Beaufort County School District

Solicitation Number:	20-008
Date Printed:	August 15, 2019
Date Issued:	August 15, 2019
Procurement Officer:	Kaylee Yinger
Phone:	843-322-2349
Email:	Kaylee.yinger@beaufort.k12.sc.us

Invitation for Bid

DESCRIPTION: **Temporary Information Technology (IT) Professional Services**
SUBMIT OFFER BY (Opening Date & Time): **September 6, 2019; 2:00 PM**
QUESTIONS MUST BE RECEIVED BY: **August 30, 2019**
NUMBER OF COPIES TO BE SUBMITTED: **One (1) Original Signed Copy and One (1) Electronic Copy - Redacted**

Offers must be submitted in a sealed package. Solicitation Number & Opening Date must appear on package exterior.

SUBMIT YOUR SEALED OFFER TO EITHER OF THE FOLLOWING ADDRESSES:

MAILING ADDRESS:
Beaufort County School District
Procurement Office
P.O. Drawer 309
Beaufort, SC 29901-0309

PHYSICAL ADDRESS:
Beaufort County School District
Procurement Office
2900 Mink Point Blvd
Beaufort, SC 29902

CONFERENCE TYPE:

LOCATION:

DATE & TIME:

AWARDS & AMENDMENTS:
Award will be posted at the Physical Address stated above on or after September 6, 2019. The award, this solicitation, and any amendments will be posted at the following web address: http://beaufortschools.net.

You must submit a signed copy of this form with Your Offer. By submitting a proposal or bid, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of ninety (90) calendar days after the Opening Date.

NAME OF OFFEROR: (Full legal name of business submitting the offer) Encore Technology Group

ENTITY TYPE: LLC

AUTHORIZED SIGNATURE (Person signing must be authorized to submit binding offer to enter contract on behalf of Offeror named above)

Russell Young
PRINTED NAME

CFO
TITLE

Instructions regarding Offeror's name: Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror above. An offer may be submitted by only one legal entity. The entity named as the Offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, i.e., a separate corporation, partnership, sole proprietorship, etc.

HOME OFFICE ADDRESS (Address for Offeror's home office/ Principal place of business):	NOTICE ADDRESS (Address to which all procurement and contract related notices should be sent):
2000 Wade Hampton Boulevard Suite 210 Greenville, SC 29615	2000 Wade Hampton Boulevard Suite 210 Greenville, SC 29615
PHONE NUMBER: (888) 893-6267	
EMAIL ADDRESS: insidesales@encoretg.com	

PAYMENT ADDRESS (Address to which payments will be sent):	ORDER ADDRESS (Address to which all purchase orders will be sent):
PO Box 1335 Department 720017 Charlotte, NC 28201-1335	
☐ Payment Address Same as Home Office Address	☒ Payment Address Same as Home Office Address
☐ Payment Address Same as Home Notice Address	☐ Payment Address Same as Notice Address
(check one only)	(check one only)

ACKNOWLEDGEMENT OF AMENDMENTS:	Amendment Number	Amendment Issue Date
Offeror acknowledges receipt of amendments by indicating amendment number and its date of issue.	Addendum #1 Addendum #2	August 22, 2019 August 29, 2019

MINORITY PARTICIPATION- Are you a Minority Business Enterprise: Yes ☐ No ☒
If yes, please include a copy of your certification.

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1.0 SCOPE OF SOLICITATION:

1.0.1 ACQUIRE SUPPLIES / EQUIPMENT (JAN 2006):

The purpose of this solicitation is to acquire **Temporary Information Technology (IT) Professional Services** complying with the enclosed description and / or specifications and conditions.

Beaufort County School District is located in the heart of the South Carolina Low Country. It is a land rich in natural beauty, history and resources and an area of economic contrast and cultural diversity. The District is a public school district which serves approximately 22,000 students and approximately 2,300 full time employees; currently comprised of 21 elementary/early childhood centers, two PK-8 Academies, six middle and six high schools, one (1) Alternative Program and an Administrative Office.

1.0.2 MAXIMUM CONTRACT PERIOD (ESTIMATED):

September 2019 – August 2024
(Voluntary extensions beyond this contract period must be approved by the BCSD Superintendent)

2.0 INSTRUCTIONS TO OFFERORS – A. GENERAL INSTRUCTIONS

2.0.1 DEFINITIONS, CAPITALIZATION, AND HEADINGS (FEB 2015):

CLAUSE HEADINGS USED IN THIS SOLICITATION ARE FOR CONVENIENCE ONLY AND SHALL NOT BE USED TO CONSTRUE MEANING OR INTENT – EVEN IF NOT CAPITALIZED. THE FOLLOWING DEFINITIONS ARE APPLICABLE TO ALL PARTS OF THE SOLICITATION, UNLESS EXPRESSLY PROVIDED OTHERWISE.

AMENDMENT – means a document issued to supplement the original solicitation document.
BCSD – means the Beaufort County School District
BOARD – means the elected Board of Education of the Beaufort County School District
BUSINESS – means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity
CHANGE ORDER- means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.
CONTRACT MODIFICATION- means a written order signed by the procurement officer, directing the contractor to make changes which the clause of the contract titled "Changes," if included herein, authorizes the Procurement Officer to order without the consent of the contractor.

CONTRACTOR- means the Offeror receiving an award as a result of this solicitation.

COVER PAGE- means the top page of the original solicitation on which the solicitation is identified by number. Offerors are cautioned that Amendments may modify information provided on the Cover Page.

OFFER- means the bid or proposal submitted in response to this solicitation. The terms "Bid" and "Proposal" are used interchangeably with the term "Offer".

OFFEROR- means the single legal entity submitting the offer. The term "Bidder" is used interchangeably with the term "Offeror." See bidding provision entitled "Signing Your Offer" and "Bid/Proposal as Offer to Contract."

PAGE TWO- means the second page of the original solicitation, which is labeled Page Two.

PROCUREMENT OFFICER- means the person or his successor, identified as such on either the Cover Page, an amendment, or an award notice.

YOU and YOUR- mean Offeror.

SOLICITATION -means of this document, including all its parts, attachments, and any Amendments.

SUBCONTRACTOR- means any person you contract with to perform or provide any part of the work.

US or We – means the District

USING GOVERNMENTAL UNIT – means the unit(s) of government identified as such on the Cover Page. If the Cover Page identifies the Using Governmental Unit, as "Statewide Term Contract," the phrase "Using Governmental Unit" means any South Carolina Public Procurement Units [11-35-4610(5)] that has submitted a Purchase Order to you pursuant to the contract resulting from this solicitation. Reference the clauses titled Purchase Orders" and "Statewide Term Contract."

WORK - means all labor, materials, equipment, services, or property of any type, provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract.

2.0.2 AMENDMENTS TO SOLICITATION (JAN 2004):

a) This solicitation may be amended at any time prior to opening. All actual and prospective Offerors should monitor the following web site for the issuance of Amendments: http://beaufortschools.net.

b) Offerors shall acknowledge receipt of any amendment to this solicitation

1) by signing and returning the amendment,

2) by identifying the amendment number and date in the space provided for this purpose on Page Two,

3) by letter, or

4) by submitting a bid that indicates in some way that the bidder received the amendment.

c) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

2.0.3 AUTHORIZED AGENT (FEB 2015):

All authority regarding this procurement is vested solely with the responsible Procurement Officer. Unless specifically delegated in writing, the Procurement Officer is the only government official authorized to bind the District with regard to this procurement or the resulting contract.

2.0.4 AWARD NOTIFICATION (FEB 2015):

Notice regarding any award, cancellation of award, or extension of award will be posted at the location and on the date specified on the Cover Page or if applicable, any notice of extension of award. Should the contract resulting from this Solicitation have a total or potential value of one hundred thousand dollars or more, such notice will be sent to all Offerors responding to the Solicitation and any award will not be effective until the eleventh day after such notice is given.

2.0.5 BID / PROPOSAL AS OFFER TO CONTRACT (JAN 2004):

By submitting Your Bid or Proposal, You are offering to enter into a contract with the BCSD. Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror in this solicitation. An Offer may be submitted by only one legal entity, "joint bids" are not allowed.

2.0.6 BID ACCEPTANCE PERIOD (JAN 2004):

In order to withdraw Your Offer after the minimum period specified on the Cover Page, You must notify the Procurement Officer in writing.

2.0.7 BID IN ENGLISH & DOLLARS (JAN 2004):

Offers submitted in response to this solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation.

2.0.8 BOARD AS PROCUREMENT AGENT (FEB 2015):

The Procurement Officer is an employee of the Board acting on the District pursuant to the Consolidated Procurement Code. Any contracts awarded as a result of this procurement are between the Contractor and the District. The Board is not a party to such contracts, unless and to the extent that the Board is a using government unit, and

bears no liability for any party's losses arising out of or relating in any way to the contract.

2.0.9 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (MAY 2008):

GIVING FALSE, MISLEADING, OR INCOMPLETE INFORMATION ON THIS CERTIFICATION MAY RENDER YOU SUBJECT TO PROSECUTION UNDER SECTION 16-9-10 OF THE SOUTH CAROLINA CODE OF LAWS AND OTHER APPLICABLE LAWS**.**

a) By submitting an offer, the offeror certifies that –

1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to –

(i) Those prices
(ii) The intention to submit an offer; or
(iii)The methods or factors used to calculate the prices offered.

2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in case of a negotiated solicitation) unless otherwise required by law; and

3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

b) Each signature on the offer is considered to be a certification by the signatory that the signatory-

1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; or

2) (i) Has been authorized, in writing, to act as agent for the offeror's principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification [As used in this subdivision (b)(2)(i), the term "principals" means the person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal];
(ii) As an authorized agent, does certify that the principals referenced in subdivision (b)(2)(i) of this certification have not participated, and will not

participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraph(s) (a)(1) through (a)(3) of this certification.

c) If the offeror deletes or modifies paragraph (a)(2) of this certification, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

2.0.10 CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS (JAN 2004):

a) By submitting on Offer, Offeror certifies, to the best of its knowledge and belief, that-

1) Offeror and/or any of its Principals-

i) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;

ii) Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offer; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

iii) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in the paragraph a) 1) ii) of this provision.

2) Offeror has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any public (Federal, state, or local) entity.

b) ” Principals,” for the purposes of this certification, means officers; directors; owners; partners; and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

c) Offeror shall provide immediate written notice to the Procurement Officer if, at any time prior to contract award, Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

d) If Offeror is unable to certify the representations stated in paragraphs a) 1) and 2), Offeror must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Offeror's responsibility. Failure for the Offeror to furnish additional information as requested by the Procurement Officer may render the Offeror non-responsible.

e) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings

f) The certification in paragraph a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the BCSD, the Procurement Officer may terminate the contract resulting from this solicitation for default.

2.0.11 CODE OF LAWS AVAILABLE:

The Beaufort County School District Procurement Code is available at http://beaufortschools.net. The South Carolina Regulations are available at http://www.scstatehouse.net/coderegs/statmast.htm.

2.0.12 DISCLOSURE OF CONFLICTS OF INTEREST OR UNFAIR COMPETITIVE ADVANTAGE (FEB 2015):

You warrant and represent that your offer identifies and explains any unfair competitive advantage you may have in competing for the proposed contract and any actual or potential conflicts of interest that may arise from your participation in this competition or your receipt of an award. The two underlying principles are:

a) Preventing the existence of conflicting roles that might bias a contractor's judgment, and

b) Preventing an unfair competitive advantage. If you have an unfair competitive advantage or a conflict of interest, the District may withhold award. Before withholding award on these grounds, an offeror will be notified of the concerns and provided a reasonable opportunity to respond. Efforts to avoid or mitigate such concerns, including restrictions on future activities, may be considered. Without limiting the foregoing, you represent that your offer identifies any services that relate to either this solicitation or the work and that has already been performed by you, a proposed subcontractor, or an affiliated business of either.

Without limiting the foregoing, you represent that your offer identifies any services that relate to either this solicitation or the work and that has already been performed by you, a proposed subcontractor, or an affiliated business of either.

2.0.13 DEADLINE FOR SUBMISSION:

Any offer received after the Procurement Officer of the governmental body or his designee has declared that the time set for opening has arrived, shall be rejected unless the offer has been delivered to the designated purchasing mail room at 2900 Mink Point Blvd, which services that purchasing office prior to the bid opening (R.19-445.2070(H)).

2.0.14 DRUG FREE WORK PLACE CERTIFICATION (JAN 2004):

By submitting an Offer, Offeror certifies that, if awarded a contract, Contractor will comply with all applicable provisions of The Drug-free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.

2.0.15 DUTY TO INQUIRE (FEB 2015):

Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation. Offerors are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation. Failure to do so will be at the Offeror's risk. All ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation shall be interpreted to require the better quality or greater quantity of work and/or materials, unless otherwise directed by amendment. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to BCSD's attention. See clause entitled "Questions from Offerors."

2.0.16 ETHICS CERTIFICATE (MAY 2008):

By submitting an Offer, the offeror certifies that the offeror has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statutes require special attention:

a) Section 8-13-700, regarding use of official position for financial gain;

b) Section 8-13-705, regarding gifts to influence action of public official;

c) Section 8-13-720, regarding offering money for advice or assistance of public official;

d) Sections 8-13-755 and 8-13-760, regarding restriction on employment by former public official;

e) Section 8-13-755, prohibiting public official with economic interest from acting on contracts;

f) Section 8-13-790, regarding recovery of kickbacks;

g) Section 8-13-1150, regarding statements to be filed by consultants; and

h) Section 8-13-1342, regarding restrictions on contributions by contractor to candidate who participated in awarding of contract. The District may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the procurement officer at the same time the law requires the statement to be filed.

2.0.17 OMIT TAXES FROM PRICE (JAN 2004):

Do **not** include any sales or use taxes in Your price that BCSD may be required to pay.

2.0.18 PROTESTS (JUN 2006):

Any prospective Bidder, Offeror, Contractor, or Subcontractor who is aggrieved in connection with the solicitation of a contract shall protest within fifteen days of the date of issuance of the applicable solicitation document at issue. Any actual Bidder, Offeror, Contractor, or Subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest within ten days of the date notification of award is posted in accordance with this code. A protest shall be in writing, shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided, and must be received by the appropriate chief procurement officer within the time provided.

2.0.19 PROHIBITED COMMUNICATIONS AND DONATIONS (FEB 2015):

Violation of these restrictions may result in disqualification of your offer, suspension or debarment, and may constitute a violation of law.

a) During the period between publication of the solicitation and final award, **you must not communicate, directly or indirectly, with the District or its employees, agents or officials regarding any aspect of this procurement activity,** unless otherwise approved in writing by the Procurement Officer. All communications must be solely with the Procurement Officer.

b) You are advised to familiarize yourself with Regulation 19-445.2165, which restricts donations to a governmental entity with whom you have or seek to have a contract. **You represent that your offer discloses any gifts made, directly or through an**

intermediary, by you or your named subcontractors to or for the benefit of the District during the period beginning eighteen months prior to the Opening Date.

2.0.20 PUBLIC OPENING (JAN 2004):

Offers will be publicly opened at the date/time and at the location identified on the cover page, or last Amendment, whichever is applicable.

2.0.21 QUESTIONS FROM OFFERORS (FEB 2015):

a) Any prospective Offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing. Questions regarding the original solicitation or any amendment must be received by the Procurement Officer no later than five (5) days prior to opening unless an earlier date is stated on the Cover Page. Label any communication regarding your questions with the name of the Procurement Officer, and the solicitation's title and number. Oral explanations or instructions will not be binding. Any information given a prospective Offeror concerning a solicitation will be furnished promptly to all other prospective Offerors as an Amendment to the solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective Offerors. See clause entitled "Duty to Inquire." **We will not identify you in our answer to your question.**

b) The BCSD seeks to permit maximum practicable competition. Offerors are urged to advise the Procurement Officer – as soon as possible – regarding any aspect of this procurement, including any aspect of the Solicitation that unnecessarily or inappropriately limits full and open competition.

2.0.22 REJECTION/CANCELLATION:

The BCSD may cancel this solicitation in whole or in part. The BCSD may reject any or all proposals in whole or in part. A minimum of three bids is desired. If less than three bids are received, BCSD will make a determination to accept the bids received or reject the bids and cancel the solicitation.

2.0.23 RESPONSIVENESS / IMPROPER OFFERS (JUN 2015):

a) Bid as Specified: Offers for supplies or services other than those specified will not be considered unless authorized by the Solicitation.

b) Multiple Offers: Offerors may submit more than one Offer, provided that each Offer has significant differences other than price. Each separate Offer must satisfy all Solicitation requirements. If this solicitation is an Invitation for Bids, each separate Offer must be submitted as a separate document. If this solicitation is a Request for Proposals, multiple Offers may be submitted as one document, provided that you

clearly differentiate between each Offer and you submit a separate cost proposal for each Offer, if applicable.

c) Responsiveness: Any Offer that fails to conform to the material requirements of the Solicitation may be rejected as non-responsive. Offers which impose conditions that modify material requirements of the Solicitation may be rejected. If a fixed price is required, an Offer will be rejected if the total possible cost to the BCSD cannot be determined. Offerors will not be given an opportunity to correct any material nonconformity. Any deficiency resulting from a minor informality may be cured or waived at the sole discretion of the Procurement Officer. [R.19-445.2070 and Section 11-35-1520(13)]

d) Price Reasonableness: Any Offer may be rejected if the Procurement Officer determines in writing that it is unreasonable as to price. [R. 19-445.2070].

e) Unbalanced Bidding: The BCSD may reject an Offer as non-responsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the BCSD even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

f) **Do not submit bid samples or descriptive literature unless expressly requested.** Unsolicited bid samples or descriptive literature will not be examined or tested, will not be used to determine responsiveness, and will not be deemed to vary any of the provision of the solicitation

2.0.24 SIGNING YOUR OFFER:

Every Offer must be signed by an individual with actual authority to bind the Offeror.

a) If the Offeror is an individual, the Offer must be signed by that individual. If the Offeror is an individual doing business as a firm the Offer must be submitted in the firm name, signed by the individual, and state that the individual is doing business as a firm

b) If the Offeror is a partnership, the Offer must be submitted in the partnership name followed by the words “by its Partner”, and signed by a general partner.

c) If the Offeror is a corporation, the Offer must be submitted in the corporate name, followed by the signature and title of the person authorized to sign.

d) An Offer may be submitted by a Joint Venturer involving any combination of individuals, partnerships, or corporations. If the Offeror is a Joint Venture, the Offer must be submitted in the name of the Joint Venture and signed by every participant in

the Joint Venture in the manner prescribed in paragraphs a) through c) above for each type of participant.

e) If an Offer is signed by an Agent, other than as stated in subparagraphs a) through d) above, the Offer must state that it has been signed by an Agent. Upon request, Offeror must provide proof of the Agent's authorization to bind the principal.

2.0.25 BCSD OFFICE CLOSINGS:

If an emergency or unanticipated event interrupts normal government processes so that offers cannot be received at the BCSD office designated for receipt of bids by the exact time specified in the solicitation, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal government processes resume. In lieu of an automatic extension, an Amendment may be issued to reschedule bid opening. If BCSD offices are closed at the time a pre-bid or pre-proposal conference is scheduled, an Amendment will be issued to reschedule the conference.

2.0.26 SUBMITTING CONFIDENTIAL INFORMATION (FEB 2015): (An overview is available at www.procurement.sc.gov):

a) For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that Offeror contends contains information that is exempt from public disclosure because it is either

1) a trade secret as defined in Section 30-4-40(a)(1) or

2) privileged and confidential, as that phrase is used in Section 11-35-410.

b) For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the words "TRADE SECRET" every page, or portion thereof, that Offeror contends contains a trade secret as that term is defined by Section 39-8-20 of the Trade Secrets Act.

c) For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "PROTECTED" every page, or portion thereof, that Offeror contends is protected by Section 11-35-1810.

d) All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. Do not mark your entire response (Bid, Proposal, Quote, etc.) as confidential, trade secret, or protected! If your response, or any part thereof, is improperly marked as confidential or trade secret or protected, the BCSD may, in its sole discretion, determine it non-responsive. If only portions of a page are subject to some protection, do not mark the entire page.

e) By submitting a response to this solicitation or request, Offeror:

1) agrees to the public disclosure of every page of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL" or "PROTECTED",

2) agrees that any information not marked, as required by these bidding instructions, as a "Trade Secret" is not a trade secret as defined by the Trade Secrets Act, and

3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure.

f) In determining whether to release documents, the BCSD will detrimentally rely on Offeror's marking of documents, as required by these bidding instructions, as being either "confidential" or "trade secret" or "PROTECTED".

g) By submitting a response, Offeror agrees to defend, indemnify and hold harmless the BCSD, its officers, and its employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from withholding information by the District, that Offeror marked as "confidential" or "trade secret" or "PROTECTED". (All references to S.C. Code of Laws.)

2.0.27 SUBMITTING A PAPER OFFER OR MODIFICATION (Mar 2015):

When submitting your paper offer or modification the following instructions apply.

a) All prices and notations should be printed in ink or typewritten. Errors should be crossed out, corrections entered and initialed by the person signing the bid. Do not modify the solicitation document itself (including bid schedule).

b)

1) All copies of the offer or modification, and any other documents required to be submitted with the offer shall be enclosed in a sealed, opaque envelope or package.

2) Submit your offer or modification to the address on the Cover page.

3) The envelope or package must show the time and date specified for opening, the solicitation number, and the name and address of the bidder. (If the offer or modification is sent by mail or special delivery service (UPS, Federal Express,

etc.), the outermost envelope or wrapper must be labeled "OFFER ENCLOSED" on the face thereof.

c) If you are responding to more than one solicitation, submit each offer in a separate envelope or package.

d) Submit the number of copies indicated on the Cover Page.

e) Facsimile or e-mail offers, modifications, or withdrawals, will not be considered unless authorized by the solicitation.

2.0.28 WITHDRAWAL OR CORRECTION OF OFFER:

Offers may be withdrawn by written notice received at any time before the exact time set for opening. If the Solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for opening. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid. The withdrawal and correction of Offers is governed by S.C. Code Section 11-35-1520 and Regulation 19-445.2085.

2.1 SPECIAL INSTRUCTIONS

2.1.1 BOARD APPROVAL REQUIRED (JAN 2006):

Any award is subject to prior approval by the BCSD Board.

2.1.2 CLARIFICATION (NOV 2007):

Pursuant to Section 11-35-1520(8), the Procurement Officer may elect to communicate with you after opening for the purpose of clarifying either your offer or the requirements of this solicitation. Such communications may be conducted only with offerors who have submitted an offer which obviously conforms in all material aspects to the solicitation. Clarification of an offer must be documented in writing and included with the offer. Clarifications may not be used to revise an offer or the solicitation.

2.1.3 ELECTRONIC COPIES -- REQUIRED MEDIA AND FORMAT (MAR 2015):

In addition to your original offer, you must submit an electronic copy or copies on compact disk (CD), DVD, or USB drive. Submit the number of copies indicated on the cover page. Each copy should be on separate media. Your business and technical proposal must be on separate media. Every disk or USB drive must be labeled with the solicitation number, and the offeror's name, and specify whether its contents address technical proposal or business proposal. If disk sets are provided, each disk in the set must be appropriately identified as to its relationship to the set, e.g., 1 of 2. The electronic copy must be identical to the original offer. File format shall be compatible

with Microsoft Office (version 2003 or later), or Adobe Acrobat or equivalent Portable Document Format (.pdf) viewer. The Procurement Officer must be able to view, search, copy and print electronic documents without a password.

2.1.4 MAIL PICK-UP:

The District picks up mail from the USPS Drawer 309 once daily around 8:30 a.m. excluding weekend and holidays. (See deadline for submission of offer Page 1) Please note that it is the vendor's responsibility to be sure their proposal arrives at the Procurement Department – District Office at the specified date and time.

2.1.5 OPENING PROPOSALS – INFORMATION NOT DIVULGED (FEB 2015):

In competitive sealed proposals, neither the number or identity of offerors nor prices will be divulged at opening.

2.1.6 PROTEST – CPO:

Any protest must be addressed to the Chief Procurement Officer, Procurement Office, and submitted in writing

a) by email to: Kaylee.yinger@beaufort.k12.sc.us

b) by facsimile at 843-322-0748

c) by post or delivery to: P.O. Drawer 309, Beaufort, SC 29901-0309 OR 2900 Mink Point Boulevard, Beaufort, SC 29902

3.0 SCOPE OF WORK/SPECIFICATIONS

The purpose of this solicitation is to acquire **Temporary Information Technology (IT) Professional Services** complying with the enclosed description and / or specifications and conditions.

3.0.1 PERFORMANCE LOCATION:

After award, all deliveries shall be provided to the locations specified by this Solicitation

3.0.2 GENERAL INFORMATION:

The Beaufort County School District is seeking qualified vendors to provide technical services on an as needed basis. The District is interested in establishing a partnership with vendors who have the resources and highly trained **full time personnel (required)** on staff to provide highly competent and immediate support as needed.

For the purpose of this solicitation, the terms "IT temporary professional," "contractor," and "supplier" are used interchangeably. For the purpose of this solicitation, the terms "District," "BCSD", "agency," "government entity," and "entity" are used interchangeably.

This is a Competitive Fixed Price Solicitation. The purpose of a Competitive Fixed Price solicitation is to establish a pre-set maximum price which the District will pay to awarded bidders for a specific service. The District is not required to do business with each awarded bidder, nor is the District required to use the same awarded bidder for each requirement.

The District has established a maximum cost per service category that it shall pay to responsible and responsive bidders. The District shall be advised of, and may take advantage of, any bidder's offered price that is lower than the pre-set maximum Fixed Price designated in this solicitation. The District is not required to use any offered reduced pricing but shall purchase in the District's best interest. The District reserves the right to make award to additional responsive bidders after the initial award at each optional renewal date.

3.0.3 SCOPE OF WORK/SPECIFICATIONS:

1) **Fixed Rates for Service Categories and Category Descriptions.** Hourly rates for each service category are given in **Exhibit A** and correspond to stated levels for each job description. BCSD and the provider determine which job description (level) is appropriate for the work being considered.

   BCSD will not pay any extra costs for IT temporary professional services (i.e., benefits, insurance, room and board, and any other additional costs). BCSD will not pay travel costs to the designated workplace for the contracted IT temporary professionals.

2) **Price Adjustment.** Fixed rates may be adjusted by the BCSD during the term of the contract to accommodate changing market conditions.

3) **IT Professional Service Request**. The professional service requested by BCSD will include, at a minimum, the position description, the required skill(s) for the project, a complete statement of work with expected deliverables, and a specific time period for the service.

   The contractor's offer or response must include, at a minimum, qualifications/resume of the available individual who meets the entity's requested requirements and an hourly bill rate for the services not to exceed the maximum rate for the position category and commensurate with the level of expertise, experience, and education within the job position description.

BCSD will make the final decision for each IT professional service request based on the qualifications of the individual submitted and the bill rate per hour.

If the supplier proposes to include off-shore work as part of the response to BCSD' s statement of work, the supplier must indicate that off-shore work is proposed. BCSD will determine if off-shore work is acceptable.

4) **Time Requirement**. If requested by BCSD, the vendor must process a request and have an IT professional available within 72 hours of making a professional services request. BCSD has the option to interview an applicant before making a selection.

5) **Activity During Each Year of the Contract.** If a Contractor fails to respond to three (3) or more requests to submit a qualified candidate, at the discretion of BCSD, the Contractor may no longer be able to participate under this solicitation.

6) **Performance Reporting.** BCSD may provide comments on the performance of the contractor. The contractor should be capable of accessing performance comments.

7) **Double Submission.** Two or more contractors cannot submit the same candidate for a statement of work. It is the responsibility of the contractors to assure that the candidate they submit has not been submitted by another contractor. If two or more contractors offer the same candidate, both will be rejected and notified by BCSD.

8) **Hours of Operation**. Work hours will be established by BCSD; however, normal work hour coverage is from 7:00 a.m. to 5:00 p.m., Monday through Friday (District holidays excluded). During the summer, the District works four (4) ten (10) hour days and is closed on Fridays. When a work statement is issued, the Contractor shall be put on notice as to whether unusual hours will be required.

9) BCSD will provide proper working facilities and consumable supplies commensurate with the task(s) to be performed. All work shall be performed at the physical locations within BCSD unless otherwise authorized by the BCSD.

10) **Service Descriptions**. Service categories commonly used by BCSD are described below. BCSD reserves the right to add or delete positions as needed during the term of the contract.

11) BCSD may elect to permanently hire at no additional cost to BCSD, any individual provided by the supplier under this IT staffing contract after at least 240 hours of service by the individual.

3.0.4 JOB DESCRIPTIONS:

See **Exhibit A**

4.0 INFORMATION FOR OFFEROR TO SUBMIT – GENERAL (MAR 2015):

You shall submit a signed Cover Page and Page Two. Your offer should include all other information and documents requested in this part and in parts 2.1. Special Instructions; 3. Scope of Work; 5. Qualifications; 8. Bidding Schedule/Price Proposal; and any appropriate attachments addressed in Part 9. Attachments to Solicitations.

Please list all objections, exceptions and observations regarding the specified services and requirements collated in a separate document with regards to specific section to which the offeror objects, takes exception(s), or provide(s) observations.

5.0 QUALIFICATIONS:

5.0.1 QUALIFICATIONS OF OFFEROR (MAR 2015):

a) To be eligible for award, you must have the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance. We may also consider a documented commitment from a satisfactory source that will provide you with a capability. We may consider information from any source at any time prior to award. We may elect to consider:

(i) key personnel, any predecessor business, and any key personnel of any predecessor business, including any facts arising prior to the date a business was established, and/or
(ii) any subcontractor you identify.

b) You must promptly furnish satisfactory evidence of responsibility upon request. Unreasonable failure to supply requested information is grounds for rejection.

c) **Corporate subsidiaries are cautioned that the financial capability of an affiliated or parent company will not be considered in determining financial capability**; however, we may elect to consider any security, e.g., letter of credit, performance bond, parent-company corporate guaranty, that you offer to provide instructions and forms to help assure acceptability are posted on procurement.sc.gov, link to "Standard Clauses & Provisions."

5.0.2 SUBCONTRACTOR INDENTIFICATION (FEB 2015):

If you intend to subcontract, at any tier level, with another business for any portion of the work and that portion either (1) exceeds 10% of your cost, (2) involves access to any "government information," as defined in the clause entitled "Information Security – Definitions," if included, or (3) otherwise involves services critical to your performance of the work (err on the side of inclusion), your offer must identify that business and the work that they are to perform. Identify potential subcontractors by providing the business name, address, phone, taxpayer identification number, and point of contact. In

determining your responsibility, the BCSD may contact and evaluate your proposed subcontractors.

6.0 AWARD CRITERIA:

6.0.1 AWARD CRITERIA – FIXED PRICE BIDDING:

Award will be made to all responsive and responsible Offerors.

6.0.2 BIDS RECEIVED AFTER AWARD – FIXED PRICE BIDDING (JAN 2006):

Offerors not responding to the initial solicitation may be added to the awarded vendors' list, at each optional renewal date, provided the bidder furnishes evidence of responsibility and responsiveness to the District's original fixed price bid as authorized by the solicitation.

6.0.3 DISCUSSIONS AND NEGOTIATIONS – OPTIONAL (FEB 2015):

Submit your best terms from both a price and a technical standpoint. Your proposal may be evaluated, and your offer accepted without any discussions, negotiations, or prior notice. Ordinarily, nonresponsive proposals will be rejected outright without prior notice. Nevertheless, the District may elect to conduct discussions, including the possibility of limited proposal revisions, but only for those proposals reasonably susceptible of being selected for award. [11-35-1530(6); R.19-445.2095(I)] If improper revisions are submitted during discussions, the District may elect to consider only your unrevised initial proposal, provided your initial offer is responsive. The District may also elect to conduct negotiations, beginning with the highest ranked offeror, or seek best and final offers, as provided in Section 11-35-1530(8). Negotiations may involve both price and matters affecting the scope of the contract, so long as changes are within the general scope of the request for proposals. If negotiations are conducted, the District may elect to disregard the negotiations and accept your original proposal.

6.0.4 UNIT PRICE GOVERNS (JAN 2006):

In determining award, unit prices will govern over extended prices unless otherwise stated.

7.0 TERMS & CONDITIONS- A. GENERAL

7.0.1 ASSIGNMENT, NOVATION, AND CHANGE OF NAME, IDENTITY, OR STRUCTURE (FEB 2015):

a) Contractor shall not assign this contract, or its rights, obligations, or any other interest arising from this contract, or delegate any of its performance obligations, without the express written consent of the responsible Procurement Officer. The foregoing

restriction does not apply to a transfer that occurs by operation of law (e.g., bankruptcy; corporate reorganizations and consolidations, but not including partial asset sales. Notwithstanding the foregoing, contractor may assign monies receivable under the contract provided that the District shall have no obligation to make payment to an assignee until thirty days after contractor (not the assignee) has provided the responsible procurement officer with:

i) Proof of the assignment,
ii) the identity (by contract number) of the specific District contract to which the assignment applies, and
iii) the name of the assignee and the exact address or account information to which assigned payments should be made.

b) If contractor amends, modifies, or otherwise changes its name, its identity (including its trade name), or its corporate, partnership or other structure, or its FEIN, contractor shall provide the procurement officer prompt written notice of such change.

c) Any name change, transfer, assignment, or novation is subject to the conditions and approval required by Regulation 19-445.2180, which does not restrict transfers by operation of law.

7.0.2 BANKRUPTCY - GENERAL (FEB 2015):

a) Notice: In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Using Governmental Unit. This notification shall be furnished within two (2) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all BCSD contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract.

b) Termination: This Contract is voidable and subject to immediate termination by the BCSD upon the Contractor’s insolvency, including the filing of proceedings in bankruptcy.

7.0.3 CHOICE OF LAW (JAN 2006):

The Agreement, any dispute, claim or controversy relating to the Agreement, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation.

7.0.4 CONTRACT DOCUMENTS & ORDER OF PRECEDENCE (FEB 2015):

a) Any Contract resulting from this solicitation shall consist of the following documents:

1) a Record of Negotiations, if any, executed by you and the Procurement Officer,

2) the solicitation, as amended,

3) documentation of clarifications 11-35-1520(8) or discussions 11-35-1530(6) of an offer, if applicable,

4) your offer,

5) any statement reflecting the District's final acceptance (a/k/a "award"), and

6) purchase orders.

These documents shall be read to be consistent and complimentary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above.

b) The terms and conditions of documents (1) through (5) above shall apply notwithstanding any additional or different terms and conditions in any other document, including without limitation:

i) a purchase order or other instrument submitted by the BCSD or
ii) any invoice or other document submitted by Contractor, or
iii) any privacy policy, terms of use, or end user agreement.

Except as otherwise allowed herein, the terms and conditions of all such documents shall be void and of no effect.

c) No contract, license, or other agreement containing contractual terms and conditions will be signed by any Using Governmental Unit. Any document signed or otherwise agreed to by persons other than the Procurement Officer shall be void and of no effect.

7.0.5 DISCOUNT FOR PROMPT PAYMENT (JAN 2006):

a) Discounts for prompt payment will not be considered in the evaluation of Offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the Offeror. As an alternative to offering a discount for prompt payment in conjunction with the Offer, Offerors awarded contracts may include discounts for prompt payment on individual invoices.

b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the District annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

7.0.6 DISPUTES (JAN 2006):

a) Choice-of-Forum: All disputes, claims, or controversies relating to the Agreement shall be resolved exclusively by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in, Beaufort County, State of South Carolina. Contractor agrees that any act by the Government regarding the Agreement is not a waiver of either the Government's sovereign immunity or the Government's immunity under the Eleventh Amendment of the United States Constitution. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation.

b) Service of Process: Contractor consents that any papers, notices, or process necessary or proper for the initiation or continuation of any disputes, claims, or controversies relating to the Agreement; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on Contractor by certified mail (return receipt requested) addressed to Contractor at the address provided as the Notice Address on Page Two or by personal service or by any other manner that is permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail.

7.0.7 EQUAL OPPORTUNITY (JAN 2006):

Contractor is referred to and shall comply with all applicable provisions, if any, of Title 41, Part 60 of the Code of Federal Regulations, including but not limited to Sections 60-1.4, 60-4.2, 60-4.3, 60-250.5(a), and 60-741.5(a), which are hereby incorporated by reference.

7.0.8 FALSE CLAIMS (JAN 2006):

According to the S.C. Code of Laws § 16-13-240, "a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty" of a crime.

7.0.9 FIXED PRICING REQUIRED:

Any pricing provided by contractor shall include all costs for performing the work associated with that price. Except as otherwise provided in this solicitation, Contractor's price shall be fixed for the duration of this contract, including option terms. This clause does not prohibit contractor from offering lower pricing after award.

7.0.10 NO INDEMNITY OR DEFENSE (FEB 2015):

Any term or condition is void to the extent it requires BCSD to indemnify, defend, or pay attorney's fees to anyone for any reason.

7.0.11 NOTICE (JAN 2006):

a) After award, any notices shall be in writing and shall be deemed duly given

1) upon actual delivery, if delivery is by hand,

2) upon receipt by the transmitting party of automated confirmation or answer back from the recipient's device if delivery is by telex, telegram, facsimile, or electronic mail, or

3) upon deposit into the United States mail, if postage is prepaid, a return receipt is requested, and either registered or certified mail is used.

b) Notice to contractor shall be to the address identified as the Notice Address on Page Two. Notice to the BCSD shall be to the Procurement Officer's address on the Cover Page. Either party may designate a different address for notice by giving notice in accordance with this paragraph.

7.0.12 PAYMENT AND INTEREST (FEB 2015):

a) The BCSD shall pay the Contractor, after the submission of proper invoices or vouchers, the prices stipulated in this Contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified herein, including the purchase order, payment shall not be made on partial deliveries accepted by the BCSD.

b) Unless otherwise provided herein, including the purchase order, payment will be made by check mailed to the payment address on "Page Two".

c) Notwithstanding any other provision, payment shall be made in accordance with S.C. Code Section 11-35-45, or Chapter 6 Title 29 (real property improvements) when applicable, which provides the Contractor's exclusive means of recovering any type of interest from the Owner. Contractor waives imposition of an interest penalty

unless the invoice submitted specifies that the late penalty is applicable. Except as set forth in this paragraph, the BCSD shall not be liable for the payment of interest on any debt or claim arising out of or related to this contract for any reason.

d) Amounts due to the BCSD shall bear interest at the rate of interest established by the South Carolina Controller General pursuant to Section 11-35-45 ("an amount not to exceed fifteen percent each year"), as amended, unless otherwise required by Section 29-6-30.

e) Any other basis for interest, including but not limited to general (pre- and post-judgment) or specific interest statutes, including S.C. Code Ann. Section -34-31-20, are expressly waived by both parties. If a count, despite this agreement and waiver, requires that interest be paid on any debt by either party other than as provided by items (c) and (d) above, the parties further agree that the applicable interest rate for any given calendar year shall be the lowest prime rate as listed in the first edition of the Wall Street Journal published for each year, applied a simple interest without compounding.

f) The District shall have all of its common law, equitable and statutory rights of set-off.

7.0.13 PUBLICITY (Jan 2006):

Contractor shall not publish any comments or quotes by the BCSD employees, or include the BCSD in either news releases or a published list of customers, without the prior written approval of the Procurement Officer.

7.0.14 PURCHASE ORDERS (JAN 2006):

Contractor shall not perform any work prior to the receipt of a purchase order from the using governmental unit. The using governmental unit shall order any supplies or services to be furnished under this contract by issuing a purchase order. Purchase orders may be used to elect any options available under this contract, e.g., quantity, item, delivery date, payment method, but are subject to all terms and conditions of this contract. Purchase orders may be electronic. No particular form is required. An order placed pursuant to the purchasing card provision qualifies as a purchase order.

7.0.15 SURVIVAL OF OBLIGATIONS (JAN 2006):

The Parties' rights and obligations which, by their nature, would continue beyond the termination, cancellation, rejection, or expiration of this Contract shall survive such termination, cancellation, rejection, or expiration, including, but not limited to, the rights and obligations created by the following clauses: Indemnification - Third Party Claims, Intellectual Property Indemnification, and any provisions regarding warranty or audit.

7.0.16 TAXES (JAN 2006):

Any tax the Contractor may be required to collect or pay upon the sale, use or delivery of the products shall be paid by the BCSD, and such sums shall be due and payable to the Contractor upon acceptance. Any personal property taxes levied after delivery shall be paid by the BCSD. It shall be solely the BCSD's obligation, after payment to Contractor, to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to Contractor by the taxing authority. In the event that the Contractor fails to pay, or delays in paying, to any taxing authorities, sums paid by the BCSD to Contractor, Contractor shall be liable to the BCSD for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay. Taxes based on Contractor's net income or assets shall be the sole responsibility of the Contractor.

7.0.17 TERMINATION DUE TO UNAVAILABILITY OF FUNDS (JAN 2006):

Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefore. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the Contract shall be canceled. In the event of a cancellation pursuant to this paragraph, Contractor will be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Contractor will not be reimbursed any costs amortized beyond the initial contract term.

7.0.18 THIRD PARTY BENEFICIARY (JAN 2006):

This Contract is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns, and no other person will have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Contract as a third party beneficiary or otherwise.

7.0.19 WAIVER (JAN 2006):

The-BCSD does not waive any prior or subsequent breach of the terms of the Contract by making payments on the Contract, by failing to terminate the Contract for lack of performance, or by failing to strictly or promptly insist upon any term of the Contract. Only the Procurement Officer has actual authority to waive any of the BCSD's rights under this Contract. Any waiver must be in writing.

7.1 TERMS AND CONDITIONS – B. SPECIAL:

7.1.1 CHANGES (JAN 2006):

a) Contract Modification: By a written order, at any time, and without notice to any surety, the Procurement Officer may, subject to all appropriate adjustments, make changes within the general scope of this Contract in any one or more of the following:

1) drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the BCSD in accordance therewith;

2) method of shipment or packing;

3) place of delivery;

4) description of services to be performed;

5) time of performance (*i.e.*, hours of the day, days of the week, etc.); or,

6) place of performance of the services.

Subparagraphs 1) to 3) apply only if supplies are furnished under this contract. Subparagraphs 4) to 5) apply only if services are performed under this contract.

b) Adjustments of Price or Time for Performance: If any such change increases or decreases the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made in the contract price, the delivery schedule, or both, and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract. Failure of the parties to agree to an adjustment shall not excuse the Contractor from proceeding with the Contract as changed, provided that the BCSD promptly and duly make such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the Contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

c) Time Period for Claim: Within 30 days after receipt of a written contract modification under Paragraph a) of this clause, unless such period is extended by the Procurement Officer in writing, the Contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the Contractor's claim unless the BCSD is prejudiced by the delay in notification.

d) Claim Barred After Final Payment: No claim by the Contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

7.1.2 COMPLIANCE WITH LAWS (JAN 2006):

During the term of the Contract, Contractor shall comply with all applicable provisions of laws, codes, ordinances, rules, regulations, and tariffs.

7.1.3 CONTRACT LIMITATIONS (JAN 2006):

No sales may be made pursuant to this Contract for any item or service that is not expressly listed. No sales may be made pursuant to this contract after expiration of this contract. Violation of this provision may result in termination of this Contract and may subject Contractor to suspension or debarment.

7.1.4 CONTRACTOR'S LIABILITY INSURANCE – GENERAL (FEB 2015):

a) Without limiting any of the obligations or liabilities of Contractor, Contractor shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of no less than A: VII, and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work and the results of that work by the contractor, his agents, representatives, employees or subcontractors.

b) Coverage shall be at least as broad as:

1) Commercial general Liability (CGL): Insurance Services Office (ISO) Form Number CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal and advertising injury, with limits no less than $1,000,000 per occurrence. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit. This contract shall be considered to be an "insured contract" as defined in this policy.

2) Auto Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code9), with limits no less than $1,000,000 per accident for bodily injury and property damage.

3) Worker's Compensation: As required by the State of South Carolina, with Statutory Limits, and Employer's Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.

c) Every applicable Using Governmental Unit, and the officers, officials, employees and volunteers of any of them, must be covered as additional insured on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General Liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form Number CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.

d) For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the District, every applicable Using Governmental Unit, and the officers, officials, employees and volunteers of any of them. Any insurance

or self-insurance maintained by the District, every applicable Using Governmental Unit, or the officers, officials, employees and volunteers of any of them, shall be excess of the Contractor's insurance and shall not contribute with it.

e) Prior to commencement of the work, the Contractor shall furnish the District with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this section. All certificates are to be received and approved by the District before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The District reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this section, at any time.

f) Should any of the above described policies be cancelled before the expiration date thereof; notice will be delivered in accordance with the policy provisions. In addition, the Contractor shall notify the District immediately upon receiving any information that any of the coverages required by this section are or will be changed, cancelled, or replaced.

g) Contractor hereby grants to the District and every applicable Using Governmental Unit a waiver of any right to subrogation which any insurer of said Contractor may acquire against the District or applicable Using Government Unit by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the District or Using Governmental Unit has received a waiver of subrogation endorsement from the insurer.

h) Any deductibles or self-insured retentions must be declared to and approved by the District. The District may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses with the retention.

i) The District reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insure, coverage, or other special circumstances.

7.1.5 CONTRACTOR PERSONNEL (JAN 2006):

The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

7.1.6 CONTRACTOR'S OBLIGATION – GENERAL (JAN 2006):

The Contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all

other things necessary, to fully and properly perform and complete the work. The contractor must act as the prime Contractor and assume full responsibility for any Subcontractor's performance. The Contractor will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements.

7.1.7 DEFAULT:

a) 1) The District may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the contractor, terminate this contract in whole or in part if the contractor fails to –

i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;
ii) Make progress, so as to endanger performance of this contract (but see paragraph (a)(2) of this clause; or
iii) Perform any of the other material provisions of this contract (but see paragraph (a)(2) of this clause).

2) The District's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the contractor does not cure such failure within 19 days (or more if authorized in writing by the Procurement Officer) after receipt of the notice from the Procurement officer specifying the failure.

b) If the District terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Procurement Officer considers appropriate, supplies or services similar to those terminated, and the contractor will be liable to the District for any excess costs for those supplies or services. However, the contractor shall continue the work not terminated.

c) Except for defaults of subcontractors at any tier, the contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the District in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the contractor.

d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the contractor and subcontractor, and without the fault or negligence of either, the contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the contractor to meet the required delivery schedule.

e) If this contract is terminated for default, the District may require the contractor to transfer title and deliver to the District, as directed by the Procurement Officer, any

1) completed supplies, and

2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Procurement Officer, the contractor shall also protect and preserve property in its possession in which the District has an interest.

f) The District shall pay contract price for completed supplies delivered and accepted. The contractor and Procurement Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property; if the parties fail to agree, the Procurement Officer shall set an amount subject to the contractor's rights under the Disputes clause. Failure to agree will be a dispute under the Disputes clause. The District may withhold from these amounts any sum the procurement officer determines to be necessary to protect the District against loss because of outstanding liens or claims of former lien holders.

g) If, after termination, it is determined that the contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the District, be the same as if the termination had been issued for the convenience of the District. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the District, the contract shall be adjusted to compensate for such termination and the contract modified accordingly subject to the contractor's rights under the Disputes clause.

h) The rights and remedies of the District in this clause are in addition to any other rights and remedies provided by law or under this contract.

7.1.8 ESTIMATED QUANTITY - UNKNOWN (JAN 2006):

The total quantity of purchases of any individual item on the contract is not known. The District does not guarantee that the District will buy any specified item or total amount. The omission of an estimated purchase quantity does not indicate a lack of need but rather a lack of historical information.

7.1.9 ILLEGAL IMMIGRATION (NOV 2008):

(An overview is available at www.procurement.sc.gov) By signing your offer, you certify that you will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agree to provide to the State upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to you and your

subcontractors or sub-subcontractors; or (b) that you and your subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." You agree to include in any contracts with your subcontractors language requiring your subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14. [07-7B097-1]

7.1.10 INDEMNIFICATION - THIRD PARTY CLAIMS - GENERAL (FEB 2015):

Notwithstanding any limitation in this agreement, and to the fullest extent permitted by law, Contractor shall defend and hold harmless Indemnitees for and against any and all suits or claims of any character (and all related damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities) by a third party which are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property arising out of or in connection with the goods or services acquired hereunder or caused in whole or in part by any act or omission of contractor, its subcontractors, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by an Indemnitee, and whether or not such claims are made by a third party of an Indemnitee; however, if an Indemnitee's negligent act or omission is subsequently determined to be the sole proximate cause of a suit or claim, the Indemnitee shall not be entitled to indemnification hereunder. Contractor shall be given timely written notice of any suit or claim. Contractor's obligations hereunder are in no way limited by any protection afforded under workers' compensation acts, disability benefits acts, or other employee benefit acts. This clause shall not negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist. The obligations of this paragraph shall survive termination, cancelation, or expiration of the parties' agreement. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance. As used in this clause, "Indemnitees" means the BCSD, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees.

7.1.11 INDEMNIFICATION - THIRD PARTY CLAIMS – DISCLOSURE OF INFORMATION (FEB 2015):

a) Without limitation, Contractor shall defend and hold harmless Indemnitees from and against any and all suits, claims, investigations, or fines (hereinafter "action") of any character (and all related damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities) by a third party which arise out of or in connection with a disclosure of government information (as defined in the clause titled Information Security – Definitions) cause in whole or in part by any act or omission of contractor, its subcontractors at any tier, their employees, workmen, servants, agents, or anyone

directly or indirectly employed by them or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by an Indemnitee, and whether or not such action is brought by a third party or an Indemnitee, but only if the act or omission constituted a failure to perform some obligation imposed by the contract or the law.

b) Indemnitee must notify contractor in writing within a reasonable period of time after Indemnitee first receives written notice of any action. Indemnitee's failure to provide or delay in providing such notice will relieve contractor of its obligations under this clause only if and to the extent that such delay or failure materially prejudices contractors ability to defend such action. Indemnitee must reasonably cooperate with contractor's defense of such actions (such cooperation does not require and is without waiver of an Indemnitees attorney/client, work product, or other privilege_ and, subject to Title 1, Chapter 7 of the South Carolina Code of Laws, allow contractor sole control of the defense, so long as the defense is diligently and capably prosecuted. Indemnitee may participate in contractor's defense of any action at its own expense. Contractor may not, without Indemnitee's prior written consent, settle, compromise, or consent to the entry of any judgment in any such commenced or threatened action unless such settlement, compromise or consent:

   i. includes an unconditional release of Indemnitee from all liability related to such commenced or threatened action, and
   ii. is solely monetary in nature and does not include a statement as to, or an admission of fault, culpability or failure to act by or on behalf of, an Indemnitee or otherwise adversely affect an Indemnitee. Indemnitee's consent is necessary for any settlement that requires Indemnitee to part with any right or make any payment or subjects Indemnitee to any injunction.

c) Notwithstanding any other provision, contractor's obligations pursuant to this clause are without any limitation whatsoever. Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of the contract. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance.

d) "Indemnitee" means the Beaufort County School District, its departments, boards and all their respective officers, agents and employees.

7.1.12 INDEMNIFICATION - INTELLECTUAL PROPERTY (FEB 2015):

a) Without limitation and notwithstanding any provision in this agreement, Contractor shall, upon receipt of notification, defend and indemnify the BCSD, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees against all actions, proceedings or claims of any nature (and all damages, settlement payments, attorneys' fees (including inside counsel), costs, expenses, losses or liabilities attributable thereto) by any third party asserting or involving an IP right related to an acquired item. BCSD shall allow

Contractor to defend such claim so long as the defense is diligently and capably prosecuted. BCSD shall allow Contractor to settle such claim so long as

1) all settlement payments are made by Contractor, and

2) the settlement imposes no non-monetary obligation upon BCSD.
BCSD shall reasonably cooperate with Contractor's defense of such claim.

b) In the event an injunction or order shall be obtained against BCSD's use of any acquired item, or if in Contractor's opinion, the acquired item is likely to become the subject of a claim of infringement or violation of an IP right, Contractor shall, without in any way limiting the foregoing, and at its expense, either:

1) procure for BCSD the right to continue to use, or have used, the acquired item, or

2) replace or modify the acquired item so that it becomes non-infringing but only if the modification or replacement does not adversely affect the specifications for the acquired item or its use by BCSD.

If neither (1) nor (2), above, is practical, BCSD may require that Contractor remove the acquired item from BCSD, refund to BCSD any charges paid by BCSD therefore, and take all steps necessary to have BCSD released from any further liability.

c) Contractors obligations under this paragraph do not apply to a claim to the extent

1) that the claim is caused by Contractor's compliance with specifications furnished by the BCSD unless Contractor knew its compliance with the BCSD's specifications would infringe an IP right, or
2) that the claim is caused by Contractor's compliance with specifications furnished by the BCSD if the BCSD knowingly relied on a third party's IP right to develop the specifications provided to Contractor and failed to identify such product to Contractor.

d) As used in this paragraph, these terms are defined as follows: "IP right(s)" means a patent, copyright, trademark, trade secret, or any other proprietary right. "Acquired item(s)" means the rights, goods, or services furnished under this agreement. "Specification(s)" means a detailed, exact statement of particulars such as a statement prescribing materials, dimensions, and quality of work.

e) Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of this Agreement.

7.1.13 INFORMATION SECURITY – DEFINITIONS (FEB 2015):

The following definitions are used in those clauses that cross reference this clause.

Compromise – means disclosure of information to unauthorized persons, or a violation of the security policy of a system in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object may have occurred. Without limitation, the term "compromise" includes copying the data through covert network channels, or copying the data to unauthorized media, or disclosure of information in violation of any obligation imposed by this contract.

Data – means a subset of information in an electronic format that allows it to be retrieved or transmitted.

Government information – means information (i) provided to Contractor by, or generated by Contractor for, the using governmental unit, or (ii) acquired or accessed by contractor as a result of performing the Work. Without limiting the foregoing, government information includes any information that Contractor acquires or accesses by software or web-based services, which includes, without limitation, any metadata or location data. Government information excludes unrestricted information.

Information – means any communication or representation of knowledge such as facts, statistics, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual.

Information system – means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

Public Information – means any specific information, regardless of form or format, that the District has actively and intentionally disclosed, disseminated, or made available to the public. Information is not public information solely because it may be subject to inspection pursuant to an unfulfilled public records request.

Software – means any computer program accessed or used by the District or a third party pursuant to or as a result of this contract.

Third Party – means any person or entity other than the District, the Contractor, or any subcontractors at any tier.

Unrestricted information – means (1) public information acquired other than through performance of the work, (2) information acquired by Contractor prior to contract formation, (3) information incidental to your contract administration, such as financial, administrative, cost or pricing, or management information, and (4) any ideas, concepts, know-how, methodologies, processes, technologies, techniques which Contractor develops or learns in connection with Contractor's performance of the work.

Web-based service means a service accessed over the Internet and acquired, accessed, or used by the using governmental unit or a third party pursuant to or as a result of this contract, including without limitation, cloud services, software-as-a-service, and hosted computer services.

7.1.14 LICENSES AND PERMITS (JAN 2006):

During the term of the Contract, the Contractor shall be responsible for obtaining, and maintaining in good standing, all licenses (including professional licenses, if any), permits, inspections and related fees for each or any such licenses, permits and /or

inspections required by the BCSD, county, city or other government entity or unit to accomplish the work specified in this solicitation and the contract.

7.1.15 MATERIAL AND WORKMANSHIP (JAN 2006):

Unless otherwise specifically provided in this contract, all equipment, material, and articles incorporated in the work covered by this Contract are to be new and of the most suitable grade for the purpose intended.

7.1.16 NEPOTISM POLICY:

The contractor shall immediately report to the Chief Operational Services Officer any current or pending employment of an immediate family member of the BCSD Superintendent, Executive Leadership Team, School Principals, Facilities Planning and Construction Officer, or Procurement/contracting personnel.

7.1.17 OWNERHIP OF DATA & MATERIALS (JAN 2006):

All data, material and documentation prepared for the District pursuant to this contract shall belong exclusively to the District.

7.1.18 PRICE ADJUSTMENTS (JAN 2006):

a) Method of Adjustment: Any adjustment in the contract price made pursuant to a clause in this contract shall be consistent with this Contract and shall be arrived at through whichever one of the following ways is the most valid approximation of the actual cost to the Contractor (including profit, if otherwise allowed):

   1) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

   2) by unit prices specified in the Contract or subsequently agreed upon;

   3) by the costs attributable to the event or situation covered by the relevant clause, including profit if otherwise allowed, all as specified in the Contract; or subsequently agreed upon;

   4) in such other manner as the parties may mutually agree; or,

   5) in the absence of agreement by the parties, through a unilateral initial written determination by the Procurement Officer of the costs attributable to the event or situation covered by the clause, including profit if otherwise allowed, all as computed by the Procurement Officer in accordance with generally accepted accounting principles, subject to the provisions of Title 11, Chapter 35, Article 17 of the S.C. Code of Laws.

b) Submission of Price or Cost Data: Upon request of the Procurement Officer, the Contractor shall provide reasonably available factual information to substantiate that the price or cost offered, for any price adjustments is reasonable, consistent with the provisions of Section 11-35-1830.

7.1.19 PRICE ADJUSTMENT – LIMITED – AFTER INITIAL TERM ONLY (JAN 2006):

Upon approval of the Procurement Officer, prices may be adjusted for any renewal term. Prices shall not be increased during the initial term. Any request for a price increase must be received by the procurement officer at least ninety (90) days prior to the expiration of the applicable term and must be accompanied by sufficient documentation to justify the increase. If approved, a price increase becomes effective starting with the term beginning after approval. A price increase must be executed as a change order. Contractor may terminate this contract at the end of the then current term if a price increase request is denied. Notice of termination pursuant to this paragraph must be received by the Procurement Officer no later than fifteen (15) days after the Procurement Officer sends contractor notice rejecting the requested price increase.

7.1.20 PRICE ADJUSTMENTS – LIMITED BY CPI "OTHER GOODS AND SERVICES" (JAN 2006):

Upon request and adequate justification, the Procurement Officer may grant a price increase up to but **not to exceed 3%,** the unadjusted percent change for the most recent 12 months for which data is available, that is not subject to revision, in the Consumer Price Index (CPI) for all urban consumers (CPI-U), "Other Goods and Services" for services, as determined by the Procurement Officer. The Bureau of Labor and Statistics publishes this information on the web at www.bls.gov.

7.1.21 PURCHASING CARD (JAN 2006):

Contractor agrees to accept payment by the South Carolina Purchasing Card for no extra charge. The Purchasing Card is issued by Visa. The purchasing card allows BCSD to make authorized purchases from a vendor without the requirement to issue a purchase order.

7.1.22 RELATIONSHIP OF THE PARTIES (JAN 2006):

Neither party is an employee, agent, partner, or joint venture of the other. Neither party has the right or ability to bind the other to any agreement with a third party or to incur any obligation or liability on behalf of the other party.

7.1.23 RESTRICTIONS ON PRESENTING TERMS OF USE OR OFFERING ADDITIONAL SERVICES (FEB 2015)

a) Citizens, as well as public employees (acting in their individual capacity), should not be unnecessarily required to agree to or provide consent to policies or contractual

terms in order to access services acquired by the district pursuant to this contract (hereinafter "applicable services") or, in the case of public employees, to perform their job duties; accordingly, in performing the work, contractor shall not require or invite any citizen or public employee to agree to or provide consent to any end user contract, privacy policy, or other terms of use (hereinafter "terms of use") not previously approved in writing by the procurement officer. Contractor agrees that nay terms of use regarding applicable services are void and of no effect.

b) Unless expressly provided in the solicitation, public contracts are not intended to provide contractors an opportunity to market additional products and services; accordingly, in performing the work, contractor shall not – for itself or on behalf of any third party – offer citizens or public employees (other than the procurement officer) any additional products or services not required by the contract.

c) Any reference to contractor in items (a) or (b) also includes any subcontractor at any tier. Contractor is responsible for compliance with these obligations by any person or entity that contractor authorizes to take any action related to the work.

d) Any violation of this clause is a material breach of contract. The parties acknowledge the difficulties inherent in determining the damage from any breach of these restrictions. Contractor shall pay the District liquidated damages of $1,000 for each contact with a citizen or end user that violates this restriction.

7.1.24 STORAGE OF MATERIALS (JAN 2006):

Absent approval of the District, Contractor shall not store items on the premises of the using governmental unit prior to the time set for installation.

7.1.25 TERM OF CONTRACT – EFFECTIVE DATE / INITIAL CONTRACT PERIOD:

The anticipated effective date of this contract will be September 2019. The initial term of this agreement is for five (5) years from the effective date.

7.1.26 TERM OF CONTRACT – OPTION TO RENEW (Jan 2015): **NOT APPLICABLE**

a) At the end of the initial term, and at the end of each renewal term, this contract has the option to renew for a period of four (4) years, unless contractor receives notice that the BCSD elects not to renew the contract at least thirty (30) days prior to the date of renewal. With the exception of a voluntary extension subject to BCSD Superintendent's approval, this contract expires no later than the last date stated on the maximum contract periods.

b) Contractor acknowledges that, unless excused by Section 11-57-320, if the contractor is on the then-current Iran Divestment Act List as of the date of any contract renewal, the renewal will be void ad initio.

7.1.27 TERM OF CONTRACT - TERMINATION BY CONTRACTOR (JAN 2006):

Contractor may terminate this contract at the end of the initial term, or any renewal term, by providing the Procurement Officer notice of its election to terminate under this clause at least ninety days prior to the effective date of termination.

7.1.28 TERMINATION FOR CONVENIENCE – (JAN 2006):

a) Termination. The Procurement Officer may terminate this contract in whole or in part, for the convenience of the District. The Procurement Officer shall give written notice of the termination to the contractor specifying the part of the contract terminated and when termination becomes effective.

b) Contractor's Obligations. The contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the contractor will stop work to the extent specified. The contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the contractor to assign the contractor's right, title, and interest under terminated orders or subcontracts to the District. The contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

c) Right to Supplies. The Procurement Officer may require the contractor to transfer title and deliver to the District in the manner and to the extent directed by the Procurement Officer:

    1) any completed supplies; and
    2) Such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract right (hereinafter called "manufacturing material") as the contractor has specifically produced or specially acquired for the performance of the terminated part of this contract. The contractor shall, upon direction of the Procurement Officer, protect and preserve property in the possession of the contractor in which the District has an interest. If the Procurement Officer does not exercise this right, the contractor shall use best efforts to sell such supplies and manufacturing materials in accordance with the standards of Uniform Commercial Code Section 2-706. Utilization of this section in no way implies that the District has breached the contract by exercise of the Termination for Convenience Clause.

d) Compensation.

    1) The contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data required by Section 11-35-1830 bearing on such claim. If the contractor fails to

file a termination claim within one year from the effective date of termination, the Procurement Officer may pay the contractor, if at all, an amount set in accordance with subparagraph (c) of this paragraph.

2) The Procurement Officer and the contractor may agree to a settlement and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the District, the proceeds of any sales of supplies and manufacturing materials under paragraph (3) of this clause, and the contract price of the work not terminated;

3) Absent complete agreement under subparagraph (b) of the paragraph, the Procurement Officer shall pay the contractor the following amounts, provided payments agreed to under subparagraph (b) shall not duplicate payments under this subparagraph:

   i) contract prices for supplies or services accepted under the contract;
   ii) costs reasonably incurred in performing the terminated portion of the work less amounts paid or to be paid for accepted supplies or services;
   iii) reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to paragraph (2) of this clause. These costs must not include costs paid in accordance with subparagraph (c)(iii) of this paragraph;
   iv) any other reasonable costs that have resulted from the termination. The total sum to be paid the contractor under this subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph (b) of this paragraph, and the contract price of work not terminated.

4) Contractor must demonstrate any costs claimed, agreed to, or established under subparagraphs (b) and (c) of this paragraph using its standard record keeping system, provided such system is consistent with any applicable Generally Accepted Accounting Principles.

e) Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not:

   i) affect the District's right to require the termination of a subcontract
   ii) increase the obligation of the District beyond what it would have been if the subcontract had contained an appropriate clause.

8.0 BIDDING SCHEDULE / PRICE BUSINESS PROPOSAL:

Enclosed in **Exhibit C** is the official **Bid Form** to be used in submitting your bid. Only this **Bid Form** is to be used; no other bid form is acceptable. Please indicate your firm's name on each page of the Bid Form and have each page signed and dated by a person authorized to do so. Please return all pages of the Bid Form. A cover letter on your corporate stationery should include any information you deem pertinent in the evaluation of your bid. Do not change the Bid Form or insert a different unit of measure or unit of pricing. Bidders or proposers that alter the Bid Form are qualifying their response and are subject to disqualification.

All notations on the Bid Form should be printed in ink or typewritten, errors should be crossed out, corrections entered and initialed by the person signing the bid. Erasures or use of typewriter correction fluid may be cause for rejection. No bid shall be altered or amended after the specified time for opening.

Award(s) will be made to the responsive and responsible bidders offering to perform the services based upon the terms of this solicitation. Award(s) will be made to the vendor(s) whose bid is determined to be the most advantageous to the Beaufort County School District, taking into consideration adherence to the bid specifications

It is the general intent to award this contract as one lot to all responsive and responsible bidder(s).

If you indicate that the price bid for any one item is contingent upon receiving an order for additional items, your bid will not be considered. The District will not be bound by such conditions.

All services and/or materials shall be **FOB Destination** with all freight charges Prepaid and Allowed. No hidden or undisclosed charges will be allowed.

This solicitation does not commit the District to award a contract, to pay any costs incurred in the preparation of the response to this solicitation or to procure any goods or services.

The Beaufort County School District reserves the right to reject any or all bids or portions of bids and to waive any informalities and technicalities in the bid process so as to purchase for the best interest of the District.

9.0 ATTACHMENTS TO SOLICITATION

MINORITY AND WOMAN BUSINESS ENTERPRISE POLICY AND REQUIREMENTS:

Mission of the Beaufort County School District Board of Education:
To serve the community by providing the opportunity for each student to receive a highly effective education

Statement of Policy

It is the policy of the Beaufort County School District that discrimination against businesses on the basis of race, color, national origin, and gender is prohibited. No person shall be denied the benefit of, or otherwise discriminated against, on the grounds of race, color, national origin or gender in connection with the award and/or performance of any contract or modification of a contract between a vender or contractor and the Board which contract is paid or is to be paid for, in whole or part, with monetary appropriations of the Board. Further, it is the policy of BCSD to encourage and promote on an inclusionary basis contracting opportunities for all business, without regard to race, color, national origin or gender. It is expected that all firms seeking to do business with the Beaufort County School District will comply with this BCSD policy.

W/MBE Compliance

Potential bidders must demonstrate their process for contracting or utilizing businesses as subcontractors or suppliers for work on projects undertaken is open to businesses regardless of race, gender or ethnicity, by fulfilling one (1) of three (3) alternative eligible bidder categories.

1. Documentation of prior M/WBE on projects undertaken in South Carolina during the previous two (2) years at the level of availability.
2. Documentation of prior good faith outreach efforts on all projects undertaken in South Carolina during the previous two (2) years.
3. Commitment to future good faith outreach efforts in all projects undertaken in South Carolina.

On eligible projects that equal or exceed five million dollars in value, potential bidders are required to make a good faith effort to enter into a joint venture or Mentor/Protégé arrangement at the prime contractor level which includes at least one (1) certified minority- and/or woman-owned firm.

- Companies involved in joint venture Mentor/Protégé arrangements must be of a different race or gender ownership.
- Each eligible bidder shall submit with each bid submission on an eligible contract:
  1. A complete and signed subcontractor plan. Eligible bidders who submit bid proposals which fail to utilize minority- and/or woman-owned business enterprises at a level consistent with availability, must submit documentation

detailing their "good faith outreach efforts" to utilize minority- and/or woman owned firms.
2. Written documentation demonstrating the eligible bidder's good faith efforts to identify, contract with, or utilize businesses, including certified M/WBEs, as sub-contractors or suppliers on the eligible project.

- Acceptable good faith effort documentation:
  1. The eligible bidder contacted the District Purchasing and Contract Compliance Offices, other private sector and government entities, or M/WBEs organizations, to identify available businesses to work on the eligible bidder project, including minority-and Woman-owned firms.
  2. The eligible bidder placed notices of opportunity for minority-and woman-owned firms to perform subcontracting work on the eligible project in newspapers, trade journals and other relevant publications specifically targeted to M/WBEs or communicated such notices or opportunities via the Internet or by other available media means.
  3. The eligible bidder submitted invitations to bid for work on the eligible project to qualified businesses, including minority-and woman-owned firms.
  4. The eligible bidder included in such notices and invitations, a full disclosure of the criteria upon which bids, proposals or quotes would be evaluated, and also included contact information for inquiries, submissions, or requests to review any necessary bid documents.
  5. The eligible bidder promptly responded to inquiries, provided necessary physical access and time for all interested businesses to fully review all necessary bid documents, and otherwise provided information, access and time to allow all interested businesses to prepare bids and quotes, regardless of race, gender or ethnicity.
  6. The eligible bidder considered, hired, or otherwise utilized qualified and available businesses for an eligible project, including minority-and Woman-owned firms.
  7. For each business which contacted or was contacted by the eligible bidder regarding sub-contracting or services on the eligible project, the eligible bidder shall maintain all written documents reflecting such contact, including bids, quotes and proposals.

Subcontractor Participation

Beaufort County School District, through its contract documents, encourages contractors to utilize minority subcontractors on their projects.

A prime contractor must identify M/WBE utilization expenditures to certified M/WBE subcontractors that perform a commercially useful function in the work of the contract. An M/WBE subcontractor is considered to perform a commercially useful function when it is responsible for the execution of a distinct element of the work of a contract for which the MBE or WBE has the skill and expertise and carries out its responsibilities by actually performing, managing and supervising the work involved.

Business Utilization Report

In order to facilitate an effective monitoring system, each contractor, bidder or offeror must submit a completed and signed Utilization Report with the bid submission which lists the names, addresses and contact persons of the M/WBE and majority owned businesses, if any, to be used in the contract, the type of work each business will perform, the dollar value of the work and the scope of work. The Utilization Report submitted by the contractor shall be submitted as a part of the contract with BCSD. If the information contained in the Contractor's Utilization Report changes by the time the contract is executed, the Contractor shall amend the Utilization Report and such amended Utilization Report shall be incorporated into the contract.

Business Enterprise Utilization Report

List all vendors/subcontractors to be used on this project. All MBEs or WBEs proposed for utilization on this project must be certified by the Small and Minority Business Assistance Office through the State of South Carolina according to the criteria of the Beaufort County School District's Minority Business Enterprise Plan prior to utilization on this project.

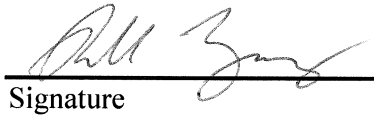
In column 2 below, please specify ethnic/racial/gender group as follows:

- AABE – African-American Business Enterprise
- HBE – Hispanic Business Enterprise
- ABE – Asian-American Business Enterprise
- WBE – Woman Business Enterprise

Sub-Contractor Name	**Gender Group**	**Address**	**Phone #**	**Other**	**E-Mail**

Statement of Intent

We, the undersigned have prepared and submitted all the documents required for this project. We have prepared these documents with a full understanding of the Beaufort County School District's goal to ensure equal opportunities in the proposed work to be undertaken in performance of this project. Specifically the BCSD seeks to encourage and promote on an inclusionary basis contracting opportunities without regard to the race, gender, national origin or ethnicity of the ownership or management of any business and that it is an equal opportunity employer and contracting entity. We certify that the representations contained in the Minority/Woman Business Enterprise (M/WBE) Utilization Report, which we have submitted with this solicitation, are true and correct as of this date. We commit to undertake this contract with the Minority/Woman Business utilization Report we have submitted, and to comply with all non-discrimination provisions of the Minority/Woman Business Enterprise Program in the performance of this contract.



Signature

08/30/2019

Date

Name: Russell Young

Title: CFO

Project: Bid 20-008
Temporary Information Technology (IT) Professional Services

EXHIBIT B

BID FORM
TEMPORARY IT PROFESSIONAL SERVICES

Please provide not less than three reference accounts including: Company Name, Address, City, State & Zip Code, Contact Name, Contact Telephone Number, Contact E-mail Address. Provide a brief description of the work performed and indicate the length of time for the engagement. Please use additional pages – if necessary.

1. Charleston County School District - 3999 Bridge View Drive, North Charleston, SC 29405
Tom Nawrocki, Network Director, (843 308-8186), thomas_nawrocki@charleston.k12.sc.us
Encore has been consistently providing Charleston County School District with hardware and engineering services since 2013 through today, offering Technician, Engineer, Project Manager, AV, Senior Technician, and Support Center Service roles for various projects

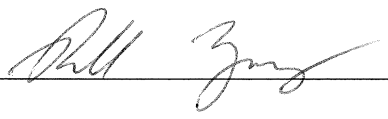
2. Chesterfield County School District - 319 Jones Road, Chesterfield, SC 29709
Tammy Haile, Executive Director of IT, (843) 623-2175, thaile@chesterfieldschools.org
Encore has provided Charleston County School District with engineering services since 2014 through today, such as Windows Server upgrades, SCCM integrations, hardware support, project implementation, and general BOT assistance

3. Chester County School District - 509 District Office Drive, Chester, SC 29706
Neil Rollins, Director of Technology, (803) 581-9521, nrollins@chester.k12.sc.us
Encore has assisted Chester County with multiple engineering opportunities, like on-site support of existing hardware, lab installations, equipment training, and server recommendations

Encore Technology Group, LLC — 08/30/2019
Firm's Name — Date

2000 Wade Hampton Boulevard, Greenville, SC 29615
Mailing Address

(888) 893-6267 /
Phone

Authorized Signature: 

Printed Name: Russell Young

EXHIBIT C

BID FORM TEMPORARY IT PROFESSIONAL SERVICES

Indicate the categories of service that your company can supply by checking the appropriate line items below. By checking the appropriate category, the supplier affirms that their company has at least one qualified individual in the checked category who can provide on-site services to BCSD.
Note: Labor rate on Exhibit A must include all travel and additional costs.

Percentage discount from established pre-set maximum Fixed Price, (if offered):
_____%

CATEGORY	Level	Bidding	Not Bidding	Hourly Rate
IT Laborer	Entry		X	$15.00
	Intermediate		X	$20.00
	Advanced		X	$25.00
AV/IWB Installer	Entry		X	$15.00
	Intermediate		X	$45.00
Desktop Technician	Entry		X	$25.00
	Intermediate		X	$45.00
	Advanced		X	$65.00
Systems Administrator	Entry		X	$50.00
	Intermediate		X	$75.00
	Advanced		X	$100.00
Systems Engineer	Entry	X		$125.00
	Intermediate	X		$200.00
	Advanced	X		$300.00
Network Administrator	Entry		X	$50.00
	Intermediate		X	$75.00
	Advanced		X	$100.00
Network Engineer	Entry	X		$125.00
	Intermediate	X		$200.00
	Advanced	X		$300.00
Database Administrator	Entry		X	$100.00
	Intermediate		X	$175.00
	Advanced		X	$250.00
IT Security Engineer	Entry		X	$100.00
	Intermediate	X		$200.00
	Advanced	X		$275.00

Technical Writer	Entry		X	$75.00
	Intermediate		X	$100.00
	Advanced		X	$125.00
Business Analyst	Entry		X	$100.00
	Intermediate		X	$150.00
	Advanced		X	$200.00
Training Specialist	Entry		X	$75.00
	Intermediate		X	$100.00
	Advanced		X	$125.00
Telecommunications Administrator / Engineer	Entry		X	$125.00
	Intermediate	X		$165.00
	Advanced	X		$200.00
Web Developer	Entry		X	$50.00
	Intermediate		X	$75.00
	Advanced		X	$100.00

Encore Technology Group, LLC — 08/30/2019

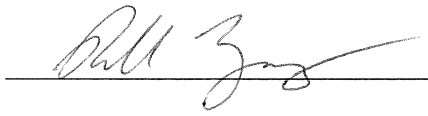
Firm's Name — Date

2000 Wade Hampton Boulevard, Greenville, SC 29615

Mailing Address

(888) 893-6267 /

Phone/FAX #'s

Authorized Signature: 

Printed Name: Russell Young

Notes/Exceptions to ITB 20-008

Page 18, 3.0.3, item 1: Based on the established rates for certain requests, high-level resources may not always be available within the 72-hour SLA, but Encore will do everything to quickly schedule.

Page 19, 3.0.3, item 4: High-level engineers are scheduled in advance. Some requests may require scheduling for availability.

Page 19, 3.0.3, item 11: Encore calls exception to this item, as we only offer our employees for requested services and not to be hired.