ORGANIZATIONS

APS does not discriminate against faith-based organizations.

56. IMMIGRATION REFORM AND CONTROL ACT

In accordance with § 2.2-4311.1 of the Code of Virginia, Contractors shall certify that they have not, and will not during the performance of the Contract for goods and services of the Contract, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

57. HIPAA COMPLIANCE

The Contractor shall comply with all applicable legislative and regulatory requirements of privacy, security and electronic transaction components of the Health Insurance Portability and Accountability Act (HIPAA) of 1996.

58. CONTRACTOR AND EMPLOYEE CERTIFICATION REGARDING CRIMINAL CONVICTIONS

58.1 As a condition of awarding a contract for the provision of Work that requires the Contractor or his employees to have direct contact with students on school property during regular school hours or during school-sponsored activities, the Arlington School Board shall require the Contractor to provide certification that all persons who will provide such services have not (i) been convicted of a felony or of any offense involving the sexual molestation or physical or sexual abuse or rape of a child; (ii), as more particularly set forth in Va. Code Ann. Section 18.2-370.4 no person shall perform any part of the Work on the property of an existing elementary or secondary school who has been convicted of rape, forcible sodomy or object sexual penetration, all of a child under 13, during the commission of abduction, in the course of entering a dwelling with intent to commit murder, rape, robbery, arson, larceny, assault and battery, or any felony, or of aggravated malicious wounding; and (iii) as more particularly set forth in Va. Code Ann. Section 18.2-370.5, no person shall perform any part of the Work on the property of an existing elementary or secondary school during school hours or during school-related or school sponsored activities who has been convicted of a sexually violent offense. The Contractor certification covers its employees, its Subcontractors and the employees thereof.

58.2 The Contractor certification shall also cover its employees, its Subcontractors and employees thereof, assigned to the Work after Contract award. The Contractor, upon demand from APS, shall provide all information which allowed for the Contractor's certification.

58.3 The Contractor shall submit to APS a completed Contractor Certification Regarding Criminal Convictions on the form provided by APS (see Attachment A)

59. ASSIGNMENT

The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of any award, or any or all of its rights, obligations, or interests under this Contract, without the prior written consent of APS.

60. SUBCONTRACTING

- 60.1 The Contractor shall not enter into any Subcontract with any Subcontractor who has been suspended or debarred from participating in contracting programs by any agency of the United States Government or of the State in which the work under this Contract is to be performed.
- 60.2 The Contractor shall be as fully responsible for the acts or omissions of its Subcontractors, and of persons either directly or indirectly employed by them as for the acts or omissions of persons directly employed by the Contractor.
- 60.3 The Contractor shall insert appropriate clauses in all Subcontracts to bind Subcontractors to the terms and conditions of this Contract insofar as they are applicable to the work of Subcontractors.
- 60.4 Nothing contained in this Contract shall create any Contractual relationship between any Subcontractor and APS.

61. CONTRACTOR RESPONSIBILITY FOR DAMAGE TO PROPERTY

The Contractor shall be responsible for damages to property caused by work performed under the Contract or Purchase Order. The Contractor shall repair to proper working order or replace, to APS's satisfaction, any property damaged either directly or indirectly by its actions.

62. FORCE MAJEURE

- 62.1 The Contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to fires, riots, rebellions, natural disasters, wars or an act of God beyond the control of the Contractor and outside the scope of the Contractor's then-current disaster plan that makes performance impossible or illegal, unless otherwise specified in the Contract.
- 62.2 APS shall not be held responsible for failure to perform its duties and responsibilities imposed by the Contract if such failure is due to fires, riots, rebellions, natural disasters, wars or an act of God beyond the control of APS that makes performance impossible or illegal, unless otherwise specified in the Contract

63. COOPERATIVE PURCHASING CONTRACTS WITH PUBLIC JURISDICTIONS

- 63.1 This procurement is being conducted on behalf of APS, Virginia and other public bodies in accordance with the provisions of §2.2-4304 of the Virginia Public Procurement Act.
- 63.2 If approved by the Contractor, the Contract resulting from this procurement may be used by other public bodies to purchase at Contract prices and in accordance with the Contract terms. The Contractor shall deal directly with any public body it approves to use the Contract. APS assumes no responsibility for any notification of the availability of the Contract for use by other public bodies, but the Contractor may conduct such notification.
- 63.3 With the approval of the Contractor, any public body using the resultant Contract has the option of executing a separate Contract with the Contractor to add terms and conditions required by statute, ordinances, or regulations, or to remove terms and conditions which conflict with its governing statutes, ordinances, or regulations.
- 63.4 APS, its officials and staff are not responsible for placement of orders, invoicing, payments, Contractual disputes, or any other transactions between the Contractor and any other public bodies, and in no event shall APS, its officials or staff be responsible for any costs, damages or injury resulting to any party from use of an APS Contract.

64. SUBCONTRACTING WITH SMALL & MINORITY FIRMS, WOMEN’S BUSINESS ENTERPRISE, & LABOR SURPLUS AREA FIRMS

The Contractor should take the following steps to assure that, whenever possible, subcontracts are awarded to minority firms, women’s business enterprises, and labor surplus area firms:

- 64.1 Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
- 64.2 Assuring that small and minority businesses and women’s business enterprises are solicited whenever they are potential sources;
- 64.3 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women’s business enterprises;
- 64.4 Establishing delivery schedules, where the requirements of the Contract permit, which encourage participation by small and minority businesses and women’s business enterprises; and
- 64.5 Using the services and assistance of the U.S. Small Business Administration, the Minority Business Development Agency of the U.S. Department of Commerce, and state and local.

65. GENERAL INSURANCE REQUIREMENTS

65.1 The Contractor shall provide a Certificate of Insurance to the Purchasing Agent indicating that the Contractor has in force the coverage below prior to the start of any work under the contract and agrees to maintain such insurance until the completion of the contract. All required insurance coverage’s must be acquired from insurers authorized to do business in the Commonwealth of Virginia and acceptable to APS. The minimum insurance coverage shall be:

- 65.1.1 Workers Compensation – Virginia Statutory Workers Compensation (W/C) coverage including Virginia benefits and employers liability at the state statutory limits. APS will not accept W/C coverage issued by the Injured Worker’s Insurance Fund of Towson, MD.
- 65.1.2 Commercial General Liability - \$1,000,000 per occurrence with \$5,000,000 general aggregate covering all premises and operations and including Personal Injury, Completed Operations, Contractual Liability, Independent Contractors, and Products Liability. The general aggregate limit shall apply to this project. Evidence of Contractual Liability coverage shall be typed on the certificate.
- 65.1.3 Additional Insured – Arlington County School Board shall be named as an additional insured in the Contractor’s Commercial General Liability policy; evidence of the Additional Insured endorsement shall be typed on the certificate.
- 65.1.4 Cancellation – A thirty (30) day notice of cancellation or non-renewal in writing shall be furnished by the Contractor’s insurance carrier(s) or insurance agent(s) to APS Purchasing Agent.
- 65.1.5 Contract identification – The insurance certificate shall state contract number and title.
- 65.1.6 Business Automobile Liability -- \$500,000 Combined Single Limit (Owned, non-owned and hired).

- 65.2 The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work, until final acceptance of the work by APS.
- 65.3 No acceptance or approval of any insurance by APS shall be construed as relieving or excusing the Contractor from any liability or obligation imposed upon the Contractor by the provisions of the Contract Documents.
- 65.4 The Contractor shall be responsible for the work performed under the Contract documents and every part thereof, and for all materials, tools, equipment, appliances, and property of any description used in connection with the work. The Contractor shall be as fully responsible to APS for the acts and omissions of its subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.

66. PRICE REDUCTION

If at any time after the date of the bid the Contractor makes a general price reduction in the comparable price of any material covered by the contract to customers generally, an equivalent price reduction based on similar quantities and/or considerations shall apply to the contract for the duration of the contract period (or until the price is further reduced). Such price reduction shall be effective at the same time and in the same manner as the reduction in the price to customers generally. For purpose of this provision, a “general price reduction” shall mean any horizontal reduction in the price of an article or service offered (1) to Contractor’s customers generally, or (2) in the Contractor’s price schedule for the class of customers, i.e., wholesalers, jobbers, retailers, etc. which was used as the basis for bidding on this solicitation. An occasional sale at a lower price, or sale of distressed merchandise at a lower price, would not be considered a “general reduction” under this provision. The Contractor shall submit their invoice at such reduced prices indicating on the invoice that the reduction is pursuant to the “Price Reduction” provision of the contract documents. The Contractor, in addition, will within ten (10) days of any general price reduction, notify the Purchasing Agent of such reduction by letter. **FAILURE TO DO SO MAY LEAD TO TERMINATION OF THE CONTRACT.** Upon receipt of any such notice of a general price reduction all ordering offices will be duly notified by the Purchasing Agent. The Contractor, if requested, shall furnish, within ten (10) days after the end of the contract period, a statement certifying either (1) that no general price reduction, as defined above, was made after the date of the bid, or (2) if any such general price reductions are made, that as provided above, they were reported to the Purchasing Agent within ten (10) days, and ordering offices were billed at the reduced prices. Where one or more such general price reductions were made, the statement furnished by the Contractor shall include with respect to each price reduction (1) the date when notice of any such reduction was issued, (2) the effective date of the reduction, and (3) the date when the Purchasing Agent was notified of any such reduction.