



REQUEST FOR PROPOSALS

Newport News Public Schools

ISSUING OFFICE:

DATE: March 10, 2021

PURCHASING DEPARTMENT
 12465 WARWICK BOULEVARD
 NEWPORT NEWS, VA 23606-3041
 TELEPHONE: (757) 591-4525
 FAX: (757) 591-4593

Attention of Offeror is Directed To Section
 2.2-4367 to 2.2-4377 Code of Virginia
 (Ethics In Public Contracting)

RFP ITEM NO. 005-0-2021/DSD
PROCUREMENT OFFICER Dianne S. Davis
CLOSING DATE 3/31/2020
CLOSING TIME 3:00PM
PREPROPOSAL CONFERENCE N/A

SEALED PROPOSALS will be received in the Issuing Office above until Closing Date and Closing Time as specified in this solicitation including any addenda issued by this office. Newport News Public Schools is not responsible for late delivery by U.S. Postal mail or other couriers. All inquiries for information regarding this Request for Proposal are to be directed to the Issuing Office as defined herein.

COMMODITY: Health Care Services

**NIGP CODE: 918-03, 918-65,
918-67, 948-48**

PLEASE FILL IN OFFEROR'S NAME & ADDRESS
 IN THE SPACES PROVIDED BELOW:

THIS IS NOT AN ORDER

THE SCHOOL BOARD OF THE CITY OF NEWPORT NEWS, HEREAFTER REFERRED TO AS NEWPORT NEWS PUBLIC SCHOOLS (NNPS), RESERVES THE RIGHT TO ACCEPT OR REJECT ANY AND ALL PROPOSALS IN WHOLE OR IN PART AND WAIVE ANY INFORMALITIES IN THE COMPETITIVE NEGOTIATIONS PROCESS. FURTHER, NNPS RESERVES THE RIGHT TO ENTER INTO ANY CONTRACT DEEMED TO BE IN ITS BEST INTEREST. THE ENTIRE CONTENTS OF THE REQUEST FOR PROPOSALS, ANY ADDENDA, OFFEROR'S PROPOSAL AND NEGOTIATED CHANGES SHALL BE INCORPORATED BY REFERENCE INTO ANY RESULTING CONTRACT.

NNPS DOES NOT DISCRIMINATE AGAINST FAITH-BASED ORGANIZATIONS.

EMPLOYEE ASSISTANCE PROGRAM SERVICES

The School Board of the City of Newport News is seeking proposals from qualified Offerors to provide NNPS services for an Employee Assistance Program.

ACKNOWLEDGE RECEIPT OF ADDENDUM: #1___ #2___ #3___ #4___ (Please Initial)

IN COMPLIANCE WITH THIS SOLICITATION AND TO ALL THE CONDITIONS IMPOSED HEREIN, THE UNDERSIGNED AGREES TO PERFORM ANY CONTRACT AWARDED AS A RESULT OF THIS SOLICITATION. THE FOLLOWING SECTION SHALL BE SIGNED BY AN AGENT AUTHORIZED TO BIND THE COMPANY. FAILURE TO EXECUTE THIS PORTION MAY RESULT IN PROPOSAL REJECTION.

Authorized Agent:

_____	_____	_____	_____
	Signature		Type or Print Name
_____	_____	_____	_____
Email Address	Telephone Number	Fax Number	Company FEI/FIN#

ANTI-COLLUSION/NONDISCRIMINATION/DRUG-FREE WORKPLACE REQUIREMENTS

ANTI-COLLUSION CLAUSE:

IN THE PREPARATION AND SUBMISSION OF THIS PROPOSAL, SAID OFFEROR DID NOT EITHER DIRECTLY OR INDIRECTLY ENTER INTO ANY COMBINATION OR ARRANGEMENT WITH ANY PERSON, FIRM OR CORPORATION, OR ENTER INTO ANY AGREEMENT, PARTICIPATE IN ANY COLLUSION, OR OTHERWISE TAKE ANY ACTION IN VIOLATION OF THE SHERMAN ACT (15 U.S.C. SECTION 1), SECTIONS 59.1-9.1 THROUGH 59.1-9.17 OR SECTIONS 59.1-68.6 THROUGH 59.1-68.8 OF THE CODE OF VIRGINIA.

THE UNDERSIGNED OFFEROR HEREBY CERTIFIES THAT THIS AGREEMENT, OR ANY CLAIMS RESULTING THEREFROM, IS NOT THE RESULT OF, OR AFFECTED BY, ANY ACT OF COLLUSION WITH, OR ANY ACT OF, ANOTHER PERSON OR PERSONS, FIRM OR CORPORATION ENGAGED IN THE SAME LINE OF BUSINESS OR COMMERCE; AND, THAT NO PERSON ACTING FOR, OR EMPLOYED BY, NNPS HAS AN INTEREST IN, OR IS CONCERNED WITH, THIS PROPOSAL; AND, THAT NO PERSON OR PERSONS, FIRM OR CORPORATION OTHER THAN THE UNDERSIGNED, HAVE, OR ARE, INTERESTED IN THIS PROPOSAL.

DRUG-FREE WORKPLACE:

DURING THE PERFORMANCE OF THIS CONTRACT, THE SUCCESSFUL OFFEROR AGREES TO (I) PROVIDE A DRUG-FREE WORKPLACE FOR THE SUCCESSFUL OFFEROR'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 SUCCESSFUL OFFEROR'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 SUCCESSFUL OFFEROR THAT THE SUCCESSFUL OFFEROR 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 SUSUCCESSFUL OFFEROR OR VENDOR.

FOR THE PURPOSE OF THIS SECTION, "DRUG-FREE WORKPLACE" MEANS A SITE FOR THE PERFORMANCE OR WORK DONE IN CONNECTION WITH A SPECIFIC CONTRACT AWARDED TO A SUCCESSFUL OFFEROR IN ACCORDANCE WITH FEDERAL LAW, 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.

EMPLOYMENT DISCRIMINATION BY THE SUCESSFUL OFFEROR SHALL BE PROHIBITED:

1. DURING THE PERFORMANCE OF THIS CONTRACT, THE SUCCESSFUL OFFEROR AGREES AS FOLLOWS:
 - a THE OFFEROR, SHALL 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 SUCCESSFUL OFFEROR. THE SUCCESSFUL OFFEROR AGREES TO POST IN CONSPICUOUS PLACES, AVAILABLE TO EMPLOYEES AND APPLICANTS FOR EMPLOYMENT, NOTICES SETTING FORTH THE PROVISIONS OF THIS NONDISCRIMINATION CLAUSE.
 - b. THE SUCCESSFUL OFFEROR, IN ALL SOLICITATIONS OR ADVERTISEMENTS FOR EMPLOYEES PLACED BY OR ON BEHALF OF THE SUCCESSFUL OFFEROR, SHALL STATE THAT SUCH SUCCESSFUL OFFEROR 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 THE REQUIREMENTS OF THIS SECTION.
2. THE SUCCESSFUL OFFEROR WILL INCLUDE THE PROVISIONS OF THE FOREGOING PARAGRAPHS A, B, AND C IN EVERY SUBCONTRACT OR PURCHASE ORDER OF OVER \$10,000, SO THAT THE PROVISIONS WILL BE BINDING UPON EACH SUBCONTRACTOR OR VENDOR.

Name and Address of OFFEROR: _____ Date: _____ Authorized Signature _____
 Printed Name: _____ Title: _____
 Phone Number: _____ Fax Number: _____
 Email Address: _____

Federal Tax Identification Number: _____ **Virginia State Corporation Number:** _____

Is Offeror a "minority" business? Yes No If yes, please indicate the "minority" classification below:
 African American Hispanic American American Indian Eskimo Asian American Aleut Other; Please Explain:
 Is Offeror Woman Owned? Yes No
 Is Offeror a Small Business? Yes No
 Is Offeror a Faith-Based Organization? Yes No

I.	PURPOSE	5
II.	BACKGROUND.....	5
III.	SCOPE OF WORK	5
	A. Specific Requirements:	5
	B. Deliverables:	6
	C. Professional Standards:	7
IV.	SPECIAL INSTRUCTIONS TO THE OFFEROR.....	7
	A. Definitions:.....	7
	B. Contact with NNPS Staff, Representatives, and/or Agents:	7
	C. Pre-Proposal Conference:	7
	D. Offerors of Record:	7
	E. Questions:.....	8
	F. Changes or Modifications:	8
	G. RFP Closing:.....	8
	H. Proposal Submittal Requirements:	8
	I. Evaluation of Proposals:	9
	J. Presentation/Demonstration:	9
	K. Preparation of Proposals:	9
V.	GENERAL TERMS AND CONDITIONS.....	11
	A. Contract Document:.....	11
	B. Proposal Binding For One-hundred Twenty (120) Days:	11
	C. Proprietary Information/Non-Disclosure:	11
	D. Contract Modification(s):.....	11
	E. Offeror Obligation:	11
	F. Conditions of Work:	11
	G. Prime Contractor:	12
	H. Subcontractors:.....	12
	I. Non-Assignment:	12
	J. Antitrust:	12
	K. Anticollusion/Nondiscrimination Requirements Form:	12
	L. Compliance with Federal, State, and Local Laws and Federal Immigration Law:.....	12
	M. Compliance with state law; foreign and domestic businesses authorized to transact business in the Commonwealth:.....	12
	N. Hold Harmless/Indemnification:	12
	O. Notices:	13
	P. Non-Performance:	13
	Q. Termination Without Cause:	13
	R. Termination With Cause/Breach:.....	13
	S. Breach of Contract:	14
	T. Applicable Law:	14
	U. Compliance With All Laws:	14
	V. Venue:.....	14
	W. Severability:.....	14
	X. Non-Appropriation of Funds:.....	14
	Y. Tax Exemption:.....	14
	Z. Vendor's Invoices:	14
	AA. Contractual Disputes:.....	15
	BB. Payment Terms:	15
	CC. Prompt Payment:	15
	DD. Audits:	16
	EE. Notice of Award:.....	16
	FF. Award:	16
	GG. Disposition of Proposals:	16
	HH. Exclusivity:	16
VI.	SPECIAL TERMS AND CONDITIONS.....	17
	A. Contract Term:.....	17
	B. Contract Extension:	17
	C. Time is of the Essence:	17
	D. Insurance:	17

E. Unauthorized Disclosure of Information:	17
F. Copyright/Patent Indemnity:	18
G. Using Entities/Regional Contracts:	18
H. Data Storage:	18
I. Data Transmission:	18
J. Data Encryption:.....	18
K. Data Re-Use:	18
L. End of Agreement Data Handling:.....	18
M. Security Breach Notification:	18
N. Right to Audit:	19
O. Payment by Electronic Funds Transfer.....	19
VII. Attachment "A" – Current Program Services	21
VIII. Attachment "B" – Proposal Questionnaire.....	21

I. PURPOSE

The purpose of this RFP is to solicit sealed proposals from qualified Offerors to provide Newport News Public Schools (NNPS) with an Employee Assistance Program (EAP) that provides counseling and other services to NNPS employees and addresses problem drinking, alcoholism, drug or chemical dependency, mental and/or emotional distress and other issues that may affect the employee's job performance.

II. BACKGROUND

The Newport News Public School (NNPS) Division educates approximately 28,680 children. NNPS is an urban school system educating children in 5 early childhood centers, 24 elementary schools, 7 middle schools, 5 high schools, and 1 middle/high combination school. NNPS also provides programs for at-risk students in addition to special education programs. A listing of NNPS and its locations may be accessed via NNPS' official web site at <http://sbo.nn.k12.va.us/schools>. NNPS employees approximately 5,000 employees in a variety of educational, managerial, professional, technical, clerical, service and maintenance positions.

Currently, NNPS works with Optima Behavioral Health to provide an EAP to its employees. A summary of this program is provided as Attachment "A". NNPS seeks to provide its employees with the same services it currently provides or better to improve the utilization of the EAP and the mental health of its employees.

III. SCOPE OF WORK

A. Specific Requirements:

In addressing and dealing with employee issues, Contractor will provide the following services:
Educational Services for Employees. Contractor should develop and present an orientation program to advise employees of EAP services to include supplying wallet size ID cards and refrigerator magnets with EAP telephone number contacts. All telephone numbers provided to NNPS shall be a local or toll free telephone number provided to NNPS employees for initial referral and for emergency situations. Contractor is required to coordinate the program content and presentation schedule with the Contract Administrator. Periodically, thereafter, Contractor will remind employees of services and present follow-up programs. Additionally, Contractor shall provide monthly information/awareness programs for employees on current topics of interest or concern, such as stress management, conflict resolution, health & wellness, etc.

Wellness. Contractor should provide wellness services to support a healthy and productive workforce and healthy work environment. This includes participation in annual Wellness Expo or other large benefits events.

Advertising of Services. Contractor will be required to advertise to NNPS employees, at a minimum, the services that will be available to employees, how services will be administered and who to contact if services are needed. NNPS Contract Administrator will provide the Contractor with the various media options available to employees.

Supervisory Training. In addition to the orientation program for all employees, Contractor will develop and present special training for supervisors on EAP. Contractor will also coordinate this training and its content with the Contract Administrator. Furthermore, Contractor will develop and present quarterly training on various EAP related topics for supervisors and management. Contractor will provide a Supervisor Manual with a step by step overview of accessing EAP services, documentation guidelines and information to identify situations that could benefit from EAP intervention.

Management Consulting. Contractor's program should provide support to supervisors and managers who need to discuss problems or request assistance with employees. Contractor will also be expected to provide information and advice to management for consideration in certain personnel decisions. Contractor must periodically develop and present training on various EAP related topics to assist supervisors and managers with employee issues/concerns. Contractor must coordinate this training and its content with the Contract Administrator.

Program Monitoring and Evaluation. Contractor must provide NNPS, on a quarterly basis, the statistics that demonstrate usage, referrals, effectiveness of the NNPS EAP, and any other information deemed pertinent by the Contract Administrator. Contractor shall alert NNPS to any service trends and make recommendations for dealing with the issues identified. Contractor shall also develop and implement methods of evaluating employee satisfaction with the program and services provided under this agreement, on a quarterly basis, and provide management reports on the results to NNPS, upon request or as agreed upon with the Contract Administrator.

Assessment and Referral Services. Contractor should provide assessment and referral services for employees and their family members who voluntarily seek assistance and for those employees referred on a mandatory basis by

management. Contractor is expected to provide short-term counseling, but sufficient to address and assist in resolving the situation.

Incident Counseling. Contractor should provide counseling/debriefing services for employees and their families, in cases of crisis situations by master-level or higher mental health practitioners licensed in the Commonwealth of Virginia and identify local Psychologists and Psychiatrists for necessary consultation and "Fitness for Duty Evaluations".

Follow-up Services. Contractor should monitor and evaluate employee's progress after referral. Contractor may make alternate referrals, counsel with the employee and otherwise ensure appropriate management of the employee's case. In instances of mandatory referrals, the Contractor shall monitor the case directly and maintain constant liaison with department management until case is closed.

Crisis and Emergency Intervention. There shall be available to NNPS a toll free emergency telephone number to contact on a 24-hour basis. Contractor should do an initial screening for life threatening or emergency conditions. Face-to-face contact will be made as soon as clinically appropriate but, not more than 24 hours after initial contact for emergency situations. Contractor shall provide same day, on-site counseling for events that NNPS determines are an emergency/tragedy (i.e. death, sickness and other potentially devastating or shocking circumstances) that may have a traumatic impact on the employee(s).

Transition Plan. The Contractor shall provide a program transition plan for closed and on-going cases at the end of the contract term, upon contract award, and at such time the contract with the Contractor may be discontinued. Assessment and referral services should be available to employees at any time, day or night, with access to the expertise of a qualified counselor. Contractor shall provide their capability to respond to emergency requests during nights and/or weekends.

Employee referral and assistance information must be kept confidential by Contractor, except in the case of directed or mandatory referral, in which case employee's case may be discussed with the supervisor and/or manager only. Contractor will be required to become knowledgeable of all applicable NNPS personnel policies and to operate within these policies prior to initiating action on any NNPS EAP case but, no later than ten (10) days after execution of this contract. NNPS policies may be accessed at <http://sbo.nn.k12.va.us>.

Contractor will be required to become knowledgeable about all NNPS health insurance programs and requirements to ensure both employee and NNPS referrals made by the Contractor fall within the NNPS provider networks for employee's insurance program with NNPS, is appropriate for insurance resources provided by NNPS and/or will be overall cost effective to employee and NNPS.

Contractor should maintain standards dealing with personal health information to ensure compliance with HIPPA, COBRA and ERISA standards and regulations as required by federal law.

Contractor agrees that no employee will be denied reasonable and necessary services, under this contract, solely because of employee's inability to pay for services.

Contractor should ensure that each of the medical staff members has a current license to practice his/her profession in the Commonwealth of Virginia and continues to keep all applicable licenses current through the duration of the contract period and any extension periods. Contractor will notify NNPS prior to any change in staff for this program. NNPS reserves the right to approve such changes.

It is required and the Contractor is responsible for ensuring that all certifications required to provide counseling, therapy and any other specialty services necessary to thoroughly provide Employee Assistance to NNPS are held by the appropriate persons within its employ and that certifications are kept current through the duration of the contract period and any extension periods.

The Contractor is required to ensure that the operations or relationships it may have with other organizations, professional, medical or otherwise, do not create a conflict of interest for its management staff under the NNPS Employee Assistance Program.

Reimbursable costs are not permitted under this contract.

B. Deliverables:

Contractor will be required to provide quarterly and year end summary Utilization Reports to the NNPS Contract Administrator which include information during the period reported, such as: number of employees seen for counseling, number of EAP sessions including telephone or face-to-face consultations, number of employees referred for care including presenting issue for referral, number of voluntary and formal referrals to EAP, number of dependent family members seen for counseling, number of crisis interview sessions utilized, quantitative data collected and used for overall employer group trend analysis. All information must be provided on a periodic and cumulative basis, per calendar year. Any other information needed for the Utilization Report will be coordinated with the Contract Administrator. The Utilization Reports will be submitted to the Contract Administrator in electronic format that allows NNPS to sort data submitted, as needed.

Contractor shall provide written invoices to the Contract Administrator for services provided on a monthly basis. Monthly invoices must be received by NNPS within ten (10) business days after the end of each calendar month. Contractor may submit its invoices to the Contract Administrator electronically or by other electronic medium.

C. Professional Standards:

Contractor shall perform its services with care, skill and diligence in accordance with the applicable professional standards currently recognized by such profession and shall be responsible for the professional quality, technical accuracy, completeness and coordination of all findings recommendations, reports and information furnished under this contract.

Unless otherwise agreed to, by express written statement in this contract, NNPS' review and acceptance of Contractor findings, recommendations, reports and information shall in no way or manner relieve or lessen contractor's responsibility under the contract for the professional quality, technical accuracy and completeness of such information provided.

Contractor represents and warrants to NNPS that it is experienced in and thoroughly familiar with all aspects of the Scope of Work and is properly qualified as applicable and is equipped, organized and financially able to perform the Scope of Work, herein.

IV. SPECIAL INSTRUCTIONS TO THE OFFEROR

A. Definitions:

Issuing Office:

Wherever used in this Request for Proposal, Issuing Office will be:

Dianne S. Davis

Buyer Manager

Newport News Public Schools Purchasing Department

12465 Warwick Boulevard

Newport News, VA 23606-3041

Phone:(757) 591-4516

Fax:(757)591-4593

Email: dianne.davis@nn.k12.va.us

NNPS Contract Administrator:

Wherever used in this Request for Proposal and for purposes of any notices under this contract, the NNPS Contract Administrator will be:

JoAnn Armstrong

Supervisor, Compensation & Benefits

Newport News Public Schools Human Resources Department

12507 Warwick Boulevard

Newport News, VA 23606-3041

Phone: (757) 881-5061

Fax: (757) 597-2967

Email: joann.armstrong@nn.k12.va.us

B. Contact with NNPS Staff, Representatives, and/or Agents:

Direct contact with NNPS staff, representatives, and/or agents other than Purchasing Department staff on the subject of this RFP or any subject related to this RFP is expressly prohibited except with the prior knowledge and permission of the Purchasing Agent.

C. Pre-Proposal Conference:

N/A

D. Offerors of Record:

Offerors receiving a copy of this RFP from a source other than the Issuing Office via www.eva.virginia.gov must contact the Issuing Office and provide Offeror's name, address, contact person, telephone and fax number, and the RFP Item Number. Offeror will be added to the proposal requested listing and will receive notification of any addenda to the RFP.

E. Questions:

Offerors must submit questions regarding the Request For Proposal in writing to the Issuing Office, via email, to dianne.davis@nn.k12.va.us no later than Wednesday, March 17, 2021 @ 11:00 AM. Necessary replies will be issued to all Offerors of record as addenda that shall become part of the contract documents. Oral instructions do not form a part of the Proposal documents.

Offeror is responsible for checking the www.eva.virginia.gov web site or contacting the Issuing Office within 48 hours prior to Proposal closing to secure any addenda issued for this RFP.

F. Changes or Modifications:

Changes or modifications to this Request for Proposals made prior to the date and time of closing will be addressed by addenda from the Issuing Office. Offerors are to acknowledge receipt of addenda in the space provided on the cover page of this Request for Proposal. Oral communications are not a part of the Proposal documents. This RFP and any addenda shall be incorporated, by reference, into any resulting contract.

G. RFP Closing:

Offeror shall ensure its Proposal is time stamped by the Issuing Office no later than the Closing Date and Time shown on the cover page of this Information for Proposal. Proposals received after the specified date and time (time stamped 3:01PM or later) will not be considered and will be returned to the Offeror unopened.

H. Proposal Submittal Requirements:

1. Each Proposal submission shall be submitted to the Issuing Office and shall include the following documents:
 - a. The cover page of this Request for Proposal, which will contain:
 - 1) Original signature of an agent authorized to bind the company;
 - 2) Requested contact information;
 - 3) Company FEI/TIN number;
 - 4) Acknowledgment of any addenda on page one (1);
 - b. Current Program Services Matrix – Attachment "A"
 - c. Completed Proposal Questionnaire - Attachment "B"
 - d. Offeror's Proposed Pricing Schedule
 - e. Offeror's Proposed Implementation Schedule
 - f. Completed and signed anticollusion/nondiscrimination clauses on page 2;
2. Offerors are encouraged to submit their Proposals on recycled paper and to use double-sided copying.
3. Proposals must be submitted utilizing the following requirements:
 - a. Offerors shall submit proposals in a sealed envelope or package, and clearly label the shipping/ mailing packaging as well as the outside of your envelope or package with the Request for Proposal's item number, RFP number, date and time of the RFP closing, and the Offeror's name and address. **Proposals received by telephone, telegraph, facsimile, or any other means of electronic transfer shall not be accepted.**
 - b. Submit the original and four (4) copies of the proposal.
 - c. All proposals shall be received and time stamped in the Issuing Office no later than the Closing Date and Time shown on the cover page of this Request for Proposal. Any proposal received after the specified date and time (3:01 PM EST or later) will not be considered and will be returned to the Offeror unopened.
 - d. Proposals must include all elements noted in the "Preparation of Proposals" section below.
 - e. Include a statement setting forth the basis for protection of proprietary information, if any, as detailed in the "Proprietary Information/Disclosure" section.
 - f. Proposals are to be organized in the following tabs:
 - Tab 1 – Experience
 - Tab 2 – Services to be provided

Tab 3 – Capabilities and Skills
Tab 4 – Costs
Tab 5 – Exceptions/Alternatives

I. Evaluation of Proposals:

1. After the proposal opening, NNPS will select for further consideration two or more Offerors deemed to be fully qualified and best suited among those submitting proposals based on Offerors' responses to the information requested in this RFP.
2. The following criteria will be used in the evaluation process:
 - a. Offeror's **experience** (25%) in providing the services requested;
 - b. **Services to be provided** (35%) by the Offeror;
 - c. Offeror's **capability and skills** (25%) to perform the services required; and
 - d. **Price** (15%).
3. Exceptions/Alternatives will also be considered.
4. Based on the initial evaluation, NNPS may request the selected Offerors to make oral presentations. Thereafter, NNPS will conduct negotiations with each of the selected short-listed Offerors. Individuals representing the Offeror during negotiations shall have the authority to negotiate and contractually bind the company to a contract.
5. After negotiations are completed, NNPS will select the Offeror who, in NNPS's opinion, has made the best proposal and shall award the contract to that Offeror (referred to in this RFP as the Successful Offeror). Should NNPS determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror.
6. NNPS is not required to furnish a statement of the reason(s) why a proposal was not deemed to be the most advantageous.

J. Presentation/Demonstration:

If in NNPS's opinion, vendor presentations or demonstrations of the Offeror's proposed system's features and capabilities are warranted, NNPS will notify the appropriate vendors. Such presentation or demonstration will be at an NNPS site at a date and time mutually agreed to between NNPS and Offeror and will be at the Offeror's expense.

K. Preparation of Proposals:

In presenting their proposals, Offerors are encouraged to be thorough in addressing the **Specific Requirements**, the **Preparation Guidelines**, and the **Proposal Submittal Requirements** as outlined in this RFP.

To facilitate the NNPS's evaluation of Offeror's proposal, Offeror is to number all pages of its proposal and provide tabs as indicated above. **Offeror must fully address each of the following items and submit proposals using the following format:**

1. Experience - Provide a concise description of all work experiences as they relate to the scope of work outlined herein. Said description should include, but not be limited to:
 - a. Offeror's established experience record in providing comparable services to organizations similar to NNPS.
 - b. Number and types of customers the Offeror has served with comparable services.
 - c. Number of years Offeror has been providing these types of services.
 - d. A **minimum** of five (5) references for which Offeror has completed services comparable to those described in this RFP. Include references for work performed in an environment comparable to NNPS's. For each reference, detail:
 - Name of firm;
 - Address of firm;
 - Name, title, address, e-mail address, and phone and fax number of a contact for the firm;
 - Number of years Offeror has served the firm; and
 - Brief summary of scope of services provided.
 - e. Information detailing projects of similar scope Offeror is currently engaged in, including:
 - Name of firm;
 - Address of firm;
 - Name, title, address, e-mail address, and phone and fax number of a contact for the firm;
 - Number of years Offeror has served the firm; and

- Brief summary of scope of services being provided.
 - f. Other available documentation to verify Offeror's experience.
 - g. A statement detailing why the Offeror is the best candidate to provide the NNPS with the services requested in this RFP.
2. Capability and skill - Describe the qualifications and skills of the organization to provide the services. Said description should provide, but not be limited to, the following information:
 - a. Background information about the organization, e.g., philosophy, ownership, size, facilities and locations, etc.
 - b. Offeror's management structure of the firm -- e.g. organization chart of the firm, project team, etc.
 - c. Size and location of the office that will serve the NNPS;
 - d. Offeror's qualifications to perform the services, including all resources available to Offeror for the performance of the contract.
 - e. Qualifications and resumes of the design team and other employees who will be managing and performing the services under this contract. Projects of individual team members may be submitted.
 - f. Name, title, address, e-mail address, phone and fax numbers, and work hours of the Offeror's Contract Representative for the following functions:
 - Contact for prompt contract administration upon award of the contract;
 - Contact during the period of evaluation;
 - Authorized agent to accept any notices provided for in this contract.
 - g. Indicate the type of organization you represent, i.e. individual, partnership or corporation. If the Offeror is a corporation, list the names of the President, Vice-President, Secretary, Treasurer and all principals. If the Offeror is a partnership, include the names of all principals or partners.
 - h. A detailed history of all mergers or acquisitions.
 - i. A copy of the certificate verifying the firm is registered to do business in the Commonwealth of Virginia.
 - j. A detailed list of contractor licenses held, including license class and number.
 - k. Offeror's current financial condition. Provide supporting documentation and audited annual reports for the past three (3) years. If company is privately held, supply sufficient information to document the company's financial status and capability to perform under this contract. Include any financial ratings held by the firm.
 - l. If Offeror intends to subcontract any part of the work under this contract, indicate services to be subcontracted and subcontractor(s) to provide said services.
 3. Services to be Provided - Provide a detailed description of the services to be provided under this contract. Said description is to address, at a minimum:
 - a. An introduction - An overview of Offeror's understanding of the scope of work and services to be provided.
 - b. Best practice approaches to providing services to the NNPS that enhance efficiency and effectiveness. Innovative solutions will be considered by the NNPS.
 - c. **EACH** of the **Specific Requirements** set forth under the **Scope of Work** specified in this RFP.
 - d. A detail of any assistance, equipment, or other items the Offeror will require the NNPS to furnish under this contract.
 - e. A statement explaining why the Offeror's proposed solution would be the most advantageous to the NNPS.
 - f. Describe the one attribute that places the Offeror ahead of the competition.
 4. Price
 - a. Complete and submit with the proposal a Pricing Sheet.
 - b. Offeror is to provide any additional pricing information or alternative pricing structures offered.
 - c. Offeror's prices will be subject to negotiations.
 - d. After negotiations and award of this contract, Successful Offeror's pricing for the services provided under this contract shall be a firm fixed-price during the term of the contract and any extensions.
 5. Exceptions/Alternatives - Detail any exceptions taken to the Scope of Work and Terms and Conditions sections of this RFP. For each exception, specify the RFP page number, section number, and the exception taken. Offeror is not incorporate its standard contract document into its proposal, by reference or in full text,

without listing each exception it represents to the terms and conditions of this RFP, as described in the Exceptions/Alternatives section of this RFP.

V. GENERAL TERMS AND CONDITIONS

A. **Contract Document:**

This RFP, its addenda, Successful Offeror's proposal, any additional information requested, and negotiated changes and will constitute the final contract hereafter referred to as this "contract". These documents will be incorporated by reference into the NNPS purchase order awarding this contract. This contract shall be governed by the contract documents in the following order of precedence:

1. This RFP document;
2. Any negotiated changes to the foregoing documents; and
3. Offeror's proposal

B. **Proposal Binding For One-hundred Twenty (120) Days:**

Offeror agrees that its Proposal shall be binding and may not be withdrawn for a period of one-hundred (120) calendar days after the scheduled closing date of this Request For Proposals.

C. **Proprietary Information/Non-Disclosure:**

Offeror is advised that the Virginia Public Procurement Act (Section 2.2-4342, Code of Virginia, 1950 as amended) shall govern public inspection of all records submitted by Offeror. Specifically, if Offeror seeks to protect any proprietary data or materials, pursuant to Section 2.2-4342, Offeror shall:

1. Invoke the protections of this section prior to or upon submission of the data or other materials,
2. Provide a statement that identifies the data or other materials to be protected and that states the reasons why protection is necessary.
3. Submit trade secrets or other proprietary information under separate cover in a sealed envelope clearly marked "**PROPRIETARY**".
4. Information submitted that does not meet the above requirements will be considered public information in accordance with State statutes.
5. NNPS reserves the right to submit such information to the NNPS attorney for concurrence of the Offeror's claim that it is in fact proprietary.
6. References to the proprietary information may be made within the body of the Proposal; however, all information contained within the body of the Proposal shall be public information in accordance with State statutes.
7. Trade secrets or proprietary information submitted by an Offeror in conjunction with this RFP is not subject to public disclosure under the Virginia Freedom of Information Act (VFOIA).
8. Information submitted that does not meet the above requirements will be considered public information in accordance with the VFOIA.
9. An all-inclusive statement that the entire Proposal is proprietary is unacceptable. A statement that Offeror's costs and/or Proposal pricing are to be protected is unacceptable. Offeror will be requested to remove any such statement(s) in order to be eligible for further consideration.

D. **Contract Modification(s):**

After award, any and all modifications to this contract shall be mutually agreed to by both parties, in writing, and authorized by the NNPS Purchasing Agent or his designee via issuance of a change order (purchase order).

E. **Offeror Obligation:**

Offeror shall carefully examine the contents of this Request for Proposals and any subsequent addenda. Failure to do so shall not relieve the Successful Offeror of its obligation to fulfill the requirements of any contract awarded as a result of this RFP.

F. **Conditions of Work:**

Offeror shall inform itself fully of the conditions relating to services required herein. Failure to do so will not relieve a Successful Offeror of the obligation to furnish all goods and/or services necessary to carry out the provisions of this contract

G. Prime Contractor:

If in its performance of this contract, Successful Offeror supplies goods or services by or through another party or subcontractor, Successful Offeror agrees that:

1. Successful Offeror shall act as the prime contractor for the goods and services to be provided under contract and shall be the sole point of contact with regard to all obligations under this contract.
2. Successful Offeror represents and warrants that Successful Offeror has made third parties or subcontractors aware of the proposed use and disposition of the other party's products or services, and that such other party has agreed in writing that it has no objection and that NNPS is not liable to such third parties or subcontractors for any work performed under this contract.
3. The use of subcontractors and the work they perform must receive the prior written approval of NNPS. NNPS will designate a Contract Administrator to approve such work.
4. Successful Offeror shall be solely responsible for all work performed and materials provided by subcontractors.
5. Successful Offeror shall be responsible for the liability of subcontractors for the types and limits required of the Successful Offeror under this contract.

H. Subcontractors:

Contractor's use of subcontractors and the work they are to perform must receive written approval from the Contract Administrator at least ten (10) calendar days prior to the work being performed. Contractor shall be solely responsible for all work performed and materials provided by subcontractors. Contractor shall be responsible for the liability of subcontractors for the types and limits required of the Contractor.

I. Non-Assignment:

Successful Offeror shall not assign its rights and duties under this Agreement without the prior written consent of the NNPS Contract Administrator.

J. Antitrust:

Any perceived anti-trust violation will be reported to the State Attorney General for possible enforcement of anti-trust laws.

K. Anticollusion/Nondiscrimination Requirements Form:

The attached "Anticollusion/Nondiscrimination Requirements" form, on page 2 of this RFP, shall be executed by Offeror and is to be submitted with Offeror's Proposal. The requirements set forth on said form shall be considered to be binding terms and conditions in any contract resulting from this RFP. A contract will not be awarded to an Offeror who has not signed the anticollusion/nondiscrimination statement.

L. Compliance with Federal, State, and Local Laws and Federal Immigration Law:

Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

M. Compliance with state law; foreign and domestic businesses authorized to transact business in the Commonwealth:

Contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law. Contractor shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. NNPS may void any contract with the Contractor if the Contractor fails to remain in compliance with the provisions of this section.

N. Hold Harmless/Indemnification:

It is understood and agreed that Successful Offeror hereby assumes the entire responsibility and liability for any and all material damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Successful Offeror, its subcontractors, agents or employees under or in connection with this Contract or the performance or failure to perform any work required by this Contract. Successful Offeror agrees

to indemnify and hold harmless NNPS and its agents, volunteers, servants, employees and officials from and against any and all claims, losses, or expenses, including reasonable attorney's fees and litigation expenses suffered by any indemnified party or entity as the result of claims or suits due to, arising out of or in connection with (a) any and all such damages, real or alleged, (b) the violation of any law applicable to this Contract, and (c) the performance of the work by Successful Offeror or those for whom Successful Offeror is legally liable. Upon written demand by NNPS, Successful Offeror shall assume and defend at Successful Offeror's sole expense any and all such suits or defense of claims made against NNPS, its agents, volunteers, servants, employees or officials.

O. Notices:

1. All notices, requests, demands, and elections under this contract, other than routine operational communications, shall be in writing and shall be deemed to have been duly given on the date when hand-delivered, or on the date of the confirmed facsimile transmission, or on the date received when delivered by courier that has a reliable system for tracking delivery, or six (6) NNPS business days after the date of mailing when mailed by United States mail, registered or certified mail, return receipt requested, postage prepaid. All notices shall be addressed to the following individuals:

To NNPS: NNPS Contract Administrator as designated in this RFP.

To Successful Offeror: Successful Offeror's Contract Administrator as defined in Successful Offeror's Proposal.

2. Either party may from time to time change the individual(s) to receive notices and/or its address for notification purposes by giving the other party written notice as provided above.

P. Non-Performance:

1. Delivery Delays: NNPS reserves the right to procure goods and/or services to be provided under this contract from other sources in the event Successful Offeror fails to deliver such goods and/or service deliverables in accordance with delivery dates and time frames set forth in this contract.
2. Unacceptable Deliveries (Rejections): Upon notification by NNPS that goods and/or service deliverables provided by the Successful Offeror under this contract are damaged and/or not of the quality specified by NNPS, such goods and/or service deliverables will be rejected. Successful Offeror shall replace such rejected goods and/or service deliverables immediately or within a reasonable time as determined by NNPS.
3. Successful Offeror shall remove all rejected materials, equipment or supplies from the premises of NNPS within ten (10) days of notification. Rejected goods and/or service deliverables not removed from NNPS' premises within ten (10) days will be regarded as abandoned, shall become the property of NNPS, and NNPS shall have the right to dispose of such items.
4. NNPS reserves the right to authorize immediate purchase from other sources against rejections.
5. Liability: Successful Offeror shall be liable to NNPS for all costs incurred by NNPS as a result of Successful Offeror's failure to perform in accordance with the contract. Successful Offeror's liability shall include, but not be limited to:
 - a. Damages and other delay costs, to include costs to procure goods/services from alternate suppliers.
 - b. Increased costs of performance, such as extended overhead and increased performance costs resulting from performance delays caused by Successful Offeror and/or rejections of Successful Offeror's goods and/or service deliverables.
 - c. Warranty and rework costs, liability to third party, excess costs, attorney's fees and related costs incurred by NNPS due to non-responsive performance of Successful Offeror.

Q. Termination Without Cause:

NNPS may at any time, and for any reason, terminate this Contract by written notice to Successful Offeror specifying the termination date, which shall be not less than thirty (30) days from the date such notice is mailed. Notice shall be given to Successful Offeror by certified mail/return receipt requested, addressed to the Successful Offeror's Contract Administrator. In the event of such termination, Successful Offeror shall be paid such amount as shall compensate Successful Offeror for the work satisfactorily completed, and accepted by NNPS, at the time of termination. If the event NNPS terminates this Contract, Successful Offeror shall withdraw its personnel and equipment, cease performance of any further work under this Contract, and turn over to NNPS any work completed or in process for which payment has been made.

R. Termination With Cause/Breach:

In the event that Successful Offeror shall for any reason or through any cause be in default of the terms of this Contract, NNPS may give Successful Offeror written notice of such default by certified mail/return receipt requested, addressed to the Successful Offeror's Contract Administrator. Unless otherwise provided, Successful Offeror shall have ten (10) days from the date such notice is mailed in which to cure the default. Upon failure of the Successful Offeror to cure the default, NNPS may immediately cancel and terminate this

Contract as of the mailing date of the default notice. Upon termination, Successful Offeror shall withdraw its personnel and equipment, cease performance of any further work under the Contract, and turn over to NNPS any work in process for which payment has been made. In the event of violations of law, safety or health standards and regulations, this Contract may be immediately cancelled and terminated by NNPS and provisions herein with respect to opportunity to cure default shall not be applicable.

S. Breach of Contract:

1. Successful Offeror shall be deemed in breach of this contract if the Successful Offeror:
 - a. Fails to comply with any terms of this contract;
 - b. Fails to cure such noncompliance within ten (10) calendar days from the date of the NNPS written notice or such other time frame, greater than ten (10) calendar days, specified by the NNPS Contract Administrator in the notice.
 - c. Fails to submit a written response to NNPS's notification of noncompliance within ten (10) calendar days after the date of the NNPS notice.
2. All notices under this contract shall be submitted, either by fax or certified mail, return-receipt requested, to the respective contract administrator. Successful Offeror shall not be in breach of this contract as long as its default was due to causes beyond the reasonable control of and occurred without any fault or negligence on the part of both the Successful Offeror and its subcontractors. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of NNPS in its sovereign capacity, fires, floods, epidemics, strikes, freight embargoes, and unusually severe catastrophic weather such as hurricanes.

T. Applicable Law:

This Contract shall be deemed to be a Virginia contract and shall be governed as to all matters whether of validity, interpretations, obligations, performance or otherwise exclusively by the laws of the Commonwealth of Virginia, and all questions arising with respect thereto shall be determined in accordance with such laws. Regardless of where actually delivered and accepted, this Contract shall be deemed to have been delivered and accepted by the parties in the Commonwealth of Virginia.

U. Compliance With All Laws:

Successful Offeror shall comply with all federal, state and local statutes, ordinances, and regulations now in effect or hereafter adopted, in the performance of this contract. Successful Offeror represents that it possesses all necessary licenses and permits required to conduct its business and/or will acquire any additional licenses and permits necessary for performance of this contract prior to the initiation of work. If the Successful Offeror is a corporation, Successful Offeror further expressly represents that it is a corporation of good standing in the Commonwealth of Virginia and will remain in good standing throughout the term of the contract and any extensions. All City of Newport News business license, personal property, real estate and other applicable tax requirements shall be met by Successful Offeror.

V. Venue:

Venue shall be in the Circuit Court of the City of Newport News, Virginia, and the United States District Court for the Eastern District of Virginia, Norfolk Division, compliant with applicable laws and regulations, as deemed appropriate by NNPS.

W. Severability:

If any provision of this contract is found by any court of competent jurisdiction to be invalid or unenforceable, the invalidity of such provision shall not affect the other provisions of this contract, and all other provisions of this contract shall remain in full force and effect.

X. Non-Appropriation of Funds:

It is understood and agreed between the parties herein that NNPS shall be bound hereunder only to the extent that the funds shall have been appropriated. In the event no funds or insufficient funds are appropriated, NNPS shall immediately notify the Successful Offeror of such occurrence and this Contract shall terminate on the last day funds are available without penalty or expense to NNPS of any kind whatsoever.

Y. Tax Exemption:

NNPS is exempt from federal excise tax and from all State and local taxes. Successful Offeror shall not include such taxes in any invoices under this agreement. Upon request, NNPS will furnish the Successful Offeror with tax exemption certificates or the NNPS tax exempt number.

Z. Vendor's Invoices:

Successful Offeror shall submit to NNPS all invoices promptly upon completion of the requirements for installation, delivery, and acceptance of the Products and Services required under this contract. Invoices shall not include any costs other than those identified in the executed NNPS purchase order awarding this contract or any subsequent change orders issued by the NNPS Purchasing Division. All shipping costs are the Successful

Offeror's responsibility, except to the extent such charges are identified in the executed NNPS purchase order or change orders. Successful Offeror's invoices shall provide at a minimum:

1. Type and description of the Product or Service installed, delivered and accepted;
2. Serial numbers, if any;
3. Quantity delivered;
4. Charge for each item;
5. Extended total (unit costs x quantity);
6. This RFP number and the NNPS Purchase Order Number.

AA. Contractual Disputes:

Any dispute concerning a question of fact as a result of a contract with NNPS which is not disposed of by agreement shall be decided by the NNPS Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy thereof to the contractor within thirty (30) days. The decision of the NNPS Purchasing Agent shall be final and conclusive unless the contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A contractor may not institute legal action, prior to receipt of the public body's decision on the claim, unless the public body fails to render such decision within the time specified. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

BB. Payment Terms:

To be eligible for payment, all labor, equipment and materials covered under Successful Offeror's invoice must be completed and accepted by NNPS. NNPS agrees to make payments under this contract within thirty (30) days after receipt of a correct invoice for such payment. Where payment is made by mail, the date of postmark shall be deemed to be the date of payment. Any amounts due NNPS under the terms of this or any other agreement may be applied against Successful Offeror's invoices with documentation for the basis of the adjustment attached. In no event shall any interest penalty or late fee accrue when payment is delayed because of disagreement between NNPS and Successful Offeror regarding the quantity, quality, time of delivery, or other noncompliance with the contract requirements for any Product or Service or the accuracy or correctness of any invoice. Payment terms offering a "prompt payment discount" of 20 days or greater will be considered in the evaluation of Proposals. All other payment terms shall be net thirty (30) calendar days or greater. Payment terms not specified by Offeror shall be Net 45 days.

Special Educational or Promotional Discounts

Successful Offeror shall extend any special educational or promotional sale prices or discounts immediately to NNPS during the term of the contract. Such notice shall also advise the duration of the specific sale or discount price.

CC. Prompt Payment:

NNPS will promptly pay for completed, delivered goods or services accepted under this Contract by the payment date established. The required payment date will be either: (i) the date on which payment is due under the terms of this Contract for the provision of the goods or services; or (ii) if a date is not established by this Contract, not more than forty-five (45) days after goods or services are received or not more than forty-five (45) days after the invoice is rendered, whichever is later.

Within twenty (20) days after the receipt of the invoice or goods or services, NNPS shall notify the supplier of any defect or impropriety that would prevent payment by the payment date. Should NNPS fail to pay the Contractor by the pay date, finance charges may be assessed by the Contractor. Unless otherwise provided under the terms of this Contract, interest will accrue at the rate of one percent (1%) per month. This will not apply to late payment provisions in any public utility tariffs or public utility negotiated Contracts. Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

In cases where payment to Contractor is made by mail, the date of postmark shall be deemed to be the date payment is made for purposes of this Contract.

Individual Contractors shall provide to NNPS their social security numbers and proprietorships, partnerships, and corporations to provide their federal employer identification numbers.

Within seven (7) days after Contractor receives payment from NNPS, Contractor shall take one or more of the following actions:

1. Pay all subcontractors for the proportionate share of the total payment received from NNPS attributable to the work performed by the subcontractors under this Contract;
2. Notify NNPS and all affected subcontractors, in writing, of Contractor's intention to withhold all or a part of each affected subcontractor's payment including the reason for nonpayment.
3. Pay interest to the subcontractor on all amounts owed by the Contractor that remain unpaid after (7) seven days following receipt by the Contractor of payment from NNPS for work performed by the subcontractor under that Contract, except for amounts withheld, as allowed in #2 above.

A Contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section shall not be construed to be an obligation of NNPS. A Contract modification will not be made for the purpose of providing reimbursement by NNPS for interest charges owed by Contractor. A cost reimbursement claim to NNPS shall not include any amounts for reimbursement of interest charges owed by Contractor.

DD. Audits:

NNPS shall have the right to audit all books and records (in whatever form they may be kept, whether written, electronic or other) relating or pertaining to this Contract (including any and all documents and other materials, in whatever form they may be kept, which support or underlie those books and records), kept by or under the control of Successful Offeror, including, but not limited to those kept by Successful Offeror, its employees, agents, assigns, successors and subcontractors. Successful Offeror shall maintain such books and records, together with such supporting or underlying documents and materials, for the duration of this Contract and for at least three years following the completion of this Contract, including any and all renewals thereof. The books and records, together with the supporting or underlying documents and materials shall be made available, upon request, to NNPS, through its employees, agents, representatives, contractors or other designees, during normal business hours at Successful Offeror's office or place of business in Newport News, Virginia. In the event that no such location is available, then the books and records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location in Newport News, Virginia, which is convenient for NNPS. This paragraph shall not be construed to limit, revoke, or abridge any other rights, powers, or obligations relating to audit which NNPS may have by state, city, or federal statute, ordinance, regulation, or agreement, whether those rights, powers, or obligations are express or implied.

EE. Notice of Award:

Any contract resulting from this RFP will be publicly posted for inspection in the NNPS Purchasing Department, 12465 Warwick Boulevard, Newport News, Virginia.

FF. Award:

NNPS intends to award a contract to a fully qualified Offeror submitting the best proposal based on the criteria set forth herein and as determined by NNPS in its sole discretion. At NNPS' sole discretion, NNPS may reject any or all proposals in whole or in part if such action is determined to be in NNPS' best interest. NNPS reserves the right to enter into any contract deemed to be in its best interest, including the award of this contract to more than one contractor.

GG. Disposition of Proposals:

All materials submitted in response to this RFP will become the property of the NNPS. One (1) copy of each proposal will be retained for official files, will become a matter of public record after award of the contract, and will be open to public inspection subject to the **Proprietary Information/Disclosure** section of this RFP.

HH. Exclusivity:

Any contract resulting from this RFP shall be exclusive with the following exceptions:

NNPS reserves the right to procure goods/services under this contract from a third party in the event of the following:

Contractor is unable to provide goods or required services within the required delivery time.

Contract is unable to provide the required quantities of goods requested.
NNPS volume demands exceed original intent of the contract.

VI. SPECIAL TERMS AND CONDITIONS

A. **Contract Term:**

This contract term shall be for three (3) years, commencing on May 20, 2021 through May 19, 2024.

B. **Contract Extension:**

This contract may be extended upon mutual agreement of both parties for five (5) additional one-year periods, upon the same prices, terms, and conditions set forth in the negotiated contract resulting from this RFP.

C. **Time is of the Essence:**

Time is of the essence in this Contract. Successful Offeror expressly acknowledges that in the performance of its obligations, NNPS is relying on timely performance and will schedule operations and incur obligations to third parties in reliance upon timely performance by Successful Offeror and may sustain substantial losses by reason of untimely performance.

D. **Insurance:**

1. Contractor shall submit to the NNPS Contract Administrator certificates of insurance, prior to beginning work under the contract and no later than ten (10) days after award of the contract.
2. All policies of insurance required herein shall be written by insurance companies licensed to conduct the business of insurance in Virginia, and acceptable to Owner, and shall carry the provision that the insurance will not be cancelled or materially modified without thirty days (30) prior written notice to the Owner or to the extent permitted by Virginia law.
3. The certificates of insurance shall list NNPS, 12465 Warwick Boulevard, Newport News, Virginia, 23606-0130, as the additional insured for the specified project as outlined in this IFB. Copies of actual endorsements to the policy shall be required to confirm any special request, such as, additional insured status. A COI shall not be issued or delivered that gives the impression there are coverage terms the referenced policy does not specifically provide.

IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO IMMEDIATELY NOTIFY THE OWNER SHOULD ANY POLICY BE CANCELLED. FAILURE TO NOTIFY THE OWNER SHALL CONSTITUTE A MATERIAL BREACH OF THE CONTRACT.

4. Insurance shall be maintained during the entire term of the contract and shall be of the following forms and limits:

<u>Forms</u>	<u>Limits</u>
Workers' Compensation	Statutory
Automobile Liability	\$1,000,000 Combined Single Limit
Commercial General Liability, including Contractual Liability and Products and Completed Operations Coverage	\$1,000,000 Combined Single Limit
Miscellaneous Errors and Omissions with Intellectual Property Rights Coverage, Including Copyright Infringement	\$1,000,000
Umbrella/Excess Liability	\$5,000,000

5. The establishment of minimum limits of insurance by Owner does not reduce or limit the liability or responsibilities of the Contractor.

E. **Unauthorized Disclosure of Information:**

Successful Offeror shall assume the entire responsibility and liability for any and all damages caused by or resulting from or arising out of the negligent or willful unauthorized disclosure of confidential information on the part of the Successful Offeror, its subcontractors, agents or employees under or in connection with this contract. The Successful Offeror shall save harmless and indemnify NNPS and its agents, volunteers, servants, employees and officers from and against any and all claims, losses or expenses, including but not limited to attorney's fees, which either or both of them may suffer, pay or incur as the result of claims or suits due to, arising out of or in connection with, any and all such unauthorized disclosures, real or alleged. The Successful

Offeror shall, upon written demand by NNPS, assume and defend, at the Successful Offeror's sole expense, any and all such suits or defense of claims alleging unauthorized disclosures of confidential information.

Any negligent or willful unauthorized disclosure of confidential information on the part of the Successful Offeror, its subcontractors, agents or employees under or in connection with this contract shall constitute a breach of the terms of this contract. NNPS may proceed by appropriate court action, including seeking injunctive relief, to prevent continuing unauthorized disclosures, and Successful Offeror shall save harmless and indemnify NNPS for court costs, litigation expenses and attorney's fees that it may pay or incur as the result of seeking to prevent or stop any and all unauthorized disclosures of confidential information.

F. Copyright/Patent Indemnity:

Successful Offeror shall pay all royalty and license fees relating to the items covered by this contract. In the event any third party shall claim that the manufacture, use and sales of the goods supplied under this contract constitute an infringement of any copyright, trademark, or patent, the Successful Offeror shall indemnify NNPS and hold NNPS harmless from any cost, expense, damage or loss incurred in any manner by NNPS on account of any such alleged or actual infringement.

G. Using Entities/Regional Contracts:

Any public school division in the Commonwealth of Virginia is hereby named as potential participants in this solicitation.

In the event a public school division opts to participate under any contract awarded as a result of this solicitation, each will enter into a separate contract directly with the Successful Offeror or Offerors, incorporating all terms and conditions set forth in this RFP process including negotiations and Best and Final Offers. Each entity will be responsible for the contract administration of its contract directly with the Contractor.

H. Data Storage:

Contractor agrees that any and all NNPS data will be stored, processed, and maintained solely on designated target servers and that no NNPS data, at any time, will be processed on or transferred to any portable or laptop computing device or any portable storage medium, unless that device or storage medium is in use as part of the Contractor's designated backup and recovery processes and encrypted in accordance with "Data Encryption".

I. Data Transmission:

Contractor agrees that any and all electronic transmission or exchange of system and application data with NNPS and/or any other parties expressly designated by NNPS shall take place via secure means (using HTTPS or SFTP or equivalent) and solely in accordance with "Data Re-Use".

J. Data Encryption:

Contractor agrees to store all NNPS backup data as part of its designated backup and recovery processes in encrypted form, using a commercially supported encryption solution. Contractor further agrees that any and all NNPS data defined as personally identifiable information under current legislation or regulations stored on any portable or laptop computing device or any portable storage medium be likewise encrypted. Encryption solutions will be deployed with no less than a 128-bit key for symmetric encryption and a 1024 (or larger) bit key length for asymmetric encryption.

K. Data Re-Use:

Contractor agrees that any and all data exchanged shall be used expressly and solely for the purposes enumerated in the Current Agreement and this Addendum. Data shall not be distributed, repurposed or shared across other applications, environments or business units of Contractor. Contractor further agrees that no NNPS data, of any kind, shall be transmitted, exchanged or otherwise passed to other Contractors or interested parties except on a case-by-case basis as specifically agreed to in writing by Newport News Public Schools.

L. End of Agreement Data Handling:

Contractor agrees that upon termination of this Agreement it shall erase, destroy, and render unrecoverable all NNPS data and certify in writing that these actions have been completed within 30 days of the termination of this Agreement or within 7 days of the request of an agent of NNPS, whichever shall come first. At a minimum, a "Clear" media sanitization is to be performed according to the standards enumerated by the National Institute of Standards, Guidelines for Media Sanitization, SP800-88, Appendix A -see <http://csrc.nist.gov/>.

M. Security Breach Notification:

Contractor agrees to comply with all applicable laws that require the notification of individuals in the event of unauthorized release of personally identifiable information or other event requiring notification. In the event of a

breach of any Contractor's security obligations, or other event requiring notification under applicable law, Contractor agrees to:

- a. Notify NNPS by telephone and e-mail of such an event within 24 hours of discovery, and;
- b. Assume responsibility for informing all such individuals in accordance with applicable law, and;
- c. Indemnify, hold harmless and defend NNPS and its trustees, officers and employees from and against any claims, damages or other harm related to such Notification Event.

N. Right to Audit:

Newport News Public Schools or an appointed audit firm (Auditors) has the right to audit the Contractor and the Contractor's sub-contractors or affiliates that provide a service for the processing, transport or storage of Newport News Public Schools' data. Newport News Public Schools will announce their intent to audit the Contractor by providing at a minimum two weeks (10 business days) notice to the Contractor. This notice will go to the Contractor that this contract is executed with. A scope document along with a request for deliverables will be provided at the time of notification of an audit. If the documentation requested cannot be removed from the Contractor's premises, the Contractor will allow the Auditors access to their site. Where necessary, the Contractor will provide a personal site guide for the Auditors while on site. The Contractor will provide a private accommodation on site for data analysis and meetings; the accommodation will allow for a reasonable workspace, with appropriate lighting, electrical, a printer and Internet connectivity. The Contractor will make necessary employees or contractors available for interviews in person or on the phone during the time frame of the audit. In lieu of NNPS or its appointed audit firm performing their own audit, if the Contractor has an external audit firm that performs a certified Type II SAS 70 review, NNPS has the right to review the controls tested as well as the results, and has the right to request additional controls to be added to the certified Type II SAS 70 review for testing the controls that have an impact on NNPS data. Audits will be at Newport News Public Schools' sole expense, except where the audit reveals material noncompliance with contract specifications, in which case the cost will be borne by the Contractor.

O. Payment by Electronic Funds Transfer

(a) Method of payment.

(1) All payments by Newport News Public Schools (NNPS) under this contract shall be made by electronic funds transfer (EFT) except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event NNPS is unable to release one or more payments by EFT, the Contractor agrees to either—

- (i) Accept payment by check or some other mutually agreeable method of payment; or
- (ii) Request NNPS to extend payment due dates until such time NNPS makes payment by EFT (but see paragraph (d) of this clause).

(b) Mandatory submission of Contractor's EFT information.

(1) The Contractor is required to provide NNPS with the information required to make payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the NNPS Accounting Department (hereafter referred to as "Accounting") no later than 15 days prior to submission of the first request for payment. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the Accounting.

(2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to Accounting.

(c) Mechanisms for EFT payment. NNPS may make payment by EFT through the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association

(d) Suspension of payment.

(1) The NNPS is not required to make any payment under this contract until after receipt, by Accounting, of the correct EFT payment information from the Contractor. Until receipt of the correct EFT information, any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract.

(2) If the EFT information changes after submission of correct EFT information, NNPS shall begin using the changed EFT information no later than 30 days after its receipt by Accounting to the extent payment is made by EFT. However, the Contractor may request that no further payments be made until the updated EFT information is

implemented by Accounting. If such suspension would result in a late payment under the prompt payment terms of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

(e) Liability for uncompleted or erroneous transfers.

(1) If an uncompleted or erroneous transfer occurs because NNPS used the Contractor's EFT information incorrectly, NNPS remains responsible for—

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of NNPS' release of the EFT payment transaction, and—

(i) If the funds are no longer under the control of Accounting, NNPS is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of Accounting, NNPS shall not make payment and the provisions of paragraph (d) shall apply.

(f) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall provide the EFT information required by paragraph (j) of this clause to Accounting, and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to NNPS, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) Liability for change of EFT information by financial agent. NNPS is not liable for errors resulting from changes to EFT information provided by the Contractor's financial agent.

(i) Payment information. Accounting shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. NNPS may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods Accounting is capable of executing. However, NNPS does not guarantee that any particular format or method of delivery is available and retains the latitude to use the format and delivery method most convenient to NNPS. If NNPS makes payment by check in accordance with paragraph (a) of this clause, NNPS shall mail the payment information to the remittance address in the contract.

(j) EFT information. The Contractor shall provide the following information to Accounting. The Contractor may supply this data for this or multiple contracts (see paragraph (b) of this clause). The Contractor shall designate a single financial agent per contract capable of receiving and processing the EFT information using the EFT methods described in paragraph (c) of this clause.

(1) The contract number (or other procurement identification number).

(2) The Contractor's name and remittance address, as stated in the contract(s).

(3) The signature (manual or electronic, as appropriate), title, and telephone number of the Contractor official authorized to provide this information.

(4) The name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.

(5) The Contractor's account number and the type of account (checking, saving, or lockbox).

(6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the Contractor's financial agent.

(7) If applicable, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the Contractor's financial agent is not directly on-line to the Fedwire Transfer System; and, therefore, not the receiver of the wire transfer payment.

VII. Attachment "A" – Current Program Services

VIII. Attachment "B" – Proposal Questionnaire