

**Request for Proposals (RFP)**

Description: **Beverage Vending Program**

Solicitation No: **124-66-4-5**

Issue Date: **February 29<sup>th</sup>, 2024**

Proposal Due by: **April 5<sup>th</sup>, 2024 at 10:00am EDT**

\*\*\*Solicitation Number and Opening Date must be shown on sealed envelope\*\*\*

The award, this solicitation, any amendments, and any related notices will be posted on our website - <https://www.greenville.k12.sc.us/Departments/main.asp?titleid=solicitations>

**Must Be Signed to be Valid**

Authorized Signature		Printed Name/Title		Date
Company Name			State Vendor No. (If Known)	
Mailing Address			Social Security or Federal Tax No.	
City		State		Zip
Phone Number		Fax Number		Email Address
Buyer Signature and Date (District Use Only)				Purchase Order Number (District Use Only)

**Are you a Minority Owned Vendor?**  Yes or  No      **SC Certified Minority?**  Yes or  No

**ACKNOWLEDGEMENT OF ADDENDUMS:** Acknowledge receipt of amendments by initialing below (if applicable).

Addendum No.	Addendum No.	Addendum No.	Addendum No.	Addendum No.	Addendum No.	Addendum No.
1	2	3	4	5	6	7
Initial	Initial	Initial	Initial	Initial	Initial	Initial

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**I. SCOPE OF SOLICITATION**

The School District of Greenville County (District) invites interested firms to submit a SEALED PROPOSAL to provide Beverage Vending Services for Greenville County Schools students in accordance with the specifications and terms and conditions of this solicitation. District staff will coordinate through each school for these services on an “as needed” basis.

The Request for Proposal solicitation method shall be used to select multiple firms that meets the requirements of the solicitation.

This solicitation does not commit the District to award a contract, to pay any costs incurred in the preparation of the response to this solicitation or to procure any goods or services.

**PERIOD OF PERFORMANCE**

An award resulting from this solicitation will be for one (1) year from the date of award with the option to extend for one (1) year annually, with a potential of five (5) years in total, if agreed to by GCS and the successful proposers. The award and period of performance is valid annually and shall not exceed five (5) years in total. The contract may be awarded annually if agreed to by both parties.

**Solicitation Schedule**

<b>Issue Date</b>	<b>February 29<sup>th</sup>, 2024</b>
<b>Inquiry Deadline</b>	<b>March 28<sup>th</sup>, 2024, at 9:00 A.M. EDT</b>
<b>Proposals Due/Public Opening</b>	<b>April 5<sup>th</sup>, 2024, at 10:00 A.M. EDT</b>

**INQUIRIES**

Questions or comments regarding this solicitation document or the process shall be forwarded, **in writing**, to Ms. Tonya A. Stroud, Senior Buyer, and Mr. Matt Pettit, Director of Procurement, 2 Space Drive, Taylors, South Carolina 29687. Email addresses are: [tstroud@greenville.k12.sc.us](mailto:tstroud@greenville.k12.sc.us) and [mjpettit@greenville.k12.sc.us](mailto:mjpettit@greenville.k12.sc.us). Inquiries and comments shall be delivered to the Procurement Department no later than **March 28<sup>th</sup>, 2024, at 9:00 A.M. EDT**. Verbal questions/comments shall not be addressed at any time.

After the Inquiry Deadline, the District will issue an addendum to address any questions or changes. Any addenda will be posted on the Procurement Department website. Questions and comments received after the Inquiry Deadline will not be addressed.

**NOTE:** No other District personnel or representative of the District shall be contacted regarding this solicitation or the evaluation process. Vendors that attempt to contact other District personnel or representatives or obtain information in any way other than the authorized method, which is in writing to the Procurement Officer, may have that firm’s bid rejected.

## II. INSTRUCTIONS TO OFFERORS

### A. GENERAL INSTRUCTIONS TO OFFERORS

**DEFINITIONS** - Except as otherwise provided herein, the following definitions are applicable to all parts of the solicitation:

AMENDMENT means a document issued to supplement the original solicitation document.

BOARD means the Greenville County School Board of Trustees

BUYER means the Procurement Officer or Procurement Department representative.

CHANGE ORDER means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.

CONTRACT See clause entitled Contract Documents & Order of Precedence.

CONTRACT MODIFICATION means a written order signed by the Procurement Officer, directing the contractor to make changes which the changes clause of the contract authorizes the Procurement Officer to order without the consent of the contractor.

CONTRACTOR means the Offeror receiving an award as a result of this solicitation.

COVER PAGE means the top page of the original solicitation on which the solicitation is identified by number.

Offerors are cautioned that Amendments may modify information provided on the Cover Page.

OFFER means the bid or proposal submitted in response this solicitation. The terms Bid and Proposal are used interchangeably with the term Offer.

OFFEROR means the single legal entity submitting the offer. The term Bidder is used interchangeably with the term Offeror. See bidding provisions entitled Signing Your Offer and Bid/Proposal As Offer To Contract.

PROCUREMENT OFFICER means the person, or his successor, identified as such on the Cover Page.

RESPONSIBLE Bidder means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability, which will assure good faith performance, which may be substantiated by past performance RESPONSIVE Bidder means a person who has submitted a bid or offer, which conforms in all material aspects to the invitation for bids or request for proposals.

SOLICITATION means this document, including all its parts, attachments, and any Amendments.

SUBCONTRACTOR means any person having a contract to perform work or render service to Contractor as a part of the Contractor's agreement arising from this solicitation.

WORK means all labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract

YOU and YOUR means Offeror.

**AMENDMENTS TO SOLICITATION:** (a) The Solicitation may be amended at any time prior to opening. All actual and prospective Offerors (b) shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by letter, or (3) by submitting a bid that indicates in some way that the bidder received the amendment. (c) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

**AWARD NOTIFICATION:** Notice regarding the District's intent to award a contract will be posted on the District Procurement Website – <https://www.greenville.k12.sc.us/Departments/main.asp?titleid=solicitations>. If the contract resulting from this Solicitation has a total or potential value in excess of fifty thousand dollars, such notice will be sent to all Offerors responding to the Solicitation and any award will be effective the day such notice is given. Should the contract resulting from this Solicitation have a total or potential value of one hundred thousand dollars or more, such notice will be sent to all Offerors responding to the Solicitation and any award will not be effective until the sixteenth day after such notice is given, once the protest period has ended.

**BID/ PROPOSAL AS OFFER TO CONTRACT:** By submitting Your Bid or Proposal, You are offering to enter into a contract with Greenville County Schools. Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror on the Cover Page. An Offer may be submitted by only one legal entity; "joint bids" are not allowed.

**BID ACCEPTANCE PERIOD:** In order to withdraw Your Offer after the minimum period specified on the Cover Page, You must notify the Procurement Officer in writing.

**BID IN ENGLISH & DOLLARS:** Offers submitted in response to this solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation.

**CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS:** By submitting an Offer, Offeror certifies, to the best of its knowledge and belief, that-

- (1) Offeror and/or any of its Principals-

- a) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;
  - b) Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and
  - c) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.
  - d) Offeror has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any public (Federal, state, or local) entity.
- (2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).
- a) Offeror shall provide immediate written notice to the Procurement Officer if, at any time prior to contract award, Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
  - b) If Offeror is unable to certify the representations stated in paragraphs (a)(1), Offer must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Offeror's responsibility. Failure of the Offeror to furnish additional information as requested by the Procurement Officer may render the Offeror non-responsive.
  - c) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
  - e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the State, the Procurement Officer may terminate the contract resulting from this solicitation for default.

**CODE OF LAWS AVAILABLE:** The South Carolina Code of Laws, including the Consolidated Procurement Code, is available at <http://www.scstatehouse.net/code/statmast.htm> . The South Carolina Regulations are available at: <http://www.scstatehouse.net/coderegs/statmast.htm> .

**COMPLETION OF FORMS / CORRECTION OF ERRORS:** All prices and notations should be printed in ink or typewritten. Errors should be crossed out, corrections entered and initialed by the person signing the bid. **Do not modify the solicitation document itself (including bid schedule).**

**DEADLINE FOR SUBMISSION OF OFFER:** Any offer received after the Procurement Officer or his/her designee has declared that the time set for opening has arrived, shall be rejected, unless the offer has been delivered to the designated procurement office or the District's mail room, where confirmation can be authenticated by a third party method, prior to bid opening

**DISTRICT CLOSINGS:** If an emergency or unanticipated event interrupts normal District processes so that offers cannot be received at the Procurement Office designated for receipt of bids by the exact time specified in the solicitation, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which the District processes resume. In lieu of an automatic extension, an Amendment may be issued to reschedule bid opening. If District offices are closed at the time a pre-bid or pre-proposal conference is scheduled, an Amendment will be issued to reschedule the conference.

**DISTRICT REGULATIONS:** The bidder(s) and his representatives shall follow all applicable regulations while on District property, including the NO SMOKING, no weapons, and drug-free policies. No work shall interfere with school activities or environments unless an authorized employee for that location gives permission. All representatives of winning bidder must display identification tags (picture ID) at all times while on school grounds.

**DRUG FREE WORK PLACE CERTIFICATION:** By submitting an Offer, Contractor certifies that, if awarded a contract, Contractor will comply with all applicable provisions of The Drug-free Workplace Act, Title 44, and Chapter 107 of the South Carolina Code of Laws, as amended. The successful Vendor shall not permit its personnel, representative or any subcontractor or other personnel to possess upon District property or within any vehicle transporting students and staff, any alcoholic beverages, illicit/non-prescribed drugs, tobacco products or weapons. Alcoholic beverages, illicit/non-prescribed drugs, tobacco products and weapons are not allowed on District property at any time. Any vendor related actions involving or the possession of, any of the aforementioned items while on District property may cause a cancellation of any award/agreement, at no cost to the District. Criminal charges may apply. Personnel who appear to be under the influence of any substance shall not be allowed to transport or come into contact with students or enter or remain on District property.

**DUTY TO INQUIRE:** Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation. Offerors are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation. Failure to do so will be at the Offeror's risk. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the District's attention.

**ETHICS CERTIFICATE:** By submitting an offer, the offeror certifies that the offeror has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statutes require special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by contractor to candidate who participated in awarding of contract. The District may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the procurement officer at the same time the law requires the statement to be filed.

**PROCUREMENT AUTHORITY:** (a) All authority regarding the conduct of this procurement is vested solely with the responsible Procurement Officer. Unless specifically delegated in writing, the Procurement Officer is the only government official authorized to bind the government with regard to this procurement. (b) Purchasing Liability. The Procurement Officer is an employee of Greenville County Schools acting on behalf of the District pursuant to their Procurement Code. Any contracts awarded as a result of this procurement are between the Contractor and Greenville County Schools.

**PROCUREMENT CODE AVAILABLE:** The Greenville County Schools Procurement Code, is available at <https://www.greenville.k12.sc.us/Departments/main.asp?titleid=procure>.

**PROTESTS:**

- (a) Solicitation - Any prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the solicitation of a contract shall protest within fifteen (15) days of the date of issuance of the applicable solicitation document at issue.
- (b) Intent to Award - Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest within fifteen (15) days of the date notification of award is posted in accordance with this code. A protest shall be in writing, submitted to the Director of Procurement, and shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided.

**PROTEST- ADDRESS:** Any protest must be submitted in writing by mail or email to the Director of Procurement, Matt Pettit, 2 Space Dr., Taylors, SC 29687, or to [mjpettit@greenville.k12.sc.us](mailto:mjpettit@greenville.k12.sc.us).

**PUBLIC OPENING:** Offers will be publicly opened at the date / time and at the location identified on the Cover Page, or last Amendment, whichever is applicable.

**QUESTIONS FROM OFFERORS:** (a) Any prospective offerer desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing, either by mail or electronic communication (e-mail). Questions must be received by the Procurement Officer no later than the date and time indicated in the Solicitation Schedule of the submission date stated in the Scope of Solicitation. Label any communication regarding your questions with the name of the Procurement Officer, and the solicitation's title and number. Oral explanations or instructions will not be binding. Any information given a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an Amendment to the solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective offerors. (b) The

District seeks to permit maximum practicable competition. Offerors are urged to advise the Procurement Officer - as soon as possible - regarding any aspect of this procurement, including any aspect of the Solicitation, which unnecessarily or inappropriately limits full and open competition.

**REJECTION/CANCELLATION:** The District may cancel this solicitation in whole or in part. The District may reject any or all proposals in whole or in part.

**RESPONSIVENESS/IMPROPER OFFERS:**

- a. Bid as Specified. Offers for supplies or services other than those specified will not be considered unless authorized by the Solicitation.
- b. Responsiveness. Any Offer which fails to conform to the material requirements of the Solicitation may be rejected as nonresponsive. Offers which impose conditions that modify material requirements of the Solicitation may be rejected. If a fixed price is required, an Offer will be rejected if the total possible cost to the District cannot be determined. Offerors will not be given an opportunity to correct any material nonconformity. Any deficiency resulting from a minor informality may be cured or waived at the sole discretion of the Procurement Officer.
- c. Price Reasonableness: Any offer may be rejected if the Procurement Officer determines in writing that it is unreasonable as to price.
- d. Unbalanced Bidding. The District may reject an Offer as nonresponsive if the prices bid are materially unbalanced between line items or sub-line items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the District even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

**RESTRICTIONS APPLICABLE TO OFFERORS:** Violation of these restrictions may result in disqualification of your offer, suspension or debarment, and may constitute a violation of the state Ethics Act. (a) After issuance of the solicitation, all communications must be solely with the Procurement Officer. You agree not to discuss this procurement activity in any way with any other District employees, agents or officials. This restriction may be lifted by express written permission from the Procurement Officer. This restriction expires once a contract has been formed. (b) Unless otherwise approved in writing by the Procurement Officer, you agree not to give anything to any other District employees, agents or officials prior to award.

**SIGNING YOUR OFFER:** Every Offer must be signed by the individual with actual authority to bind the Offeror. (a) If the Offeror is an individual, the Offer must be signed by that individual. If the Offeror is an individual doing business as a firm, the Offer must be submitted in the firm name, signed by the individual, and state that the individual is doing business as a firm. (b) If the Offeror is a partnership, the Offer must be submitted in the partnership name, followed by the words "by its Partner," and signed by a general partner. (c) If the Offeror is a corporation, the Offer must be submitted in the corporate name, followed by the signature and title of the person authorized to sign. (d) An Offer may be submitted by a joint venture involving any combination of individuals, partnerships, or corporations. If the Offeror is a joint venture, the Offer must be submitted in the name of the Joint Venture and signed by every participant in the joint venture in the manner prescribed in paragraphs (a) through (c) above for each type of participant. (e) If an Offer is signed by an agent, other than as stated in subparagraphs (a) through (d) above, the Offer must state that it has been signed by an Agent. Upon request, Offeror must provide proof of the agent's authorization to bind the principal.

**SUBMITTING CONFIDENTIAL INFORMATION:** For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that Offeror contends contains information that is exempt from public disclosure because it is either (a) a trade secret as defined in Section 30-4- 40(a)(l), or (b) privileged and confidential, as that phrase is used in Section 11-35-410. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the words "TRADE SECRET" every page, or portion thereof, that Offeror contends contains a trade secret as that term is defined by Section 39-8-20 of the Trade Secrets Act. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "PROTECTED" every page, or portion thereof, that Offeror contends is protected by Section 11-35-1810. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. Do not mark your entire response (bid, proposal, quote, etc.) as confidential, trade secret, or protected. If your response or any part thereof, is improperly marked as confidential or trade secret or protected, the District may, in its sole discretion, determine it nonresponsive. If only portions of a page are subject to some protection, do not mark the entire page. By submitting a response to this solicitation or request, Offeror (1) agrees to the public disclosure of every page of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL" or "PROTECTED", (2) agrees that any information not marked, as required by these bidding instructions, as a "Trade Secret" is

not a trade secret as defined by the Trade Secrets Act, and (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure. In determining whether to release documents, the District will detrimentally rely on Offeror's marking of documents, as required by these bidding instructions, as being either "Confidential" or "Trade Secret" or "PROTECTED". By submitting a response, Offeror agrees to defend, indemnify and hold harmless Greenville County Schools, its officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from the District withholding information that Offeror marked as "confidential" or "trade secret" or "PROTECTED". (All references to S.C. Code of Laws.)

**SUBMITTING YOUR OFFER OR MODIFICATION:** (a) Offers and offer modifications shall be submitted in sealed envelopes or packages (unless submitted by electronic means) - (1) Addressed to the office specified in the Solicitation; and (2) Showing the time and date specified for opening, the solicitation number, and the name and address of the bidder. (b) If you are responding to more than one solicitation, each offer must be submitted in a different envelope or package. (c) Each Offeror must submit the number of copies indicated on the Cover Page. (d) Offerors using commercial carrier services shall ensure that the Offer is addressed and marked on the outermost envelope or wrapper as prescribed in paragraphs (a) (1) and (2) of this provision when delivered to the office specified in the Solicitation. (e) Facsimile or e-mail offers, modifications, or withdrawals, will not be considered unless authorized by the Solicitation. (f) Offers submitted by electronic commerce shall be considered only if the electronic commerce method was specifically stipulated or permitted by the solicitation. (g) It is the Offerors responsibility to ensure that bids submitted by electronic commerce were received by the Procurement Officer.

**TAX CREDIT FOR SUBCONTRACTING WITH MINORITY FIRMS:** Pursuant to Section 12-6-3350, taxpayers, who utilize certified minority subcontractors, may take a tax credit equal to 4% of the payments they make to said subcontractors. The payments claimed must be based on work performed directly for a South Carolina state contract. The credit is capped at \$25,000 per year or the total tax liability; whichever is lesser. The taxpayer is eligible to claim the credit for 6 consecutive taxable years beginning with the taxable year in which the credit is first claimed. There is no carry forward of unused credits. The credit may be claimed on Form TC- 2, "Minority Business Credit." A copy of the subcontractor's certificate from the Governor's Office of Small and Minority Business (OSMBA) is to be attached to the contractor's income tax return. Taxpayers must maintain evidence of work performed for a State contract by the minority subcontractor. Questions regarding the tax credit and how to file are to be referred to: SC Department of Revenue, Research and Review, Phone: (803) 898-5786, Fax: (803) 898-5888. The subcontractor must be certified as to the criteria of a "Minority Firm" by the Governor's Office of Small and Minority Business Assistance (OSMBA). Certificates are issued to subcontractors upon successful completion of the certification process. Questions regarding subcontractor certification are to be referred to: Governor's Office of Small and Minority Business Assistance, Phone: (803) 734-0657, Fax: (803) 734-2498. Reference: SC §11-35-5010 - Definition for Minority Subcontractor & SC §11-35-5230 (B) - Regulations for Negotiating with State Minority Firms.

**UNIT PRICE:** Unit price must be shown for each item. In determining award, unit prices will govern over extended prices unless otherwise stated.

**WITHDRAWAL OR CORRECTION OF OFFER:** Offers may be withdrawn by written notice received at any time before the exact time set for opening. If the Solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for opening. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid. The withdrawal and correction of Offers is governed by the District's Procurement Code.

## **B. SPECIAL INSTRUCTIONS TO OFFERORS**

**PRE-BID CONFERENCE:** There is no pre-bid meeting for this solicitation.

**CLARIFICATION:** Pursuant to Section (SC Section 11-35-1520), the Procurement Officer may elect to communicate with you after opening for the purpose of clarifying either your offer or the requirements of this solicitation. Such communications may be conducted only with offerors who have submitted an offer which obviously conforms in all material aspects to the solicitation. Clarification of an offer must be documented in writing and included with the offer. Clarifications may not be used to revise an offer or the solicitation.

## **III. SCOPE OF WORK/SPECIFICATIONS**

### **SCOPE OF WORK**

The awarded proposer(s) is expected to fulfill all of the requirements and duties contained in this solicitation as directed by the District's Superintendent or his designee. A proposal shall consist of details for the provision and management of the services envisioned in the Specifications, in accordance with the requirements described in this solicitation. The detailed Specifications are provided in a later section.

The School District of Greenville County is located in the Upstate of South Carolina with approximately 77,000 students and 11,000 employees. The District was established in 1951. The District consists of more than 104 schools, career centers and other facilities. Proposers can gain more information on the District and its standards by entering the District’s website at [www.greenville.k12.sc.us](http://www.greenville.k12.sc.us).

The scope of work includes, but is not limited to, the responsibilities listed in this RFP and any future authorized, amended documents related to this solicitation. If the proposer takes any exceptions to any part of the solicitation, include the exceptions with the proposal on a separate page titled “Exceptions to Proposal Criteria.”

**Project Schedule:** The project is scheduled to commence on July 1, 2024 after issuance of an award.

**Specific Scope of Work:** An award resulting from this RFP will be for three (3) years from the date of award and reviewed annually with the option to extend for two (2) additional one (1) year periods if agreed to by the successful proposer and the District. The first extension period cannot exceed one year, the second extension cannot exceed past July 1, 2029.

Pricing shall be provided for all individual products for the initial year of performance. Pricing shall be based on a five-year Vending Plan with any price increases broken out per year. For example: July 1, 2024 to June 30, 2025; July 1, 2025 to June 30, 2026; etc.

**Purpose of Solicitation**

The purpose of this solicitation is to seek proposals for implementing the District’s vending requirements in compliance with the Scope of Work. The District is particularly interested in any proposal that will enable the District to secure incentive funds and expedite implementation of the plan. Implementing it within the needs and quality expectations of the District are, however, priorities.

**NOTE: The District shall not accept less than 42.5% profit after taxes.**

Greenville County Schools Case Sales FY22-24

<b>Fiscal Year</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24</b>
<b>Descriptions</b>	<b>July 21- June 22</b>	<b>July 22 – June 23</b>	<b>July 23 – Dec 23</b>
<b>Full-Service Vending</b>	6,614	7,503	2,265
<b>Food Service</b>	26,088	27,785	14,650
<b>Other</b>	11,077	13,037	11,774
<b>Total</b>	<b>43,779</b>	<b>48,325</b>	<b>28,689</b>

The District is seeking proposals from entities for the following purposes:

- A. To designate a provider of beverage vending services/machines.
- B. To provide beverages as noted herein.
- C. To provide quality products at the lowest prices.
- D. To assist schools as a source of revenue.
- E. The District acknowledges a preference for proposals from any firm that provides dollar incentive, up-front funds or some combination. These incentives, up-front funds or combination are separate and cannot be combined with any commission paid by the proposer to schools or locations.

A proposal shall consist of details for the management of the vending services envisioned in the Scope of Work, in accordance with the requirements described in this RFP.

**USDA’s “A Guide to Smart Snacks in Schools” Requirements**

- 1. Elementary school Smart Snack compliant drink options (options based on the USDA’s “A Guide to Smart Snacks in Schools”)
- 2. Middle school Smart Snack compliant drink options
- 3. High school Smart Snack compliant drink options

**Automatic Vending**

This specification involves the requirements for furnishing and installing automatic vending equipment to the District schools and other locations per attachment.

- A. Classification  
Services rendered herein shall be classified as Vending Machine/Services Operation.



**B. Applicable Standards**

Services rendered herein shall meet standards as specified in the following:  
Food Service Regulations 61-25 – Vending of Food and Beverage  
Department of Health and Environmental Control  
Columbia, South Carolina 29201 and

U. S. Department of Health, Education and Welfare  
Public Health Service  
Food and Drug Administration  
Office of Regulatory Affairs  
Fishers Lane  
Rockville, Maryland 20857

**Beverage Supplies**

Beverages sold through vending machines and offered to patrons shall be sound and free from spoilage, filth and other contamination and shall be safe for human consumption. The beverage shall be obtained from sources that comply with all laws relating to beverage and/or food handling and labeling. The use of beverages in hermetically sealed containers, which were not prepared in a beverage- processing establishment maintaining the highest possible sanitation rating, is prohibited.

If the successful proposer cannot supply a product that the District is required to, or wishes to, provide to its students and staff, then the District shall have the right to obtain the product in its best interests elsewhere. Such acquisition of product shall be exempt from the terms and conditions of this RFP.

**Beverages Available by location**

**Elementary Schools shall receive the following:**

Automatic vending machines in which students have normal, unrestricted access, may offer only:

- A. Bottled water, up to 12 ounce servings.
- B. Fat-free, skim milk, 1% milk and flavored milk and nutritionally equivalent (per USDA) milk alternative, in serving sizes no larger than 8 ounces, with a maximum of 150 calories per 8 ounces.
- C. 100% juice, in serving sizes no larger than 8 ounces, with no added sweeteners, maximum of 120 calories per 8 ounces, and with at least 10% of the recommended daily value of three or more vitamins and minerals.

**Middle Schools shall receive the following:**

Automatic vending machines in which students have normal, unrestricted access, may offer only:

- A. Bottled water, up to 12 ounce servings.
- B. Fat-free, skim milk, 1% milk and flavored milk and nutritionally equivalent (per USDA) milk alternative, in serving sizes no larger than 10 ounces, with a maximum of 150 calories per 8 ounces.
- C. 100% juice, in serving sizes no larger than 10 ounces, with no added sweeteners, maximum of 120 calories per 8 ounces, and with at least 10% of the recommended daily value of three or more vitamins and minerals.

**High Schools shall receive the following:**

Automatic vending machines in which students have normal, unrestricted access, may offer only:

- A. Bottled water.
- B. Up to 12 ounce servings of milk and 100% juice drinks.
- C. Fat-free or low-fat regular and flavored milk and nutritionally equivalent (per USDA) milk alternative with up to 150 calories per 8 ounces.
- C. 100% juice with no added sweeteners, up to 120 calories per 8 ounces, and with at least 10% of the recommended daily value of three or more vitamins and minerals.
- D. Other drinks with no more than 66 calories per ounces.
- E. No or low calorie beverages with up to 10 calories per 8 ounces.
- F. At least 50% of non-milk beverages offered must be water and no or low calorie options.

**Non-student Locations**

Automatic vending machines in which students are not allowed access at elementary, middle and high schools may offer only:

- A. Bottled water, up to 12 ounce servings.
- B. Fat-free or low-fat regular and flavored milk and nutritionally equivalent (per USDA) milk alternative, in serving sizes no larger than 12 ounces, with a maximum of 150 calories per 8 ounces.
- C. 100% juice, in serving sizes no larger than 12 ounces, with no added sweeteners, maximum of 120 calories per 8 ounces, and with at least 10% of the recommended daily value of three or more vitamins and minerals.
- D. At least 50% of non-milk beverages offered must be water and no or low calorie options, per automatic vending machine. Regular drink options for catered events.

**School Cafeterias:**

- A. The successful contractor shall provide the District cafeterias with one (1) section and/or (2) section Refrigerated Beverage Merchandisers within one (1) month from the date of award. Individual sizes and number of Refrigerated Beverage Merchandisers needed at individual school cafeterias will be dependent on the size and volume of each location.
- B. All Refrigerated Beverage Merchandisers installed shall be clean, attractive, with no dents or chipped paint. The District has the sole right to decide if the Refrigerated Beverage Merchandisers' appearance is acceptable. If it is deemed that a Refrigerated Beverage Merchandisers is not acceptable, the vendor must remove the Refrigerated Beverage Merchandisers from District grounds and furnish a replacement within thirty (30) working days of being notified by the District.
- C. Refrigerated Beverage Merchandisers shall be NSF and UL or ETL approved floor models only with locking castors and a minimum storage capacity of 18 cubic feet.
- D. Refrigerated Beverage Merchandisers shall have self-closing, sliding or swing type doors with a locking mechanism or lockable hinge.
- E. Electrical requirements of Refrigerated Beverage Merchandisers shall be 115v/60/1ph not exceeding 15 amps, NEMA 5-15 plug with a minimum 9' cord length.
- F. Product orders will be placed via email by individual school cafeteria managers with a five (5) case minimum. In the event District email service is unavailable, phone orders will be required; the District shall not be required to place orders via facsimile at any time. A single Point of Sale representative is desirable. Lead time for normal weekly deliveries shall not exceed three (3) business days. Products shall be delivered to the school cafeteria and placed in designated storage area by delivery personnel.

**Additional products and returns:**

Proposers may include additional, related products in their proposal, but, the District reserves the right to disregard such products. The successful proposer may introduce new products after approval by the District within the terms of this RFP are met. Proposals shall provide the suggested unit and case cost for each proposed product.

The proposal shall state the unit percentage of return, to the District, for all products sold by the successful proposer. Pricing shall include all applicable taxes for both full service vending and non-full service sales. The District has final approval on all product prices.

The District reserves the exclusive right to determine the acceptability of any proposed product or manufacturer.

**Facilities and Equipment**

The successful proposer shall have exclusive rights to furnish, install, operate, supply and service automatic vending equipment for the sale of beverage items normally sold in vending machines on the District's premises. Deliveries shall occur between the hours of 7:00 A.M. and 2:00 P.M. or as directed by the Principal or location manager. The Principal or location manager shall also have the right to decide specific locations where vending equipment may be located and shall establish the hours the machines may be operational. However, full service vending machines are not allowed in cafeterias.

All machines installed shall be clean, attractive, with no dents or chipped paint, have validators/counters and shall have locked cash boxes. The District has the sole right to decide if a machine's appearance is acceptable. If it is deemed that a machine is not acceptable, the vendor must remove the machine from District grounds and furnish a replacement within thirty (30) working days of being notified by the District.

As new equipment is developed, proven and commercially available, it shall be placed in service to assure that all equipment is of the latest and most efficient design. It is the desire of the District to have a standardized system of machines.

Energy Star vending machines shall be capable of operating in the EPA Energy Star "Refrigeration low power state" – the average beverage temperature is allowed to rise to 40°F or higher for an extended period of time. The low power mode-related controls/software shall be capable of on-site adjustment by the vending operator unless the low power controlling device is already preprogrammed when installed in the machine.

The successful proposer shall provide and maintain a petty cash fund of at least \$20.00 at each District location for the purpose of providing prompt refunds of money lost in proposer's machines. The contractor shall replenish these funds in a timely manner within ten (10) business days.

**Machine/Equipment Placement**

The proposer shall furnish, install, maintain and operate at its own expense such vending machines as may be mutually agreed upon by the proposer and the District. The proposer shall place equipment only in approved areas of the schools. Title to all equipment furnished and installed by the proposer shall remain the property of the proposer and none of the equipment shall become part of the building. The proposer shall be responsible for the payment of taxes on all equipment located on District property.

Full Service vending machines are not allowed in cafeterias.

All products offered through vending machines shall be attractively packaged, clearly labeled and priced. Machines shall be stocked with adequate merchandise with consideration to rotation, variety and patron usage. All machines shall be stocked and capable of operation twenty-four hours a day, seven days a week except as previously noted. Beverages shall NOT remain in a machine under refrigeration or be offered for sale beyond the expiration date indicated on any particular product.

All vending machines are to be of a uniform color, height and appearance. The proposer shall provide at its own expense, any additional equipment not currently in place, necessary to operate the equipment. All equipment shall be installed at no expense to the District. Title to all equipment owned by the District related to vending shall remain the property of the District. The District retains exclusive rights to determine placement, type and quantity of any and all vending machines or other operations.

**Examples of Acceptable Vending Machine Manufacturers**

Automatic Products Polyvend Choice Vend ECC Vending Products  
National Vendors R-O International Rowe  
International Royal Vendors Dixie Narco  
RMI U-Select-It Vendor

**Repair Service**

An effective mechanical repair and maintenance service must be available during normal school operating hours including after-school programs and events. Replacement machines must be provided as directed by District personnel when necessary. When notified by District personnel of any defective or non-operating machines, the successful Proposer must be capable of responding within twelve (12) hours with either repair technicians or a replacement machine. The proposer shall, at its own expense, perform any and all corrective and preventative maintenance required to keep all machines clean, sanitary, free of insects and other contaminants and in excellent operating condition.

**Special Events**

The District requires the following packages be available to the District as needed for all athletic and public events held on District property. Proposers shall provide costs for each of the following products to the District, Booster Club and PTAs:

12 ounce cans  
20 ounce bottles  
12 and 16 ounce cups  
2 Liter Bottles

Elementary and Middle Schools may conduct two "Spirit" / "Carnival" fund raising days, in which the school may obtain beverages from other providers, if the contractor does not provide the requested beverages for free. The school must first request the successful vendor to provide these items for free before it obtains these items from other providers.

**PTAs, Booster Clubs and Other School Groups**

During the School Day on District Property - Beverage products offered by the successful vendor must be purchased from the vendor or a local resource (grocery store, wholesale club, etc.). This requirement includes school stores and concession sales during school time (cafeteria, etc.). School groups may purchase products from the successful vendor at the school system contract price. Other beverage products not offered by the successful vendor may be sold with prior District approval. All beverages sold to students by any group during the school day SHALL comply with the National School Beverage Guidelines.

After-School Public Events on School District Property – Beverage products offered by the successful vendor must be purchased from the vendor or a local resource (grocery store, wholesale club, etc.). Products not offered by the successful vendor may also be sold with prior District approval. For these events, all beverages sold do NOT have to meet the National School Beverage Guidelines.

**Submittal Information**

Proposers shall include all applicable requested information and must provide any additional information that they wish to have considered contained within the proposal. Due to the possibility of discussion or negotiation with an apparently responsible firm

submitting a proposal, pursuant to the selection criteria set forth in this RFP, proposers' competitive information shall not be divulged unless required by South Carolina law.

A contract may be awarded encompassing some or all portions of a proposal, in the best interest of the District.

Any resulting award, agreement, contract or understanding may be cancelled with thirty (30) calendar days' notice if funding is not allocated for continuation of the program. This lack of funding and resulting cancellation shall not be grounds for contract controversy.

The District reserves the right to award the project and commence operations sixteen (16) days after the Intent to Award has been issued. The program will be reviewed annually by District administrators and either renewed/continued or cancelled.

**NOTE: Taking exceptions to the solicitation or changing the terms and/or conditions of the solicitation may cause the proposal to be determined "non-responsive" and therefore, not eligible for an award.**

#### **DISTRICT CALENDAR AND INFORMATION**

Proposers can obtain more information on the District, its calendar and standards by entering the District's website at [www.greenville.k12.sc.us](http://www.greenville.k12.sc.us).

#### **POSTPONMENTS**

A proposal recording meeting or a pre-proposal conference shall be postponed if the District's Procurement Department is closed for any of the following reasons: (1) Causes beyond the control of the District (e.g., fire, flood, weather conditions, etc.), or (2) Emergency or unanticipated events that interrupt normal District or Procurement operations. The postponed event (opening or conference) shall automatically be rescheduled to the next full and complete District business day after the published date. A District business day does not include a day starting after an announced opening delay or a closure. Firms should consult the District's INFO Line (864-355-3100) or local media regarding closures.

#### **PERFORMANCE OF THE PROGRAM SPECIFICATIONS**

It is the intent of the District to have one provider for all Beverage Vending requirements pursuant to this solicitation.

If the awarded proposer(s) is(are) unable to provide the required equipment, material or services at any point, in the opinion of the District, the District reserves the right to cancel the award according to the District's Procurement Code and Regulations and secure such services from other qualified sources as needed to meet District requirements. This action shall not be grounds for contract controversy.

A contract may be awarded encompassing all facets of a proposal or portions of a proposal, whichever is in the best interest of the District in order to serve all athletes and athletic programs in the District.

Proposers shall explain, in detail, any additional service that they wish to provide to the District. Proposers shall provide and explain all applicable costs to the District within the proposal. Undisclosed costs/fees shall not be paid at any time.

Due care and diligence has been used in the preparation of the solicitation and specifications. The information contained herein is believed to be substantially correct. However, the responsibility for determining the full extent of the exposure and the verification of all information presented herein shall rest solely upon the proposing entity. The District and its representatives will not be responsible for any errors or omissions in the specifications or the proposer's response nor for the failure on the part of the proposer to determine the full extent of the solicitation requirements and exposures.

The Program Specifications section includes, but is not limited to, the responsibilities listed in this RFP and any future authorized, amended documents related to this solicitation. If the proposer takes any exceptions to any part of the solicitation, firms shall include the exceptions with the proposal on a separate page titled "Exceptions to Proposal Criteria."

#### **Fiscal Matters**

All facilities, equipment and services to be provided by the proposer shall be at the proposer's expense.

Proposer shall pay the District:

(1) Gross Sales Return: payments according to a schedule of the percentage of gross sales return to the District, less applicable sales tax; based on unit cost of beverage products,

(2) Payment: An Award resulting from this RFP will be for the three (3) years from the date of award with the option to renew for a two year period with annual reviews and the last period of time to end on July 1<sup>st</sup>, 2029.

The proposer shall maintain full and accurate records and accounts in connection with the food service operations. All such records shall be retained by the proposer for a period of five (5) years and may be audited by the District's designated representative at any time during regular working hours.

The awarded proposer shall submit a quarterly and an annual statement covering all operations within one (1) month of the end of that period. Said statements shall be filed with the District's Finance Department. Contractor shall be responsible for all taxes imposed.

Within fifteen (15) days following the end of each month the proposer shall submit to each individual District location, a financial statement with full disclosure of all sales and pertinent financial data together with a check covering commissions to the individual location, for that immediate preceding month.

Payment of commissions on gross sales from the Vending Machines operation shall be made to each individual District location monthly. The District through its duly authorized representative shall at all reasonable times have the right to examine books, papers, and records of the Contractor.

Contractor shall provide in each vending machine, meters/counters that will accurately document gross sales. Contractor shall contact District personnel to witness and document meter/counter readings when requested by the District.

**NOTE: Taking exceptions to the solicitation or changing the terms and/or conditions of the solicitation may cause the proposal to be determined "nonresponsive" and therefore, not eligible for an award.**

#### **IV. INFORMATION FOR OFFEROR TO SUBMIT**

##### **PROPOSER GENERAL INFORMATION**

Proposers shall explain, in detail, any additional service that they wish to provide the District. Proposers shall provide all costs to the District in their proposal. Undisclosed costs shall not be paid at any time.

Proposers shall respond to each of the following areas.

Respond in the sequence below:

1. Proposer's main business activities.
2. Length of service in the area.
3. Address the proposing entity's financial ability to provide the services required.
4. Indicate the capability of the proposer's company and programs/methodology to provide the requested service to the District.
5. Name and address of the proposer's insurance agency and surety company. Provide proof of insurance regarding general liability, workers compensation and related coverage.
6. State the method of determining all applicable charges (if applicable).
7. State in detail the method of accountability and documentation to operate the services/program.
8. Describe customer support capability, staff qualifications and philosophy.
9. List any impartial service ratings/or reports regarding the proposing company or any of its affiliates.
10. Provide information regarding governmental or client litigation, including any debarments, related to the proposer's company or its affiliates.
11. State membership in any trade organizations or associations.
12. List at least four business references. (Preferably in an educational environment of similar size as this District).
13. Confirm proposer's compliance to all Federal, state and local (Greenville, South Carolina) statutes, regulations and governing mandates related to this program.

##### **INSTRUCTION FOR SUBMITTAL OF PROPOSAL**

Proposers shall furnish a total of four (4) complete paper proposal packages. Provide one (1) original paper document proposal and three (3) additional paper copies at the due time. Mark the original document as such. All documents (original and copies) shall be submitted in a sealed envelope or other enclosure. Emails or faxes shall not be accepted.

##### **Sealed Proposal Enclosed**

**Project Reference: Beverage Vending Program  
RFP No. 124-66-4-5**

Mail or hand-deliver the proposal to:

**Greenville County Schools  
2 Space Drive  
Taylors, South Carolina 29687  
Attn: Procurement Department**

By submitting a solicitation response, the Vendor acknowledges that it has had the opportunity to inquire about the District's Procurement Code and Regulations, this solicitation and other pertinent District policy.

The submitted sealed proposal must be signed by an authorized individual who may bind the Vendor to provide the service(s) and/or product(s) in accordance with the specifications contained in this RFP.

The official time due time for a solicitation response is maintained according to the Time/Date Stamp located **in** the District's Procurement Department. All solicitation responses shall be received in the District's Procurement Department, 2 Space Drive, Taylors, South Carolina 29687, no later than the time specified in this solicitation. Solicitation responses shall be in the physical possession of a Procurement Department employee prior to the due time or the solicitation response shall be determined to be late once the due time has occurred.

**Faxed or emailed proposals shall not be accepted.**

**NOTE:** Vendors who hand deliver a proposal are responsible for physically handing the proposal to a Procurement Department employee prior to the proposal due time/date. Do not hold the proposal until the recording meeting begins. Do not deliver the proposal to any other location or individual.

**Responses that are in another District location, room, department or other area at the solicitation due time other than the Procurement Department shall not be accepted.** If there is doubt as to the location of the Procurement Department, Vendors may contact the District for directions. The District is not responsible for the Vendor's or its representative's interpretation of any directions provided. The District is not responsible for traffic, parking availability, road closures, delivery services or weather conditions.

Vendors may mail their proposals, however the District assumes no responsibility for the delivery of any solicitation, addendum, solicitation response or any other correspondence by the U.S. Postal Service, a delivery service, electronic transmission, facsimile or any other method.

**NOTE:** PROPOSALS RECEIVED OR DATE STAMPED AFTER THE PROPOSAL DUE/PUBLIC OPENING TIME SHALL NOT BE ACCEPTED OR CONSIDERED.

**PROPOSAL CONTENTS**

To be considered for award, a proposal shall include, as a minimum, the following information. All information must be presented in the order noted below:

**A. Cover Letter:**

A cover letter, which includes a summary of the proposer's ability to perform the services described herein and statement that the proposer is willing to perform those services and enter into a contract with the District. The cover letter shall be signed by a person having the authority to commit the proposer to a contract. Proposals shall be considered only from responsible organizations with a proven record of providing vending machine operations similar to the services described in this RFP.

**B. Experience and Qualifications:**

1. Describe proposer's general background, experience and qualifications.
2. Provide proposer's relevant experience with vending machine operations on a similar scale. (Submit at least four (4) references.)
  - a) Provide the period of time proposer has served each location
  - b) List the total annual sales volume for each location.
  - c) Provide names, addresses and telephone numbers of administrators who are in the position to evaluate the general quality of the operation at their site.

**C. General Approach:**

1. Describe the facilities to be operated, including an evaluation of how the services will be provided (i.e. any type of facilities improvement that the proposer believes is necessary to improve current conditions)
2. Describe the resources required to efficiently handle the Vending Program.

**D. Business Proposal:**

Proposer shall submit the following information as part of its business proposal:

1. Financial:

- Proposer shall demonstrate it has necessary capital and other resources to fulfill the contract without assistance from any source.
2. Provide for Gross Sales Return payments of commissions on sales of not less than forty-two and one half percent (42.5%) per unit sold.
  3. Proposers shall provide costs for each of the products as noted in the “Special Events” provision above.

E. Enhancements:

The proposing firm may propose enhancements and submit a detailed description and anticipated benefits to be derived from these enhancements.

F. Financial Considerations:

1. The District acknowledges a preference for proposals from any firm that provides dollar incentive, up-front funds or some combination. These incentives, up-front funds or combination are separate and cannot be combined with any commission paid by the successful contractor to schools or locations. The responsible proposing entity that offers the highest dollar incentive and is ranked highest by the District may receive the sole right to offer products for resale at District sites.
2. The proposing entity/entities may provide a proposal to include scoreboards, electronic marquees, capital improvements to athletic facilities or other capital expenditures for equipment or fixtures. Proposers shall include in their proposals details regarding the sharing of profits with Booster Clubs and other incentives available to such organizations.

G. Sponsorship Benefits:

The awarded proposer will have the right to distribute machine vended beverage products in the District.

**SOLICITATION SECURITY**

The District does not require Solicitation Security for this project.

**PERFORMANCE AND PAYMENT BONDS**

The proposer receiving a notification of award shall be required to submit a performance bond in the sum of one hundred thousand dollars (\$100,000) or at least twenty-five percent (25%) of the annual estimated amount of sales prior to commencing operations and maintain it during the life of the contract. Performance bond must be issued by a surety company licensed in South Carolina, with an “A” minimum rating of performance as stated in the most current publication of “Best’s Key Rating Guide, Property Liability” which shall show a financial strength rating of a least five (5) times the contract amount. Each bond must be accompanied by a “Power of Attorney” authorizing the attorney-in-fact to bind the surety and certified to include the date of the Performance Bond.

**PURCHASE OF GOODS**

The District shall not be responsible for any goods purchased by the contractor or any obligations or liabilities assumed or created by the contractor.

**ALCOHOLIC BEVERAGES**

The successful contractor shall not permit the vending of any alcoholic or intoxicating beverages/products via its vending machines on District property.

**SOLICITATION AND PERFORMANCE CONDITIONS**

Unless stated otherwise herein, the governing language of the relationship and project performance between the District and the awarded firms resulting from this solicitation shall be comprised of the solicitation documents, including any attachments, amendments and/or addenda. In the event of a conflict, the solicitation document shall govern.

**SUBCONTRACTING**

No portion of this contract shall be subleased, assigned, transferred, or conveyed without the expressed prior written approval from a GCS Procurement Officer. Proposed subcontractors shall be identified in the bid.

**PROPOSAL RESPONSE CERTIFICATION**

Interested Vendors are hereby notified that a “Proposal Response Certification” statement is included within the solicitation and that by signing the certification statement, with no alterations allowed, the Vendor agrees to be bound by the terms and conditions of the solicitation and by the District’s General Terms and Conditions included herein by reference. The Proposal Response Certification statement that is included with this solicitation shall be signed and returned with the proposal. Should a Vendor decide not to sign the Certification Statement, the reasons for the decision shall be noted on a separate page to be included within the sealed proposal.

An interested Vendor that submits a proposal that contradicts this solicitation and which is not in compliance with the requirements of this solicitation, including the District's General Terms and Conditions, acknowledge and understand that, by doing so, its proposal may be deemed nonresponsive by the District.

A Vendor who takes exceptions to any portion of this solicitation may be deemed "non-responsible" and may not be eligible for an award. The rights and authority of such determination are reserved solely by the Procurement Officers of the District's Procurement Department.

## V. AWARD CRITERIA

### EVALUATION OF PROPOSALS

All proposals will be reviewed for the purpose of determining responsiveness. Any proposal that does not meet the salient requirements of the RFP will be deemed non-responsive. To determine responsibility, all information provided by the Vendor concerning its availability to perform fully the contract requirements, including the integrity and reliability of the Vendor, will be reviewed. This project is on a critical timeline, and a vendor's ability to provide the service / product within the specified period of time will be examined and included in the evaluation. The submission of a proposal for review does not necessarily qualify the Vendor as being responsible or the proposal as being responsive. Failure to provide specific information as requested for use in an evaluation will cause the bid to be disregarded.

The proposal responses will be evaluated based on the factors as detailed in this solicitation. The Vendor deemed by the District as responsible and whose proposal is the most favorable to the District may be awarded the contract if all other terms and conditions are acceptable to the District and if in the District's best interest.

Vendors must clearly mark the words "**Confidential**" or "**Protected**" next to each section of the proposal that the Vendor considers to be proprietary or may contain confidential information. In no manner or situation will pricing be considered confidential. The District shall have the sole, exclusive right to determine whether such confidential notations are valid and subject to public release. Entire documents shall not be marked as "confidential" or "protected".

The District may request written or oral clarifications of any offer received. However, the District may, at its sole discretion, refuse to accept in full or partially, the response or clarification given by any Vendor.

Vendors are cautioned that the evaluators are not required to request a clarification of the proposal; therefore, **all offers should be complete and reflect the most favorable terms to the District**. The District reserves the right to reject any and all offers when such rejection is deemed to be in the best interest of the District.

The District reserves the right to accept or reject, in part or in entirety, any or all proposals or portions of proposals submitted by any Vendor and to waive any informalities or technicalities so as to purchase in the best interest of the District. The District reserves the right to interpret the acceptability of the proposed services and supplies when meeting the intent for use as determined by the end user.

The District reserves the right to negotiate with all responsible Vendors and to cancel in part or in entirety, this solicitation if it is in the best interest of the District. This solicitation does not commit the District to negotiate, hold discussions, award a contract, pay any costs incurred in the preparation of the response to this solicitation or to procure any services and/or supplies.

### EVALUATION FACTORS

Selection will be based upon the following criteria in order of importance. The proposer shall respond to each evaluation factor. The quality of the response for each factor will be reviewed by each evaluation team member for each proposal. An overall team evaluation and ranking will be determined based upon this process.

1. **Estimated revenue proceeds, and actual direct/indirect expenditures to the District. = 40 points**
2. **Proposed product(s) and implementation/service plan. = 20 Points**
3. **Qualifications of proposer's staff/ References/ Technical experience = 20 points**
4. **Proposer's implementation plan and services available that we're not addressed in the RFP. = 10 points**
5. **Professional Reputation/ Experience with School District(s)/ Comprehensiveness = 10 points**

**Total Points = 100**



The District will evaluate all proposals based upon the Evaluation Factors set forth in the solicitation. The overall highest ranked, responsible proposer may be awarded a contract if all other terms and conditions of the proposal are acceptable to the District and if in the District's best interest.

The District's evaluation team may request written or oral clarifications of any offer received. However, the District may, at its sole discretion, refuse to accept in full or partially the response to a clarification request provided. Proposers are cautioned that the evaluators are not required to request clarification; therefore, all offers should be complete and reflect the most favorable terms. The District reserves the right to reject any and all offers when such rejection is deemed to be in the best interest of the District.

### **AWARD**

At the official due time, only the names of the proposers will be publicly read aloud. No further information will be provided at the opening in accordance with the District's Procurement Code. Attendance at the public recording is not required in order to have a proposal evaluated.

An award may be made to one (1) responsible firm in order to meet the District's requirements. After proposal review and evaluation, an award may be issued to the overall highest-ranked, responsible firm whose responsive proposal is determined to be the most advantageous to the District, taking into consideration the evaluation and the terms of this solicitation. The right is reserved to reject any and all, or portions of, proposals received. In all cases, the District will be the sole judge as to whether a proposal has or has not satisfactorily met the requirements of the solicitation. The District is not required to furnish a statement of the reason(s) why a proposal was not deemed to be the most advantageous, nor will the District be required to furnish any information regarding the solicitation.

Failure to receive business as a result of this solicitation is not subject to contract controversy.

The Scope of Work/Program Specification section details the period of performance and responsibilities. This is a multiple year agreement/award renewable each one (1) year period up to five (5) years in total.

The District will evaluate the awarded firm during the period of performance in order to determine if the District's standards and goals contained in the solicitation are being met. When applicable, the District may also evaluate the awarded firm's performance, pertinent records, cost reporting, compliance with deadlines and timeframes, schedule adherence, quality control, communications with District representatives and professionalism. Precise criteria for evaluation of performance will consist, at a minimum, of the terms of this solicitation and others may be developed after award of the contract.

Prices must remain in effect during evaluation for a minimum for ninety (90) calendar days from the due date. Prices submitted shall be inclusive of all costs that the proposer expects the District to pay. The proposing entity's prices shall include all services and ancillary requirements required to perform the services in accordance with the solicitation.

After the contract is awarded, no additional costs will be considered. Hidden or undisclosed costs will not be accepted.

Proposers that submit a price(s) and then change the price(s) or service(s)/product(s) at a later time may have the proposal rejected or the award cancelled at no cost to the District.

The award statement will be publicly posted in the lobby of the Procurement Department, 2 Space Drive, Taylors, South Carolina. The public may review this statement during regular office hours. The award will also be posted on the Procurement Department website. Actual proposers may be mailed a copy of the Intent to Award document. Interested parties may call the Procurement Department at (864) 355-1279 to determine if an award has been posted.

Interested parties are responsible for physically confirming the posting of any Intent to Award document.

### **Contract Termination for Cause**

The District reserves the right to terminate this solicitation or resulting agreement upon a thirty (30) calendar day notice when in the best interest of the District at no cost to the District. Termination of any contract by the District for cause, non-performance, default or negligence on the part of the successful proposer shall be a retained right. Termination costs levied against the District shall not apply and the thirty (30) calendar day termination notice requirement shall be waived. The default provisions shall apply when a contract is terminated for cause.

The District reserves the right to terminate an award/contract when the health and safety of students and staff are threatened or for the awarded firm's non-compliance with state law or the terms and conditions of the solicitation.

The District reserves the right to terminate the continuation of any agreement, service or award resulting from this solicitation when funding has not been appropriated. The District does not anticipate canceling a contract; however, it shall reserve the right to act in the best interest of the District and its constituents.

**Default**

In case of default by the proposer/contractor, the District reserves the right to contract for the services that are in default, from other firms, charging the defaulting proposer/firm with any additional costs incurred by the District as a result of the default. The firm that is determined to be in default shall not be considered a responsible proposer/firm until the assessed charge has been satisfied.

**Vendor's Relationship with the District**

The awarded firm shall be independent of the District. None of the firm's employees shall be deemed for any purpose to be employees, agents, or servants of the District, but shall at all times serve as employees, agents, or servants of the contractor for whom and at whose direction they shall act. No acts performed for or representations made, whether written or oral, by the firm to third parties shall bind the District. The firm shall be solely responsible for the withholding and payment of all federal, state, and local personal income, social security, unemployment, workers compensation and other payroll taxes for its employees. The District shall have no liability of any sort for the firm's employees.

The awarded firm shall be responsible for any loss or damage to property owned by the District, caused, in the opinion of the District, by the firm or its subcontractors and/or representatives. No portion of this solicitation/agreement shall be subleased, assigned, transferred, or conveyed without written approval from a District Procurement Officer prior to or after issuance of the Intent to Award.

The District shall NOT provide vehicles, office space, utilities and operating expenses. These operating expenses include telephone, copier, fax and postage expenses. The awarded firm shall be responsible for all necessary personnel, equipment, supplies and other requirements to fully implement the services required.

**Termination for Convenience**

At any time during an award/ contract term, if the District wishes to cancel the award/ contract, it will notify the contractor at least thirty (30) calendar days prior to termination unless the award/contract is canceled for cause as noted in the previous section. In the event that this contract is terminated or canceled upon request and for the convenience of the District without thirty (30) calendar day advance written notice, the District shall then negotiate reasonable termination costs, if applicable.

**Acknowledgement**

By submitting a solicitation response, the proposing firm acknowledges that it has had the opportunity to inquire about the District's Procurement Code and Regulations, this solicitation and other pertinent policy.

By submitting a solicitation response, the proposing firm acknowledges that it is in compliance with all applicable local, state, and federal laws.

The School District of Greenville County Procurement Code and Regulations supersede and govern any and all documents and/or policies, whether stated or implied. The School District of Greenville County reserves the right to reject any or all proposals or portions of proposals and to waive any informalities or technicalities so as to purchase in the best interest of the District.

**Vendor Responsibility**

Responsibility of the proposer shall be ascertained for each contract awarded by the District based upon full disclosure to the District concerning capacity to meet the terms of the contracts and based upon a past record of performance for similar contracts. The failure of a proposer to supply information promptly to the District may be grounds for a determination of non-responsibility with respect to such proposer. Failure to provide requested information may result in rejection of a solicitation response and/or suspension and/or debarment of the proposer.

The District shall be entitled to audit the books and records of a contractor or any subcontractor under any contract or subcontract other than a firm fixed price contract to the extent that such books and records relate to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the prime contract and by the subcontractor for a period of three (3) years from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing by a District Procurement official.

Due care and diligence have been used in the preparation of the scope of work and/or the specifications and the information contained therein is believed to be substantially correct. However, the responsibility for determining the full extent of the exposure and the verification of all information presented herein shall rest solely upon the Vendor. The District will not be responsible for any errors or omissions in the Vendor's response nor for the failure on the part of the Vendor to determine the full extent of the solicitation requirements and exposures.

The Vendor may ask questions subject to the Inquiry Deadline and the previously stated inquiry instructions.

The awarded firm/individual shall perform this project in compliance with all Federal and State requirements concerning fair employment of all employees and applicants. Firms shall promote the employment of the disabled and disadvantaged and shall employ without regard or discrimination due to the reason of ethnic background, age, color, religion, gender, national origin, or physical disability. Responding firms should provide information regarding the use of minority subcontractors if applicable or if requested by the District. Assistance to minority and disadvantaged firms and individuals is available in accordance with the District's Minority Business Enterprise Utilization Plan

**Use of District Name**

The awarded Vendor shall not use the name of the District in advertising or in seeking or joining into contracts with suppliers, customers or for any other manner. The Vendor shall make all of its contracts in its own name and the awarded Vendor shall be responsible for its financial obligations and contracts, not the District.

**Cooperative Purchasing (When Applicable)**

The District's Procurement Code and Regulations authorizes the use of cooperative purchasing practices with regard to other public procurement units. Accordingly, any South Carolina school district, state, city or county agency or other public procurement unit may participate in any resulting award if agreeable to the District, the successful Vendor and the other public procurement unit.

No other public procurement unit is required to make use of this capability as participation is at the discretion of the other public procurement unit. This District is not bound by any other public entities' solicitation, award or other contract.

The District shall not guarantee the participation of another public procurement unit nor be responsible for any resulting business or non-business with any other entity. Purchase Orders, delivery arrangements, payments and any other type of contractual documentation or performance shall be the responsibility of the actual participating public procurement unit, not The School District of Greenville County. The successful Vendor shall hold harmless the District, its employees, Administration, Board of Trustees and its representatives for any loss or damage as the result of the action or inaction of another public procurement unit.

**Prepayment**

The District shall not approve or process payment to an awarded firm or its subcontractor prior to the delivery of product or the service(s) being performed or upon agreed upon milestones. Proposers or its representatives that do not honor this requirement shall not receive payment and may have their contract cancelled with no penalty levied against the District.

**Procurement Card and ACH Processing (If Applicable)**

The District has the capability to pay the majority of vendor invoices with a District managed Procurement Card (P-Card) and/or an Automated Clearing House (ACH) processing method. The District reserves the right to request that the awarded vendor process invoice/payment transactions by use of the District P-Card or ACH processing method. Failure by the vendor to provide P-Card and/or ACH transaction processing capabilities shall not be grounds for rejection of a proposal nor shall it create a contract controversy. **Any discounts offered by the vendor as the result of the District's use of the P-Card or ACH processing should be noted in the solicitation response on a separate page entitled Procurement Card and ACH Processing Capability.**

**Technology Requirement (When Applicable)**

The following requirement has been prepared by the District's Education Technology Services (ETS) department for compliance, where applicable:

"For all COTS (commercial off the shelf applications), the Offeror shall submit security audit documentation which meets State and Federal law along with applicable regulatory standards including, but not limited to: the South Carolina Public Records Act, Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA), Pupil Privacy Rights Act (PPRA), Individuals with Disabilities Education Act (IDEA), Gramm-Leach Bliley Act (GLBA) , and Payment Card Industry Data Security Standard (PCI-DSS). Applications must also meet or exceed verifiable Greenville County School District security review and security application testing specifications, including, but not limited to: Open Web Application Security Project (OWASP), The Web Application Security Consortium (WASC), and United States Computer Emergency Readiness Team (US-CERT) National Vulnerability Database (NVD) as part of the Request for Proposal or Invitation for Bid submission."

**Iran Divestment Act – Certification (Dec 2015)**

(a) The Iran Divestment Act List is a list published by the Authority pursuant to Section 11-57-310 that identifies persons engaged in investment activities in Iran. Currently, the list is available at the following URL: <http://procurement.sc.gov/PS/PS-iran-divestment.phtm> (.) Section 11-57-310 requires the government to provide a person ninety days written notice before he is included on the list. The following representation, which is required by Section 11-57-330(A), is a material inducement for the

State to award a contract to you. (b) By signing your Offer, you certify that, as of the date you sign, you are not on the then-current version of the Iran Divestment Act List. (c) You must notify the Procurement Officer immediately if, at any time before posting of a final statement of award, you are added to the Iran Divestment Act List. [07-7A072-1]

#### **Iran Divestment Act – Ongoing Obligations (Jan 2015)**

(a) You must notify the procurement officer immediately if, at any time during the contract term, you are added to the Iran Divestment Act List. (b) Consistent with Section 11-57-330(B), you shall not contract with any person to perform a part of the Work, if, at the time you enter into the subcontract, that person is on the then-current version of the Iran Divestment Act List. [07-7A072-1]

#### **Bidder's Rights**

Bidders may have the right to protest this solicitation or its subsequent award in accordance with Article XIV of the District's Procurement Code. Should a protest period end on a day that the District is closed; the protestor may file by 5:00 P.M. the following full day that the District is open for business.

#### **South Carolina Illegal Immigration Reform Act**

By signing its bid or proposal, Contractor certifies that it will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agrees to provide to the District, upon request, any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable both to Contractor and its subcontractors or sub-subcontractors; or (b) that Contractor and its subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony and upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years or both." Contractor agrees to include in any contracts with its subcontractors language requiring its subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14. (An overview is available at [www.procurement.sc.gov](http://www.procurement.sc.gov)).

#### **State and Federal Laws and Regulations (Revised 10/13/22)**

The School District of Greenville County requires adherence and itself adheres to all applicable State and Federal laws and regulations including "2 CFR, Subtitle A, Chapter II Subpart D, 200.322 Domestic Preferences for Procurements".

The successful vendor's work, end product, and/or services shall meet all local, state and federal requirements.

#### **Permits, Licenses and Taxes**

The proposer shall, at its own expense, prior to an award and prior to commencing services/operations on behalf of the District or under contract with the District, shall acquire all necessary permits, licenses and other approvals as required by law to provide the required services and/or actions in conjunction with a contract award with the District. It is recommended that interested firms contact the following to learn of any pertinent requirements or licenses:

- I. The South Carolina Secretary of State's office ([www.scsos.com](http://www.scsos.com))
- II. The South Carolina Department of Revenue
- III. South Carolina Department of Labor, Licensing and Regulations ([www.LLR@llr.sc.gov](mailto:www.LLR@llr.sc.gov))
- IV. The City of Greenville, South Carolina

The District shall not interpret the requirements of other public entities on behalf of the proposer.

Firms shall obtain all necessary permits and licenses required by local, state and Federal law and regulations prior to any award or agreement and shall remain in compliance with all applicable statutes and pertinent regulations throughout the term of performance. Should any permits or licenses be revoked or lapse during the period of performance, the undersigned Procurement Officer shall be notified immediately.

The firm shall pay all excise taxes, retail taxes and other fees imposed. The firm assumes full responsibility for payment of all State and Federal taxes for unemployment, pensions or any Social Security legislation for all its employees and will further comply with all requirements that may be specified in regulations hereafter promulgated by the District's administrative officials.

#### **Contractor Licensing**

Prior to the bid due date and time and throughout the program/project, the bidding firm, the Prime Contractor and any Subcontractors, shall be licensed in full accordance with the provisions of Section 40-11-10 through 40-11-340 of the Code of Laws of South Carolina, 1976, as amended.

The firm and/or presenting agent must be duly licensed to do business in the State of South Carolina and Greenville County. The District recommends that Vendors contact the South Carolina Secretary of State office and the Greenville City business license

office for more information. The District shall not interpret these requirements on behalf of the Vendor. The successful Vendor shall meet all Federal, state, and local statutes and other requirements prior to award of the project.

**Indemnity**

The proposing firm agrees to indemnify and hold harmless the District and the District's members, officers, trustees, employees, servants and agents, from and against any and all liabilities, losses, damages, costs and expenses of any kind (including, without limitation, reasonable legal fees and expenses in connection with any investigative, administrative or judicial proceeding, whether or not designated a party thereto) which may be suffered by, incurred by or threatened against the District or any members, officers, employees, servants or agents of the District on account of or resulting from injury, or claim of injury, to person or property arising from the awarded firm's actions or omissions relating to this solicitation or any subsequent Agreement, or arising out of the awarded entity's breach of contract or failure to perform any term, covenant, condition or agreement herein provided to be performed by the awarded firm or individual.

**The District shall not indemnify and/or hold harmless any proposing entity or its representatives as this action is not statutorily allowed by South Carolina law.**

**Certification Regarding Debarment and other responsibility matters (Dec. 2021)**

- (a) (1) By submitting an Offer, Vendor certifies, to the best of its knowledge and belief, that-
    - (i) Vendor and/or any of its Principals-
      - (A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;
      - (B) Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and
      - (C) Are not presently indicted or civilly for, or otherwise criminally charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.
    - (ii) Vendor has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any public (Federal, state, or local) entity.
  - (2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).
- (b) Vendor shall provide immediate written notice to the Procurement Officer if, at any time prior to contract award, Vendors learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (c) If Vendor is unable to certify the representations stated in paragraphs (a)(1), Vendor must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Vendor's responsibility. Failure of the Vendor to furnish additional information as requested by the Procurement Officer may render the Vendor nonresponsible.
- (d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Vendor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Vendor knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the State, the Procurement Officer may terminate the contract resulting from this solicitation for default. [02-2A035-1]

**Contract Provisions for Non-Federal Entity Contracts Under Federal Awards**

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

- (A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the

Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60–1.3 must include the equal opportunity clause provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- (D) Davis-Bacon Act, as amended (40 U.S.C. 3141–3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- (E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- (F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- (G) Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended— Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- (H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or

regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See § 200.323.

(K) See § 200.216.

(L) See § 200.322.

## **VI. TERMS AND CONDITIONS**

While effort has been made to separate substantive and procedural matters through the division of a solicitation or agreement into various parts, the distinctions between such categories are not always exact. Consequently, offerors are advised that all contents of a solicitation or agreement will constitute the substantive terms and conditions of the relationship, if any occurs, between the offeror and the District in accordance with this document.

### **DEFINITIONS**

The terms, “vendor”, “contractor”, “prime contractor”, “contractor”, “firm”, “offeror”, “proposer”, “responder”, “supplier”, “entity” or “bidder” may be used interchangeably and refers to the entity offering a bid/proposal. These terms are defined as including a legal business association of one (1) or more persons existing at the time of the bid/proposal submission. The terms “solicitation”, “Invitation for Bid”, “Bid”, “Request for Proposal”, “Proposal”, “Quotation”, “Quote” may be used interchangeably and refers to the solicitation. The term “Agreement” means any transaction or contractual arrangement contemplated or created as a result of, arising out of, or relating to the solicitation and subsequent award. The terms, “The School District of Greenville County”, “Greenville County Schools”, “Customer”, “Owner”, “District”, “SDGC” “GCSD”, “GCS”, “Board of Trustees” and “Board” may be used interchangeably and refers to the entity issuing the solicitation, receiving and reviewing the proposals and issuing an award. The term “Day” or “Days” refers to calendar days, unless noted otherwise.

### **GOVERNING LAW**

The contractor or offeror shall comply with the laws of the State of South Carolina which require that it be authorized and/or licensed to bid and/or conduct business in said State. By signing an Agreement or by offering a bid or proposal or agreement, contractor agrees to subject itself to the jurisdiction and process of the District’s Procurement Code and Regulations, the courts of the State of South Carolina or federal courts as to all matters and disputes arising or may arise under and in regard to the solicitation, Agreement and the performance thereof, including any questions as to the liability for taxes, licenses or fees levied by the State.

The solicitation and/or Agreement and any dispute, claim or controversy relating to the solicitation and/or Agreement shall, in all respects, be interpreted, construed, enforced and governed by and in accordance with the Procurement Code and Regulations of The School District of Greenville County and the laws of the State of South Carolina. All disputes, claims or controversies relating to the Agreement shall be resolved exclusively by the District’s Chief Procurement Officer or Purchasing Agent/Procurement Director in accordance with Article XIV of The School District of Greenville County’s Procurement Code or in the absence of jurisdiction, the Court of Common Pleas for, or a federal court located in, Greenville County, State of South Carolina. Contractor or offeror agrees that any act by the District regarding the solicitation and/or Agreement is not a waiver of either the District’s sovereign immunity or the District’s immunity under the Eleventh Amendment of the United States’ Constitution. As used in this paragraph, the term “Agreement” means any transaction, contract, understanding or agreement arising out of, relating to, or contemplated by the pertinent solicitation and/or agreement between the proposer and the District.

The District shall not accept, enter into or sign any proposed agreement(s), document(s), offer(s), contract(s), leases(s) and/or provision(s) that materially conflicts with the District’s General Terms and Conditions, the requirements of a solicitation or which are determined not to be in the best interest of the District.

The solicitation and the District’s General Terms and Conditions shall govern and take precedence as the contract between the District and the awarded entity. The terms of the agreement between the District and the successful/awarded entity shall comply with the requirements contained in this solicitation and the District’s General Terms and Conditions.

### **CONTRACTUAL NEGOTIATIONS**

Contract negotiations, if applicable, may be started at the District’s discretion, with the apparent successful offeror. If any points/issues exist that cannot be resolved, so that a final contract, to the mutual satisfaction of all parties, can be reached, negotiations may be initiated with the next qualified offeror. All contractual documents submitted will be subject to approval of the District.

### **CONTRACT DOCUMENTS & ORDER OF PRECEDENCE**

Any contract resulting from this solicitation shall include the following documents: (1) a Record of Negotiations, if any, executed by the vendor and the District, (2) documentation regarding the clarification of an offer, if applicable, (3) the solicitation, as may be amended, (4) modifications, if any, to an offer, if accepted by the District, (5) the vendor’s offer, (6) any statement reflecting the District’s final acceptance (award), (7) purchase orders, and (8) any related contracts or agreements executed by the District and the proposer. These documents shall be read to be

consistent and complimentary. Any document signed or otherwise agreed to by persons other than the Executive Director of Finance or a Procurement Officer shall be void and of no effect.

#### OFFEROR RESPONSIBILITY

The offeror is the entity that is proposing or offering to perform work or supply service(s) and/or material(s) to the District. Each offeror shall fully acquaint itself with conditions relating to the scope and restrictions attending the performance of obligations under the conditions of this solicitation or agreement. The omission of an offeror to acquaint itself with existing pre-contract conditions or post-contract consequences shall in no way relieve such offeror of any obligation with respect to the proposal or to any contract resulting from a solicitation or agreement. Offerors are notified that failure to inspect, familiarize or otherwise gather information as to the total cost to the District will, in addition to any and all other remedies available, create cost difference liabilities and claims against the ultimately successful contractor. Offerors shall notify the District of all costs reasonably expected.

#### BID/PROPOSAL/AGREEMENT CONSTITUTES OFFER

By submitting a bid/proposal or agreement, the offeror agrees to be governed by the terms and conditions as set forth in the solicitation document or proposed agreement and the District Procurement Code and Regulations. Any bid or proposal response or proposed agreement containing variations from the terms and conditions set forth herein may, at the sole discretion of the District, render such bid or proposal or agreement non-responsive. Any inconsistencies between the solicitation and any other contractual instrument shall be governed by the terms and conditions of the solicitation or proposed agreement, except where subsequent amendments to any contract resulting from the award are specifically agreed to in writing by the parties in order to supersede any such provisions of the solicitation or other contractual document.

#### SPECIFICATIONS MANDATORY

The offeror must meet all of the mandatory specifications and requirements set forth in the solicitation or proposed agreement. By incorporating said specifications into the offeror's response, subject to acceptance by the District of any amendments hereto as submitted by the offeror, the offeror is agreeing to comply with said solicitation specifications or agreement. Failure to provide mandatory evidence of capability will result in a low evaluation ranking of the offeror's bid/proposal. Items designated as evaluation factors will be evaluated and rated in accordance with the evaluation criteria, if applicable.

#### INQUIRIES

Every effort has been made to ensure that all information needed by an offeror is included herein. If an offeror finds that it cannot provide a response without additional information, it may submit written questions to the person designated herein on or before the deadline set forth in the solicitation. Questions shall not be accepted by the District after the specified date. All replies to questions will be in writing and contained within an addendum. When a question received by the District is found to be previously and sufficiently addressed in the solicitation, that question will be returned to the proposer with a reference to the part of the solicitation containing the answer. All questions and written replies will be distributed to all known interested firms and individuals via an addendum and will be regarded as a part and parcel of the solicitation.

#### AMENDMENTS OR ADDENDA

If it becomes necessary to revise any part of the solicitation or agreement, amendments in the form of an addendum will be provided in writing to all known, interested firms and individuals.

#### ALL AMENDMENTS TO AND INTERPRETATIONS OF A SOLICITATION SHALL BE IN WRITING. THE DISTRICT SHALL NOT BE LEGALLY BOUND BY ANY AMENDMENT, ADDENDUM, INFORMATION OR INTERPRETATION THAT IS NOT IN WRITING.

#### COMPANY EXPERIENCE AND REFERENCE ACCOUNTS

If requested, interested firms and individuals must provide reference accounts where the services and/or equipment/material(s) offered were similar to the services and/or equipment/material(s) requested in the solicitation. The intent is to show company experience in receiving contracts for, and delivery of, goods and services similar to those proposed. Information should include the name, address, telephone number, and title of the person to contact for inquiry as to the proposer's experience and performance. Referenced accounts must not be company owned or an affiliate of the bidder or proposer.

The District reserves the right to consider historic information and facts about the bidder or proposer, whether gained from the submitted response, question and answer conferences, references or any other source, during the evaluation process.

#### SOLICITATIONS/AGREEMENTS SIGNED

All submittals shall be signed by a representative of the entity authorized to commit to the provisions of the submittal. Unsigned bids/proposals will be rejected unless an authorized representative is present at the bid/proposal opening and provides the needed signature, provided that the discovery is made prior to the recording of the contractor's bid/proposal. Any proposed and agreed upon contract shall be signed by an authorized representative of the offeror.

#### PUBLIC OPENING

All bids/proposals received in response to a solicitation will be recorded publicly at the time and place specified in the solicitation. The name of each offeror shall be announced, recorded and made available for scheduled public inspection.

#### POSTING OF AWARD

Solicitation awards shall be posted in the District's Procurement Department located at 2 Space Drive, Taylors, South Carolina. Awards may be viewed during normal business hours. The Procurement Department may be contacted to determine if a particular award has been posted.

#### RIGHT TO PROTEST

Any prospective bidder, proposer, offeror, contractor, or subcontractor who is aggrieved in connection with the solicitation of a contract shall protest in writing to the Purchasing Agent/Director of Procurement within fifteen (15) calendar days of the date of issuance of the Invitation for Bid/Request for Proposal or other solicitation documents, whichever is applicable, or any amendment thereto, if the amendment is at issue.



Any actual bidder, proposer, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest in writing to the Purchasing Agent/Director of Procurement within fifteen (15) calendar days of the Posting Date as noted on the award document.

PROTEST RIGHTS -- The provisions of Article XIV Section A of the District Procurement Code shall not apply to contracts which are less than \$ 25,000 in total.

A protest shall be submitted in writing to the Purchasing Agent/Director of Procurement, The School District of Greenville County, 2 Space Drive, Taylors, South Carolina 29687 and shall set forth the grounds of the protest, evidence to support the protest and the relief requested with enough particularity to give notice of the issues to be decided.

It shall be agreed that the District may exercise its right to require a protest bond or irrevocable letter of credit from a protesting party when applicable.

#### CLARIFICATIONS

The District reserves the right, at any time after opening and prior to award, to request from any apparently responsible bidder or proposer, clarification(s) of the bid/proposal submitted to the District, address questions or to seek or provide other information regarding the offeror's submittal/response. This process may be used for such purposes as providing an opportunity for the offeror to clarify its bid/proposal in order to assure mutual understanding and to determine acceptability.

#### PURCHASE ORDERS

Contractor shall not perform any work prior to the receipt of a Purchase Order from the District. The District shall order any supplies or services to be furnished via a solicitation method by issuing a Purchase Order. Purchase Orders may be used to elect any options available pursuant to a solicitation; e.g., quantity, item, delivery date, payment method, but are subject to all terms and conditions of the solicitation.

#### PATENT AND COPYRIGHT LIABILITY

If notified promptly in writing by the District of any actions (and all prior claims relating to such action) brought against the District, based on a claim that the District's use of the services or any products offered, including software, infringes a United States patent or copyright, the contractor will defend and indemnify the District in such action at its expense and will pay the costs and damages awarded in such action, provided that the contractor shall have sole control of the defense of any such action and all negotiation for its settlement or compromise. The District shall give the Contractor prompt written notice of such claim and full right and opportunity to conduct the defense thereof, together with full information and reasonable cooperation. No cost or expenses shall be incurred for the account of the contractor without its written consent. If principles of government or public law are involved, the District may participate in the defense of any action. If, in the opinion of the contractor, the products furnished there under are likely to, or do become, the subject of a claim of infringement of a United States patent or copyright, then, without diminishing its obligation to satisfy a final award, the contractor may, at its option and expense, (a) obtain the right for the District to continue to use such goods; or (b) substitute, with prior notice and District approval, for the alleged infringing products other equally suitable products that are satisfactory to the District; or (c) take back, with District approval, such products, provided however, that the contractor will not exercise option (c) until the contractor and the District have evaluated options (a) and (b). In such event, contractor will reimburse the District for the purchase price of any goods removed pursuant to option (c).

#### TAXES

Prices shall include all applicable taxes unless otherwise noted. The current tax rate in South Carolina is six percent (6%). In the event that the contractor fails to pay or delays in paying to any taxing authorities sums paid by the District to the contractor, the contractor shall be liable to the District for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay.

#### PRICE ADJUSTMENT

Any request for price increase must be submitted to the user location and the District's Procurement Department by the contractor at least sixty (60) calendar days prior to any proposed contract extension. The price increase will only become effective if agreed to in writing by the District's Procurement Department. The maximum increase shall not exceed three percent (3%) or the adjusted percent change from the previously reported period shown in the Producers Price Index (PPI), or in the Consumer Price Index for all urban consumers (CPI-U), whichever is less at the time of renewal.

#### TERMINATION BY DISTRICT

##### Termination for Non-appropriations:

In the event no funds or insufficient funds are appropriated and budgeted in any fiscal year for payments due under this Agreement, or there is no further need for the equipment, material(s), service(s) and program products to satisfy the need for which same were acquired herein, then the District shall promptly notify the contractor of such occurrence, and this Agreement shall create no further obligation of the District as to such current or succeeding fiscal year and shall be null and void, except as to the portions of payments herein agreed upon for funds which shall have been appropriated and budgeted. In such event, this Agreement shall terminate on the last day of the fiscal year for which appropriations were received without penalty or expense to the District of any kind whatsoever.

Subject to the provisions below, any contract resulting from this solicitation, or any portion thereof, may be terminated by the District providing a sixty (60) calendar day advance notice in writing is given to the contractor, unless the District agrees to a different notice period.

#### SUSPENSION BY DISTRICT

The District reserves the right to suspend Contractor's work, with or without cause, upon three (3) calendar day's written notice. If the suspension was not due to any default by Contractor, the District will reasonably and equitably adjust the amount(s) to be paid to Contractor when work is resumed.

#### TERMINATION BY CONTRACTOR

Requests for termination of a contract by the contractor must be received in writing by a District Procurement Officer at least sixty (60) calendar days prior to the requested contract termination date.

#### WAIVERS

No waiver of right, obligation, or default shall be implied, but must be in writing, signed by the party against whom the waiver is sought to be enforced. One or more waivers of any right, obligation, or default shall not be construed as a waiver of any subsequent right, obligation, or default.

#### APPROVAL OF PUBLICITY RELEASES

The contractor shall not have the right to include the District's name in its published list of customers or use of the District or individual school logo without prior approval of the District. The contractor agrees not to publish or cite in any form any comments or quotes from District staff. Contractor further agrees not to refer to award of this contract in commercial advertising in such a manner as to state or imply that the products or services provided are endorsed or preferred by the District without the written consent of an authorized District official.

#### AFFIRMATIVE ACTION

The successful bidder shall perform this project in compliance with all Federal and State requirements concerning fair employment of all employees and applicants. Vendors shall promote the employment of the disabled and disadvantaged and shall employ without regard or discrimination due to the reason of ethnic background, age, color, religion, gender, national origin, or physical disability. Vendors should provide information regarding the use of minority subcontractors if applicable or if requested by the District. Assistance to minority and disadvantaged firms and individuals is available in accordance with the District's Minority Business Enterprise Utilization Plan. Vendors should contact the Procurement Department with questions regarding this plan.

#### BANKRUPTCY

(a) Notice. In the event the contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the contractor agrees to furnish written notification of the bankruptcy to the District. This notification shall be furnished within five (5) calendar days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all District contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

(b) Termination. This contract is voidable and subject to immediate termination by the District upon the contractor's insolvency, including the filing of proceedings in bankruptcy.

#### INDEMNIFICATION

The School District of Greenville County, its officers, agents, and employees shall be held harmless from liability from any claims, damages, and actions of any nature arising from the use of any materials or equipment furnished by the contractor or actions by the contractor, provided that such liability is not attributable to negligence on the part of the District or failure of the District to use the materials in the manner outlined by the contractor.

**The District shall not indemnify and/or hold harmless any proposing entity or its representatives as this action is not statutorily allowed by South Carolina law.**

#### CONTRACTOR RESPONSIBILITY

The contractor alone will be held solely responsible to the District for performance of all contractor obligations under any contract resulting from the awarded solicitation.

The contractor warrants that services will be provided in a professional manner. The contractor shall be responsible for the full performance of any subcontractors and/or suppliers and the District shall rely solely upon said contractor for project compliance and proper contractual performance.

#### CONTRACTOR'S USE OF DISTRICT PROPERTY

Upon termination of the contract for any reason, the District shall have the right to possession of all District properties, including, but not limited to, current copies of all District application programs and necessary documentation, all data, files, intermediate materials and supplies held by the contractor. Contractor shall not use, reproduce, distribute, display, or sell any data, material, or documentation owned exclusively by the District without the District's written consent, except to the extent necessary to carry out the work. All District property and information is to be considered confidential in nature and shall not be disseminated or transferred without the District's written authorization.

#### IMPORTANT: Student and Staff Safety

The awarded entity shall be required to verify that criminal conviction inquiries/checks and pertinent criminal background inquiries/checks have been conducted on all of its employees and the subcontractors who may interact with staff and/or students during the performance of the solicitation requirements/awarded Scope of Work or who may have a need to enter District property related to the performance of the contract or who may have access to personal student or District personnel information.

Persons who are identified as a Sex Offender or violator as defined by the South Carolina Code of Laws (Ann. 2006), Paragraph 223-3-400 or other statute or any other states' statutes; are prohibited from entering any of The School District of Greenville County schools at any time, including all District grounds and all District facilities. Persons employed by or under the direction of the contractor or any subcontractor who are under investigation or have been charged with crimes against children or crimes of a sexual or violent nature shall not be allowed on District property.

While performing under this solicitation and subsequent award, a firm/individual/supplier who delivers material and/or a service to a District site at the direction of a contractor and/or a subcontractor shall be considered under the supervision of the contractor and/or subcontractor and shall be in compliance with this requirement. Contractor's and subcontractor's employees are not to interact with students at any time. Contractor's and subcontractor's employees are not to be in areas where students are present or may be present without prior authorization from the school's principal or designee.

Failure by the awarded firm, its subcontractors or any representative of the contractor or subcontractor to observe this requirement or any violation of this solicitation's requirements shall result in the immediate termination of any existing contract and no penalty or other costs shall be levied against the District.

NOTE: All personnel entering District property and/or having contact with students or staff on District property shall be subject to a South Carolina State Law Enforcement Division (SLED) background/criminal check/investigation prior to being allowed entry or the performance of any duties. All schools have automated equipment which allows instant verification of an individual's status.

#### IMMIGRATION REQUIREMENTS

By signing the bid or proposer, the bidder or proposer certifies that it will comply with the applicable requirements of Title 8, Chapter 14 of the *South Carolina Code of Laws* and agree to provide to the District upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to the bidder and/or its subcontractors or sub-subcontractors; or (b) that the bidder and its subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." The bidder agrees to include in any contracts with its subcontractors, language requiring the subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) to include in the subcontractor's contracts with the sub-subcontractors, language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14. [07-7B097-1]

#### State and Federal Laws and Regulations

The School District of Greenville County requires adherence and itself adheres to all applicable State and Federal laws and regulations including "2 CFR, Subtitle A, Chapter II Subpart D, 200.322 Domestic Preferences for Procurements".

#### Permits, Licenses and Taxes

The bidder shall, at its own expense, prior to an award and prior to commencing services/operations on behalf of the District or under contract with the District, shall acquire all necessary permits, licenses and other approvals as required by law to provide the required services and/or actions in conjunction with a contract award with the District. It is recommended that firms contact the following to learn of any pertinent requirements or licenses:

The South Carolina Secretary of State's office ([www.scsos.com](http://www.scsos.com))  
The South Carolina Department of Revenue  
The South Carolina Department of Labor, Licensing and Regulation  
The City of Greenville, South Carolina

The District shall not interpret the requirements of other public entities on behalf of the proposer.

Firms shall obtain all necessary permits and licenses required by local, state and Federal law prior to any award or agreement and shall remain in compliance with all applicable statutes and pertinent regulations throughout the term of performance. Should any permits or licenses be revoked or lapse during the period of performance, the undersigned Procurement Officer shall be notified immediately.

The awarded entity shall pay all excise taxes, retail taxes and other fees imposed. The entity assumes full responsibility for payment of all State and Federal taxes for unemployment, pensions or any Social Security legislation for all its employees and will further comply with all requirements that may be specified in regulations hereafter promulgated by the District's administrative officials.

By submitting a bid/proposal the bidder/proposer affirms that it shall possess and maintain all required license(s) prior to award and throughout the period of performance.

#### INSURANCE

Contractor shall maintain, throughout the performance of its obligations under this Agreement, a policy or policies of Worker's Compensation insurance with such limits as may be required by law, and a policy or policies of general liability insurance insuring against liability for injury to, and death of, persons and damage to, and destruction of, property arising out of or based upon any act or omission of the contractor or any of its subcontractors or their respective officers, directors, employees or agents. Such general liability insurance shall have limits sufficient to cover any loss or potential loss resulting from a solicitation and/or contract.

#### CONTRACTOR'S LIABILITY INSURANCE

(1) Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in South Carolina such insurance as will protect the contractor from the types of claims set forth below which may arise out of or result from the contractor's operations under the contract and for which the contractor may be legally liable, whether such operations be by the contractor or by a subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable: (a) claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the work to be performed; (b) claims for damages because of bodily injury, occupational sickness or disease, or death of the contractor's employees; (c) claims for damages because of bodily injury, sickness or disease, or death of any person other than the contractor's employees; (d) claims for damages insured by usual personal injury liability coverage; (e) claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting thereof; (f) claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or

use of a motor vehicle; (g) claims for bodily injury or property damage arising out of completed operations; and (h) claims involving contractual liability insurance applicable to the Contractor's obligations under the provision entitled Indemnification – Third Party Claims.

(2) Coverage shall be written on an occurrence basis and shall be maintained without interruption from date of commencement of the work until date of final payment. Coverage must include the following on a commercial basis: (i) Premises – Operations, (ii) Independent Contractor's Protective, (iii) Products and Completed Operations, (iv) Personal and Advertising Injury, (v) Contractual, including specific provision for contractor's obligations under the provision entitled Indemnification – Third Party Claims, (vi) Broad Form Property Damage including Completed Operations, and (vii) Owned, Non-owned and Hired Motor Vehicles.

(3) The insurance required by this paragraph shall be written for not less than the following limits of liability or as required by law, whichever coverage is greater.

**COMMERCIAL GENERAL LIABILITY:**

General Aggregate (per project) \$1,000,000

Products/Completed Operations \$1,000,000

Personal and Advertising Injury \$1,000,000

Each Occurrence \$1,000,000

Fire Damage (Any one fire) \$ 50,000

Medical Expense (Any one person) \$ 5,000

**BUSINESS AUTO LIABILITY (including All Owned, Non-owned, and Hired Vehicles):**

Combined Single Limit \$1,000,000

OR

Bodily Injury & Property Damage (each) \$750,000

**WORKER'S COMPENSATION:**

State Statutory

Employers Liability \$100,000 per Acc.

\$500,000 Disease, Policy Limit; \$100,000 Disease, Each Employee

(4) Required Documentation. (a) Prior to commencement of the work, contractor shall provide to the District a signed, original certificate of liability insurance (ACORD 25). The certificate shall identify the types of insurance, state the limits of liability for each type of coverage, include a provision for 30 days' notice prior to cancellation, name every applicable using governmental unit (as identified on the cover page) as a Certificate Holder, provide that the general aggregate limit applies per project, and provide that coverage is written on an occurrence basis. (b) Prior to commencement of the work, contractor shall provide to the District a written endorsement to the contractor's general liability insurance policy that (i) names the District as an additional insured, (ii) provides that no material alteration, cancellation, non-renewal, or expiration of the coverage contained in such policy shall have effect unless the named governmental unit(s) has been given at least thirty (30) days prior written notice, and (iii) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of the District as secondary and noncontributory. (c) Both the certificate and the endorsement must be received directly from either the contractor's insurance agent or the insurance company.

(5) Contractor shall provide a minimum of thirty (30) days written notice to the District of any proposed reduction of coverage limits (on account of revised limits or claims paid under the General Aggregate) or any substitution of insurance carriers.

(6) The District's failure to demand either a certificate of insurance or written endorsement required by this paragraph is not a waiver of contractor's obligations to obtain the required insurance.

**INDEMNIFICATION - THIRD PARTY CLAIMS**

Notwithstanding any limitation in this agreement, Contractor shall defend and indemnify the District, its instrumentalities, agencies, departments, boards, and all their respective officers, agents and employees against all suits or claims of any nature (and all damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities attributable thereto) by any third party which arise out of, or result in any way from, any defect in the goods or services acquired hereunder or from any act or omission of Contractor, its subcontractors, their employees, workmen, servants or agents. Contractor shall be given written notice of any suit or claim. The District shall allow the Contractor to defend such claim so long as such defense is diligently and capably prosecuted through legal counsel. The District shall allow the Contractor to settle such suit or claim so long as (i) all settlement payments are made by (and any deferred settlement payments are the sole liability of) Contractor, and (ii) the settlement imposes no non-monetary obligation upon the District. The District shall not admit liability or agree to a settlement or other disposition of the suit or claim, in whole or in part, without the prior written consent of Contractor. The District shall reasonably cooperate with the Contractor's defense of such suit or claim. The obligations of this paragraph shall survive termination of the parties' agreement.

**ASSIGNMENT**

No solicitation response, contract or any of its provisions may be assigned, sublet, or transferred without the prior written consent of the District.

**PAYMENT**

The District shall pay the Contractor, after the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, including the purchase order, payment shall not be made on partial deliveries accepted by the District.

**INTELLECTUAL PROPERTY INFRINGEMENT**

Without limitation and notwithstanding any provision in this agreement, Contractor shall, upon receipt of notification, defend and indemnify the District, its instrumentalities, agencies, departments, boards, and all their respective officers, agents and employees against all actions, proceedings or claims of any nature (and all damages, settlement payments, attorneys' fees (including inside counsel), costs, expenses, losses or liabilities attributable thereto) by any third party asserting or involving an IP right related to an acquired item. The District shall allow the Contractor to defend such claim so long as the defense is diligently and capably prosecuted. The District shall allow the Contractor to settle such claim so long as (i) all settlement payments are made by Contractor, and (ii) the settlement imposes no non-monetary obligation upon the District.

The District shall reasonably cooperate with Contractor's defense of such claim. (b) In the event an injunction or order shall be obtained against the District's use of any acquired item, or if in the Contractor's opinion, the acquired item is likely to become the subject of a claim of infringement or violation of an IP right, the Contractor shall, without in any way limiting the foregoing, and at its expense, either: (1) procure for the District the right to continue to use, or have used, the acquired item, or (2) replace or modify the acquired item so that it becomes non-infringing but only if the modification or replacement does not adversely affect the specifications for the acquired item or its use by the District. If neither (1) nor (2), above, is practical, the District may require that the Contractor remove the acquired item from the District, refund to the District any charge(s) paid by the District, and take all steps necessary to have the District released from any further liability. (c) the Contractor's obligations under this paragraph do not apply to a claim to the extent (i) that the claim is caused by the Contractor's compliance with specifications furnished by the District unless the Contractor knew or reasonably had prior knowledge or suspected its compliance with the District's specifications would infringe an IP right, or (ii) that the claim is caused by the Contractor's compliance with specifications furnished by the District if the District knowingly relied on a third party's IP right to develop the specifications provided to the Contractor and failed to identify such product to the Contractor. (d) As used in this paragraph, these terms are defined as follows: "IP right(s)" means a patent, copyright, trademark, trade secret, or any other proprietary right. "Acquired item(s)" means the rights, goods, or services furnished under this agreement. "Specification(s)" means a detailed, exact statement of particulars such as a statement prescribing materials, dimensions, and quality of work. (e) Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of this Agreement.

#### OWNERSHIP OF DATA & MATERIALS

All data, information, material and documentation either specially prepared by Contractor for the District or provided by the District pursuant to this solicitation shall belong exclusively to the District.

#### PRIVACY – WEB SERVICES

The offeror agrees that any information acquired by about individuals or businesses which are available to the offeror as a result of the performance of this solicitation award/contract shall not be retained beyond the end of the term of the contracted project without the express written consent of the District. Such information shall not be sold, traded, or released in any form to another entity, including affiliates, and shall not be used for any purpose other than performing this contract. Upon request, the contractor shall provide written confirmation of compliance with this clause.

#### PROPRIETARY SOFTWARE (WHEN APPLICABLE)

##### Definition

Proprietary software is defined as data programs, non-custom written, non-made for hire software supplied by the contractor on a magnetic tape, disk, semiconductor device or other memory device; or system memory including hard wired logic instructions, microcode and documentation used to describe, maintain and use the programs.

##### License

The District is hereby granted a non-exclusive, fully paid perpetual license to use the contractor's proprietary software associated with the materials and/or hardware acquired, but only in conjunction with the material, equipment and/or service purchased pursuant to this Agreement.

##### Title

Title to any proprietary software, provided by the contractor to the District will remain with the contractor.

##### Trade Secrets

The District agrees that proprietary software is a trade secret of the contractor. The District agrees to take reasonable precautions to protect the trade secret nature of the proprietary software and to prevent its disclosure to unauthorized personnel. The license herein granted cannot be transferred, assigned, or made available by the District for use by any other individual, firm, partnership, or legal entity not affiliated, associated, or connected with the District without the prior expressed written consent of the contractor, which consent will not be unreasonably withheld. Such transfer shall also be conditioned upon the execution by the transferee of a written declaration agreeing to be bound by the terms and conditions of confidentiality provided for in this section.

##### Source Code

In the event the contractor, at any point during the continued installation and operation of the equipment herein acquired, discontinues the conduct of business, or for any reason fails to continue to support the proprietary software; the District will be provided a copy of the source code for said proprietary software, at no expense to the District.

Escrow for Source Code: In the event the contractor at any point during the continued installation and operation of the software herein acquired discontinues the conduct of business or for any other reason fails to continue to support the software, the District shall be provided a copy of the source code for said software within thirty days at no expense to the District.

For the effective term of this contract, contractor will provide, to a mutually agreed upon escrow agent in the United States, the most recent version of the source code on magnetic media. The proprietary source code shall be deposited into the escrow account within fifteen (15) calendar days of the initiation of the contract, or any major update, non-customized enhancement, version or release of said licensed software.

The source code may be accessed only upon the following conditions:

- a. The contractor refuses to provide software maintenance, bug fixes, upgrades, updates and/or enhancement services under the terms set forth in this contract or as generally provided similarly situated customers; or
- b. The contractor ceases to do business or exist as a valid business entity, as evidenced by an adjudication of bankruptcy or other definitive measure of cessation of operations.

With regards to proprietary software, the District may not sell, assign lease, or otherwise provide said source code(s) to any other person, firm or entity, regardless of modification, without the express written consent of the contractor, its successors, and assigns.

## CUSTOMIZED SOFTWARE

### Definition

Customized software is defined as made-for-hire, custom written and customer specific computer programs developed for the District by the contractor or by employees or agents of the District on magnetic tape, disk, semiconductor device or their memory device or system memory including hard wired logic instructions, microcode; and documentation used to describe, maintain and use the programs and any and all of the foregoing created in conjunction with this contract.

### Title

Title to the customized software rests in the District as set forth herein. The contractor shall thereafter have no right, title or interest in any customized software. As herein used, title includes providing to the District all intellectual elements of the customized software including, but not limited to, developmental, work product, notes, object and source codes and any other items or material regardless of form which would aid the District in understanding, using, maintaining, and enhancing the pertinent customized software.

### Software Tools

The contractor shall provide to the District, simultaneous with its initial installation and any subsequent enhancements, upgrades, modifications, "patches", fixes, etc., software tools (including, but not limited to compilers, editors, etc.) that the District may require to maintain or to enhance the customized software. The price for said tools and the cost to train District personnel to maintain and/or to enhance the customized software shall be noted separately and included in the contractor's cost bid/proposal submitted to the District in response to the solicitation.

### ETHICS ACT

By submitting an offer, the vendor certifies that it is in compliance with South Carolina's Ethics, Government Accountability, and Campaign Reform Act of 1991, as amended. The following statutes require special attention: (a) Offering, giving, soliciting, or receiving anything of value to influence action of a public employee – Section 8-13-790, (b) Recovery of kickbacks – Section 8-13-790, (c) Offering, soliciting, or receiving money for advice or assistance of a public official – Section 8-13-720, (d) Use or disclosure of confidential information – Section 8-13-725, and (e) Persons hired to assist in the preparation of specifications or evaluation of bids/proposals – Section 8-13-1150.

Any questions regarding the aforementioned General Terms and Conditions shall be directed to The School District of Greenville County Procurement Department, 2 Space Drive, Taylors, South Carolina 29687, (864) 355-1279. Rev. 4 21

## VII. BIDDING SCHEDULE

**Attach your developed Cost/Revenue proposal matrix when submitting the proposal.**

By submission of a response, the Proposer certifies that it has read and understands all of the requirements contained in this solicitation and agrees to be bound by all the terms and conditions of this solicitation without exception. It is understood that no payment will be made until the project is completed in accordance with the specifications set forth within this solicitation. The Proposer has availed itself of every opportunity to understand the requirements of this solicitation.

The District appreciates the proposer's interest in meeting the District's needs.

Enclosures:        Proposal Response Certification  
                         Certification of a Drug-Free Workplace Form

**Bid Checklist/Reference Sheet**

**Have you included the following?**

**Bid Cover Sheet (Page 1)** \_\_\_\_\_

**Bidding Schedule (Page 31)** \_\_\_\_\_

**Proposal Response Certification** \_\_\_\_\_

**Certification of Drug Free Workplace** \_\_\_\_\_

**Completed W9 Form** \_\_\_\_\_

**Proof of Insurance** \_\_\_\_\_

**Copy of Business License** \_\_\_\_\_

**Proposer Information Responses (Page 13-15)** \_\_\_\_\_



# **PROPOSAL RESPONSE CERTIFICATION**

## **Beverage Vending Program**

**RFP No. 124-66-4-5**

As an authorized representative of the Proposer, I hereby certify that the costs and services stated are accurate and binding for not less than ninety (90) calendar days from the solicitation due date. All costs and charges are accurate and complete as stated in the proposal and are inclusive of all costs the District is expected to pay. If an award is not made within ninety (90) calendar days, it shall be incumbent upon the Proposer to notify the District, in writing, if it does not want its proposal further considered. Failure to notify the District shall mean that the proposal remains valid until an award is made or the solicitation is cancelled.

I further certify that the Proposer will deliver the service(s) as required by the solicitation. No additional costs or payments to any entity, including the Proposer, shall be requested of the District due to any miscalculation, deficiency or other cause later discovered. The Terms and Conditions of the solicitation are accepted by the undersigned.

I certify that the Proposer has availed itself of every opportunity to understand the solicitation, the District's Procurement Code and Regulations and other pertinent District policy.

By submission of a proposal, I certify that the Proposer has read and understands all of the requirements and conditions of the solicitation and shall be bound by such without exception. Therefore, the undersigned respectfully submits its proposal.

\_\_\_\_\_  
Name of Firm

\_\_\_\_\_  
Printed Name of Authorized Representative

\_\_\_\_\_  
Title of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

Date \_\_\_\_\_ Telephone/FAX Number \_\_\_\_\_

Email Address: \_\_\_\_\_

**\*\*\*Return this form. It is required that this Proposal Certification form be completed and shall be returned unaltered with the proposal.**

**The School District of Greenville County (District)**

**Certification of a Drug-Free Workplace**

**RFP # 124-66-4-5**

This certification is required by the Drug-free Workplace Act, Section 44-107-10 *et seq* South Carolina Code of Laws (1976, as amended). The regulation requires signed Certification by Proposers/Contractors/Vendors prior to an award, that the entity shall maintain a drug-free workplace as required below and in accordance with South Carolina law. The signed Certification is a material and binding representation of fact upon which reliance shall be placed when determining the award of a contract. False representation or violation of the Certification requirements shall be grounds for suspension of payments, suspension and/or termination of any contract, or suspension and/or debarment regarding the right to submit bids or proposals to The School District of Greenville County.

For purposes of this Certification, "Drug-free Workplace" is defined as set forth in Section 44-107-20(1), South Carolina Code of Laws (1976, as amended). The aforesaid Section defines a workplace to include any District site where work is performed to carry out the Contractor's/ Vendor's duties under an award/contract. The Contractor's/Vendor's employees shall be prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of the Drug-free Workplace Act.

By signing this document, the Contractor/Vendor hereby certifies that it shall provide and maintain a drug-free workplace by:

- (1) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited on a District site or in the Contractor's/Vendor's workplace and specifying the actions that will be taken against employees for violation of the prohibition;
- (2) Establishing a drug-free awareness program to inform employees about:
  - (a) The dangers of drug abuse in the workplace;
  - (b) The Contractor's/Vendor's policy of maintaining a drug-free workplace;
  - (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (d) The penalties that may be imposed upon employees for drug violations;
- (3) Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by paragraph (1) above
- (4) Notifying the employee in the statement required by paragraph (1) that, as a condition of employment under the contract, the employee will:
  - (a) Abide by the terms of the statement; and
  - (b) Notify the employer of any criminal drug statue conviction for a violation occurring in the workplace no later than Five (5) calendar days after the conviction;
- (5) Notifying the District within Ten (10) calendar days after receiving notice under subparagraph (4) (b) from an employee or otherwise receiving actual notice of the conviction;
- (6) The Contractor/Vendor shall take one of the following actions, within Thirty (30) calendar days of receiving notice under subparagraph (4) (b) with respect to any employee who is convicted:
  - (a) Taking appropriate personnel action against the employee, up to and including termination; and
  - (b) Requiring the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health facility/service, law enforcement agency or other appropriate agency;
- (7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of Paragraphs (1), (2), (3), (4), (5), and (6) above.

**The School District of Greenville County (District)**  
**Certification of a Drug-Free Workplace**  
**RFP # 124-66-4-5**

**GCS Solicitation/Contract Number: RFP 124-66-4-5**

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**Project Name: Beverage Vending Program**

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**Contractor/Vendor Name:**

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**Address:**

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**Authorized Representative Name/Title:**

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**Signature: \_\_\_\_\_**

**Date: \_\_\_\_\_**

**Witness:**

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**Note: Prior to an award, this Certification Form is required to be submitted for all contracts for a stated or estimated value of \$ 10,000 or more.**

**\*\*\* Return both pages of this form in the proposal package. \*\*\***