

INVITATION FOR BID

ISSUE DATE: May 17, 2011

IFB: 05172011-1100

TITLE: Bucket Truck

Sealed Bids will be received until **May 31, 2011 at 11:00 AM** for items described herein. Facsimile and/or electronic bids will **not** be accepted.

All inquiries for information regarding Bid Submission requirements, Product Requirements, or Procurement Procedures shall be directed to the Purchasing Agent. SBSCS shall not be responsible for verbal clarification of information provided by parties other than the Purchasing Agent.

Mr. Brad Quann, CPPB, VCO – Purchasing Agent
Phone: (540) 834-2500 ext. 1222
Fax: (540) 834-2559
E-Mail: bquann@scs.k12.va.us

BIDS SHALL BE CLEARLY MARKED WITH IFB # 05172011-1100 AND DELIVERED TO:

**Spotsylvania County Schools
8020 River Stone Drive
Fredericksburg, VA 22407
ATTN: Purchasing-Bid Receipt**

The School Board of the County of Spotsylvania does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against any Bidder or Offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by law relating to discrimination in employment.

In compliance with this Invitation for Bid and to all the conditions imposed herein, the undersigned offers and agrees to provide the goods and/or services at the prices indicated on the Pricing Schedule.

Name And Address Of Firm:

_____	Date:	_____
_____	By:	_____
_____		Signature In Ink

		Print/Type
Telephone: _____	Fax:	_____
E-mail Address _____	FIN/SSN:	_____

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- 1.0 **PURPOSE:** The purpose and intent of this Invitation for Bid (IFB) is to establish a firm fixed price contract for the purchase and delivery of a current model year bucket truck for the School Board of the County of Spotsylvania, herein referred to as SBCS, in accordance with the specifications, terms and conditions stated herein. This solicitation includes cooperative use language for use by other public bodies (General Term & Condition # 61.)
- 2.0 **BACKGROUND: BACKGROUND:** SBCS is centrally located between Richmond and Washington D.C. There are currently 17 elementary schools, 7 middle schools, 5 high schools, Career and Technical Center, John J. Wright Educational and Cultural Center, Gateway Academy and Courthouse Academy serving a student population of approximately 24,000 students.
- 3.0 **COMPETITION INTENDED:** It is SBCS' intent that this IFB permit competition. It shall be the bidder's responsibility to advise the Purchasing Agent, in writing, if any language, requirement, specifications, etc., or any combination thereof, inadvertently restricts or limits the requirements stated in this IFB to a single source. Such notification must be received by the Purchasing Agent no later than 12:00 noon on May 23, 2011.
- 4.0 **PERIOD OF CONTRACT:** Any contract resulting from this solicitation shall be from June 13, 2011 – June 30, 2011. Bidders submitting bids for less than the contract period specified, or other than a firm fixed price will not be accepted.
- 5.0 **PRODUCT/SERVICE DELIVERY:** Complete delivery of the bucket truck as identified herein shall be to the following SBCS site ***no later than June 30, 2011.*** Bidders shall indicate the timeframe in which delivery may be expected upon issuance of a Purchase Order. Delivery times (in days) shall be noted on the Pricing Schedule. ***This will be a factor in making an award.***

Spotsylvania County Schools
Maintenance Department
8806 Courthouse Road
Spotsylvania, VA 22553

- 6.0 **INSTRUCTIONS TO BIDDERS:** All inquiries regarding bid submission requirements, product/service requirements, or procurement procedures shall be directed to the Purchasing Agent. All inquiries will be addressed in writing via an official Addendum. Any addenda to this solicitation can be easily accessed on the Purchasing Department Website-

<http://www.spotsyschools.us/finance/PURCHASING/CurrentSolicitations/tabid/5629/Default.aspx>

Bidders are responsible for checking the website frequently. Failure to acknowledge all addenda may result in the rejection of your submission as non-responsive. SBCS shall not be responsible for verbal clarification or information provided by parties other than the Purchasing Agent.

Return the following items:

IFB cover sheet (page 1), Section 9.0 – Pricing Schedule, Section 10.0 – Vendor Information Form, Section 11.0 – Vendor Data Sheet and any Addendums.

7.0 TIME FRAME/SCHEDULE OF EVENTS:

Solicitation Issue Date: 5/17/2011

Bids Due: 5/31/11 – 11:00 AM

Questions Due: 5/23/11 - 12:00 PM

Anticipated Contract Award: 6/13/11

8.0 **SPECIFICATIONS:**

The following specifications detail the minimum features required for the bucket truck considered for purchase. Bidders shall supply complete vehicle/equipment details and manufacturer's specifications for the bucket truck being offered in response to this IFB.

- Fuel- Diesel
- Automatic Transmission
- Air Brakes
- Two man bucket or 2 one man buckets
- Over Center
- 2,000 lb. Material Handler
- Bucket w/ rotator
- Emergency stop at upper and lower controls
- Tool outlet at bucket
- A/C
- ISO-Grip control
- Storage bins on both sides

9.0 **PRICING SCHEDULE:** The Bidder shall agree to provide delivery of the bucket truck, FOB Destination, at the following firm fixed delivered unit price, in accordance with the specifications and terms and conditions identified herein.

The Bidder shall clearly and specifically identify the vehicle's make/model number being offered and enclose complete product description.

The quantity specified is an estimate only to be used in the evaluation of bid responses. The quantity estimate is not necessarily to be purchased under any resulting contract. If requirements do not result in an order in the quantity described as "estimated", that fact shall not constitute the basis for an equitable price adjustment. SBCS will only be obligated, under this contract, to the extent of purchase orders issued and goods received.

Quantity	Item Description	Year/Make/Model	Total Bid Price	Warranty (days/miles)	Delivery (Days ARO)
1	Current Model Year Bucket Truck as specified				

Deviations:

10.0 VENDOR INFORMATION FORM

Ordering Information: Please specify the correct legal business name, contact person, address, phone and fax numbers that should be used for all purchase order submittals by SBCS.

Legal Business Name: _____

Address: _____

City, State, Zip: _____

Offeror Contact: _____

Phone: _____ Fax: _____ E-mail: _____

Tax ID# / FIN: _____

Remittance Information: (Provide only if different from ordering address) Please specify the correct legal business name, address, phone and fax numbers that should be used as the remittance address by SBCS.

Legal Business Name: _____

Address: _____

City, State, Zip: _____

Phone: _____ Fax: _____ E-mail: _____

If Remittance Information is left blank, remittance will be sent to the Ordering Address indicated above.

Identification Number _____

(assigned by the Virginia State Corporation Commission for any Bidder meeting the following requirement.)

Section 2.2-4311.2, Code of Virginia

Any Bidder that is organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law. The Bidder is to include with its bid either the identification number issued to it by the State Corporation Commission or a statement describing why the Bidder is not required to be so authorized.

Statement:

How did you hear about this Invitation for Bid?

- ☐ Spotsylvania County Schools Purchasing Website
- ☐ Email Notification from Spotsylvania County Schools
- ☐ eVA
- ☐ Construction Journal

- ☐ Reed Construction Data
- ☐ Newspaper _____
- ☐ Other _____

11.0 VENDOR DATA SHEET

1. QUALIFICATION OF BIDDER: The Bidder shall have the capability and the capacity in all respects to fully satisfy all the contractual requirements.
2. YEARS IN BUSINESS: Indicate the length of time the Bidder has been in business providing the goods/services in this solicitation: _____ Years _____ Months.
3. REFERENCES: Bidders shall provide a listing of no less than three (3) references for which the company has provided specified goods/services of the same or greater scope within the last three (3) years. **SBCS cannot be a reference.** SBCS shall have the option of checking discovered references in addition to references provided by the Bidder and must be able to contact all references without notification to the Bidder.

1.	Customer Name:	Contact Name:	Contact Title:
Address: _____			Phone No.
_____			Fax No.

2.	Customer Name:	Contact Name:	Contact Title:
Address: _____			Phone No.
_____			Fax No.

3.	Customer Name:	Contact Name:	Contact Title:
Address: _____			Phone No.
_____			Fax No.

12.0 GENERAL TERMS AND CONDITIONS: (Revised 3/25/10)

These General Terms and Conditions shall apply to all purchases and be a part of every contract awarded by SBCS unless otherwise specified in writing. Bidders/Offerors, or their authorized representatives, are expected to inform themselves fully as to the conditions, requirements and specifications before submitting bids/proposals. Failure to do so will be at the Bidder's/Offerors own risk and except as provided by law, relief cannot be secured on the plea of error.

These General Terms are subject to all Federal, State, and local laws, policies, regulations and rules. Bids/Proposals issued by SBCS will bind Bidders/Offerors to applicable conditions and requirements herein set forth unless otherwise specified in the solicitation.

- 1 SCHOOL DIVISION LEGAL STATUS: The school board is a corporate body whose official title is "The School Board of the County of Spotsylvania" herein referred to as SBCS.
- 2 ANTI-DISCRIMINATION: By submitting their bid/proposal, the Bidder/Offeror certifies to SBCS that he/she will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Act of 1975, as amended, where applicable, the Virginians with Disabilities Act, the Americans with Disabilities Act and Section 2.2-4311 of the Virginia Public Procurement Act (VPPA). If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by SBCS (Code of Virginia, Section 2.2-4343.1E.).

In every contract over \$10,000, the provisions in 2.1. through 2.4. below apply:

During the performance of this contract, the Contractor agrees as follows:
 - 2.1 The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - 2.2 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.
 - 2.3 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;
 - 2.4 The Contractor will include the provisions of 2.2 above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- 3 ANTITRUST: By entering into a contract, the Contractor conveys, sells, assigns, and transfers to SBCS all rights, title and interest in and to all causes of the action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by SBCS under said contract.
- 4 APPLICABLE LAWS AND COURTS: This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia, including, but not limited to, the Code of Virginia, Virginia Public Procurement Act (VPPA), and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The Contractor shall comply with applicable federal, state and local laws and regulations, and be legally authorized to do business in the Commonwealth of Virginia.
- 5 ASSIGNMENT OF CONTRACT: A contract shall not be assignable by the Contractor in whole or in part without the written consent of SBCS and other participating jurisdictions.
- 6 AUTHORITY: The Superintendent, or his designee, has the responsibility and authority for issuance of invitations to bid, requests for proposals, negotiations, placing and modifying invitations, requests, purchase orders and awards issued by and for SBCS. In the discharge of these responsibilities, the Superintendent may be assisted by delegating to the Purchasing Agent or other staff member(s). No other School Board officer or employee is authorized to enter into purchase negotiations, change orders, contracts, or in any way obligate the School Board for any indebtedness. Any purchase order or contract made which is contrary to these provisions and authorities shall be of no effect and void, and the School Board shall not be bound thereby.
- 7 AVAILABILITY OF FUNDS: It is understood and agreed between the parties herein that SBCS shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this contract.
- 8 BID/PROPOSAL ACCEPTANCE PERIOD: Unless otherwise specified, all formal bids/proposals submitted shall be valid for a minimum period of one hundred twenty (120) calendar days following the date established for acceptance. At the end of the one hundred twenty (120) calendar days the bid/proposal may be withdrawn at the written request of the Bidder/Offeror. If the bid/proposal is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.
- 9 BID/PROPOSAL SOLICITATION RESULTS: Bid/proposal results are available upon request from the Purchasing Agent.
- 10 CHANGES TO THE CONTRACT: Changes can be made to the contract in any of the following ways:

The parties may agree to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.

SBCS may order changes within the general scope of the contract at any time by written notice to the Contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated

for any additional costs incurred as the result of such order and shall give SBCS a credit for any savings. Said compensation shall be determined by one of the following methods:

By mutual agreement between the parties in writing; or

By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the Contractor accounts for the number of units of work performed, subject to SBCS' right to audit the Contractor's records and/or determine the correct number of units independently; or

By ordering the Contractor to proceed with the work and keeping a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Contractor shall present SBCS with all vouchers and records of expenses incurred and savings realized. SBCS shall have the right to audit the records of the Contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Department within thirty (30) days from the date of receipt of the written order from SBCS to proceed. If the parties fail to agree on an amount of adjustment, the questions of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for relieving disputes provided by the Disputes Clause of this contract. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the Contractor from promptly complying with the changes ordered, in writing, by SBCS or with the performance of the contract generally.

No modification for a fixed price contract may be increased by more than 25% or \$30,000, whichever is greater, without the advanced written approval of the School Board, as applicable.

- 11 CLARIFICATION OF TERMS: If any prospective Bidder/Offeree has questions about the specifications or other solicitation documents, the prospective Bidder /Offeree shall contact the Purchasing Agent whose name appears on the face of the solicitation no later than the date/time listed on page 1 of this solicitation for the receipt of questions. Any revisions to the solicitation will be made only by a written addendum issued by the Purchasing Agent.
- 12 CONDITION OF ITEMS: All items shall be new, and in first class condition, including containers suitable for shipment and storage, unless otherwise indicated herein. Verbal agreements to the contrary will not be recognized.
- 13 CONDITIONAL BIDS: Conditional bids are subject to rejection in whole or in part unless the solicitation specifically permits conditional bids.
- 14 CONTRACT AWARD: The award will be made to the lowest responsive and responsible Bidder/Offeree for each item, or group of related items indicated in the Pricing Schedule. Awards made in response to an RFP will be made to the highest qualified Offeree whose proposal is determined, in writing, to be the most advantageous to SBCS taking into consideration the evaluation factors set forth in the RFP. Delivery time lines shall be a factor in making an award. SBCS reserves the right to make a separate award for each item, a group of items or all items, and to make awards either in whole or in part, whichever is deemed by SBCS to be in its best interest. SBCS reserves the right to reject any or all bids/proposals, in whole or in part, to waive any informality and to delete items prior to making the award(s), whenever it is deemed in the sole opinion of SBCS to be in its best interest. SBCS reserves the right to make the sole determination of whether the model and/or options offered meet the minimum specifications and is acceptable in accordance with the specifications attached. SBCS's decision shall be final.
- 15 CONFLICT OF INTEREST: The Bidder/Offeree certifies by signing the bid/proposal submitted in response to this solicitation that no conflict of interest exists between the Bidder/Offeree and SBCS that interferes with fair competition and no conflict exists between the Bidder/Offeree and any other person or organization that constitutes a conflict of interest with respect to the contract and SBCS.
- 16 CONTRACT DOCUMENTS: The Contract entered into by the parties shall consist of this Invitation For Bid/Request for Proposal, the signed bid/proposal submitted by the Contractor, the Notice of Award or Purchase Order/Contract, the General and Special Terms and Conditions, the listed Specifications and drawings, if any, including all modifications thereof, all of which shall be referred to collectively as the Contract Documents.
- 17 CONTRACTUAL DISPUTES: Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty (60) days after final payment. However, written notice of the Contractor's intention to file such a claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

A claim to SBCS must be initiated by the filing of a Notice of Claim with the Superintendent within the time limits prescribed. It is not sufficient that Notices of Claim be postmarked within the time limits. The Notice must actually be delivered within the time limits. The party noticing the claim assumes whatever risks are inherent in the selected method of delivery.

The Notice must be in writing and state:

- That a claim is being filed;
- The decision related to which the claim is being made;
- The contract number and other identification of the contract;
- The basis for the claim; and
- The relief sought.

SBCS shall render a decision in writing within sixty (60) days. A Contractor may not invoke administrative procedures, or institute legal action prior to receipt of the SBCS decision on the claim, unless SBCS fails to render such decision within the specified time.

The decision of SBCS shall be final and conclusive unless the Contractor appeals within six (6) months of the date of the final decision on the claim by SBCS by invoking administrative procedures meeting the standards of VPPA §2.2-4365, or in the alternative by instituting legal action as provided in VPPA §2.2-4364.

- 18 **DEBARMENT STATUS:** By submitting their bid/proposal, the Bidder/Offeror certifies that he/she is not currently debarred by the Commonwealth of Virginia or SBSC from submitting bids/proposals on contracts for the type of goods and/or services covered by this solicitation, nor is the Bidder/Offeror an agent of any person or entity that is currently so debarred.
- 19 **DEFINITIONS**
- COMPETITIVE NEGOTIATION:** A method of contractor selection for professional and non-professional services.
- CONTRACTOR:** Any company, individual, firm, corporation, partnership or other organization to whom any award is made by the School Board
- INFORMALITY:** A minor defect or variation of a bid or proposal from the exact requirements of the Invitation to Bid or the Request for Proposal, which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured
- PROFESSIONAL SERVICES:** Work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy, professional engineering or any other profession which the Virginia General Assembly has so classified.
- PUBLIC BODY:** Any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to perform some governmental duty and empowered by law.
- PURCHASING AGENT:** Purchasing Agent employed by the Spotsylvania County School Board.
- REQUEST FOR PROPOSAL (RFP):** A method of competitive negotiation which will state the general terms for the goods or services which are sought to be procured. The RFP will specify the evaluation factors to be used and contain or incorporate by reference other applicable contractual terms and conditions.
- RESPONSIBLE BIDDER/OFFEROR:** A person who has the capability, in all respects, to perform fully the contract requirements and moral business integrity and reliability which will assure good faith performance, and who has been pre-qualified, if required.
- SCHOOL BOARD:** Spotsylvania County Public Schools (SBSC).
- SERVICES:** Any work or labor performed by an independent contractor wherein the service rendered does not consist primarily of acquisitions of equipment or materials, or the rental of equipment, materials and supplies.
- SOLICITATION:** The process of notifying prospective bidders/Offerors that the School Board wishes to receive bids/ proposals on goods or services.
- STATE:** Commonwealth of Virginia.
- 20 **DRUG-FREE WORKPLACE:** By submitting their bid/proposal, the Bidder /Offeror shall in accordance with Section 2.2-4312. of the VPPA agree to maintain a drug-free workplace.
- In every contract over \$10,000 provisions 20.1 – 20.4 below shall apply. During the performance of this contract, the Contractor agrees to:
- 20.1 Provide a drug-free workplace for the Contractor's employees.
- 20.2 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.
- 20.3 State in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace.
- 20.4 Include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor in accordance with the VPPA, 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.
- 21 **ERRORS IN BIDS/PROPOSALS:** When an error is made in extending total prices, the unit bid/proposed price will govern. Erasures in bids/proposals must be initialed by the Bidder/Offeror. Carelessness in quoting prices, or in preparation of bids/proposals will not relieve the Bidder/Offeror. Bidders/Offerors are cautioned to recheck their bids/proposals for possible errors. Errors discovered after public opening cannot be corrected and the Bidder/Offeror will be required to perform if his/her bid/proposal is accepted.
- 22 **ETHICS IN PUBLIC CONTRACTING:** By submitting their bid/proposal, Bidders/Offerors certify that their bid/proposal is made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Bidder/Offeror, supplier, manufacturer or subcontractor in connection with their bid/proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- 23 **EXHAUSTION OF ADMINISTRATIVE REMEDIES:** No potential Bidder/Offeror or Contractor shall institute any legal action until all administrative remedies available under this solicitation and resulting contract have been exhausted and until all statutory requirements have been met.
- 24 **EXAMINATION OF RECORDS:** The Contractor agrees that in any contract resulting from this solicitation, SBSC or any duly authorized representative shall, until the expiration of three (3) years after final contract payment, have access to and the right to

examine and copy any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to the contract.

The period of access provided in the paragraph above for records, books, documents, and papers which may be related to any arbitration, litigation, or the settlement of claims arising out of the performance of any resulting contract or any contracts with vendors shall continue until any appeals, arbitration, litigation, or claims shall have been finally disposed of.

25 **EXTRA CHARGES NOT ALLOWED:** The bid/proposal prices shall be for the complete delivery ready for SBCS use, and shall include all applicable freight charges; extra charges will not be allowed for shipment to multiple locations.

26 **FAILURE TO DELIVER:** Failure to comply with the terms and conditions of this solicitation or to deliver goods and/or services identified in the solicitation and resulting contract at the firm fixed prices quoted will be considered default of the contract award. Should the contractor fail to deliver an order at the time specified, or within a reasonable period of time thereafter, as determined by the Purchasing Agent, or should the contractor fail to make timely replacement of rejected items when so requested, SBCS may purchase items of comparable quality in the open market to replace the rejected or undelivered items. The contractor shall reimburse SBCS for all costs above the contract price when purchases are made in the open market.

27 **HOLD HARMLESS:** The Contractor in any contract resulting from this IFB/RFP shall pay all royalties and license fees necessary for performance of the contract. The Contractor shall defend all suits or claims for infringement of any patent rights or any other proprietary rights arising from, or related to, performance of the resulting contract and shall hold SBCS harmless from any and all loss, including reasonable attorneys' fees, on account thereof.

28 **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By submitting their bid/proposal, Bidders/Offerors certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986.

29 **INCLEMENT WEATHER:** Due to inclement weather conditions, SBCS may elect to close schools and administration offices. The following is an explanation of the policy:

CODE ONE or TWO: All Spotsylvania County Public Schools are closed. Twelve (12) Month employees must report to work on a delayed arrival schedule. (One or two hour delay as determined by the Superintendent.) Administration offices are opened on the same delayed arrival schedule.

CODE ZERO: All Spotsylvania County Public Schools are closed. Employees do not report to work. Administration offices are closed.

In the event of a delayed school opening, all times shall remain as stated in the solicitation.

In the event that Spotsylvania County Public Schools close on a CODE ONE or TWO, any Optional/Mandatory Pre-bid/proposal Conference and all Bid Openings/Proposal Receipts will be held as scheduled.

In the event that Spotsylvania County Public Schools close on a CODE ZERO, any Optional/Mandatory Pre-bid/proposal Conference and all Bid Openings/Proposal Receipts will be held on the next business day the Spotsylvania County Public Schools experience a normal opening, a delayed opening, or a school closing on a CODE ONE or TWO, at the time previously scheduled. No exceptions will be made in this matter.

30 **INDEMNIFICATION:** The Contractor shall indemnify, save and hold harmless SBCS, its officers, agents, employees, volunteers and participating jurisdictions against and from any and all injuries, death, loss, damage, claims, patent claims, suits, liabilities, judgments, costs of investigation, attorney fees, cost of appeals arising out of any such claims or suits, and other expenses which may otherwise accrue against SBCS in consequence of the granting of a contract or which may or otherwise result in connection with work therefrom, if it shall be determined that the act was caused through negligence, omission or commission of the Contractor, including its agents, subcontractors, employees, and volunteers. The Contractor expressly understands and agrees that any performance bond or insurance shall in no way limit the responsibility to indemnify, keep and save harmless and defend the School Board as herein provided. Furthermore, it is understood and agreed that the Contractor is at all times herein acting as an independent contractor.

31 **INSURANCE:** By signing and submitting a bid/proposal under this solicitation, the Bidder/Offeror certifies that if awarded the contract, he/she will have Worker's Compensation insurance in effect. Limits of said insurance shall be established as required by the Worker's Compensation Act of Virginia. Additionally, he/she will maintain this during the entire term of the contract and certifies that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission. During the period of the contract, SBCS reserves the right to require the Contractor to furnish certificates of insurance for the coverage required by SBCS and the Commonwealth.

Employer's Liability - \$100,000.

Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The School Board of the County of Spotsylvania must be named as an additional insured and so endorsed on the policy.

Automobile Liability - \$1,000,000 per occurrence.

32 **INVOICES:** Invoices for goods and/or services ordered, delivered and accepted shall be submitted in duplicate by the Contractor directly to the payment address shown on the purchase order/contract. **All invoices shall reference said purchase order/contract number and shall be in the same legal name of the Contractor as indicated on the Contract.**

33 **LABELING OF HAZARDOUS SUBSTANCES:** If the items or products requested by this solicitation are "Hazardous Substances" as defined by Section 1261 of Title 15 of the United States Code (U.S.C.), then the Bidder/Offeror, by submitting their bid/proposal, certifies and warrants that the items or products to be delivered under this contract shall be properly labeled as required by the foregoing sections and that by delivering the items or products the Bidder/Offeror does not violate any of the prohibitions of Title 15 of the U.S.C. or Section 1263.

34 **LATE BIDS/PROPOSALS:** To be considered for selection, bids/proposals must be received by the SBCS Administrative Office by the designated date and hour. The official time used in the receipt of bids/proposals is **local prevailing Verizon time**. Bids/Proposals

received in the SBCS Administrative Office after the date and hour designated are non-responsive, automatically disqualified, and will not be considered. SBCS is not responsible for delays in the delivery of mail by the U.S. Postal Service, private couriers, or the intra-school mail system or delivery by any other means. It is the sole responsibility of the Bidder/Officer to ensure that his/her bid/proposal reaches the SBCS Administrative Office by the designated date and hour. Please Note: Fed-Ex and other overnight services do not guarantee A.M. delivery to Spotsylvania County.

35 MANDATORY USE OF SBCS FORM AND TERMS AND CONDITIONS: Failure to submit a bid/proposal on the official SBCS form provided for that purpose may be cause for rejection of the bid/proposal. Unauthorized modification of or additions to the General and/or Special Terms and Conditions of this solicitation may be cause for rejection of the bid/proposal; however, the Purchasing Agent reserves the right to decide, on a case by case basis, in his/her sole discretion, whether to reject such a bid/proposal as non-responsive. As a precondition to its acceptance, SBCS may, in its sole discretion, request that the Bidder/Officer withdraw or modify non-responsive portions of a bid/proposal, which do not affect quality, quantity, price or delivery.

36 MATERIAL SAFETY DATA SHEETS: Material and Safety Data Sheets shall be provided within two (2) business days upon request for each chemical and/or compound offered. Failure on the part of the Contractor to submit such data sheets may be cause for declaring the Contractor in default.

37 METHOD OF PAYMENT: The Contractor shall be paid on the basis of invoices submitted for completed work. Payment will be net forty-five (45) days from receipt, and approval, by an authorized SBCS official, upon satisfactory completion of delivery. Payment shall be made after satisfactory performance of the contract in accordance with all the provisions thereof and upon receipt of a properly completed invoice. SBCS reserves the right to withhold any or all payments or portions thereof for contractor's failure to perform in accordance with the provisions of the contract or any modifications thereto.

38 NEGOTIATION WITH THE LOWEST BIDDER/OFFEROR: Unless all bids/proposals are canceled or rejected, SBCS reserves the right granted by Section 2.2-4318 of the Code of Virginia to negotiate with the lowest responsive and responsible Bidder/Officer to obtain a contract price within the funds available to SBCS whenever such low bid exceeds SBCS's available funds. For the purpose of determining when such negotiations may take place, the term "available funds" shall mean those funds which were budgeted by SBCS for this contract prior to the issuance of the written Invitation for Bid/Request for Proposal. Negotiations with the low bidder may include both modifications of the bid price and the Scope of the Work/Specifications to be performed. SBCS shall initiate such negotiations by written notice to the lowest responsive, responsible Bidder that its bid exceeds the available funds and SBCS wishes to negotiate a lower contract price. The times, places and manner of negotiating shall be agreed to by SBCS and the lowest responsive, responsible Bidder.

39 NO CONTACT POLICY: No Bidder/Officer shall initiate or otherwise have contact related to the solicitation with any SBCS representative or employee, other than the Purchasing Agent, prior to the date/time set for bid/proposal receipt. Any contact initiated by a Bidder/Officer with any SBCS representative, other than the Purchasing Agent, concerning this solicitation is prohibited and may cause the disqualification of the Bidder/Officer from this procurement process.

40 NONDISCRIMINATION OF CONTRACTORS: Any potential Bidder/Officer, or Contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age or disability or against faith-based organizations. If the award of this contract is made to a faith-based organization, and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, SBCS shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursement from an alternative provider.

41 OFFICIAL NOT TO BENEFIT:

Each Bidder/Officer shall certify upon signing a bid/proposal that to the best of his/her knowledge no SBCS official or employee having official responsibility for the procurement transaction or member of his/her immediate family has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid/proposal or as soon thereafter, as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment or recession of the contract made or could affect payment pursuant to the terms of the contract.

Whenever there is reason to believe that benefit of the sort described in the paragraph above has been or will be received in connection with the bid/proposal or contract and that the Contractor has failed to disclose such benefit or has inadequately disclosed it, SBCS, as a prerequisite to payment pursuant to the Contractor, or at any time may require the contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.

In the event the Bidder/Officer has knowledge of benefits as outlined above, this information should be submitted with the bid/proposal. If the above does not apply at time of award of contract and becomes known after inception of a contract, the Bidder/Officer shall address the disclosure of such facts to: Purchasing Agent, Spotsylvania County Public Schools, 8020 River Stone Dr., Fredericksburg, VA 22407. The solicitation's number shall be referenced in the disclosure.

42 OWNERSHIP OF MATERIAL: Ownership of all data, material and documentation originated and prepared by the Bidder/Officer and successful Contractor for SBCS pursuant to this solicitation and any resulting contract shall belong exclusively to SBCS and be subject to public inspection in accordance with the Virginia Freedom of Information Act.

43 PAYMENT TERMS: Any payment terms requiring payment in less than 45 days will be regarded as requiring payment 45 days after invoice or delivery, whichever occurs last. However, this shall not affect offers of discounts for payment in less than 45 days.

44 PAYMENT TO SUBCONTRACTORS: A contractor awarded a contract under this solicitation is hereby obligated to:

Pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from SBCS for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or;

Notify the agency and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.

The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent (1%) per month (unless otherwise provided under the terms of the contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment

from SBCS except for amounts withheld as stated in the paragraph above. The date of mailing of any payment by U.S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of SBCS or any participating jurisdiction.

- 45 PRECEDENCE OF TERMS: All of these General Terms and Conditions shall apply in all instances. In the event there is a conflict between any of the General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.
- 46 PRIME CONTRACTOR RESPONSIBILITIES: The contractor shall be responsible for complete supervision and direction of the work under this contract, and all subcontractors that he/she may utilize, using his/her best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime Contractor. The Contractor agrees that he/she is as fully responsible for the acts and omissions of his/her subcontractors, and of persons employed by them, as he/she is for the acts and omissions of his/her own employees.
- 47 PRODUCT SELECTIONS: SBCS has the sole discretion, and reserves the right, to determine and select products which meet specific individual facility color and style requirements.
- 48 PROTEST OF AWARD OR DECISION TO AWARD: Any Bidder/Offeror may protest the award or decision to award a contract by submitting a protest in writing to the Superintendent no later than ten (10) days after public notice of the award or the announcement of the decision to award, whichever occurs first. The written protest shall include the basis for the protest and the relief sought. The Superintendent shall issue a decision in writing within ten (10) days of the receipt of the protest stating the reasons for the action taken.
- 49 If prior to award it is determined that the decision to award is arbitrary or capricious then the sole relief shall be a finding to that effect. The Purchasing Agent shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be declared void by SBCS. Where the award has been made and performance has begun, the Superintendent may declare the contract void upon a finding that this action is in the best interest of SBCS. Where a contract is declared void, the performing Contractor shall be compensated for the cost of performance at the rate specified in the contract up to the time of such declaration. In no event shall the performing Contractor be entitled to lost profits.

Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this paragraph shall not be affected by the fact that a protest or appeal has been filed.

An award need not be delayed for the period allowed a Bidder/Offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the offer would expire.

- 50 QUALIFICATIONS OF BIDDERS/OFFERORS: SBCS may make such reasonable investigations as deemed proper and necessary to determine the ability of the Bidder/Offeror to perform the work and the Bidder/Offeror shall furnish to SBCS all such information and data for this purpose as may be requested. SBCS reserves the right to inspect Bidder/Offerors' physical facilities prior to award to satisfy questions regarding the Bidder/Offeror's capabilities. SBCS further reserves the right to reject any bid/proposal if the evidence submitted by, or investigations of, such Bidder/Offeror fails to satisfy SBCS that such Bidder/Offeror is properly qualified to carry out the obligations of the contract and to complete the work contemplated herein.
- 51 QUANTITIES: The quantities specified in the Pricing Schedule, are those intended to be purchased by SBCS. The exact amount ordered will be governed by the actual needs as determined at the time of award. SBCS will only be obligated, under this contract, to the extent of purchase orders issued and products received.
- 52 RECEIPT OF BIDS/PROPOSALS: It is the responsibility of the Bidder/Offeror to assure that the bid/proposal is delivered to the place designated for receipt of bids/proposals prior to the time set for receipt of bids/proposals. No bid/proposal received after the time designated for receipt of bids/proposals shall be considered.
- 53 RECEIPT OF GOODS: Bidders/Offerors shall be aware that the materials being contracted for shall be delivered FOB Destination, and the sole property of the Contractor prior to acceptance by SBCS.

The Contractor shall be responsible for all materials or supplies covered by the contract until they are delivered at the designated point. The Contractor shall bear all risk on rejected materials/supplies after the notice of rejection is issued. Rejected materials/supplies must be removed by, and at the expense of, the contractor within 14 calendar days after the notice of rejection has been issued.

Replacement materials or components that have been rejected by SBCS, in accordance with the terms of the contract, shall be replaced by the Contractor at no cost to SBCS.

- 54 SAFETY: All contractors and subcontractors performing services for SBCS shall comply with all Occupational Safety and Health Administration (OSHA), and State Occupational Health Standards and any other applicable rules and regulations. Also, all contractors and subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this contract.
- 55 SMALL, WOMAN, MINORITY, AND SERVICE DISABLED VETERAN-OWNED BUSINESS ENTERPRISES:
SBCS promotes fair and equal opportunity to all vendors interested in participating in the procurement process. It is the policy of SBCS to undertake every effort to increase opportunity for utilization of small, woman, minority and service disabled veteran-owned businesses in all aspects of procurement to the maximum extent feasible. In connection with the performance of this contract, the Contractor agrees to use their best effort to carry out this policy and ensure that small, woman, minority and service disabled veteran-owned businesses shall have the maximum practicable opportunity to compete for subcontract work under this contract consistent with the efficient performance of this contract.

Contractors may rely on written representation by subcontractors regarding their status as small, woman, minority and/or service disabled veteran-owned business enterprises in lieu of an independent investigation.

- 56 **SUBCONTRACTORS:** No portion of the work shall be subcontracted without prior written consent of the Purchasing Agent. In the event that the Contractor desires to subcontract some part of the work specified herein, the Contractor shall furnish the Purchasing Agent the names, qualifications and experience of their proposed subcontractors. The Contractor shall, however, remain fully liable and responsible for the work to be done by his/her subcontractor(s) and shall assure compliance with all requirements of the contract.
- 57 **TAX EXEMPTION:** SBCS, as a public body politic and corporate of the Commonwealth of Virginia, is exempt from any Federal excise tax and Virginia sales and use tax. SBCS' employer identification number is 54-6001624.
- 58 **TESTING AND INSPECTION:** SBCS reserves the right to conduct any test or inspection it may deem advisable to ensure products/services conform to the specification.
- 59 **TERMINATION:** Subject to the provisions below, the contract may be terminated by SBCS upon thirty (30) days advance written notice to the other party. Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation
- Termination for Convenience:** In the event that the contract is terminated upon request and for the convenience of SBCS, without the required thirty (30) days advance notice, then SBCS shall be responsible for payment of services up to the termination date.
- Termination for Cause:** Termination by SBCS for cause, default or negligence on the part of the Contractor shall be excluded from the foregoing provision; termination costs, if any shall not apply. SBCS may hold the Contractor responsible for any resulting additional purchase and administrative costs. The thirty (30) days advance notice requirement is waived in the event of Termination for Cause.
- Termination Due to Unavailability of Funds:** When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, the contract shall be canceled.
- 60 **USE OF BRAND NAMES:** Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict Bidders/Offerors to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which SBCS in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, color and suitability for the purpose intended, shall be accepted. The Bidder/Offeror is responsible to clearly and specifically indicate the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable SBCS to determine if the product offered meets the requirements of the solicitation. **ONLY THE INFORMATION FURNISHED WITH THE BID/PROPOSAL WILL BE CONSIDERED IN THE EVALUATION. FAILURE TO FURNISH ADEQUATE DATA FOR EVALUATION PURPOSES MAY RESULT IN DECLARING A BID/PROPOSAL NON-RESPONSIVE.** Unless the Bidder/Offeror clearly indicates in his/her bid/proposal that the product offered is an "equal" product, such bid/proposal will be considered to offer the brand name product referenced in the solicitation.
- SBCS reserves the right to determine the suitability of substituted items for those specified and to accept or reject in whole or in part any and all bids/proposals received.
- 61 **USE OF CONTRACT BY OTHER POLITICAL ENTITIES:** Bidders/Offerors are advised that all resultant contracts will be extended with the authorization of the Bidder/Offeror to the Metropolitan Washington Council of Governments jurisdictions, and all other jurisdictions and Political Subdivisions of the Commonwealth of Virginia to permit their ordering of supplies and/or services at the prices and terms of the resulting contract. If any other jurisdiction decides to use the final contract, the Contractor must deal directly with that jurisdiction or political subdivision concerning the placement of orders, issuance of the purchase order, contractual disputes, invoicing and payment. SBCS acts only as the "Contracting Agent" for these jurisdictions and political subdivisions. Failure to extend a contract to any jurisdictions will have no effect on the consideration of your bid/proposal.
- 62 **VIRGINIA FREEDOM OF INFORMATION ACT:** Except as provided herein, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act.
- a. Bid/Proposal records shall be made available, upon request, within a reasonable amount of time after receipt but prior to award only for those Bidders/Offerors who submitted a Bid/Proposal in response to this solicitation.
 - b. Cost estimates relating to a proposed transaction prepared by or for a public body shall not be open to public inspection.
 - c. In the event that SBCS decides not to accept any of the bids/proposals and to re-solicit, the procurement file will be closed and not open to public inspection. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.
 - d. Trade secrets or proprietary information submitted by any Bidder/Offeror or Contractor in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act, **however, the Bidder/Offeror or Contractor must invoke the protection of this section in writing prior to or upon submission of the data or other materials, and must identify the data or other materials to be protected, and state the reasons why protection is necessary.**
- 63 **WARRANTY:** The Contractor agrees that the equipment and services furnished under any award resulting from this solicitation shall be covered by the most favorable commercial warranties the Contractor gives any customer for such equipment and that the rights and remedies provided therein are in addition to and do not limit those available to SBCS by any other clause of this solicitation. *A copy of this warranty must be furnished with the bid/proposal.* Should any defect be noted by SBCS, the Purchasing Office will notify the Contractor of such defect or nonconformance. Notification will state either (1) that the Contractor shall replace or correct, or (2) SBCS does not require replacement or correction, but an equitable adjustment to the contract price will be negotiated. If the Contractor is required to correct or replace, it shall be at no cost to SBCS and shall be subject to all provisions of this clause to the same extent as materials initially delivered. If the Contractor fails or refuses to replace or correct the deficiency, the office issuing the purchase order may have the materials corrected or replaced with similar items and charge the Contractor the cost occasioned thereby or obtain an equitable adjustment in the contract price.