

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF EDUCATION
P.O. BOX 2120
RICHMOND, VIRGINIA 23218-2120

April 1, 2010

NOTICE OF CONTRACT AWARD

Contract Title: **Low Achieving Schools Turnaround Partners**

Contract Period: **April 1, 2010, through June 30, 2013 (Renewable)**

Authorized Users: **Virginia Public School Divisions/Public Schools**

Awarded Contractors:

Contract Numbers:

Mott MacDonald dba Cambridge Education

E100329-149-096

EdisonLearning, Inc.

E100329-149-097

Johns Hopkins University

E100329-149-098

Pearson Education

E100329-149-099

Use of this contract is optional by the authorized users; however, orders placed against these contracts **must not** be entered in the state's e-procurement system, referred to as eVA. A local purchase order **must be** issued to consummate the contract and without the addition of any local terms and conditions or modifications to the contract terms. Specific guidance on use of this contract is contained herein.

Contract Officer: Wiley C. Rowsey, VCO, CPPO
VDOE Procurement Director
Telephone: 804-225-3576, Fax: 804-225-2509
Email: wiley.rowsey@doe.virginia.gov

Contract Administrator: Kathleen Smith
VDOE School Improvement Director
Telephone: 804-786-5819
Email: kathleen.smith@doe.virginia.gov

Note: This public body does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against an Offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

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CONTRACT OVERVIEW

This optional-use contract incorporates Request for Proposal, RFP# DOE 2010-03, entitled “Low Achieving Schools Turnaround Partners” issued October 29, 2009, by the Virginia Department of Education, and each contractor’s proposal and negotiated changes.

The primary purpose of the contract is to provide school divisions a choice of Lead Turnaround Partners (LTP) to select from on an as needed, when needed basis to develop and implement an academic program for one or more of the core discipline areas of math, science, social studies and language arts for students in persistently low-achieving public schools. Persistently low-achieving schools for the purpose of this contract are those schools that are denied accreditation and/or are in restructuring as sanctioned by the *No Child Left Behind Act of 2001*; school divisions may also utilize these contracts for LTP services though a school or group of schools does not meet this criteria.

Divisions, groups of schools and individual schools will have the option to select any of the four LTP contractors for their particular region. The division or school will establish the time period for performance of services by the selected LTP and at the contracted base unit price plus other school division negotiated costs not covered by the base unit price. Examples of additional cost may include rental of office space, equipment, transportation, instructional materials, etc. The LTP may reject its selection provided it can demonstrate that its current commitments or lack of sufficient resources will not allow for timely and quality performance. In that case the division or school may select another LTP.

It is the intent of VDOE that all LTP contractors provide services that meet the following minimum requirements:

- One of the three USED models (transformation, turnaround, restart) as selected by the LEA.
- Any additional or supplemental instructional program provided by the LTP must be aligned with the Virginia Standards of Learning (SOL). It is the responsibility of the LTP to ensure alignment with the SOL. The VDOE will check for alignment.
- All teachers provided by the LTP must meet highly qualified status and meet licensure requirements.
- Parental involvement, such as a parent outreach program.

NO TECHNOLOGY RELATED PRODUCT OR SERVICE CAN BE OFFERED OR PURCHASED UNDER THE CONTRACT. This does not prohibit the offer or purchase of instructional materials necessary for performance of the contract.

ORDERING INSTRUCTIONS

The following describes the six basic steps to be taken by a school division when selecting an LTP:

- Step 1: Select one or more LTP contractors from the contract list for an initial interview/discussion of needs. The initial interview/discussion can be via telephone and/or face to face.
- Step 2: The selected LTP(s) may be invited to visit the applicable school(s) for visual purposes and to obtain a better understanding of the needs.
- Step 3: After the initial discussion, select one or more LTP to begin a collaborative drafting of a scope of work, which must include a detailed estimated total cost (base unit price X annual average number of students and other negotiated costs). During this step discussion on what the division will provide, such as transportation, working space, equipment (telephone, computer, printer, furniture, etc.) must be itemized in the scope.
- Step 4: At the conclusion of step 3 the school division will review the draft(s) and select the LTP to be awarded the contract and begin finalization of the scope of work and initial total cost. The total cost is subject to change during contract performance as the scope of work and/or other conditions (e.g., division furnished items added/deleted, division directed travel, etc.) may need to be modified.
- Step 5: The LTP must include along with the finalized scope of work a detailed budget based on its contract pricing schedule documenting how the initial total cost was calculated (quantity, unit pricing, description, etc.).
- Step 6: Upon acceptance by the school division of the finalized scope of work and budget, and before performance can begin, the division must issue a local purchase order to the LTP referencing the applicable VDOE contract number and attach the scope of work and budget. The contract must be issued for three school years, if federally funded. No other terms and conditions can be added to the order by either the LTP or school division without prior approval of the VDOE procurement director. School divisions using their own funds may place orders for services for any time period (3 years or less) by following the above steps, and may place orders for services though a school has not been designated as a low performer.

NOTE: Insert the following statement on the local purchase order: **“The terms and conditions contained in RFP# DOE 2010-03 apply to this order and supersede any pre-printed terms that may appear on the contractor’s forms, this purchase order and any attachments. All invoices for payment must be submitted to the address shown on the purchase order. All payments will be made by the ordering entity and not by the Virginia Department of Education.”**


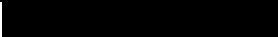
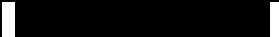
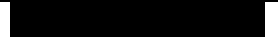

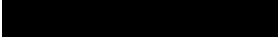
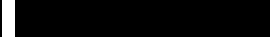
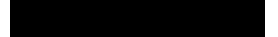

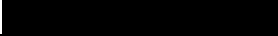
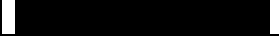
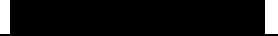
CONTACTOR INFORMATION, PRICING AND SERVICE REGIONS

Mott MacDonald dba Cambridge Education Contract Number: **E100329-149-096**
 400 Blue Hill Drive, Suite 100 N. Lobby Regions Served: **All**
 Westwood, MA 02090

Contact: Trevor B. Yates, Executive Vice President
 Mott MacDonald dba Cambridge Education
 400 Blue Hill Drive, Suite 100, N. Lobby
 Westwood, MA 02090
 Phone: 717-701-0123, Fax 781-915-0001
 Email: Trevor.yates@camb-ed-us.com

Gail McLean
 Phone: 781-6636-4038 (work), 781-690-7717 (cell)
 Email: gail.mclean@camb-ed-us.com

Kevin Hardy
 Phone: 781-915-0020 (work), 617-997-3427 (cell)
 Email: Kevin.hardy@camb-ed-us.com

<i>Cambridge Education, Contract E100329-149-096</i>	Elementary School annual per student fixed fee	Middle School annual per student fixed fee	High School annual per student fixed fee
200 students or less	\$748	\$795	\$838
Startup fee	\$None	\$None	\$None
			
201-400 students	\$352	\$382	\$402
Startup fee	\$None	\$None	\$None
			
401-600 students	\$265	\$305	\$334
Startup fee	\$None	\$None	\$None
			
601 students or more	\$262	\$299	\$329
Startup fee	\$None	\$None	\$None

Contractor comments:

The above pricing schedule includes the core strategic interventions that Cambridge Education will provide as an LTP. They exclude:

1. Other items of cost that we may experience as an LTP during performance such as school or division directed travel, lease of space and/or equipment, and other miscellaneous items/services shall be billed and reimbursed at actual cost.

2. All costs which the district/school may incur in relation to additional staffing, relocation of staff, training venue costs, etc.

Other optional pricing that may apply on a case by case basis:

Inclusive price for each of the below diagnostic surveys and audits is **\$7,000 per school**:

- Initial Schools Quality Reviews
- Interim Progress Reviews
- Curriculum Audit
- Fiscal Audit
- School culture/student surveys

Indicative additional Continual Professional Development Program (CPD):

In addition to the core LTP program Cambridge provides an extensive range of CPD programs for each school. Each 3 day program will cost **\$6,600** per school for up to 15 members of staff. Programs can also be run across similar schools which will reduce the per school cost. The following are indicative of the range of program Cambridge currently provides:

- Efficacy training
- Language in Learning across the Curriculum
- English language Learners
- Professional Growth – Performance Review
- Extended day
- Re-tracking – behavior management
- Good teaching successful learning
- Strategic Leadership of IT to promote learning
- Leading for Learning
- Safe schools

CONTACTOR INFORMATION, PRICING AND SERVICE REGIONS

EdisonLearning, Inc.
 485 Lexington Ave.
 2nd Floor
 New York, NY 10017

Contract Number: **E100329-149-097**
 Regions Served: **All**

Contact: Curtiss Stancil, Vice President for Business Development
 EdisonLearning, Inc.
 8101 Hampton Meadows Lane
 Chesterfield, VA 23832
 Phone: 917-482-4396, Fax 804-739-7260
 Email: curtiss.stancil@edisonlearning.com

<i>EdisonLearning, Inc., Contract E100329-149-097</i>	Elementary School annual per student fixed fee	Middle School annual per student fixed fee	High School annual per student fixed fee
200 students or less	\$1,150	\$1,150	\$1,450
Startup fee	\$350	\$350	\$470
██████████	██████████	██████████	██████████
201-400 students	\$660	\$660	\$830
Startup fee	\$150	\$150	\$200
██████████	██████████	██████████	██████████
401-600 students	\$420	\$420	\$530
Startup fee	\$100	\$100	\$130
██████████	██████████	██████████	██████████
601 students or more	\$310	\$310	\$390
Startup fee	\$75	\$75	\$100

CONTACTOR INFORMATION, PRICING AND SERVICE REGIONS

Johns Hopkins University
 3400 N. Charles Street
 Baltimore, MD 21218

Contract Number: **E100329-149-098**
 Regions Served: **All (no elementary)**

Contact: Kathy Nelson (contact for middle schools only)
 Center for Social Organization of Schools
 Johns Hopkins University
 3003 N. Charles Street
 Baltimore, MD 21218
 Phone: 410-516-8800
 Email: knelson@csos.jhu.edu

Rosemary Outlaw (contact for high school only)
 Same address as above
 Phone: 410-516-8800
 Email: routlaw@csos.jhu.edu

<i>Johns Hopkins University, Contract E100329-149-098</i>	Elementary School annual per student fixed fee	Middle School annual per student fixed fee	High School annual per student fixed fee
200 students or less	\$N/A	\$945	\$945
Startup fee	\$N/A	\$None	\$None
██████████	██████████	██████████	██████████
201-400 students	\$N/A	\$450	\$450
Startup fee	\$N/A	\$70	\$70
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401-600 students	\$N/A	\$375	\$375
Startup fee	\$N/A	\$42	\$42
██████████	██████████	██████████	██████████
601 students or more	\$N/A	\$316	\$316
Startup fee	\$N/A	\$30	\$30

Contractor Comments:

These figures do not include material costs. In addition, Talent Development recommends an additional content coach and a behaviorist to identify, track and support the Tier II and Tier III interventions. These costs will be part of the negotiation discussions with the school/district.

CONTACTOR INFORMATION, PRICING AND SERVICE REGIONS

Pearson Education
 One Lake Street
 Upper Saddle River, NJ 07458

Contract Number: **E100329-149-099**
 Regions Served: **All**

Contact: Fred Bost, Regional VP
 c/o Carissa Tilford
 Pearson K-12 Solutions
 10911 White Rock Road
 Rancho Cordova, CA 95670
 Phone: 877-873-1550, x1617
 Email: fred.bost@pearson.com

<i>Pearson Education, Contract E100329-149-099</i>	Elementary School annual per student fixed fee	Middle School annual per student fixed fee	High School annual per student fixed fee
200 students or less	\$750	\$750	\$750
Startup fee	\$253	\$253	\$253
██████████	██████████	██████████	██████████
201-400 students	\$700	\$700	\$700
Startup fee	\$164	\$164	\$164
██████████	██████████	██████████	██████████
401-600 students	\$625	\$625	\$625
Startup fee	\$96	\$96	\$96
██████████	██████████	██████████	██████████
601 students or more	\$540	\$540	\$540
Startup fee	\$72	\$72	\$72

Contractor Comments:

Pearson’s price to Virginia schools is for services per procurement instructions; materials are not priced. At the point we begin implementation discussion at the District level, we will ask school officials to discuss the materials and data that already exist as these provide baseline information from which we will rollout the school improvement model. At that time, schools may make decisions that lead to purchasing material or technology resources, but such purchases are outside the parameters of this offer.

Notes

- Pearson reserves the right to assign its embedded support and resources to match the number and size of schools selected.
- Pearson’s school improvement model is titled School Turnaround Education Partnership (STEP).

- The First Year Start Up Price is a one-time, per school charge will be invoiced in Year 1 of the agreement only. Thereafter the annual fees will be comprised of the Pearson STEP Model fee and any other mutually agreed upon charges by Pearson and the local district or school.
- The Annual STEP Model Price is an annual per school charge for the 3 year contract term. Any services or products provided outside of the proposed 3 year contract term will be subject to additional fees as mutually agreed upon by Pearson and local district or school.
- Local districts or schools shall be solely responsible for all site staff, with the exception of the Pearson Team. These responsibilities include recruitment, hiring & termination of site staff. Pearson will provide consultation and input for consideration by the site Principal and/or the District Turnaround Liaison.
- Local districts or schools shall be responsible for all personnel costs associated with any necessary agreed upon professional development and/or leadership institutes. This includes release time and any substitute teaching costs necessary for the staff to be able to fully participate in the STEP training.

RFP# DOE 2010-03 EXTRACT (Selected Content)

These selected sections of the RFP are intended to provide the school divisions with an understanding of the contractor's performance and reporting requirements, the terms and conditions requiring compliance by all parties and method of payment. These sections should be reviewed and made available to the individual(s) assigned to manage/administer an order placed against the contract.

STATEMENT OF NEEDS

The contractor shall furnish all labor and resources to increase student achievement using the following desired approaches and/or other VDOE accepted approaches proposed as a result of this RFP and those that may be refreshed/added during the performance of the contract:

1. Provide formative and ongoing reports on program effectiveness to include, but not limited to, student achievement, parental involvement, student attendance, and student discipline.
2. Employ research-based strategies that provide an immediate and dramatic turnaround in student achievement.
3. Work with the school division to recruit and recommend teachers and a leader(s) who have a proven record of success of increasing student achievement.
4. Recommend necessary restructuring of teacher and leader contracts.
5. Develop and engage teachers and the leader in professional development aligned to programmatic goals.
6. Promote student motivation for learning.
7. Secure parental commitment and involvement through school choice.
8. Promote parental capacity to support student engagement, motivation, and learning within school, at home and in the community.
9. Work with the school division to expand community support to garner human resources needed for reform.
10. Evaluate teacher and leader performance and outcomes and make staffing recommendations accordingly.
11. Develop constructive relationships with existing school personnel.
12. Recommend changes to the school calendar according to student and program needs, for example, year-round schools or extending the length of the school day.
13. Require commitment from parents to allow for additional time for instruction (such as after school support).
14. Work with the school division to obtain a commitment from teachers to allow for additional time for instruction and professional development.
15. Provide comprehensive, coherent, manageable and integrated instructional and support programs.
16. Recommend which existing programs are to be continued and which programs are to be eliminated.
17. Consistent with the state Standards of Learning recommend alignment of curriculum, instruction, classroom formative assessment and sustained

- professional development to build rigor, foster student-teacher relationships, and provide relevant instruction that engages and motivates students.
18. Organize programming to engage students' sense of adventure, camaraderie, and competition.
 19. Develop and implement evidence-based discipline programs that minimize time out of school and/or class.
 20. Identify and recommend supporting partners to address social, emotional and behavioral issues (e.g., over-age students).
 21. Identify and obtain adequate materials from school system resources (such as the Algebra Readiness Diagnostic Assessment (ARDT) or benchmark assessments).
 22. Identify and recommend outside resources needed in the reform effort.
 23. Develop and recommend a budget to the School Board based on available per pupil amounts of local, basic Standards of Quality (SOQ), school improvement, appropriate Title monies, and special education funding in addition to other sources identified and aligned specifically for the turnaround zone.
 24. Work with school division to seek outside funding from the greater community (business, private foundations, federal and state sources) to support the reform effort.
 25. Integrate all academic and support services.

REPORTING AND DELIVERY INSTRUCTIONS

PROGRESS REPORTS: Each contractor shall submit a written monthly progress report (through a single sign-on web site to be provided later) to the school division/public school and the VDOE Office of School Improvement by the 15th of the month following the month services were provided detailing the following listed items:

1. Cumulative enrollment data for each student by student ID and by name. Such data must include daily attendance information including number of absences, tardiness, discipline referrals, out-of-school suspensions and in-school suspensions by infraction and by teacher, and parental request meetings by infraction and by teacher.
2. Student achievement data including grades for the nine weeks, diagnostic data, benchmark assessment data, progress monitoring assessment data, and SOL assessment data, if available.
3. Teacher recruitment activities, teacher professional development activities (including agendas of all staff meetings), and teacher absenteeism.
4. Completed teacher evaluations and observations.
5. Core SOL curriculum taught during the month including all essential skills and knowledge in each of the four core content areas.
6. Number of minutes provided during the month for extended learning opportunities for each student and cumulatively.
7. Report on the development and coordination of supporting partnerships.
8. Line item budget expenditures for each month.

9. Report of parental development activities.
10. Any other report requested by the local school board.

Payment under the contract may be withheld until such report is delivered or other appropriate remedies may be assessed in lieu of withholding such payment. Within 30 days after completion of each contract the contractor shall submit a final summary report highlighting accomplishments to the school division/school and to the VDOE Office of School Improvement. The final report should include any recommendations for future consideration by the school division/school.

GENERAL TERMS AND CONDITIONS

- A. **VENDORS MANUAL:** This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.dgs.state.va.us/dps under "Manuals."
- B. **APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- C. **ANTI-DISCRIMINATION:** By submitting their proposals, offerors certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

- D. ETHICS IN PUBLIC CONTRACTING:** By submitting their proposals, offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- E. IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By submitting their proposals, offerors certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.
- F. DEBARMENT STATUS:** By submitting their proposals, offerors certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.
- G. ANTITRUST:** By entering into a contract, the contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular

goods or services purchased or acquired by the Commonwealth of Virginia under said contract.

H. PAYMENT:

1. To Prime Contractor:

- a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b. Any payment terms requiring payment in less than 45 days will be regarded as requiring payment 45 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 45 days, however.
- c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.
- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).

2. To Subcontractors:

- a. A contractor awarded a contract under this solicitation is hereby obligated:
 - (1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the Commonwealth for the proportionate

share of the payment received for work performed by the subcontractor(s) under the contract; or

(2) To notify the agency and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.

- b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.

- I. **PRECEDENCE OF TERMS:** The following General Terms and Conditions *VENDORS MANUAL*, *APPLICABLE LAWS AND COURTS*, *ANTI-DISCRIMINATION*, *ETHICS IN PUBLIC CONTRACTING*, *IMMIGRATION REFORM AND CONTROL ACT OF 1986*, *DEBARMENT STATUS*, *ANTITRUST*, *PAYMENT* shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.
- J. **TESTING AND INSPECTION:** The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- K. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.
- L. **CHANGES TO THE CONTRACT:** Changes can be made to the contract in any of the following ways:
1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
 2. The Purchasing Agency may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:

- a. By mutual agreement between the parties in writing; or
- b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the contractor's records and/or to determine the correct number of units independently; or
- c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Purchasing Agency or with the performance of the contract generally.

- M. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.
- N. **TAXES:** Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this contract shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.
- O. **INSURANCE:** By signing and submitting a bid or proposal under this solicitation, the bidder or offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or offeror further certifies that the contractor and any subcontractors will maintain these insurance coverages during the entire term of the

contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.
2. Employer's Liability - \$100,000.
3. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
4. Automobile Liability - \$1,000,000 per occurrence. (Only used if motor vehicle is to be used in the contract.)

- P. DRUG-FREE WORKPLACE:** During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

- Q. AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.

SPECIAL TERMS AND CONDITIONS

- A. **ADVERTISING** In the event a contract is awarded for supplies, equipment, or services resulting from this proposal, no indication of such sales or services to the VDOE and public schools will be used in product literature or advertising. The contractor shall not state in any of its advertising or product literature that the Commonwealth of Virginia or any agency or institution of the Commonwealth has purchased or uses its products or services.
- B. **AUDIT**: The contractor shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The agency, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.
- C. **CANCELLATION OF CONTRACT**: The purchasing agency reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the contractor. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.
- D. **RENEWAL OF CONTRACT**: This contract may be renewed by the Commonwealth for three (3) successive one year periods under the terms and conditions of the original contract. Written notice of the Commonwealth's intention to renew shall be given approximately 90 days prior to the expiration date of each contract period.
- E. **PRICE ADJUSTMENTS**: The unit prices will remain fixed for the first two years of the contract; however, adjustments may be authorized by the VDOE to be effective beginning on the third year of the contract and each renewal year thereafter. The Contractor must submit in writing to the VDOE Procurement Office any request for price adjustments at least 60 days in advance of the effective date. Such requests shall be limited to changes in the Contractor's cost for providing the services and shall not exceed 4%. The US Department of Labor, Bureau of Labor Statistics, Consumer Price Index CPI-W (Other Services Category) for the latest 12 months will be used as a guide by VDOE to verify any price adjustment requests. The Contractor shall document the basis for the requested amount. Such documentation shall be supplied with the Contractor's request for adjustment and certify that the requested price adjustment is general in scope and not applicable just to the Commonwealth of Virginia.
- F. **SUBCONTRACTS**: No portion of the work shall be subcontracted without prior written consent of the purchasing agency. In the event that the contractor desires to

subcontract some part of the work specified herein, the contractor shall furnish the purchasing agency the names, qualifications and experience of their proposed subcontractors. The contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the contract.

G. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION:

The contractor assures that information and data obtained as to personal facts and circumstances related to students and staff will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the individual's and the agency's written consent and only in accordance with federal law or the *Code of Virginia*. Contractors who utilize, access, or store personally identifiable information as part of the performance of a contract are required to safeguard this information and immediately notify the agency of any breach or suspected breach in the security of such information. Contractors shall allow the agency to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Contractors and their employees working on this project may be required to sign a confidentiality statement.

H. CERTAIN CRIMES AND CHILD ABUSE: Pursuant to subsection C of § 22.1-

296.1 of the *Code of Virginia* the contractor shall, prior to commencing performance, provide certification to the contracting school division/school that all employees who will have direct contact with students on school property have not been convicted of a felony or any offense involving the sexual molestation or physical abuse or rape of a child. Any additional or replacement contractor employee assigned to work on school property during performance of the specific contract shall require prior certification.

I. AUTHORIZED USERS: This procurement is being conducted on behalf of all

Virginia public school divisions and public schools who will be the only authorized users of the contract. The school divisions or individual schools may place orders for services in accordance with the terms of the contract. No other terms and conditions may be imposed upon the contractor(s) by the ordering entity unless reduced to writing and accepted by the contractor. Any unresolved contractual disputes must be referred to the Virginia Department of Education Procurement Office for resolution.

METHOD OF PAYMENT

The Contractor shall submit a monthly invoice by the 10th of the month following the month of service at the contracted unit price(s). The invoice shall provide sufficient detail to validate goods provided and services performed. The division or school will make payments within forty-five (45) days of receipt of complete and accurate invoices. Invoices must be submitted to the ordering division or school, not to the VDOE.