



Brevard County · Canaveral Port Authority · Cape Canaveral · Cocoa ·
Cocoa Beach · Melbourne · Melbourne Beach · Palm Bay · Rockledge ·
School Board of Brevard County · Titusville · Satellite Beach

TO OUR PROSPECTIVE CONTRACTORS:

The attached Invitation for Bid or Request for Proposal represents a cooperative procurement for the Brevard County Public Entity Purchasing Cooperative.

Local Governmental entities within the Brevard County area, currently consisting of 12-members, have entered into an Interlocal Agreement to create a Cooperative Purchasing group within our geographical area. The Brevard County Public Purchasing Cooperative was formed in an effort to develop cooperative relationships among its participants for the purpose of seeking responses to solicitations which may result in lower costs to group participants on commonly used commodities, better quality of products and lower administrative costs.

The government entities participating in this particular procurement and their respective delivery locations are listed in the attached document.

Brevard County Public Entity Purchasing Cooperative Procurement Operational Procedures:

- All questions concerning this procurement should be addressed to the issuing agency, hereinafter referred to as the "Lead Entity". All responses are to be returned in accordance with the instructions contained in the attached document.
- The solicitation specifications, terms and conditions shall be the controlling document. Each participating governmental entity will be responsible for awarding the contract, issuing its own purchase orders, and for order placement. Each entity will require separate billings, be responsible for payment to the Contractor(s) awarded this contract and issue its own tax exemption certificates as required by the Contractor.
- Invoicing instructions and delivery locations will be in accordance with the respective entity requirements.
- Any reference in the documents to a single entity or location will, in fact, be understood as referring to all participating entities referenced in the documents and cover letter unless specifically noted otherwise.
- The Contractor(s) shall furnish the Lead Entity a detailed Summary of Sales semi-annually during the contract period. Sales Summary shall include Agency name, contract number(s), contractor's name, the total of each commodity sold during the reporting period and the total dollar amount of purchases by commodity.
- Municipalities and other governmental entities which are not members of the Brevard County Public Entity Purchasing Cooperative are strictly prohibited from utilizing any contract or purchase order resulting from this solicitation award. However, other Brevard County Public Entity Purchasing Cooperative members may participate in their contract for new usage, during the contract term, or in any contract extension term, if approved by the lead entity. New Brevard County Public Entity Purchasing Cooperative members may participate in any contract on acceptance and approval by the lead entity.
- None of the participating governmental entities shall be deemed or construed to be a party to any contract executed by and between any other governmental entity and the Contractor(s) as a result of this procurement action.

THE SCHOOL BOARD OF BREVARD COUNTY, FLORIDA

PROCUREMENT & DISTRIBUTION SERVICES

2700 Judge Fran Jamieson Way

Viera, FL 32940

INVITATION TO BID

SCOPE OF WORK AND SPECIAL TERMS & CONDITIONS

**ITB 21-452-B-JW Fencing Contracting Services
(Co-Op)**

ALL BIDS DUE BY: May 11, 2021 by 2:00 P.M. ET

NOTE: BIDS RECEIVED AFTER THE DUE DATE AND TIME WILL NOT BE ACCEPTED.

PRE-BID MEETING: N/A

PROCUREMENT CONTACT: Jennifer Wells, Buyer I

Phone: 321-633-1000 ext. 11106 Email: wells.jennifer@brevardschools.org



PURPOSE

The purpose of this Invitation to Bid (ITB) is to solicit competitive sealed Bids to furnish **Fencing Contractor Services (Co-Op)** for the use of The School Board of Brevard County, Florida (School Board).

1.0 SCOPE

1.01 This Specification establishes the minimum requirements for this solicitation, listed and described in the body of these specifications, to be used as noted, by The School Board of Brevard County and Brevard County Public Entity Purchasing Cooperative.

The intent of this bid is to procure services for projects less than \$300,000.00. It is also the intent to utilize the awarded firms from this Invitation to Bid as follows:

- Projects less than \$5,000.00, District staff may choose any one of the awarded firms to perform the work.
- Projects greater than \$5,000.00 and less than \$300,000.00, District staff will send an email to all the awarded firms, the firms will submit a written quote to the District Staff and the District will award the project to the firm with the lowest responsive, responsible written quote.

Successful bidder(s) shall be required to comply with each agencies background screening requirements and any quote thresholds that differ from above.

1.02 AWARD TERM

The School Board's goal is to promote partnership relationships within the policies and procedures of public procurement. Pursuant toward that end, the successful Bidder(s) shall be awarded a contract for an initial three (3) year term with an optional one (1) two (2) year renewal period.

The award term recommendation will be that which is determined to be in the best interest of the School Board. The renewal option shall be exercised only if all original contract terms, conditions, and prices remain the same. All renewals will be contingent upon mutual written agreement and, when applicable, approval of School Board.

1.03 BIDDER'S QUALIFICATIONS

The Bidder(s) shall be properly licensed to perform fencing work in Brevard County. The licenses must be valid at the time of the bid opening. A copy must be provided with the bid response.

The Bidder must have successfully completed within the past three (3) years, a minimum of five (5) commercial/educational fencing projects where the contract amount was \$5,000.00 or more.

If legal business has changed in the past three (3) years, please provide documentation showing previous business name and current business name showing the history of providing Fencing Contracting services consecutively for the past three (3) years.

1.04 BIDDER'S REQUIREMENTS

1.04.1 The awarded Bidder's shall furnish all labor, tools, equipment, transportation, utilities, materials, and locates for underground utilities to provide Fencing Contracting services at multiple facilities within Brevard County as required by the District. These services shall include, but not limited to, small to medium repair, replacement, and Construction renovation projects.

1.04.2 The awarded Bidder's shall supervise and direct the Work, using their best skill and attention. The firm shall be solely responsible for all Work assigned to them by the District, means, methods, techniques, sequences and procedures for coordinating all portions of the Work under the Contract.

- 1.04.3** The awarded Bidder's as requested by the District shall furnish materials and other undefined labor. The District reserves the right to furnish materials to the awarded Bidder. The district may opt to use Owner Direct Purchases to capture sales tax savings. Materials provided by the Bidder shall be billed to the District based on the actual prices paid by the Bidder for the materials used plus the percentage mark-up bid. Copies of the invoices for the materials received by the Bidder shall be submitted with each invoice submitted to the Owner. The District shall pay only fair market prices for materials. The Bidder shall be reimbursed at invoice cost including (1) sales and/or use taxes and (2) freight. A markup shall be paid on the invoice cost of the materials excluding all (1) sales and/or use taxes and (2) freight. The markup shall be based on the material markup percentage specified on the price sheet, **not to exceed 15%**.
- 1.04.4** Equipment Rentals will be billed to the district at cost plus markup percentage specified on the price sheet, **not to exceed 15%**. A copy of the rental receipt is to be provided to the district with the invoice at the completion of the project. Owned equipment is to be listed on the Vendor's proposal at the going rate and will be included on the purchase order and invoice as individual line items.
- 1.04.5** The "Cost Plus" percentage for Materials and Equipment Rental shall be handled as a decimal number: example: 10% is 0.1, 14.5% is 0.145.
- 1.04.6** Labor provided by the Bidder shall be billed to the District based on the hourly rates bid for labor. The hourly rate bid shall include full compensation for labor, equipment operator, travel time and any other costs (including overhead and profit) to the Bidder. The rate is straight time for all labor except as otherwise noted herein. At times, due to time constraints, overtime pay shall be permitted. In those cases where the Bidder's employee works in excess of forty hours and on official holiday, then the District will authorize payment of one and a half times the labor rates bid. Overtime rates shall be included in the Work Request Estimate. If the District requests labor that is not covered by labor categories on the bid price sheet, the District shall pay the Bidder for that labor based on the Bidder's actual cost paid to the individual plus the percentage bid. Copies of pay stub or invoices for this labor shall accompany the Bidder's completion form. No additional payment shall be permitted for work required and scheduled on weekends or evenings. The District shall pay only fair market pricing for labor.
- 1.04.7** The Bidder shall be qualified to perform and responsible for the entire project contracted for and does himself or by others – construct, repair, alter, remodel, add to, subtract from, or improve any building or structure. The School Board of Brevard County reserves the right to reject a bid or any bidder if the bid names a subcontractor who has previously failed to deliver on time contracts of similar nature, or who is not in a position to perform properly this award. The School Board of Brevard County reserves the right to inspect all facilities of any subcontractors in order to make a determination as to the foregoing. Subcontractors utilized by the Bidder shall be billed to the School Board on the actual prices paid plus the percentage markup bid on the price sheet, **not to exceed 15%**. Copies of invoices received by the Bidder for Subcontractors shall be submitted with each contractor's completion form. The District shall only pay fair market prices for labor.
- 1.04.8** The Bidder may subcontract any portion of a project for any reason. When subcontracting any portion of the work, the Bidder must state the name and address of the subcontractor and the name of the person to be contacted on the estimate. Subcontractors shall be approved by the School Board of Brevard County's authorized representative. When the work is under the \$5,000.00 threshold the Bidder shall quote the work based on the subcontractors cost plus the Bidder's approved mark-up rate and provide all supporting documents with the invoice.
- 1.04.9** Bidder may purchase fencing parts and materials in bulk. When quoting work where bulk parts and materials are used, the Bidder shall submit parts and material quantities and a cost breakdown on company letterhead.

- 1.04.10** Bidder may be responsible for obtaining any necessary permits and providing a copy to the requesting agency for their records when requested by the Owner. Permits needed for a specific project should be clearly stated as a separate line item on all quotes and invoices; **the contractor shall not mark-up permit fees.** There will be times when the work is performed under the work site's Annual Maintenance Permit. When this occurs, an individual permit pulled by the Bidder will not be needed.
- 1.04.11** The Bidder shall be responsible to the Owner for the acts and omissions of his employees, subcontractors and their agents and employees, and other persons performing any of the work under a contract with the Bidder.
- 1.04.12** Unless otherwise provided in project documents, the Bidder shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation and any other facilities and services necessary for the proper execution and completion of the project whether temporary or permanent and whether or not incorporated or to be incorporated in the project.
- 1.04.13** The Bidder warrants to the Owner that all materials and equipment furnished under this contract will be NEW unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the project specifications. All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the District, the Bidder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
- 1.04.14** The Bidder at all times shall keep the premises free from the accumulation of waste materials or rubbish caused by his Work in progress. At the completion of the Work, the Bidder shall remove all of this material/rubbish from the District's property as well as all of his tools, equipment, machinery and surplus materials.
- 1.04.15** The Bidder shall be responsible for notifying the District, in writing, of any conditions detrimental to the proper and timely completion of the Work. The Bidder shall not proceed with any work until unsatisfactory conditions have been corrected in a manner acceptable to him, the Bidder.

1.05 REPRESENTATIVES OF THE CONTRACT MANAGER

Duly appointed representative of the School Board may be utilized to inspect equipment used under this contract, observe personnel employed and note the general performance of the Contract. The representative will not be authorized to revoke, enlarge, alter, or relax the conditions of these specifications. The representative of the School Board will have the authority to reject defective equipment, report on inept personnel, and to suspend any work that is being improperly done, subject to the final decision of the School Board of Brevard County Superintendent or designee.

1.06 SUPPLEMENTARY SPECIFICATIONS

The District reserves the right to add supplementary specifications for larger projects. These supplementary specifications shall be added to the Scope of work for specific projects to allow the Bidder to calculate any additional costs, which may be associated with their use and subsequent compliance.

1.07 CATALOG BID – N/A

1.08 DISCOUNT ADJUSTMENTS – N/A

1.09 NEW ITEMS AND/OR OPTIONS – N/A

1.10 ITEM DISCONTINUANCE – N/A

1.11 MODEL NUMBER CHANGES – N/A

1.12 DELIVERY TERMS – N/A**1.13 LABELING – N/A****1.14 DAMAGED ITEMS**

In the event an item or items is received, and it is later determined there is concealed damage when the item or items is unpacked, the item or items must be replaced by the awarded Bidder at no cost to the School Board.

1.15 INSTALLATION

Where installation is required, the successful bidder shall deliver, set in place, install, make ready to run, and test (test to be accomplished in the presence of an authorized representative of the School Board of Brevard County, Florida). The bidder shall provide a qualified person, at no extra cost, to assure performance of the item and to make the initial start-up and achieve the successful testing. Upon completion of the successful testing of the item, the authorized **representative of the School Board shall accept it. All miscellaneous installation materials shall** be included in the Total Turnkey price. The miscellaneous installation materials include the following: conduit, wire, fiber, connectors, fittings, boxes, etc. All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Successful bidder shall protect the site from damage and shall repair damages or injury caused during the installation by the successful bidder or its employees or agents. If any alternation is required to the Building to achieve installation, the successful bidder shall promptly restore the structure or site to its original condition. Successful bidder shall perform installation work so as to cause the least inconvenience and interference with the School Board and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.

1.16 QUANTITY – N/A**1.17 ADDITIONAL QUANTITIES**

The School Board reserves the right to purchase any additional quantities of the bid item(s) from the awarded Bidder at this bid price for a period of one (1) year from the date of the award of the bid, provided the Bidder is in agreement at time of order.

1.18 QUANTITY CHANGES

The School Board reserves the right to increase or decrease the total quantities necessary.

1.19 GUARANTEED QUANTITIES (catalog) – N/A**1.20 METHOD OF ORDERING**

Items shall be ordered via individual purchase orders or by Visa purchasing card on an "as needed" basis for the term of the contract. Invoices must be submitted against each individual purchase order.

1.21 ORDERS

Schools, departments and centers of the School Board will issue purchase orders or place order by Visa purchasing card directly to the awarded Bidder(s) for the purchase of **Fencing Contracting Services (Co-Op)**. The awarded Bidder(s) will be expected to honor these orders according to the discount terms and conditions listed in this solicitation. Each purchase order will be emailed to the awarded Bidder(s). The order should be reviewed for correct prices, catalog numbers, extensions, etc.

1.22 EXEMPT FROM THIS BID

Purchases shall not include items available at lower prices on other School Board bid awards or on Florida State Contracts. Items shall be ordered via individual purchase orders or Visa purchasing card on an "as needed" basis for the term of the contract. Invoices must be submitted against each

individual purchase order or receipts must be submitted for each purchase on Visa purchasing card.

1.23 SUBSTITUTES

Unapproved substitutes will not be allowed. If items are not available, the school or department noted on the purchase order must be contacted prior to shipment to determine if a substitute is acceptable.

1.24 STANDARDIZATION OF ITEMS

Some items have been standardized by the School Board's Plant Operations & Maintenance Department; these items are indicated on the price sheet as "ONLY" along with the Manufacturer's name and part number, allowing no alternate bids. Where there is no Manufacturer, model or part number indicated, just the description, please supply us with the Manufacturer name, model and part number you are bidding along with descriptive literature if required.

1.25 LIQUIDATED DAMAGES

Time is of the essence of the completion of this project under the Contract Documents. The School Board and awarded Bidder agree that losses suffered by the School Board are not ascertainable at this time. The awarded Bidder acknowledges and agrees that, since time is of the essence, the School Board will suffer financial and other losses if the project is not completed within the contracted time. Should the awarded Bidder fail to achieve completion of the project within the contracted time, the School Board shall be entitled to assess, as liquidated damages, but not as a penalty, the sum of **\$100.00** for each calendar day thereafter until completion is achieved. The awarded Bidder hereby expressly waives and relinquishes any right it may have to seek to characterize the above-noted liquidated damages as a penalty. The parties agree that the above-stated amount represents a fair and reasonable estimate of the School Board's actual damages at the time of contracting if awarded Bidder fails to achieve completion of this project within the contracted time.

1.26 NO DAMAGES FOR DELAY

Bidder is not entitled to any additional compensation or increase in the contract sum for direct, indirect, impact, or any other damages arising because of any hindrance or delays caused by the owner or any other cause whatsoever. Bidder's only remedy for delay, not caused or exacerbated by the Bidder, shall be an extension of time to complete the Bidder's scope of work. Any extension of time shall be granted at the sole discretion of the School Board, and if granted, shall be in the form of additional days added to the contract.

1.27 TIME FOR COMPLETION OR DELIVERY

It is hereby understood and mutually agreed by and between parties hereto that the time of delivery is an essential condition of this contract.

If said Bidder shall neglect or fail to furnish and deliver the equipment within time herein specified, then said Bidder does hereby agree, as part consideration for the awarding of this solicitation to pay to the School Board the sum extended by the School Board to contract for rental equipment approved by the Office of Procurement & Distribution Services for the period from the required schedule commencement date until delivery of the equipment covered on the Invitation to Bid is completed.

The Bidder shall, within seven (7) calendar days from the beginning of such delay, notify the School Board's duly appointed representative in writing of the cause(s) of the delay.

If the Bidder shall be delayed in the completion of his work of unforeseeable causes beyond his control and without fault or negligence, including, but not restricted to, acts of God or neglect of any other Bidder, the period herein above specified for the completion of delivery shall be extended by such time as shall be approved by the School Board's duly appointed representative.

Bidders unable to meet this time line must submit with their bid, their best time frame for project completion. The time for project completion will be a factor in the solicitation evaluation.

1.28 BARRICADES

The Bidder shall provide all barricades and take all necessary precautions to protect building and personnel. All work shall be complete in every respect and accomplished in a workmanlike manner and Bidder shall provide for removal of all debris from the School Board.

1.29 PALLETIZE – N/A

1.30 MEASUREMENTS – N/A

2.0 SPECIAL TERMS & CONDITIONS

2.01 CLOSING DATE

Submittals must be received by The School Board of Brevard County, Florida, Office of Procurement & Distribution Services through VendorLink at <https://www.myvendorlink.com> no later than **2:00 p.m., local time, on Tuesday, May 11, 2021**. Bids received after this time will not be considered.

2.02 TENTATIVE SCHEDULE

April 15,2021 Invitation to Bid Available
 N/A Pre-Bid Conference
 April 29, 2021 Deadline for Questions
 May 11, 2021 Bid Closing Date
 June 8, 2021 Planned Award Date

2.03 ELECTRONIC BID SUBMITTAL

Bidder shall submit all documents listed in **Section 3.0 – Submittal Requirements** electronically through VendorLink at <https://www.myvendorlink.com>. Contact VendorLink technical support at support@evendorlink.com if technical difficulties arise during submission.

- A. Upload files only in Excel (.xls or .xlsx), Adobe Portable Document Format (.pdf), or .ZIP file formats.
- B. Enable printing on all files submitted.
- C. All required documents must be fully filled out and signed by an official who is authorized to legally bind the Bidder on all solicitation specifications.
- D. Clearly identify each part of the submission.
- E. Terms and conditions submitted by Bidder which differ from those in this solicitation shall be cause for disqualification of the Bid Submittal.

2.04 PRE-BID CONFERENCE/WALK THROUGH – N/A

2.05 PUBLIC BID OPENING

- A. The Bids will not be available for public records request until a notice of intended decision is issued or thirty (30) days after bid opening date, whichever is earlier. (Florida Statute 119.071 (1) (b)).
- B. The Bidder List will be available at <https://www.myvendorlink.com> at time of Bid opening.
- C. Individuals covered by the Americans with Disabilities Act of 1990 in need of accommodations to access the public Bidder List at <https://www.myvendorlink.com> should contact the Procurement Department at 321-633-1000 x11645 after the Bid opening date.
- D. Individuals that would like to hear the names of Bidders read aloud during the official Bid opening may access the electronic meeting via Microsoft Teams for Business at the

following web address: [Click here to join the meeting](#) or by calling 321-300-0039 Phone Conference ID: 137 890 228#

2.06 QUESTIONS CONCERNING BID

- A. Questions concerning any portion of this Solicitation shall be directed in writing or by e-mail to the Procurement Representative named below, who shall be the official point of contact for this Solicitation. Questions should be submitted by the question deadline date as listed above in Section 2.02, Tentative Schedule.
- B. Submit questions to:
Jennifer Wells, Buyer I
E-mail: wells.jennifer@brevardschools.org

2.07 CLARIFICATION AND ADDENDA

- A. It is incumbent upon each Bidder to carefully examine all specifications, terms, and conditions contained herein. Any inquiries, suggestions, or requests concerning interpretation, clarification or additional information shall be made in writing, (facsimile transmissions are acceptable, 321-877-0904) through the Procurement Representative named above. The School Board will not be responsible for any oral representation(s) given by any employee, representative or others. The issuance of a written addendum is the **only** official method by which interpretation, clarification or additional information can be given.
- B. If it becomes necessary to revise or amend any part of this Solicitation, notice will be sent via VendorLink. **Each Bidder should ensure that all addenda and amendments to this Solicitation have been received and signed to be included with Bid submittal. Check <https://www.myvendorlink.com/> for any addenda. The Procurement Department will not manually distribute any addenda.**

2.08 FLORIDA DEPARTMENT OF STATE, DIVISION OF CORPORATIONS REGISTRATION REQUIREMENTS

Bidders who are required to be registered with the Florida Department of State, Division of Corporations or who are incorporated within the State of Florida must furnish their Florida document number, and a screen shot of their "active" status. All registered Bidders must have an active status in order to be eligible to do business with the School Board. Bidders doing business under a fictitious name, on page 1, must submit their bid using the company's complete registered legal name; example: ABC, Inc. d/b/a XYZ Company. To register with the State of Florida, visit: www.Sunbiz.org.

2.09 AWARD

The School Board reserves the right to award the solicitation to the Bidder(s) that the School Board deems to offer the lowest responsive and responsible bid(s), as defined elsewhere in this solicitation. The School Board is therefore not bound to accept a bid on the basis of lowest price. In addition, the School Board has the sole discretion and reserves the right to cancel this solicitation, to reject any and all bids, to waive any and all informalities and/or irregularities, or to re-advertise with either the identical or revised specifications, if it is deemed to be in the best interest of the School Board to do so. The School Board also reserves the right to make multiple awards based on experience and qualifications or to award only a portion of the items and/or services specified, if it is deemed to be in the School Board's best interest.

2.10 DEFINITION OF RESPONSIVE AND RESPONSIBLE FOR THIS BID

Each bid submittal shall be evaluated for conformance as responsive and responsible using the following criteria:

- A. Proper submittal of ALL documentation as required by this solicitation. (Responsive)
- B. The greatest benefits to the School Board as it pertains to: (Responsible)
 - 1. Total Cost.
 - 2. Delivery.

3. Past Performance. In order to evaluate past performance, all Bidders are required to submit:
 - a. A list of references with the bid and;
 - b. A list of relevant projects completed within the last three (3) years that are the same or similar to the magnitude of this ITB.
4. All technical specifications associated with this solicitation.
5. Financial Stability: Demonstrated ability, capacity and/or resources to acquire and maintain required staffing.
6. **Proof of Bidder being properly licensed to perform Fencing work in Brevard County.**

Bidders are reminded that award may not necessarily be made to the lowest bid. Rather, award will be made to the lowest responsive, responsible, Bidder whose bid represents the best overall value to the School Board when considering all evaluation factors.

2.11 OTHER AGENCIES

- A. In accordance with State Board Rule 6A-1.012 (6), all Bidders awarded contracts from this solicitation may, upon mutual agreement with the other agency, permit any school board, municipality or other governmental agency, to include Public Charter Schools, to participate in the contract under the same prices, terms and conditions, if agreed to by both parties.
- B. Further, it is understood that each school board or agency will issue its own purchase order to the awarded Bidder(s).

2.12 CONTRACT

- A. The contents of this solicitation and all provisions of the Bidder's Acknowledgement Form shall be considered a contract and become legally binding. A separate contract document, other than the purchase order(s), will not be issued.
- B. The Director of Procurement & Distribution Services, Superintendent, and Board Chair are the sole Contracting Officers for the School Board, and only they or their designee are authorized to make changes to any contract.
- C. The School Board shall be responsible for only those orders placed by the schools/departments on an authorized signed purchase order or Visa purchasing card. The School Board shall not be responsible for any order, change substitution or any other discrepancy on the purchase order or card charges. If there is any question about the authenticity of a purchase order, card charge or change order, the Bidder should promptly contact the Procurement Department.
- D. The School Board hereby notifies interested parties that the purchasing agreements and state term contracts, available under s. 287.056, of the Department of Management Services will be reviewed for the subject of the award recommendation of this solicitation.

2.13 DISCLOSURE OF BID CONTENT

- A. All material submitted becomes the property of the School Board and may be returned only at the School Board's option. The School Board has the right to use any or all ideas presented in any reply to this solicitation. Selection or rejection of any Bid Submittal does not affect this right.
- B. The School Board is governed by the Public Record Laws, Chapter 119, Florida Statutes (F.S.). Only trade secrets as defined in Section 812.081(1)(c), F.S. or financial statements required by the School Board as defined in 119.071(1)(c), F.S. (hereinafter "Confidential Materials"), may be exempt from disclosure. If a Bidder submits Confidential Materials, the information **MUST BE** listed on Page 10 of the Standard Terms and Conditions and each pertinent page must be clearly labeled "confidential" or "trade secret." The School Board will not disclose such Confidential Materials, subject to the conditions detailed within the Confidential Materials Acknowledgement.

PLEASE READ THE SECTION IN THE BID DOCUMENT TO DETERMINE IF THIS APPLIES.

2.14 BIDDER'S RESPONSIBILITY

The Bidder, by submitting a Bid represents that:

- A. The Bidder has read and understands the Solicitation in its entirety and that the solicitation is made in accordance therewith, and;
- B. The Bidder possesses the capabilities, resources, and personnel necessary to provide efficient and successful service to the School Board, and;
- C. Before submitting a Bid, each Bidder shall make all investigations and examinations necessary to ascertain site and/or local conditions and requirements affecting the full performance of the contract and to verify any representations made by the School Board, upon which the Bidder will rely. If the Bidder receives an award because of its Bid Submittal, failure to have made such investigations and examinations will in no way relieve the Bidder from its obligations to comply in every detail with all provisions and requirements of the contract, nor will a plea of ignorance of such conditions and requirements be accepted as a basis for any claim by the Bidder for additional compensation or relief.
- D. The Bidder will be held responsible for any and all discrepancies, errors, etc., in discounts or rebates which are discovered during the contract term or up to and including five (5) fiscal years following the School Board's annual audit including five (5) years thereafter.

2.15 PAYMENT TERMS

A. INVOICING

The awarded Bidder will be required to submit invoices and reference purchase order numbers on all requests for payment. All statements must reference valid School Board purchase order numbers. Invoices shall be mailed directly to the "bill to" as listed on the purchase order. A separate invoice must be received for each purchase order number. Payment for partial shipments shall not be made unless specified in the terms of this solicitation or a School Board purchase order. Invoices, which do not reference valid School Board purchase order numbers or which are erroneous (incorrect contract prices, minimum order charges, etc.) shall be returned to the Bidder for resolution of the discrepancies. It is the sole responsibility of the Bidder to reconcile the purchase order and the Bidder's invoice and to notify the Procurement representative of any discrepancies prior to billing. The School Board will only pay the dollar amounts authorized on the purchase order.

- B. The Bidder represents and agrees that information submitted in support of its requests for payment is the basis of payment and is true and accurate to the best knowledge of the responsible signatory. A violation of this provision shall subject the violator to the provisions of Section 68.082, Florida Statutes, pertaining to false claims against the State, and/or Section 837.06, Florida Statutes, pertaining to false official statements.
- C. The School Board will remit full payment on all undisputed invoices within 45 (forty-five) days from receipt by the appropriate person(s) (to be designated at time of contract) of the invoice(s) or receipt of all products or services ordered.
- D. Pursuant to Chapter 218, Florida Statutes, the School Board will pay interest, not to exceed one percent (1%) per month, on all undisputed invoices not paid within 45 (forty-five) days after receipt of the entire order of the commodity or service, AND a properly completed invoice, whichever is later.
- E. The School Board has the capabilities of Electronic Fund Transfer (EFT). List any additional discounts for payment using Electronic Funds Transfer (EFT) and/or any additional discounts to be applied to such payments.

F. ***By submitting a Bid (offer) to the School Board, the Bidder expressly agrees that if awarded a contract, the School Board may withhold from any payment, monies owed by the Bidder to the School Board for any legal obligation between the Bidder and the School Board.***

G. **PARTIAL PAYMENT**

Partial payments in the full amount of the value of items received and accepted may be requested by the submission of a properly executed invoice with support documents if required.

H. **PAYMENT DISCOUNTS**

A bid price submitted indicating a discount if an invoice is paid within a certain number of days from the date of the invoice cannot be considered as a basis for the solicitation evaluation. All bid prices must be net and not contingent on terms.

2.16 LICENSES AND CERTIFICATES

A. The School Board reserves the right to require proof that the Bidder is an established business and is abiding by the ordinances, regulation, and the laws the State of Florida, such as but not limited to: Business Tax Receipts, business licenses, Florida sales tax registration, Federal Employers Identification Number, AND;

B. Each firm and personnel who will be performing services on behalf of the Bidder for the School Board are to be properly licensed to do business in its area of expertise in the State of Florida. Each Bidder shall submit with their Bid a copy of and maintain the appropriate licenses and certificates during the term of the contract and any extensions. Failure to maintain these requirements shall be cause for immediate termination of the contract.

2.17 INSURANCE REQUIREMENTS

The Bidder will provide before commencement of work, and attach to this agreement, a certificate(s) evidencing such insurance coverage to the extent listed in 2.17.1 to 2.17.5 below. The following applies to the insurance requirements below for products or services from contractors when all products, services, or work performed when totaled together will pay the contractor \$50,000 or more during the fiscal year. The insurance requirements are as follows:

1. Insurance listed in 2.17.1 below is required of all contractors and Contractors: The School Board shall be named as an additional insured to the insurance policy. If the School Board is not named as an additional insured, then the School Board reserves the right terminate this agreement.
2. Insurance listed in 2.17.2 below: All contractors whose work for the School Board includes products or services, and the value of these products or services are in excess of \$25,000 are required to carry this insurance to the limit listed below.
3. Insurance listed in 2.17.3 below: Any contractor transporting School Board employees, delivering or transporting School Board owned equipment or property, or providing services or equipment where a reasonable person would believe the School Board is responsible for the work of the contractor from portal to portal is required to carry this insurance to the limit listed below.
4. Insurance as listed in 2.17.4 below: All contractors that have one or more employees or subcontracts any portion of their work to another individual or company is required to have workers' compensation insurance to the limits listed below. For contracts of \$50,000 or more, no State of Florida, Division of Workers' Compensation, Exemption forms will be accepted. All entities and individuals are required to purchase a commercial workers' compensation insurance policy.
5. Insurance as listed in 2.17.5 below: All contractors providing professional services such as architects, engineers, attorneys, auditors, accountants, etc. are required to have this insurance to the limits listed below.

All contractors will carry and maintain policies as described in numbers 1 to 5 above and as checked off in the box to the left of each section 2.17.1 to 2.17.5 below as specifically marked by representatives of the Office of Procurement Services. All required insurance required must be from insurance carriers that have a rating of "A" or better and a financial size category of "VII" or higher according to the A. M. Best Company. Such certificates must contain a provision for notification to the School Board thirty (30) days in advance of any material change in coverage or cancellation. This is applicable to the procurement and delivery of products, goods, or services furnished to the School Board.

- 2.17.1. Commercial General Liability Insurance:
 Negligence including Bodily Injury and Property Damage
 Per Occurrence - \$1,000,000
 General Aggregate - \$2,000,000
- 2.17.2. Product Liability and/or Completed Operations Insurance:
 Negligence Including Bodily Injury and property damage - \$1,000,000
 Products – Completed Operations Aggregate - \$2,000,000
- 2.17.3. Automobile Liability:
 Negligence Including Bodily Injury and Property Damage:
 Per Claim - \$ 500,000
 Combined Single Limit (each accident) - \$1,000,000
- 2.17.4. Workers' Compensation/Employer's Liability:
 W.C. Limit Required* - Statutory Limits
 E.L. Each Accident - \$ 100,000
 E.L. Disease – Each Employee \$ 100,000
 E.L. Disease – Policy Limit \$ 500,000
- 2.17.5. Professional Liability Insurance (Errors and Omissions):
 For services, goods or projects that will exceed \$1,000,000 in values over a year.
 Each Claim - \$1,000,000
 Annual Aggregate - \$2,000,000

 For services, goods or projects that will not exceed \$1,000,000 in values over a year.
 Each Claim - \$ 250,000
 Annual Aggregate - \$ 500,000

Professional Liability coverage must be maintained for a two-year period following completion of the contract.

2.18 DAMAGES TO RENTAL EQUIPMENT

Rental Bidders agree to purchase such insurance, as they consider necessary to protect their equipment from damage or destruction during the term of this contract for rental of equipment. Rental Bidders also agree that the School Board shall have no obligation for payment of damages of any nature to equipment provided with or without an operator unless clear and convincing evidence demonstrates that gross negligence of either the School Board or its employees acting within the scope of their employment was the direct cause of such damage or destruction. Rental Bidders further understand and agree that no employee of the School Board other than the Superintendent or School Board Chairman is authorized to sign any rental or other agreement that contains terms and conditions other than those contained in this solicitation, and that any signature of a School Board employee other than the Superintendent or School Board Chairman shall be interpreted as the School Board's acknowledgement of delivery only.

2.19 SAFETY

The Bidder shall take the necessary precautions and bear the sole responsibility for the safety of the methods employed in performing the work. The Bidder shall at all times comply with the regulations set forth by federal, state, and local laws, rules, and regulations concerning "OSHA" and all applicable state labor laws, regulations, and standards. Bidder shall take all necessary

precautions to ensure all materials provided do not include Asbestos. The Bidder shall indemnify and hold harmless the School Board from and against all liabilities, suits, damages, costs, and expenses (including attorney's fees and court costs) which may be imposed on the School Board because of the Bidder, sub-contractor, or supplier's failure to comply with the regulations.

2.20 WAGE PRICE REDETERMINATION – N/A

2.21 PRICE REDETERMINATION – FUEL – N/A

2.22 PRICE REDETERMINATION – N/A

2.23 DEVIATIONS

All Bid Submittals must clearly and with specific detail, note all deviations to the exact requirements imposed upon the Bidder by the specifications. Such deviations must be stated upon the Bid Submittal Form; otherwise the School Board will consider the subject Bid Submittal as being made in strict compliance with said specifications to Bidders, the Bidder being held therefore accountable and responsible. Bidders are hereby advised that School Board will only consider Bid Submittals that meet the exact requirements imposed by the specifications; except, however, said Bid Submittals may not be subject to such rejection where, **at the sole discretion of The School Board**, the stated deviation is considered to be equal or better than the imposed requirement and where said deviation does not destroy the competitive character of the solicitation process by affecting the amount of the Bid Submittal such that an advantage or benefit is gained to the detriment of the other Bidders.

2.24 MATERIAL SAFETY DATA SHEET

In accordance with Chapter 487 of the Florida Statutes, it is the Bidder's responsibility to identify and to provide to the Office of Procurement & Distribution Services and the Office of Environmental Health and Safety a Material Safety Data Sheet for any material, as may apply to this procurement.

2.25 WAIVER OF CLAIMS

Once this contract expires, or final payment has been requested and made, the awarded Bidder shall have no more than thirty (30) calendar days to present or file any claims against the School Board concerning this contract. After that period, the School Board will consider the Bidder to have waived any right to claims against the School Board concerning this agreement.

2.26 TERMINATION / CANCELLATION OF CONTRACT

The School Board reserves the right to cancel the contract without cause with a minimum thirty (30) days' written notice.

Termination or cancellation of the contract will not relieve the Bidder of any obligations for any deliverables entered into prior to the termination of the contract (i.e., reports, statements of accounts, etc., required and not received).

Termination or cancellation of the contract will not relieve the Bidder of any obligations or liabilities resulting from any acts committed by the Bidder prior to the termination of the contract.

The Bidder may cancel the resulting contract with **one hundred twenty (120) days' written** notice to the Director of Procurement & Distribution Services. Failure to provide proper notice may result in the Bidder being barred from future business with the School Board.

2.27 TERMINATION FOR SCHOOL BOARD'S CONVENIENCE

The performance of work under this contract may be terminated in accordance with this clause in whole, or from the time in part, whenever the School Board representative shall determine that such termination is in the best interest of the School Board. Any such termination shall be affected by the delivery to the Bidder of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective. Upon such termination for convenience, Bidder shall be entitled to payment, in accordance with the payment provisions, for services rendered up to the termination date and the School Board shall have no other obligations to Bidder. Bidder shall be obligated to continue

performance of contract services, in accordance with this contract, until the termination date and shall have no further obligation to perform services after the termination date.

2.28 TERMINATION FOR DEFAULT

The School Board's representative shall notify, in writing, the Bidder of deficiencies or default in the performance of its duties under the Contract. Three (3) separate documented instances of deficiency or failure to perform in accordance with the specifications contained herein shall constitute cause for termination for default, unless specifically specified to the contrary elsewhere within this solicitation. It shall be at the School Board's discretion whether to exercise the right to terminate. Bidder shall not be found in default for events arising due to acts of God. **Termination for cause includes terminations under 287.135, F.S.**

2.29 BIDDER PERFORMANCE

BPS project personnel shall monitor Bidder's performance. A 'Report of Unsatisfactory Product or Service' form (attached) shall be utilized to document unsatisfactory performance during the term of this contract. The report may become an important part of the Bidder's history. The report and process will assist the Office of Procurement & Distribution Services to determine whether there is a continuing pattern of problems which may need to be addressed through termination of contract and/or suspension of Bidder from future bidding.

2.30 COLLUSION

The School Board of Brevard County reserves the right to disqualify bids upon evidence of collusion with intent to defraud, or other illegal practices to include circumventing or manipulating the solicitation process in a manner that conflicts with applicable law, upon the part of the Bidder(s), Bidder's employees or agents, the School Board's Professional Consultant(s), or Consultant's agents, or any School Board employee(s) who may, or may not, be involved in the development of bid specifications and/or firm bid schedules. Multiple bids from an individual, partnership, corporation, association (formal or informal) or firm under the same or different names shall not be considered. Reasonable grounds for believing that a Bidder has interest in multiple Bids for the same work shall be cause for rejection of all Bids in which such Bidder is believed to have an interest in. Any and/or all Bids shall be rejected if there is any reason to believe that collusion exists among one or more of the Bidders, the School Board's Professional Consultant(s) or School Board employees. Bidders involved in developing a solicitation specification or Bidders with knowledge of solicitation specifications prior to a solicitation advertisement shall be disqualified from participating in the applicable solicitation process.

2.31 INCURRED EXPENSES

This ITB does not commit the School Board to award a contract, nor shall the School Board be responsible for any cost or expense which may be incurred by the Bidder in preparing and submitting the bid called for in this ITB, or any cost or expense incurred by the Bidder prior to the execution of a contract agreement.

2.32 MINIMUM SPECIFICATIONS

The specifications listed herein are the minimum required specifications for this ITB. They are not intended to limit competition nor specify any particular Bidder, but to ensure that the School Board receives quality products and services.

2.33 COMPLIANCE WITH LAWS AND REGULATIONS

The Bidder shall be responsible to know and to apply all applicable federal and state laws, all local laws, ordinances, rules, regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which in any manner affect the work, or which in any way affect the conduct of the work. Bidder shall always observe and comply with all such laws, ordinances, rules, regulations, orders, and decrees. The Bidder shall protect and indemnify School Board and all its officers, agents, servants, or employees against any claim or liability arising from or based on the violation of any such law, ordinance, rule, regulation, order, or decree caused or committed by Bidder, its representatives, sub-contractors, sub-consultants, professional associates, agents, servants, or employees. Additionally, Bidder shall obtain and maintain at its own expense all licenses and permits to conduct business pursuant to this contract from the federal government, State of Florida, Brevard County, or municipalities when legally required, and maintain same in full force and effect during the term of the contract.

2.34 BIDDER'S PUBLIC RECORDS

Public Records Act/Chapter 119 Bidder agrees to comply with the Florida Public Records Act (Chapter 119, Florida Statutes) to the fullest extent applicable, and shall, if this engagement is one for which services are provided, by doing the following:

- A. Bidder and its subcontractors shall keep and maintain public records required by the SBBC to perform the service.
- B. Effective July 1, 2016, Bidder and its subcontractors shall upon request from the SBBC's custodian of public records, provide the SBBC with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed that provided in chapter 119, Florida Statutes or as otherwise provided by law;
- C. Bidder and its subcontractors shall ensure that public records that are exempt or that are confidential and exempt from the public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Bidder does not transfer the records to the SBBC; and
- D. Bidder and its subcontractors upon completion of e contract shall transfer to the SBBC, at no cost, all public records in possession of the Bidder and its subcontractors or keep and maintain the public records required by the SBBC to perform the service. If the Bidder and its subcontractors transfer all public records to the SBBC upon completion of the contract, the Bidder and its subcontractors shall destroy any duplicate public records that are exempt or that are confidential and exempt from the public records disclosure requirements. If the Bidder and its subcontractors keep and maintain public records, upon completion of the contract, the Bidder and its subcontractors shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the SBBC, upon request from the SBBC's custodian of public records, in a format that is compatible with the information technology systems of the SBBC.
- E. The parties agree that if the Bidder and its subcontractors fail to comply with a public records request, then the SBBC must enforce the Agreement provisions in accordance with the Agreement and as required by Section 119.0701, Florida Statutes.

F. IF THE BIDDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE BIDDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 321-633-1000 EXT. 11453, recordsrequest@Brevardschools.org, THE SCHOOL BOARD OF BREVARD COUNTY, FLORIDA, 2700 JUDGE FRAN JAMIESON WAY, VIERA, FL 32940.

2.35 LOCAL BUSINESS TAX RECEIPTS

- A. Any Bidder whose permanent business location is in Brevard County shall submit with the bid a copy of their Local Business Tax Receipt (formerly known as an "Occupational License") issued to them by the Brevard County Tax Collector.
- B. Any Bidder whose permanent business location is in a Florida county other than Brevard County shall submit with their bid a copy of their Local Business Tax Receipt issued to them by the tax collector of the county of their permanent business location, unless that county does not collect Local Business Taxes or issue Local Business Tax Receipts.

2.36 RECORDS & RIGHT TO AUDIT

The Bidder shall maintain such financial records and other records as may be prescribed by the School Board or by applicable federal and state laws, rules, and regulations. The Bidder shall

retain these records for a period of five (5) years after final payment, or until the School Board audits them, whichever event occurs first. These records shall be made available during the term of the contract and the subsequent five (5) year period for examination, transcription, and audit by the School Board, its designees, or other entities authorized by law. At the expiration of such period, Bidder, if requested by the School Board, will turn over such records to the School Board to be kept for such time as the School Board may elect.

2.37 CHANGES IN SCOPE OF WORK/SERVICE

- A. The School Board may order changes in the work/service consisting of additions, deletions, or other revisions within the general scope of the contract. No claims may be made by the Bidder that the scope of the project or of the Bidder's services has been changed, requiring changes to the amount of compensation to the Bidder or other adjustments to the contract, unless such changes or adjustments have been made by written amendment to the contract signed by the School Board Chair and the Bidder.
- B. If the Bidder believes that any particular work/service is not within the scope of work/service of the contract, is a material change, or will otherwise require more compensation to the Bidder, the Bidder must immediately notify the School Board's Representative in writing of this belief. If the School Board's Representative believes that the particular work/service is within the scope of the contract as written, the Bidder will be ordered to and shall continue with the work/service as changed and at the cost stated for the work/service within the scope. The Bidder must assert its right to an adjustment under this clause within thirty (30) days from the date of receipt of the written order.
- C. The School Board reserves the right to negotiate with the awarded Bidder(s) without completing the competitive bidding process for materials, products, and/or services similar in nature to those specified within this ITB for which requirements were not known when the ITB was released.

2.38 MODIFICATIONS DUE TO PUBLIC WELFARE OR CHANGE IN LAW

The School Board shall have the power to make changes in the contract as the result of changes in Florida law and/or rules of the School Board to impose new rules and regulations on the Bidder under the contract relative to the scope and methods of providing services as shall from time-to-time be necessary and desirable for the public welfare. The School Board shall give the Bidder notice of any proposed change and an opportunity to be heard concerning those matters. The scope and method of providing services as referenced herein shall also be liberally construed to include, but is not limited to, the manner, procedures, operations and obligations, financial or otherwise, of the Bidder. In the event any future change in Federal, State or County law or the rules of the School Board materially alters the obligations of the Bidder, or the benefits to the School Board, then the contract shall be amended consistent therewith. Should these amendments materially alter the obligations of the Bidder, then the Bidder or the School Board shall be entitled to an adjustment in the rates and charges established under the contract. Nothing contained in the contract shall require any party to perform any act or function contrary to law. The School Board and Bidder agree to enter into good faith negotiations regarding modifications to the contract, which may be required in order to implement changes in the interest of the public welfare or due to change in law. When such modifications are made to the contract, the School Board and the Bidder shall negotiate in good faith, a reasonable and appropriate adjustment for any changes in services or other obligations required of the Bidder directly and demonstrably due to any modification in the contract under this clause.

2.39 RIGHT TO REQUIRE PERFORMANCE

- A. The failure of the School Board at any time to require performance by the Bidder of any provision hereof shall in no way affect the right of the School Board thereafter to enforce same, nor shall waiver by the School Board of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.
- B. In the event of failure of the Bidder to deliver services in accordance with the contract terms and conditions, the School Board, after due written notice, may procure the services from

other sources and hold the Bidder responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the School Board may have.

2.40 FORCE MAJEURE

The School Board and the Bidder will exercise every reasonable effort to meet their respective obligations as outlined in this ITB and the ensuing contract, but shall not be liable for delays resulting from force majeure or other causes beyond their reasonable control, including, but not limited to, compliance with any government law or regulation, acts of God, acts or omissions of the other party, government acts or omissions, fires, strikes, national disasters, wars, riots, transportation problems and/or any other cause whatsoever beyond the reasonable control of the parties. Any such cause will extend the performance of the delayed obligation to the extent of the delay so incurred. Force Majeure will include epidemics and quarantine restrictions as acts of God and governmental law and regulation.

2.41 BIDDER'S PERSONNEL

During the performance of the contract, the Bidder agrees to the following:

- A. The Bidder shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, handicap or national origin, except when such condition is a bona fide occupational qualification reasonably necessary for the normal operations of the Bidder. The Bidder agrees to post in conspicuous places, visible to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- B. The Bidder, in all solicitations or advertisements for employees placed by or on behalf of the Bidder, shall state that such Bidder 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.
- D. The Bidder shall include the provisions of the foregoing paragraphs A, B, and C, above, in every subcontract or purchase order so that the provisions will be binding upon each Bidder.
- E. The Bidder and any sub-contractor shall pay all employees working on this contract not less than minimum wage specified in the Fair Labor Standards Act (29 CFR 510-794) as amended.
- F. Any information concerning the School Board, its products, services, personnel, policies or any other aspect of its business learned by the Bidder or personnel furnished by the Bidder in the course of providing services pursuant to the Agreement, shall be held in confidence and shall not be disclosed by the Bidder or any employee or agents of the Bidder or personnel furnished by the Bidder, without the prior written consent of the School Board.
- G. All employees assigned by the Bidder to the performance of work under this contract shall be physically able to do their assigned work. It shall be the Bidder's responsibility to ensure that all employees meet the physical standards to perform the work assigned and are free from communicable diseases. This requirement also includes acceptable hygiene habits of Bidder's employees.
- H. The personnel employed by the Bidder shall be capable employees, age 18 years or above, qualified in this type of work.
- I. It is the Bidder's responsibility to ensure that all employees are legally allowed to work in the United States in accordance with Immigration Policies.
- J. The Bidder's employees shall be required to dress neatly, commensurate with the tasks being performed.

- K. All School Board facilities are tobacco free. The School Board prohibits the use of tobacco in school buildings. Such prohibition also applies on school grounds, on school buses, and/or at any school-related event. Refer to Board Policies, 7434 - use of tobacco on school premises.
- L. It is the Bidders responsibility to see that every employee on the Bidder's work force is provided and wears an Identification Badge or company shirt/uniform in order to maintain security at the school's facility. It shall be Bidder's responsibility to inform the School Board Representative(s) of all new employees promptly at time of employment. All visitors, including volunteers and Bidders, are to check in and out with the front office using the applicable software and must wear a badge indicating their visitor status. Refer to Board Policies, 9150 – School Visitors.
- M. The Bidder shall require employees to be dressed in their appropriate work attire when reporting for duty.
- N. The Bidder shall prohibit their employees from disturbing papers on desks, opening desk drawers or cabinets, or using telephone or office equipment provided for official use.
- O. The Bidder shall require their employees to comply with the instructions pertaining to conduct and building regulations, issued by duly appointed officials, such as the building managers, guards, inspectors, etc.
- P. The School Board's Representative(s) will determine how the Bidder will receive access to the facility.
- Q. If keys are provided and lost, the Bidder will be responsible for any and all costs associated with replacement keys and re-keying of the facility.
- R. When requested, the Bidder shall cooperate with any ongoing SCHOOL BOARD investigation involving economic loss or damage to SCHOOL BOARD buildings, or SCHOOL BOARD or personal property therein. The SCHOOL BOARD reserves the right to require any employee of the Bidder to submit to a polygraph test if the SCHOOL BOARD has a reasonable suspicion that the employee is or was involved in the incident or activity under investigation. The Bidder shall obtain a waiver from the employee authorizing the release to the SCHOOL BOARD of information acquired by the Bidder from the polygraph test. The SCHOOL BOARD, at its discretion, may require that the Bidder immediately remove the employee under investigation from working within SCHOOL BOARD buildings for the following reasons: 1) The employee's refusal to submit to a polygraph test in the above circumstances, or 2) an employee's refusal to sign the waiver referenced above or 3) an analysis of the polygraph test indicates that the employee is or was involved in the incident under investigation. If the test results show involvement on the part of the Bidder's employee, the Bidder will be obligated to cover the cost of the examination. If the test results indicate that the Bidder's employee was not involved in the incident, when the SCHOOL BOARD will pay for the cost of the examination.
- S. CONTROLLED SUBSTANCE OR ALCOHOL ABUSE ON SCHOOL BOARD PROPERTY:
The Bidder(s) is hereby notified that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or alcohol is prohibited on any School Board property, or at any school board activities. Violations may subject the Bidder and/or the Bidder's employee(s) to prosecution, fines, imprisonment and/or cancellation of this or any other contract(s) that this Bidder presently holds. The Bidder(s) are required by this School Board to take appropriate disciplinary action in such cases and/or require that the employee(s) satisfactory participation in a rehabilitation program.
- T. Any Bidder's employee convicted of violating a criminal drug statute in the workplace must report the conviction to the employer within five (5) workdays. Bidders (Employers) are required to report such convictions to the School Board within ten (10) workdays of receiving this information.

- U. The School Board is committed to the education and safety of its students and employees. To that end, any Bidder awarded a contract will be required to assure that the personnel assigned to the project, do not possess criminal records that would violate the School Board's standards for employment as set forth by the Florida Department of Education. Each Bidder must certify that the company and its employees are or will be in compliance with those standards for the project awarded.
- V. The Bidder shall strictly prohibit interaction between their employees and the student(s).
- W. Bidder's employees may not solicit, distribute or sell products while on School Board property.
- X. Friends, visitors or family members of the Bidder's employees are not permitted in the work area.
- Y. The Bidder shall adhere to all of the School Board's security standards.

2.42 COMPLIANCE WITH THE JESSICA LUNSFORD ACT

Florida Statutes require that all persons or entities entering into contracts with the School Boards/School Districts/Charter Schools who may have personnel who will be on school grounds when students may be present, or who will have contact with students shall comply with the level 2 screening requirements of the Statute and School Board Standards. The required level 2 screening includes fingerprinting that must be conducted by the School Board's District and School Security Office. Any individual who fails to meet the screening requirements shall not be allowed on school grounds. Failure to comply with the screening requirements will be considered a material default of this contract/agreement.

2.43 CLAIM NOTICE

The Bidder shall immediately report in writing to the School Board's designated representative or agent any incident that might reasonably be expected to result in any claim under any of the coverage mentioned herein. The Bidder agrees to cooperate with the School Board in promptly releasing reasonable information periodically as to the disposition of any claims, including a resume' of claims experience relating to all Bidder operations at the School Board project site.

2.44 BANKRUPTCY / INSOLVENCY

At the time of bid submittal, Bidder shall not be in the process of or engaged in any type of proceedings in insolvency or bankruptcy, either voluntary or involuntary, or receivership proceedings. If the Bidder is awarded a contract for six (6) months or longer, and files for bankruptcy, insolvency or receivership, the School Board may, at its option, terminate and cancel said contract, in which event all rights hereunder shall immediately cease and terminate.

2.45 CONTRACT/BIDDER RELATIONSHIP

The School Board reserves the right to award one or more contracts to provide the required services as deemed to be in the best interest of the School Board.

Any awarded Bidder shall provide the services required herein strictly under a contractual relationship with the School Board and is not, nor shall be, construed to be an agent or employee of the School Board. As an independent Bidder the awarded Bidder shall pay any and all applicable taxes required by law; shall comply with all pertinent Federal, State, and local statutes including, but not limited to, the Fair Labor Standards Act, The Americans with Disabilities Act, the Federal Civil Rights Act, and any and all relevant employment laws. The Bidder shall be responsible for all income tax, FICA, and any other withholdings from its employees' or sub-Bidder's wages or salaries. Benefits for same shall be the responsibility of the Bidder including, but not limited to, health and life insurance, mandatory Social Security, retirement, liability/risk coverage, and workers' and unemployment compensation.

The independent Bidder shall hire, compensate, supervise, and terminate members of its work force; shall direct and control the manner in which work is performed including conditions under

which individuals will be assigned duties, how individuals will report, and the hours' individuals will perform.

The independent Bidder shall not be exclusively bound to the School Board and may provide professional services to other private and public entities as long as it is not in direct conflict and does not provide a conflict of interest with the services to be performed for the School Board.

The independent Bidder shall not be provided special space, facilities, or equipment by the School Board to perform any of the duties required by the contract nor shall the School Board pay for any business, travel, or training expenses or any other contract performance expenses not specifically set forth in the specifications.

2.46 BID BOND – N/A

2.47 PERFORMANCE BOND and PAYMENT BOND – N/A

2.48 FIDELITY BOND (Security related) [for security related services] – N/A

2.49 NEW MATERIAL

Unless otherwise provided for in this specification, the Bidder represents and warrants that the goods, materials, supplies, or components offered to the School Board under this Bid solicitation are new, not used or reconditioned, and are not of such age or so deteriorated as to impair their usefulness or safety and that the goods, materials, supplies, or components offered are current production models of the respective manufacturer. If the Bidder believes that furnishing used or reconditioned goods, materials, supplies, or components will be in the School Board's interest, the Bidder shall so notify the School Board Buyer in writing no later than ten (10) working days prior to the date set for opening of Bids. The notice shall include the reasons for the request and any benefits that may accrue to the School Board if the Buyer authorizes the bidding of used or reconditioned goods, materials, supplies, or components.

2.50 DAMAGES

Due to the nature of the services to be provided and the potential impact to the School Board for loss of fencing, the Bidder cannot disclaim consequential or inconsequential damages related to the performance of this contract. The Bidder shall be responsible and accountable for any and all damages, directly or indirectly, caused by the actions or inaction of its employees, staff, or sub-consultants. There are no limitations to this liability.

2.51 CONFLICT OF INTEREST FORM

All Bidders shall complete and have notarized the attached disclosure form of any potential conflict of interest that the Bidder may have due to ownership, other clients, contracts, or interest associated with this project.

2.52 LITIGATION

Bidders shall submit details of all litigation, arbitration or other claims, whether pending or resolved in the last five years, with the exception of immaterial claims which are defined herein as claims with a possible value of less than \$25,000.00 or which have been resolved for less than \$25,000.00. Notwithstanding the foregoing, all litigation, arbitration or other claims, of any amount, asserted by or against a state, city, county, town, School Board, political subdivision of a state, special district or any other governmental entity shall be disclosed. Please indicate for each case the year, name of parties, cause of litigation, matter in dispute, disputed amount, and whether the award was for or against the Bidder.

2.53 BID PROTESTS

Solicitation or contract award protests shall be resolved under procedures set forth in School Board policy 6320 and in conformity with the requirements of F.S. 120.57(3) and the Uniform Rules at F.A.C. Chapters 28-106 and -110.

2.53.1 DEFINITIONS

- A. "Decision or intended decision" means:
 - i. the contents of a solicitation, including addenda;
 - ii. a determination that a specified procurement can be made only from a single source;
 - iii. rejection of a response or all responses to a solicitation; or
 - iv. intention to award a contract as indicated by a posted solicitation tabulation or other written notice.
- B. "Filed" means that a document has been physically received and time/date stamped by the Procurement and Distribution Services department within the time required by this policy.
- C. "Person" means an individual and includes company, corporation, partnership, limited partnership, joint venture or any other legally recognized business entity.

2.53.2 NOTICE OF DECISION OR INTENDED DECISION

The Director of Procurement and Distribution Services or designee shall post notice of a decision or intended decision by electronic posting. All such notices shall contain the following statement: "Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post a bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

2.53.3 NOTICE OF PROTEST

Any person who is adversely affected by the agency decision or intended decision and intends to protest the decision or intended decision, shall file a notice of protest in writing with the Director of Procurement and Distribution Services within seventy-two (72) hours after the posting of the notice of decision or intended decision. With respect to a protest of the terms, conditions, and specifications contained in a solicitation, including any provisions governing the methods for ranking bids, proposals, or replies, awarding agreements, reserving rights of further negotiation, or modifying or amending any contract, the notice of protest shall be filed in writing within seventy-two (72) hours after the posting of the solicitation.

- A. A notice of protest should not be filed before the seventy-two (72) hour period begins. The seventy-two (72) hour period begins upon posting of the Decision or Intended Decision.
- B. The notice of protest must be actually received by the District's Procurement and Distribution Services department before the seventy-two (72) hour period expires. The seventy-two (72) hour period excludes Saturdays, Sundays, and holidays when the District administrative office is closed. The seventy-two (72) hour period is not extended by service of the notice of protest by mail. Failure to timely file a notice of protest shall constitute a waiver of proceedings under this section and F.S. 120.57(3).
- C. The notice of protest shall identify the procurement by number and title or any other language that will clearly enable the District to identify it; and the person that intends to protest the decision.

2.53.4 FORMAL WRITTEN PROTEST

In addition to filing a notice of protest, a protesting person must file a formal written protest.

The formal written protest must be filed with the Director of Procurement and Distribution Services within ten (10) days after the date the notice of protest is filed. Failure to timely file the formal written protest shall constitute a waiver of proceedings under this Policy and F.S. 120.57(3). The ten (10) day period for filing the petition is not extended by service of the petition by mail.

- A. The formal written protest shall be a petition that:
 - i. states with particularity the facts and law upon which the protest is based;
 - ii. contains all the information specified in Rule 28-106.201(2), FAC and Rule 28-106.301(2), FAC;
 - iii. is substantially in the form of petition set forth in Rule 28-110.004(2), FAC, naming "The School Board of Brevard County, Florida" as the Respondent; and
 - iv. should include a request for a hearing involving disputed issues of material fact; or, if the relevant facts are not in dispute, the petition should so allege and request a hearing not involving disputed issues of material fact.
- B. Pursuant to Rule 28-110.004(1), FAC, if the formal written protest is filed in proper form within the seventy-two (72) hour period for filing a notice of protest, the formal written protest will also constitute the notice of protest, and all time limits applicable to a notice of protest are waived and the time limits relative to formal written protests shall apply.

2.53.5 PROTEST BOND

Any person who files an action protesting a decision or intended decision pertaining to a solicitation or contract award shall post with the Director of Procurement and Distribution Services, at the time of filing the formal written protest, a bond secured by an acceptable surety company in Florida, payable to "The School Board of Brevard County, Florida" in an amount of \$25,000.00 or two percent (2%) of the estimated contract amount, whichever is greater, for projects valued over \$500,000.00; and five percent (5%) of the estimated contract amount for all other projects.

- A. The Director of Procurement and Distribution Services shall provide the estimated contract amount to the protester within seventy-two (72) hours (excluding Saturdays, Sundays, and holidays when the District administrative offices are closed) after the filing of the notice of protest. The estimated contract amount is not subject to protest under this Policy or F.S. 120.57(3). This information may be provided as part of the decision or intended decision documents. In lieu of a bond, the Director of Procurement and Distribution Services may accept a cashier's check, official bank check, or money order in the amount of the bond.
- B. The bond shall be conditioned upon the payment of all costs and charges which may be adjudged against the protestor in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding.
- C. If, after completion of the administrative hearing process and any appellate court proceedings, the Board prevails, it shall be entitled to recover all costs and charges which are included in the final order or judgment, excluding attorney's fees. Upon payment of such costs and charges by the person protesting the decision or intended decision or contract award, the bond, cashier's check, official bank check, or money order shall be returned to the protestor. If, after the completion of the administrative hearing process and any appellate court proceedings, the protestor prevails, the protestor may recover from the Board the costs and charges which are included in the final order or judgment, excluding attorney's fees.

2.53.6 INFORMAL RESOLUTION MEETING

The Director of Procurement and Distribution Services shall provide an opportunity to resolve the protest by mutual agreement between the parties within seven (7) business days (excluding Saturdays, Sundays, and holidays when the District administrative offices are closed) of receipt of the formal written protest. All affected parties shall be notified of the notice of protest.

- A. Hearing.
If the protest is not resolved by mutual agreement within seven (7) business days (excluding Saturdays, Sundays, and holidays when the District administrative offices are closed) after receipt of the formal written protest; and
- i. if there is no disputed issue of material fact, an informal proceeding shall be conducted pursuant to F.S. 120.57(2) and applicable Board Policies, and may be conducted before an impartial hearing officer who is a member in good standing of The Florida Bar; or
 - ii. if there is a disputed issue of material fact, in accordance with F.S. 120.569, the protest shall be referred within fifteen (15) days after the Director of Procurement and Distribution Services receives the formal written protest to the Division of Administrative Hearings for a formal hearing under F.S. 120.57(1).
- B. As stated in F.S. 120.57(3)(f), the burden of proof shall rest with the party protesting the proposed agency action.
- C. In any bid-protest proceeding contesting an intended agency action to reject all bids, proposals, or replies, the standard of review shall be whether the Board's intended action is illegal, arbitrary, dishonest, or fraudulent.
- D. In competitive-procurement protests other than those contesting an intended agency action to reject all bids, proposals, or replies, the hearing officer or administrative law judge will conduct a de novo proceeding to determine whether the Board's proposed action is contrary to the governing statutes, the Board's Policies, or the solicitation documents. The standard of proof for such proceedings shall be whether the proposed agency action was clearly erroneous, contrary to competition, arbitrary, or capricious.

2.53.7 STOPPING THE PROCUREMENT PROCESS

Upon receipt of the formal written protest that has been timely filed, the solicitation or contract award process shall be stopped until the subject of the protest is resolved by final agency action, unless the Superintendent sets forth in writing particular facts and circumstances which require the continuance of the solicitation or contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare.

2.54 PREFERENCE TO FLORIDA BUSINESSES (Where applicable)

Effective July 1, 2012, when a School Board is required to make purchases of personal property through competitive solicitation and the lowest responsible and responsive bid, proposal or reply is by a Bidder whose principal place of business is in a state or political subdivision which grants a preference by that state or political subdivision, then the School Board shall award an equal preference to the lowest responsible and responsive Bidder having a principal place of business within Florida. In a competitive solicitation in which the lowest bid is submitted by a Bidder whose principal place of business is located outside the state, and that state does not grant a preference in competitive solicitation to Bidders having a principal place of business in that state, the preference to the lowest responsible and responsive Bidder having a principal place of business in the State of Florida shall be 5 percent. F.S. 287.084(1)(a).

A Bidder whose principal place is outside this state must accompany any written bid, proposal or reply documents with a written opinion of an attorney at law licensed to practice law in that foreign state, as to the preferences, if any or none, granted by the law of that state to its own business entities whose principal places of business are in that foreign state in the letting of any or all public contracts. F.S. 287.084(2).

Please complete the form titled "Bidder's Statement of Principal Place of Business" and include it with your submittal.

2.55 DEFINITIONS

As used in this Bid, the following terms shall have the meanings set forth below:

Bidder: That person or entity, including employees, servants, partners, principals, agents and assignees of the person or entity that has submitted a bid for the purpose of obtaining business with the School Board to provide the product and/or services set forth herein.

Contract Administrator: The School Board's Director of Procurement & Distribution Services or designee shall serve as Contract Administrator. The Contract Administrator shall be responsible for addressing any concerns within the scope of the contract. Any changes to the resulting contract shall be done in writing and authorized by the School Board Chair or authorized designee.

Contract: The document resulting from this solicitation between the School Board and the Bidder, including this solicitation, along with any written addenda and other written documents, which are expressly incorporated by reference.

Bidder's Project Manager: The Project Manager has responsibility for administering this contract for the awarded Bidder(s) and will be designated prior to the issue of the resulting Price Agreement or Purchase Order.

Day: The word "day" means each calendar day or accumulation of calendar days.

Director: The Director is the Director of Procurement & Distribution Services for the School Board.

Exceptions to Bid: An exception is defined as the Bidder's inability or unwillingness to meet a term, condition, specification, or requirement in the manner specified in the bid.

Person or Persons: An individual, firm, partnership, corporation, association, executor, administrator, trustee, or other legal entity, whether singular or plural, masculine or feminine, as the context may require.

School Board: The word School Board refers to the elected officials of the School Board of Brevard County, Florida, its duly authorized representatives, and any school, department, or unit within the School Board.

School Board's Project Manager(s): The Project Manager(s) have responsibility for the day-to-day administration of the resulting contract for the School Board and will be designated prior to award of the resulting purchase order.

Using Agency: The term "using agency" used herein refers to any school, department, committee, authority, or another unit in the School Board using supplies or procuring contractual services as provided for in the Procurement Department of the School Board.

**3.0 SUBMITTAL REQUIREMENTS
(Submit in the following order)**

- A. Completed Bidder's Acknowledgement and agreement of the Standard Terms and Conditions.
 - I. Drug Free Workplace Certification
 - II. Instruction for Debarment Certification
 - III. Certification Regarding Debarment
 - IV. Emergency/Storm Related Catastrophe Acknowledgement
 - V. Notification Regarding Public Entity Crime and Discriminatory Vendor Lists
 - VI. Prohibition Against Contracting with Scrutinized Companies
 - VII. Conflict of Interest
 - VIII. Confidential Materials Acknowledgement
- B. Any addenda issued subsequent to the release of this solicitation must be signed and returned with the firm's bid. **Failure to return signed addenda may be cause for the bid to be considered non-responsive.**

- C.** Completed Exhibit A: Price Sheet
- D.** List at least three (3) recent references where the proposed product has been used within the past year. Use of the attached form will aid in evaluation.
- E.** Certified Business Program Reciprocity Affidavit – If Applicable.
- F.** Bidder's Statement of Principal Place of Business – If Applicable
- G.** All Bidders, including predecessors or related Bidder or entity, shall identify any litigation in which they have been involved in, including arbitration and administrative proceedings, during the past five (5) years involving claims for excess of ten (10) percent of the contact value. Include a brief legal description of the dispute and its current status. Where the action or lawsuit involved a similar project as herein discussed, Bidder shall describe the particular circumstances giving rise to the dispute.
- H.** Local Business Tax Receipts
- I.** Current Request for Taxpayer Identification Number and Certification (Form W-9).
- J.** Attach evidence of required insurance coverage or proof of insurability in the amounts indicated. If available, a properly completed ACORD Form is preferable. Upon award, final forms must contain the correct solicitation and/or project number and School Board contact person.
- K.** The Bidder must submit with his bid the name, address, and phone number of the person(s) to be contacted for the placement of an order and the coordination of service. A contact for both regular workhours and after-hours, weekends, and holidays must be identified.
- L.** If a Bidder must subcontract any portion of a contract for any reason, he must state the name and address of the subcontractor and the name of the person to be contacted. The School Board also reserves the right to reject a bid or any Bidder if the bid names a subcontractor who has previously failed to deliver on time contracts of similar nature, or who is not in a position to perform properly this award. The School Board reserves the right to inspect all facilities of any subcontractors in order to make a determination as to the foregoing.
- M.** Proof of contractor being properly licensed to perform Fencing work in Brevard County.