

**Administrative Procedures for Policy #5510 (Business)
Regarding Procedures for Bidding**

I. Definitions

- A. Debarment – the state of being excluded by legal means from enjoying certain possessions, rights, or practices
- B. Director of Procurement and Resource Management – the employee responsible for the bidding and/or procurement of specific materials, equipment, supplies or services for Calvert County Public Schools
- C. Emergency repair – Those repairs where time is of the essence and immediate action is required. Such emergency repairs are done at the discretion of the appropriate Director
- D. Responsible Bidder/Supplier – a business that desires to do business with Calvert County Public Schools (CCPS)

II. General Guidelines

- A. Procurement transactions will be conducted utilizing best business practices in accordance with Board of Education policy and state and federal laws and regulations. Materials, equipment, supplies, and services will be purchased based on the best possible cost, quality and delivery from vendors participating in the CCPS competitive procurement process with sensitivity to the desire of the Board of Education to deal with local businesses when possible.
- B. The Superintendent or designee is authorized to purchase on behalf of the Board of Education of Calvert County when formal bidding procedures are not required by law and when budget appropriations are adequate to cover such obligations.
- C. The Director of Procurement and Resource Management, as the primary designee of the Superintendent, is responsible for administering this procedure.
- D. All contractual agreements between Calvert County Public Schools and any supplier must be made by formal purchase order, agreement, or contract specifying the terms and conditions and signed by the Superintendent or designee and the corporate official of the supplier.
- E. Contracts equal to or more than \$25,000 will not be awarded to vendors who are suspended or debarred from receiving federal funds.

III. Competitive Procurements

- A. Competitive bids or quotations are solicited when required by law or when the potential for savings justifies this procedure as determined by the Director of Procurement and Resource Management.

- B. The competitive procurement process for sealed bids and competitive quotations does not apply to:
 - 1. Contracts for the purchase of books and other materials of instruction as defined in the Maryland State Department of Education Financial Reporting Manual and stated in the Education Article of the Annotated Code of Maryland §5-112(a)(1).
 - 2. Emergency repairs as allowed for in the Education Article of the Annotated Code of Maryland §5-112(a)(2).
 - 3. Participation in contracts for goods or commodities that are awarded by other public agencies or by intergovernmental purchasing organizations (also known as a piggyback contract) if the lead agency for the contract follows public bidding procedures as allowed for in the Education Article of the Annotated Code of Maryland §5-112(a)(3).
 - 4. Professional Services:
 - a. Selection and hiring of auditors.
 - b. Selection and hiring of Board of Education or CCPS legal services; and/or
 - c. Selection and hiring of architectural or engineering services.
- C. Competitive bidding through the sealed bid process is required for any school building, improvement, supplies or equipment that costs \$25,000 or more as per the Education Article of the Annotated Code of Maryland §5-112(b). The contract shall be bid and awarded on the basis of competitive bidding, using the sealed bid process outlined below. (See exceptions in III. B.)
- D. Contracts will be awarded to the lowest bidder who conforms to specifications with special consideration given to:
 - 1. The quantities involved.
 - 2. The time required for delivery.
 - 3. The purpose for which required.
 - 4. The competency and responsibility of the bidder.
 - 5. The ability of the bidder to perform satisfactory service, and, if applicable,
 - 6. The plan for utilization of minority contractors.

IV. Purchase as Needed

- A. When the cost of any improvement, supply, or equipment is less than \$5,000, the purchase may be made as needed without quotations or competitive solicitation. However, the maximum value for every dollar spent should be sought.
- B. Quotations are required for any improvement, supplies, or equipment that costs more than \$5,000 but is less than \$25,000. Written or verbal quotations will be solicited from at least two vendors. (See exceptions in III. B.)

V. Accessibility Compliance for Technology Based Instructional Products

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- A. To adhere to compliance to COMAR 13A.05.02.13H and Education Article 7-910 of the Annotated Code of Maryland, any new computer hardware/software must be reviewed by the CCPS Department of Information Technology.

VI. Sole Source Procurements

- A. If the Superintendent or designee determines that a competitive source selection method cannot be used because there is only one available source for the subject of the contract, then a contract can be awarded to the sole source without competition, provided the necessary approvals required by law or regulation have been obtained.
- B. Staff shall provide appropriate written justification for sole source procurement which may include:
 - 1. When only one source exists which meets the requirements
 - 2. When the compatibility of equipment, accessories, or replacement parts is the paramount decision
 - 3. When a sole vendor's product is needed for trial use or testing
 - 4. When certain public utility services are to be procured and only one source exists
- C. The Superintendent or designee shall conduct negotiations, as appropriate, as to price, delivery, and terms.
- D. Notice of the award to be sole source will be published in eMaryland Marketplace not more than thirty (30) days after the execution and approval of the contract.
- E. Price competition shall be solicited if the requirement can be obtained from more than one source (see Section III).

VII. Suspension and Debarment

- A. The Director of Procurement and Resource Management will verify that an entity is not suspended, debarred, or otherwise excluded from being awarded a contract.
- B. The verification will be done by checking the System for Award Management (SAM) and/or the Maryland Department of Assessment and Taxation list of businesses and persons suspended or debarred.
- C. In lieu of checking the SAM and/or MDAT list of businesses and persons suspended or debarred, the Director of Procurement and Resource Management can obtain verification by collecting a certification from the entity.

VIII. Specifications

- A. The Director of Procurement and Resource Management, in consultation with the individual requesting the supply, equipment, material or service, will draft specifications that provide a clear and accurate description of the functional characteristics or the nature of an item to be procured, without modifying CCPS' requirements.
 - 1. The specifications may:
 - a. Include a statement of any of CCPS' requirements; and

- b. Provide for the submission of samples, inspection, or testing of the item before procurement.
 - B. Other than the exceptions listed below, specifications that use one or more manufacturer's product to describe the standard of quality, performance, or other characteristics needed to meet CCPS' requirements, must allow for the submission of equivalent products.
 - C. Exceptions: CCPS may determine in the written specification that:
 - 1. A particular manufacturer's product is required to maintain compatibility of service or equipment.
 - 2. A particular manufacturer's product is required to meet the health needs of students.
 - 3. Replacement parts or maintenance are a paramount consideration; or
 - 4. A product is purchased for resale.
 - D. The Director of Procurement and Resource Management must coordinate final specifications prior to advertisements for bids.
- IX. Bids for materials, supplies and equipment
- A. The opportunity shall be provided to responsible bidders/suppliers to do business with CCPS. Interested bidders/suppliers may register online at eMaryland Marketplace to receive notification of CCPS bid postings.
 - B. The Director of Procurement and Resource Management will advertise competitive bids in local newspapers for at least two consecutive weeks and online at eMaryland Marketplace.
 - C. When a sealed bid is received, it is time and date stamped by accounts payable personnel and secured until the designated bid opening time.
 - D. The Director of Procurement and Resource Management will establish a file for each bid advertised. The file will hold:
 - 1. All correspondence that relates to the bid.
 - 2. A tear sheet indicating the newspaper(s) and dates of the "Notice to Bidders;"
 - 3. A copy of the eMaryland Marketplace solicitation
 - 4. A copy of the specifications.
 - 5. All bids that were received.
 - 6. A copy of the bid summary; and
 - 7. A copy of the recommendation to the Board of Education.
 - E. Bid openings

1. The Director of Procurement and Resource Management and other appropriate personnel (in no case less than two individuals) will be present at the bid opening.
2. All bids will remain sealed until the time designated as the official time of opening. The Director of Procurement and Resource Management or his/her designee shall designate the time of the bid opening.
3. All bids will be opened, read aloud, and recorded.
4. All bidders shall have the privilege of inspecting any or all bids in the presence of the Director of Procurement and Resource Management or his/her designee.
5. No bids shall leave the Board of Education premises except under the custodial care of the Superintendent or his/her designee.

F. Bid Summaries

1. The Director of Procurement and Resource Management will prepare a summary sheet for each bid.
2. The Director of Procurement and Resource Management will review the bids with the supervisor who requested the supply, material, equipment, or service, as appropriate.

G. Bid Awards, Including Piggyback Contract Awards

1. The Director of Procurement and Resource Management will confirm that bids are not awarded to any vendor who has been suspended, debarred or is in arrears for Maryland State taxes pursuant to the Maryland Department of Taxation and Assessment.
2. A recommendation regarding the awarding of the bid will be made in writing to the Board of Education via the Superintendent.
3. Any recommendation to a bidder other than the lowest bidder must be fully and substantially documented.
4. Any deviation by the bidder from the specifications must be brought to the attention of the Board of Education.
5. The Superintendent will make a recommendation to the Board of Education at a regularly scheduled meeting of the Board. A majority vote of the Board of Education will determine the bid award.
6. Awards are made to the lowest responsible bidder who conforms to specifications with consideration given to:
 - a. The quantities involved.
 - b. The time required for delivery.
 - c. The purpose for which required.
 - d. The competency and responsibility of the bidder.

- e. The ability of the bidder to perform satisfactory service; and, if applicable.
 - f. The plan for utilization of minority contractors.
7. The location of the business may be a consideration in cases where identical bids have been submitted. The award will be made in preference order to the Calvert County-based business if there is one. All other tie bid awards will be determined by the toss of a coin.
 8. The Board of Education or its designee may reject all bids and re-advertise for other bids.
 9. A contract entered into, or a purchase made in violation of this procedure or of §5-112 of the Education Article of the Annotated Code of Maryland is void.
 10. Following the awarding of the bid by the Board of Education, each bidder will be notified in writing regarding the outcome of his/her bid.

H. Bid Appeal Process

1. The Director of Procurement and Resource Management will resolve contract and procurement disputes as set forth herein unless there is another process set forth in a contract to which the Board is a party.
 - a. Suppliers and contractors shall formalize the dispute in writing and send it to the Director of Procurement and Resource Management within 10 calendar days following the date that the decision on the matter being disputed is made or becomes known to the supplier or contractor. Any dispute that is not sent to the Director of Procurement and Resource Management within 10 calendar days will be considered untimely and dismissed.
 - b. The Director of Procurement and Resource Management has the authority to resolve disputes through negotiations when necessary. Disputes that cannot be resolved shall be addressed in the Protest Procedures as described below.
 - 1) A supplier or contractor may protest a decision involving a contract dispute or any matter relative to the methods, practices or decisions made by the Purchasing Office in accordance with these procedures. Matters that are not communicated by the supplier or contractor within the deadlines set will be considered to be untimely and will be dismissed.
 - 2) The response at this initial level of the protest will be made by the Director of Procurement and Resource Management, who will respond to the supplier or contractor within 20 calendar days after receipt of the written protest. The response of the Director of Procurement and Resource Management will outline the findings and resulting disposition of the protest and will

advise the supplier or contractor of the right to appeal the decision to the Superintendent. An appeal to the Superintendent shall be sent within 10 calendar days after the supplier or contractor receives a copy of the Director of Procurement and Resource Management's decision.

- 3) The Superintendent or designee will respond to the supplier or contractor within 20 calendar days after receipt of the written appeal. The response of the Superintendent or designee will outline the findings and resulting disposition of the appeal and will advise the supplier or contractor of the right to appeal the decision to the Board of Education. An appeal to The Board shall be sent within 30 calendar days after the supplier or contractor receives a copy of the Superintendent's or designee's decision.
- 4) An appeal to the Board will be processed in accordance with the provisions regarding Administrative Appeals under Section 4-205 (c) as found in the Board's Rules of Procedure for Appeals and Hearings.

- c. If the decision being protested was made by the Director of Procurement and Resource Management, the protest shall be filed with the Director of Procurement and Resource Management. If the decision being protested was made by the Superintendent or designee, the protest shall be filed with the Superintendent or designee. If the decision being protested was made by the Board of Education, the protest shall be filed with the Board. Suppliers and contractors shall formalize a protest in writing and shall send it to the Director of Procurement and Resource Management, Superintendent, designee, or Board, as appropriate, within 10 calendar days following the date that the decision on the matter being disputed was made or became known to the supplier or contractor.

X. Additional Board Notification

- A. When it is deemed prudent to participate in the contract for goods or commodities that are awarded by other public agencies or by intergovernmental purchasing organization (also known as a piggyback contract) and the contract will exceed a value of \$25,000; then

1. In the case of a piggyback contract award, the following checklist will be utilized to ensure proper documentation of the lead agency's solicitation process:

- a. Solicitation document from lead agency
- b. Evidence of posting of solicitation document from lead agency
- c. Addendum(addenda) from lead agency (if applicable)
- d. Bid proposal from intended awardee
- e. Bid price list from intended awardee
- f. Bid tabulation used by lead agency
- g. Awarded contract between lead agency and intended awardee
- h. Contract extension(s) between lead agency and intended awardee (if

- applicable)
- i. Confirmation of CCPS' eligibility to piggyback contract between lead agency and intended awardee
- j. Addendum to utilize contract with lead agency, if required
- k. Written justification evaluating the merits of participating in cooperative purchasing agreement
- l. Check for debarment (SAM & MDAT) for intended awardee
- m. Memo to BOE recommending award
- n. CCPS award letter to vendor(s)
- o. Posting of award on eMMA
- p. Contract document(s) between CCPS and awarded vendor
- q. Contract extension(s) (if applicable) between CCPS and awarded vendor
- r. Notice to lead agency indicating CCPS' piggyback of contract between lead agency and intended awardee
- 2. A recommendation regarding the awarding of the contract will be made in writing to the Board of Education via the Superintendent.
- 3. The Superintendent will make a recommendation to the Board of Education at a regularly scheduled meeting of the Board. A majority vote of the Board of Education will determine the contract award.
- 4. An exception of formal Board approval is provided for contracts entered into with the Southern Maryland Cooperative Purchasing Committee for purchase of oil, gasoline, and diesel, due to the need to formalize the contract within tight timeframe due to market volatility. A notification must be provided to the Board at its next regularly scheduled meeting.

XI. Procurement Change Orders

- A. If the cumulative change order plus original procurement will cause the purchase of materials, equipment, supplies, or service to exceed \$25,000, with the exception of capital improvement projects, then
 - 1. A recommendation regarding the increase of the contract amount will be made in writing to the Board of Education via the Superintendent.
 - 2. The Superintendent will make a recommendation to the Board of Education at a regularly scheduled meeting of the Board. A majority vote of the Board of Education will determine the approval of the change order.
- B. All change orders for capital improvement projects must be submitted to the Board for approval.

XII. Standardization

- A. For the purpose of cooperative purchasing and in the interest of efficiency and economy, items commonly used in the various schools or departments shall be standardized whenever consistent with educational goals.

XIII. Student/Parent Procurements

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- A. No employee of CCPS is to rent, sell, or repair products or provide service to students or their parents for use in any school program or activity without prior approval of the Superintendent or his/her designee.
- B. No list of students or their parents will be made available to sales representatives.
- C. No sales promotional literature will be distributed to students or their parents without authorization.
- D. When it is necessary for students or parents to purchase or rent equipment and /or products for student use in an educational program, a list of suppliers may be furnished to parents to acquaint them with businesses interested in supplying the product or service. However, no endorsement or guarantee of reliability of products/services is implied should CCPS furnish a supplier list.
- E. If equipment or product repair is required, the repair is the sole responsibility of the student and/or parent. CCPS and its employees assume no responsibility in this regard.

XIV. Standard Language for Vendor Contracts

A. Employment of Sex Offenders

- 1. Maryland Law requires certain sex offenders to register with the State and with the local law enforcement agency in the county in which they reside work, and/or attend school. Section 11-722 (c) & (d) of the Criminal Procedure Article of the Annotated Code of Maryland states, "A person who enters into a contract with a county board of education or a nonpublic school may not knowingly employ an individual to work at a school if the individual is a registrant." A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years, or a fine not exceeding \$5,000, or both. If a registered sex offender, as determined by the definition contained in the Criminal Procedures Article of the Annotated Code of Maryland, is employed by the Vendor, then the Vendor is prohibited from assigning that employee to perform management, delivery, installation, repair, construction, or any type of services on any Board property. Violation of this provision may result in Termination for Cause.
- 2. Additionally, in accordance with Md.Ed.Code Ann., Section 6-113 (b), the Vendor and any of its subcontractors will not knowingly assign any employee to work on school premises with direct, unsupervised and uncontrolled access to children, if that employee has been convicted of a crime identified in Md.Ed.Code Ann., Section 6-113 (a).

B. Criminal Background

- 1. Section 6-113 of the Education Article of the Maryland Code requires that a contractor/vendor or subcontractor for a local school system may not knowingly assign an employee to work on school property with direct, unsupervised, and uncontrolled access to children if the employee has been convicted of or pled guilty or nolo contendere to a crime involving a sexual offense, child sexual abuse, and crimes of violence.

2. The contractor/vendor shall require of its employees and any employee of a subcontractor or agent, who will have direct, unsupervised and uncontrolled access to children on school premises, to be fingerprinted and undergo a criminal history records check, as required by Section 5-560 of the Family Law Article, Annotated Code of Maryland. The vendor/contractor will not knowingly assign an employee, or permit any employee of a subcontractor or agent, to work with direct unsupervised and uncontrolled access to children on school premises if the employee has been convicted of or pled guilty or entered a plea of nolo contendere to child sexual abuse, a crime of violence, or a sexual offense in the third or fourth degree under the criminal laws of the State of Maryland. Violation of this provision may result in Termination for Cause.

C. Child Sexual Abuse/Sexual Misconduct Employment History Review

1. If the firm's employees will have direct contact with minors while providing the services called for under this contract, the firm acknowledges that it is a "contracting agency" for purposes of, and shall fully comply with Section 6-113.2 of the Education Article of the Maryland Annotated Code (SB 541/HB 486-2019 Legislative Session), including, but not limited to the following requirements:
 - a. Contractor shall conduct the required child sexual abuse/sexual misconduct employment history review, either at the time any employee is initially hired by the Contractor, or before they are assigned to work with CCPS
 - b. Contractor shall maintain a record of the employment history review for any employee who is assigned to work
 - c. Contractor shall provide copies of the record of the employment history review for any employee who is assigned to work
 - d. If the Contractor receives any child sexual abuse/sexual misconduct-related affirmative responses from any employee's current or former employers, the Contractor shall obtain CCPS' approval before assigning the employee to work; and
 - e. Contractor may not assign any employee to work at CCPS if CCPS objects after receiving the foregoing notice

D. Nondiscrimination Statement

1. Calvert County Public Schools does not discriminate on the basis of race, color, religion, sex, age, ancestry or national origin, familial status, marital status, physical or mental disability, sexual orientation, gender identity and expression, or genetic information or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following persons have been designated to handle inquiries regarding the non-discrimination policies:
 - a. Director of Student Services
 - b. Director of Human Resources
443-550-8000

2. For further information on notice of non-discrimination, visit the Office of Civil Rights Complaint Assessment System at: <http://ocrcas.ed.gov> or call 1-800-421-3481.

E. Anti-sexual, Anti-racial and Anti-disability Harassment Statement

1. Discrimination can manifest itself in behaviors such as bullying, harassment, or intimidation of individuals.
2. Calvert County Public Schools does not tolerate any form of harassment including, but not limited to, sexual, racial, or disability. Any individual (student, employee, or community member) who believes that he or she has been subjected to any form of harassment is encouraged to report the allegation of harassment. Students, parents and community members may report allegations of harassment to:

Mr. James Kurtz
Director of Student Services
Calvert County Public Schools
1305 Dares Beach Road
Prince Frederick, MD 20678

3. Employees may report allegations of harassment to:

Mr. Zachary Seawell
Director of Human Resources
Calvert County Public Schools
1305 Dares Beach Road
Prince Frederick, MD 20678

4. Calvert County Public Schools is committed to conducting a prompt investigation for any allegation of harassment. If harassment has occurred, the individual will be disciplined promptly. Disciplinary actions for students found to have engaged in any form of harassment may result in suspension or expulsion. Disciplinary actions for employees found to have engaged in any form of harassment may result in suspension or termination.
5. Calvert County Public Schools encourages all students, parents, employees, and community members to work together to prevent any form of harassment.
6. For further information on notice of non-discrimination, visit the Office of Civil Rights Complaint Assessment System at: <http://ocrcas.ed.gov> or call 1-800-421-3481.

F. Certificate of Insurance

1. Vendor shall maintain Worker's Compensation insurance in the statutory amount in accordance with the laws of Maryland, the state in which the work of the contract is to be performed.

2. Vendor shall maintain Employer Liability insurance with a minimum limit of \$100,000 for each occurrence to cover diseases and injuries excluded under the Worker's Compensation Act.
3. Prior to the commencement of any work, Vendor may be required to submit a certificate of insurance evidencing liability insurance. The certificate of insurance will state that such insurance is in force and cannot be cancelled or released except upon thirty (30) days prior notice to the Board.

G. Licenses

1. Vendor represents and warrants that for the duration of this contract Vendor and any employees/subcontractors performing services under this contract hold all necessary licenses and/or certificates are in good standing with appropriate licensure authorities.

H. Modifications

1. This contract represents the entire understanding between the parties. None of the conditions or propositions of this contract shall be held as having been waived or modified in any way by any act or knowledge of the parties hereto, or their agents, except on the evidence of any instrument in writing signed by all the signatures to this contract. This contract supersedes any and all prior understandings or agreements, either oral or written, between the Board, or its agents or employees, and Vendor concerning the terms, conditions, and services rendered under this contract.

I. Hold Harmless

1. The Vendor shall reimburse, indemnify and hold harmless the Board for all loss to the Board, including attorney's fees and costs resulting from the negligence of the Consultant in the performance of this contract, and for all loss to the Board resulting from the non-performance thereof, except those losses otherwise specifically excluded by the Board.

J. Indemnification

1. The Vendor shall indemnify, defend, and hold harmless the Board and its elected and appointed officials, employees, and authorized volunteers from and against any and all claims, damages, judgments, actions, and causes of action (including but limited to the reasonable costs, expenses, and legal fees incurred in defending any and all claims, actions, and lawsuits) arising out of this Contract provided that all such claims, damages, judgments, actions, and causes of actions are attributable to bodily injury, sickness, disease, death, or injury to or destruction of tangible property, including loss of use resulting therefrom, but only to the extent caused by an act or omission of the Vendor or its officials, employees or authorized volunteers. This indemnification obligation shall survive the termination of this agreement.

K. Force Majeure

1. In the case of Vendor illness, accident, sudden emergency, act of God, or any other legitimate or unavoidable cause, it is understood that there will be no claim for damages by either party.

L. Termination for Default

1. When the Vendor has not performed or has unsatisfactorily performed the contract, payment shall be withheld at the discretion of the Board.

M. Termination for Convenience

1. The Board may terminate this contract, in whole or in part, without showing cause upon giving written notice to the Vendor. The Board shall pay all reasonable costs associated with this contract that the Vendor has incurred up to the date of termination and all reasonable costs associated with termination of the contract. However, the Vendor may not be reimbursed for any anticipatory profits which have not been earned up to the date of termination.

N. Anti-Bribery

1. Vendors, Contractors, and Consultants are required to be aware that Maryland State Law requires that any person convicted of bribery, attempted bribery, or conspiracy to bribe based upon acts committed after July 1, 1977, in the obtaining of a contract from the Board or any of its subdivisions, shall be subject to disqualification from entering into a contract with the Board, or any county or other subdivision of the Board for the supply of materials, supplies, equipment, or services by the person.

O. Subcontractors and Assignment

1. In the event that some or all of the services under this contract are assigned to one or more subcontractors with permission of the Board, the Vendor must advise the contract administrator of the current names and addresses of all sub-contractors and shall verify that all sub-contractors adhere to all requirement and responsibilities under this contract including, but not limited to, professional licensure and insurance requirements. Vendor and its sub-contractors shall remain jointly and severally liable to the Board for any breaches, acts, or omissions committed by a sub-contractor.

P. Non-hiring of Employees

1. No employee of the Board whose duties as such employee include matters relating to or attending the subject matter of this contract shall, while being employed, become or be an employee of the party or parties hereby contracting with the Board unless affirmative steps are taken to assure that the Board employee has no direct involvement in the procurement or supervision of, or the provision of services under, this contract and that the Board employee receives no additional compensation from the consultant as a result of this contract.

Q. Contract Administrator

1. The contract administrator for this contract is Mr. Kevin Michael, Director of Procurement and Resource Management, 443-550-8157. The contract administrator will assume the management of this contract on behalf of the Board. This designation may be changed at any time by the Board by written notice to the Vendor.

R. Maryland Law Prevails

1. The provisions of this contract shall be governed by the laws of Maryland, and the District Court of Maryland for Calvert County shall have exclusive venue over any disputes arising under this contract. Vendor hereby waives the right to a jury trial on any dispute arising under this contract.