

SACHEM CENTRAL SCHOOL DISTRICT

****GENERAL TERMS AND CONDITIONS - MAINTENANCE, REPAIR AND SERVICE CONTRACTS****

This document describes the conditions and specifications that must be met by any person or firm receiving a contract as a result of this solicitation. The following terms, conditions and instructions apply to all Sachem Central School District (the "School District") solicitations, whether they are bids, quotes, proposals or other types of solicitations. All bidders must be prepared to comply with all instructions, conditions, stipulations, specifications and regulations included in this document and any and all addenda issued prior to the opening of solicitations.

1. BID/QUOTE/ PROPOSAL

The term "bid" shall be used collectively for bid, quote, proposal and all other terms implying or meaning response to an opportunity to contract with the School District and shall be defined as an offer to furnish the materials and/or services as per the specifications contained herein. Each bid shall be received with the understanding that acceptance by the Board of Education shall create a contract between the Bidder and the Board of Education upon the terms and conditions herein.

2. BIDDER/CONTRACTOR/VENDOR/ SUPPLIER/PROPOSER

Shall be any company, individual, corporation or other agency submitting responses to solicitations issued by the School District, desiring to enter into contract(s) with the School District, or receiving an award granted by the Board of Education. The term "bidder" is used collectively for bidder, proposer, vendor, supplier, contractor and all other terms implying or meaning one who is responding to an opportunity with the School District.

3. INSTRUCTIONS

Bids, completely and properly executed on the forms provided, may be delivered personally, or by mail, before the time, or at the time, specified on the solicitation. Bids must be enclosed in an opaque, sealed envelope, marked with the bid/ quote/ proposal number, date and time of opening on the outside of the envelope. Verbal bids will not be considered. The bidder assumes full responsibility for having its bid deposited with the Purchasing Agent or his designee. It is understood and agreed upon that all district employees will be absolved from responsibility for the premature opening of any bid not properly labeled on the outside of the envelope. The bidder assumes the risk of any delay in the mail or in the handling of the mail by employees of the School District whether sent by mail or by means of personal delivery. Proposals will be accepted until the date and time set for the opening bids.

The bidder must complete the bid on the forms provided and, in no way, shall change the item numbering sequence in the specification. Bids not submitted on the forms provided may be rejected. Bids written in pencil shall not be accepted. **There shall be no cross-outs or white out corrections of any pricing on the bid proposal pages or vendor price list forms.** Bidders shall not make any stipulations on the bid form or qualify its bid in any way. No bid will be considered which appears to qualify, limit, amend or omit any requirement of the bid document.

The School District may, in its discretion, interpret or reject illegible or vague bids. The School District's decision shall be final.

Each of the following documents must be included in the Bidder's Bid and must be completed, signed, and notarized where indicated. The School District reserves the right to reject as nonresponsive any bid submission that does not contain all required documents.

- a. Bid Proposal Form
- b. Qualifications of Bidders
- c. Non-Collusive Form
- d. Iran Divestment Act Certification
- e. Sexual Harassment Prevention Certification

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In consideration of the School District's agreement to evaluate and consider the proposal, said proposal shall be considered a firm offer to perform in accordance with the terms thereof and may be accepted by the School District for a period of forty-five (45) days from the bid opening. Technical and descriptive literature, as appropriate, must accompany bid proposals. Bids lacking complete information may be rejected as being incomplete and/or non-responsive.

4. KNOWLEDGE OF CONTENTS AND CONDITIONS

Each bidder shall examine the specifications, and other contract documents, and shall be fully familiar with the information pertinent to the performance of the contract.

The submission of a bid by a vendor/ contractor will be construed as indication that he is fully informed as to the extent and character of the work, labor and/ or product required, and can perform the work and supply labor and product satisfactorily to the full intent of the specifications. His bid shall include the furnishing of all labor, materials and equipment as required. Each bidder shall carefully examine the specifications and should any questions arise with respect to the said specifications or the interpretation of any statement contained, the bidder shall immediately request the Purchasing Agent or his/her designee to interpret or clarify such provisions. Such request shall be in writing prior to the opening date. At the discretion of the Purchasing Agent said clarification will be issued as an addendum to all prospective bidders who have secured the bid specification document.

5. BID SECURITY/PERFORMANCE BONDS – NOT APPLICABLE UNLESS INDICATED IN BID SPECIFICATIONS

- A. **BID SECURITY:** If bid specifications require Bid Security, response submitted must be accompanied by a Bid Bond duly executed by the bidder as Principal and having a surety thereon by a surety company acceptable to the School District. Bid Security must be in an amount not less than five percent (5%) of the amount of the total bid. In lieu of the above Bid Bond, a certified check for five percent (5%) of the amount determined above shall be submitted with the bid.

The checks or bid bonds of all except the three lowest bidders will be returned in a timely manner after the opening of bid. The remaining checks or bid bonds will be returned when the contract is executed, or in the event the contract is not awarded after expiration of forty-five (45) days after the opening of bids, unless the bid opening is extended by the School District. The Bid Bond or certified check will be returned to the successful bidder, provided a Performance Bond is in effect.

In the event of failure or refusal of the bidder to deliver a performance Bond, within ten (10) days after notification of award, the Bid Bond or certified check submitted with the bid, shall become the property of the School District.

CHECKS SHALL BE MADE PAYABLE TO THE BOARD OF EDUCATION, SACHEM CENTRAL SCHOOL DISTRICT. BID AND PERFORMANCE BONDS SHALL USE THE SAME DESCRIPTION FOR THE OBLIGEE.

- B. **SECURITY FOR FAITHFUL PERFORMANCE/PERFORMANCE BOND:** The successful bidder will be required to deliver to the School District an executed Performance Bond of a corporate surety licensed to do business in the State of New York within ten (10) days of notification of award. This bond shall be in the amount of one hundred (100%) percent of the total accepted bid for the faithful performance of the contract.

The contractor shall pay the premium on this bond. Any failure on the part of the contractor to perform as per the specifications of the contract will be deemed a breach of the condition for faithful performance.

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6. SUPPLIER'S FINANCIAL STATUS

Within eight (8) days after the date of the bid opening, and prior to award of the contract, the bidder who is being considered for award of contract MAY be required to submit a detailed financial statement showing assets, liabilities and his net worth. Such statement shall be in the ordinary form as required by banks for persons applying for a loan, and showing financial condition as of the end of the month preceding the time of opening of bid or later.

The name of the bank or other financial institution as reference to the financial responsibility of the bidder shall also be submitted within the same time frame as above.

The School District shall have the right to terminate this contract, or any part thereof for default without further cost or liability to the School District in the event of the happening of any of the following:

- a. filing of a voluntary petition in bankruptcy by Supplier
- b. filing of any involuntary petition to have Supplier declared bankrupt, provided it is not vacated within thirty days from the date of filing
- c. the appointment of a Receiver or Trustee for the Supplier, provided such appointment is not vacated within thirty (30) days from the date of such appointment
- d. the execution by the Supplier of an assignment for the benefit of creditors

7. INSURANCE

Notwithstanding any terms, conditions or provisions, in any other writing between the parties, the contractor hereby agrees to effectuate the naming of the District as an Additional Insured on the contractor's insurance policies, except for workers' compensation and N.Y. State Disability insurance.

The policy naming the District as an Additional Insured shall:

- a. Be an insurance policy from an A.M. Best A- rated or better insurer, licensed to conduct business in New York State. A New York licensed and admitted insurer is strongly preferred.
- b. State that the organization's coverage shall be primary and non-contributory coverage for the District , its Board, employees and volunteers with a waiver of subrogation in favor of the District for all coverages including Workers Compensation.
- c. Provide Additional insured status by standard or other endorsements that extend coverage to the District for ongoing operations (CG 20 38) or equivalent and completed operations (CG 20 37) or equivalent. The decision to accept an endorsement rests solely with the District. A completed copy of the endorsements must be attached to the Certificate of Insurance to include General Liability, Auto Liability and Umbrella/Excess coverages.
- d. Have no coverage restrictions and/or exclusions involving New York State Labor Law statutes or gravity related injuries.

No policies containing escape clauses or exclusions contrary to the Owner's interests will be accepted.

The certificate of insurance must describe the services provided by the contractor that are covered by the liability policies.

At the District's request, the contractor shall provide a copy of the declaration page of the liability policies with a list of endorsements and forms. If requested, the contractor will provide a copy of the policy endorsements and forms.

The contractor agrees to indemnify the District for applicable deductibles and self-insured retentions.

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Minimum Required Insurance:

a. **Commercial General Liability Insurance**

\$1,000,000 per Occurrence/\$2,000,000 Aggregate
\$2,000,000 Products and Completed Operations
\$1,000,000 Personal and Advertising Injury
\$100,000 Fire Damage
\$10,000 Medical Expense
The general aggregate shall apply on a per-project basis.

b. **Automobile Liability**

\$1,000,000 combined single limit for owned, hired, borrowed and non-owned motor vehicles.

c. **Workers' Compensation and NYS Disability Insurance**

Statutory Workers' Compensation (C-105.2 or U-26.3); and NYS Disability Insurance (DB- 120.1) for all employees. Proof of coverage must be on the approved specific form, as required by the New York State Workers' Compensation Board. ACORD certificates are not acceptable. A person seeking an exemption must file a CE-200 Form with the state. The form can be completed and submitted directly to the WC Board online.

d. **Umbrella/Excess Insurance**

\$3,000,000 each Occurrence and Aggregate coverage.

\$10,000,000 each Occurrence and Aggregate for high risk construction, work at elevation (>1 story or 10 feet) and/or for project values greater than \$1,000,000.

Umbrella/Excess coverage shall be on a follow-form basis or provide broader coverage over the General Liability and Auto Liability coverages.

Additional Requirements for Asbestos, Lead Abatement and/or Hazardous Materials Contracts

a. **Asbestos/Lead Abatement/Pollution Liability Insurance**

\$2,000,000 per occurrence/\$2,000,000 aggregate, including products and completed operations. Such insurance shall include coverage for the Contractor's operations including, but not limited to, removal, replacement, enclosure, encapsulation and/or disposal of asbestos, or any other hazardous material, along with any related pollution events, including coverage for third-party liability claims for bodily injury, property damage and clean-up costs. If a retroactive date is used, it shall pre-date the inception of the Contract.

If the Contractor is using motor vehicles for transporting hazardous materials, the Contractor shall maintain pollution liability broadened coverage (ISO Endorsement CA 9948 or CA 01 12), as well as proof of MCS 90. Coverage shall fulfill all requirements of these specifications and shall extend for a period of three (3) years following acceptance by the District of the Certificate of Completion.

b. **Testing Company Errors and Omission Insurance**

\$1,000,000 per occurrence/\$2,000,000 aggregate for the testing and other professional acts of the Contractor performed under the Contract with the District.

The Contractor acknowledges that failure to obtain such insurance on behalf of the School District constitutes a material breach of contract and subjects it to liability for damages indemnification and all other legal remedies available to the School District. The contractor is to provide the School District with a certificate of insurance, evidencing the above requirements have been met, prior to the commencement of work or use of facilities. The failure of the District to object to the contents of the certificate or the absence of same shall not be deemed a waiver of any rights held by the District.

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Subcontractors are subject to the same terms and conditions as stated above and must submit same to the District for approval prior to the start of any work.

In the event the General Contractor fails to obtain the required certificates of insurance from the Subcontractor and a claim is made or suffered, the General Contractor shall indemnify, defend and hold harmless the District, its Board, employees and volunteers from any and all claims for which the required insurance would have provided coverage. This indemnity obligation is in addition to any other indemnity obligation provided in the Contract.

The insurance producer must indicate whether or not they are an agent for the companies providing the coverage.

The School District is a member/ owner of the NY Schools Insurance Reciprocal (NYSIR). The contractor/ permittee further acknowledges that the procurement of such insurance as required herein is intended to benefit not only the School District but also the NYSIR, as the School District's insurer.

Certificates of above insurance policies must be filed with the Business Office for a part of the record within ten (10) days after award of this bid indicating:

1. That the policy will not be cancelled nor coverage be reduced or limited without thirty (30) days written notice to the School District. Failure to mail such notice shall not exempt the insurance company from liability by reason of their failure to notify the School District.
2. That a similar thirty (30) days written notice will be given to the School District prior to the expiration of the policy if renewal coverage is to be refused or such coverage is to be reduced on renewal. Failure to mail such notice shall not exempt the insurance company from liability by reason of their failure to notify the School District.

Such certificates shall show the name and address of the insured Contractor, the policy number, the type of coverage, the inception and expiration dates and it shall clearly state what, if any, coverage is excluded by endorsement or otherwise excepting such as appear in the standard printed policy form itself. The School District reserves the right to make direct inquiry to the insurance carrier for an explanation of coverage and the Contractor agrees to assist, if necessary, in obtaining any such desired coverage.

At the option of the School District, the thirty (30) days written notice as required by this section may be reduced to twenty (20) days written notice as to the worker's compensation insurance policy.

The School District shall be included as an additional insured on all policies dealing with auto liability insurance. The certificate of insurance issued for such policy should so designate.

8. INDEMNIFICATION

The contractor shall indemnify and hold harmless the School District, Board of Education, its officers, agents and employees, from and against all claims, damages, losses and expenses, including attorneys' fees, arising out of, or resulting from or caused, in whole or in part, by any negligent act or omission of the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

In the event that any action, suit or proceeding is brought against the School District upon any act or omission arising out of the performance of contract hereinbefore mentioned, the Contractor at his or its own expense, shall defend against such claim, action or proceeding, and take all such steps as may be necessary or proper therein by preventing the entry of a judgment or order against the School District and to do whatever else may be necessary to protect the interests of the School District.

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Upon notice, the successful contractor(s) shall repair or replace, to the satisfaction of the School District, any and all damage done to buildings, grounds and containers caused or done by his employees, equipment and/or vehicle.

9. HOLD HARMLESS

The Contractor agrees to defend, indemnify and hold harmless the School District from and against any and all liability, loss, damage, claim or action, to the extent permissible by law, arising out of operations performed or services provided by the contractor under the contract.

10. CONTRACT DOCUMENTS

It is mutually agreed that the Bid/Quote Specifications, General Terms and Conditions, Affidavit of Compliance, Non-Collusive Bidding Certification, Bid/Quote Proposal, References, Iran Divestment Act Compliance Certification and any and all related data required by the bid/quote document shall be attached to and become a part of the Contract.

The bid/quote specifications, the successful bidder's bid/quote response and the School District Purchase Order shall form the agreement between the successful bidder and the District. Accordingly, the documents specified

above shall constitute a binding contract. This contract shall be non-exclusive. Any proposed agreements submitted with bidders' proposals must meet and include the terms and conditions set forth in these bid/quote specifications.

Bidders understand and agree that all such agreements are subject to modification by counsel and approval by the Board of Education. The Board of Education reserves the right not to execute any submitted agreements, in its sole discretion.

11. CONTRACT PERIOD

The contract period shall be as stated on the Bid/Quote documents.

12. AWARD

The placing in the mail or email of a notice of award to a bidder to the address given in his bid/quote, will be considered sufficient notice of award of contract.

Award (s) will be made to the lowest responsible proposer as will best promote the public interest. If bid security is required, awards will be made to the lowest responsible bidder furnishing the required security as will best promote the public interest.

The School District reserves the right before making an award to conduct investigations as to whether or not the items, qualifications or facilities offered by the Bidder meet the requirements set forth in the Bid/Quote Proposal and Specifications and are sufficient to insure the proper performance of the contract. The School District reserves the right to request additional information from the Bidder for this purpose.

The School District reserves the right to make awards within forty-five (45) days after the date of the bid/quote opening, or as otherwise stated in the proposal, during which period bids shall not be withdrawn, except in accordance with General Municipal Law §103(11).

Notification of bid award will be made to successful bidder(s) in a timely manner subsequent to approval of same by the Board of Education.

Notification of quote award will be made to successful vendor(s) in a timely manner subsequent to review and approval of same by appropriate District personnel.

Contracts will remain in full force and effect for the contract period specified.

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Awards will be made either on a total bid basis, by category, on an item basis or by group of items, whichever is deemed in the best interest of the School District.

If two or more Bidders submit identical bids/quotes as to price, the decision of the School District to award contract to one shall be final.

13. SUBSTANCE ABUSE POLICY

In compliance with the School District's Substance Abuse Policy, all contractors shall be aware of the following:

"The conspiracy to possess, the possession, use, transmittal, manufacture, purchase or sale of illegal drugs, controlled substances, drug paraphernalia, designer drugs, alcoholic beverages or the use of tobacco products in any place or vehicle under school jurisdiction is prohibited. This includes any and all school sponsored activities, regardless of location, including local and foreign field trips, competitions, dances, dinners, or proms. Individuals covered by this prohibition include all students, employees, vendors, contractors, subcontractors and visitors on school property and attending school sponsored functions and in any district or privately owned vehicle on school district property."

The successful bidder must ensure that his/her employees abide by the prohibition against smoking on school grounds.

14. TOXIC SUBSTANCES

The School District hereby states that its intention is to be in compliance with the New York State Health and Safety Act, as well as any and all Federal, State and Local laws, and/ or regulations, regarding toxic and hazardous materials and substances.

Further, it shall be the responsibility of the Bidder to supply Material Safety Data Sheets (MSDS) compliant with OSHA 29 CFR 1910.1200 or ANSI Z 400.1, for any/ all products considered to be hazardous as defined in OSHA 29CFR1910.1200. Said notification shall be provided with the bid, or at the time purchase is being considered when no bid is required. Such submission shall be considered to be an integral part of the purchase. In addition, all suppliers must, if applicable, at the time of delivery of product, provide two (2) Material Safety Data Sheets.

All products delivered to the School District must be labeled. Labels must be in compliance with OSHA regulations. Products received without acceptable labeling shall be returned to the supplier at the suppliers' expense. Labels for secondary containers, when product requires transfer to such container, whether for dilution, or ease of use, shall be included in the shipment of such product.

15. REGULATIONS

The contractor will be required to obtain any and all permits and to complete this proposal in accordance with all State, County and Local ordinances, rules, regulations and requirements.

The contractor shall pay all charges and fees necessary and incidental to the lawful conduct of his business. He shall keep himself fully informed of existing and future Federal, State and Local laws, ordinances and regulations that in any manner may affect the fulfillment of this contract and shall comply with the same.

16. DISCRIMINATION IN EMPLOYMENT

In accordance with Section 220-E of the Labor Law of the State of New York, it is agreed that:

- a. In the hiring of employees for the performance of this contract or any sub-contractor hereunder, no contractor, sub-contractor, nor any person acting on behalf of such contractor or sub-contractor shall for reason of race, creed, sex, color or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates.

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- b. No contractor, sub-contractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, color, sex, creed or national origin. There may be deducted from the amount payable to the Contractor a penalty of five dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the Contract.
- c. This Contract may be cancelled or terminated by the District and all monies due or to become due hereunder may be forfeited for a second or any subsequent violation of the terms or conditions of this section of the Contract.
- d. The aforesaid provisions of this section shall be limited to operations performed within the territorial limits of the State of New York.
- e. The successful Contractor shall conform to the guidelines spelled out in the Nassau-Suffolk Affirmative Action Program.
- f. There may be deducted from the amount payable to the contractor by the district under this Contract a penalty for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of Section 220-E.

17. CONTRACTOR RESPONSIBILITY

The contractor will be responsible for any damages to School District property when such property is the responsibility of, or is in the custody of the Contractor, his employees or subcontractors.

Contractor agrees that all subcontractors performing work under this contract shall comply with its provisions. It is expressly understood that all persons employed by the Contractor, either directly or indirectly, shall be considered employees of the contractor.

Contractor shall guarantee products and services for two (2) years against defective workmanship and against defective material unless the manufacturer provides for a longer period of time. The aforementioned period begins on the date of final payment for the authorized work.

Contractor must follow the rules and regulations of the School District while performing work.

18. CONTRACT COMPLIANCE MONITORING

The District shall monitor the Contractor's compliance with, and performance under, the terms and conditions of the Contract. The Contractor shall make available for inspection and/ or copying by the School District all records and accounts relating to the work performed or the services provided in this Contract.

Contractor is not authorized to officially begin work or make delivery until he is in receipt of a duly authorized purchase order, signed by the Purchasing Agent. **The School District accepts no liability of any kind for products or services furnished and/or delivered without proper authorization.**

19. ASSIGNMENT OF CONTRACT

The successful bidder will give its personal attention to the faithful performance of this Contract. It will not assign, transfer, convey, sublet, use brokers, engage subcontractors, hire others to perform all or part of this Contract, or otherwise dispose of this Contract or any part hereof without prior written consent of the School District. Said request for assignment must be made in writing at least thirty (30) days prior to the anticipated date of assignment. Assignment made without the School District's written consent shall be null and void.

20. PREVAILING WAGE RATE SCHEDULE - *applicable when indicated in bid specifications.*

As per Articles 8 and 9 of the New York State Labor Laws, wages paid for the performance of this contract shall not be less than those listed as minimum by the New York State Commissioner of Labor for the occupations listed.

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It shall be the responsibility of the contractor to:

- a. Obtain and comply with the most current prevailing wage schedule from the New York State Department of Labor. The contractor shall further be responsible for making any necessary adjustments to the wages paid for performance of this contract as required by the New York State Labor Laws.
- b. Access Prevailing wage information for this contract on the New York State Department of Labor website:
 - i. <http://wpp.labor.state.ny.us/wpp/showFindProject.do?method=showlt>
 - ii. Enter PRC number to access schedule.
- c. Provide written notice to all laborers, workers or mechanics of the prevailing wage rate for their particular job classification on each pay stub.
- d. Post a notice on the jobsite at the beginning of the performance of work informing workers of right to contact the Department of Labor regarding wage rates.

As per Article 8, Section 220, New York State Labor Law, amended effective November 9, 1997:

- **EVERY CONTRACTOR AND SUB-CONTRACTOR** shall submit to the department of jurisdiction, (Sachem Central School District), within thirty days after issuance of its first payroll, and every thirty days thereafter, a transcript of the original payroll record, as provided by this article, subscribed and affirmed as true under penalties of perjury. The Department of jurisdiction (Sachem Central School District) shall be required to receive and maintain such payroll records.

Further, it shall be the responsibility of the contractor to comply with all New York State Labor laws, including but not limited to Article 8, Section 220, New York State Labor Law.

All applications for payment, invoices or other requests for payment must be accompanied by certified payroll. No payments will be made without first submitting certified payroll.

The School District shall keep on file, the original payrolls or transcripts, for a period of five (5) years from the completion of the project.

21. SITE VISITS - *applicable when indicated in bid specifications.*

Bidders are encouraged to visit and inspect the locations to be serviced. Failure to do so will not relieve the successful contractor of any obligation to perform within the scope of this contract.

To arrange for on-site visits bidders may contact the School District personnel referenced in the bid specifications. To obtain additional information regarding the bid, bidders may contact the Purchasing Agent at 631-471-1330. All technical questions regarding the bid specification or terms of the contract shall be submitted in writing.

Responses will be provided to all bidders in the form of bid addenda. Only information provided in writing shall be considered as binding upon the School District.

22. QUALITY/SAMPLES/PRICING

All items quoted must conform to descriptions and specifications as stated on the bid/quote document. Where a Brand Name is specified, bidders have the right to bid on a product of EQUAL quality. When bidding an alternate brand, the bidder MUST include the following information with his bid:

**Brand Name, Manufacturer of Product Model Number
Catalog Number and Catalog Size
Packaging**

In addition, appropriate catalog and specifications must be included with the bid response.

Safety Data Sheets (SDS) when appropriate, must be included with delivery.

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Bidders must enter bids for alternate brands, model numbers or deviations from the specifications for sizing, packaging, color or any deviation from the stated specification in the ALTERNATE BID COLUMN, WITH AN EXPLANATION OF DEVIATION FROM THE SPECIFICATIONS. Bids lacking complete information may be rejected as being incomplete. The District shall be the sole judge of a product's equivalency.

Should the bidder make no change or explanation when submitting his bid, it shall be assumed that he is supplying the EXACT (Brand, Model Number) product specified.

SAMPLES: Specifications are designed to establish minimum levels of quality. Deliveries must equal or exceed the quality of the accepted bid sample.

The School District reserves the right to request a representative sample of the item(s) bid either prior to the award or before shipments are made. Further, the School District reserves the right to request samples of any/ all products when the printed specifications or catalog is considered to be insufficient to determine the acceptance/ rejection of the product. If the sample(s) are not in accordance with the requirements of the specifications, the School District may reject the bid for the item(s); or, if the award has been made, cancel the award for the item(s) at the expense of the bidder.

The School District also reserves the right to request additional information on alternates or equivalent items. Samples, when required, must be submitted in accordance with instructions; otherwise, bid may not be considered. If samples are requested subsequent to bid opening, they shall be delivered within ten (10) days of the request, or as directed, in order for the bid to be considered. Samples must be clearly and properly marked so as to identify the product and the Bidder.

The bidder must at his own expense, furnish samples upon request by the Purchasing Agent, or her designee. Bidder must indicate procedures for returning the samples, provided they have not been consumed or rendered useless by test. The School District will not be responsible for any samples destroyed or mutilated by examination or testing. The School District reserves the right to retain the samples until delivery of the item(s) has been completed. Bidder may be required to demonstrate machine or equipment prior to the award. Bidder(s) shall be notified by the Purchasing Agent should such demonstration be required. Items delivered **MUST** conform in all manners to the specifications/sample accepted as the basis for award. Samples will not be returned to Bidder, unless specifically requested by Bidder, and all costs for return to Bidder shall be borne by the Bidder. Items not returned to the Bidder shall be discarded at the discretion of the Purchasing Agent, any costs incurred by the School District shall be billed to the Bidder. Samples not removed within fifteen (15) days after written notice to the bidder will be regarded as abandoned and the School District shall have the right to dispose of them as its own property.

When a specification indicates that an item to be purchased is to be equal to a sample, such sample will be on display at a designated location. Failure on the part of the bidder to examine sample shall not entitle him to any relief from the conditions imposed in the proposal, specification, etc. This does not preclude references to specific catalogs as a means of establishing a quality basis.

PRICING: All units of measure shall be that common to the trade. All prices must be quoted per unit of measure specified. In the event of a discrepancy between the unit price and the total price extension, the unit price will govern.

- a. **Net Pricing** - Prices shall be net, including transportation, customs, tariff, delivery and other charges fully prepaid by the Contractor to each of the schools in the School District, the Administrative Office, Transportation Office, Facilities Office, OSS Office and any facility, school or office added to the School District during the term of the contract. There shall be no charges in excess of the quoted Net prices. The School District will not pay charges in excess of those quoted, including fuel surcharges.

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- b. Unit Pricing - Price per unit specified should be inserted on the Vendor Price List pages and/or Bid Cost Proposal Pages. In the event of a discrepancy between the unit price and the extension, the unit price shall govern. There shall be no charges in excess of the quoted unit prices. The School District will not pay charges in excess of the unit prices quoted, including fuel surcharges.
- c. "No Bid" - When bids are requested on a number of products, either line item, group or lot, a contractor not wishing to bid on an item and/ or service must clearly indicate "No Bid" for that item and/ or service.
- d. "No Charge" Bid Item - When bids are requested on a number of products as a group or lot, a contractor desiring to bid "no charge" on a product in the grouping or lot must clearly indicate such. Otherwise, such bid may be considered incomplete and be rejected, in whole or in part, at the discretion of the School District.
- e. Prices for any combination(s) of items will only be considered if the price for EACH item is shown separately.

Contractor shall be responsible for supplying equipment and labor for all deliveries. Contractor shall be responsible to provide all equipment and labor necessary to perform any/all services required in accordance with bid/quote specifications.

SCHOOL DISTRICTS ARE EXEMPT FROM FEDERAL, STATE AND LOCAL SALES TAXES. SUCH TAX SHALL NOT BE INCLUDED IN PRICES SUBMITTED IN ANY QUOTE.

23. DELIVERY

BIDS STIPULATING MINIMUM DELIVERY REQUIREMENTS WILL NOT BE CONSIDERED

All packages must be plainly marked on the outside, with complete delivery address and Purchase Order Number.

Items shall be securely and properly packed for shipment, storage and stacking in new shipping containers and according to accepted commercial practice without extra charge for packing cases, bailing or sacks.

All deliveries shall be deemed to be FOB Destination, Inside Delivery to each of the schools in the School District, the Administrative Office, Transportation Office, Facilities Office, OSS Office and any facility, school or office added to the District during the term of the contract.

The successful bidder shall be responsible for delivery of items in good condition at the point of destination. Bidder shall file with the carrier all claims for breakage, imperfections and other losses which will be deducted from bidder invoices. The receiving unit will note for the benefit of successful bidder when packages are not received in good condition. Bidder will replace all such damaged material without waiting for claim, adjustments from carriers.

Delivery tickets and/ or packing slips must be included in the package. Material Safety Data Sheets, when appropriate, must be included with delivery.

Delivery of all items on this bid must be within thirty (30) days after receipt of order (ARO), or as otherwise specified on the Purchase Order, which shall not be less than thirty (30) days. The School District reserves the right to cancel the order for any items not delivered within this thirty (30) day or otherwise specified period. The School District reserves the right to purchase these items elsewhere and to charge the original bidder for any costs incurred in excess of the original bid price.

Vendor must supply the items and/or services at the bid price during the entire contract period. Failure to do so shall cause the School District to purchase the items and/or services elsewhere and to charge the original bidder for any costs incurred in excess of the original bid price.

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The successful bidder shall not schedule deliveries for Saturdays, Sundays or legal holidays. Schools will accept deliveries between 8:00 AM and 3:30 PM, prevailing time, Monday thru Friday, except legal holidays or as otherwise noted.

Unless otherwise stated in the specifications, all items must be delivered into and placed at a point within building as directed by the shipping instructions or the agent of the facility. The successful bidder will be required to furnish proof of delivery in every instance.

The bidder, or his agent, must furnish all necessary labor required to make proper INSIDE delivery. Failure to do so will be sufficient reason to refuse delivery. Should delivery be refused for said reason, the bidder is responsible for re-delivering product within three (3) business days of said refusal, at no additional cost to the School District. Further, if the School District is required, for any reason, to furnish labor when Inside Delivery is stated on the bid, the charge for same shall be billed to the vendor. Charges shall be based upon the Prevailing Wage in the School District for the job classification furnishing said labor.

Unloading and placing of the equipment and furniture is the responsibility of the contractor; the School District will accept no responsibility for the unloading and placing of equipment. Any costs incurred due to the failure of the Contractor to comply with this requirement will be charged to the contractor. No help for unloading will be provided by the receiving unit, and suppliers should notify their truckers accordingly.

NO DELIVERIES SHALL BE MADE UNTIL THE VENDOR IS IN RECEIPT OF A WRITTEN AUTHORIZED PURCHASE ORDER, SIGNED BY THE PURCHASING AGENT.

TELEPHONE ORDERS ARE NOT ACCEPTABLE, EXCEPT IN EMERGENCY CASES, AND ONLY WITH THE APPROVAL OF THE PURCHASING AGENT.

THE SCHOOL DISTRICT ACCEPTS NO LIABILITY FOR PRODUCTS OR SERVICES FURNISHED AND/OR DELIVERED WITHOUT PROPER AUTHORIZATION.

24. PAYMENT

The contractor shall submit an original invoice for payment.

Claims for payment will become payable upon approval of satisfactory compliance with the Terms and Conditions of the contract. This shall include, but not be limited to satisfactory performance of the terms of the contract, and submission of the required MSDS sheets, submission of the required transcripts of the original payroll records.

For Service Contracts: All labor shall be billed from the time Contractor's employee arrives at; to the time he departs from the District job site. The School District shall not accept nor authorize payment for travel time or expenses of service personnel to any of the School District's locations. The only billable time shall be for service work performed.

SCHOOL DISTRICTS IN NEW YORK ARE EXEMPT FROM ALL FEDERAL, STATE AND LOCAL SALES TAX. **SUCH TAX SHALL NOT BE INCLUDED IN PRICES SUBMITTED ON ANY INVOICES.**

The School District shall have the right to reduce and set off against amounts payable hereunder any indebtedness or other claim which the School District may have against the contractor, however and whenever arising.

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25. CANCELLATION

Non-performance or compliance of the bidder with the terms and specifications of the contract shall be a basis for termination of the contract by the School District. The School District shall not pay for any material that is unsatisfactory. The Contractor may be given a reasonable opportunity before termination, to correct the deficiencies at the option of the School District. This, however, shall in no way be construed as negating basis for termination for non-performance and/ or compliance. Cancellation of contract may result in the removal of said Bidder from the School District's Bidders List.

The School District shall have the right to terminate this contract or any portion thereof for any reason upon thirty (30) days prior written notice to the successful bidder. Termination shall become effective on the date set forth in the notice. In the event of termination, the successful bidder shall not undertake any additional work or incur any expenses not requested or approved by the School District and will only be entitled to those sums due and owing for services rendered up to the effective date of termination. No other sums will be paid by the School District.

26. LIQUIDATED DAMAGES

Any failure on the part of the contractor to perform his contract will be deemed a breach of the condition for faithful performance. Failure of Contractor to provide full and timely service, in line with all specifications, will result in action instituted by the School District to recover costs and damages resulting from the Contractors' failure to perform.

The School District reserves the right to review all reasons for non-compliance and to determine validity of such reasons. The determination of the School District, as it sees fit, and in the best interest of the School District shall be final. In such circumstances, the School District has the right to secure such product/ services as may be necessary and charge the cost of same to the account of the original contractor.

27. REFERENCES

All bidders shall have satisfactorily completed all phases of this, or similar program for at least three (3) locations. They shall state on the Reference Form addresses, phone numbers, responsible person, email address and dates as required.

28. RIGHTS RESERVED

The School District reserves the right to:

- a. Reject any or all proposals, in whole or in part;
- b. make awards item by item, by category, by parts or in bulk;
- c. waive minor defects;
- d. cancel the award at any time the foregoing conditions are not complied with, or for any good and sufficient reason if deemed in the best interest of the school district to do so;
- e. increase or decrease quantities of any/ all items;
- f. purchase recycled goods, wherever practical, whenever it is deemed to be in the best interests of the School District to do so; and
- g. give preference to such vendors who can and will provide instructional materials in a usable format to disabled students in a timely manner as per the School District plan of service established pursuant to Section 8 NYCRR 200.2 (b)(10).

The School District reserves the right to purchase items on State, County or other Governmental Agency contracts if such items can be obtained on the same terms, conditions, specifications, and at a lower price, if applicable.

The School District reserves the right to eliminate any portions of this proposal in order to operate within its established budget.

Estimated quantities only. There is no guarantee that the School District will purchase any/all of the items listed. The School District reserves the right to purchase product at the quoted price during the contract period.

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29. NON-APPROPRIATION

No contract shall be deemed executory until, and to the extent of, monies appropriated and available for the purpose of the contract, and no liability on account thereof shall be incurred by the School District beyond the amount of such monies. Neither the full faith and credit nor the taxing power of the School District is pledged to the payment of any amount due or to become due under the agreement. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to appropriate or make monies available for the purpose of the contract.

30. ADDITIONAL TERMS AND CONDITIONS

All bids submitted must be either typed or written legibly in ink. Bids written in PENCIL will not be considered. Bids that are not legible or are vague may not be considered.

WHEN PREPARING BIDS, ALL PERTINENT INFORMATION MUST BE PROVIDED ON THE COMMENT LINES PROVIDED.

ALL PRICING MUST APPEAR ON PRICING LINES PROVIDED. THE SCHOOL DISTRICT WILL NOT ACCEPT ANY ARROWS OR DITTO MARKS.

THERE SHALL BE NO CROSS-OUTS OR WHITE OUT CORRECTIONS ON THE BID PROPOSAL PAGES OR VENDOR PRICE LIST FORMS WITHOUT INITIALS AND DATE FOR EACH INSTANCE.

SERVICES RENDERED AND/OR MATERIALS PROVIDED MUST BE AS PER THE ENCLOSED BID SPECIFICATIONS. ALL INVOICES SUBMITTED MUST REFLECT PRICING AS PER THE ENCLOSED BID PROPOSAL PAGES IN ORDER FOR PAYMENT TO BE RENDERED (i.e. hourly rate, initial price, discount, final price, etc.).