

County of Henry

P.O. BOX 7
COLLINSVILLE, VIRGINIA 24078-0007
<http://www.co.henry.va.us/>

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MEMBER OF
VAGP
NIGP

PURCHASING DEPARTMENT

APRIL 14, 2014
REQUEST FOR PROPOSAL
RFP # 14-04293-A134
HENRY COUNTY PURCHASING DEPARTMENT

The Henry County Schools solicits firms to submit proposals for “**Third Party Administrator- 403B.**” The **original** and **three (3)** submittals (**FOR A TOTAL OF FOUR (4) PROPOSALS**), marked “**Third Party Administrator- 403B**” RFP #14-04293-A134 will be received in a sealed envelope not later than **3:00 p.m., Local Prevailing Time, April 29, 2014, in the:**

Purchasing Department, Room 210
Attn: Carole Jones, Chief Purchasing Agent
Henry County Administration Building
P.O. Box 7 (Postal Service)
3300 Kings Mountain Road (UPS or FedEx)
Collinsville, VA 24078-0007

Facsimile and/or electronic proposals will not be accepted. Proposals received after the announced time and date of receipt, by mail or otherwise, will be returned unopened. Nothing herein is intended to exclude any responsible firm or in any way restrain or restrict competition.

On the contrary, all responsible firms, local, faith-based, minority-owned and female-owned are encouraged to submit a proposal.

The County/PSA reserves the right to reject any or all of the proposals, to waive informalities and to award in part or in whole any or all proposals. Any proposal submitted **MUST** be signed by an individual authorized to bind the offeror.

RFP #14-04293-A134

Enclosed is a ***“Proposal Requirements and Non-Collusion Statement”*** that must be signed and returned with the proposal or proposal may be rejected.

If you desire not to quote on this proposal, please forward your acknowledgement of NO PROPOSAL SUBMITTED to the above address. Otherwise, your name shall be removed from our bidders list after three (3) non-responses.

Contract Period

A notice of award will be signed and publicly posted once this RFP has been approved. The date on the notice of award will be when the RFP becomes effective (not date of service). Initial contract shall be for terms stated on page 11 of this proposal. Under the VA Procurement Act, the County/PSA reserves the right to negotiate extending this contract for not more than one (1) additional year after original contract terms. **The above terms shall override any other written terms in this RFP and/or verbal comments made during negotiations, unless authorized by Chief Purchasing Agent.**

Piggy Back Clause

This contract shall be available for piggy backing for any other state and local agency or government agency.

ILLEGAL ALIENS

Vendor promises they will not hire illegal aliens. By signing this proposal document the vendor confirms this promise.

CONTACT FOR THIS RFP:

Please contact Dawn Lawson at dlawson@henry.k12.va.us for any questions pertaining to this RFP.

SPECIAL TERMS AND CONDITIONS

During the performance of any contract awarded pursuant to this RFP, the contractor agrees as follows:

- A. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin, or handicaps, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the operation of the contractor. The Contractor agrees to post in conspicuous places, available to provisions of this nondiscrimination clause.
- B. The Contractor, in all solicitations or advertisements for employees placed 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 regulations shall be deemed sufficient for the purpose of meeting the requirements of this section.

The Contractor shall include in provisions of the foregoing paragraph A, B, and C in every subcontract or purchase order over \$5,000 so that the provisions will be binding upon each subcontractor or vendor.

PROPOSAL REQUIREMENTS AND NON-COLLUSION STATEMENT

My signature certifies that the proposal as submitted complies with all Terms and Conditions as set forth. My signature also certifies that the accompanying proposal is not the result of, or affected by, any unlawful act of collusion with another person or company engaged in the same line of business or commerce, or any act of fraud punishable under Title 18.2, Chapter 12, Article 1.1 of the Code of Virginia as amended. Futhermore, I understand that fraud and unlawful collusion are crimes under the Virginia Governmental Frauds Act, the Virginia Bid Rigging Act, and Virginia Antitrust Act, and Federal Law, and can result in fines, prison sentences, and civil damage awards.

I hereby certify that I am authorized to sign as a Representative for the Firm:

NAME OF FIRM _____

ADDRESS _____

SIGNATURE _____

NAME (TYPE/PRINT) _____

TITLE _____

DATE _____

TELEPHONE() _____

FAX() _____

RFP# 14-04293-A134

THE 2007 SESSION OF THE VIRGINIA GENERAL ASSEMBLY, PASSED THE HB 1707/SB 1346 BILL, EFFECTIVE ON JULY 1, 2007. HENRY COUNTY IS REQUIRING ALL VENDORS TO ABIDE BY THE FOLLOWING NEW LEGISLATION.

HB 1707/SB 1346

PROVIDES THAT AS A CONDITION OF AWARDING A CONTRACT FOR THE PROVISION OF SERVICES THAT REQUIRE THE CONTRACTOR OR HIS EMPLOYEES TO HAVE DIRECT CONTACT WITH STUDENTS ON SCHOOL PROPERTY DURING REGULAR SCHOOL HOURS, THE SCHOOL BOARD MUST REQUIRE THE CONTRACTOR TO PROVIDE CERTIFICATION THAT ALL EMPLOYEES WHO WILL HAVE DIRECT CONTACT WITH STUDENTS HAVE NOT BEEN CONVICTED OF A FELONY OR ANY OFFENSE INVOLVING THE SEXUAL MOLESTATION OR PHYSICAL OR SEXUAL ABUSE OR RAPE OF A CHILD. THE BILL ALSO PROVIDES THAT THE REQUIREMENT BE WAIVED IN EMERGENCY SITUATIONS WHEN IT IS REASONABLY ANTICIPATED THAT THE CONTRACTOR OR HIS EMPLOYEES WILL HAVE NO DIRECT CONTACT WITH STUDENTS.

PLEASE INDICATE APPROPRIATE BOX BELOW.

_____ I AGREE TO ABIDE BY THIS LEGISLATION HB 1707/SB 1346.

_____ THIS LEGISLATION DOES NOT APPLY TO THIS SOLICITATION.

THE AWARDED VENDOR MAY BE REQUIRED TO PROVIDE ADDITIONAL PAPERWORK BUT ONLY A SIGNATURE IS NECESSARY AT THIS TIME.

AUTHORIZED VENDOR SIGNATURE

DATE

COMPANY NAME

PRINTED NAME AND TITLE

Subcontractor Information

Must fill form out completely even if no subcontractors are being used.

You must check appropriate box below and list any subcontractors that will be used for this RFP# **14-04293-A134** for **Third Party Administrator - 403B** for **Henry County Schools**.

_____ I will be using subcontractors. (See list below)

_____ I may or may not be using subcontractors. Not sure at this time. If you are the awarded vendor, you are responsible for contacting Commissioner of Revenue's Office at (276-634-4691) with subcontractor information. Payment of invoices is contingent upon receiving required information.

_____ I will not be using subcontractors.

1.) Subcontractors Company Name _____

Contact Person _____ Telephone # _____

2.) Subcontractors Company Name _____

Contact Person _____ Telephone # _____

3.) Subcontractors Company Name _____

Contact Person _____ Telephone # _____

4.) Subcontractors Company Name _____

Contact Person _____ Telephone # _____

5.) Subcontractors Company Name _____

Contact Person _____ Telephone # _____

6.) Subcontractors Company Name _____

Contact Person _____ Telephone # _____

Bidders Company Name _____

Bidders Authorized Signature _____ **Date:** _____

Bidders Telephone # _____ **Federal ID #** _____

*Note- Add a separate sheet if you need additional space for subcontractors

Issue Title: Third Party Administrator for Tax Sheltered Annuity (403 B)

Requests for technical information on this project shall be directed to:

Dawn Lawson, Chief Financial Officer
Phone: (276) 634-4710

All inquiries for information regarding procurement procedures, selection criteria, proposal submission requirements, or other fiscal/administrative concerns shall be directed to:

Carole Jones, Chief Purchasing Agent
Phone: (276) 634-4670

Third Party Administration for 403 (b)

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1. PURPOSE

Henry County Public Schools, hereinafter referred to as "HCPS" or "District" is seeking a firm to act as a Third Party Administrator (TPA) for Tax Sheltered Annuities (TSA-403b). The purpose of this solicitation pertains to plan administration, professional review, and IRS tax and regulatory compliance services for the District's 403(b) tax-deferred investment program, which is funded primarily from voluntary salary reductions made by the School Division's employees.

- 1.1 HCPS currently has 4 vendors providing TSA products to employees. There are currently 153 active participants and monthly contributions are at a rate of \$23,025.
- 1.2 There is one payroll source and payrolls are processed monthly. There are approximately 1,120 eligible employees.

2. SUBMISSION OF PROPOSALS

- 2.1 Pages 1-5 of the **proposal**, one (1) original (duly marked) and three copies, one (1) original (duly marked) and three (3) copies of the **Cover Letter**, one (1) original (duly marked) and three (3) copies of the **Technical Proposal**, and one original (duly marked) and three (3) copies of the **Business Proposal** shall be delivered to the address indicated on page 1 of this proposal.
- 2.2 The submitted proposal materials shall be the documents upon which HCPS will make its initial judgment regarding a Company's qualifications, understanding of HCPS scope and objectives, methodology, and ability to complete services under the contract.
- 2.3 Those submitting Proposals do so entirely at their own expense. There is no expressed or implied obligation by HCPS to reimburse any firm or individual for any costs incurred in preparing or submitting Proposals, preparing or submitting additional information requested by the HCPS, or for participating in any selection interviews.
- 2.4 Submission of any Proposal indicates acceptance of the all terms & conditions contained in the RFP, unless clearly and specifically noted otherwise in the Proposal.
- 2.5 Henry County Public Schools reserves the right to reject any and all Proposals, in whole or in part, submitted in response to this RFP.
- 2.6 Henry County Public Schools reserves the right to waive any and all informalities and to disregard all non-conforming, non-responsive or conditional Proposals.
- 2.7 Offerors are reminded that changes to the RFP, in the form of written addenda, are often issued between the issue date and within three (3) days before the opening/closing of the solicitation. **All addenda must be signed by the offeror and submitted with their proposal.** HCPS may, at any time, by written notification to all vendors, change any portion of the RFP described and detailed herein.
- 2.8 It is the Offeror's responsibility to clearly identify and to describe the services being offered in response to the RFP. Offerors are cautioned that organization of their response, as well as thoroughness is critical to the HCPS evaluation process. The RFP forms must be completed legibly and in their entirety; and all required supplemental information must be furnished and presented in an organized, comprehensive and easy to follow manner.

Unnecessarily elaborate brochures of other presentations beyond that sufficient to present complete and effective proposal is not desired. Elaborate artwork, expensive paper, bindings, visual and other presentation aids are not required. HCPS encourages Offerors to use recycled paper and print proposals on both sides whenever possible.
- 2.9 During the evaluation of Proposals, the county may require clarification of information or may invite an offeror to an oral presentation to amplify and or validate Proposal contents.

- 2.10 Each Offeror responding to this RFP must supply all the documentation required in the RFP. Failure to provide documentation with the Offeror's response may result in the disqualification of the Offeror's proposal for being non-responsive.
- 2.11 Each Offeror responding to this RFP must include a Cover Letter which will describe how the Offeror meets the minimum qualifications as described herein. An Offeror's failure to provide the documentation may result in the disqualification of the Offeror's proposal.

3. CONTRACT ADMINISTRATOR

The following employee of HCPS is identified to use all powers under the contract to enforce its faithful performance. All orders from HCPS shall be transmitted and communicated through the Contract Administrator. As the Contract Administrator, the following individual shall serve as the interpreter of the conditions of the contract and shall ensure adherence to the terms and conditions of the contract:

Dawn Lawson, Chief Financial Officer (276) 634-4710

4. TECHNICAL REQUIREMENTS/SCOPE OF WORK

HCPS requirements are, but not limited to, the criteria set forth below. Outline in writing, in the form of an Executive Summary, how these requirements will be met.

- 4.1 Provide all necessary Association of School Business Officials (ASBO), Internal Revenue Service (IRS) and National Tax Sheltered Annuity Association (NTSAA) compliant forms for Salary Reductions and Service Provider participation.
- 4.2 Provide a written plan for HCPS that is fully compliant with all IRS requirements and customized to fit the needs of HCPS.
- 4.3 Oversee all aspects of IRS compliance with the District's 403(b) program by all parties involved. In the event of an IRS audit, TPA will represent HCPS at the audit.
- 4.4 Develop and maintain all employee files to ensure that each participating employee has an IRS/NTSAA compliant Salary Reduction Agreement on file.
- 4.5 Assist in the preparation of communication material to be distributed to all eligible employees.
- 4.6 Obtain fully executed modified Service Provider Agreements from each investment provider conducting business with HCPS. These modified Service Provider Agreements shall be compliant with all local, state, and federal regulations, with the exception of not requiring the investment providers to provide and certify Maximum Annual Contribution Limits (MAC's) to the employee or HCPS. TPA will provide these contribution calculations, and certify to HCPS and the employee as to the accuracy of these calculations. Vendors that do not execute the modified Service Provider Agreement will not be permitted to enroll new participants.
- 4.7 Review all employee contributions and perform all necessary calculations to ensure HCPS's compliance with all IRS regulations pertaining to 403(b) programs.
- 4.8 Review all contributions to ensure that additions to the 403(b) program for each participant are within limits prescribed by Section 415 of the Internal Revenue Code.
- 4.9 Provide an administrative procedure manual to be used by the District to administer the program. This manual shall include master copies of all forms required for the 403 (b) process.
- 4.10 Review all employee Salary Reduction Agreements and sign the forms to verify compliance with the Internal Revenue Code and applicable regulations. TPA shall provide a designee who shall receive all new and revised Salary Reduction Agreements. TPA shall complete review of new

and revised Salary Reduction Agreements within three business days. Copies of new and revised Salary Reduction Agreements may be faxed or mailed to TPA, and will verify changes by e-mail to the HCPS Finance department.

- 4.11 The TPA shall provide Insurance Coverage as listed in Section 10.21 – Insurance Requirements.
- 4.12 Serve as common remitter for the HCPS's 403(b) program, and as paying agent on behalf of the District to promptly remit all funds to participating vendors.
- 4.13 Establish a disbursement account on behalf of the District, and shall provide suitable privileges for HCPS to transfer funds into the account, and for TPA to transfer funds out of the account.
- 4.14 The TPA shall not be responsible for any loss, damage, compliance error or expense caused by its failure to perform any duty or obligation under this Agreement which is due to causes beyond its control, such as an act of God, fire, flood, explosion, war, insurrection, riot, vandalism, strike, power failure, interruption or loss of telephone/telecommunication services, or governmental act of regulation; or errors resulting from (1) the employee's election to make contributions to a tax-sheltered annuity or custodial account sponsored by or offered through another employer, or (2) the failure of the District to provide complete and correct provider information and/or employee records and information. However, the TPA shall list a means of backup protection for all data and list its security measures in place to protect data.
- 4.15 The TPA shall defend, indemnify and "hold harmless" HCPS from any claim, demand, lawsuit, judgment, cost or expense, including reasonable attorney's fees, which may arise from any negligent act or omission by TPA in the performance of services under this agreement for HCPS, provided, however, that TPA's obligations and liability under this Section shall not begin until after (a) TPA has completed its compliance review of HCPS's 403(b) program, (b) HCPS has implemented all recommendations made by TPA with respect to the District's 403(b) program, and (c) TPA has established the disbursement account described in Section 11 and has commenced making disbursements there from in accordance with Section 10. TPA shall have no obligations or liability under this Section with respect to the time period before it completes its review hereunder; TPA shall not be responsible for determining the propriety of contributions made after an employee's termination or employment with the District; TPA shall not be responsible for implementing its recommendations resulting from its compliance review; and TPA shall not be responsible for any act or omission by the District which adversely affects TPA's ability to act as remitter for the District's 403(b) program under Section 11; and TPA shall not be responsible for the matters described in Sections 12, 15 and 16.
- 4.16 The TPA shall maintain and archive all participant 403(b) files and will ensure strict confidentiality of all employee data, records, and files. TPA will not make available to any outside vendor or sales/marketing organization, any records or information pertaining to HCPS employees. All of the rights available under the various annuity contracts or custodial accounts are enforceable solely by the respective HCPS employees, by the employees' beneficiary, or by an authorized representative of the employees.
- 4.17 HCPS is responsible to ensure that all monies for 403(b) contributions are sent to their distribution account established pursuant to Section 11 no and such funds must be available for distribution to Service Providers upon receipt of funds. The District will use only TPA approved modified salary reduction agreements and will ensure that reductions will not be initiated until such forms are signed by the appropriate parties. HCPS should ensure and then advise employees that a minimum of one pay period transpires before a new salary reduction is included in payroll. HCPS will ensure that no additional service providers will be added unless they execute a TPA approved modified Service Provider Agreement. TPA assumes no liability for new vendors that will not sign the modified Service Provider Agreement reviewed and approved by TPA. The District will ensure that TPA is provided updated participant employee salaries within 60 days of Henry County Public School Board action. Additionally, HCPS will furnish (or arrange to have furnished) all data and information requested by TPA and necessary for TPA to

ensure that the operation of the 403(b) contract complies with the provisions of Sections 402(g), 403(b), and 415(c) of the Internal Revenue Code. HCPS understands and agrees that TPA's obligation to perform the administrative and support services set forth in any resulting Agreement are subject to the obligation of the District to timely supply (or arrange for TPA to receive) any and all data and information requested by TPA, and necessary for TPA to ensure the District's compliance with the 403(b) programs. TPA will not be responsible for any compliance errors resulting from the District's failure to furnish (or arrange for TPA to receive) necessary information requested within a reasonable time, or errors resulting from any misrepresentations made by the District or its employees.

- 4.18 The Contractor shall not sell or give to any individual or organization any information, reports, or other materials given to, prepared or assembled by the Contractor under the final contract.
- 4.19 The TPA shall not provide or offer any product to HCPS eligible employees. The sole responsibility of the Contractor is to act as a TPA providing the necessary services required to have a compliant 403 (b) program. HCPS intends to have between one (1) and ten (10) vendors conducting business with the District eligible employees. Because the District intends to offer choice to employees, TPA shall agree to offer the number of vendors decided to be in the best interests of the District for the life of the contract. It will be at the sole discretion of the District to decide if a reduction/addition in vendors is necessary.

5. QUALIFICATIONS

Provide a statement, in the form of an Executive Summary, of Company qualifications including:

Minimum Qualification: An Offeror must meet or exceed the following minimum qualification in order for HCPS to accept a proposal as responsive. Each Offeror must provide a written explanation as to how it meets the minimum qualification. This explanation should also be included in the Executive Summary with your proposal. If an Offeror fails to respond, its proposal may be deemed non-responsive and disqualified from further consideration. If HCPS determines from the response that an Offeror does not meet the minimum qualification, the proposal may be considered non-responsive and disqualified from further consideration:

As of July 1, 2013, the Offeror must have marketed third party administration services for a minimum of three (3) years. Additionally, the Offeror must have administered plans that consist of at least 100 participants that have active salary reduction agreements in effect. Offeror must provide the name of the clients and contacts with the listed clients that are able to verify this information. Offerors should also list any current public bodies that are clients, along with their associated contacts.

- 5.1 In the Executive Summary provide the following: a) Firm's business history and activities; b) Organizational chart and list of contacts in relevant functional areas (with phone number, email, department, and title); c) Description of how requirements listed in Section 4 will be met.
- 5.2 Provide information on how long the firm has been in business and length of its experience in Third Party Administration.
- 5.3 Identify the firm's professional staff members who will be specifically assigned to this contract, the experience each possesses, and the location of the office from which they work. Provide a detailed biography and/or resume outlining the experience and credentials of all such staff members.
- 5.4 Provide a listing and description of similar Third Party Administrator and/or projects awarded with other organizations giving dates of service.
- 5.5 Provide the name and title of person(s) submitting the proposal, the firm's main office address, and primary and secondary points of contact and their telephone and fax numbers (including area codes.)

- 5.6 Detail the experience your firm and its staff have in working with public sector clients. Describe how needs specific to the public sector were met. Highlight any experience specific to school districts.
- 5.7 Provide any client references from similar public body projects. Include contact names, addresses and telephone numbers.
- 5.8 Provide any additional information that you feel would distinguish your firm in its service to HCPS.

6. TERM OF CONTRACT

- 6.1 The initial contract period shall be from date of award through June 30, 2015. At the end of the initial contract term the contract may be renewed for up to five (5) additional one-year periods, upon mutual agreement of both parties. Contract cancellation will be at the discretion of either party with ninety (90) days advanced written notice to the other party.
- 6.2 The successful offeror(s) shall execute a contract with Henry County Public Schools, incorporating all terms and conditions included in this RFP and the contractor's proposal.
- 6.3 Any contract awarded pursuant to this RFP is conditioned upon an annual appropriation made by the County of Henry of funds sufficient to pay compensation due the Contractor under the contract. If such an appropriation is not made in any fiscal year, and the County lacks funds from other sources to pay the compensation due under the contract, HCPS is entitled, at the beginning of or during such fiscal year, to terminate the contract. In that event, HCPS will not be obligated to make any payments under the contract beyond the amount properly appropriated for contract payments in the immediate prior fiscal year. HCPS will provide the Contractor with written notice of contract termination due to the non appropriation of funds at least thirty (30) calendar days before the effective date of the termination. However, the District's failure to provide such notice will not extend the contract into a fiscal year in which funds for contract payments have not been appropriated.

7. TECHNICAL PROPOSAL INSTRUCTIONS:

- 7.1 The offeror must submit the Technical Proposal containing the following information, along with responses to the Technical Questionnaire (**Attachment A**):
 - 7.1.1. Name of firm submitting proposal; main office address; when organized; if a corporation, when and where incorporated; appropriate Federal, State, and County registration numbers; and annual report or financial statement. HCPS encourages the use of recycled products, therefore, it is urged that proposals be submitted on paper made from or with recycled content and be printed on both sides.
 - 7.1.2 Understanding of the problem and technical approach.
 - 7.1.2.1 Statement and discussion of the requirements as they are analyzed by the offeror.
 - 7.1.2.2 Offeror's proposed definitive Scope of Work with explanation of technical approaches and a detailed outline of the proposed program for executing the requirements of the technical scope and achieving project objectives.
 - 7.1.2.3 Preliminary layouts, sketches, diagrams, other graphic representations, calculations and other data as may be necessary for presentation, substantiation, justification or understanding of the proposed approaches and program.
 - 7.1.2.4 Offeror should demonstrate an awareness of difficulties in the completion of this undertaking, and a plan for surmounting them. Special attention should be given to methodological issues that will be encountered in such a project.

7.1.3 Preliminary Work Plan:

The offeror must present a description of the phases or segments into which the proposed program can logically be divided and performed, together with flow charts. The technical narrative should address separately each of the tasks described in the Request for Proposal and responses should be keyed to appropriate paragraph numbers. This section should also contain a discussion of any changes proposed by the offeror that substantially differs from the project scope described in these Provisions.

This section should include detailed description of activities that are to occur, significant milestones, and anticipated deliverables.

8. BUSINESS PROPOSAL INSTRUCTIONS:

- 8.1 The offeror must submit a business proposal, **labeled Attachment B**, fully supported by cost and pricing data adequate to establish the reasonableness of the proposed fee. The following information should be submitted as part of the business proposal:

The cost of each task or segment of the task shall be itemized.

8.1.1 Offerors must provide a price breakdown for each service separately as well as totals for services provided together, if prices differ. All prices shall be provided in the price breakdown, even if not directly billed to the school division, i.e. billed to the employee or vendor. .

8.1.2 Offeror shall provide pricing for all costs associated with their services, even if not specified on Attachment B – Excel Spreadsheet.

Caution: Failure to break down cost elements may render the Business Proposal non-responsive.

Proposed costs should be based on **153** active participants in the 403(b) program, and will be modified either up or down at actual time of installation, based on an accurate census count. The quoted fees must be honored for a period of ninety days (90) from the receipt of this proposal.

8.2 Pricing:

The subsequent contract will be a firm-fixed price agreement. The fee(s) will remain firm and will include all charges that may be incurred in fulfilling the requirements during the initial contract period. Changes in cost for any subsequent yearly contract renewals, may be considered, but shall not exceed the Consumer Price Index (CPI-U), Table 10, Selected local areas, Washington DC-MD-VA, or other relevant trade publications. Price increase requests for subsequent contract periods shall be accompanied by the then current Consumer Price Index, Table 10, along with any other information deemed necessary by HCPS to substantiate a requested price increase.

9. EVALUATION AND AWARD CRITERIA:

- 9.1 HCPS intends to award a contract to the proposer that offers HCPS the best value in consideration of the evaluation criteria included in this solicitation. A proposal evaluation team will be established to review and evaluate all proposals submitted in response to this RFP. The evaluation team shall conduct a preliminary evaluation of all proposals on the basis of the information provided, and the evaluation criteria listed below. Based upon this review, the business proposals of the highest rated offeror(s) will then be reviewed. Based on the results of the preliminary evaluation, the highest rated offeror(s) may be invited by HCPS to make oral presentations to the proposal evaluation team. This team will then conduct a final evaluation of the proposals.

The Proposal evaluation team shall then negotiate with one or more offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation criteria listed below. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each Offeror, so selected, HCPS shall select the Offeror which in its opinion, has made the best proposal, and shall award a contract to that Offeror.

- 9.2. Proposals shall be evaluated based on the criteria listed hereunder. Information and/or factors gathered during interviews, discussions, and/or negotiations shall also be utilized in the final selection decision.
 - 9.2.1 Qualifications as a duly licensed and appropriately staffed firm with qualified and experienced personnel.
 - 9.2.2 Depth of response to the technical requirements/scope of work (Section 4) and Qualifications (Section 5).
 - 9.2.3 Depth of response to the Technical Questionnaire (Attachment A)
 - 9.2.4 Details of the approach and methodology of program
 - 9.2.5 Reasonableness of costs included in Business proposal (Attachment B)

- 9.3. AWARD OF CONTRACT: HCPS may cancel this RFP, reject proposals or any portion thereof at any time prior to an award, and is not required to furnish a statement of the reason why a particular proposal was not deemed to be the most advantageous. (Section 2.2-4359, Code of Virginia) Should HCPS 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. The award document will be a contract incorporating by reference all the requirements, terms, and conditions of this solicitation and the Contractor's proposal as negotiated.

The offeror and the proposal evaluation team may negotiate any changes desired in the offer, if deemed to be in the best interest of HCPS. The proposal evaluation team will make appropriate recommendations to the Henry County School Board, if appropriate, prior to the actual award of a contract.

- 9.4. CONTRACT AWARD DOCUMENT: HCPS will award a contract referencing all terms, conditions and related documents corresponding to this solicitation.
 - 9.4.1 A purchase order may be enclosed with the resulting contract or may be issued shortly thereafter, and will become part of the resulting contract. The purchase order indicates that sufficient funds have been obligated and assures that distribution of the necessary receiving reports has taken place.
 - 9.4.2 The purchase order does not supersede any provisions of the resulting contract. Performance time and dates are determined solely by the contract and any modification thereto.
 - 9.4.3 Services are not to begin until receipt of the purchase order and/or other notification by HCPS to proceed.

- 9.5 HCPS reserves the right to make on-site visitations to assess the capabilities of individual offerors and to contact references provided with the proposal.

- 9.6 HCPS may arrange for discussions with firms submitting proposals, if required, for the purpose of obtaining additional information or clarification.

- 9.7 Offerors are advised that, in the event of receipt of an adequate number of proposals, which in the opinion of HCPS, require no clarifications and/or supplementary information, such proposals may be evaluated without further discussion. Consequently, offerors should provide complete, thorough proposals with the offerors most favorable terms. Should proposals require additional clarification and/or supplementary information, offerors should submit such additional material in a timely manner.
- 9.8 Proposals which, after discussion and submission of additional clarification and/or supplementary information, are determined to meet the specifications of this RFP will be classified as "acceptable". Proposals found not to be acceptable will be classified as "unacceptable" and no further discussion concerning same will be conducted.

10. GENERAL TERMS AND CONDITIONS

- 10.1. ANTI-DISCRIMINATION: By submitting their proposal, the Offeror certifies to HCPS that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Act of 1975, as amended, where applicable, and Section 2.2-4311 of the Virginia Public Procurement Act which provides that in every contract over \$10,000 the provisions below apply:
- 10.1.1. During the performance of this contract, the Contractor agrees as follows:
- 10.1.1.1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualifications 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.
- 10.1.1.2. 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.
- 10.1.1.3. 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.
- 10.2. ANTITRUST: By entering into a contract, the Contractor conveys, sells, assigns, and transfers to HCPS all rights, title and interest in and to all causes of the 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 HCPS under said contract.
- 10.3. APPLICABLE LAWS AND COURTS: This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia, including but not limited to the Code of Virginia, Chapter 43, Virginia Public Procurement Act, and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The Contractor shall comply with applicable federal, state and local laws and regulations.
- 10.4. ASSIGNMENT OF CONTRACT: A contract shall not be assignable by the Contractor in whole or in part without the written consent of HCPS.
- 10.5. AUDIT: The Contractor hereby agrees to retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by HCPS, whichever is sooner. HCPS, its authorized agents, and/or auditors reserve the right to perform or have performed an audit of the records of the Contractor and therefore shall have full access to and the right to examine any of said materials within a reasonable period of time during said period.

- 10.6. AUTHORITY: The Chief Financial Officer has the sole responsibility and authority for issuance of invitations to bid, request for proposals, negotiations, placing and modifying invitations, requests, purchase orders and awards issued by and for the School Board of Henry County. In the discharge of these responsibilities, the Chief Financial Officer may be assisted by delegating to other staff. No other School Board officers or employee is authorized to order supplies or services, enter into purchase negotiations or contracts, or in any way obligate the School Board for any indebtedness. Any purchase order or contract made which is contrary to these provisions and authorities shall be of no effect and void, and the School Board shall not be bound thereby.
- 10.7. AVAILABILITY OF FUNDS: It is understood and agreed between the parties herein that HCPS shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this contract. Furthermore, if funds are not appropriated for any succeeding fiscal year subsequent to the one in which this contract is entered into, for the purpose of this contract, then HCPS may reduce or terminate this contract upon thirty (30) days prior written notice to the Contractor. Should termination be accomplished in accordance with this Section, HCPS shall be liable only for payments due through June 30 of the calendar year.
- 10.8. CARE OF DATA: The selected firm shall take all steps necessary to safeguard any data, files, reports, or other information from loss, destruction or erasure. Any costs or expenses of replacing, or damages resulting from the loss of such data shall be borne by the contractor when such loss or damage occurred through its negligence.
- 10.9. CHANGES TO THE CONTRACT: Changes can be made to the contract in any one of the following ways:
- 10.9.1 HCPS 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 the method of packing or shipment, place of delivery, installation or performance of work, etc. The Contractor shall comply with the notice upon receipt. The Contract shall be compensated for any additional costs incurred as the result of such order and shall give HCPS a credit for any resulting savings. Said compensation shall be determined by one of the following methods:
- 10.9.1.1 By mutual agreement between the parties in writing; or
- 10.9.1.2 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 HCPS's right to audit the Contractor's records and/or to determine the correct number of units independently; or
- 10.9.1.3 By ordering the Contractor to proceed with the work and to 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 HCPS with all vouchers and records of the Contractor as it deems necessary to determine costs of savings. Any claim for an adjustment in price under this provision must be asserted by written notice to HCPS within thirty (30) days from the date of receipt of the written order from HCPS. 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. Neither the existence of a claim or a dispute resolution process, litigation or any other provision of this contract shall excuse the Contractor from promptly complying with the changes ordered by HCPS or with the performance of the contract generally.

10.9.2. 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.

10.10. CLARIFICATION OF TERMS: If any prospective Offeror has questions about the specifications or other solicitation documents, the prospective Offeror should contact the Chief Financial Officer in writing, whose name appears on the face of the solicitation no later than five (5) business (working) days before the due date. Any revisions to the solicitation will be made only by written addendum issued by the Chief Financial Officer.

10.11. COMPLIANCE WITH PROCEDURES: The Contractor shall comply with all procedural instructions that may be issued from time to time by HCPS. However, the terms and conditions of the contract will not change.

10.12. CONTRACTUAL DISPUTES: Any dispute concerning a question of fact including claims for money or other relief as a result of a contract with HCPS which is not disposed of by agreement shall be declared by the Chief Financial Officer who shall reduce a decision to writing and mail or otherwise forward a copy thereof to the Contractor within ten (10) days. The decision of the Chief Financial Officer shall be final and conclusive unless the Contractor appeals within ten (10) days of receipt of the written decision by formal protest. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty (60) days after final payment, however, written notice of the Contractor's intention to file such a claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

10.13 CRIMINAL BACKGROUND CHECK CERTIFICATION: To protect the safety of students and school employees, Contractor certifies to the School Board that none of Contractor's employees, whether new or current, full-time or part-time, permanent or temporary, who will be present on the Site or other school property and may have any contact with students or school employees, (i) have been convicted of a felony, any offense involving sexual molestation, physical or sexual abuse or rape of a child, or a felony involving lying, cheating or stealing; or (ii) have been the subject of a founded case of child abuse or neglect.

Contractor shall conduct an investigation of the criminal history, sex offender status and agency determinations of child abuse of each employee who will be present on the Site or other school property and may have contact with students or school employees. Contractor shall conduct all such investigations with the written consent of affected employees and in compliance with all applicable laws. Contractor certifies that it has conducted such an investigation for all current employees who will be involved in the work to be performed pursuant to this Agreement, and will conduct such an investigation for any future employees who will be involved in the work to be performed pursuant to this Agreement. Contractor shall keep records of all investigations and shall make such records available to the School Board upon request.

If any employee of Contractor who will be present on the Site or other school property and may have contact with students or school employees is arrested for, charged with, or convicted of any such offense, or becomes the subject of a child abuse investigation, Contractor shall notify the Superintendent of the arrest, charge, conviction or investigation within forty-eight (48) hours after Contractor is made aware of the arrest, charge, conviction or investigation. The School Board reserves the right to exclude such employee from positions that may involve contact between such employee and students or school employees, or to exclude such individual from school property entirely.

Contractor shall include the provisions of Section 11 in all contracts with its subcontractors who will provide goods or services for the Project, if any, so that such provisions are binding on all such subcontractors of Contractor.

Failure by Contractor or one of its subcontractors to conduct investigations or to make the certifications required by this provision may constitute a breach of this Agreement and grounds for termination or rescission of the Agreement (Code of Virginia § 22.1-296.1).

- 10.14. 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.

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 in accordance with this chapter, 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.

- 10.15. 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.
- 10.16. EXTRA CHARGES NOT ALLOWED: The proposed costs/fees shall be for providing complete services; e.g., travel, hourly rates, supplies, printing, misc. support services, etc... Extra charges will not be allowed.
- 10.17. FAILURE TO DELIVER OR MEET DEADLINES: Failure to comply with the terms and conditions of this solicitation or to deliver services and meet deadlines identified in the solicitation and contract at the costs quoted will void the contract award. The Contractor shall in this instance be responsible for any and all costs incurred by HCPS to procure such products or services elsewhere.
- 10.18. FEES/COSTS: Negotiated costs shall be firm and fixed throughout the initial contract period.
- 10.19. INDEMNIFICATION: The Contractor shall indemnify, save and hold harmless the School Board of HCPS, its officers, agents, employees and volunteers against and from any and all injuries, death, loss, damage, claims, patent claims, suits, liabilities, judgments, costs of investigation, attorney fees, cost of appeals arising out of any such claims or suits, and other expenses which may or otherwise accrue against HCPS in consequence of the granting of a contract or which may or otherwise result in connection with work thereof, if it shall be determined that the act was caused through negligence, omission or commission of the Contractor, including its agents, subcontractors, employees, and volunteers. The Contractor expressly understands and agrees that any performance bond or insurance shall in no way limit the responsibility to indemnify, keep and save harmless and defend the School Board as herein provided. Furthermore, it is understood and agreed that the Contractor is at all times herein acting as an independent contractor.
- 10.20. INSURANCE: The Contractor shall maintain such personal injury and property damage liability insurance as necessary to protect itself from claims arising out of the performance of any resulting contract. By signing and submitting a proposal under this solicitation, the Offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the work commences. Additionally, it will maintain these 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. During the period of the contract HCPS reserves the right to require the Contractor to furnish certificates of insurance for the coverage required by HCPS and the Commonwealth as indicated below:

Insurance Coverage and Limits Required:

10.20.1. Worker's Compensation - Statutory requirements and benefits.

10.20.2. Employers Liability - \$100,000.

10.20.3. General Liability - \$1,000,000 combined single limit with HCPS named as additional insured with respect to the services being procured. This coverage is to include Premises/Operations Liability, Products, and Completed Operations Coverage, Independent Contractor's Liability, Owner's and Contractor's Protective Liability and Personal Injury Liability.

10.20.4. Automobile Liability - \$500,000.

10.20.5 Professional Liability - \$1,000,000 per occurrence

10.20.6 Third Party Errors & Omissions Insurance - \$1,000,000 per claim, \$5,000,000 aggregate

10.20.7 Fidelity Bond - \$1,000,000

10.20.8 Computer Fraud and Fund Transfer Fraud Insurance - \$1,000,000

10.21 INSURANCE REQUIREMENTS:

10.21.1 Contractor Insurance - The firm shall be responsible for its work and every part thereof, and for all materials, tools, equipment, appliances, and property of any and all description used in connection therewith. The firm assumes all risks of direct and indirect damage or injury to the property or persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the contract, or in connection in any way whatsoever with the contracted work.

10.21.2 Certificate - The firm will provide an original, signed Certificate of Insurance and such endorsements as prescribed herein, and shall have it filed with HCPS Finance Office before any work is started.

10.21.3 Insurance Cancellation - No change, cancellation, or non-renewal shall be made in any insurance coverage without a sixty day written notice to HCPS Finance Office.

10.21.4 Contract Control of All Tasks - Contractual and other Liability insurance provided under this contract shall not contain a supervision, inspection or engineering services exclusion that would preclude HCPS from supervising and/or inspecting the project as to the end result. The firm shall assume all on-the-job responsibilities as to the control of persons directly employed by it and of the subcontractors and any persons employed by the subcontractors.

10.21.5 Subcontractor Liability Insurance - Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and HCPS. The contractor shall be as fully responsible to HCPS for the acts and omissions of the subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.

10.21.6 Safety and Health Regulations - The contractor and all subcontractors are to comply with the Occupational Safety and Health Act of 1970, Public Law 91-956, as it may apply to this Contract.

- 10.22. INVOICES: Invoices for items/services ordered, delivered and accepted shall be submitted in duplicate by the Contractor directly to the payment address shown on the purchase order/contract. All invoices shall reference said purchase order/contract number.
- 10.23. LATE PROPOSALS: Will not be considered and returned to vendor unopened.
- 10.24. MANDATORY USE OF HCPS FORM AND TERMS AND CONDITIONS: Failure to submit a proposal on the official HCPS form provided for that purpose may be cause for rejection of the proposal. Return of the complete document is required. Modification of or additions to the General Terms and Conditions of this solicitation may be cause for rejection of the proposal; however, the Chief Purchasing Agent reserves the right to decide, on a case by case basis, in his/her sole discretion, whether to reject such a proposal.
- 10.25. METHOD OF PAYMENT: The Contractor shall be paid on the basis of invoices submitted, to be paid net thirty (30) days from receipt and approval by authorized HCPS official, upon completion of services. Payment shall be made after satisfactory performance of the contract in accordance with all of the provisions thereof and upon receipt of a properly completed invoice. The School Board reserves the right to withhold any or all payments or portions thereof for contractor's failure to perform in accordance with the provisions of the contract or any modifications thereto.
- 10.26. MODIFICATION OF CONTRACT: HCPS may, upon mutual agreement with the Contractor, issue written modifications to the scope of work/specifications of this contract, and within the general scope thereof, except that no modifications can be made which will result in an increase of the original contract price by a cumulative amount of more than \$10,000 or 25%, whichever is greater, without the advance written approval of the County School Board. In making any modification, the resulting increase or decrease in cost for the modification shall be determined by one of the following methods as selected by the Chief Financial Officer:
- 10.26.1. The written modification shall stipulate the mutually-agreed price for the specific addition to or deletion from the scope of work/specifications which shall be added to or deducted from the contract amount.
- 10.26.2. The written modification shall stipulate the number of unit quantities added to or deleted from the contract and multiplied by the unit price which shall be added to or deducted from the contract amount.
- 10.26.3. The written modification shall direct the Contractor to proceed with the work and to keep, and present in such form as HCPS may direct, a correct account of the cost of the change together with all vouchers therefor. The cost shall include an allowance for overhead and profit to be mutually agreed upon by HCPS and the Contractor.
- 10.27. OBLIGATION OF OFFEROR: By submitting a proposal, the Offeror covenants and agrees that they are satisfied, from their own investigation of the conditions to be met, that they fully understand their obligation and that they will not make any claim for, or have right to cancellation or relief from the contract because of any misunderstanding or lack of information.
- 10.28. OFFICIAL NOT TO BENEFIT:
- 10.28.1. Offeror shall certify upon signing a proposal that to the best of their knowledge no HCPS official or employee having official responsibility for the procurement transaction or member of his or her immediate family has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment or recession of the contract made or could affect payment pursuant to the terms of the contract.

- 10.28.2. Whenever there is reason to believe that benefit of the sort described in the paragraph above has been or will be received in connection with bid, proposal or contract and that the Contractor has failed to disclose such benefit or has inadequately disclosed it, HCPS, as a prerequisite to payment pursuant to the Contractor, or at any time require the contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.
- 10.28.3. In the event the Offeror has knowledge of benefits as outlined above, this information should be submitted with the proposal. If the above does not apply at time of award of contract and becomes known after inception of a contract the Offeror shall address the disclosure of such facts to: Chief Financial Officer, Henry County Public Schools, P.O. Box 8958, Collinsville, VA 24078-8958. The Request for Proposal Number should be referenced in the disclosure.
- 10.29. OWNERSHIP OF MATERIAL: Ownership of all data, material and documentation originated and prepared by the Offeror and successful Contractor for HCPS pursuant to this solicitation and any resulting contract shall belong exclusively to HCPS and be subject to public inspection in accordance with the Virginia Freedom of Information Act.
- 10.30. PAYMENT TERMS: Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. However, this shall not affect offers of discounts for payment in less than 30 days.
- 10.31. PRIME CONTRACTOR RESPONSIBILITIES: The Contractor shall be responsible for completely supervising and directing the work under this contract and all subcontractors that they may utilize, using their best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime Contractor. The Contractor agrees to be fully responsible for the acts and omissions of their subcontractors and of persons employed by them as they are for the acts and omissions of their own employees.
- 10.32. PROPOSAL ACCEPTANCE PERIOD: The proposal shall be binding upon the Offeror for a minimum of 110 calendar days following the proposal receipt and opening date. Any proposal on which the Offeror shortens the acceptance period may be rejected as determined by the Chief Financial Officer.
- 10.33. PROPRIETARY INFORMATION/ DISCLOSURE: Firms are advised that Chapter 43, Section 2.2-4342 of the Code of Virginia (i.e., the Virginia Public Procurement Act) shall govern public inspection of all records submitted by the firm. Such information which HCPS reserves the right to submit to the City Attorney for concurrence of the Firm's claim that it is in fact proprietary. Trade secrets or proprietary information submitted by a firm in connection with this RFP is not subject to public disclosure under the Virginia Freedom of Information Act. **However, Firm must invoke the protection of this section prior to or upon submission of the data or other materials.** Firm must provide a statement that identifies the data or other materials to be protected and states the reasons why protection is necessary. Furthermore, Firm shall submit trade secrets or proprietary information under separate cover in a sealed envelope clearly marked **PROPRIETARY**.
- 10.34. PROTEST OF AWARD OR DECISION TO AWARD: Any Offeror may protest the award or decision to award a contract by submitting a protest in writing to the Chief Purchasing Agent, no later than ten (10) days after the Notice of Award or the Notice of Intent to Award, whichever occurs first. The written protest shall include the basis for the protest and the relief sought. The Chief Purchasing Agent, or designee, shall issue a decision in writing within ten (10) days of the receipt of the protest stating the reasons for the action taken.
- 10.34.1 If prior to award it is determined that the decision to award is arbitrary or capricious then the sole relief shall be a finding to that effect. The Chief Purchasing Agent shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be declared void by HCPS.

Where the award has been made and performance has begun, the Chief Financial Officer may declare the contract void upon a finding that this action is in the best interest of HCPS. Where a contract is declared void, the performing Contractor shall be compensated for the cost of performance at the rate specified in the contract up to the time of such declaration. In no event shall the performing Contractor be entitled to lost profits.

- 10.34.2 Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this paragraph shall not be affected by the fact that a protest or appeal has been filed.
- 10.34.3 An award need not be delayed for the period allowed an Offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the offer would expire.
- 10.35. QUALIFICATIONS OF OFFERORS: HCPS may make such reasonable investigations as deemed proper and necessary to determine the ability of the Offeror to perform the work/furnish the item(s) and the Offeror shall furnish to HCPS all such information and data for this purpose as may be requested. HCPS reserves the right to inspect the Offeror's physical facilities prior to award to satisfy questions regarding the Offeror's capabilities. HCPS further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such Offeror fails to satisfy HCPS that such Offeror is properly qualified to carry out the obligations of the contract and to complete the work/furnish the item(s) contemplated therein.
- 10.36. RECEIPT OF PROPOSALS: It is the responsibility of the Offeror to assure that the proposal is delivered to the place designated for receipt of proposals prior to the time set for receipt of proposals. No proposal received after the time designated for receipt of proposals shall be considered.
- 10.37. SMALL AND MINORITY BUSINESS ENTERPRISES: It is the policy of HCPS to undertake every effort to increase opportunity for utilization of small and minority businesses in all aspects of procurement to the maximum extent feasible. In connection with the performance of this contract, the Contractor agrees to use their best effort to carry out this policy and insure that Small and Minority Businesses shall have the maximum practicable opportunity to compete for subcontract work under this contract consistent with the efficient performance of this contract. As used in this contract, the following definitions apply:
 - 10.37.1 "Small Business" means a business concern which, regardless of ownership or control, does not exceed fifty (50) employees; gross annual income does not exceed two (2) million dollars; is independently owned and operated (not subsidiary of another firm); and is not dominant in its field of operation.
 - 10.37.2 "Minority Business" means a business concern which is operated and controlled by a minority. The term "operated and controlled" shall mean that the managerial and official staff of the business concern is comprised of minority persons, sufficient in ratio and gross earnings to demonstrate that the business transactions are, in fact, controlled by minority persons or a corporation, partnership or sole proprietorship in which minority persons collectively own, operate, control and share in earnings of fifty one (51) percent or more of such an enterprise.
 - 10.37.3 "Minority Person" means Black, Hispanic, Asian or Pacific Islanders; American Indians or Alaskan Natives; and women, regardless of race or ethnicity.

Contractors may rely on oral or written representation by subcontractors regarding their status as small and/or minority business enterprises in lieu of independent investigation.

Where Federal grants or monies are involved, it is the policy of the School Board through its agents and employees to comply with the requirements set forth - Standards governing State

and Local Grantee Procurement - of the U.S. Office of Management and Budget Circular No. A-102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments, as they pertain to small and minority business utilization.

- 10.38. TAX EXEMPTION: HCPS is exempt from the payment of federal excise or Virginia Sales and Use Tax. The price bid must be net, exclusive of taxes. When under established trade practice, any federal excise tax is included in the list price, bidder may quote the list price and shall show separately the amount of federal excise tax, either as a flat sum or as a percentage of the list price, which shall be deducted by HCPS. Contractors located outside the Commonwealth of Virginia are advised that when materials are picked up by HCPS at their place of business, they may charge and collect their own local/state sales tax.
- 10.39. TERMINATION FOR CAUSE/DEFAULT: In case of failure to deliver goods or provide services in accordance with the contract terms and conditions, HCPS, 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 HCPS may have.
- 10.39.1. If, through any cause, the Contractor fails to fulfill in a timely and proper manner their obligations under this contract, or if the Contractor violates any of the covenants, agreements, or stipulations of this contract, the School Board shall thereupon have the right to terminate, specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the contract shall at the option of the School Board become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.
- 10.439.2. Notwithstanding the above, the Contractor shall be relieved of liability to the School Board for damages sustained by the School Board by virtue of any breach of contract by the Contractor for the purpose of set off until such time as the exact amount of damages due to the School Board from the Contractor is determined.
- 10.40. TERMINATION FOR CONVENIENCE: HCPS reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, whenever the Chief Financial Officer determines that such a termination is in the best interest of HCPS. Any such termination shall be effected by delivery to the Contractor, at least ninety (90) days prior to the termination date, a Notice of Termination specifying the extent to which performance shall be terminated and date upon which such termination becomes effective. After receipt of a notice of termination, the Contractor must stop all work or deliveries under the purchase order/contract on the date and to the extent specified; however, any contract termination 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 termination. An equitable adjustment in the contract price shall be made for completed service, but no amount shall be allowed for anticipated profit on unperformed services.
- 10.41 VIRGINIA FREEDOM OF INFORMATION ACT: Except as provided herein, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or coloration, in accordance with the Virginia Freedom of Information Act.
- 10.41.1 Cost estimates relating to a proposed transaction prepared by or for a public body shall not be open to public inspection.
- 10.41.2 Any Offeror, upon request shall be afforded the opportunity to inspect proposal records within a reasonable time after the opening/receipt of all proposals, but prior to award, except in the event that HCPS decides not to accept any of the proposals and to re-solicit. Otherwise proposal records shall be open to public inspection only after award of the contract. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

10.41.3 Trade secrets or proprietary information submitted by an Offeror or contractor in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act, however, the Offeror or Contractor must invoke the protection of this section in writing prior to or upon submission of the data or other materials, and must identify the data or other materials to be protected, and stating the reasons why protection is necessary.

10.41.4 Nothing contained in this section shall be construed to require HCPS to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous to HCPS.

10.42 SUBCONTRACTING:

10.42.1 If one or more subcontractors are required, the contractor is encouraged to utilize small, minority-owned, and women-owned business enterprises.

10.42.2 Upon award of a contract, the prime contractor agrees to make maximum effort to provide the names and addresses of each subcontractor, the subcontractor's status as well as the type and dollar value of the subcontracted goods/services provided.

ATTACHMENT A
TECHNICAL QUESTIONNAIRE

Your company's submitted proposal, including this questionnaire, must be submitted in written/typed form.

Minimum Qualification:

An Offeror must meet or exceed the following minimum qualification in order for HCPS to accept a proposal as responsive. Each Offeror must provide a written explanation as to how it meets the minimum qualification. This explanation should also be included in the Executive Summary with your proposal. If an Offeror fails to respond, its proposal may be deemed non-responsive and disqualified from further consideration. If HCPS determines from the response that an Offeror does not meet the minimum qualification, the proposal may be considered non-responsive and disqualified from further consideration:

As of July 1, 2013, the Offeror must have marketed third party administration services for a minimum of three (3) years. Additionally, the Offeror must have administered plans that consist of at least 100 participants that have active salary reduction agreements in effect. Offeror must provide the name of the clients and contacts with the listed clients that are able to verify this information. Offerors should also list any current public bodies that are clients, along with their associated contacts.

Section 1 – Organizational History, Structure and References

1. Provide a brief overview of your organization and a general description of your 403 (b) Third Party Administration services.
 - a) What types of services does your organization provide?
 - b) For how many years has your organization provided these services?
 - c) By what other names has your organization been known, if any?
 - d) Is your firm bonded? Your employees?
 - e) Describe your errors and omissions coverage, including the risks covered, carriers, deductibles, levels and limits.
 - f) Has your company been cited or threatened with citation within the last five years by federal or any state regulators for violations of any federal or state laws or regulations? If yes, describe fully.
 - g) Does your firm offer the purchase of products, i.e. mutual funds, etc? If so, what products are offered?
2. Discuss and disclose any limitations that may apply to any of the services requested in the RFP.
3. Describe your firm's commitment to the 403 (b) market place, specifically as it relates to third party administration. Describe the any future direction for 403 (b) services, i.e. new systems, capabilities, etc. and projected availability dates.
4. Provide resumes for the account representatives (up to six) who will be assigned to serve the HCPS account and their supervisor. For each individual, provide the following:
 - a) Name
 - b) Education
 - c) Relevant professional certifications
 - d) Years of experience in 403 (b) third party administration.
 - e) Years of experience with your firm
5. Describe what your firm does to keep staff current with changes, innovations, legislation, and technology in employee benefits. Include internal company resources such as databases, meetings, conferences and other external training sources.
6. How many protests or challenges has your firm initiated or participated in during a procurement process? Describe the circumstances surrounding the protest or challenge and describe the resolution.

7. Please complete the following table with information on your current clients as of July 1, 2013:

Name of Client	Years Providing 403(b) Services	Number of 403(b) Participants with this Client
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8. Please list any affiliations that your firm has with financial service providers, investment houses, etc.

Section II – Quality and Performance Guarantees

1. Describe the quality control process within your organization in the following areas:
 - a) Recordkeeping
 - b) Trust accounting
 - c) Printed Reports
 - d) Participant Statements
 - e) Compliance
2. When was the last internal audit completed, what areas were covered and what were the findings? Are your recordkeeping system controls and administrative procedures audited by an independent accounting company on a regular basis? Confirm the frequency you have a Statement of Auditing Standards (SAS) 70 audit conducted, and include a copy of your most recent version.
3. If this proposal includes services rendered by multiple organizations, describe how the quality process is coordinated across organizational boundaries in order to provide the requested services.
4. Explain the quality control procedures (such as auditing of input) to ensure accuracy of participant level reporting.
5. The contractor must agree to be liable for any investment loss sustained by participants due to the Contractor's failure to remit correct and timely wires to the investment vendors.

Section III – Recordkeeping

1. Provide a schematic of the enrollment process showing the flow of information and money between the participant, HCPS, the Contractor and the investment vehicles. Please be specific regarding the time taken between each step.
2. Describe your recordkeeping system. Is the system owned or leased? Can your system accommodate all of the current regulatory requirements for the administration of 403 (b) plans? Detail any feature that cannot be accommodated. Describe how systems were updated for the changes associated with EGTRRA.
3. Do you have standards regarding your data input requirements?
 - a) Please describe any format or media requirements of your system. Please provide a copy of your preferred record layout(s).
 - b) Can you accept information (or adjustments) by hard copy, if necessary?
 - c) Other comments
4. What controls exist to maintain system security with respect to:
 - a) Access
 - b) Input

- c) Processing
 - d) Audit Trails
5. Describe how you monitor the IRC limits on contributions to 403 (b) plans, including catch-up provisions. How do you correct excess deferrals?
 6. What procedures/systems are in place to ensure compliance with the IRC loan and hardship withdrawal rules? Describe how loan limits are monitored. Can participants model loans?
 7. Describe any compliance problems you have experienced with 403 (b) plans. How were the problems resolved?
 8. Do you provide you own recordkeeping services or contract them out? If you contract, describe the relationship and the vendor, and the length of time the relationship has existed.
 9. Do you have back-up and disaster recovery procedures? Describe them.
 - a. Have they been tested? What were the results of the test(s)?
 - b. Has the system failed in the past three (3) years? How many instances and for how long was the system out of service?
 10. Provide a sample of the statements you prepare for individual participants.
 11. Will you provide a quarterly report to HCPS identifying contributions for the quarter by type of investment: fixed annuity, variable annuity, and mutual funds?
 12. Describe your standards for performance in participant service. Assume all data, wires or other requests are received in reasonably good condition and before your cutoff time for the day.

<u>Activity</u>	<u>Quality Standard (Business Days)</u>	<u>Average Actual (business days)</u>
Contribution reconciliation and posting	Days from receipt of payroll data	Days from receipt of payroll data
Contribution investment	Days from receipt of deposit	Days from receipt of deposit
Withdrawals paid (paperless)	Days from receipt of request	Days from receipt of request
Withdrawals paid (forms)	Days from receipt of form	Days from receipt of form
Distribution paid (paperless)	Days from receipt of request	Days from receipt of request
Distribution paid (forms)	Days from receipt of form	Days from receipt of form
Investment fund transfers settled	Days from receipt of request	Days from receipt of request
Rollovers into the plan processed and invested	Days from receipt of deposit	Days from receipt of deposit
Confirmations mailed	Days from execution of transaction or request	Days from execution of transaction or request
Participant statements mailed	Days from period end	Days from period end

13. Describe any fees associated with processing withdrawals, distribution, rollovers, and transfers.

Section IV – On-line, Voice Response and Service Center Capabilities

1. Do you have an Internet web page? If so:
 - a) What is available through the web page? What transactions may be performed online? At any hour?
 - b) Is it fully integrated with your recordkeeping system?
 - c) Can a participant move from the website to a live representative? How?
 - d) How often has the website been unavailable in the past six months? Past year?
2. Does your organization provide a voice response system via a toll-free telephone number? If so:
 - a) What inquiry functions are provided in your voice response system and what transactions may be performed?
 - b) Is it fully integrated with your recordkeeping system?
3. Describe the live operator capabilities you provide.

- a) What transactions may be performed?
 - b) What are the standard hours of operation for these service center(s)?
 - c) How quickly are calls answered? What is the call abandonment rate? Please provide statistics for the past year. Describe the service center staff that will service the HCPS participants. How many representatives are available to respond to calls?
 - d) What is the turnover among the representatives?
 - e) Are all the representatives qualified to discuss investments? What advice, if any, is offered? Describe the licensing that representatives have.
4. Do you record participant calls? How long do you maintain the information.
 5. How are personal identification numbers established, safeguarded and changed?
 6. How quickly are faxed or mailed inquiries responded to?
 7. Are confirmations sent for all transactions? What is the standard (measured in business days) for mailing confirmations?
 8. Are there existing reports and letters produced by the website, voice response system or service center? If so, enclose representative samples from each system.

Section V – Employee Communication and Education

1. As part of the standard implementation process, does your organization supply and to what extent:
 - a) Staff for employee presentations?
 - b) Videos?
 - c) Printed material?
 - d) Other Media?
 Please provide samples.
2. To what extent can these materials in 1 be customized?
3. Briefly describe and attach representative samples of how your organization routinely supports ongoing employee communications. Is staff available to attend meetings? Is there a cost?
4. As part of your standard client service, do you provide communication materials in any of the following areas:
 - a) Basic investment education?
 - b) Financial planning for retirement?
 Please provide samples.
5. What communications material is available in foreign languages? What material and which languages?
6. How do you measure the effectiveness of the communications material?
7. Do you have online contribution, investment and retirement modeling tools?
8. Do your standard materials include items intended for targeted rather than general distribution? If yes, list those targeted items.
9. Indicate which, if any, types of employees receive increased compensation (such as commissions, bonuses or incentive compensation) if the dollar amount deferred to the program increases or if participants make certain investment elections or similar decisions. If any of your employees do receive increased compensation, describe these compensation arrangements and what percentage of each type of employee's total pay is expected to be provided under the incentive based arrangement.

Section VI – Other Services

1. Will you provide newsletters or other communications on legislative/regulatory proposals/changes and industry trends that may impact 403 (b) plans? Please provide recent samples.
2. Identify any services requested in this RFP (including both the Tasks to be Performed Section and the Questionnaire Section) that are not included in your proposal, and an explanation why they are not being offered.
3. Identify any services, related to 403 (b) Third Party Administration, that your firm offers that are not requested in this RFP, that may be beneficial.

Business Proposal Requirements – Attachment B

The offeror must submit a cost proposal in a sealed envelope labeled Attachment B, fully supported by cost and pricing data adequate to establish the reasonableness of the proposed fee. Indicate in your response to this business proposal, which party (plan sponsor, approved vendor, or plan participant) is responsible for payment of each service. Include all costs associated with your services, even if not specifically requested on the price sheet. Costs not included as a part of your firm's proposal will not be honored. Additionally, the following information should be submitted as part of the business proposal:

The cost of each task or segment listed on the attached price sheet must be itemized.

1. Offerors must provide a price breakdown for each service separately as well as totals for services provided together, if prices differ. All prices shall be provided in the price breakdown, even if not directly billed to the school division, i.e. billed to the employee or vendor. .
2. Offeror shall provide pricing for all costs associated with their services, even if not specified on Attachment B – Excel Spreadsheet, i.e. travel, subsistence, clerical support, etc.

Caution: Failure to break down cost elements may render the Business Proposal non-responsive.

This cost proposal should be based on 153 active participants in the 403(b) program, and will be modified either up or down at actual time of installation, based on an accurate census count. The quoted fees must be honored for a period of ninety days (90) from the receipt of this proposal.

Pricing:

The subsequent contract will be a firm-fixed price agreement. The fee(s) will remain firm and will include all charges that may be incurred in fulfilling the requirements of the initial contract. Changes in cost for any subsequent yearly contract renewals may be considered by shall not exceed the Consumer Price Index (CPI-U), Table 10, selected local areas, Washington DC-MD-VA, or other relevant trade publications, or other information deemed necessary by HCPS to substantiate a requested price increase.

Identify fees associated with:

1. Loans
2. Processing withdrawals, distributions, rollovers and transfers

If the contract should terminate prior to the end of the initial contract term for any reason, please verify that you would not seek to recoup any implementation or other costs from HCPS.

**** Please use this Attachment as the Cover Sheet for your Proposal.***

**Certification of Proposal
Attachment C**

Third Party Administration 403 (b)
For
Henry County Public Schools

The undersigned respondent, in compliance with this request for proposals for 403 (b) Third Party Administration services for Henry County Public Schools, having examined the specifications and related documents, hereby proposes to furnish all labor, materials and supplies in accordance with the specifications.

The respondent certifies that he has not combined, conspired, or agreed to intentionally rig, alter, or otherwise manipulate or to cause to be rigged, altered, or otherwise manipulated this proposal for the purpose of allocating purchases or sales to or among persons, raising or otherwise fixing the prices of the goods or services or excluding other persons from dealing with the school division.

Submittal Items:	Included: (x)
1. Cover Letter & Technical Proposal, including responses to Technical Questionnaire (Attachment A)	_____
2. Business Proposal (Attachment B, including Excel Worksheet)	_____
3. Certification of Proposal (Attachment C)	_____
4. Signed Copies of Addenda, if any	_____

All terms and conditions included in this solicitation, along with materials submitted in response to this solicitation shall be incorporated by reference into any resultant contract(s), unless stated otherwise.

Name and Address of Firm:

Date: _____

By (Name of person authorized to bind the firm)

Signature in Ink

Print/Type

Telephone: _____

Title: _____

Fax: _____

E-mail Address: _____