

MPS TERMS AND CONDITIONS FOR REQUEST FOR PROPOSAL

The contractual requirements of Milwaukee Public Schools (MPS) are detailed herein. **Vendors will be expected to meet all of these contractual requirements.** MPS will require proof of compliance with these terms and conditions prior to execution of a contract. If a vendor cannot meet these terms and conditions, the vendor should not submit a proposal. Unless otherwise specified in the RFP, the successful proposer agrees to enter into a contract on the form prepared by MPS. **MPS will not sign a vendor's contract.**

How to Respond

All proposals shall be in writing and all prices and amounts (where applicable) stated in figures. The cover page of the RFP document contains specific instructions as to where and to whom your response should be addressed, the number of copies needed, the due date and cutoff time, along with other important instructions. Specific requirements of the responses are set forth in Section 4 of the RFP.

Joint Proposals

MPS requires a single vendor contact for all RFP items. In the event a group of vendors elect to submit a single response, all participating vendors must be identified in the response, and a "primary vendor" must be assigned who will be responsible for negotiating all contractual matters.

MPS reserves the right to accept the primary vendor, but reject any secondary vendor. The primary vendor will have the option of withdrawing its proposal, without penalty, or replacing the rejected subcontractor. A contract will be written with the successful primary vendor only.

Addendum to RFP

In the event it becomes necessary to provide additional information, or to revise any part of the RFP, such information will be posted on the District's portal. In the event of conflict with the original RFP, addenda shall govern to the extent specified. Subsequent addenda shall govern over prior addenda only to the extent specified. It is the sole responsibility of the respondents to monitor the District's portal to ensure they learn about RFP addenda in a timely manner. **Addenda will not be mailed.**

The accuracy of the response is the sole responsibility of the vendor. No changes shall be allowed after the date and time the response is due. If any of the terms and conditions prevent you from responding, consideration may be given, if possible, to a request for change. This request must be submitted to the Procurement Manager in writing seven days prior to the proposal closing, and if granted, will result in an addendum.

Amendment or Withdrawal of Proposals

If after a proposal has been filed with the MPS Procurement Division the proposer desires to amend the proposal, the proposer may do so before the due date and time set for the receipt of proposals by filing a written amendment fully identified with the original proposal submitted by number, commodity or service. All of the terms, conditions and provisions of the original proposal will be in effect. Proposals may be withdrawn prior to the time and date set for the opening. Such requests must be made in writing on company letterhead. No proposals, requests for withdrawal or amendments will be accepted after the due date and time for receipt of proposals as specified in the Request for Proposal. This does not preclude MPS from requesting additional information and/or clarification.

Reservations

MPS reserves the right to reject any or all proposals, reject proposals that are outside the fiscal constraints, reject proposals that are not in MPS' best interest, accept a proposal that is not the

lowest cost, request clarification regarding any proposal and/or make a partial award or not make any award.

Ambiguities

It is incumbent upon the respondent to point out any possible discrepancies, omissions or ambiguities using the process outlined in the Request for Proposal document to submit questions. By failing to do so, respondent waives the right to claim a provision is ambiguous.

Failure of Compliance

Failure on the part of the responder to comply with all of the instructions and terms of the Terms and Conditions for Request for Proposal may result in proposal rejection and/or cancellation of orders without liability to MPS.

Incurring Costs

There is no express or implied obligation of MPS to reimburse any individual or firm for any costs incurred in preparing or submitting responses; for providing additional information when requested by MPS; or for participating in any selection interviews and contract negotiations.

Confidentiality

All responses to this RFP become the property of MPS upon submission. MPS may use the response for any purpose it deems appropriate.

All documents submitted will be subject to the Open Records Law of the State of Wisconsin. Notwithstanding this, the vendor may request to designate information as “Confidential” or “Proprietary” on the Request to Designate Information as Confidential or Proprietary Form.

Vendor Conduct

During the RFP window (the date from release of this RFP to final award and contract execution), vendors are not permitted to contact any District employees or members of the Board of School Directors regarding this RFP unless with the permission of the District's designated contact persons identified in Section 3 of the RFP. No gratuities of any kind will be accepted including meals, gifts, and trips, except as provided for as reference site visitations during finalist evaluations. Violation of these conditions will constitute immediate disqualification.

Conflict Of Interest

All vendors must disclose the name of any officer, director or agent who is also an employee of the District. All vendors must disclose the name of any District employee who owns, directly or indirectly, any interest in the vendor's business or any of its branches.

Tax Exemption

MPS is exempt from sales and use tax by state statute.

Shipping

MPS does not pay shipping. If any deliverables are shipped as a result of an RFP, vendor shall not charge MPS any shipping costs. All prices must include delivery FOB destination to the MPS location receiving the goods and freight must be prepaid. All deliveries must be inside the receiving location building. Any separate line items for freight, shipping, processing, handling or like charges listed on an invoice will be deleted and NOT PAID. If there is a freight increase prior to delivery of the goods, any additional cost must be at the contractor's expense.

Cost Proposal To Remain Open

All vendors agree to hold their cost proposal open for a minimum of six (6) months after the proposal closing date.

Terms of Agreement

The RFP and the responses submitted become part of the contract between the vendor and MPS. To the extent there is a conflict in terms, and that term is addressed in the contract executed between the vendor and MPS, the term set forth in the contract prevails. To the extent there is a conflict in terms, and that term is not addressed in the final contract, the terms set forth in the RFP prevail.

Length of Agreement

Unless otherwise noted, any contract resulting from the RFP shall remain in effect for one year. Continuation of the contract beyond the initial period is subject to mutual agreement by the District and the vendor. The failure of the Board of School Directors to appropriate funds for any contract shall void the contract.

Substitution of Personnel

During the term of a contract, MPS reserves the right to request a substitution of personnel (*i.e.* project leader, staff, etc.). Failure on the part of the contractor to provide a substitute deemed suitable by MPS, shall be cause for contract termination.

Likewise, if the contractor finds it necessary to replace staff assigned to the MPS project, MPS shall have the absolute right to approve of said substitute.

Audit of Pricing and Billing Procedures

MPS reserves the right to conduct periodic audits of pricing and billing procedures as well as other terms, conditions, and procedures of the contract entered into between the vendor and MPS.

Contract Compliance Assurance

Regulations: Vendors shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the work.

Licensing and Permits: Vendors responding to this RFP are required to demonstrate valid possession of required licenses, and are expected to keep them in effect for the term of this contract.

Level of Business: MPS will award contracts **without** any guarantee, implied or otherwise, of the level of business any vendor will receive during any fiscal year.

Cancellation

In the event a vendor shall default in any of the covenants, agreements, commitments, or conditions and any such default shall continue unremedied for a period of ten (10) days after written notice to the vendor, MPS may, at its option and in addition to all other rights and remedies which it may have, terminate the agreement and all rights of the vendor under the agreement. Failure to maintain the required certificates of insurance, permits, licenses and/or bonds will be cause for contract termination.

Designation of Subcontractors

The contract may not be assigned or subcontracted, in whole or in part, without the express, written permission of MPS.

Headings

All headings and titles used in contractual documents exist for the purposes of document organization and reference and shall not be considered a term or condition of any agreement entered into by the Vendor and the District.

Consent to Breach is Not a Waiver

The consent to a breach of any term or condition of this agreement by either party shall not be considered a Waiver of such term or condition nor shall such breach be considered consent to a subsequent breach.

Governing Law

The provisions of the contract shall be constructed in accordance with the laws on the State of Wisconsin.

Insurance

The District's contract language requires that a Contractor agree that financial responsibility for claims or damages to any person, or to Contractor's employees and agents, shall rest with the Contractor. A Contractor is required to maintain insurance coverage including, but no limited to, Worker's Compensation, Employers' Liability, Commercial General Liability, Product Liability, Contractual Liability, Professional Liability, Automobile Liability and Umbrella Liability to support such financial obligations. The minimum levels of insurance that MPS requires from a Contractor are:

Workers Compensation	Statutory Limits
Employers Liability	\$100,000 per occurrence/\$500,000 aggregate*
Commercial General Liability	\$1,000,000 per occurrence/\$2,000,000 aggregate*
Professional Liability	\$2,000,000 per occurrence*
Auto Liability	\$1,000,000 per occurrence
Umbrella (excess) Liability	\$4,000,000 per occurrence

*Or such higher limits sufficient for these insurance policies to be scheduled under the Umbrella policy.

MPS must be named as an additional insured under Contractor's commercial general liability insurance including product liability insurance and umbrella liability insurance. The certificate of insurance or policies of insurance evidencing all coverages must include a statement that MPS will be afforded a thirty (30) day written notice of cancellation, non-renewal or material change by any of Contractor's insurers providing the coverages required by MPS for the duration of this contract. Insurance companies must be acceptable to MPS and must have a current A.M. Best rating of A- or better.

Documentation of insurance in the form of Certificates of Insurance will be required to be submitted prior to the award of the contract. Documentation is not required at the time of RFP response. In your proposal, indicate whether or not you will be able to obtain the required coverages and meet the specified terms and conditions.

Indemnification

The Contractor will be required to defend, indemnify and hold harmless MPS, its agents, board members, officers, and employees ("indemnities") from and against any and all actual or alleged claims, demands, actions, causes of action, injuries, personal injuries, contingent liabilities or damages and reasonable attorney fees. An indemnity's recovery is not limited due to the fact that MPS is named as an additional insured under any of the Contractor's insurance policies. The Contractor is solely responsible for any payment of any deductible or retention under its insurance policies.

Nondiscrimination

Contractors must not discriminate or deny participation in any program or activity on the basis of a person's sex, race, religion, national origin, ancestry, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional/learning disability or event location. Contractors shall comply with all state and federal regulations.

Best and Final Offer

MPS reserves the right to request one or more respondents to a Best and Final Offer ("BAFO") process. BAFOs may be used when no single response addresses all the specifications, when the costs submitted by all bidders are too high, when two or more bidders are virtually tied after the evaluation process, or when all bidders submitted responses that are unclear or deficient in one or

more areas. If a BAFO is utilized, Proposers may be required to submit revisions to the RFP response. MPS will send out a BAFO request to invited respondents that will set forth the areas of the proposal to be covered, and the date and time by which the BAFO must be returned. All respondents will be treated equally and no information will be transmitted from one respondent about the other respondent's offer during the process. MPS reserves the right to apply additional criteria not listed in the original RFP to the BAFO process, but any additional criteria will be disclosed to Proposers in the BAFO request.

Other Requirements

1. If HUB participation is required, vendor must submit a HUB Affidavit of Payment form with each invoice to MPS. This form identifies activity and payment information for each HUB vendor being utilized. Payment will not be processed without this form, and it must be approved by DDCE.
2. MPS has a Livable Wage policy that requires anyone having a contract with MPS must pay all of their employees a livable wage in accordance with City of Milwaukee Ordinance 310-13. The current livable wage rate can be found at the City of Milwaukee website <http://city.milwaukee.gov/ImageLibrary/Groups/doaPurchasing/forms/LivingWageTable.docx>.
3. MPS encourages its Contractors to provide health and dental benefits to their employees.
4. Contractors and suppliers are obligated not to discriminate against any employee or applicant for employment because of race, color, religion, handicap, national origin, gender, age or socioeconomic status. This obligation includes but is not limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
5. Contractors and suppliers are obligated to comply with all requirements of the Americans with Disabilities Act.
6. Contractor stipulates that any purchase of apparel in excess of \$5,000.00 will be manufactured only by responsible manufacturers and any subcontract will contain this same requirement.
7. The Contractor certifies that neither the vendor, its principals, its sub-recipients or their principals, or any subcontractors or their principals are suspended, debarred, proposed for debarment, voluntarily excluded from covered transactions, or otherwise disqualified by any federal department or agency from doing business with the Federal Government pursuant to Executive Orders 12549 and 12689.
8. Contractors are advised that all District contracts are subject to all legal requirements contained in the District Purchasing Policy (3.09) and state and federal statutes. When conflicts between the RFP and other legal requirements occur, the highest authority shall prevail.
9. Contractor will save, indemnify and keep harmless MPS against all loss, liability, judgments, costs and expenses which may in anyway come against said MPS by virtue of the infringement of any patents or patents in any manner in connection with the work or materials furnished under this contract.
10. Contractor assumes full liability for all of its acts or omissions in the performance of the contract. Contractor will save and indemnify and keep harmless MPS against all liabilities, judgments, costs and expenses which may be claimed against MPS in consequence of the granting of this contract to said contractor, or which may result from the carelessness or neglect of said contractor, or the agents, employees or workmen of said contractor in any respect whatever. If judgment is recovered, whether in suits of law or in equity, against MPS by reason of the carelessness, negligence, whether by acts of commission or omission, of the contract, such persons, firms or corporations carrying out the provisions of the contract for the contractor, the contractor assumes full liability for such judgment not only as to the amount of damages, but also the cost, attorneys fees or other expenses resulting therefrom.
11. If contractor shall fail to fully and completely perform the contract within the time limited for the performance thereof, contractor shall and will pay MPS, as liquidated damages for such default, the amount as indicated in the RFP as an assessment for delay in completing said contract, after the expiration of time limited for its completion.
12. The award of a contract by MPS does not grant permission to commercially advertise such an award unless specific written authority is granted by the MPS' Director of Communication and Public Affairs.

13. Both parties understand that MPS is bound by the Wisconsin Public Records Law, and as such, all of the terms of the contract are subject to and conditioned on the provisions of Wis. Stat. 19.21, et. Seq. Contractor acknowledges that it is obligated to assist MPS in retaining and producing records that are subject to Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of the contract and that the contractor must defend and hold MPS from liability under the law. Except as otherwise authorized, those records shall be maintained for a period of seven years after receipt of final payment under the contract.

4/14/14